



**REPUBLIC OF ZAMBIA**

**NATIONAL CONSTITUTIONAL CONFERENCE**

**NCC**

**SUMMARY OF RESOLUTIONS OF THE  
NATIONAL CONSTITUTIONAL CONFERENCE**

**The Secretariat  
National Constitutional Conference (NCC)  
Mulungushi International Conference Centre  
Lusaka**

**June, 2010**

ARTICLE NO.	PROVISIONS OF THE MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
<b>Long Title</b>	<p><b>Long Title</b> of the Constitution of Zambia Bill</p> <p>An Act to provide for the commencement of the new Constitution of the Republic of Zambia; to provide for the printing and publication of the Constitution; to provide for the savings and transitional provisions of existing State organs, State institutions, administrations, offices, institutions and laws; to provide for succession to assets, rights, liabilities, obligations and legal proceedings; to provide for the repeal of the Constitution of Zambia Act, 1991 and the Constitution in the Schedule to that Act, and to provide for matters connected with or incidental to the foregoing.</p>	<p><b>Long Title</b> of the Constitution of Zambia Bill</p> <p>An Act to provide for the commencement of the new Constitution of the Republic of Zambia; to provide for the printing and publication of the Constitution; to provide for the savings and transitional provisions of existing State organs, State institutions, administrations, offices, institutions and laws; to provide for succession to assets, rights, liabilities, obligations and legal proceedings; to provide for the repeal of the Constitution of Zambia Act, 1991, and the Constitution in the Schedule to that Act; and to provide for matters connected with, or incidental to, the foregoing.</p>	<p>The Conference adopted the Long Title of the Constitution of Zambia Bill without amendments.</p>
<b>Enactment</b>	<p><b>Enactment</b> of the Constitution of Zambia Bill</p> <p><b>ENACTED</b> by the Parliament of Zambia</p>	<p><b>Enactment</b> of the Constitution of Zambia Bill</p> <p><b>ENACTED</b> by the Parliament of Zambia.</p>	<p>The Conference resolved to adopt the provision of the Constitution of Zambia Bill on Enactment without amendments.</p>

<p><b>Section 1: Short Title</b></p>	<p><b>Short Title</b> of the Constitution of Zambia Bill</p> <p>1. This Act may be cited as the Constitution of Zambia Act, 2005.</p>	<p><b>Short Title</b> of the Constitution of Zambia Bill</p> <p>1. This Act may be cited as the Constitution of Zambia Act, <b>2010</b>.</p>	<p>The Conference adopted Section 1 of the Constitution of Zambia Bill with amendments by replacing the year "2005" with the year "<b>2010</b>" to make the Bill current.</p>
<p><b>Section 2: Interpretation</b></p>	<p><b>Interpretation</b> of the Constitution of Zambia Bill</p> <p>2. (1) In this Act, unless the context otherwise requires -  "Constitution" means the Constitution set out in the Schedule to this Act;  "effective date" means the date of the commencement of this Act and the Constitution as provided under section <u>four</u>;  "existing Constitution" means the Constitution of Zambia, 1991 in force immediately before the effective date; and  "existing law" means the Laws of Zambia as they existed immediately before the effective date, including any statutory instrument issued or made before that date which is to come into force on or after the effective date.</p>	<p><b>Interpretation</b> of the Constitution of Zambia Bill</p> <p>2. (1) In this Act, unless the context otherwise requires -  "Constitution" means the Constitution set out in the Schedule to this Act;  "effective date" means the date of the commencement of this Act and the Constitution as provided under section <u>four</u>;  "existing Constitution" means the Constitution of Zambia, 1991 in force immediately before the effective date; and  "existing law" means the laws of Zambia as they existed immediately before the effective date, including any statutory instrument issued or made before that date which is to come into force on or after the effective date.</p>	<p>The Conference adopted section 2 of the Constitution of Zambia Bill without amendments.</p>

	(2) Except where the context otherwise requires, words and expressions used in this Act have the same meaning as in the Constitution.	(2) Except where the context otherwise requires, words and expressions used in this Act have the same meaning as in the Constitution.	
<b>Section 3: Repeal of Constitution of Zambia Act, 1991 and existing Constitution Cap. 1</b>	<b>Repeal of Constitution of Zambia Act, 1991 and existing Constitution Cap. 1</b>  3. The Constitution of Zambia Act, 1991 and the existing Constitution in the Schedule to that Act are hereby repealed.	<b>Repeal of Constitution of Zambia Act, 1991 and existing Constitution Cap. 1</b>  3. The Constitution of Zambia Act, 1991, and the existing Constitution in the Schedule to that Act are hereby repealed.	The Conference adopted section 3 of the Constitution of Zambia Bill without amendments.
<b>Section 4: Commencement of Constitution</b>	<b>Commencement of Constitution</b>  4. Subject to this Act, the Constitution shall come into operation on the date of assent of this Act.	<b>Commencement of Constitution</b>  4. Subject to this Act, the Constitution shall come into operation on the date of assent of this Act.	The Conference adopted section 4 of the Constitution of Zambia Bill without amendments.
<b>Section 5: Printing and publication of Constitution</b>	<b>Printing and publication of Constitution</b>  5. The Constitution may be printed and published by the Government Printer separately from this Act and the production of a copy of the Constitution as printed shall be <u>prima facie</u> evidence in all courts and for all	<b>Printing and publication of Constitution</b>  5. The Constitution may be printed and published by the Government Printer separately from this Act and the production of a copy of the Constitution as printed shall be <u>prima facie</u> evidence in all courts and for all purposes in connection with the Constitution.	The Conference adopted section 5 of the Constitution of Zambia Bill without amendments.

	purposes in connection with the Constitution.		
<b>Section 6: Existing Laws</b>	<p><b>Existing Laws</b></p> <p>6. (1) All existing laws shall continue in force and be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.</p> <p>(2) The National Assembly shall, within two years of the effective date, make amendments to any existing law to bring that law into conformity with, or to give effect to, this Act or the Constitution.</p>	<p><b>Existing Laws</b></p> <p>6. (1) All existing laws shall continue in force and be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.</p> <p>(2) <b>Parliament</b> shall, within <b>such period as it shall determine</b>, make amendments to any existing law to bring that law into conformity with, or to give effect to, this Act or the Constitution.</p>	<p>The Conference:</p> <p>(a) adopted sub-section (1) of section 6 of the Constitution of Zambia Bill without amendments; and</p> <p>(b) adopted sub-section (2) of section 6 of the Constitution of Zambia Bill with amendments by:</p> <p>(i) replacing the term “National Assembly” with the term “<b>Parliament</b>” as “<b>Parliament</b>” was the appropriate term in this regard given that the President is also party to law making as he/she assents to Bills enacted by the National Assembly; and</p> <p>(ii) removing the prescribed time-frame from the provision and replacing it with the words “<b>such period as it</b></p>

			<b>shall determine.”</b> This is because the Conference was of the view that two years was too short to amend the large volumes of Laws that needed amendment.
<b>Section 7: Executive</b>	<p><b>Executive</b></p> <p>7. (1) The President shall continue to serve as President for the unexpired term of that office as specified by the existing Constitution in accordance with the Constitution.</p> <p>(2) A person holding the post of Vice-President, Minister or Deputy Minister shall continue to hold that position under the Constitution until that appointment is terminated by the President in accordance with the Constitution.</p>	<p><b>Executive</b></p> <p>7. (1) The President shall continue to serve as President for the unexpired term of that office as specified by the existing Constitution in accordance with the Constitution.</p> <p>(2) A person holding the post of Vice-President, Minister or Deputy Minister shall continue to hold that position under the Constitution until that appointment is terminated by the President in accordance with the Constitution.</p>	The Conference adopted section 7 of the Constitution of Zambia Bill without amendments.
<b>Section 8: Prerogative of mercy</b>	<p><b>Prerogative of mercy</b></p> <p>8. The prerogative of mercy bestowed on the President under this Constitution may be exercised in respect of any criminal offence committed before the effective date.</p>	<p><b>Prerogative of mercy</b></p> <p>8. The prerogative of mercy bestowed on the President under this Constitution may be exercised in respect of any criminal offence committed before the effective date.</p>	The Conference adopted section 8 of the Constitution of Zambia Bill without amendments.

<p><b>Section 9: Rights, duties and obligations of Government</b></p>	<p><b>Rights, duties and obligations of Government</b></p> <p>9. Subject to the Constitution, all rights, duties and obligations of the Government subsisting immediately before the effective date shall continue as rights, duties and obligations of the Government under the Constitution.</p>	<p><b>Rights, duties and obligations of Government</b></p> <p>9. Subject to the Constitution, all rights, duties and obligations of the Government subsisting immediately before the effective date shall continue as rights, duties and obligations of the Government under the Constitution.</p>	<p>The Conference adopted section 9 of the Constitution of Zambia Bill without amendments.</p>
<p><b>Section 10: Succession of Institutions, Offices, Assets and Liabilities</b></p>	<p><b>Succession of Institutions, Offices, Assets and Liabilities</b></p> <p>10. (1) If any provision of the Constitution has altered the name of an office or institution existing immediately before the effective date the office or institution as known by the new name shall be the legal successor of the first named office or institution.</p> <p>(2) All liabilities, property and other assets that were incurred or vested in the President, the State, Government or the Republic immediately before the effective date shall continue to be so incurred or vested after the effective date.</p>	<p><b>Succession of Institutions, Offices, Assets and Liabilities</b></p> <p>10. (1) If any provision of the Constitution has altered the name of an office or institution existing immediately before the effective date, the office or institution as known by the new name shall be the legal successor of the first named office or institution.</p> <p>(2) All liabilities, property and other assets that were incurred or vested in the President, the State, Government or the Republic immediately before the effective date shall continue to be so incurred or vested after the effective date.</p> <p>(3) Any property that was liable to escheat or to be forfeited to the State, Government or the Republic immediately before the</p>	<p>The Conference adopted section 10 of the Constitution of Zambia Bill without amendments.</p>

	(3) Any property that was liable to escheat or to be forfeited to the State, Government or the Republic immediately before the effective date shall be liable to escheat or to be so forfeited after the effective date.	effective date shall be liable to escheat or to be so forfeited after the effective date.	
<b>Section 11: Existing Offices</b>	<p><b>Existing Offices</b></p> <p>11. (1) A person who is holding or acting in an office established by the existing Constitution immediately before the effective date shall continue to hold or act in that office as if appointed to that office under the Constitution and shall be considered as having taken any necessary oath required to be taken under the Constitution, unless the President requires that person to take any oath specified by the Constitution or any other law.</p> <p>(2) A public officer shall continue to hold or act in that office as if appointed to that position under the Constitution and shall be considered as having taken any necessary oath required to be taken under the Constitution, unless the President requires any public</p>	<p><b>Existing Offices</b></p> <p>11. (1) A person who is holding or acting in an office established by the existing Constitution immediately before the effective date shall continue to hold or act in that office as if appointed to that office under the Constitution and shall be considered as having taken any necessary oath required to be taken under the Constitution, unless the President requires that person to take any oath specified by the Constitution or any other law.</p> <p>(2) A public officer shall continue to hold or act in that office as if appointed to that position under the Constitution and shall be considered as having taken any necessary oath required to be taken under the Constitution, unless the President requires any public officer to take any oath specified by the Constitution or any other law.</p> <p>(3) This section shall not -</p>	The Conference adopted section 11 of the Constitution of Zambia Bill without amendments.



	<p>officer to take any oath specified by the Constitution or any other law.</p> <p>(3) This section shall not –</p> <p>(a) affect the powers conferred on any person or authority under the Constitution to abolish offices or remove persons from those offices;</p> <p>(b) apply to any person who, under the existing law or existing Constitution would have been required to vacate an office at the expiry of any period or on the attainment of any age.</p> <p>(4) The process of appointing any persons to fill vacancies arising after the effective date shall begin on the effective date and in accordance with the Constitution.</p>	<p>(a) affect the powers conferred on any person or authority under the Constitution to abolish offices or remove persons from those offices; or</p> <p>(b) apply to any person who, under the existing law or existing Constitution would have been required to vacate an office at the expiry of any period or on the attainment of any age.</p> <p>(4) The process of appointing any persons to fill vacancies arising after the effective date shall begin on the effective date and in accordance with the Constitution.</p>	
<p><b>Section 12: Pensions, Gratuities and Other Benefits</b></p>	<p><b>Pensions, Gratuities and Other Benefits</b></p> <p>12. The law applicable to pensions, gratuities or emoluments in respect of public officers shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable.</p>	<p><b>Pensions, Gratuities and Other Benefits</b></p> <p>12. The law applicable to pensions, gratuities or emoluments in respect of public officers shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable.</p>	<p>The Conference adopted section 12 of the Constitution of Zambia Bill without amendments.</p>

**Section 13:  
Legislature**

**Legislature**

13. (1) The National Assembly existing immediately before the effective date shall continue as the National Assembly for the purposes of the Constitution and the members of the National Assembly shall continue as members until the expiry of their term of office as specified by the existing Constitution.

(2) The person holding the offices of Speaker and Deputy Speaker of the National Assembly immediately before the effective date shall continue as Speaker and Deputy Speaker until another Speaker and Deputy Speaker are elected under the Constitution and shall be considered as having taken any oath specified by the Constitution.

(3) The functions and powers vested in Parliament by the existing Constitution shall be exercised after the effective date by that Parliament for the unexpired term of that

**Legislature**

13. (1) The National Assembly existing immediately before the effective date shall continue as the National Assembly for the purposes of the Constitution and the members of the National Assembly shall continue as members until the expiry of their term of office as specified by the existing Constitution.

(2) The persons holding the offices of Speaker and Deputy Speaker of the National Assembly immediately before the effective date shall continue as Speaker and Deputy Speaker until another Speaker and Deputy Speaker are elected under the Constitution and shall be considered as having taken any oath specified by the Constitution.

(3) The functions and powers vested in Parliament by the existing Constitution shall be exercised after the effective date by that Parliament for the unexpired term of that Parliament in accordance with the Constitution.

(4) The rules and orders of the National Assembly existing on the effective date

The Conference:

- (a) adopted sub-sections (1), (2), (3), (4), (6) and (7) of Section 13 of the Constitution of Zambia Bill without amendments; and
- (b) amended sub-section (5) of section 13, by deleting the time-frame and inserting the words **“such period as it shall determine.”** The amendment is to allow the National Assembly to determine the period in which to revise its Standing Orders.

	<p>Parliament in accordance with the Constitution.</p> <p>(4) The rules and orders of the National Assembly existing on the effective date shall be the rules and orders of the National Assembly after the effective date but shall be construed with such modifications, adaptations, qualifications and exceptions as are necessary to bring them into conformity with the Constitution.</p> <p>(5) The National Assembly shall, within six months of the effective date, revise the Standing Orders of the National Assembly in accordance with the Constitution.</p> <p>(6) All moneys granted, voted or appropriated by the Parliament existing immediately before the effective date, for the current financial year, shall be deemed to have been granted, voted or appropriated in accordance with the Constitution.</p>	<p>shall be the rules and orders of the National Assembly after the effective date but shall be construed with such modifications, adaptations, qualifications and exceptions as are necessary to bring them into conformity with the Constitution.</p> <p>(5) The National Assembly shall, within <b>such period as it shall determine</b>, revise the Standing Orders of the National Assembly in accordance with the Constitution.</p> <p>(6) All moneys granted, voted or appropriated by the Parliament existing immediately before the effective date, for the current financial year, shall be deemed to have been granted, voted or appropriated in accordance with the Constitution.</p> <p>(7) The boundaries of a constituency existing immediately before the effective date shall be the boundaries of the constituency until the next delimitation is done in accordance with the Constitution.</p>	
--	---	---	--

	(7) The boundaries of a constituency existing immediately before the effective date shall be the boundaries of the constituency until the next delimitation is done in accordance with the Constitution.		
<b>Section 14: By-Elections</b>	<b>By-Elections</b> 14. A by-election held after the effective date shall be held in accordance with the Constitution.	<b>By-Elections</b> 14. A by-election held after the effective date shall be held in accordance with the Constitution.	The Conference adopted section 14 of the Constitution of Zambia Bill without amendments.
<b>Section 15: Judiciary</b>	<b>Judiciary</b> 15. (1) Subject to this section, a Judge or judicial officer who held office immediately before the effective date shall continue to hold office as if appointed to that office under the Constitution but may opt to retire in accordance with subsection (2), within twelve months of the effective date.  (2) A Judge who has attained the age of sixty-five years immediately before or on the effective date may retire and shall be entitled on retirement to the benefits that person would have been entitled to	<b>Judiciary</b> 15. (1) Subject to this section, a Judge or judicial officer who held office immediately before the effective date shall continue to hold office as if appointed to that office under the Constitution but may opt to retire in accordance with subsection (2), within twelve months of the effective date.  (2) A Judge who has attained the age of sixty-five years immediately before or on the effective date may retire and shall be entitled on retirement to the benefits that person would have been entitled to at the date of retirement as specified in the existing Constitution.	The Conference: (a) adopted sub-sections (1) and (2) of section 15 of the Constitution of Zambia Bill without amendments; and

	<p>at the date of retirement as specified in the existing Constitution.</p> <p>(3) The process of appointing the Judges of the Supreme and Constitutional Court and Court of Appeal shall commence and be finalised within twelve months of the effective date.</p> <p>(4) Parliament shall, within twelve months of the effective date, enact legislation to provide for the procedures, rules and administration of the Supreme and Constitutional Court and Court of Appeal.</p>		<p>(b) deleted sub-sections (3) and (4) of section 15 of the Constitution of Zambia Bill because:</p> <ul style="list-style-type: none"> <li>(i) there are other provisions in the Draft Constitution which adequately addressed the appointment of Judges;</li> <li>(ii) the Court of Appeal was being established for the first time, therefore, expecting all the Judges to be appointed within 12 months was unrealistic; and</li> <li>(ii) the responsibility of formulating the rules and procedures of courts lay with the Chief Justice and not Parliament as clause (4) seemed to imply.</li> </ul>
<p><b>Section 16: Judicial and Tribunal Proceedings and Pending Matters</b></p>	<p><b>Judicial and Tribunal Proceedings and Pending Matters</b></p> <p>16. (1) Unless otherwise provided under the Constitution, all proceedings pending before any court or tribunal shall continue to be heard and determined by the</p>	<p><b>Judicial and Tribunal Proceedings and Pending Matters</b></p> <p>16. (1) Unless otherwise provided under the Constitution, all proceedings pending before any court or tribunal shall continue to be heard and determined by the same court or tribunal or may be transferred to a</p>	<p>The Conference adopted section 16 of the Constitution of Zambia Bill without amendments.</p>

	<p>same court or tribunal or may be transferred to a corresponding court or tribunal established under the Constitution.</p> <p>(2) Unless otherwise provided under the Constitution, any matter or proceeding that, immediately before the effective date, is pending before an existing commission, office or authority shall continue before the same commission, office or authority or corresponding commission, office or authority established under the Constitution.</p>	<p>corresponding court or tribunal established under the Constitution.</p> <p>(2) Unless otherwise provided under the Constitution, any matter or proceeding that, immediately before the effective date, is pending before an existing commission, office or authority shall continue before the same commission, office or authority or corresponding commission, office or authority established under the Constitution.</p>	
<p><b>Section 17: Local Government</b></p>	<p><b>Local Government</b></p> <p>17. (1) All local authorities shall continue to exist after the effective date until the implementation of the new structure under the Constitution and as provided by an Act of Parliament.</p> <p>(2) Parliament shall enact legislation for the local government system as provided by the Constitution within two years of the effective date.</p> <p>(3) All councillors of district</p>	<p><b>Local Government</b></p> <p>17. (1) All local authorities shall continue to exist after the effective date until the implementation of the new structure under the Constitution and as provided by an Act of Parliament.</p> <p>(2) Parliament shall enact legislation for the local government system as provided by the Constitution.</p> <p>(3) All councillors of district councils shall continue as councillors after the effective date until general elections are held in accordance with the Constitution.</p>	<p>The Conference:</p> <p>(a) adopted sub-sections (1), (3) and (4) of section 17 of the Constitution of Zambia Bill without amendments; and</p> <p>(b) amended clause (2) of section 17 by deleting the time-frame which was not realistic considering the large number of pieces of legislation to be enacted.</p>

	<p>councils shall continue as councillors after the effective date until general elections are held in accordance with the Constitution.</p> <p>(4) The boundaries of a province, district or ward existing immediately before the effective date shall be the boundaries of that province, district or ward until the next delimitation is done in accordance with the Constitution.</p>	<p>(4) The boundaries of a province, district or ward existing immediately before the effective date shall be the boundaries of that province, district or ward until the next delimitation is done in accordance with the Constitution.</p>	
<p><b>Section 18: Political Parties</b></p>	<p><b>Political Parties</b></p> <p>18. (1) A political party in existence immediately before the effective date shall, within twelve months of the effective date, comply with the Constitution and any legislation enacted by Parliament in accordance with the Part VIII of the Constitution.</p> <p>(2) If on the expiry of the period of twelve months, a political party has not complied with the Constitution and any legislation enacted under subsection (1), the political party shall forthwith cease to exist as a political party.</p> <p>(3) Parliament shall within six</p>	<p><b>Political Parties</b></p> <p>18. (1) A political party in existence immediately before the effective date shall, within twelve months of the effective date, comply with the Constitution and any legislation enacted by Parliament in accordance with the Part VIII of the Constitution.</p> <p>(2) If on the expiry of the period of twelve months, a political party has not complied with the Constitution and any legislation enacted under subsection (1), the political party shall forthwith cease to exist as a political party.</p>	<p>The Conference:</p> <p>(a) adopted sub-sections (1) and (2) of section 18 of the Constitution of Zambia Bill without amendments. The Conference agreed that the 12 months time-frame prescribed in the provision would be sufficient for the political parties to comply with any legislation enacted by Parliament; and</p> <p>(b) deleted sub-section (3) of</p>

	months of the effective date enact legislation for the regulation and supervision of political parties.		section 18 of the Constitution of Zambia Bill because it was unrealistic to give Parliament six months within which to enact Legislation to regulate and supervise political parties.
<b>Section 19: Commissions</b>	<p><b>Commissions</b></p> <p>19. (1) Within twelve months of the effective date the following commissions and committees shall be established or re-established-</p> <ul style="list-style-type: none"> <li>(a) the Civil Service Commission;</li> <li>(b) the Teaching Service Commission;</li> <li>(c) the Judicial Service Commission;</li> <li>(d) The Police and Prisons Service Commission;</li> <li>(e) the Anti-Corruption Commission</li> <li>(f) the Anti-Drug Commission;</li> <li>(g) the Parliamentary Service Commission;</li> <li>(h) the Human Rights Commission;</li> <li>(i) the Gender Equality Commission;</li> <li>(j) the Electoral Commission of Zambia;</li> <li>(k) the National Fiscal and</li> </ul>	<p><b>Commissions</b></p> <p><b>19. The Commissions existing immediately before the effective date shall continue to exist as if established under the Constitution.</b></p>	<p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) observed that section 19 was supposed to provide for transitional provisions and, therefore, could not provide for Commissions that were not yet in existence as the Mung'omba Draft Constitution provision was trying to do. Therefore, a new provision was adopted which provided for the Commissions that existed to continue existing under the new Constitution as opposed to the provision in the Mung'omba Draft Constitution which provided for the establishment and re-establishment of Commissions; and</li> <li>(b) deleted the reference to the time-frame as it was irrelevant.</li> </ul>



	<p>Emoluments Commission;</p> <p>(l) the State Audit Commission;</p> <p>(m) the Police and Public Complaints Commission;</p> <p>(n) the Lands Commission;</p> <p>(o) the Judicial Complaints Commission;</p>		
<b>Section 20: Currency</b>	<p><b>Currency</b></p> <p>20. Nothing in the Constitution affects the validity of notes and coins issued immediately before the effective date.</p>	<p><b>Currency</b></p> <p>20. Nothing in the Constitution affects the validity of notes and coins issued immediately before the effective date.</p>	<p>The Conference adopted Section 20 of the Constitution of Zambia Bill without amendments.</p>
<b>Section 21: Budget</b>	<p><b>Budget</b></p> <p>21. Parliament shall within twelve months of the effective date enact a Budget Act.</p>		<p>The Conference deleted section 21 of the Constitution of Zambia Bill because the enactment of a Budget Act was provided for in Article 310 of the Mung'omba Draft Constitution which the Conference had earlier adopted and re-numbered as Article 270.</p>
<p><b>THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA PREAMBLE</b></p>			
	<p><b>WE, THE PEOPLE OF ZAMBIA IN EXERCISE OF OUR CONSTITUENT POWER;</b></p>	<p><b>WE, THE PEOPLE OF ZAMBIA, BY OUR REPRESENTATIVES ASSEMBLED IN OUR PARLIAMENT;</b></p>	<p>The Conference:</p> <p>(a) adopted the first paragraph of the Preamble of the Mung'omba Draft Constitution with</p>

	<p><b>ACKNOWLEDGE</b> the supremacy of God Almighty;</p> <p><b>DECLARE</b> the Republic a Christian nation, while upholding the right of every person to enjoy that person's</p>	<p><b>ACKNOWLEDGE</b> the supremacy of God Almighty;</p> <p><b>DECLARE</b> the Republic a Christian nation, while upholding the right of every person to enjoy that person's freedom of</p>	<p>amendments by replacing the words <b>"in exercise of our constituent power"</b> with the words <b>"by our representatives, assembled in our Parliament"</b> to acknowledge the role Parliament would play in enacting the Draft Constitution as the representative body of all people. The Conference noted that the Mung'omba Draft Constitution provision was based on the assumption that the Constituent Assembly would adopt the Constitution, which assumption was no longer valid following Parliament's enactment of the NCC Act.</p> <p>(b) adopted the second and third paragraphs of the Preamble of the Mung'omba Draft Constitution without amendments. This is</p>
--	--	---	---

<p><b>New Paragraph</b></p>	<p>freedom of conscience or religion;</p> <p><b>UPHOLD</b> the human rights and fundamental freedoms of every person and recognise the equal worth of different communities and faiths in our Nation;</p>	<p>conscience or religion;</p> <p><b>HONOUR and respect freedom fighters who fought for our independence and emancipation from colonialism, thereby enabling us to exercise our right to self-determination;</b></p> <p><b>UPHOLD</b> the human rights and fundamental freedoms of every person and recognise the equal worth of different communities in our Nation;</p>	<p>because the Conference agreed that Christianity should continue to be the foundation of the country as Christian values were important in providing a strong foundation for the country.</p> <p>(c) considered and adopted a new provision to acknowledge the important role the freedom fighters played in the liberation struggle of the country.</p> <p>(d) amended the fourth paragraph of the Preamble of the Mung’omba Draft Constitution by deleting the words “<b>and faiths</b>” because the matter of faiths was adequately provided for in the third paragraph which stated that “<b>DECLARE</b> the Republic of Zambia a Christian Nation while upholding the right of every person to</p>
-----------------------------	---	---	---

<p><b>New Paragraph</b></p>	<p><b>COMMITTED</b> to upholding the values of democracy, transparency, accountability and good governance and resolved to exercise our inherent and inviolable right as a people to decide, appoint and proclaim the means and method to govern ourselves;</p> <p><b>DETERMINED</b> to ensure that all powers of the State are exercised for the sustainable development and in our common interest as the people of Zambia;</p>	<p><b>COMMITTED</b> to upholding the values of democracy, transparency, accountability and good governance and resolved to exercise our inherent and inviolable right as a people to decide, appoint and proclaim the means and methods to govern ourselves;</p> <p><b>FURTHER COMMITTED to promoting African unity and solidarity, world peace and international co-operation and understanding and the strengthening of mutual respect and friendship among peoples and States;</b></p> <p><b>DETERMINED</b> to ensure that all powers of the State are exercised for the sustainable development and in our common interest as the people of Zambia;</p>	<p>enjoy that person's freedom of conscience or religion."</p> <p>(e) adopted the fifth paragraph of the Preamble of the Mung'omba Draft Constitution without amendments.</p> <p>(f) adopted a new paragraph. The provision was provided to reaffirm Zambia's stance on the relations with the international community.</p> <p>(g) adopted the sixth, seventh and eighth paragraphs of the Preamble of the Mung'omba Draft Constitution without amendments.</p>
-----------------------------	---	---	---

	<p><b>RECOGNISE</b> the multi-ethnic and multi-cultural character of our Nation;</p> <p><b>CONFIRM</b> the equal worth of women and men and their right to freely participate, determine and build a sustainable political, economic and social order;</p> <p><b>RESOLVE</b> that Zambia shall remain a free, unitary, indivisible, multi-ethnic, multi-cultural, multi-racial, multi-religious and multi-party and democratic sovereign State;</p> <p><b>AND DIRECT</b> that all organs and institutions of the State abide by and respect our sovereign will;</p> <p><b>DO HEREBY SOLEMNLY ADOPT AND GIVE TO OURSELVES THIS CONSTITUTION:</b></p>	<p><b>RECOGNISE</b> the multi-ethnic and multi-cultural character of our Nation;</p> <p><b>CONFIRM</b> the equal worth of women and men and their right to freely participate, determine and build a sustainable political, economic and social order;</p> <p><b>RESOLVE</b> that Zambia shall remain a free, unitary, indivisible and multi-party democratic sovereign State;</p> <p><b>AND DIRECT</b> that all organs and institutions of the State abide by and respect our sovereign will;</p> <p><b>DO HEREBY ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.</b></p>	<p>(h) amended the ninth paragraph of the Preamble of the Mung’omba Draft Constitution by deleting the words “multi-ethnic, multi-cultural, multi-racial, multi-religious” because the concepts had already been provided for in the seventh paragraph of the Mung’omba Draft Constitution which the Conference had earlier adopted.</p> <p>(i) adopted the tenth paragraph of the Preamble of the Mung’omba Draft Constitution without amendments.</p> <p>(j) adopted the eleventh paragraph of the Preamble of the Mung’omba Draft Constitution with an amendment by replacing the words “SOLEMNLY ADOPT” with the word</p>
--	---	---	---

			<p>“ENACT” to reflect the fact that the draft Constitution would be enacted by Parliament rather than “adopted” by the Constituent Assembly as envisaged by the Mung’omba Draft Constitution.</p>
--	--	--	---

**PART I  
SUPREMACY AND DEFENCE OF CONSTITUTION**

<p><b>Article 1: Supremacy of Constitution</b></p>	<p><b>Supremacy of Constitution</b></p> <p>1. (1) This Constitution is the supreme law of Zambia and any other law that is inconsistent with any of its provisions is void to the extent of the inconsistency.</p> <p>(2) An act or omission that contravenes any provision of this Constitution is illegal.</p> <p>(3) A person or a group of persons may bring an action in the Constitutional Court for a declaration that a law is</p>	<p><b>Supremacy of Constitution</b></p> <p>1. (1) This Constitution is the supreme law of Zambia and any other law that is inconsistent with any of its provisions is void to the extent of the inconsistency.</p> <p>(2) An act or omission that contravenes any provision of this Constitution is illegal.</p> <p>(3) A person or a group of persons may bring an action in the <b>High</b> Court for a declaration that a law is inconsistent with or is in contravention of a provision of this</p>	<p>The Conference:</p> <p>(a) adopted clauses (1) and (2) of Article 1 of the Mung’omba Draft Constitution without amendments;</p> <p>(b) amended clauses (3) and (4) of Article 1 of the Mung’omba Draft Constitution by replacing the word</p>
--	--	---	--

	<p>inconsistent with or is in contravention of a provision of this Constitution.</p> <p>(4) The Constitutional Court may, for the purposes of clause (1), make any declaration that it considers appropriate and issue any order for the implementation of the declaration.</p> <p>(5) Any person who fails to obey or carry out an order issued under clause (4) commits an offence against this Constitution.</p> <p>(6) Any person convicted by a court of an offence under clause (5) shall, in addition to any penalty imposed under an Act of Parliament, not be eligible for election or appointment to a public office for ten years beginning with the date that person was convicted.</p>	<p>Constitution.</p> <p>(4) The <b>High</b> Court may, for the purposes of clause (1), make any declaration that it considers appropriate and issue any order for the implementation of the declaration.</p>	<p><b>“Constitutional”</b> with the word <b>“High.”</b> The amendment was as a result of the Conference having adopted clause (3) of Article 194 of the Draft Constitution which entitled a person or a group of persons who alleged that a law was inconsistent with a provision of the Constitution, to petition the High Court; and</p> <p>(c) deleted:</p> <p>(i) clause (5) because it referred to offences and penalties which were provided for in the Penal Code and other subsidiary legislation and that it was not the duty of the Constitution to create offences; and</p> <p>(ii) clause (6) as a consequence of the deletion of clause (5).</p>
--	---	--	---

<p><b>Article 2: Defence of Constitution</b></p>	<p><b>Defence of Constitution</b></p> <p>2. (1) Every person has the right and duty-</p> <p>(a) to defend this Constitution;  (b) to resist or prevent any person or group of person's from overthrowing, suspending, abrogating or unlawfully amending or reviewing this Constitution; and  to do all in that persons power to secure the continuous operation of this Constitution.</p> <p>(2) A punishment imposed on a citizen for any action in defence of this Constitution is void from the date of its imposition.</p> <p>(3) A person who suffers a punishment or loss arising from the defence of this Constitution is</p>	<p><b>Defence of Constitution</b></p> <p>2. (1) Every person has the right and duty <b>to defend and protect this Constitution.</b></p> <p>(2) A person who suffers punishment or loss arising from the defence of this Constitution <b>as provided for under clause (1)</b> is entitled to compensation, from the Government, which shall be determined by the Constitutional Court.</p>	<p>The Conference:</p> <p>(a) adopted clause (1) with amendments by merging the opening sentence with paragraph (a) and including the words <b>"and protect"</b> to guarantee both defence and protection of the Constitution.</p> <p>(b) deleted paragraph (b) of clause (1) to avoid long-windedness that could lead to misinterpretation which could be used by certain forces to destabilise the nation;</p> <p>(c) deleted clause (2) as it suggested the questioning of the legality of judgments passed by the courts to punish some citizens who committed proven heinous offences;</p> <p>(d) adopted clause (3) with amendments by including the words <b>"as provided for under sub-clause (1)"</b> to make the</p>
--	--	---	--



	<p>entitled to compensation, from the Government, which shall be determined by the Constitutional Court.</p> <p>(4) An act of any person to establish any form of government, otherwise than as provided in this Constitution, is treason.</p>		<p>provision clearer; and</p> <p>(d) deleted clause (4) because it provided for an offence which would adequately be provided for by or under subordinate legislation.</p>
<p><b>Article 3: Continuous force and effect of Constitution</b></p>	<p><b>Continuous force and effect of Constitution</b></p> <p>3. Where the operation of this Constitution is at any time interrupted by force or other unlawful act its provisions shall, despite the interruption, continue to have force and effect.</p>	<p><b>Continuous force and effect of Constitution</b></p> <p>3. Where the operation of this Constitution is at any time interrupted by force or other unlawful act its provisions shall, despite the interruption, continue to have force and effect.</p>	<p>The Conference adopted Article 3 of the Mung'omba Draft Constitution without amendments.</p>
<p><b>PART II THE REPUBLIC OF ZAMBIA AND ITS SOVEREIGNTY</b></p>			
<p><b>Article 4: Republican Status of Zambia</b></p>	<p><b>Republican Status of Zambia</b></p> <p>4. (1) Zambia is a sovereign Republic the territorial boundaries of which are described and delineated in the map set out in the First Schedule.</p>	<p><b>Republican Status of Zambia</b></p> <p>4. (1) Zambia is a sovereign Republic the territorial boundaries of which are described and delineated in the map set out in the Schedule.</p> <p>(2) The Republic of Zambia is a unitary,</p>	<p>The Conference:</p> <p>(a) adopted clauses (1), (2) and (3) of Article 4 of the Mung'omba Draft Constitution without amendments;</p>

<p><b>New Paragraph</b></p> <p><b>New Paragraph</b></p>	<p>(2) The Republic of Zambia is a unitary, multi-party, multi-ethnic and multi-cultural democratic State.</p> <p>(3) The Republic of Zambia shall not be ceded, in whole or in part, to another country.</p>	<p>multi-party, multi-ethnic, and multi-cultural democratic State.</p> <p>(3) The Republic of Zambia shall not be ceded, in whole or in part, to another country.</p> <p><b>(4) For purposes of clause (3), the joining of a union or other form of inter-State organisation by the Republic of Zambia shall not be treated as ceding of the Republic.</b></p> <p><b>(5) The establishment of a new State within the territory of the Republic of Zambia is prohibited.</b></p>	<p>(b) adopted a new provision to clarify that even when Zambia joined regional unions, it should not be deemed as ceding the sovereignty of the Republic and was numbered clause (4); and</p> <p>(c) adopted a new provision to prohibit the establishment of new States within the country and numbered it clause (5).</p>
<p><b>Article 5: Sovereignty of Zambia</b></p>	<p><b>Sovereignty of Zambia</b></p> <p>5 (1) The sovereign authority of Zambia belongs to the people of Zambia which shall be exercised in accordance with this Constitution and the Laws.</p>	<p><b>Sovereignty of Zambia</b></p> <p>5 (1) The sovereign authority of Zambia belongs to the people of Zambia which shall be exercised in accordance with this Constitution and the Laws.</p> <p><b>(2) All power resides in the people</b></p>	<p>The Conference:</p> <p>(a) adopted clause (1) of Article 5 of the Mung'omba Draft Constitution without amendments;</p>

	<p>(2) The people of Zambia reserve to themselves any power or authority that is not conferred on any State organ or State institution by this Constitution.</p> <p>(3) The people of Zambia shall be governed through their will and consent which shall be expressed or exercised through regular, free and fair public elections or referenda.</p> <p>(4) The Government shall pursue and ensure the participation of the people in the governance of the State in accordance with this Constitution.</p>	<p><b>who shall exercise it through the democratic institutions of the State in accordance with this Constitution.</b></p> <p>(3) The people of Zambia shall be governed through their will and consent which shall be expressed or exercised through regular, free and fair elections or referenda.</p> <p>(4) The Government shall pursue and ensure the participation of the people in the governance of the State in accordance with this Constitution.</p>	<p>(b) amended clause (2) of Article 5 of the Mung’omba Draft Constitution by replacing it with clause 2 of Article 1 of the current Constitution because without such an amendment, the provision could allow some people to exercise power that was not conferred on any State organ and institution. Such a practice had the risk of promoting anarchy as power could be exercised indiscriminately by some people.;</p> <p>(c) adopted clause (3) of Article 5 with an amendment by deleting the word “<b>public</b>” in order to provide clarity to the provision; and</p> <p>(d) adopted clause (4) of Article 5 without amendments.</p>
<p><b>Article 6: National symbols</b></p>	<p><b>National symbols</b> 6. The National symbols of the Republic set out in the Second</p>	<p><b>National symbols</b> <b>6. The National Flag, the National Anthem, the Coat of Arms, the Public</b></p>	<p>The Conference adopted Article 6 of the Mung’omba Draft Constitution</p>

	<p>Schedule are -</p> <ul style="list-style-type: none"> <li>(a) the National Flag;</li> <li>(b) the National Anthem;</li> <li>(c) the Coat of Arms;</li> <li>(d) the Public Seal; and</li> <li>(e) the National Motto.</li> </ul>	<p><b>Seal, and the National Motto shall be such as may be prescribed by or under an Act of Parliament.</b></p>	<p>with an amendment by replacing it with Articles 2 and 3 of the current Constitution because National Symbols were best provided for by or under an Act of Parliament as it would be easier to change them if need arose.</p>
<p><b>Article 7: Languages</b></p>	<p><b>Languages</b></p> <p>7. (1) The official language of Zambia is the English language.</p> <p>(2) Any language, other than the official language, may be used as a medium of instruction in educational institutions or for legislative, administrative or judicial purposes, as provided by or under an Act of Parliament.</p> <p>(3) All local languages in Zambia are equal and the State shall respect, promote and protect the diversity of languages of the people of Zambia.</p>	<p><b>Languages</b></p> <p>7. (1) The official language of Zambia is the English language.</p> <p>(2) Any language, <b>including sign language</b>, other than the official language, may be used as a medium of instruction in educational institutions or for legislative, administrative or judicial purposes, as provided by or under an Act of Parliament.</p> <p>(3) All local languages in Zambia are equal and the State shall respect, promote and protect the diversity of languages of the people of Zambia, <b>including sign language</b>.</p>	<p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) adopted clause (1) of Article 7 of the Mung'omba Draft Constitution without amendments; and</li> <li>(b) amended clauses (2) and (3) of Article 7 to include <b>sign language</b> as one of the languages which was accepted and widely used as a medium of communication.</li> </ul>

**PART III  
NATIONAL VALUES, PRINCIPLES, OBJECTIVES AND  
DIRECTIVE PRINCIPLES OF STATE POLICY**

<p><b>Article 8: Application of national values, principles, objectives and directive principles of State policy</b></p>	<p><b>Application of national values, principles, objectives and directive principles of State policy</b></p> <p>8. (1) The national values, principles, objectives and directive principles of State policy contained in this Part apply to all State organs, State institutions, public officers, citizens, political parties and private bodies whenever any of them -</p> <p>(a) applies or interprets this Constitution or any other law; or</p> <p>(b) applies, makes or implements policy decisions.</p> <p>(2) The President shall, once in every year, report to the National Assembly on the progress made in the realisation of the objectives and principles under this Part.</p>	<p><b>Application of national values, principles, objectives and directive principles of State policy</b></p> <p>8. (1) The national values, principles, objectives and directive principles of State policy contained in this Part apply to all State organs, State institutions, public officers, citizens, political parties and private bodies whenever any of them -</p> <p>(a) applies or interprets this Constitution or any other law; or</p> <p>(b) applies, makes or implements policy decisions.</p> <p>(2) The President shall, once in every year, report to the National Assembly on the progress made in the realisation of the <b>values</b>, objectives and principles under this Part.</p>	<p>The Conference:</p> <p>(a) adopted clause 1 of Article 8 of the Mung’omba Draft Constitution without amendments; and</p> <p>(b) amended clause (2) of Article 8 by inserting the word “<b>values</b>” because the clause dealt with, among other things, values that should apply to all State organs, institutions, public officers, citizens, political parties and private bodies.</p>
--	---	--	--

<p><b>New Article : Directive Principles Not to be Justiciable</b></p>		<p><b>Directive Principles Not to be Justiciable</b></p> <p><b>9. The Directive Principles of State Policy set out in this Part shall not be justiciable and shall not thereby, by themselves, despite being referred to as rights in certain instances, be legally enforceable in any court, tribunal or administrative institution or entity.</b></p>	<p>The Conference adopted Article 111 of the current Constitution and numbered it as Article 9 in order to clearly state that the said principles, values and objectives were not justiciable. The Conference noted that the principles, values and objectives under Part III of the Draft Constitution would be used by the courts to interpret the meaning of other parts of the Constitution when disputes arose.</p>
<p><b>Article 9: Political Values, Principles and Objectives</b></p>	<p><b>Political Values, Principles and Objectives</b></p> <p>9. The following are the political values, principles and objectives of the Nation on which all policies and laws shall be based:</p> <p>(a) the State and citizens shall at all times defend the independence, sovereignty and territorial integrity of the Republic;</p> <p>(b) the State and citizens shall promote national unity and develop a commitment, in accordance with the National</p>	<p><b>Political Values, Principles and Objectives</b></p> <p>10. The following are the political values, principles and objectives of the Nation on which all policies and laws shall be based:</p> <p>(a) the State and citizens shall at all times defend the independence, sovereignty and territorial integrity of the Republic;</p> <p>(b) the State and citizens shall promote national unity and develop a commitment, in accordance with the National Motto, to the spirit of nationhood and patriotism;</p>	<p>The Conference:</p> <p>(a) adopted the opening sentence and paragraphs (a), (b), (c) and (d) of Article 9 the Mung’omba Draft Constitution without amendments and re-numbered it as Article 10; and</p>

	<p>Motto, to the spirit of nationhood and patriotism;</p> <p>(c) the State shall provide a peaceful, secure and stable political environment which is necessary for economic development;</p> <p>(d) all State organs, State institutions and citizens shall work towards the promotion of peace and stability;</p> <p>(e) the State shall be based on democratic principles which empower and encourage the active participation of all citizens at all levels in their own governance;</p> <p>(f) the State shall be guided by the principle of decentralisation of governmental powers, functions and resources to the people at appropriate levels where they can best manage and direct their won affairs;</p> <p>(g) all political and civic associations aspiring to manage and</p>	<p>(c) the State shall provide a peaceful, secure and stable political environment which is necessary for economic development; <b>and</b></p> <p>(d) all State organs, State institutions and citizens shall work towards the promotion of peace and stability.</p>	<p>(b) agreed to delete paragraphs (e), (f), (g), (h), (i), (j), (k), (l) and (m) of Article 9 because the provisions had been provided for under Article 12.</p>
--	--	--	---

	<p>direct public affairs shall retain their autonomy in pursuit of their declared objectives and conform to principles of democracy, transparency and accountability in their internal organisation and practice;</p> <p>(h) all State organs State institutions and citizens shall endeavour to build a strong democratic political order and avoid undue influence from other countries and foreign institutions;</p> <p>(i) the Government shall ensure gender balance and equitable representation of disadvantaged groups, including the youth and persons with disability, when making appointments to any constitutional office and other State institutions;</p> <p>(j) the Government shall ensure full participation of women, the youth, persons with disability and all other citizens in the political, social, cultural and economic life of the country;</p>		
--	---	--	--



	<p>(k) the Government shall implement the principle of gender equality and ensure that each gender is not less than thirty percent of the members of elective or appointive bodies;</p> <p>(l) the Government shall recognise the role of civil society in governance and facilitate its role in ensuring the accountability of government; and</p> <p>(m) the Government shall take all necessary measures to support the distribution of functions, as well as the checks and balances provided for in this Constitution , among various State organs and State institutions, including the provision of adequate resources to ensure their effective functioning at all levels.</p>		
<p><b>Article 10: Socio-Economic Values, principles and Objectives</b></p>	<p><b>Socio-Economic Values, principles and Objectives</b></p> <p>10. The following are the socio-economic values, principles and objectives of the Nation on which all policies and laws shall be based:</p>	<p><b>Socio-Economic Values, principles and Objectives</b></p> <p>13. The following are the socio-economic values, principles and objectives of the Nation on which all policies and laws shall be based:</p>	<p>The Conference:</p> <p>(a) adopted the opening paragraph and paragraph (a)</p>

	<p>(a) the State and citizens shall endeavour to build a strong socio-economic order and avoid undue dependence on other countries and foreign institutions;</p> <p>(b) as far as possible, moneys for the annual budget shall be derived from the resources of Zambia;</p> <p>(c) the State shall endeavour to create an economic environment</p>	<p>(a) the State and citizens shall endeavour to build a strong socio-economic order and avoid undue dependence on other countries and foreign institutions;</p> <p><b>(b) the State shall promote the economic empowerment of citizens, equal opportunities in development and the effective participation of citizens in the economy in order to contribute to sustainable economic growth;</b></p> <p><b>(c) the State shall pursue policies that encourage food security;</b></p>	<p>of Article 10 of the Mung’omba Draft Constitution without amendments and re-numbered it as Article 13; and</p> <p>(b) resolved to delete paragraph (b) of Article 10 of the Mung’omba Draft Constitution because a similar provision had been adopted earlier under Part XVII of the Constitution and replaced it with a new provision that provides incentives to local investment that would result into creation of more jobs leading to sustainable economic growth. The paragraph was re-numbered as paragraph (b) following the deletion of paragraph (b) of the Mung’omba Draft Constitution;</p> <p>(c) adopted paragraph (y) of Article 10 of the Mung’omba Draft Constitution without</p>
--	--	---	--

	<p>which encourages individual initiative and self-reliance among the people and promotes private investment;</p> <p>(d) the Government shall take all necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them;</p> <p>(e) the Government shall pursue</p>	<p><b>(d) the Government shall strive to create conditions under which all citizens are able to secure adequate means of livelihood and opportunity to obtain or create employment;</b></p> <p><b>(e) the Government shall recognise the right of every person to fair labour practices and to safe and healthy working conditions;</b></p> <p><b>(f) the Government shall involve the people in the formulation and implementation of development plans and programmes which affect them;</b></p> <p>(g) the Government shall pursue policies</p>	<p>amendments and re-numbered it as paragraph (c);</p> <p>(d) adopted paragraph (w) of Article 10 of the Mung’omba Draft Constitution without amendments and re-numbered it as paragraph (d);</p> <p>(e) adopted paragraph (x) of Article 10 of the Mung’omba Draft Constitution without amendments and re-numbered it as paragraph (e);</p> <p>(f) adopted paragraph (d) of Article 10 of the Mung’omba Draft Constitution with amendments by deleting the words <b>“take all necessary steps to”</b> in order to ensure that Government was obliged to involve the people in the formulation and implementation of development plans and programmes which affect them. The paragraph was renumbered as paragraph (f);</p> <p>(g) approved paragraph (e) of</p>
--	--	--	--

	<p>policies that stimulate agricultural, industrial, technological and scientific development and ensure that legislation is enacted to support these policies;</p> <p>(f) the State shall protect and promote human rights and fundamental freedoms and enhance the dignity of individuals and communities;</p> <p>(g) the Government shall ensure access of the people to independent, impartial, competent and affordable institutions of justice;</p> <p>(h) the Government shall ensure and endeavour to maintain national security and peace;</p>	<p><b>and laws</b> that stimulate agricultural, industrial, technological, scientific and <b>human resource development</b> and <b>shall</b> ensure that legislation is enacted to support these policies;</p>	<p>Article 10 of the Mung’omba Draft Constitution with an amendment by inserting the words “<b>and laws</b>” after the word “<b>policies</b>” and inserting the words “<b>human resource development</b>” and “<b>shall</b>” as an additional area and re-numbered as paragraph (g);</p> <p>(h) deleted paragraph (f) of Article 10 of the Mung’omba Draft Constitution as the protection of human rights and fundamental freedoms was adequately provided for under the Bill of Rights;</p> <p>(i) adopted paragraph (g) of Article 10 of Mung’omba Draft Constitution with amendments by deleting the word “affordable” and placed the provision in Article 11 of the Draft constitution.</p> <p>(j) deleted paragraph (h) of Article 10 of the Mung’omba Draft Constitution as the matters were provided for adequately in Article 14 which dealt with</p>
--	---	--	---

	<p>(i) the State shall endeavour to fulfil the Bill of Rights to achieve social justice and economic development;</p> <p>(j) the State shall recognize the significant role that women play in the socio-economic development of society;</p> <p>(k) the Government shall guarantee and respect institutions which are charged by the State with responsibility for protecting and promoting human rights and freedoms by providing them with adequate resources to function effectively;</p> <p>(l) the State shall give the highest priority to the enactment of legislation establishing measures that protect and enhance the right of the people to equal opportunities in development;</p>		<p>the foreign policy, principles and objectives.</p> <p>(k) deleted paragraphs (i), (j), (k) and (l) of Article 10 of the Mung'omba Draft Constitution as the provisions were adequately covered by the provisions in the Bill of Rights;</p>
--	--	--	--

	<p>(m) the Government shall make reasonable provision for the welfare and maintenance of the older members of society;</p> <p>(n) the State shall recognize the right of persons with disability to respect and human dignity;</p> <p>(o) the State shall promote recreation and sports for the citizens;</p> <p>(p) the Government shall strive to eradicate poverty and illiteracy;</p>	<p>(h) the Government shall make reasonable provision for the welfare and maintenance of the older members of society;</p> <p>(i) the Government shall strive to eradicate poverty;</p>	<p>(l) adopted paragraph (m) of Article 10 of the Mung’omba Draft Constitution without amendments an re-numbered it paragraph (h);</p> <p>(m) deleted paragraph (n) of Article 10 of the Mung’omba Draft Constitution because it was provided for under Article 32 of Part VI of the Draft Constitution;</p> <p>(n) deleted paragraph (o) of Article 10 of the Mung’omba Draft Constitution because it was provided for under Article 19 of Part III of the Draft Constitution.</p> <p>(o) adopted paragraph (p) of Article 10 of the Mung’omba Draft Constitution with amendments by deletion of the words “<b>and illiteracy</b>” from the provision because “<b>poverty</b>” and “<b>illiteracy</b>” were different concepts and “<b>illiteracy</b>” was placed under the Bill of Rights in Article 69 providing for education. The</p>
--	---	---	--

	<p>(q) the Government shall promote free and compulsory basic education;</p> <p>(r) the government shall take appropriate measures to afford every citizen equal opportunity to attain the highest educational standard possible.</p> <p>(s) the State shall protect the family as it is the natural and basic unit of society;</p> <p>(t) the Government shall institute adequate measures for disaster preparedness and management;</p> <p>(u) the Government shall take necessary measures to bring about balanced development of the different areas of the Republic especially between the rural and urban areas;</p>	<p>(j) the Government shall institute adequate measures for disaster preparedness and management;</p>	<p>paragraph was re-numbered as paragraph (i);</p> <p>(p) deleted paragraphs (q), (r) and (s) of Article 10 of the Mung'omba Draft Constitution because their provisions were provided for under the Bill of Rights;</p> <p>(q) adopted paragraph (t) of Article 10 of the Mung'omba Draft Constitution without amendments and re-numbered it as paragraph (j);</p> <p>(r) deleted paragraph (u) of Article 10 of the Mung'omba Draft Constitution because it was provided for in other provisions under the Directive Principles of State Policy and Part XVII-Public Finance and</p>
--	--	---	--

	<p>(v) the State shall devise land policies which recognise ultimate ownership of land by the people;</p> <p>(w) the Government shall strive to create conditions under which all citizens are able to secure adequate means of livelihood and opportunity to obtain employment;</p>	<p>(k) the <b>Government</b> shall devise land policies which recognise ultimate ownership of land by the <b>citizens</b>; and</p>	<p>Budget-of the Draft Constitution;</p> <p>(s) amended paragraph (v) of Article 10 of the Mung’omba Draft Constitution by substituting the words “<b>State</b>” with “<b>Government</b>” and “<b>people</b>” with “<b>citizens.</b>” This is because it was the Government that was responsible for devising land policies and to restrict the ultimate ownership of land to citizens. The paragraph was re-numbered as paragraph (k);</p> <p>(t) adopted paragraph (w) of Article 10 of the Mung’omba Draft Constitution with amendments by including the words “<b>or create</b>” to ensure that Government strives to create opportunities under which all citizens are able to create employment for themselves and others. The paragraph was re-numbered paragraph (d).</p>
--	--	--	---



	<p>(x) the Government shall recognise the right of every person to fair labour practices and to safe and healthy working conditions;</p> <p>(y) the State shall pursue policies that encourage food security;</p> <p>(z) the State shall take measures to preserve, protect and conserve the environment;</p> <p>(aa) the Government shall strive to provide clean and safe water, adequate medical and health facilities and shelter for all persons and take measures to consistently improve such facilities and amenities; and</p>	<p>(l) the <b>State</b> shall strive to provide clean and safe water, adequate medical and health facilities and shelter for all persons and take measures to consistently improve such facilities and amenities.</p>	<p>(u) adopted paragraphs (x) and (y) of Article 10 of the Mung’omba Draft Constitution without amendments and re-numbered them as paragraphs (e) and (c) respectively;</p> <p>(v) deleted paragraph (z) of Article 10 because it was provided for under Part IX of the Draft Constitution;</p> <p>(w) adopted paragraph (aa) of Article 10 of the Mung’omba Draft Constitution with amendments by replacing the word “<b>Government</b>” with the word “<b>State</b>” because the provision of services referred to in the provision was being provided by State institutions other than the</p>
--	--	---	---

	<p>(bb) the State shall promote sustainable development and the utilisation of national resources of Zambia in such a way as to safeguard -</p> <p>(i) the bio-diversity of the country and to meet the developmental and environmental needs of present and future generations; and</p> <p>(ii) the ecological balance and protect national resources, including land, water, wetlands, minerals, oil, fauna and flora.</p>		<p>central Government. The paragraph was re-numbered as paragraph (l); and</p> <p>(x) deleted paragraph (bb) of Article 10 of the Mung’omba Draft Constitution because it was already provided for in Part XX of the Draft Constitution.</p>
<b>New Article : Equal access to institutions of justice</b>		<b>Equal access to institutions of justice</b>	
		<b>11. The Government shall ensure access of the people to independent, impartial and competent institutions of justice.</b>	The Conference adopted a new Article to provide for people’s access to independent, impartial and competent institutions of justice and numbered it as Article 11.
<b>Article 11: Cultural Values, Principles and Objectives</b>	<b>Cultural Values, Principles and Objectives</b>	<b>Cultural Values, Principles and Objectives</b>	
	11. The following are the cultural values, principles and	15. The following are the cultural values, principles and objectives of the Nation on which all policies shall be based:	The Conference:

	<p>objectives of the Nation on which all policies shall be based:</p> <p>(a) the State shall recognise the diversity of the people and promote the different cultures of the country consistent with this Constitution and, in particular, with the Bill of Rights;</p> <p>(b) the Government shall take measures that are practically possible to promote the use, development and preservation of local languages and promote the development of sign language and Braille;</p> <p>(c) the State and citizens shall endeavour to preserve, protect and generally promote the culture of maintenance and preservation of public property and Zambia's heritage;</p>	<p>(a) the State shall recognise the diversity of the people and promote the different cultures of the country consistent with this Constitution and, in particular, with the Bill of Rights;</p> <p><b>(b) the State and citizens shall preserve, protect and promote the conservation of ancient, cultural and natural heritage, relics and other objects of aesthetic, historical, pre-historical, archaeological or scientific interest;</b></p> <p>(c) the State and citizens shall preserve, protect and promote a culture of maintenance and preservation of public property;</p>	<p>(a) adopted the opening paragraph and paragraph (a) of Article 11 of the Mung'omba Draft Constitution without amendments. The Article was re-numbered as Article 15;</p> <p>(b) deleted paragraph (b) of Article 11 of the Mung'omba Draft Constitution because it was provided for under Article 7 of the Draft Constitution and in its place introduced a provision aimed at preserving Zambia's cultural and natural heritage which was in the last part of paragraph (c) of Article 11 of the Mung'omba Draft Constitution;</p> <p>(c) amended paragraph (c) of Article 11 by deleting the aspects of preservation of Zambia's heritage which was provided for under the new paragraph (b) it earlier adopted. The words</p>
--	--	--	---

	<p>(d) the State shall devise policies that promote Zambian art and music; and</p>	<p>(d) the State shall devise policies that promote Zambian <b>arts, individual creativity and innovation in the development of art and the cultural industry ;</b></p>	<p><b>“endeavour to”</b> were also deleted;</p> <p>(a) adopted paragraph (d) with amendments by:</p> <p>(i) replacing the words <b>“art and music”</b> with the word <b>“arts”</b> to include all literal arts which encompassed poetry, written arts and performing arts such as singing, dancing and so on. Therefore, the word <b>“arts”</b> was more appropriate;</p> <p>(ii) including the term <b>“cultural industries”</b> which is a new concept and includes industries that support cultural activities; and</p> <p>(iii) including wording which makes reference to the promotion of individual creativity and innovation in the development of arts and culture.</p>
--	--	---	--

<p><b>New Paragraph</b></p>	<p>(e) the citizens shall promote a culture of cooperation, understanding, appreciation, tolerance and respect for each other's customs, traditions and beliefs.</p>	<p>(e) the citizens shall promote a culture of cooperation, understanding, appreciation, tolerance and respect for each other's customs, traditions and beliefs; and</p> <p><b>(f) traditional leaders shall preserve, protect and promote customs, traditions and cultural practices that encourage the values of community solidarity and protect and respect the dignity, welfare and interests of the family.</b></p>	<p>(e) adopted paragraph (e) of Article 11 without amendments; and</p> <p>(f) considered and adopted a new paragraph and numbered it (f). The new provision was adopted to acknowledge the role that the traditional leaders play in the preservation, protection and promotion of customs, traditions and cultural practices, encourage the values of community solidarity and protect the welfare and interests of the family.</p>
<p><b>Article 12: Foreign Policy, Principles and Objectives</b></p>	<p><b>Foreign Policy, Principles and Objectives</b></p> <p>12. The State shall pursue a foreign policy based on the following principles and objectives:</p> <p>(a) the promotion of national interest;</p> <p>(b) respect for international law and treaty obligations;</p>	<p><b>Foreign Policy, Principles and Objectives</b></p> <p>14. The State shall pursue a foreign policy based on the following principles and objectives:</p> <p>(a) the promotion of national interest;</p> <p>(b) respect for international law and treaty obligations;</p> <p>(c) the promotion of regional integration and African unity;</p>	<p>The Conference:</p> <p>(b) adopted opening paragraph and paragraphs (a), (b), (c), (d), (e) and (f) of Article 12 of the Mung'omba Draft Constitution without amendments;</p>

<p><b>New Paragraph</b></p>	<p>(c) the promotion of regional integration and African unity;  (d) the settlement of international disputes by peaceful means;  (e) the promotion of a just world economic order; and    (f) opposition to all forms of domination, racism and other forms of oppression and exploitation.</p>	<p>(d) the settlement of international disputes by peaceful means;  (e) the promotion of a just world economic order;  (f) opposition to all forms of domination, discrimination, racism and other forms of oppression and exploitation; and    <b>(g) the avoidance by State organs, State institutions and citizens of undue influence from other countries and foreign institutions.</b></p>	<p>(c) inserted a new paragraph and numbered it as paragraph (g) to discourage the undue influences on the values of Zambians by other countries and foreign institutions; and    (d) re-numbered the Article as Article 14.</p>
<p><b>Article 13: Principles and objectives of accountability and transparency</b></p>	<p><b>Principles and objectives of accountability and transparency</b></p> <p>13. The State shall be governed democratically based on the following principles and objectives:</p> <p>(a) the State shall ensure open and transparent government and accountability of public officers,</p>	<p><b>Principles and objectives of accountability and transparency</b></p> <p>12. The State shall be governed democratically, based on the following principles and objectives:</p> <p>(a) the State shall ensure open and transparent government and accountability of public officers, State organs and State</p>	<p>The Conference:</p> <p>(a) adopted the opening sentence and paragraph (a) of Article 13 without amendments and re-numbered the Article as Article 12; and</p>

<p><b>New Paragraph</b></p>	<p>State organs and State institutions;</p> <p>(b) all State organs, State institutions and public officers are accountable to the people; and</p> <p>(c) the Government shall put in place effective measures to expose and eradicate corruption both in the public and private sectors.</p>	<p>institutions;</p> <p><b>(b) the State shall be guided by the principle of decentralisation of governmental powers, functions and resources to the people at appropriate levels;</b></p> <p>(c) the State shall put in place effective measures to expose and eradicate corruption both in the public and private sectors;</p> <p><b>(d) the State shall promote ethics and fair play in the conduct of public life;</b></p>	<p>(b) deleted paragraph (b) because its provision was provided for in paragraph (a) of Article 12 which had been adopted earlier. In its place paragraph (f) of Article 9 of the Mung’omba Draft Constitution was adopted with amendments by deleting the words <b>“where they can best manage and direct their own affairs”</b> The new paragraph (b) was adopted to provide for decentralisation;</p> <p>(c) amended paragraph (c) of Article 13 by substituting the word <b>“Government”</b> with the word <b>“State”</b> to make the fight against corruption more inclusive by providing for other bodies, apart from the Executive;</p> <p>(d) adopted a new paragraph in order to provide for an aspiration to promote a society</p>
-----------------------------	---	--	--

<p><b>New Paragraph</b></p>		<p><b>(e) the Government shall endeavour to provide adequate resources to State organs and State institutions to ensure their effective functioning at all levels;</b></p>	<p>of honest and accountable people and numbered it paragraph (d);</p> <p>(e) adopted paragraph (m) of Article 9 of the Mung’omba Draft Constitution with amendments by rephrasing it to make it clearer in providing for Government to endeavour to provide adequate resources to state organs and institutions and numbered it paragraph (e);</p>
<p><b>New Paragraph</b></p>		<p><b>(f) the Government shall recognise the role of civil society in governance and facilitate its role in ensuring the accountability of public and private institutions; and</b></p>	<p>(f) adopted paragraph (l) of Article 9 of the Mung’omba Draft Constitution by rephrasing it to make it clearer in providing for the Government to recognise the role of the civil society in ensuring accountability of both public and private institutions to enhance good governance and act as a safeguard as Government would check civil society and vice versa. The paragraph was numbered as</p>



<p><b>New Paragraph</b></p>		<p>(g) the State shall ensure that all political parties aspiring to manage and direct public affairs, and all religious bodies and civic associations aspiring to participate in public affairs, shall retain their autonomy in pursuit of their declared objectives and conform to principles of democracy, transparency and accountability in their internal organisation and practices.</p>	<p>paragraph (f); and (g) adopted paragraph (g) of Article 9 of the Mung’omba Draft Constitution with amendments by rephrasing it to make it clearer in providing for political, religious and civic organisations to conform to principles of democracy, transparency and accountability if they aspired to manage and direct or participate in public affairs and numbered it paragraph (g).</p>
<p><b>New Article: Christian and Other Religious Values and Principles</b></p>		<p><b>Christian and Other Religious Values and Principles</b></p> <p>16. The State shall direct the policies and laws towards securing and promoting Christian values, beliefs, ethics and morals consistent with this Constitution, and shall prohibit any religious practices that de-humanise or are injurious to the physical and mental well-being of a human being.</p>	<p>The Conference introduced the new provision to emphasise the State’s role in promoting Christianity which would define who Zambians were and to support the provision that declared Zambia as a Christian nation in the Preamble of the Draft Constitution. It was numbered as Article 16.</p>
<p><b>New Article : Gender Equality</b></p>		<p><b>Gender Equality</b></p> <p>17. The State shall direct the policies and laws towards securing and promoting</p>	<p>The Conference adopted the new provision on gender equality to oblige Government to direct policies and</p>

		gender equality.	laws towards securing and promoting gender equality. It was numbered as Article 17.
<b>New Article : Equitable Representation of Disadvantaged Groups</b>		<p><b>Equitable Representation of Disadvantaged Groups</b></p> <p><b>18. (1) The Government shall ensure full participation, gender balance and equitable representation of disadvantaged groups, including the youths and persons with disabilities, in elective and appointive bodies and in the political, social, cultural and economic development of the country.</b></p> <p><b>(2) All political parties and civic associations shall ensure full participation, gender balance and equitable representation of disadvantaged groups, the youth and persons with disability in their organisations and</b></p>	<p>The Conference adopted a new provision and numbered it as Article 18 to provide:</p> <p>(a) in clause (1) for obliging Government to ensure the full, participation, gender balance and equitable representation of disadvantaged groups, in elective and appointive bodies within the political, social, cultural and economic development. It was numbered as Article 18.</p> <p>(b) in clause (2) of the new provision aimed at obliging all political parties and civic associations to ensure the full participation, gender</p>

		<b>practices.</b>	balance and equitable representation in organisations and practices.
<b>New Article : Promotion of sport</b>		<b>Promotion of sport</b>  <b>19. The Government shall promote recreation and sports for the citizens.</b>	The Conference adopted paragraph (o) of Article 10 of the Mung'omba Draft Constitution to promote recreation and sports and numbered it as Article 19.
<b>PART IV LAWS OF ZAMBIA</b>			
<b>Article 20: Laws of Zambia</b>	<b>Laws of Zambia</b>  <b>14. The Laws of Zambia consist of -</b>  (a) this Constitution;  (b) laws made by or under the authority of Parliament;  (c) any orders, rules, regulations and other statutory instruments made by any person or authority under a power conferred by this Constitution or any other law;	<b>Laws of Zambia</b>  <b>20. The laws of Zambia consist of -</b>  (a) this Constitution;  (b) laws made by or under the authority of Parliament;  (c) any orders, rules, regulations and other statutory instruments made by any person or authority under a power conferred by this Constitution or any other law;  (d) the British laws and statutes which apply or extend to Zambia as prescribed by	The Conference adopted Article 14 of the Mung'omba Draft Constitution without amendments and renumbered the Article as Article 20.

	<p>(d) the British laws and statutes which apply or extend to Zambia as prescribed by an Act of Parliament;</p> <p>(e) Zambian customary law which is consistent with this Constitution;</p> <p>(f) the common law of England which is consistent with this Constitution;</p> <p>(h) the rules of law generally known as the doctrines of equity; and</p> <p>(h) the law as determined by the superior courts.</p>	<p>an Act of Parliament;</p> <p>(e) Zambian customary law which is consistent with this Constitution;</p> <p>(f) the common law of England which is consistent with this Constitution;</p> <p>(g) the rules of law generally known as the doctrines of equity; and</p> <p>(h) the law as determined by the superior courts.</p>	
<p><b>PART V</b> <b>CITIZENSHIP</b></p>			
ARTICLE No.	PROVISIONS OF THE MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
<p><b>Article 15:</b> <b>Existing</b> <b>Citizenship</b></p>	<p style="text-align: center;"><b>Existing Citizenship</b></p> <p>15. Every person who was a citizen of Zambia immediately before the commencement of this Constitution shall continue to be a</p>	<p style="text-align: center;"><b>Existing Citizenship</b></p> <p>21. (1) Every person who was a citizen of Zambia immediately before the commencement of this Constitution shall continue to be</p>	<p style="text-align: center;"><b>Existing Citizenship</b></p> <p>The Conference observed that Article 15 omitted the granting of citizenship to a person whose application for citizenship might have been approved</p>

	<p>citizen of Zambia and shall retain the same citizenship status from that date.</p>	<p>a citizen of Zambia and shall retain the same citizenship status as from that date.</p> <p>(2) <b>A person who was entitled to citizenship of Zambia before the commencement of this Constitution subject to the performance of any conditions following the happening of a future event, shall become a citizen upon the performance of such conditions.</b></p>	<p>dependent on the occurrence of a culture event and:</p> <p>(a) adopted its provision without amendments and re-numbered it as clause (1) of the new Article 21;</p> <p>(b) adopted clause (2) of Article 4 of the current Constitution and numbering it as clause (2) of Article 15 to provide for the granting of citizenship to a person whose application for citizenship might have been approved dependent on the occurrence of a culture event; and</p> <p>(c) re-numbered Article 15 as Article 21.</p>
<p><b>Article 16: Acquisition of citizenship</b></p>	<p><b>Acquisition of citizenship</b> 16. Citizenship may be acquired by birth, descent, registration or adoption in accordance with this Part.</p>	<p>22. <b>Acquisition of citizenship</b> Citizenship may be acquired by birth, descent, registration or adoption in accordance with this Part.</p>	<p><b>Acquisition of citizenship</b> The Conference adopted Article 16 without amendments but re-numbered it as Article 22.</p>

<p><b>Article 17: Citizenship by birth</b></p>	<p><b>Citizenship by birth</b> 17. Every person born in Zambia is a citizen by birth if, at the date of the person's birth, at least one parent of that person is a citizen</p>	<p><b>Citizenship by birth</b> 23. (1) Every person born in Zambia is a citizen by birth if, at the date of the person's birth, at least one parent of that person is or was a citizen.  (2) <b>A child of not more than five years of age found in Zambia, whose parents are not known, shall be presumed to be a citizen of Zambia by birth.</b></p>	<p><b>Citizenship by birth</b> The Conference adopted Article 17 with amendments: (a) by inserting the words "<b>or was</b>" to provide for a child, one of whose parents was or had been citizen before death; (b) by providing for a child who was not more than five years old found in Zambia and of unknown parents in clause (2); and (c) re-numbering the Article as Article 23.</p>
<p><b>Article 18: Citizenship by descent</b></p>	<p><b>Citizenship by descent</b> 18. Every person born outside Zambia is a citizen by descent if, at the date of that person's birth, at least one parent of that person is a citizen by birth.</p>	<p><b>Citizenship by descent</b> 24. Every person born outside Zambia is a citizen by descent if, at the date of the person's birth, at least one parent of that person is <b>or was</b> a citizen.</p>	<p><b>Citizenship by descent</b> The Conference adopted Article 18 with amendments: (a) by deleting the words "<b>by birth</b>" to make the provision applicable to every child of a citizen born outside Zambia regardless of how the parent(s) acquired citizenship; and (b) by inserting the words "<b>or was</b>" between the words "<b>is</b>" and "<b>a</b>" to provide for a child whose one parent was citizen but died before its birth; and (c) by re-numbering the Article as Article 24. (d)</p>

<p><b>Article 19: Citizenship by Registration</b></p>	<p><b>Citizenship by Registration</b> 19 (1) Subject to clauses (4) and (5), a person shall be entitled to apply to the Citizenship Board to be registered as a citizen if that person was born in Zambia but neither of whose parents is a citizen.</p> <p>(2) Subject to clause (4), a person shall be entitled to apply to the Citizenship Board to be registered as a citizen if that person was born in or outside Zambia and had a grandparent who is or was a citizen.</p> <p>(3) Subject to clauses (4) and (5), a person shall be entitled to apply to be registered as a citizen if that person has -</p> <p>(a) attained the age of twenty-one years; and</p> <p>(b) been ordinarily resident in the Republic for a continuous period of not less than twelve years immediately preceding the person's application for registration.</p>	<p><b>Citizenship by Registration</b> 25. (1) Subject to clauses (4) and (5), a person may apply to the Citizenship Board of Zambia to be registered as a citizen if that person was born in Zambia but neither of the person's parents is <b>or was</b> a citizen.</p> <p>(2) Subject to clause <b>(5)</b>, a person <b>may</b> apply to the Citizenship Board <b>of Zambia</b> to be registered as a citizen, if that person was born in or outside Zambia and has a grandparent who is or was a citizen.</p> <p><b>(3) Parliament shall enact legislation for the expeditious entry into and residence in Zambia of persons to whom clause (2) applies.</b></p> <p><b>(4)</b> Subject to clause <b>(5)</b>, a person may apply to be registered as a citizen if that person has -</p> <p>(a) attained the age of twenty-one years; and</p> <p>(b) been ordinarily resident in the Republic for a continuous period of not less than <b>fifteen</b></p>	<p><b>Citizenship by Registration</b> The Conference adopted Article 19 of the Draft Constitution with amendments by:</p> <p>(a) replacing the words "Citizenship Board" with the words "Citizenship Board <b>of Zambia</b>" and inserting the words "or was" before the words "a citizen" in clause (1)</p> <p>(b) replacing the word "shall" with the word "<b>may</b>" in clause (2) to make it optional for a person to apply to be registered as a citizen and replaced the words "Citizenship Board" with "Citizenship Board of Zambia" in clause (2);</p> <p>(c) by replacing the words "not less than 12 years" with the words "<b>not less than 15 years</b>" in clause (3) to adjust the number of years during which a person should be ordinarily resident in Zambia before submitting application for registration to make it more stringent for a person to acquire citizenship by registration;</p> <p>(d) replacing the words "the</p>
---	---	---	--

	<p>(4) A person who applies to be registered as a citizen under this Article and whose application is successful shall -</p> <p>(a) in the case of clause (1), renounce the citizenship of any other country on attaining the age of twenty- one years; or</p> <p>(b) in the case of clauses (2) and (3), renounce the citizenship of any other country within a period of not more than three months from the date the application was successful;</p> <p>and, upon such renunciation, the Citizenship Board shall register that person as a citizen by registration.</p> <p>(5) A child of a diplomat accredited to Zambia or a person with refugee status in Zambia shall not be entitled to be registered as a citizen.</p>	<p>years immediately preceding the person's application for registration.</p> <p>(5) A person who applies to be registered as a citizen under this Article and whose application is successful shall -</p> <p>(a) in the case of clause (1), renounce the citizenship of any other country on attaining the age of twenty-one years; or</p> <p>(b) in the case of clauses (2) and <b>(4)</b>, renounce the citizenship of any other country within a period of not more than three months from the date <b>of approval of the application;</b></p> <p>and, upon such renunciation, the Citizenship Board of Zambia shall register that person as a citizen by registration.</p> <p>(6) A child of a diplomat accredited to Zambia or a person with refugee status in Zambia shall not be registered as a citizen.</p>	<p>application was successful" with the words "<b>of approval of the application</b>" in clause (4)(b);</p> <p>(e) deleting the words "<b>entitled to be</b>" in clause (5);</p> <p>(f) insertng a new clause (3) to provide for the expeditious entry into and residence in Zambia of a person born in or outside Zambia and has or had a grandparent who is or was a citizen;</p> <p>(g) re-numbered clauses (3), (4) and (5) as clauses (4), (5) and (6) respectively and Article 19 as Article 25; and</p> <p>(h) inserted a new Article 26 to provide for citizenship by marriage in recognition of the importance of marriage in the Zambia society.</p>
--	---	---	--



<p><b>New Article 26</b></p>	<p><b>Citizenship by marriage</b></p>	<p>(1) A woman married to a man who is a citizen, or a man married to a woman who is a citizen, may, upon making an application in the manner prescribed by an Act of Parliament, be registered as a citizen of Zambia.</p> <p>(2) Clause (1) shall apply only if the applicant has been ordinarily resident in the Republic for a continuous period of not less than fifteen years immediately preceding that person's application.</p> <p>(3) Clause (1) applies to a person who was married to a person who, but for that person's death, would have continued to be a citizen of Zambia under clause (1) of Article 21.</p> <p>(4) Where the marriage of a person is annulled or dissolved after the person has been registered as a citizen of Zambia under clause (1), that person shall, unless the person renounces that citizenship, continue to be a citizen of Zambia.</p> <p>(5) Where on an application for registration under clause (1), the Citizenship Board of Zambia has reasonable grounds to believe that a</p>	<p>The Conference adopted a new provision to provide for citizenship to non-Zambians married to citizens as it was of the view that marriage was a very important institution</p>
------------------------------	---------------------------------------	--	---

		<p>marriage has been entered into primarily with a view to obtaining the registration, the Citizenship Board of Zambia shall not effect the registration.</p>	
Article 20	<p><b>Citizenship by adoption</b>  20. (1) A child who is not a citizen and who is adopted by -</p> <p>(a) a citizen by birth or descent shall be a citizen on the date of the adoption but that child shall renounce the citizenship of any other country on attaining the age of twenty-one years failure to which the child shall cease to be a citizen; and</p> <p>(b) a citizen by registration, shall not acquire citizenship by adoption.</p> <p>(2) An act of Parliament shall provide for further restrictions on the adoption by a citizen of a child who is not a citizen.</p>	<p><b>Citizenship by adoption</b>  27. (1) A child who is not a citizen and who is adopted by a citizen shall be a citizen on the date of the adoption but the child shall, on attaining the age of twenty-one years, renounce the citizenship of any other country failure to which the child shall cease to be a citizen.</p> <p>(2) An Act of Parliament shall provide for further restrictions on the adoption, by a citizen, of a child who is not a citizen.</p>	<p><b>Citizenship by adoption</b>  The Conference adopted Article 20 with amendments by:</p> <p>(a) deleting the words “<b>by birth or descent</b>” from paragraph (a) to remove the discriminatory provision which provided that a child adopted by a citizen by registration could not acquire citizenship;</p> <p>(b) deleting paragraph (b) of clause (1) of Article 20 of the Draft Constitution because it was redundant; and</p> <p>(c) re-numbered Article 20 as Article 27.</p>

New Article 28	Renunciation of citizenship other than Zambian	For purposes of this Part, where, under the law of a country other than Zambia, a person cannot renounce the citizenship of that other country, the person shall make such declaration concerning that citizenship as may be prescribed by or under an Act of Parliament.	The Conference inserted a new Article 28 to provide for declaration in case where a person cannot renounce the citizenship of a country other than Zambia when acquiring citizenship.
Article 21	<p style="text-align: center;"><b>Dual Citizenship</b></p> <p>21. (1) a citizen, by birth or descent, shall not lose that citizenship by acquiring the citizenship of another country.</p> <p>(2) A citizen, by birth or descent, and who before the commencement of this Constitution, acquired the citizenship of another country and as a result ceased to be a Zambian citizen shall be entitled to apply to the Citizenship Board to regain that citizenship.</p>	<p style="text-align: center;"><b>Dual Citizenship</b></p> <p>29. (1) A citizen, by birth or descent, shall not lose that citizenship by acquiring the citizenship of another country.</p> <p>(2) A citizen, by birth or descent, and who, before the commencement of this Constitution, acquired the citizenship of another country and as a result ceased to be a Zambian citizen may apply to the Citizenship Board of Zambia to regain that citizenship.</p>	<p style="text-align: center;"><b>Dual Citizenship</b></p> <p>The Conference adopted Article 21 without amendments but re-numbered as Article 29.</p>
Article 22	<p style="text-align: center;"><b>Renunciation and deprivation of citizenship</b></p> <p>22. (1) Subject to clause (2), citizen may renounce Zambian citizenship or shall be deprived of that citizenship only if that person</p>	<p style="text-align: center;"><b>Renunciation and deprivation of citizenship</b></p> <p>30. (1) A citizen may renounce Zambian citizenship.</p> <p>(2) Subject to clause (3), a person shall be deprived of that person's</p>	<p style="text-align: center;"><b>Renunciation and deprivation of citizenship</b></p> <p>The Conference adopted Article 22 with amendments:</p> <p>(a) by splitting clause (1) into two (2) separate clauses and re-</p>

	<p>acquired citizenship by means of fraud, false representation or concealment of any material fact.</p> <p>(2) A citizen by registration or adoption may be deprived of that citizenship if that person acquires citizenship of any other country other than by marriage.</p>	<p><b>Zambian citizenship only if the person acquired that citizenship by means of fraud, false representation or concealment of any material fact.</b></p> <p>(3) A citizen by registration or adoption may be deprived of that citizenship if that person acquires the citizenship of any other country other than by marriage.</p>	<p>numbered clause (2) as clause (3) so that the new clause (1) provides for renunciation of Zambian citizenship while clause (2) provides for deprivation of Zambian citizenship;</p> <p>(b) renumbered Article 22 as Article 30.</p>
Article 23	<p><b>Citizenship Board</b></p> <p>23. (1) There shall be established the Citizenship Board of Zambia which shall implement this Part.</p> <p>(2) Parliament shall enact legislation which provides for the composition of, appointment of members to, tenure of office and procedures to be followed by, the Citizenship Board.</p>	<p><b>Citizenship Board</b></p> <p>31.(1) There shall be established the Citizenship Board of Zambia which shall implement this Part.</p> <p>(2) Parliament shall enact legislation to provide for the powers, functions, composition of, appointment of members to, tenure of office and procedures to be followed by, the Citizenship Board of Zambia.</p>	<p><b>Citizenship Board</b></p> <p>The Conference adopted Article 23 with amendments by:</p> <p>(a) replacing the term “<i>Citizenship Board</i>” with the term “<b>Citizenship Board of Zambia</b>” as obtaining currently; and</p> <p>(b) re-numbered Article 23 as Article 31.</p>
Article 24	<p><b>Entitlements of citizen</b></p> <p>24. A citizen is entitled to -</p> <p>(a) the rights, privileges and benefits of citizenship, subject to the limitations set out in this Constitution; and</p>	<p><b>Entitlements of citizen</b></p> <p>32. A citizen is entitled to -</p> <p>(a) the rights, privileges and benefits of citizenship, subject to the limitations set out in this Constitution; and</p> <p>(b) any document of registration and identification issued by the State to citizens.</p>	<p><b>Entitlements of citizen</b></p> <p>The Conference adopted Article 24 without amendments and re-numbered it as Article 32.</p>

	(b) to any document of registration and identification issued by the State to citizens.		
Article 25	<p><b>Responsibility of a citizen</b></p> <p>25. A citizen shall-</p> <p>(a) acquire basic understanding of this Constitution and promote its ideals and objectives;</p> <p>(b) uphold and defend this Constitution and the Laws;</p> <p>(c) register and vote, if eligible, in all National and local elections and referenda;</p> <p>(d) be patriotic and loyal to Zambia, promote its development and good image and render national service whenever required to</p>	<p><b>Responsibility of a citizen</b></p> <p>33. A citizen shall -</p> <p>(a) <b>be patriotic and loyal to Zambia and promote its well-being;</b></p> <p>(b) acquire basic understanding of this Constitution and promote its ideals and objectives;</p> <p>(c) <b>contribute to the well-being of the community where that citizen lives, including the observance of health controls;</b></p> <p>(d) <b>foster national unity and live in harmony with others;</b></p> <p>(e) be entitled to register and vote, if eligible, in all national and local elections and referenda;</p> <p>(f) <b>promote democracy and the rule of law;</b></p> <p>(g) <b>provide defence and military service when called upon;</b></p> <p>(h) <b>carry out with discipline and honesty legal public functions;</b></p> <p>(i) <b>pay all taxes and duties legally due and owing to the State;</b></p> <p>(j) <b>assist in the enforcement of the law at all times;</b></p>	<p><b>Responsibility of a citizen</b></p> <p>The Conference adopted Article 25 with amendments:</p> <p>(a) by incorporating some provisions from Article 113 of the current Constitution to include the aspects not provided for in the Draft Constitution; and</p> <p>(b) re-numbering the Article as Article 33.</p>

	<p>do so;</p> <p>(e) develop one's abilities to the greatest possible extent through acquisition of knowledge, continuous learning and the development skills; contribute to the welfare and advancement of the community where that citizen lives;</p> <p>(f) contribute to the welfare and advancement of the nation by paying all taxes and duties lawfully due and owing to the State;</p> <p>(g) strive to foster national unity and live in harmony with others;</p> <p>(h) promote democracy, good governance and the rule of law;</p>	<p>(k) develop one's abilities to the greatest possible extent through acquisition of knowledge, continuous learning and the development of skills;</p> <p>(l) protect and safeguard public property from being damaged, wasted or misused;</p> <p>(m) protect and conserve the environment, utilise natural resources in a sustainable manner and maintain a clean and healthy environment;</p> <p>(n) desist from acts of corruption, anti-social and criminal activities; and</p> <p>(o) understand and enhance the Republic's place in the international community.</p>	
--	---	---	--

	<ul style="list-style-type: none"> <li>(i) protect and safeguard public property from being damaged, wasted or misused;</li> <li>(j) protect and conserve the environment and utilize natural resources in a sustainable manner and maintain a clean and healthy environment;</li> <li>(k) co-operate with the law enforcement agencies for the maintenance of law and order and assist in the enforcement of the law at all times;</li> <li>(l) provide defence and military service when called upon;</li> <li>(m) desist from acts of corruption, anti-social and criminal activities; and</li> <li>(n) understand and enhance the Republic's</li> </ul>		
--	---	--	--

	place in the international community.		
<b>New Article 34</b>	<b>Person born on ship, aircraft, etc.</b>	<p><b>34 (1) For the purpose of this Part, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or in that country, as the case may be.</b></p> <p><b>(2) Any reference in this Part to the national status of the parent of a person at the time of the birth of that person shall, in relation to a person born after the death of the person's parent, be construed as a reference to the national status of the parent at the time of the parent's death.</b></p>	<p>The Conference:</p> <p>(a) adopted clauses (1) and (2) of Article 10 of the current Constitution to provide for children born aboard a ship or aircraft or a person born after the death of the person's parent; and</p> <p>(b) re-numbered the Article as Article 34</p>
Article 26	<p><b>Legislation on citizenship</b></p> <p>26. parliament shall enact legislation -</p> <p>(a) Providing for the powers of the Citizenship Board to enable the Board give effect to this Part.</p> <p>(b) for the acquisition and</p>	<p><b>Legislation on citizenship</b></p> <p><b>35. Parliament shall enact legislation -</b></p> <p>(a) for the acquisition and deprivation of citizenship of Zambia; and</p> <p>(b) for the expeditious entry into and residence in Zambia of persons who, before or after the commencement of this Constitution, have lost their citizenship of Zambia as a result of</p>	<p><b>Legislation on citizenship</b></p> <p>The Conference adopted Article 26 with amendments by:</p> <p>(a) deleting the words "to enable the Board give effect to the Part" in paragraph (a) to make Part V dealing with Citizenship operational even before subordinate legislation was enacted to provide for the powers of the Citizenship Board of Zambia;</p>



	deprivation of citizenship of Zambia by persons who are not eligible to become citizens under this Part.	the acquisition or possession of the citizenship of another country.	(b) deleting the words “by persons who are not eligible to become citizens under this Part” in paragraph (b) as retaining words would make persons not eligible become eligible to acquire citizenship; and (c) re-numbering the Article as Article 35.
--	--	--	--

**PART VI: BILL OF RIGHTS**

ARTICLE NO.	PROVISIONS OF THE MUNG’OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
	<b>PART VI: BILL OF RIGHTS</b> Status, Application and Interpretation	<b>PART VI: BILL OF RIGHTS</b> Status, Application and Interpretation	
<b>Article 27: Fundamental rights and freedoms</b>	<b>Fundamental rights and freedoms</b>  27. (1) The Bill of Rights is fundamental  to Zambia’s democratic State and shall be the framework for the adoption of social, political, economic and	<b>Fundamental rights and freedoms</b> 36. (1) The Bill of Rights is fundamental to Zambia's democratic State and shall be the framework for the adoption of social, political, economic and cultural policies.  (2) The purpose of the Bill of Rights is to fulfil the national goals, values and principles by preserving the dignity of individuals and communities,	The Conference adopted Article 27 of the Mung’omba Draft Constitution with amendments by:  (a) deleting paragraph (b) of Article 3 as it referred to “other rights” and it was not clear what these were and where they were

	<p>cultural policies.</p> <p>(2) The purpose of the Bill of Rights is to</p> <p>fulfill the National goals, values and principles by preserving the dignity of individuals and communities, promoting social justice and realising the potential of all human beings.</p>	<p>promoting social justice and realising the potential of all human beings.</p>	<p>provided for. The Bill of Rights was supposed to state the rights and freedoms it protected. The provision was likely to result in different interpretation of the said "other rights" referred to and be a source of litigation;</p> <p>(b) deleting the words "or contemplated" in paragraph (c) of clause (3). It was observed that subparagraphs (i) and (ii) of paragraph (a) of clause (3) of Article 27 provided that "State" cannot grant or take away the rights and freedoms of an individual and yet paragraph (c) of the same clause (3) provided for limitations "contemplated" in the Constitution. Such a provision would lead to ambiguity and was a potential source of litigation</p>
--	---	--	--

			<p>as “contemplated limitations” would be subject to different interpretations;</p> <p>(c) re-numbered the paragraphs, as a consequence of the deletion of paragraph (b); and</p> <p>(d) re-numbered Article 27 as Article 36.</p>
	<p>(3) <i>The rights and freedoms set out in this Part –</i></p> <p>(a) are inherent in each individual and -</p> <p style="padding-left: 40px;">(i) are not granted by the State; and</p> <p style="padding-left: 40px;">(ii) cannot be taken away by the State;</p> <p>(b) do not exclude other rights that are not expressly mentioned in this</p>	<p>(3) The rights and freedoms set out in this Part are -</p> <p>(a) inherent in each individual and;</p> <p style="padding-left: 40px;">(i) are not granted by the State; and</p> <p style="padding-left: 40px;">(ii) cannot be taken away by the State; and</p> <p>(b) subject only to the limitations contained in this Constitution.</p>	

	<p>Part; and</p> <p>(c) are subject only to the limitations contained or contemplated in this Constitution.</p>		
<p><b>Article 28: Duty of State to promote rights and freedoms</b></p>	<p><b>Duty of State to promote rights and freedoms</b></p> <p>28. (1) It is a fundamental duty of every State organ and State institution to respect, protect, promote and fulfill the Bill of Rights.</p>	<p><b>Duty of State to promote rights and freedoms</b></p> <p>37. (1) It is a fundamental duty of the State to respect, protect, promote and fulfil the Bill of Rights.</p>	<p>The Conference observed that it was the primary responsibility of the State to equip the State organs and institutions to ensure that they met the needs of different sectors of the society with respect to the Bill of Rights. Accordingly, the Conference:</p> <p>(a) approved clause (1) of the Mung’omba Draft Constitution with amendments by replacing the words “<i>every State organ and State institution</i>” with the word “<b>State</b>” in order to place the primary duty to respect, protect, promote and fulfil the Bill of Rights on the State; and</p> <p>(b) re-numbered the Article as</p>

			Article 37.
	(2) The State shall allow civil society to play its role in the promotion and protection of the Bill of Rights.	(2) The State shall allow civil society to play its role in the promotion and protection of the Bill of Rights.	The Conference approved clause (2) of Article 28 of the Mung’omba Draft Constitution without amendments but provided a definition for “ <b>civil society</b> ” to be inserted in Article 308 on definitions as: <b>Civil Society means “individuals, movements and associations excluding the government and those serving in the armed and security forces”.</b>
	(3) Relevant State institutions, including the Human Rights Commission, shall equip themselves to meet the needs of different sectors of the society with respect to the Bill of Rights.	(3) <b>Subject to this Constitution, the State shall equip</b> relevant <b>State institutions and State organs</b> , to meet the needs of different sectors of the society with respect to the Bill of Rights.	The Conference approved clause (3) with amendments by deleting the words “Relevant State institutions including the Human Rights Commission, shall equip themselves” and replacing them with the words “ <i>Subject to this Constitution the State shall equip relevant State organs and State institutions</i> ” in order to: (a) place primary responsibility to protect and promote human rights on the State; and

			(b) provide a condition to the word “shall” which placed obligation on the State to equip relevant organs and institutions in cases where the State might not have the resources to do so.
	(4) The President shall, when addressing the National Assembly each year, report on the measures taken and the achievements of the State in giving effect to, and the progress achieved by the Nation in the realization of the Bill of Rights.	(4) The President shall, when addressing the National Assembly each year, report on the measures taken and the achievements of the State in giving effect to, and the progress achieved by the Nation in the realization of the Bill of Rights.	The Conference approved clause (4) of Article 28 of the Mung’omba Draft Constitution without amendments.
<b>Article 29: Application of Bill of Rights</b>	<b>Application of Bill of Rights</b> 29. (1) This Part applies to the interpretation and application of the Laws and binds all State organs, State institutions and all persons.  (2) A natural or juristic person enjoys the benefit of any right or freedom in this Part, to the extent possible,	<b>Application of Bill of Rights</b> 38. (1) This Part applies to the interpretation and application of the laws and binds all State organs, State institutions and all persons.  (2) A natural or juristic person enjoys the benefit of any right or freedom in this Part, to the extent possible, given the nature of the right or freedom and of the person.	The Conference adopted Article 29 of the Mung’omba Draft Constitution without amendments and re-numbered it as Article 38.

	<p>given the nature of the right or freedom and of the person.</p> <p>This Part binds a natural or juristic person, to the extent possible, given the nature of the right or freedom and the nature of any duty imposed by that right or freedom.</p> <p>(4) A person shall exercise a right or freedom in a manner consistent with this Bill of Rights.</p> <p>(5) When applying this Bill of Rights a court -</p> <p>(a) shall apply and, if necessary, develop the Law to the extent where legislation does not give effect to a right or freedom; and</p> <p>(b) may develop rules of the Law to interpret a right or freedom in a manner consistent with the limitations and derogations permitted</p>	<p>(3) This Part binds a natural or juristic person, to the extent possible, given the nature of the right or freedom and the nature of any duty imposed by that right or freedom.</p> <p>(4) A person shall exercise a right or freedom in a manner consistent with this Bill of Rights.</p> <p>(5) When applying this Bill of Rights a court -</p> <p>(a) shall apply and, if necessary, develop the Law to the extent where legislation does not give effect to a right or freedom; and</p> <p>(b) may develop rules of the Law to interpret a right or freedom in a manner consistent with the limitations and derogations permitted under this Bill of Rights.</p>	
--	---	---	--

	under this Bill of Rights		
<b>Article 30: Interpretation of Bill of Rights</b>	<p><b>Interpretation of Bill of Rights</b></p> <p>30. (1) When interpreting and applying a provision of this Bill of Rights, a court, tribunal, the Human Rights Commission or any other body shall promote the values that underlie an open and democratic society based on human dignity, equality and freedom.</p> <p>(2) When interpreting any legislation and when developing the Law, every court, tribunal, the Human Rights Commission or other body shall promote the spirit, purpose and objectives of the Bill of Rights.</p>	<p><b>Interpretation of Bill of Rights</b></p> <p>39. (1) When interpreting and applying a provision of this Bill of Rights, a court, tribunal, the Human Rights Commission or any other body shall promote the values that underlie an open and democratic society based on human dignity, equality and freedom.</p> <p>(2) When interpreting any legislation and when developing the law, every court, tribunal, the Human Rights Commission or other body shall promote the spirit, purpose and objectives of the Bill of Rights.</p>	<p>The Conference adopted Article 30 of the Mung’omba Draft Constitution without amendments and re-numbered it as Article 39.</p>
<b>Article 31: Right to life</b>	<p><b>Right to life</b></p> <p>31. (1) Every person has, subject to clause (2), the right to life, which begins at conception.</p>	<p><b>Right to life</b></p> <p>40. (1) Every person has, subject to clause (2) <b>and (3)</b>, the right to life, which begins at conception.</p>	<p>The Conference observed that Article 31 of the Mung’omba Draft Constitution omitted important provisions on the loss of life relating to the termination of</p>



			<p>pregnancy in deserving cases and for the defence of a person from violence and therefore, adopted Article 31 with amendments by:</p> <p>(a) incorporating clause (2) of Article 12 of the current Constitution of Zambia to provide for termination of pregnancy in deserving cases and numbered it as clause (3) of Article 31.  Clause (2) of Article 12 of the current Constitution of Zambia provides that:  <b>“A person shall not deprive an unborn child of life by termination of pregnancy except in accordance with the conditions laid down by an Act of Parliament for that purpose.”</b></p> <p>(b) incorporating the provision of paragraph (a) of clause (3) of Article 12 of the current Constitution into paragraph (a) of clause (3) of Article 31 of the Mung’omba Draft</p>
--	--	--	--

			<p>Constitution to provide for protection of any person from violence. Paragraph (a) of clause (3) of Article 12 of the current Constitution provides that:</p> <p><b>“for the defence of any person from violence or for the defence of property”;</b></p> <p>(c) replacing the phrase “subject to clause (2)” with the phrase <b>“subject to clauses (2) and (3)”</b> so that clause (1) also cross-referred to the new clause (3); and</p> <p>(d) re-numbered the Article as Article 40.</p>
	<p>(2) A person shall not be deprived of life intentionally, except in the execution of a sentence of a court in respect of a criminal offence under the law in force of which that</p>	<p>(2) A person shall not be deprived of life intentionally, except in the execution of a sentence of a court in respect of a criminal offence under the law in force of which that person has been convicted.</p>	<p>The Conference approved clause (2) without amendments.</p>

New clause	person has been convicted.		
		<b>(3) A person shall not deprive an unborn child of life by termination of pregnancy except in accordance with the conditions laid down by an Act of Parliament for that purpose.</b>	The Conference: (a) approved the incorporation of clause (2) of Article 12 of the current Constitution of Zambia to provide for termination of pregnancy in deserving cases; and (b) re-numbered it as clause (3).
	(3) Without limiting any liability for a contravention of any other law with respect to the use of force, a person shall not be regarded as having been deprived of that person's life in contravention of this Article if that person dies as a result of the use of force to such extent as is reasonably justifiable in the circumstances of the case - (a) in the defence of a person's property; (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully	<b>(4)</b> Without limiting any liability for a contravention of any other law with respect to the use of force, a person shall not be regarded as having been deprived of that person's life in contravention of this Article if that person dies as a result of the use of force to such extent as is reasonably justifiable in the circumstances of the case - (a) <b>for the defence of any person from violence or for the defence of a person's property;</b> (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; (c) for the purpose of suppressing a riot, insurrection, mutiny or due	The Conference: (a) approved paragraph (a) of clause (3) with amendments to provide for the defence of a person against violence; (b) approved paragraphs (b), (c) and (d) of clause (3) without amendments; and (c) re-numbered clause (3) of Article 31 as clause (4).

	<p>detained;</p> <p>(c) for the purpose of suppressing a riot, insurrection, mutiny or due to a lawful act of war; or</p> <p>(d) in order to prevent the commission by that person of a criminal offence.</p>	<p>(d) to a lawful act of war; or in order to prevent the commission by that person of a criminal offence.</p>	
<p><b>Article 32:</b> <b>Human dignity</b></p>	<p><b>Human dignity</b> 32. (1) Every person has an inherent dignity and the right to have that dignity respected and protected.</p>	<p><b>Protection from Inhumane Treatment</b> 41. (1) Every person has an inherent dignity and the right to have that dignity respected and protected.</p>	<p>The Conference:</p> <p>(a) approved clause (1) of Article 32 of the Mung’omba Draft Constitution without amendments; and</p> <p>(b) amended the marginal note to read “Protection from Inhumane Treatment”; and</p> <p>(c) re-numbered the Article as Article 41.</p>
<p><b>New clause</b></p>		<p><b>(2) A person shall not be subjected to torture, or inhuman or degrading punishment or other like treatment.</b></p>	<p>The Conference introduced a new clause (2) in order to reinforce clause (1). The new clause was derived</p>

			<p>from Article 15 of the current Constitution which provides that:  <b>“15. A person shall not be subjected to torture or to inhuman or degrading punishment or other like treatment”</b>; and, as a consequence, paragraph (e) of Article 51 of the Mung’omba Draft Constitution was deleted. Paragraph (e) of Article 51 of the Mung’omba Draft Constitution provides that:  <b>“51. Every person has the right to freedom and security of person which includes the right-  (e) not to be tortured in any manner, whether physically or psychologically;”</b></p>
<p><b>New clause</b></p>		<p><b>(3) Notwithstanding any other provision in this Constitution, the protection from inhuman or degrading punishment or other like treatment shall not be derogated from.</b></p>	<p>The Conference resolved to provide for limitations, derogations and non-derogation in appropriate Articles as opposed to providing for those matters in separate Articles. Therefore, a new clause (3) on derogations was adopted in order to make inhuman or degrading punishment a non-derogable right as provided for in Article 77 of the Mung’omba Draft Constitution.</p>

	(2) Every person has the right not to have their reputation disparaged.		The Conference deleted clause (2) of Article 32 because it provided for matters that were protected in various pieces of subordinate legislation such as those dealing with libel and defamation.
<b>Article 33: Equality before law</b>	<b>Equality before law</b> 33. (1) Every person is equal before the law and has the right to equal protection and benefit of the law.	<b>Equality before law</b> 42. (1) Every person is equal before the law and has the right to equal protection and benefit of the law.	The Conference: (a) adopted clause (1) of Article 33 of the Mung'omba Draft Constitution without amendments and observed that the provision was broad as it did not limit its application by itemising the grounds of possible discrimination; and (b) re-numbered as Article 42.
	(2) Equality includes the full and equal enjoyment of all rights and freedoms.	(2) Equality includes the full and equal enjoyment of all rights and freedoms.	The Conference approved clause (2) of Article 33 of the Mung'omba Draft Constitution without amendments.
<b>Article 34: Fair administration</b>	<b>Fair administration</b> 34. (1) Every person has the right to administrative action that is expeditious, lawful,	<b>Fair administration</b> 43. (1) Every person has the right to administrative action that is expeditious, lawful, reasonable and	The Conference: (a) approved clause (1) of Article 33 of the Mung'omba Draft Constitution without

	reasonable and procedurally fair.	procedurally fair.	amendments; and (b) re-numbered the Article as Article 43.
	(2) Every person whose rights have been affected by administrative action has the right to be given written reasons for the action.	Clause (2) was deleted by the Conference.	The Conference deleted clause (2) of Article 33 of the Mung'omba Draft Constitution because it was inappropriate to provide in the Constitution for a right of a person to written reasons for any administrative actions taken against that person in all cases.
	(3) Parliament shall enact legislation to - (a) give effect to clauses (1) and (2); (b) provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal; and (c) promote an efficient	<b>(2) Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed upon such bodies and officials by common law and any relevant legislation, and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a competent Court or Tribunal.</b>	The Conference observed that clause (3) of Article 34 provided for possibility of creating another body or tribunal when institutions already existed to deal with matters of administrative impropriety and therefore:  (a) replaced clause (3) with the provision of Article 18 of the Constitution of Namibia; and  (b) re-numbered the new clause

	public administration		as clause (2) as a consequence of the earlier decision to delete clause (2) of the Mung'omba Draft Constitution.
<b>Article 35: Right to refuse unlawful instructions</b>	<p><b>Right to refuse unlawful instructions</b></p> <p>35. (1) Every person has a right to refuse to obey any unlawful instruction.</p> <p>(2) A person who instigates or induces another to carry out an unlawful instruction or who, being able to prevent the carrying out of an unlawful instruction, fails to do an unlawful instruction, fails to do so, shall be an accomplice and shall be liable to prosecution and to pay damages prosecution and to pay damages to any injured party.</p>	The Conference deleted Article 35 on Right to refuse unlawful instructions.	<p>The Conference:</p> <p>(a) deleted clause (1) of article 35 of the Mung'omba Draft Constitution as the provision was ambiguous and it was difficult to establish what a lawful instruction was and who would give an interpretation; and</p> <p>(b) as a consequence of the deletion of clause (1), deleted clauses (2) and (3) of Article 35.</p>



	(3) A person shall not be convicted or punished under any law for disobeying an unlawful instruction.		
<b>Article 36: Right to Justice</b>	<b>Right to Justice</b> 36. (1) Every person has the right to have any dispute resolved and decided timely and to have a fair public hearing before a court or, where appropriate, another independent and impartial tribunal.	<b>Right to Justice</b> 44. (1) Every person has the right to have any dispute resolved and decided timely and to have a fair public hearing before a court or, where appropriate, another independent and impartial tribunal.	The Conference: (a) approved clause (1) of Article 36 of the Mung’omba Draft Constitution without amendments; and (b) re-numbered the Article as Article 44.
	(2) Where a person has any claim or judgement against the State - (a) the claim may be instituted by proceedings against the State; and (b) the judgment may be enforced by execution against the State, a local authority or other	(2) Where a person has any claim or judgement against the State the claim may be instituted by proceedings against the State.  The Conference deleted paragraph (b).	The Conference acknowledged that the State was under an obligation to meet the needs of beneficiaries and resolve problems they encountered when seeking payments. However, it was mindful of possible budget constraints that the State might face. Therefore, clause (2) of Article 36 of the Mung’omba Draft Constitution was adopted with amendments by deleting paragraph (b) and, therefore, joining clause (a) to the opening paragraph of the clause.

	<p>public institution after six months of the delivery of the judgement.</p>		
	<p>(3) The State shall be liable in tort to the same extent as a private person of full age and capacity.</p> <p>(4) The courts shall not order any security for costs on matters of public interest litigation</p> <p>(5) All offences are bailable but a court shall have the power to determine whether or not bail should be granted in any particular case either unconditionally or subject to reasonable conditions.</p> <p>(6) Illegally obtained evidence shall not be</p>	<p>Clauses (3), (4), (5) and (6) deleted by the Conference.</p>	<p>The Conference:</p> <p>(i) deleted clause (3) of Article 36 of the Mung'omba Draft Constitution as it provided for liability of Government which was comprehensively provided for in the State Proceedings Act;</p> <p>(ii) deleted clause (4) as courts did not normally award costs in cases of "public interest litigation" but the discretion to award costs in such matters should continue to reside in the courts;</p> <p>(iii) deleted clause (5) as the status quo with regard to</p>

	admissible in a trial against an accused person, unless excluding that evidence would be detrimental to the administration of justice		all cases being bailable, except those involving aggravated robbery, murder and treason, had worked well and should, therefore, continue; and  (iv) <b>deleted</b> clause (6) on account of the contradiction in the clause in that it provided for inadmissibility of illegally obtained evidence against a person but at the same time provided for conditions under which such evidence could be admitted.
<b>Article 37: Rights of suspects and arrested persons</b>	<b>Rights of suspects and arrested persons</b> 37. Subject to Article 79, a person who is a suspect, arrested or detained for allegedly committing an offence has the right - (a) to remain silent;	<b>Rights of suspects and arrested persons</b> 45. Subject to Article 62, a person who is a suspect, arrested or detained for allegedly committing an offence has the right - (a) to remain silent;	The Conference: (a) adopted paragraph (a) of Article 37 of the Mung'omba Draft Constitution without amendments; and (b) re-numbered the Article as Article 45.

	<p>(b) to be informed in a language which that person understands of the -</p> <ul style="list-style-type: none"> <li>(i) right to remain silent; and</li> <li>(ii) consequences of remaining silent;</li> </ul>	<p>(b) to be informed in a language which that person understands of the -</p> <ul style="list-style-type: none"> <li>(i) right to remain silent; and</li> <li>(ii) consequences of <b>not</b> remaining silent; and</li> </ul>	<p>The Conference amended paragraph (b) by inserting the word <b><i>“not”</i></b> in sub-paragraph (ii) between the words <i>“of”</i> and <i>“remaining.”</i></p>
<p><b>New paragraph</b></p>		<p><b>(c) to be informed as soon as reasonably practicable, in a language that the person understands, of the reasons for the arrest or detention, and in the case of a visually impaired person, in Braille, and a deaf person, in sign language;</b></p>	<p>The Conference observed that there was no provision for deaf persons and those who were visually impaired to be informed of the reasons for arrest or detention in a language they understood. Therefore, a new paragraph was inserted and numbered as paragraph (c).</p>

	<p>(c) not to be compelled to make any confession or admission that could be used in evidence against that person and, if a person freely chooses to make a confession, to do so before a court;</p>	<p>Paragraph (c) was deleted by the Conference.</p>	<p>The Conference deleted paragraph (c) as its provisions were well covered in paragraph (b) of the same Article.</p>
	<p>(d) to be held separately from persons who are serving a sentence;  (e) to be brought before a court -  (i) within forty-eight hours after being arrested or detained;  (ii) not later than the end of the first court day after the expiry of the</p>	<p><b>(d)</b> to be held separately from persons who are serving a sentence;  <b>(e)</b> to be brought before a court -  (i) within forty-eight hours after being arrested or detained;  (ii) not later than the end of the first court day after the expiry of the forty-eight hours, if the forty-eight hours expires outside ordinary court</p>	<p>The Conference:  (a) approved paragraphs (d), (e), and (g) with amendments but re-numbered paragraphs (g), as paragraph (f) as consequence of the deletion of the original paragraph (f); and  (b) deleted paragraph (f) of the Mung'omba Draft Constitution on account of being redundant as paragraph (e) (i) of the</p>

	<p>forty-eight hours, if the forty-eight hours expires outside ordinary court hours or on a day that is not an ordinary court day;</p> <p>(iii) as speedily as possible, if that person is arrested or detained far from a court; or</p> <p>(iv) to be tried within ninety days or be released on bail;</p> <p>(f) to be arraigned before a court after being arrested or detained or to be released; and</p> <p>(g) to be released on bond or bail, pending a charge or trial, on reasonable conditions, unless there are compelling reasons to the contrary.</p>	<p>hours or on a day that is not an ordinary court day;</p> <p>(iii) as speedily as possible, if that person is arrested or detained far from a court; or</p> <p>(iv) to be tried within ninety days or be released on bail; and</p> <p>(f) to be released on bond or bail, pending a charge or trial, on reasonable conditions, unless there are compelling reasons to the contrary.</p>	<p>Article approved by the Conference had also stipulated that a suspect had to be brought before a court after being arrested or detained within forty-eight hours.</p>

<p><b>Article 38: Rights of persons detained or in custody</b></p>	<p><b>38. (1)</b> A person who is held in custody, whether sentenced or not, retains all that person’s rights and freedoms under this Constitution, except to the extent that a right or freedom is incompatible with the fact of being in custody.</p>	<p><b>46. (1)</b> A person who is held in custody, whether sentenced or not, retains all that person’s rights and freedoms under this Constitution, except to the extent that a right or freedom is incompatible with the fact of being in custody.</p>	<p>The Conference observed that the provisions of Article 38 of the Mung’omba Draft Constitution were progressive as they raised the threshold of human dignity by entitling a person in custody to all rights and freedom except those which were incompatible with the condition of being in custody such as right to liberty and freedom of movement. Therefore, clause (1) of Article 38 was adopted without amendments and the Article was re-numbered as Article 46.</p>
	<p>(2) A person who is held in custody has the right -</p>	<p>(2) <b>Without limiting clause (1)</b>, a person who is held in custody has the right -</p>	<p>The Conference amended clause (2) by prefixing it with the words <i>“Without limiting clause (1)”</i>.</p> <p>The Conference observed that although there were certain rights that could only be enjoyed by those in custody, such as a right to parole, clause (2) in its current form which itemised the rights a person in custody could enjoy, was an exhaustive list of rights. To avoid</p>

			leaving out some rights, clause (2) should be made subject to the generality of clause (1) where all rights were enjoyed.
	(a) to be treated in a manner that respects that person's inherent human dignity and not to be subjected to discrimination;	(a) to be treated in a manner that respects that person's inherent human dignity and not to be subjected to discrimination;	The Conference approved paragraph (a) of clause (2) without amendments.
	(b) if detained under any law relating to the preservation of public security, to be furnished with the reasons for that person's detention within days of being taken into custody;	(b) if detained under any law relating to the preservation of public security, to be furnished with the reasons for that person's detention within <b>fourteen</b> days of being taken into custody;	The Conference approved paragraph (b) of clause (2) without amendments.



	(c) not to be exploited or abused by the staff of the prison service or fellow prisoners;	(c) not to be exploited or abused by the staff of the prison service or fellow prisoners;	The Conference approved paragraphs (c) of clause (2) without amendments.
	(d) to accommodation and facilities that satisfy the standards of decent clothing, housing, food, health and sanitation guaranteed in this Bill of Rights;	Paragraph (d) was deleted by the Conference	The Conference deleted paragraph (d) as a consequence of its decision to delete Articles 73 and 74 of the Mung'omba Draft Constitution which provided for the rights to shelter and housing and to food, water and sanitation from the Bill of Rights. The Conference was of the view that these rights can not be guaranteed for the persons detained or in custody when they do not apply to all other citizens.
	(e) to reasonable health care at public expense and to pay for their own health care by their own doctors if they so choose;	(d) to reasonable health care at public expense and to pay for that person's health care by the person's doctor if the person so chooses;	The Conference: (a) approved paragraphs (e) of clause (2) without amendments; and (b) re-numbered paragraph (e) as paragraph (d).

	<p>(f) to exercise and to work in return for reasonable remuneration;</p> <p>(g) to communicate with their legal practitioners, other persons whose assistance they consider necessary, religious advisers and close family;</p>	<p>Paragraph (f) was deleted by the Conference.</p> <p>Paragraph (g) was deleted by the Conference.</p>	<p>The Conference deleted paragraphs (f) and (g) on account of the need to avoid prisons to be turned into attractive sources of employment for some persons and that the rights to exercises and to communicate with legal practitioners and other persons were adequately provided for under the Prisons Act.</p>
	<p>(h) to send and receive letters and to visits of reasonable frequency and duration to the extent compatible with the preservation of law, order and prison discipline;</p>	<p>(e) to <b>communications</b>, visits of reasonable frequency and duration to the extent compatible with the preservation of law, order and prison discipline;</p>	<p>The Conference:</p> <p>(a) approved paragraph (h) with amendments by replacing the words “to send and receive letters and to” with the words “<b>to communications</b>,”; and</p> <p>(b) re-numbered paragraph (h) as paragraph (e).</p> <p>The Conference observed that the usage of the words “to send and receive letters” was restrictive and</p>

			did not take into account current and future development in information and communication technology such as the internet. The Conference, therefore, recognised the importance of communication and visitations for persons in custody or prison.
	(i) to be separated, women from men and children from adults;	(f) to be separated, women from men and children <b>in conflict with the law</b> from adults;	The Conference: (a) amended paragraph (i) by inserting the words <i>“in conflict with the law”</i> between the words <i>“children”</i> and <i>“from; and</i> (b) re-numbered the paragraph as paragraph (f). The Conference observed that the group of children being referred to in the provision was not clear.
	(j) to be informed of the rules and decisions that affect them;	(g) to be informed of the rules and decisions that affect <b>that person in a language that the person understands, and in the case of a visually impaired person, in Braille, and deaf person, in sign language;</b>	The Conference: (a) amended paragraph (j) by replacing the words <i>“them”</i> with the phrase <i>“that person in a language that the person understands, and in the case of a visually</i>

			<p><i>impaired person, in Braille, and a deaf person, in Sign Language.”; and</i></p> <p>(b) re-numbered the paragraph as paragraph (g).</p>
	<p>(k) to fair consideration for parole or remission of sentence and for other rehabilitative measures;</p> <p>(l) to compensation for wrongful detention; and</p>	<p>(h) to fair consideration for parole or remission of sentence and for other rehabilitative measures</p> <p>(i) to compensation for wrongful detention; and</p>	<p>The Conference:</p> <p>(a) approved paragraphs (k) and (i) of clause (2) without amendments; and</p> <p>(b) re-numbered them as paragraphs (h) and (i), respectively.</p>
	<p>(m) to complain to the prison authorities, the Human Rights Commission or any similar institution.</p>	<p>(j) to complain to the prison authorities, <b>visiting Judges and Magistrates, the Court</b>, the Human Rights Commission or any similar institution.</p>	<p>The Conference:</p> <p>(a) approved paragraph (m) with amendments by including <b>“visiting Judges, Magistrates and the Court”</b> as these were in a position to immediately order</p>

			<p>that the wrong be redressed; and</p> <p>(b) re-numbered paragraph (m) as paragraph (j).</p> <p>The Conference recognised the need to provide for and strengthen the mechanism for prisoners and detained persons to complain against any violations of their rights.</p>
	<p>(3)The State shall ensure that prisons and the prison system are maintained and operated within minimum international standards.</p>	<p>Clause (3) was deleted by the Conference</p>	<p>The Conference deleted clause (3) of Article of Article 38 of the Mung’omba Draft Constitution and relegated to subsidiary legislation.</p>
<p><b>Article 39:</b> <b>Fair trial</b></p>	<p><b>Fair trial</b> 39. (1) Every accused person has the right to a fair trial which includes the right -</p> <ul style="list-style-type: none"> <li>(a) to be presumed innocent until the contrary is proved;</li> <li>(b) to be informed as soon as is reasonably practicable and in a language that</li> </ul>	<p><b>Fair trial</b> 47. (1) Every accused person has the right to a fair trial which includes the right -</p> <ul style="list-style-type: none"> <li>(a) to be presumed innocent until the contrary is proved;</li> <li>(b) to be informed as soon as is reasonably practicable, and in a language that the person understands, of the charge with sufficient detail to answer it;</li> <li>(c) to have adequate time and facilities to prepare a defence;</li> </ul>	<p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) approved paragraphs (a), (b), (c), (d) and (e) of clause (1) of Article 39 of the Mung’omba Draft Constitution without amendments; and</li> <li>(b) re-numbered the Article as Article 47.</li> </ul>

	<p>person understands of the charge with sufficient detail to answer it;</p> <p>(c) to have adequate time and facilities to prepare a defence;</p> <p>(d) to a public trial before an independent and impartial court or tribunal;</p> <p>(e) to have the trial commenced and concluded and judgement given without unreasonable delay;</p>	<p>(d) to a public trial before an independent and impartial court or tribunal;</p> <p>(e) to have the trial commenced and concluded and judgement given without unreasonable delay;</p>	
	<p>(f) to compensation for wrongful detention or imprisonment;</p>	<p>(q) to compensation for wrongful detention or imprisonment.</p>	<p>The Conference re-numbered paragraph (f) as paragraph (q) so that it was the last provision of the clause as it was dealing with procedural matters.</p>
	<p>(g) to choose, and be</p>	<p>(f) to choose, and be represented by,</p>	<p>The Conference:</p>

	<p>represented by, a legal practitioner and to be informed of this right promptly;</p> <p>(h) to have a legal practitioner assigned to the accused person by the State and at public expense, if substantial injustice would otherwise result, and to be informed of this right promptly;</p> <p>(i) to remain silent and not to testify during the proceedings;</p> <p>(j) to adduce and challenge evidence;</p> <p>(k) not to be compelled to give self-incriminating evidence;</p>	<p>a legal practitioner and to be informed of this right promptly;</p> <p>(g) to have a legal practitioner assigned to the accused person by the State and at public expense, if substantial injustice would otherwise result, and to be informed of this right promptly;</p> <p>(h) to remain silent and not to testify during the proceedings;</p> <p>(i) to adduce and challenge evidence;</p> <p>(j) not to be compelled to give self-incriminating evidence;</p> <p>(k) not to be compelled to make any confession or admission that could be used in evidence against that person;</p>	<p>(a) approved paragraphs (g), (h), (i), (k) and (l) without amendments; and</p> <p>(b) re-numbered them as paragraphs (f), (g), (h), (i), and (k), respectively.</p>
--	---	--	--

	<p>(l) not to be compelled to make any confession or admission that could be used in evidence against that person;</p>		
	<p>(m) to have, without payment, the assistance of an interpreter if the accused person cannot understand the language used at the trial;</p>	<p><b>(l)</b> to have, without payment, the assistance of an interpreter if the accused person cannot understand the language used at the trial, <b>and in the case of a deaf person, a Sign Language interpreter;</b></p>	<p>The Conference:</p> <p>(a) amended paragraph (m) of Clause (1) with amendments by adding the phrase <i>“and in the case of a deaf person, a Sign Language interpreters”</i> in order to cater for persons with disabilities; and</p> <p>(b) re-numbered the paragraph as paragraph (l).</p>
	<p>(n) not to be convicted for an act or omission that was not, at the time it was committed or omitted, an offence</p>	<p>(m) not to be convicted for an act or omission that was not, at the time it was committed or omitted, an offence under <b>any</b> Laws;</p>	<p>The Conference:</p> <p>(a) approved paragraph (n) of clause (1) with minor amendments by changing the word “the written” to <b>“any”</b>; and</p>



	under the written Laws;		(b) re-numbered the paragraph as paragraph (m).
	(o) not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted;	<b>(n)</b> not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted, <b>or for any other offence of which the person could have been convicted at the trial for that offence, except upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal;</b>	<p>The Conference:</p> <p>(a) approved paragraph (o) of clause (1) with amendments by incorporating the words <i>“or for any other offence of which the person could have been convicted at the trial for that offence, except upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal”</i> from clause (5) of Article 18 of the current Constitution; and</p> <p>(b) re-numbered the paragraph as paragraph (n).</p> <p>The Conference observed that the provision was meant to prevent “double jeopardy” in the trial of an accused person and was, therefore, inadequate. The Conference further observed that the provision of clause (5) of Article 18 of the current Constitution was more</p>

			comprehensive than what was provided for in the Mung'omba Draft Constitution.
	(p) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for an offence has been changed between the time that offence was committed and the time of sentencing; and	(o) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for an offence has been changed between the time that offence was committed and the time of sentencing;	The Conference: (a) approved paragraph (p) of clause (1) without amendments; and (b) re-numbered the paragraph as paragraph (o).
	(q) of appeal to, or review by, a higher court.	(p) of appeal to, or review by, a higher court; and	The Conference: (a) approved paragraph (q) of clause (1) without amendments; and (b) re-numbered it as paragraph (p).
	(2) Where this Article requires information to be	(2) Where this Article requires information to be given to a person, that	The Conference approved Clause (2) with amendments by adding the

	<p>given to a person, that information shall be given in a language which that person understands.</p>	<p>information shall be given in a language which that person understands, <b>and in the case of a visually impaired person, in Braille, and a deaf person, in sign language.</b></p>	<p>phrase <i>“and in the case of a visually impaired person, in Braille, and a deaf person, in Sign Language”</i> at the end of the provision.</p> <p>The Conference observed that the provision was inadequate as it did not provide for persons with disabilities.</p>
	<p>(3) An accused person charged with an offence is entitled on request to a copy of the record of the proceedings of the trial.</p> <p>(4) An accused person has the right to a copy of the record of proceedings of the trial within fourteen days after they are transcribed in return for a reasonable fee if prescribed by law.</p> <p>(5) A person who is convicted of a criminal offence and whose appeal has been dismissed by the highest court,</p>	<p>(3) An accused person charged with an offence is entitled on request to a copy of the record of the proceedings of the trial.</p> <p>(4) An accused person has the right to a copy of the record of proceedings of the trial within fourteen days after they are transcribed in return for a reasonable fee if prescribed by law.</p> <p>(5) A person who is convicted of a criminal offence and whose appeal has been dismissed by the highest court, to which that person is entitled to appeal, may petition the Supreme Court for a new trial if new and compelling</p>	<p>The Conference approved (3) clauses (3), (4) and (5) without amendments.</p>

	to which that person is entitled to appeal, may petition the Supreme Court for a new trial if new and compelling evidence has become available.	evidence has become available.	
	(6) The entry of a <i>nolle prosequi</i> is not an acquittal and shall be valid for twelve months.	Clause (6) was deleted by the Conference	The Conference deleted clause (6). The Conference observed that whilst the Director of Public Prosecutions had the right to enter a <i>nolle prosequi</i> , an accused person did not have the right to a <i>nolle prosequi</i> as the clause seemed to imply.
	(7) Where a person in respect of whom a <i>nolle prosequi</i> has been entered is not charged on the same facts, within twelve months of the entry of the <i>nolle prosequi</i> , that person shall be deemed to have been acquitted.	Clause (7) was deleted by the Conference	The Conference deleted clause (7) as a consequence of the deletion of clause (6).

<p><b>Article 40: Protection from discrimination</b></p>	<p><b>Protection from discrimination</b>  40. Every person has the right not to be discriminated against, directly or indirectly, on any grounds including race, sex, pregnancy, health, marital, ethnic, tribal, social or economic status, origin, colour, age, disability, religion, conscience, belief, culture, language or birth.</p>	<p><b>Protection from discrimination on grounds of race, etc.</b>  48. (1) Every person has the right not to be discriminated against, directly or indirectly, on <b>the</b> grounds of race, tribe, sex, pregnancy, origin, colour, age, disability, religion, conscience, belief, <b>political</b> opinion, culture, language, birth or health, marital, ethnic, social or economic status.</p>	<p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) amended Article 40 by replacing the phrase “<i>on any grounds including,</i>” with the phrase “<i>on the grounds of</i>” to provide for specific grounds on which a person could not be discriminated against;</li> <li>(b) inserted the term “<i>pregnancy</i>” in the provision;</li> <li>(c) redrafted Article 40 to incorporate the positive aspects of clause (4) of Article 21 of the Constitution of Uganda and those of clause (4) of Article 23 of the current Constitution of Zambia in order to: <ul style="list-style-type: none"> <li>(i) provide for non-discrimination but specify grounds on which one could <b>NOT</b> be discriminated against;</li> </ul> </li> </ul>
--	---	---	--

			<p>(ii) define what discrimination meant; and</p> <p>(iii) provide for grounds under which discrimination (positive discrimination) was allowed.</p> <p>(d) substituted the word "<i>opinion</i>" with the word "<i>political opinion</i>" on the grounds that the "<i>opinion</i>" that usually leads to discrimination when held or expressed is "<i>political opinion</i>";</p> <p>(e) amended the marginal note to read "Protection from discrimination on grounds of race, etc"; and</p> <p>(f) re-numbered the Article as Article 48.</p> <p>The Conference observed that:</p> <p>(a) the use of the words "<i>on any grounds</i>" in prohibiting</p>
--	--	--	---

			<p>discrimination made the article too open and subject to various interpretations. It could for instance, give opening to petitions such as a right to gay marriages (or right to sex orientations of one's choice); and</p> <p>(b) although pregnancy was an important natural process that ensured procreation, it was looked down upon, and in some cases, discrimination based on pregnancy had contributed to existing inequalities and lack of parity between men and women at the work place. For that reason, discrimination based on pregnancy should also be outlawed by inserting the term "<i>pregnancy</i>" in the provision.</p> <p>The Conference observed that although pregnancy was an important natural process that</p>
--	--	--	--

			<p>ensured procreation, it was looked down upon, and in some cases, discrimination based on pregnancy had contributed to existing inequalities and lack of parity between men and women at the work place. For that reason, discrimination based on pregnancy should also be outlawed by inserting the term “<i>pregnancy</i>” in the provision.</p>
<p>New clause</p>		<p><b>(2) Clause (1) shall not apply to any law so far as that law makes provision -</b></p> <ul style="list-style-type: none"> <li><b>(a) for the appropriation of the general revenues of the Republic;</b></li> <li><b>(b) for qualifications for service as a public officer or as a member of a disciplined force or for the service of a district council or body corporate established directly by any law;</b></li> <li><b>(c) with respect to persons who are not citizens of Zambia;</b></li> <li><b>(d) with respect to adoption, marriage, divorce,</b></li> </ul>	<p>The Conference introduced a new clause to provide for grounds on which one could be discriminated against. In this regard, the Conference approved and incorporated clause (4) of article 23 of the current Constitution of Zambia and re-numbered them respectively as paragraph (a), (c) (d), (e) and (f) of the new clause (2) of Article 40; and inserted a new paragraph (b) in clause (2) to permit discrimination for qualification for service as public officer, member of a disciplined force or service of a</p>



		<p>burial, devolution of property on death or other matters of personal law;</p> <p>(e) for the application in the case of members of a particular race or tribe, of customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons; or</p> <p>(f) whereby persons of any such description as is mentioned in clause (3), may be subjected to any disadvantage or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justified in a democratic society.</p>	<p>district council or body corporate established by any law.</p>
--	--	--	---

<p><b>New clause</b></p>		<p><b>(3) For the purposes of this Article, “discrimination” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions, race, tribe, sex, origin, political opinion, colour, pregnancy, culture, conscience, age, disability, religion, belief, birth or health, marital, ethnic, tribal, social or economic status whereby persons of one such description are subjected to disadvantages or restrictions to which persons of another such description are not made subject, or are accorded privileges or advantages which are not accorded to persons of another such description.</b></p>	<p>The Conference approved the incorporation of clause (3) of Article 23 of the current Constitution of Zambia to provide for the definition of the term “<i>discrimination</i>”.</p>
<p>Article 41: Equality of both gender</p>	<p><b>Equality of both gender</b> <b>41.</b> (1) Women and men have the right to equal treatment including the right to equal opportunities in cultural, political, economic and social activities.</p>	<p><b>Equality of both gender</b> <b>49.</b> (1) Women and men have the right to equal treatment including the right to equal opportunities in cultural, political, economic and social activities.</p>	<p>The Conference: (a) approved clause (1) of Article 41 of the Mung’omba Draft Constitution without amendments; and (b) re-numbered the Article as Article 49.</p>

	<p>(2) Women and men are entitled to be accorded the same dignity and respect of the person.</p>	<p>Clause (2) was deleted by the Conference</p>	<p>The Conference deleted clause (2) as it was the same with clause (1) of Article 32 of the Mung’omba Draft Constitution which provided for protection of human dignity which had earlier been adopted by the Conference, re-numbered as Article 41 and renamed as “protection from inhuman treatment.” Clause (1) of Article 41 provided that <b>“Every person has an inherent dignity and the right to have that dignity respected and protected”</b>.</p>
	<p>(3) Women and men have an equal right to inherit, have access to, own, use, administer and control land and other property.</p>	<p>Clause was adopted and moved to the new clause (2) as paragraph (a).</p>	<p>The Conference:  (a) approved clause (3) without amendments and moved it to the new clause (2); and  (b) and re-numbered it as paragraph (a) of that clause.</p>
<p><b>New Paragraph</b></p>		<p><b>(2) Women and men have equal right-</b>  <b>(a) to inherit, have access to, own, use, administer and control land and other property;</b>  <b>(b) to choose residence and domicile;</b>  <b>(c) to choose a family name;</b>  <b>(d) acquire, change or retain the</b></p>	<p>The Conference:  (a) moved clause (3) of Article 41 to new clause (2) and re-numbered it as paragraph (a) of that clause;  (b) approved paragraph (b) of clause (3) of Article 42 with amendments by adapting it to</p>

		<p><b>nationality of their children; and</b></p> <p><b>(e) to guardianship and adoption of children.</b></p>	<p>suit equality of gender in relation to children, moved it to Article 41 and re-numbered it as paragraph (d) of the new clause (2) of Article 41;</p> <p>(c) approved paragraphs (c), and (e) of clause (3) of Article 42 of the Mung'omba Draft Constitution and re-numbered them as paragraphs (b) and (c) of the new clause (2) of Article 41 (new Article 40) respectively; and</p> <p>(d) approved paragraph (d) of clause (3) of Article 42 of the Mung'omba Draft Constitution, moved it to Article 41 and re-numbered it as paragraph (e) of the new clause (2).</p>
--	--	--	--

	<p>(4) Women and men shall have equal rights with respect to marriage.</p> <p>(5) Any law, culture, custom or tradition that undermines the dignity, welfare, interest or status of women or men is prohibited.</p>	<p>(3) Women and men have equal rights with respect to marriage.</p> <p>(4) Any law, culture, custom or tradition that undermines the dignity, welfare, interest or status of women or men is prohibited.</p>	<p>The Conference approved clauses (4) and (5) as the new clauses (3) and (4) without amendments.</p>
	<p>(6) The Government shall provide reasonable facilities and opportunities to enhance the welfare of women and men to enable them to realise their full potential and advancement.</p> <p>(7) The Government shall take special measures aimed at achieving equality between both gender which measures shall not be construed as discrimination in so far as the measures are not maintained beyond what is required to</p>	<p>Clauses (6) and (7) were deleted by the Conference</p>	<p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) deleted clause (6) as the term “reasonable facilities” was vague and would create problems of interpretation if it was enshrined in the Constitution;</li> <li>(b) deleted clause (7) as it was catered for in paragraph (f) of Article 40 of the Mung’omba Draft Constitution adopted by the Conference and re-numbered as Article 48; and</li> <li>(c) deleted clause (8) on the understanding that once the new Constitution was</li> </ul>

	<p>achieve equality between both gender.</p> <p>(8) Parliament shall enact legislation to give effect to this Article.</p>	<p>Clause (8) was deleted by the Conference</p>	<p>adopted and enacted into law, all the rights declared in the Bill of Rights shall become enforceable. Therefore, clause (8) could not stand as it subjected a constitution provision under the Bill of Rights to subordinate legislation to take effect.</p>
<p><b>Article 42: Further rights for women</b></p>	<p><b>Further rights for women</b></p> <p>42. (1) The State shall ensure that women are not discriminated against as guaranteed in this Constitution.</p> <p>(2) All laws, customary or regulatory, that permit or have the effect of discriminating against women are hereby declared void.</p> <p>(3) Without limiting any right or freedom guaranteed under this Bill of Rights, women shall have and be accorded the right -</p> <p>(a) to reproductive health, including</p>	<p>The Conference deleted Article 42 on further Rights for women.</p>	<p>The Conference resolved to:</p> <p>(a) delete clause (1) of Article 42 of the Mung'omba Draft Constitution because discrimination was prohibited under Article 40 of the Mung'omba Draft Constitution which had already been adopted and re-numbered as Article 48. In this regard, the Conference observed that there was no need for one gender to be specified since Article 48 was all-encompassing as it included both female and male gender in this</p>

	<p>family planning and access to related information and education;</p> <p>(b) to acquire, change or retain their nationality including the nationality of their children;</p> <p>(c) to choose residence and domicile;</p> <p>(d) to guardianship and adoption of children;</p> <p>(e) to choose a family name; and</p> <p>(f) to non-custodial sentences if pregnant or are nursing mothers, except as a measure of last resort for serious offences and for those women</p>		<p>Constitution;</p> <p>(b) delete clause (2) as it was provided for in clause (4) of Article 49 (Article 41 of the Mung'omba Draft Constitution);</p> <p>(c ) delete paragraphs (a) to (f) of clause (3), observing that such provisions should be provided for under the Directive Principles of State Policy;</p> <p>(d) delete clause (4) as it was provided for in subordinate legislation of which a Bill to prohibit all forms of violence against women was pending presentation to Parliament; and</p> <p>(e) delete clause (5) as a consequence of the deletion of clause (1) of the same Article.</p>
--	--	--	--

	<p>who pose a danger to the community.</p> <p>(4) Parliament shall enact legislation to provide for the protection of women against all forms of violence.</p> <p>(5) For the purposes of this Article -</p> <p>“discrimination against women” means a distinction or exclusion made on the basis of sex which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of marital status, of human rights and fundamental freedoms in all areas of human endeavour to which persons of another description are not made subject or are accorded privileges or advantages which are not accorded to persons of another description.</p> <p>(b) “violence” includes -</p> <p>(i) physical, sexual and</p>		
--	---	--	--



	<p>psychological violence that occur in the family;</p> <p>(ii) violence related to female genital mutilation or any traditional or religious practice that is harmful to women;</p> <p>(iii) non-spousal violence or exploitation or physical, sexual or psychological violence that occurs within the general community;</p> <p>(iv) rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere;</p>		
--	---	--	--

	<p>(v) trafficking in women and forced prostitution; and</p> <p>(vi) economic and social deprivation.</p>		
	<p>(6) Parliament shall enact legislation to regulate matrimonial causes and court proceedings dealing with sexual offences so as to ensure anonymity and protection of the lives and dignity of the parties but without prejudice to the due process of the law.</p>		
<p><b>Article 43: Older members of society</b></p>	<p><b>Older members of society</b></p> <p>43. (1) Older members of society are entitled to enjoy all the rights and freedoms set out in this Bill of Rights, including the right to -</p> <p>(a) participate fully in the affairs of society;</p> <p>(b) pursue their</p>	<p>The Conference deleted Article 43 on older members of society.</p>	<p>The Conference deleted Article 43 of the Mung’omba Draft Constitution because its provisions should be provided for in subsidiary legislation</p>

	<p>personal development and retain their autonomy;</p> <p>(c) freedom from all forms of discrimination, exploitation or abuse;</p> <p>(d) live in dignity and respect; and</p> <p>(e) receive care and assistance from the family and the Government.</p> <p>(2) Parliament shall enact legislation to provide for a sustainable social security system for the older members of society.</p>		
<b>Article 44: Children</b>	<p><b>Children 44.</b> (1) It is the duty of parents, wider family, society and the State to nurture, protect and educate children for the benefit of society as a whole.</p>		<p>The Conference deleted clause (1) of Article 44 of the Mung’omba Draft Constitution and relegate it subsidiary legislation. The Conference was of the view that most of the issues in the clause were already being addressed by various</p>

			subsidiary legislation and that it would be difficult to enforce the right.
	(2) All children, whether born in or outside wedlock, are equal before the law and have equal rights under this Constitution.	50. (1) All children, whether born in or outside wedlock, are equal before the law and have equal rights under this Constitution.	The Conference: (a) approved clause (2) without amendments; and (b) re-numbered it as clause (1) of the new Article 50.
	(3) A child's best interests are of paramount importance in every matter concerning the child.	Clause (3) was deleted by the Conference.	The Conference deleted clause (3) and relegate it subsidiary legislation.
	(4) A child's mother and father, whether married to each other or not, have an equal duty to protect and provide for the child.  (5) Every child has a right - (a) to a name and a nationality from birth and to have	(2) A child's mother and father, whether married to each other or not, have an equal duty to protect and provide for the child.  (3) Every child has a right - (a) to a name and a nationality from birth and to have the birth registered; (b) to parental care or to appropriate alternative care where the child is separated from its	The Conference approved: (a) clause (4) without amendments and re-numbered it as clause (2); and (b) clause (5) with amendments by deleting paragraphs (c) and (d).

	<p>the birth registered;</p> <p>(b) to parental care or to appropriate alternative care where the child is separated from its parents;</p>	<p>parents;</p>	
	<p>(c) to free basic education;</p> <p>(d) to be protected from discrimination, neglect, abuse and harmful cultural rites and practices, including female circumcision, tattooing and early marriage before attaining the age of eighteen years;</p>	<p>Paragraphs (c) and (d) were deleted by the Conference.</p>	<p>Paragraph (c) was deleted because the right to education for all, including children, was adequately provided for in paragraph (a) of clause (5) of Article 79 of the Mung'omba Draft Constitution which has been re-numbered as Article 69.</p> <p>Paragraph (d) was deleted because its provisions were details which should be provided for in the subordinate legislation.</p>
	<p>(e) to be protected from all forms of</p>	<p>(c) to be protected from all forms of exploitation and <b>from performing any</b></p>	<p>The Conference amended paragraph (e) by combining its provision with</p>

	<p>exploitation and any work that is likely to be hazardous or adverse to the child's welfare;</p>	<p><b>work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development;</b>  <b>Provided that an Act of Parliament may provide for the employment of children for a wage under certain conditions.</b></p>	<p>aspects of clause (1) of Article 32 of the United Nations Convention of the Right of a Child (UNCRC) and clause (1) of Article 24 of the current Constitution of Zambia.</p>
	<p>(f) to adequate nutrition, shelter, basic health care services, social security and social services;</p>	<p>(d) to adequate nutrition, shelter, basic health care services and social services;</p>	<p>The Conference:  (a) adopted clause (f) with amendments by deleting the term "social security"; and  (b) re-numbered the paragraph as paragraph (d).</p>
	<p>(g) not to be subjected to corporal punishment or any other form of</p>	<p>Paragraphs (g), (h), (i), (j), (k) and (l) were deleted by the Conference.</p>	<p>The Conference:  (a) deleted paragraph (g) as there were already sufficient provisions existing in the</p>

	<p>violence or cruel and inhumane treatment in schools and other institutions responsible for the care of children;</p> <p>(h) to be protected in times of armed conflict and not to be recruited and used in armed conflict;</p> <p>(i) not to take part in hostilities;</p> <p>(j) not to be incarcerated on account of the mother's incarceration;</p> <p>(k) to a standard of living adequate for the child's physical, mental, spiritual,</p>		<p>Education Act to cater for the provision and that since the Conference had deleted clause (3) of Article 32 which stated that "<b>a person shall not be subjected to corporal punishment</b>", paragraph (g) of clause (5) should also be deleted;</p> <p>(b) deleted paragraphs (h) and (i), observing that it was not necessary to include the provisions in the Constitution;</p> <p>(c) deleted paragraph (j) noting that since paragraph (c) of clause (3) of Article 42 had been deleted it followed that paragraph (j) should be deleted. It was also observed that;</p> <p>(i) that the provision was difficult to implement since infants were never imprisoned by prison authorities;</p> <p>(ii) that the paragraph was difficult to understand as to</p>
--	--	--	---

	<p>moral and social development;</p> <p>(l) to development and an individual development plan, where appropriate;</p>		<p>whether it meant mothers with infants could not be imprisoned; and</p> <p>(iii) that the paragraph would be a burden on the State as it would entail Government engaging care takers to look after children whose mothers were incarcerated; and</p> <p>(d) deleted paragraphs (k) and (l) on account that the provisions would be difficult to enforce.</p>
	<p>(m) to protection from all forms of sexual exploitation or abuse;</p>	<p>(e) to protection from all forms of sexual exploitation or abuse;</p>	<p>The Conference:</p> <p>(a) adopted paragraph (m) without amendments; and</p> <p>(b) re-numbered the paragraph as paragraph (e).</p>
	<p>(n) not to be arrested or detained, except as a measure of</p>	<p>Paragraph (n) was deleted by the Conference.</p>	<p>The Conference deleted paragraph (n) upon recalling that when considering sub-paragraph (i) of</p>



	<p>last resort, in which case that child has the right to be -</p> <ul style="list-style-type: none"> <li>(i) detained only for the shortest appropriate period of time;</li> <li>(ii) kept separate from adults in custody;</li> <li>(iii) accorded legal assistance by the State;</li> <li>(iv) treated in a manner and be kept in conditions that take account of the child's gender and age; and</li> <li>(v) tried in a juveniles court;</li> </ul>		<p>paragraph (e) of Article 37, it had agreed to 48 hours as the maximum time period any person could be detained, which included children. Other aspects of the provision were already in the Juveniles Act.</p>

	<p>(o) to know of decisions affecting the child, to express an opinion and have that opinion taken into account, having regard to the age and maturity of the child and the nature of the decision;</p> <p>(p) to protection of the child's identity and not be exposed by the media during criminal proceedings; and</p> <p>(q) generally to survival and development.</p>	<p>Paragraphs (o), (p) and (q) were deleted.</p>	<p>The Conference deleted paragraphs (o), (p) and (q). The Conference was of the view that paragraph (p) was included in the Juveniles Act.</p>
	<p>(6) Children with special needs, especially girls, orphans, a child whose parent</p>	<p>Clauses (6) and (7) were deleted</p>	<p>The Conference deleted: (a) clause (6), observing that Article 53 (Article 48 of the Mung'omba</p>

	<p>is in prison, children with disability, refugee children and homeless children, are entitled to the special protection of the State and society.</p> <p>(7) In this Article “child” means a person who is below the age of eighteen years.</p>		<p>Draft Constitution) adequately covered the provisions of clause (6) and that it should be deleted from the Constitution and be relegated to subordinate legislation; and</p> <p>(b) clause (7) because it was redundant, the definition of the child having been provided in Article 308 on definitions.</p>
	<p>(8) Parliament shall enact legislation to give effect to this Article.</p>	<p><b>(4) Parliament shall enact legislation to provide for:</b>  <b>(a) the promotion and protection of the rights of children;</b>  <b>(b) the regulation of child health care services and child care facilities.</b></p>	<p>The Conference deleted clause (8) based on its earlier decision that Articles of the Constitution declaring a human right should not be subjected to subordinate legislation before it became enforceable. All rights which were declared in the Bill of Rights should become enforceable on the day the new Constitution comes into force. However, a new clause to provide for Parliament to enact of other subsidiary legislation on the promotion and protection of rights of children and regulate child health care services and child care facilities</p>

			was inserted.
<b>Article 45: Youth</b>	<p><b>Youth</b></p> <p><b>45. (1)</b> The youth constitute an integral part of society and, taking into account their unique needs, are entitled to enjoy all the rights and freedoms set out in this Bill of Rights, including -</p> <ul style="list-style-type: none"> <li>(a) access to quality and relevant education and training in order to achieve personal development and serve the community;</li> <li>(b) participation in governance;</li> <li>(c) access to gainful employment;</li> <li>(d) adequate opportunities in the social, economic and other spheres of national life;</li> <li>(e) freedom of association to</li> </ul>	The Conference deleted Article 45 on Youth	The Conference deleted Article 45. It was observed that the rights provided under Article 45 were not unique to the youths because they were common to all citizens and, therefore, should not be stated separately. It was observed that the attempt to split categories of people who could enjoy certain rights was creating problems rather than solutions. The members were of the view that putting citizens in categories might leave out some people from enjoying some rights.

	<p>further their legitimate interests;</p> <p>(f) protection from any culture, custom or tradition that undermines their dignity or quality of life; and</p> <p>(g) freedom from discrimination, exploitation or abuse.</p> <p>(2) In this Article “youth” means a person who is eighteen years of age but below the age of thirty-five years.</p> <p>(3) Parliament shall enact legislation to give effect to this Article.</p>		
<p><b>Article 46: Protection of young persons</b></p>	<p><b>Protection of young persons</b></p> <p>46. (1) A young person shall not be -</p> <p>(a) employed;</p> <p>(b) caused or permitted to engage in an occupation or</p>	<p><b>Protection of young persons from Exploitation</b></p> <p>51. (1) A young person shall not be employed and shall in no case be caused or permitted to engage in any occupation or employment, which would prejudice the young person’s health or education or interfere with</p>	<p>The Conference:</p> <p>(a) deleted paragraphs (a) and (b) and clause (1) of Article 46 of the Mung’omba Draft Constitution and replaced them with Article 24 of the current Constitution of</p>

	<p>employment which would prejudice the health or education or interfere with the physical, mental or moral development of that young person;  except that an Act of Parliament may provide for the employment of a young person for a wage under certain conditions specified in that Act.</p>	<p><b>the young person's physical, mental or moral development, except that an Act of Parliament may provide for the employment of a young person for a wage under certain conditions.</b></p> <p><b>(2) All young persons shall be protected against physical or mental ill-treatment, all forms of neglect, cruelty or exploitation.</b></p> <p><b>(3) A young person shall not be the subject of traffic in any form.</b></p>	<p>Zambia;</p> <p>(b) amended the marginal note to read "<b>Protection of Young Persons from Exploitation</b>"; and</p> <p>(c) re-numbered the Article as Article 51.</p> <p>The Conference made the following observations:</p> <p>(a) that clauses (1) and (2) of Article 46 in the Mung'omba Draft Constitution had similar provisions with clauses (1) and (4) of Article 24 of the current Constitution with clause (1) split into paragraphs (a) and (b);</p> <p>(b) that Article 24 of the current Constitution was more comprehensive than Article 46 of the Mung'omba Draft Constitution; and</p> <p>(c) that clauses (2) and (3) of Article 24 of the current Constitution of Zambia should</p>
--	---	--	---

			be inserted into Article 46 of the Mung’omba Draft Constitution.
	(2) In this Article, “young person” means a person under the age of fifteen years	(4) In this Article, "young person" means a person under the age of fifteen years.	The Conference approved clause (2) of Article 46 of the Mung’omba Draft Constitution without amendments.
<b>Article 47: Family</b>	<b>Family</b> 47. (1)The Republic recognizes the family as the natural fundamental unit of society and as the necessary basis of the social order.	<b>Family</b> 52. (1) The <b>State</b> recognises the family as the natural and fundamental unit of society, and as the necessary basis of the social order.	The Conference: (a) approved clause (1) with amendments by replacing the term “ <b>Republic</b> ” with the term “ <i>State</i> ”; and (b) re-numbered the Article as Article 52.  The Conference observed that the term “ <i>Republic</i> ” had been used for the first time in Article 47, instead of the term “ <i>State</i> ”.
	(2) The family is entitled to the respect and protection of the State.	(2) The family is entitled to the respect and protection of the State.	The Conference adopted clause (2) without amendments.

<b>New Clauses</b>	(3) A person who is eighteen years of age or older has the right to freely choose a spouse of the opposite sex and marry.	<b>(3)</b> A person who is eighteen years of age or older has the right to freely choose a spouse of the opposite sex and marry.	The Conference adopted clause (3) without amendments.
		<b>(4) Clause (3) shall apply to statutory and customary law marriages.</b> <b>(5) Marriage between persons of the same sex is prohibited.</b>	The Conference inserted two new provisions to provide : (a) that the provision of clause (3) shall apply to both customary and statutory marriages and numbered this provision as clause (4); and (b) that same sex marriages are prohibited and numbered this provision as clause (5).
	(4) Parties to a marriage are entitled to equal rights in the marriage, during the marriage and at the dissolution of the marriage.	<b>(6)</b> Parties to a marriage are entitled to equal rights in the marriage, during the marriage and at the dissolution of the marriage.	The Conference: (a) approved clause (4) without amendments; and (b) re-numbered the clause as clause (6).
	(5) Recognising the	<b>(7)</b> Recognising the importance of	The Conference:



	<p>importance of children to the future of society, the maternal role of women and the nurturing role of both parents, the Government shall -</p> <p>(a) ensure the right of women to adequate maternity leave;</p> <p>(b) ensure the availability of adequate paternal leave;</p> <p>(c) ensure the availability of adequate maternal and reproductive health care and child health care; and</p> <p>(d) promote the availability of adequate childcare facilities.</p>	<p>children to the future of society, the maternal <b>and paternal</b> role of women <b>and men</b> and the nurturing role of both parents, the Government shall -</p> <p>(a) ensure the right of women to adequate maternity leave;</p> <p>(b) ensure the availability of adequate paternal leave;</p> <p>(c) ensure the availability of adequate maternal and reproductive health care and child health care; and</p> <p>(d) promote the availability of adequate childcare facilities.</p>	<p>(a) approved clause (5) with amendments by replacing the words "<i>the maternal role of women</i>" with the words "<i>the maternal <b>and paternal</b> role of women <b>and men</b></i>"; and</p> <p>(b) re-numbered it as clause (7).</p> <p>In doing this, the Conference recognised the importance of both maternal and paternal roles of women and men in bringing up children.</p>
<p><b>New Clause</b></p>		<p><b>(8) Parliament shall enact legislation to:</b></p> <p><b>(a) specify what constitutes a family;</b></p> <p><b>(b) regulate customary law and statutory marriages;</b></p> <p><b>(c) provide for the rights of parties during and at the dissolution of a marriage; and</b></p>	<p>The Conference inserted the new clause (8) to empower Parliament to enact legislation to specify what constituted a "family" and other related matters.</p>

		(d) regulate matrimonial causes and court proceedings dealing with sexual offences so as to ensure anonymity and protection of the lives and dignity of the parties but without prejudice to the due process of the law.	
<b>Article 48: Persons with disability</b>	<p><b>Persons with disability</b></p> <p>48. (1) Persons with disability are entitled to enjoy all the rights and freedoms set out in this Bill of Rights and shall have the right -</p> <p>(a) to education and facilities that are integrated into society as a whole to the extent compatible with the interests of persons with disability;</p> <p>(b) to effective access to places and public transport;</p> <p>(c) to use sign language, braille or other appropriate means of communication;</p> <p>(d) to be addressed and referred to, in official or</p>	<p><b>Persons with disabilities</b></p> <p>53. (1) Persons with disabilities are entitled to enjoy all the rights and freedoms set out in this Bill of Rights <b>on an equal basis with others.</b></p>	<p>The Conference approved clause (1) with amendments as follows:</p> <p>(i) replaced the words "<i>Persons with disability</i>" in the marginal note with the words "<i>Persons with disabilities</i>" and re-numbered the Article as Article 53;</p> <p>(ii) inserted the phrase "<b>on an equal basis with others</b>" as the ending of the provision; and</p> <p>(iii) deleted the list of items provided for in paragraphs (a) to (g), on the understanding that the list may not be exhaustive and</p>

	<p>private contexts, in a manner that is not demeaning, derogatory or discriminatory;</p> <p>(e) to access materials, facilities and devices to enable them overcome constraints due to disability;</p> <p>(f) to equal treatment, including the right to equal opportunities in cultural, political, economic and social activities; and</p> <p>(g) to inherit, have access to, own and control property.</p>		<p>transfer the relevant one to be listed under clause (3), which became clause (4) due to re-numbering, so that legislation to be enacted by Parliament referred to those.</p> <p>The Conference observed that clause (1) was inadequate in comparison with major international human rights instruments that Zambia had ratified.</p>
	<p>(2) Any practice, custom or tradition that undermines the dignity, welfare, interest or status of persons with disability is prohibited.</p>	<p>(2) Any <b>law</b>, practice, custom or tradition that undermines the dignity, welfare, interest or status of persons with disabilities is hereby declared void.</p>	<p>The Conference approved clause (2) with amendments by inserting the word "<i>law</i>" between the words "<i>Any</i>" and "<i>practice</i>". The word "<i>prohibited</i>" was replaced with the words "<i>hereby declared void</i>". By doing this, the Conference observed the need to strengthen legal provisions prohibiting</p>

New clause			discrimination against persons with disabilities.
		<b>(3) The State shall recognise, protect and promote the rights, dignity, welfare and interests of persons with disabilities.</b>	The Conference introduced a new clause (3) to provide for the State to recognise, protect and promote the rights of the disabled.
	(3) Parliament shall enact legislation to give affect to this Article.	<b>(4) Parliament shall enact legislation to provide for:</b> <b>(a) the promotion and protection of the rights of persons with disabilities;</b> <b>(b) effective access by persons with disabilities to the physical environment, facilities and services open or provided to the public;</b> <b>(c) the education and health needs of persons with disabilities including early identification and intervention;</b> <b>(d) the use of Sign Language, Braille or other appropriate means of communication;</b> <b>(e) access to assistive devices and technologies, support services and facilities to enable persons with disabilities live independently and participate fully in all aspects of life; and</b> <b>(f) the establishment of a social security scheme for persons who are</b>	The Conference deleted clause (3) for the reason that Articles in the Bill of Rights should become enforceable when the new Constitution comes into force. In its place, the Conference empowered Parliament to enact subsidiary legislation to provide for specific needs of persons with disabilities and inserted a new clause which accordingly listed those needs in its paragraphs (a) to (f) based on the provisions of the United Nations Convention on Rights of Persons with Disabilities.

		totally impaired.	
<b>Article 49: Special measures for persons with disabilities</b>	<p><b>Special measures for persons with disabilities</b></p> <p>49.(1) The State shall -</p> <ul style="list-style-type: none"> <li>(a) promote measures to educate communities and the society on the causes of disability and the need to respect the dignity and rights of all persons;</li> <li>(b) promote and ensure the use of sign language, braille or any other appropriate means of communication for the disabled; and</li> <li>(c) not tax any device used by persons with disability.</li> </ul> <p>(2) Parliament shall enact legislation to provide for the promotion of the rights of</p>	<p>The Conference deleted Article 49 on special measures for person with disabilities.</p>	<p>The Conference deleted Article 49 of the Mung'omba Draft Constitution as a consequence of the decision taken when considering Article 48. In considering Article 48, the Conference had resolved to delete from the Constitution and relegate paragraphs (a) to (c) of clause (1) of Article 49, which are now in clause (4) of new Article 52. Therefore, Article 49 had become redundant, hence its deletion.</p>

	persons with disability and in particular establish a social security scheme for persons who are totally impaired.		
<b>Article 50: Language and culture</b>	<b>Language and culture</b> 50. (1) Every person has the right to use the language and to participate in the cultural life of that person's choice.	Clause (1) was deleted	The Conference deleted clause (1) on the account that the provision was confusing as it did not define the circumstances under which it would apply.
	(2) A person who belongs to a cultural or linguistic community shall not be denied the right, with other members of that community - (a) to enjoy that person's culture and use that person's language; or (b) to form, join and maintain cultural and linguistic associations.	<b>Language and culture</b> 70. (1) A person who belongs to a cultural or linguistic community shall not be denied the right, with other members of that community - (a) to enjoy that person's culture and use that person's language; or (b) to form, join and maintain cultural and linguistic associations.	The Conference approved the clause (2) as new clause (1) without amendments.  The Conference re-arranged the position of this Article by re-numbering it as Article 70.
	(3) A person shall not be	(2) A person shall not be compelled -	The Conference:

	<p>compelled -</p> <p>(a) to perform, observe, participate in or be subjected to any cultural practice or rite; or</p> <p>(b) to form, join, contribute, maintain or pay allegiance to any cultural, traditional or linguistic association</p>	<p>(a) to perform, observe, participate in or be subjected to any cultural practice or rite; or</p> <p>(b) to form, join, contribute, maintain or pay allegiance to any cultural, traditional or linguistic association, organisation, institution or entity.</p>	<p>(a) approved clause (3) without amendments; and</p> <p>(b) re-numbered the clause as clause (2) of the new Article 70.</p>
<p><b>Article 51: Freedom and Security of persons</b></p>	<p><b>Freedom and Security of persons</b></p> <p>51. Every person has the right to freedom and security of the person which includes the right -</p> <p>(a) not to be deprived of freedom arbitrarily or without just cause;</p> <p>(b) not to be the subject of human trafficking;</p> <p>(c) not to be detained without trial, except</p>	<p><b>Protection of Right to Personal Liberty</b></p> <p>54. A person shall not be deprived of that person's personal liberty except as may be authorised by law in any of the following cases:</p> <p>(a) in execution of a sentence or order of a court, whether established for Zambia or some other country, in respect of a criminal offence of which that person has been convicted;</p> <p>(b) in execution of an order of a court of record punishing that person for contempt of that court or of a court</p>	<p>The Conference:</p> <p>(a) deleted Article 51;</p> <p>(b) inserted clause (1) of Article 13 of the current Constitution;</p> <p>(c) re-numbered the Article as Article 54; and</p> <p>(d) Amended the marginal note to read "<i>Protection of Rights to Personal Liberty</i>".</p> <p>The Conference observed the following:</p>

	<p>during a state of war, public emergency or state of threatened public emergency;</p> <p>(d) to be free from all forms of violence;</p> <p>(e) not to be tortured in any manner, whether physically or psychologically; and</p> <p>(f) not to be subjected to corporal punishment or to be treated or punished in a cruel, inhuman or degrading manner.</p>	<p>inferior to it;</p> <p>(c) <b>in execution of an order of a court made to secure the fulfilment of any obligation imposed on that person by law;</b></p> <p>(d) <b>for the purpose of bringing that person before a court in execution of an order of a court;</b></p> <p>(e) <b>upon reasonable suspicion of that person having committed, or being about to commit, a criminal offence under the law in force in Zambia;</b></p> <p>(f) <b>under an order of a court or with the consent of that person's parent or guardian, for that person's education or welfare during any period ending not later than the date when that person attains the age of eighteen years;</b></p> <p>(g) <b>for the purpose of preventing the spread of an infectious or contagious disease;</b></p> <p>(h) <b>in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol or a vagrant, for the purpose of that person's</b></p>	<p>(a) that the Conference had earlier resolved to move paragraphs (e) and (f) to Article 32 of the Mung'omba Draft Constitution which had been re-numbered as Article 41 and, therefore, delete them from Article 51; and</p> <p>(b) that Article 51 was inadequate in that it did not provide for instances when a person's liberty could be taken away for that person's good, therefore, clause (1) of Article 13 of the current Constitution was adopted.</p>
--	---	--	--



		<p>care or treatment or the protection of the community;</p> <p>(i) for the purpose of preventing the unlawful entry of that person into Zambia, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person while that person is being conveyed through Zambia in the course of that person's extradition or removal as a convicted prisoner from one country to another; or</p> <p>(j) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Zambia or prohibiting that person from being within such area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that the person is</p>	
--	--	--	--

		permitted to make to any part of Zambia in which, in consequence of any such order, that person's presence would otherwise be unlawful.	
<b>Article 52: Slavery, servitude and forced labour</b>	<b>Slavery, servitude and forced labour</b> 52. (1) A person shall not be held in slavery or servitude.	<b>Protection from slavery, servitude and forced labour</b> 55. (1) A person shall not be held in slavery or servitude.	<p>The Conference:</p> <p>(a) approved Clause (1) of Article 52 without amendments; amended the marginal note of this Article to read "<i>Protection from slavery, servitude and forced labour</i>"; and</p> <p>(b) re-numbered the Article as Article 55.</p> <p>The Conference, while accepting the provisions of Article 52 on "forced labour", observed that there were no exceptions provided and yet there were instances when a person may be required to provide labour without being paid.</p> <p>In particular, the Conference recognised the vital role that</p>

<b>New clause</b>			community projects played in social development. In such projects, members of the community were required to provide free labour and therefore, adopted the clause.
		<b>(2) Notwithstanding any other provision in this Constitution, the protection from slavery or servitude shall not be derogated from.</b>	The Conference inserted a new clause (2) which arose from its decision to provide for limitations, derogations and non-derogations in appropriate Articles instead of providing for them separately.
	(2) A person shall not be required to perform forced labour.	(3) A person shall not be required to perform forced labour.	The Conference approved clause (2) without amendments and re-numbered it as clause (3).
	(3) Parliament shall enact legislation specifying what constitutes "forced labour".	<b>(4) For purposes of this Article, "forced labour" does not include-</b> <b>(a) any labour required in consequence of a sentence or order of a court;</b> <b>(b) labour required of any person while that person is lawfully detained that, though not required in consequence of a sentence or order of a court, is reasonably necessary in the</b>	The Conference deleted clause (3) of Article 52 of the Mung'omba Draft Constitution and replaced it with clause (3) of Article 14 of the current Constitution to provide for the necessary exceptions to "forced labour".

		<p>interest of hygiene or for the maintenance of the place at which the person is detained;</p> <p>(c) any labour required of a member of a disciplined force in pursuance of that person's duties as such or, in the case of a person who objects, on religious grounds, to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;</p> <p>(d) any labour required during any period when the Republic is at war, under a state of public emergency, a threatened state of public emergency, a national disaster or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period, or as a result of the emergency or calamity; or</p> <p>(e) any labour required as part of</p>	
--	--	--	--

		reasonable and normal communal or other civic obligations.	
<b>Article 53: Privacy</b>	<b>Privacy</b>  53. All persons have the right to privacy, which includes the right not to have - (a) their person, home or property searched; (b) their possessions seized;	<b>Protection of privacy of person, home and other property</b> 56. All persons have the right to privacy, which includes the right not to have - (a) their person, home or property searched; (b) their possessions seized;	The Conference: (a) approved paragraphs (a) and (b) of clause (1) without amendments; (b) amended the marginal note of this Article to read " <i>Protection of privacy of person, home and other property</i> "; and (c) re-numbered the Article as Article 56.
	(c) information relating to their family, health status or private affairs unnecessarily required or revealed; or	(c) information relating to their family, health status or private affairs required or revealed; or	The Conference approved paragraph (c) of clause (1) with amendments by deleting the word " <i>unnecessarily</i> " in order to ensure protection of the privacy of a family and personal information.

	(d) the privacy of their communications infringed.	(d) the privacy of their communications infringed.	The Conference approved paragraph (d) without amendments.
New clause		<p><b>(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision-</b></p> <p><b>(a) that is reasonably required in the interest of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation of mineral resources, or in order to secure the development or utilisation of any property for a purpose beneficial to the community;</b></p> <p><b>(b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;</b></p> <p><b>(c) that authorises an officer or</b></p>	The Conference incorporated the provision of clause (2) of Article 17 of the current Constitution as the new clause (2) of Article 53 which was re-numbered as Article 56 to provide for limitations and that the limitations should apply to the whole of the new Article 56.

		<p>agent of the Government, a district council or a body corporate established by law for a public purpose to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax or rate due, or in order to carry out work connected with any property that is lawfully on those premises and that belongs to the Government, district council or body corporate, as the case may be; or</p> <p>(d) that authorises, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the search of any person or property by order of a court or entry upon any premises by such order.</p>	
<p><b>Article 54:</b> Freedom of worship and conscience</p>	<p><b>Freedom of worship and conscience</b></p> <p>54. (1) Every person has the right to freedom of conscience, religion, thought,</p>	<p><b>Protection of freedom of conscience</b></p> <p>57. (1) A person shall not, except with that person's own consent, be hindered in the enjoyment of that person's freedom of conscience.</p>	<p>The Conference: (a) combined clauses (1) and (2)</p>

	<p>belief and opinion.</p> <p>(2) Every person has a right, either individually or in community with others, in public or in private, to manifest any religion or belief through worship, observance, practice or teaching.</p>	<p><b>(2) For the purposes of this Article, “freedom of conscience” includes freedom of thought and religion, freedom to change the person’s religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate the person’s religion or belief in worship, teaching, practice and observance.</b></p>	<p>of Article 54 by adopting clause (1) of Article 19 of the current Constitution. Article 19(1) of the current Constitution provides for freedom of conscience and also provides for one to change their religion or belief without any hindrance. Such a provision would protect those whose religions did not allow their followers the freedom to change religion to an extent that they would execute or kill those that attempted to do so;</p> <p>(b) amended the side note of the Article to read <b><i>“Protection of freedom of conscience”</i></b>; and</p> <p>(c) re-numbered the Article as Article 57.</p> <p>The Conference observed that there were no limitations to the provision. It was the view of the Conference</p>
--	---	---	--



			that there should be appropriate limitations to the freedom of worship and conscience to protect the greater public interest.
	<p>(3) Every religious community shall be entitled at its own expense to establish, maintain and manage educational institutions, facilities and programmes for, and to provide religious instruction to, members of that community.</p>	<p><b>(3) Except with the person's own consent, or, if the person is a minor, the consent of that person's guardian, a person attending any place of education shall not be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than the person's own.</b></p> <p><b>(4) A religious community or denomination shall not be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination or from establishing and maintaining instructions to provide social services for such persons.</b></p>	<p>The Conference replaced clause (3) with two new clauses, one of which was based on clause (2) of Article 19 of the current Constitution. This decision arose out of the need to be cautious in encouraging organisations to put up schools which would cater specifically for members of their faith. It was, therefore, decided to provide for a person to give consent to attending such education.</p>

	<p>(4) Religious observance and instruction may be conducted at State or State-aided institutions so long as -</p> <p>(a) the facilities of that institution are made available or the observance and instruction are conducted on an equitable basis, having regard to the beliefs of the population served by that institution; and</p> <p>(b) attendance at the observance or instruction is free and voluntary.</p>	<p>Clause (4) was deleted by the Conference.</p>	<p>The Conference deleted clause (4). It was felt that extending religious instruction to a State facility would raise a number of contradictions. In this regard, clause (4) was deleted by the Conference on account that it was not clear especially with regard to “making available” which could have a double meaning.</p>
	<p>(5) A person shall not be deprived of access to any institution, employment facility or the enjoyment of any right or freedom because of that individual’s religious</p>	<p>Clause (5) was deleted by the Conference.</p>	<p>The Conference deleted clause (5) as a consequence of adopting clause (2) of Article 19 of the current Constitution.</p>

	<p>beliefs.</p> <p>(6) A person shall not be compelled -</p> <p>(a) to take an oath that is contrary to that individual's religion or belief or that involves expressing a belief that the individual does not hold;</p> <p>(b) to take an oath in a manner that is contrary to that individual's religion or belief;</p> <p>(c) to receive instruction in a religion that is not that individual's religion or to attend a ceremony or observance of that religion;</p> <p>(d) by a public body to disclose that individual's</p>	<p><b>(5) A person shall not be compelled to take any oath which is contrary to that person's religion or belief or to take any oath in a manner which is contrary to that person's religion or belief.</b></p>	<p>The Conference:</p> <p>(a) replaced paragraphs (a) and (b) of clause (6) of Article 54 with clause (4) of Article 19 of the current Constitution; and</p> <p>(b) deleted paragraph (c), (d) and (e) of clause (6) of Article 54. Paragraph (c) of clause (6) of Article 54 was already provided for in Article 19 (2) which was imported into clause (3) of Article 54.</p>
--	--	---	--

	<p>religious conviction or belief; or</p> <p>(e) to do any other act that is contrary to that individual's religion or belief.</p>		
<p><b>New clause</b></p>		<p><b>(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision which is reasonably required-</b></p> <p><b>(a) in the interests of defence, public safety, public order, public morality or public health; or</b></p> <p><b>(b) for the purposes of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the interference of members of any other religion;</b></p> <p><b>and except so far as that provision or, the thing done under the authority thereof as the case may be, is shown not to be reasonably justifiable in a</b></p>	<p>The Conference introduced and approved a new clause to provide for the limitations as contained in paragraph (b) of clause (5) of Article 19 of the current Constitution.</p>

<p><b>Article 55: Freedom of expression</b></p>	<p><b>Freedom of expression</b></p> <p>55. (1) Every person has the right to freedom of expression which includes -</p> <ul style="list-style-type: none"> <li>(a) freedom to hold an opinion;</li> <li>(b) freedom to receive or impart information or ideas;</li> </ul>	<p><b>democratic society.</b></p> <p><b>Freedom of expression</b></p> <p>58. (1) Every person has the right to freedom of expression which includes -</p> <ul style="list-style-type: none"> <li>(a) freedom to hold an opinion;</li> <li>(b) freedom to receive or impart information or ideas;</li> </ul>	<p>The Conference approved paragraphs (a) and (b) without amendments and re-numbered the Article as Article 58.</p>
	<ul style="list-style-type: none"> <li>(c) freedom of artistic creativity; and</li> <li>(d) academic freedom, including freedom of scientific research.</li> </ul>	<p>Paragraphs (c) and (d) were deleted.</p>	<p>The Conference deleted paragraphs (c) and (d) because the provisions could be a source of undesirable content such as pornography in the name of creativity and research that was not legally and morally or ethically acceptable, respectively.</p>
	<p>(2) Clause (1) does not extend to -</p> <ul style="list-style-type: none"> <li>(a) propaganda for war;</li> <li>(b) incitement to</li> </ul>	<p>(2) Clause (1) does not extend to -</p> <ul style="list-style-type: none"> <li>(a) propaganda for war;</li> <li>(b) incitement to violence; or</li> <li>(c) advocacy of hatred that -</li> <li>(i) vilifies and disparages</li> </ul>	<p>The Conference approved clause (2) without amendments.</p>

	<p>violence; or</p> <p>(c) advocacy of hatred that -</p> <p>(i) vilifies and disparages others or incites harm; or</p> <p>(ii) is based on any prohibited ground of discrimination specified in this Constitution.</p>	<p>(ii) others or incites harm; or is based on any prohibited ground of discrimination specified in this Constitution.</p>	
<p><b>New clause</b></p>		<p><b>(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision that is reasonably required for the purpose of -</b></p> <p><b>(a) the interests of defence, public safety, public order, public morality or public health;</b></p> <p><b>(b) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal</b></p>	<p>The Conference inserted the provision of paragraph (b) of clause (3) of Article 20 of the current Constitution of Zambia to provide for limitations to Article 55 and numbered it as clause (3).</p>

		<p>proceedings;</p> <p>(c) preventing the disclosure of information received in confidence;</p> <p>(d) maintaining the authority and independence of the courts;</p> <p>(e) regulating educational institutions in the interests of persons receiving instruction therein; or</p> <p>(f) the registration of, or regulating the technical administration or the technical operation of, newspapers and other publications, telephony, telegraphy, posts, wireless broadcasting or television;</p> <p>and except so far as that provision or, the thing done under the authority thereof, as the case may be, is shown not to be reasonably justifiable in a democratic society.</p>	
<p><b>Article 56:</b> Access to information</p>	<p><b>Access to information</b> 56. (1) Every citizen has the right of access to -</p>	<p>Clauses (1) and (2) were deleted by the</p>	<p>The Conference deleted clauses (1) and (2) from the Constitution for the following reasons:</p>

	<p>(a) information held by the State; and</p> <p>(b) any information that is held by another person which is required for the exercise or protection of any right or freedom.</p> <p>(2) The President shall within six months of the submission of a report of any commission of inquiry, appointed by the President in the exercise of the President's executive functions, publish the report.</p>	<p>Conference.</p>	<p>(a) with regard to paragraph (a) of clause (1):</p> <ul style="list-style-type: none"> <li>(i) that the provision would be unmanageable and would be a recipe for anarchy;</li> <li>(ii) that it was not desirable for everyone to probe into every information held by the State as some of it was "classified, and that even developed nations did not avail all classified information to the public</li> <li>(iii) that allowing the provision would compel the DPP to disclose reasons for entering the <i>nolle prosequi</i>, which was undesirable and not supported by law.</li> </ul> <p>(b) On paragraph (b) of clause</p>
--	---	--------------------	---



			<p>(1):</p> <ul style="list-style-type: none"><li>(i) that the provision would allow for interference into other people's private lives; and</li><li>(ii) that since information had a price, it would be tempting for those who held custody of such information to sell State secrets for financial gains.</li></ul> <p>(c) On clause (2) because there were various reasons why commissions of inquiry were set up and there were different commissions set up including those dealing with security matters. Therefore, prescribing time frame in the Constitution was inappropriate.</p>
--	--	--	---

	<p>(3) Every person has the right to demand the correction or deletion of untrue or misleading information affecting that person.</p> <p>(4) The State has the obligation to publicise any important information affecting the welfare of the Nation.</p>	<p><b>Access to information</b></p> <p><b>59. (1)</b> Every person has the right to demand the correction or deletion of untrue or misleading information affecting that person.</p> <p><b>(2)</b> The State has the obligation to publicise any important information affecting the welfare of the Nation.</p>	<p>The Conference:</p> <p>(a) approved clauses (3) and (4) without amendments and re-numbered them as clauses (1) and (2), respectively; and</p> <p>(b) re-numbered the Article as Article 59.</p>
	<p>(5) Parliament shall enact legislation to provide for access to public information.</p>	<p><b>(3)</b> Parliament shall enact legislation to provide for access to information.</p>	<p>The Conference approved clause (5) with amendment by deleting the word “<i>public</i>” from the provision. The Conference found the use of the term “public information” misleading as there was no such thing as “public information” but “<b>information held by a State organ or State institution</b>”.</p>
<b>Article 57:</b>	<b>Freedom of media</b>	<b>Freedom of media</b>	

Freedom of media	57. (1) There shall be freedom of the press and other media.	<b>60.</b> (1) There shall be freedom of the press and other media.	The Conference: (a) approved clause (1) without amendments; and (b) re-numbered the Article as Article 60.
	(2) Subject to this Constitution, a law shall not make any provision that derogates from freedom or independence of the press and other media.	Clause (2) was deleted by the Conference.	The Conference deleted clause (2) as it was seen to be conflicting with clause (1) which the Conference had earlier approved.
New Clause		<b>(2) A journalist shall not be compelled to disclose a source of information, except as may be determined by a court.</b>	The Conference inserted a new clause imported from Article 58 on disclosure of sources by journalists which was viewed as being the bedrock of journalism and was important for the dissemination of information to the public. The Conference noted that misdeeds by both public and private authorities, the powerful and the criminally inclined would go unreported, therefore, the need to protect “whistle blowers” was intended to

New Clause			serve the greater public interest.
		<p><b>(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision that is reasonably required for the purpose of -</b></p> <ul style="list-style-type: none"> <li><b>(a) in the interests of defence, public safety, public order, public morality or public health; or</b></li> <li><b>(b) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;</b></li> <li><b>(c) preventing the disclosure of information received in confidence;</b></li> <li><b>(d) maintaining the authority and independence of the courts;</b></li> <li><b>(e) regulating educational institutions in the interests of persons receiving instruction therein; or</b></li> <li><b>(f) the registration of, or regulating</b></li> </ul>	The Conference inserted anew Clause based on clause (3) of Article 20 of the current Constitution and amended it accordingly to refer to the media so as to place limitations on Article 60.

		<p><b>the technical administration or the technical operation of, newspapers and other publications, telephony, telegraphy, posts, wireless broadcasting or television;</b></p> <p><b>and except so far as that provision or, the thing done under the authority thereof as the case may be, is shown not to be reasonably justifiable in a democratic society.</b></p>	
	<p>(3) Broadcasting and other electronic media are subject only to fair licensing procedures that are -</p> <p>(a) administered by a body that is independent of control by the Government, political interests or commercial interests; and</p> <p>(b) designed to ensure -</p> <p>(i) the reasonable allocation of</p>	<p>Broadcasting and other electronic media are subject only to fair licensing procedures that are -</p> <p>(a) administered by a body that is independent of control by the Government, political interests or commercial interests; and</p> <p>(b) designed to ensure -</p> <p>(i) the reasonable allocation of broadcast frequencies; and</p> <p>(ii) adherence to codes of good practice.</p>	<p>The Conference approved clauses (3) and (4) without amendments.</p>

	<p>broadcast frequencies; and (ii) adherence to codes of good practice.</p> <p>(4) The registration or licensing of any media shall not unreasonably be withheld, withdrawn or refused.</p>	<p>(5) The registration or licensing of any media shall not unreasonably be withheld, withdrawn or refused.</p>	
	<p>(5) A person, State organ or State institution shall not -</p> <p>(a) require prior licensing for any form of publication, broadcast or dissemination of information, comment or opinion;</p> <p>(b) impose censorship on any form of publication, broadcast or dissemination of information, comment or</p>	<p>Clause (5) was deleted by the Conference.</p>	<p>The Conference deleted clause (5) for the following reasons:</p> <p>(i) the clause would open the door to undesirable content such as pornography and homosexuality and would also promote immorality because there would be no restriction on what ideas could be disseminated;</p> <p>(ii) since the Conference had adopted clause (3) subject only to fair licensing, the provisions in clause (5) was contradictory to what had been provided; and</p>

	<p>opinion;  (c) otherwise interfere with the freedom of expression of any writer, editor, publisher or broadcaster; or  (d) harass or penalise a person for any opinion or view or the content of any publication, broadcast or dissemination.</p>		<p>(iii) since the key tenets of press freedom including limitations had been provided for, clause (5) would amount to over legislation as it contained too much detail.</p>
	<p>(6)Parliament shall enact legislation that regulates freedom to broadcast in order to ensure fair election campaigning.</p>	<p><b>(6) Parliament shall enact legislation to -</b>  <b>(a) establish an independent authority to regulate broadcasting in the public interest;</b>  <b>(b) ensure fairness and diversity of views broadly representing Zambian society; and</b>  <b>(c) to specify the role of the Government in securing and protecting the public</b></p>	<p>The Conference approved clause (6) with amendments by providing for Parliament to enact legislation providing for an independent broadcasting authority, appropriate limitations and specifying the role of Government in securing and protecting public interest in broadcasting by adapting Article 192 of the Constitution of South Africa.</p>

		<b>interest in broadcasting.</b>	
<p><b>Article 58: Freedom not to disclose source</b></p>	<p><b>Freedom not to disclose source</b></p> <p>58. (1) A journalist shall not be compelled to disclose a source of information, except as may be determined by a court.</p> <p>(2) An agent of the media is free, at all times, to uphold the principle, provisions and objectives of this Constitution and the responsibility and accountability of the Government to the people of Zambia.</p>	<p>The Conference deleted Article 58 on Freedom not to disclose source</p>	<p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) deleted clause (1) of Article 58 of the Mung'omba Draft Constitution upon recalling that it had earlier on made a decision to transfer the clause to clause (2) of new Article 60 (Article 57 of the Mung'omba Draft Constitution); and</li> <li>(b) deleted clause (2) after observing that the provision was misplaced as the Government was neither accountable to the media directly nor accountable to the people through the media but was accountable to the people either directly or through their elected representatives.</li> </ul>



<p><b>Article 59: Independence of public media</b></p>	<p><b>Independence of public media</b></p> <p>59. (1) All public media shall -</p> <p>(a) be independent and impartial; and</p> <p>(b) afford fair opportunities and facilities to all persons for the presentation of divergent views and dissenting opinions.</p> <p>(2) Parliament shall enact legislation to -</p> <p>(a) Promote the independence and impartiality of the</p>	<p>The Conference deleted Article 59 on Independence of public media.</p>	<p>The Conference deleted Article 59 of the Mung’omba Draft Constitution as it was observed that the responsibility to be independent and fair should not be on the public media alone as the provision suggests. The private media as well needed to practice those tenets. At the same time, it could be difficult to compel the private media to be impartial and independent because they had to tow the line of the shareholders. In addition, the Conference observed that both public and private media should promote development of education in the nation by devoting/allocating time.</p>
--	--	---	---

	public media; and		
	(b) provide for reasonable allocation of air time and space by the public media to political parties, either generally or during election campaigns, on the recommendation of the Electoral Commission.		
<b>Article 60: Freedom of Association</b>	<b>Freedom of Association</b> 60. (1) Every person has the right to freedom of association.	<b>Protection of freedom of assembly and association</b>	The Conference deleted clauses (1) of Article 60 of the Mung'omba Draft Constitution. As a consequence of this decision, clauses (2) and (3) of Article 60 were also deleted. In their place, the Conference approved to insert clause (1) of Article 21 of the current Constitution followed by a
	(2) Freedom of association shall apply to the formation, operation and continued existence of any association.	<b>61. (1) A person shall not, except with the person's own consent, be hindered in the enjoyment of that person's freedom of assembly and association, that is to say, the person's right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade union or other association for the</b>	
	(3) A person shall not be		

	<p>compelled to Join an association of any kind.</p>	<p><b>protection of that person’s interests.</b></p> <p><b>(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, this Article to the extent that it is shown that the law in question makes provision:</b></p> <p><b>(a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;</b></p> <p><b>(b) that is reasonably required for the purpose of protecting the rights or freedoms of other persons;</b></p> <p><b>(c) that imposes restrictions upon public officers; or</b></p> <p><b>(d) for the registration of political parties or trade unions in a register established by or under a law and for imposing reasonable conditions relating to the procedure for entry on such a register including conditions as to the minimum number of persons necessary to constitute a trade union</b></p>	<p>derogations clause based on the provisions of clause (2) of Article 21 of the current Constitution which provided for limitations to the freedom of association. The derogation clause within Article 60 was deemed necessary to prevent formation of undesirable associations, such as those promoting gay rights.</p> <p>The Conference also amended the side note of this Article to read <i>“Protection of freedom of assembly and association”</i> and re-numbered it as Article 61.</p>
--	--	--	--

		<p><b>qualified for registration; and except so far as that provision or, the thing done under the authority thereof as the case may be, is shown not to be reasonably justifiable in a democratic society.</b></p>	
<p><b>Article 61: Assembly, demonstration, picketing, lock out and petition</b></p>	<p><b>Assembly, demonstration, picketing, lock out and petition</b></p> <p>61. Every person has the right, peacefully and unarmed, to assemble, demonstrate, picket or lock out and present petitions to public authorities.</p>	<p>The Conference deleted Article 61 on Assembly, demonstration, picketing, lock out and petition</p>	<p>The Conference deleted Article 61 of the Mung’omba Draft Constitution after observing that it had become redundant as a consequence of the resolution of the Conference to delete the clauses of the Mung’omba Draft Constitution in Article 60 (new Article 61) and replaced them with Article 21 of the current Constitution which also deals with the right of assembly.</p>
<p><b>Article 62: Right to participate in politics</b></p>	<p><b>Right to participate in politics</b></p> <p>62. (1) Subject to this Constitution, every citizen has a right to make political choices which includes the right -</p> <p>(a) to form or participate in forming a political party;</p>	<p>The Conference deleted Article 62 on Right to participate in politics</p>	<p>The Conference deleted Article 62 of the Mung’omba Draft Constitution as a consequence of the earlier decision to import clause (1) of Article 21 of the current Constitution into Article 60 (new Article 61). The new clause (1) of Article 60, therefore, provided for the right to make political choices. In addition,</p>

	<p>(b) to participate in the activities of, or recruit members for, a political party; and</p> <p>(c) to campaign for a political party or cause.</p>		<p>it was observed that the provisions in the Article 62 were lifted from the Constitution of South Africa and that these provisions were not suitable for the Zambian situation.</p> <p>Clauses (2) of Article 62 were also deleted as a consequence of the deletion of clause (1) of Article 62 while clauses (3) and (4) were deleted because their provisions had already been taken care of by the provisions in Articles 101(1) and (2) and 111 (1) which were earlier adopted and re-numbered as Articles 85 and 95 respectively.</p>
	<p>(2) Subject to this Constitution, every citizen has the right to be elected -</p> <p>(a) to any elective public body or office established by or under this Constitution; and</p> <p>(b) to an office of a political party of which the citizen is a member.</p>		
	<p>(3) Every citizen aged eighteen years and above has the right to be registered as a voter and to vote by secret ballot in elections or referenda, as provided by or under this</p>		

	Constitution.		
	(4) The State shall put in place measures to ensure that eligible citizens exercise their right to register as voters and to vote.		
<b>Article 63: Freedom of movement and residence</b>	<b>Freedom of movement and residence</b> 63. (1) Every person has the right to freedom of movement. (2) Every person has the right to leave the Republic. (3) Every citizen has the right to enter into, remain and reside anywhere in the Republic. (4) Every citizen has a right to a passport. (5) Parliament shall enact legislation for the imposition of restrictions on the entry, movement or residence of persons who are not citizens.	<b>Protection of freedom of movement</b> <b>62. (1) Subject to the other provisions of this Article and except in accordance with any written law, a citizen shall not be deprived of the citizen's freedom of movement.</b> <b>(2) For the purposes of this Article, "freedom of movement" means-</b> <b>(a) the right to move freely throughout Zambia;</b> <b>(b) the right to reside in any part of Zambia; and</b> <b>(c) the right to leave Zambia and to return to Zambia.</b> <b>(3) Any restrictions on a person's freedom of movement that relates to his lawful detention shall not be held to be inconsistent with or in contravention of this Article.</b>	The Conference: (a) deleted Article 63 of the Mung'omba Draft Constitution; (b) replaced it with Article 22 of the current Constitution with amendments by splitting clause (1) into two new clauses numbered as clauses (1) and (2) to make the provision more clearer and re-numbered clauses (2) and (3) as clauses (3) and (4) respectively; (c) amended the marginal note to read "Protection of freedom and movement"; and

		<p><b>(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, this Article to the extent that it is shown that the law in question makes provision-</b></p> <p><b>(a) for the imposition of restrictions that are reasonably required in the interests of defence, public safety, public order, public morality or public health or the imposition of restrictions on the acquisition or use by any person of land or other property in Zambia, and except so far as that provision or, the thing done under the authority thereof as the case may be, is shown not to be reasonably justifiable in a democratic society;</b></p> <p><b>(b) for the imposition of restrictions on the freedom of movement of any person who is not a citizen of Zambia;</b></p> <p><b>(c) for the imposition of restrictions upon the movement or residence within Zambia of public officers; or</b></p> <p><b>(d) for the removal of a person from</b></p>	<p><b>(d) re-numbered the Article as Article 62.</b></p>
--	--	--	--

		Zambia to be tried outside Zambia for a criminal offence or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law in force in Zambia of which he has been convicted.	
Article 64 Refugees and asylum	and Refugees and asylum	The Conference deleted Article 64 on Refugees and asylum	The Conference deleted Article 64, after observing that matters dealing with refugees were subject to frequent changes and therefore, should best be dealt with in subsidiary legislation.
	<p><b>64.</b> (1) An individual who has sought asylum or refuge in Zambia has a right not to be returned to the country of origin if that person has a well-founded fear of -</p> <p>(a) persecution in the country of origin; or</p> <p>(b) other treatment in that country that would justify that person being regarded as a refugee.</p> <p>(2) Parliament shall enact legislation governing persons who seek refuge or asylum in Zambia.</p>		



<p><b>Article 65: Land and other property</b></p>	<p><b>Land and other property</b></p> <p>65. (1) Every person has a right to access, acquire and own land and other property either individually or in association with others.</p> <p>(2) The State shall not deprive a person of property of any description or of any interest in or right over property, except under an Act of Parliament.</p>	<p><b>Protection from Deprivation of Property</b></p> <p><b>63. (1) Subject to this Constitution, every citizen has a right to access, acquire or own land either individually or in association with other citizens.</b></p> <p><b>(2) Subject to this Constitution, a person has a right to access, acquire and own other property, either individually or in association with others.</b></p> <p><b>(3) Except as provided in this Article, property of any description shall not be compulsorily taken possession of, and interest in or right over property of any description shall not be compulsorily acquired, unless by or under the authority of an Act of Parliament which provides for payment of adequate compensation for the property or interest or right to be taken possession of or acquired.</b></p>	<p>The Conference adopted clauses (1), (2) and (3) of Article 65 of the Mung'omba Draft Constitution with amendments to separate the provisions for land from that of property. Accordingly, the new clause (1) provided for the right to access, acquire and own land while the new clause (2) provided for the right to access, acquire and own other property. The two clauses were prefixed with the phrase "<i>subject to this Constitution</i>" in recognition of the fact that there were other provisions in the Constitution dealing with property including ownership of property by foreigners.</p> <p>In addition, the Conference made provisions to prohibit compulsory acquisition of property except under an Act of Parliament, to provide for circumstances under which property could be compulsorily acquired, and to provide for the determination of compensation in default of</p>
---	---	---	--

			<p>agreement.</p> <p>The new provisions were derived from clause (1) of Article 16 of the current Constitution and the Article was re-numbered as Article 63.</p>
	<p>(4) Subject to this Constitution, prompt payment of full and fair compensation shall be made prior to acquiring, assuming occupation or possession of any property, as provided under an Act of Parliament.</p>	<p>Clauses (4), (5) and (6) were deleted.</p>	<p>The Conference deleted clauses (4), (5) and (6) of Article 65 and replaced a derogation clause and a provision for an Act of Parliament to provide for compensation.</p>
	<p>(5) Every owner of - (a) a leasehold interest in</p>		

	<p>land has the right to be issued a certificate of title setting out that interest and, at the expiry of the lease, to a renewal of the lease; and</p> <p>(b) any other right or interest in land has the right to register that right or interest.</p>		
	<p>(6) The rights recognised and protected under this Article do not apply to any property that has been unlawfully acquired.</p>		
<p><b>New clauses</b></p>		<p><b>(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of clause (3) to the extent that it is shown that such law provides for the taking possession or acquisition of any property or interest therein or right thereover-</b></p> <p><b>(a) in satisfaction of any tax, rate or due;</b></p>	<p>The Conference inserted a derogation clause (4) and a provision for an Act of Parliament to provide for compensation in clause (5).</p>

		<p>(b) by way of penalty for breach of any law, whether under civil process or after conviction of an offence;</p> <p>(c) in execution of judgments or orders of courts;</p> <p>(d) upon the attempted removal of the property in question out of or into Zambia in contravention of any law;</p> <p>(e) as an incident of contract including a lease, tenancy, mortgage, charge, pledge or bill of sale or of a title deed to land;</p> <p>(f) for the purpose of its administration, care or custody on behalf of, and for the benefit of, the person entitled to the beneficial interest therein;</p> <p>(g) by way of the vesting of enemy property or for the purpose of the administration of such property;</p> <p>(h) for the purpose of-</p> <p>(i) the administration of the property of a deceased person, a person of</p>	
--	--	---	--

		<p>unsound mind or a person who has not attained the age of eighteen years, for the benefit of the persons entitled to the beneficial interest therein;</p> <p>(ii) the administration of the property of a person adjudged bankrupt or a body corporate in liquidation, for the benefit of the creditors of such bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property;</p> <p>(iii) the administration of the property of a person who has entered into a deed of arrangement for the benefit of that person's creditors; or</p> <p>(iv) vesting any property subject to a trust in persons appointed as trustees under the</p>	
--	--	---	--

		<p>instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust;</p> <p>(i) in consequence of any law relating to the limitation of actions;</p> <p>(j) in terms of any law relating to abandoned, unoccupied unutilised or undeveloped land, as defined in such law;</p> <p>(k) in terms of any law relating to absent or non-resident owners, as defined in such law, of any property;</p> <p>(l) in terms of any law relating to trusts or settlements;</p> <p>(m) by reason of a dangerous state or prejudicial to the health or safety of human beings, animals or plants;</p> <p>(n) as a condition in connection with the granting of permission for the utilisation of that or other property in any particular manner;</p> <p>(o) for the purpose of, or in</p>	
--	--	--	--

		<p>connection with, the prospecting for, or exploitation of, minerals belonging to the Republic on terms which provide for the respective interests of the persons affected;</p> <p>(p) in pursuance of a provision for the marketing of property of that description in the common interests of the various persons otherwise entitled to dispose of that property;</p> <p>(q) by way of the taking of a sample for the purposes of any law;</p> <p>(r) by way of the acquisition of the shares, or a class of shares, in a body corporate on terms agreed to by the holders of not less than nine-tenths in value of those shares or that class of shares;</p> <p>(s) where the property consists of an animal, upon its being found trespassing or straying;</p> <p>(t) for so long as may be necessary for the purpose of any examination, investigation, trial</p>	
--	--	---	--

		<p>or inquiry or, in the case of land, the carrying out thereon-</p> <ul style="list-style-type: none"> <li>(i) of work for the purpose of the conservation of natural resources of any description; or</li> <li>(ii) of agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable and lawful excuse refused or failed, to carry out;</li> </ul> <ul style="list-style-type: none"> <li>(u) where the property consists of any licence or permit;</li> <li>(v) where the property consists of wild animals existing in their natural habitat or the carcasses of wild animals;</li> <li>(w) where the property, is held by a body corporate established by law for public purposes and in which no moneys have been invested other than moneys provided by Parliament;</li> </ul>	
--	--	---	--



		<p>(x) where the property is any mineral, mineral oil or natural gases or any rights accruing by virtue of any title or licence for the purpose of searching for or mining any mineral, mineral oil or natural gases-</p> <p>(i) upon failure to comply with any provision of such law relating to the title or licence or to the exercise of the rights accruing or to the development or exploitation of any mineral, mineral oil or natural gases; or</p> <p>(ii) terms of any law vesting any such property or rights in the President;</p> <p>(y) for the purpose of the administration or disposition of such property or interest or right by the President in implementation of a comprehensive land policy or a policy designed to ensure that the statute law, the Common</p>	
--	--	---	--

		<p>Law and the doctrines of equity relating to or affecting the interest in or rights over land, or any other interests or rights enjoyed by Chiefs and persons claiming through or under them, shall apply with substantial uniformity throughout Zambia;</p> <p>(z) in terms of any law providing for the conversion of titles to land from freehold to leasehold and the imposition of any restriction on subdivision, assignment or sub-letting;</p> <p>(aa) in terms of any law relating to-</p> <p>(i) the forfeiture or confiscation of the property of a person who has left Zambia for the purpose or apparent purpose, of defeating the ends of justice; or</p> <p>(ii) the imposition of a fine on, and the forfeiture or confiscation of the property of, a person who admits a contravention of</p>	
--	--	--	--

		<p>any law relating to the imposition or collection of any duty or tax or to the prohibition or control of dealing or transactions in gold, currencies or securities.</p> <p>(5) An Act of Parliament such as referred to in clause (3) shall provide that in default of agreement, the amount of compensation shall be determined by a court of competent jurisdiction.</p>	
<p><b>Article 66: Consumer rights</b></p>	<p><b>Consumer rights</b></p> <p>66. (1) Consumers have the right to -</p> <ul style="list-style-type: none"> <li>(a) goods and services of appropriate quality, quantity and use;</li> <li>(b) information necessary for them to gain full benefit from the goods and services;</li> <li>(c) protection of their health, safety and economic interests;</li> </ul>	<p>The Conference deleted Article 66 on consumer rights.</p>	<p>The Conference deleted Article 66 of the Mung’omba Draft Constitution. The Conference was of the view that consumer rights were best dealt with in subsidiary legislation. In this regard, it was noted that Parliament had the power to enact legislation and that a law was in the process of being formulated and would be submitted at the next sitting of Parliament on the protection of consumer rights.</p>

	<p>and (d) adequate compensation for defects that cause them loss or injury.</p>		
	<p>(2) This Article applies to goods and services offered by any person, State organ or State institution, whether in return for consideration, taxes or other form of revenue or free of any charge.</p>		
	<p>(3) Parliament shall enact legislation to provide for consumer protection and for fair, honest and decent advertising.</p>		
<b>Economic and Social Rights</b>		<b>Economic and Social Rights</b>	
<b>Article 67: Progressive realisation of economic and social</b>	<b>Progressive realisation of economic and social rights</b> 67. (1) Parliament shall enact legislation which provides measures which are reasonable in	<b>Progressive realisation of economic, social and Cultural rights</b> 64. (1) Parliament shall enact legislation which provides	The Conference: (a) amended the term " <i>economic and social rights</i> " to read " <i>economic, social and cultural rights</i> " in accordance with international

<p><b>rights</b></p>	<p>order to achieve the progressive realization of the economic and social rights under this Bill of Rights.</p>	<p>measures which are reasonable in order to achieve the progressive realization of the economic, social <b>and cultural</b> rights under this Bill of Rights.</p>	<p>human rights instruments;</p> <p>(b) amended the marginal note and clause (1) by replacing the term "<i>economic and social rights</i>" with the term "<i>economic, social and cultural rights</i>";</p> <p>(c) re-numbered the Article as Article 64; and</p> <p>(d) resolved to refer clause (1) of Article 67 of the Mung'omba Draft Constitution, as amended, to a referendum after failing to reach consensus and after a vote on the clause failed to garner the required two-thirds majority.</p>
	<p><i>(2) The Government shall take measures, including -</i></p> <p>(a) affirmative action programmes designed to benefit disadvantaged persons or groups;</p> <p>(b) legislation -</p> <p>(i) that promotes equity, equality and freedom</p>	<p><b>(2) The Government shall take measures, including -</b></p> <p><b>(a) affirmative action programmes designed to benefit disadvantaged persons or groups;</b></p> <p><b>(b) legislation -</b></p> <p><b>(i) that promotes equity, equality and freedom from discrimination and</b></p>	<p>The Conference approved paragraphs (a) and (b) of clause (2) and paragraph (a) and (b) of clause (3) without amendments.</p>

	<p>from discrimination and establishes or provides for standards relating to the achievement of those measures;</p> <p>(ii) that ensures that State organs and State institutions fulfill the obligations of the State under this Bill of Rights; and</p> <p>(iii) that ensures that persons fulfill their obligations under this Bill of Rights.</p> <p>(3) Where a claim is made, by the State, that the State does not have the resources to implement a particular right or freedom -</p> <p>(a) it is the responsibility of the State to show that the resources are not available; and</p> <p>(b) a court, tribunal or the Human Rights Commission shall</p>	<p>establishes or provides for standards relating to the achievement of those measures;</p> <p>(ii) that ensures that State and State institutions fulfill the obligations of the State under this Bill of Rights; and</p> <p>(iii) that ensures that persons fulfil their obligations under this Bill of Rights.</p> <p><b>(3) Where a claim is made, by the State, that the State does not have the resources to implement a particular right or freedom -</b></p> <p><b>(a) it is the responsibility of the State to show that the resources are not available; and</b></p> <p><b>(b) a court, tribunal or the Human Rights Commission shall not</b></p>	
--	--	---	--

	not interfere with a decision by a State organ or State institution concerning the allocation of available resources solely on the basis that the court, tribunal or Human Rights Commission would have reached a different conclusion.	<b>interfere with a decision by a State organ or State institution concerning the allocation of available resources solely on the basis that the court, tribunal or Human Rights Commission would have reached a different conclusion.</b>	
<b>Article 68: Freedom to choose trade, occupation and profession</b>	<b>Freedom to choose trade, occupation and profession</b> 68. Every person has the right to choose a trade, occupation or profession	The Conference deleted Article 68 on Freedom to choose trade, occupation and profession.	The Conference deleted Article 68 because it was no adding any value to the Constitution and its provisions were already catered for in subsidiary legislation providing for employment, industrial and labour relations.
<b>Article 69: Labour relations and pension</b>	<b>Labour relations and pension</b> 69. (1) A person has the right to employment and to just and fair labour practices.	<b>Right to Pension, Gratuity and Retrenchment Benefits</b> 65. (1) Every worker has the right to a pension, gratuity or retrenchment benefits. (2) Any benefit to which a person is entitled under this Article shall not be withheld or altered to that person's disadvantage, except to an	The Conference, in considering Article 69 of the Mung'omba Draft Constitution, decided to separate the provisions on industrial and labour relations from those on pensions and gratuity. Therefore: (a) clause (3) and paragraph (b), (c) and (d) of clause (7) of Article 69 were adopted and re-numbered as

	<p>(2) A worker has the right to -</p> <p>(a) fair remuneration and equal pay for equal work;</p> <p>(b) work under satisfactory, safe and healthy conditions;</p> <p>(c) equal opportunity for promotion;</p> <p>(d) rest, leisure and reasonable limitation of working hours;</p> <p>(e) periodic holidays with pay and remuneration for public holidays;</p> <p>(f) form, join or participate in the activities and programmes of a trade union, including the right to strike;</p> <p>(g) withdraw labour in accordance with the law; and</p> <p>(h) a reasonable pension or gratuity</p>	<p><b>upward adjustment to the extent provided by law.</b></p> <p><b>(3) Pension, gratuity and retrenchment benefits in respect of service is exempt from tax.</b></p> <p><b>(4) Parliament shall enact legislation to regulate pensions and pension schemes and in particular to make provision for -</b></p> <p><b>(a) all workers to subscribe to pension schemes;</b></p> <p><b>(b) equitable representation of both employees and employers on any supervisory or policy board established for a pension scheme;</b></p> <p><b>(c) the prudent investment of pension funds; and</b></p> <p><b>(d) the prompt payment of pension or retrenchment</b></p>	<p>paragraphs (d), (a), (b) and (c), respectively, of Article 65 to provide for the <i>“Right to Pension, Gratuity and Retrenchment Benefits”</i> ;</p> <p>(b) clauses (1) and (2) of Article 69 of the Mung’omba Draft Constitution were adopted with amendments and re-numbered as Article 66 to provide for <i>“Labour Relations”</i> by:</p> <p>(i) replacing, in clause (1), the word <i>“employment”</i> with the word <i>“work”</i> because a person was not entitled to a job as such but to an environment in which the person could find a job; and</p> <p>(ii) by deleting clause (2) because it contained details that should be provided for in subsidiary legislation and replacing it with a new provision empowering Parliament to enact legislation to provide for a worker’s rights;</p> <p>(c) paragraph (a) of clause (7) of Article 69 of the Mung’omba Draft Constitution was deleted as its</p>
--	---	--	--



	<p>commensurate with that worker's status, salary and length of service.</p>	<p><b>benefits to a worker who retires or is retrenched or, where a worker who retires or is retrenched is not paid promptly, the retention on the pay roll of that worker, until payment of the pension or retrenchment benefits.</b></p>	<p>provision was adequately provided for by the new clause (1) of Article 70 of the Mung'omba Draft Constitution which has been re-numbered as Article 67;</p>
	<p>(3) Where pension or retrenchment benefit is not paid promptly the retiree's or retrenchee's name shall be retained on the payroll until the pension or benefit is paid</p> <p>4) Every employer has the right to -</p> <p>(a) form and join an employers' organisation;</p> <p>(b) participate in the activities and programmes of an employers' organisation; and</p> <p>(c) lock out.</p> <p>(5) Every trade union and every employers' organisation has</p>	<p><b>Labour Relations</b></p> <p><b>66. (1) A person has the right to work and to just and fair labour practices.</b></p> <p><b>(2) Parliament shall</b></p>	<p>(d) clauses (4), (5) and (6) of Article 69 of the Mung'omba Draft Constitution were deleted because they were details that should be provided for in subsidiary legislation; and</p> <p>(e) introduced and adopted clauses (1), (2) and (3) in new Article 65 to provide for a right to pension, gratuity and retrenchment benefits and protecting and exempting them from tax.</p> <p>The Conference adopted a new Article 66 to provide for labour relations.</p>

	<p>the right to -</p> <ul style="list-style-type: none"> <li>(a) determine its own administration, programmes and activities;</li> <li>(b) organise; and</li> <li>(c) form and join a federation.</li> </ul> <p>(6) A trade union, an employer's organisation and an employer have the right to engage in collective bargaining.</p> <p>(7) Parliament shall enact legislation to regulate pensions and pension schemes and in particular to make provision for -</p> <ul style="list-style-type: none"> <li>(a) persons over sixty-five years of age to receive welfare support;</li> <li>(b) all workers to subscribe to pension schemes;</li> <li>(c) equitable representation of both employees and employers on any supervisory or policy board established for a pension scheme; and</li> <li>(d) the prudent investment of pension funds.</li> </ul>	<p><b>enact legislation to provide for a worker's rights.</b></p>	
--	---	---	--

<p><b>Article 70: Social security</b></p>	<p><b>Social security</b></p> <p>70. Every person has the right to social security, including, where appropriate, social welfare for that person and dependants of that person.</p>	<p><b>Social Protection</b></p> <p>67. (1) Every person has the right to <b>access</b> social protection, including, <b>if the person is unable to support themselves and their dependants, social assistance</b> for that person and dependants of that person.</p>	<p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) approved clause (1) with amendments by inserting the word "access" between the words "to" and "social" and restricting accessibility only to the vulnerable by replacing the phrase "<i>where appropriate</i>" with the phrase "<i>if the person is unable to support themselves and their dependants</i>".</li> <li>(b) amended the marginal note to read "<b>Social Protection</b>" as it was wide in scope in that it included both social security and social welfare ; and</li> <li>(c) re-numbered the Article as Article 67.</li> </ul> <p>The Conference observed that every person should have the right to access social security rather than the right to social security and that such social security</p>

			should be provided only to those who were vulnerable.
<b>New clause</b>		<b>(2) Parliament shall enact legislation to regulate the provision of social protection.</b>	The Conference inserted a new clause (2) by moving paragraph (a) of clause (7) of Article 69 of the Mung’omba Draft Constitution to provide for Parliament to enact legislation to regulate social protection.
<b>Article 71: Health</b>	<b>Health</b>  71. (1) Every person has the right to health which includes the right to health care services and reproductive health care.	<b>Health</b>  68. (1) Every person has the right to health which includes the right to <b>access</b> health care services and reproductive health care.	The Conference:  (a) approved clause (1) with amendments by inserting the word “ <i>access</i> ” between the words “ <i>to</i> ” and “ <i>health</i> ”; and  (b) re-numbered the Article as Article 68.  The Conference observed that the right to health should not be understood to mean the right to “be healthy” but that the State had a responsibility to ensure the availability of facilities so that persons falling ill could regain good health by

			accessing health facilities.
	(2) A person shall not be refused emergency medical treatment.	(2) A person shall not be refused emergency medical treatment.	The Conference approved clause (2) without amendments.
<b>Article 72: Education</b>	<b>Education</b>  72. (1) Every person has the right to education.	<b>Education</b>  69. (1) Every person has the right to education.	The Conference approved clause (1) of Article 72 of the Mung’omba Draft Constitution without amendments and re-numbered the Article as Article 69.
	(2) The State shall - (a) ensure the right of every child to free and compulsory basic education; and (b) make secondary, post-secondary, technical and vocational education progressively available and accessible.	(2) The State shall - (a) ensure the right of every child to free and compulsory basic education; <b>(b) ensure the right of an adult to free adult basic education;</b> and (c) make secondary, post-secondary, <b>adult education,</b> technical and vocational education progressively available and accessible.	The Conference: (a) approved paragraph (a) of clause (2) without amendments; (b) inserted a new paragraph (b) of clause (2) to provide for the right of an adult to free adult basic education; and (c) approved paragraph (b) of clause (2) with amendments by including “ <i>adult education</i> ” and re-numbered it as paragraph (c) of clause (2).

	(3) Every person has the right to establish and maintain, at that person's own expense, independent educational institutions that meet standards provided by or under an Act of Parliament.	(3) Every person has the right to establish and maintain, at that person's own expense, independent educational institutions that meet standards provided by or under an Act of Parliament.	The Conference approved clause (3) without amendments.
<b>Article 73: Shelter and housing</b>	<b>Shelter and housing</b> 73. (1) Every person has the right to have access to adequate shelter and housing.	The Conference deleted Article 73 on Shelter and housing	The Conference deleted clauses (1) and (2) that the right to housing was not sustainable and that it would be difficult to ascertain what would be termed as "adequate shelter and housing". Accordingly, Article 73 was deleted by the Conference.
	(2) Parliament shall not enact any legislation that permits or authorises arbitrary eviction.		
<b>Article 74: Food, water and sanitation</b>	<b>Food, water and sanitation</b> 74. (1) Every person has the right to be free from hunger and to have access to food in adequate	The Conference deleted Article 74 on Food, water and sanitation	The Conference deleted Article 74 based on the following arguments:

	quantities, of adequate quality and cultural acceptability.		(i) it would be difficult to define what would be “adequate food” and suggested that the provision should be moved to the Directive Principles of State Policy; and (ii) it will not be possible to measure reasonable sanitation.  Accordingly, Article 74 was deleted by the Conference.
<b>Article 75: Environment</b>	<b>Environment</b>  75. Every person has the right to - (a) an environment that is safe for life and health; (b) free access to information about the environment; (c) the protection of the environment for present and future generations; and (d) compensation for damage arising from the violation of the	The Conference deleted Article 75 on Environment.	The Conference observed that a similar provision had been included under the Directive Principles of State Policy and, therefore, rendering Article 75 redundant.

	rights recognised under this Article.		
<b>Article 76: Limitations on rights and freedoms</b>	<p><b>Limitations on rights and Freedoms</b></p> <p>76. (1) A right or freedom set out in this Bill of Rights -</p> <p>(a) is limited by any limitation or qualification expressly set out in the provision containing that right or freedom; and</p> <p>(b) may be otherwise limited only by a law of general application which is subject to clauses (2), (3) and (4).</p>	<p><b>Derogation from fundamental rights during war, etc.</b></p> <p>71. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of Articles 48, 51, 54, 56, 57, 58, 61, 62 or 63 to the extent that it is shown that the law in question authorises the taking, during any period when the Republic is at war or when a declaration under Article 123 is in force, of measures for the purpose of dealing with any situation existing or arising during that period, and nothing done by any person under the authority of any such law shall be held to be in contravention of any of the said provisions if it is shown that the measures taken were, having due regard to the circumstances prevailing at the</p>	<p>The Conference approved the new Article 71 in place of Articles 76, 77 and 78 following its earlier decision to provide for derogations in individual Articles.</p> <p>The Conference expressed concern over the provisions of Article 76 of the Mung’omba Draft Constitution as its provisions were too technical, convoluted, long winded and had too many references and observed that such a formulation of provisions defeated the concept of a people’s Constitution that should be understood by ordinary people who had no legal training. In that regard, it was noted that the Articles needed to be couched in simple language as was the case in the Constitution of South Africa.</p> <p>Therefore, the Conference resolved to redraft the specific rights in the Bill of Rights with their attendant limitations and derogations within the Articles. The</p>



		<p><b>time, reasonably required for the purpose of dealing with the situation in question.</b></p>	<p>consequence of this decision was that, after inserting the necessary limitations appropriately in specific Articles, the remaining provisions of Articles 76, 77 and 78 were collapsed in one Article, based on Article 25 of the current Constitution. The new Article provided for certain rights which could be derogated from during war, state of emergency and threatened state of emergency.</p> <p>Accordingly, the marginal note of the new Article was amended to read <i>“Derogation from fundamental rights during war, etc”</i> and the Article re-numbered as Article 71.</p>
	<p>(2) A law that has the effect of limiting a right or freedom is inconsistent with this Constitution unless -</p> <p>(a) that enactment specifically expresses the intention to limit that specific right or freedom; and</p> <p>(b) the limitation satisfies the requirements of</p>		

	<p>clause (3).</p>		
	<p>(3) A limitation made under clause (1) (b) or (2) shall be invalid if it negates the core or the essential content of the right or freedom and is not reasonable and justifiable in an open and democratic society -</p> <ul style="list-style-type: none"> <li>(a) based on human dignity, equality and freedom;</li> <li>(b) taking into account all relevant factors including - <ul style="list-style-type: none"> <li>(i) the nature of the right;</li> <li>(ii) the importance of the purpose of the limitation;</li> <li>(iii) the value and extent of the limitation;</li> <li>(iv) the relation between the limitation and its purpose; and</li> <li>(v) whether there are less restrictive means to achieve the purpose.</li> </ul> </li> </ul>		

	<p>(4) A limitation made under clause (1) (b) or (2) shall be valid only to the extent that the limitation -</p> <p>(a) is reasonably required in the interest of defence and security, public safety, public order, public morality, public health, town and country planning, taxation, the development, management and utilization of natural and mineral resources;</p> <p>(b) relates to the acquisition of property to secure the development, management or utilization of the property for a purpose beneficial to the community or the public;</p> <p>(c) forms or is an incident of a contract, including a lease, trust, settlement, deed, letter of</p>		
--	---	--	--

	<p>administration, tenancy, mortgage, charge, pledge, bill of sale or title deed to land or other instruments provided under law;</p> <p>(d) relates to property which consists of a licence or permit;</p> <p>(e) is required to enforce a judgement or an order of a court or tribunal; or</p> <p>(f) imposes restrictions on defence and security officers and other public officers.</p>		
	<p>(5) The State or any person claiming that a particular limitation is permitted under this Article shall prove to a court, tribunal, the Human Rights Commission or any other appropriate body that the requirements of this Article have been satisfied.</p>		
<p><b>Article 77: Non-</b></p>	<p><b>Non-derogable rights and freedoms</b></p>		

<p><b>derogable rights and freedoms</b></p>	<p>77. Notwithstanding any other provision in this Constitution, the following rights and freedoms shall not be derogated from :</p> <ul style="list-style-type: none"> <li>(a) freedom from torture, cruel, inhuman or degrading treatment or punishment;</li> <li>(b) freedom from slavery or servitude;</li> <li>(c) the right to a fair hearing; and</li> <li>(d) the right to an order of <i>habeas corpus</i>.</li> </ul>		
<p><b>Article 78: Derogation of rights and freedoms during emergency or National disaster</b></p>	<p><b>Derogation of rights and freedoms during emergency or National disaster</b></p> <p>78. (1) A provision contained in, or an act or a thing done under, an Act of Parliament shall not be inconsistent with or in contravention of this Part if -</p> <ul style="list-style-type: none"> <li>(a) the law in question authorizes the taking, when a declaration of war, state of public emergency or</li> </ul>		

	<p>threatened state of public emergency or a National disaster is in force, of measures for dealing with such situations; and</p> <p>(b) the measures taken are reasonably justifiable for dealing with the war, state of public emergency, threatened state of public emergency or National disaster.</p> <p>(2) Legislation enacted under clause (1) may provide for the detention of persons when it is necessary for purposes of dealing with the war or other state of public emergency.</p>		
<p><b>Article 79: Restriction and detention during emergency</b></p>	<p><b>Restriction and detention during emergency</b></p> <p>79. (1) Where a person's freedom of movement is restricted or that person is detained, during a war, state of public emergency or</p>	<p><b>Restriction and detention during emergency</b></p> <p>72. (1) Where a person's freedom of movement is restricted or that person is detained, during a war, state of</p>	<p>The Conference:</p> <p>(a) approved clause (1) of Article 79 of the Mung'omba Draft Constitution with amendments by providing for the information in Braille, if the person was visually impaired; and</p>

	<p>threatened state of public emergency, the following shall apply:</p>	<p>public emergency or threatened state of public emergency, the following shall apply:</p>	<p>(b) re-numbered the Article as Article 72.</p>
	<p>(a) that person shall, as soon as is reasonably practicable and in any case not more than fourteen days after the commencement of the detention or restriction, be furnished with a statement in writing in a language which that person understands specifying in detail the grounds of the restriction or detention;</p>	<p>(a) that person shall, as soon as is reasonably practicable, and in any case not more than fourteen days after the commencement of the detention or restriction, be furnished with a statement, in writing, in a language which that person understands specifying in detail the grounds of the restriction or detention: <b>Provided that if the person is visually</b></p>	

		impaired, the statement shall be in Braille.	
New paragraph		(b) <b>the spouse or next of kin of, or other person named by, the person restricted or detained, shall be informed of the restriction or detention and allowed access to the person within forty-eight hours after the commencement of the restriction or detention;</b>	The Conference inserted a new paragraph (b) to provide for the next of kin or any person named by the detained person to be informed of the restriction or detention and allowed access to the detained or restricted person within forty-eight hours of detention or restriction.
	(b) not more than fourteen days after the commencement of the restriction or detention, a notification shall be published in the <i>Gazette</i> stating the restriction or detention and giving particulars of the place of the restriction or detention and the provision of the law under which the restriction or detention is authorised	(c) not more than fourteen days after the commencement of the restriction or detention, a notification shall be published in the <u>Gazette</u> and <b>in a daily newspaper of general circulation in Zambia, stating that the person has been restricted or detained</b> and giving particulars of the place of the restriction or	The Conference:  (a) amended paragraph (b) by replacing the words “stating the restriction or detention” with the words <b>“and in a daily newspaper of general circulation in Zambia, stating that the person has been restricted or detained”</b> in order to provide for publishing of the notification in a daily newspaper other than the <i>Gazette</i> ;  (b) re-numbered the paragraph



		detention and the provision of the law under which the restriction or detention is authorised;	as paragraph (c).
	(c) if that person so requests, at any time during the period of the restriction or detention or not later than twenty-one days after the commencement of the restriction or detention and at intervals of not more than thirty days, the case shall be reviewed by the Constitutional Court;	Clause (c) was deleted by the Conference	The Conference deleted clause (c) as clause (1) of the new Article 73 was considered to be more advantageous to the detainee in that it provided for mandatory review of the detention at the instance of the High Court.
	(d) that person shall be afforded reasonable facilities to consult a legal practitioner of that person's own choice who shall be permitted to make representations to the authority by which the restriction or detention was ordered or	(d) that person shall be afforded reasonable facilities <b>and opportunity</b> to consult a legal practitioner of that person's own choice who shall be permitted to make representations to the authority by which the restriction or detention was ordered or to the <b>High</b>	The Conference amended: (a) paragraph (d) by adding the words " <b>and opportunity</b> " after the word "facilities"; and (b) paragraphs (d) and (e) by replacing "Constitutional Court" with " <b>High Court.</b> "

	<p>to the Constitutional Court; and</p> <p>(e) at the hearing of the case, by the Constitutional Court, that person shall be permitted to appear in person or by a legal practitioner of that person's own choice and may, in addition to any grounds challenging that person's detention or restriction, challenge the validity or genuineness of the declaration of the state of public emergency or threatened state of public emergency and the measures taken during that period.</p>	<p>Court; and</p> <p>(e) at the hearing of the case, by the <b>High</b> Court, that person shall be permitted to appear in person or by a legal practitioner of that person's own choice and may, in addition to any grounds challenging that person's detention or restriction, challenge the validity or genuineness of the declaration of the state of public emergency or threatened state of public emergency and the measures taken during that period.</p>	
	<p>(2) On a review by the Constitutional Court under this Article, the Court shall advise the authority, by which the detention</p>	<p>Clause (2) was transferred to the new Article 73.</p>	<p>The Conference transferred clause (2) of Article 79 of the Mung'omba Draft Constitution to clause (2) of the new Article 73 providing for the review by the High</p>

	<p>or restriction of the person was ordered, on the necessity or expediency of continuing the restriction or detention and that authority shall act in accordance with that advice.</p>		<p>Court.</p>
	<p>(3) The President may, at any time, refer to the Constitutional Court the case of a person who has been or is being restricted or detained under a restriction or detention order under any law.</p>	<p><b>(2)</b> The President may, at any time, refer to the Constitutional Court the case of a person who has been or is being restricted or detained under a restriction or detention order under any law.</p>	<p>The Conference:  (a) adopted clause (3) without amendments; and  (b) re-numbered clause (3) as clause (2).</p>
	<p>(4) Clause (1) (d) or (e) shall not be construed as entitling a person to legal representation at public expense.</p>	<p><b>(3)</b> Clause (1) (d) shall not be construed as entitling a person to legal representation at public expense, <b>except that a person may be granted legal aid if substantial injustice would otherwise result.</b></p>	<p>The Conference:  (a) approved clause (4) with amendments by adding the words <i>“except that a person may be granted legal aid if substantial injustice would otherwise result”</i> at the end of the clause to provide for legal aid only in deserving cases where injustice might result; and  (b) re-numbered clause (4) as</p>

<p><b>Article 73: Review by High Court</b></p>	<p><b>Clause (1) of the new Article 73 inserted by the Conference</b></p>	<p><b>Review by High Court</b> 73. (1) The High Court shall review the case of a person who is restricted or detained and to whom Article 72 applies, not later than fourteen days after the commencement of the restriction or detention, and after that, at intervals of not more than thirty days.</p>	<p>(3).  The Conference introduced and adopted a news clause (1) to compel the High Court to review the case of a detained or restricted person within fourteen (14) days from the commencement of the detention or restriction.</p>
	<p><b>Clause (2) of the new Article 73 inserted by the Conference</b></p>	<p>(2) On a review by the High Court, the Court may order the authority by which the detention or restriction of the person was ordered-</p> <ul style="list-style-type: none"> <li>(a) on the necessity or expediency of continuing the restriction or detention;</li> <li>(b) to release the detained or restricted person; or</li> <li>(c) to take such other action as the Court may consider necessary;</li> </ul> <p>and the authority shall act in accordance with that order.</p>	<p>The Conference, when deliberating on Article 79 of the Mung’omba Draft Constitution observed that there was need to separately provide for specific functions/responsibilities of the High Court in matters related to a detained or restricted person. In so doing, clause (2) of Article 79 was moved to the new Article 73 with amendments.</p>

<b>Enforcement of Bill of Rights</b>		<b>Enforcement of Bill of Rights</b>	
<b>Article 80: Enforcement of Bill of Rights</b>	<b>Enforcement of Bill of Rights</b> 80. (1) Where a person alleges that any provision of this Bill of Rights has been, is being or is likely to be contravened in relation to that person, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply for redress to the Constitutional Court.	<b>Enforcement of Bill of Rights</b> 74. (1) Where a person alleges that any provision of this Bill of Rights has been, is being or is likely to be contravened in relation to that person, without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply for redress to the <b>High Court</b> .	The Conference: (a) amended clause (1) of Article 80 by substituting the words "Constitutional Court" with the words " <b>High Court</b> "; and (b) re-numbered the Article as Article 74.  The Conference reiterated that it had earlier approved that matters concerning violation of the Bill of Rights were for original jurisdiction in the High Court and that the Constitutional Court would have appellate jurisdiction in the following:-  (a) in all matters of interpretation of this Constitution; (b) to determine whether an Act of Parliament or statutory instrument contravenes this Constitution; and (c) to determine a question of

			violation of any provision of the Bill of Rights.
	<p>(2) Any person or organisation may bring an action against the violation of another person's or a group's human rights and freedoms.</p>	<p>(2) Any person or organisation <b>with a sufficient interest</b> may bring an action against the violation of another person's or a group's human rights and freedoms:</p> <p><b>Provided that the person or organisation that may bring an action under this clause is-</b></p> <p>(a) a person acting on behalf of another person who cannot bring an action in their own name;</p> <p>(b) a person acting as a member of,</p>	<p>The Conference approved clause (2) with amendments by inserting the phrase "<i>with a sufficient interest</i>" between the words "<i>organisation</i>" and "<i>may</i>" and specifying a person who should have such an interest in the proviso to clause (2). This was done in order to restrict the locus standi for suing on behalf others whose rights have been violated to persons and organisations with a sufficient interest in the matter.</p>

		<p>or in the interest of, a group or class of persons; and</p> <p>(c) any association in the interest of its members.</p>	
	<p>(3) Parliament shall enact legislation for the enforcement of the Bill of Rights.</p>		<p>The Conference deleted clause (3) on account that the Bill of Right should have its own enforcement mechanism and that all rights declared in the Bill of Rights should become enforceable on the day the new Constitution comes into effect.</p>
<p><b>Article 81: Establishment and composition of Human Rights Commission</b></p>	<p><b>Establishment and composition of Human Rights Commission</b></p> <p>81. (1) There is hereby established a Human Rights Commission which shall have offices in all of the provinces and progressively in the districts.</p>	<p><b>Establishment of Human Rights Commission and its Independence</b></p> <p>243. (1) There is hereby established a Human Rights Commission. (2) The Human Rights Commission shall be autonomous.</p>	<p>The Conference:</p> <p>(a) deleted Articles 81 to 87 of the Mung’omba Draft Constitution and replaced them with Articles 125 and 126 of the current</p>

	<p>(2) The Commission shall consist of the following members:</p> <p>(a) a person qualified to be appointed a Judge of the High Court, nominated by the Judicial Service Commission, as the chairperson;</p> <p>(b) a person qualified to be appointed a Judge of the High Court, nominated by the Judicial Service Commission, as the vice-chairperson; and</p>	<p><b>(3) Parliament shall enact legislation to provide for the functions, composition, appointment, tenure of office, procedures, operations, administration, finances and financial management of the Human Rights Commission established under this Article.</b></p>	<p>Constitution;</p> <p>(b) moved the new provisions on the Human Rights Commission from the Bill of Rights to Part XIV of the Constitution providing for Commissions; and</p> <p>(c) re-numbered the Article as Article 243.</p> <p>This decision arose from the observation of the Conference that:</p> <p>(a) Articles 81 to 87 contained unnecessary provisions most of which were already contained in the current Human Rights Commission Act;</p> <p>(b) the numbers of Commissioners and functions of the Human Rights Commission should be provided for in subsidiary legislation because the Bill of Rights could not be easily changed as any amendments thereto required the holding of the national referendum; and</p> <p>(c) the procedural and administrative</p>
<p>(c) three persons, who have qualifications and proven experience in human rights issues, nominated by human rights civil society organisations</p>			
<p>(3) A member of the Commission shall be appointed by the President, subject to ratification</p>			



	by the National Assembly.		
<b>Article 82: Functions of Human Rights Commission</b>	<b>Functions of Human Rights Commission</b>  <b>82.</b> (1) The functions of the Human Rights Commission shall be to - (a) investigate, at its own initiative or on a complaint made by a person or group of persons, an allegation of a violation of any human right or freedom;		issues such as of establishing Commissions should not be entrenched in the Bill of Rights as there might be changes needed to be effected without holding a referendum.
	(b) investigate complaints in State institutions relating to allegations of abuse of human rights or freedoms;		
	(c) establish a continuing programme of research, education, information, dissemination and		

	<p>rehabilitation of victims of human rights abuses in order to enhance awareness and the protection of human rights and freedoms;</p>		
	<p>(d) recommend to the National Assembly measures to promote human rights and freedoms, including the provision of compensation to victims of violations of human rights and their families;</p>		
	<p>(e) promote civic education and public awareness of the Bill of Rights;</p>		

	<p>(f) monitor the Government's compliance with international treaties and conventions on human rights and freedoms;</p>		
	<p>(g) formulate and implement programmes intended to inculcate, in the citizen, an awareness of civic responsibilities and an appreciation of the rights, freedoms and obligations under this Constitution</p> <p>(h) visit prisons and places of restriction or detention or related facilities in order to assess and inspect conditions of the inmates and make recommendations to appropriate authorities;</p>		
	<p>(i) investigate complaints</p>		

	<p>against practices and actions, by persons, private enterprises and any other institution on alleged violations of the Bill of Rights;</p>		
	<p>(j) take appropriate action to call for remedying, correction and reversal of instances of breach of the Bill of Rights;</p>		
	<p>(k) prosecute cases of human rights violations, subject to the approval of the Director of Public Prosecutions; and</p>		
	<p>(l) report regularly to the National Assembly on the performance of its functions.</p>		

	<p>(2) Clause (1) shall not prevent any person, on behalf of any other person unable to act, from bringing an action to the Constitutional Court in a case of a violation of the Bill of Rights.</p>		
	<p>(3) The Commission shall not investigate a matter -</p> <ul style="list-style-type: none"> <li>(a) which is pending before a court or quasi-judicial tribunal;</li> <li>(b) that involves the relations or dealings between the Government and any foreign government or an international organisation; or</li> <li>(c) that relates to the exercise of the prerogative of mercy.</li> </ul>		
<p><b>Article 83: Independence of human Rights Commission</b></p>	<p><b>Independence of human Rights Commission</b> 83. In the performance of its functions, the Human Rights Commission shall be subject only</p>		

	to this Constitution and the Laws and shall not be subject to the direction or control of any person or authority.		
<b>Article 84: Tenure of office of members of Human Rights Commission</b>	<p><b>Tenure of office of members of Human Rights Commission</b></p> <p>84. (1) A member of the Human Rights Commission shall hold office on full-time basis for a term of four years and shall be eligible for re-appointment for only one further term.</p> <p>(2) A member of the Commission may in writing resign from office and may be removed from office on the same grounds and procedure as applies to a Judge of a superior court.</p> <p>(3) A member of the Commission shall not hold any other office of profit or emolument while serving as a member of the Commission.</p>		
<b>Article 85: Funds of Human Rights Commission</b>	<p><b>Funds of Human Rights Commission</b></p> <p>85. (1) The funds of the Human Rights</p>		

	<p>Commission shall include -</p> <ul style="list-style-type: none"> <li>(a) moneys appropriated by Parliament for the purposes of the Commission; and</li> <li>(b) any other moneys received by the Commission for the performance of its functions.</li> </ul> <p>(2) The Commission shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances.</p> <p>(2) The Commission shall, in any financial year, be adequately funded in order to enable it to effectively carry out its mandate.</p>		
<p><b>Article 86: Expenses of the Human rights Commission</b></p>	<p><b>Expenses of the Human rights Commission</b></p> <p>86. The expenses of the Human Rights Commission, including emoluments payable to or in respect of persons serving with</p>		

	the Commission, shall be a charge on the Consolidated Fund.		
<b>Article 87: Legislation on powers of Human Rights Commission</b>	<p><b>Legislation on powers of Human Rights Commission</b></p> <p>87. Parliament may enact legislation to give effect to this Part, including the power of the Human Rights Commission to -</p> <ul style="list-style-type: none"> <li>(a) issue subpoenas requiring the attendance of a person before the Commission;</li> <li>(b) require the production of documents or records relevant to an investigation by the Commission;</li> <li>(c) cause a person contemptuous of the Commission to be prosecuted before a court;</li> <li>(d) question a person in respect of a subject matter under investigation by the Commission;</li> <li>(e) require a person to</li> </ul>		



	<p>disclose any information, within that person's knowledge, relevant to an investigation by the Commission;</p> <p>(f) make regulations providing for the manner and procedure for bringing complaints before it and for the investigation of complaints; and</p> <p>(g) appoint the employees of the Commission and determine their terms and conditions of service.</p>		
<p><b>Article 88: Establishment of Gender Equality Commission</b></p>	<p><b>Establishment of Gender Equality Commission</b></p> <p>88. (1) There is hereby established the Gender Equality Commission.</p> <p>(2) Parliament shall enact legislation to provide for the functions, composition, appointment, tenure of office, procedures, operations,</p>	<p><b>Establishment of Gender Equality Commission</b></p> <p>244. (1) There is hereby established the Gender Equality Commission <b>which shall promote respect for gender equality and the protection, development and attainment of gender equality.</b></p> <p>(2) Parliament shall enact</p>	<p>The Conference:</p> <p>(a) amended clause (1) by specifying the core functions of the Gender Equality Commission as promoting respect for gender equality;</p> <p>(b) approved clause (2) without amendments;</p> <p>(c) transferred the Article from the Bill of</p>

	<p>administration, finances and financial management of the Gender Equality Commission established under this Article.</p>	<p>legislation to provide for the functions, composition, appointment, tenure of office, procedures, operations, administration, finances and financial management of the Gender Equality Commission established under this Article.</p>	<p>Rights to Part XIV of the Constitution providing for Commissions; and (d) re-numbered the Article as Article 244.</p> <p>The Conference appreciated the establishment of a new Commission dealing with gender equality and cited South Africa where establishment of a similar institution has led to improved gender balancing in decision making positions. However, the Conference expressed concern with location of the article establishing it in the Bill of Rights. The Conference observed that as an evolving commission, the Gender Equality Commission may need further structural developments to take into account operational and other needs. Therefore, there might be frequent amendments to instruments establishing it.</p>
--	--	--	--

**PART VII - CODE OF ETHICS AND CONDUCT OF PUBLIC OFFICERS**

<b>ARTICLE NO.</b>	<b>PROVISIONS OF MUNG'OMBA DRAFT CONSTITUTION</b>	<b>RESOLUTIONS OF THE CONFERENCE</b>	<b>RATIONALE/REMARKS</b>
<p><b>Article 89: Conflict of interest</b></p>	<p><b>Conflict of interest</b></p> <p>89. A public officer shall not act in a manner or be in a position where the personal interest of that officer conflicts or is likely to conflict with the performance of the functions of office.</p>	<p><b>Conflict of Interests</b></p> <p>75. A public officer shall not act in a manner or be in a position where the personal interest of the officer conflicts or is likely to conflict with the performance of the functions of office.</p>	<p>The Conference adopted Article 89 as provided in the Mung'omba Draft Constitution and renumbered it as Article 75. It observed that the Article was non-contentious.</p>
<p><b>Article 90 : Declaration of assets</b></p>	<p><b>Declaration of assets</b></p> <p>90. (1) An Act of Parliament shall specify the categories of public officers who shall make declarations of their assets and liabilities, the form and manner of making the declaration and to whom the declaration shall be submitted to.</p> <p>(2) A public officer specified in an Act of Parliament shall, in accordance with that Act, make a written declaration of the assets or liabilities</p>	<p><b>Declaration of assets and liabilities</b></p> <p>76. (1) An Act of Parliament shall specify the categories of public officers who shall make declarations of their assets and liabilities, the form and manner of making the declaration and to whom the declaration shall be submitted.</p> <p>(2) A public officer specified in an Act of Parliament shall, in accordance with that Act, make a written declaration of the assets or liabilities of that public</p>	<p>The Conference adopted Article 90 with amendments and renumbered it as Article 76. The Conference define the terms "Public Officer," and "Public Office"</p> <p>The words "whether owned or owed directly or indirectly" were dropped in clause (2) because the term "indirect" found potential for abuse.</p>

	<p>of that public officer, whether owned or owed directly or indirectly-</p> <ul style="list-style-type: none"> <li>(a) within three months after the commencement of this Constitution or before taking office;</li> <li>(b) annually; and</li> <li>(c) at the end of the term of office.</li> </ul> <p>(3) A public officer who fails to make and submit a declaration as required by clauses (1) and (2) or knowingly makes a false declaration commits an offence and shall be liable to any penalty imposed by an Act of Parliament.</p> <p>(4) A declaration made and submitted under clauses (1) and (2) shall, on demand, be produced in evidence before -</p> <ul style="list-style-type: none"> <li>(a) a court or tribunal;</li> <li>(b) the Anti-Corruption Commission; or</li> <li>(c) any other investigative body established by or under an Act of Parliament.</li> </ul>	<p>officer.</p> <ul style="list-style-type: none"> <li>(a) within three months after the commencement of this Constitution or upon taking office;</li> <li>(b) annually; and</li> <li>(c) at the end of the term of office.</li> </ul> <p>(3) A public officer who fails to make and submit a declaration as required by clauses (1) and (2) or knowingly makes a false declaration commits an offence and shall be liable to a penalty imposed by an Act of Parliament.</p>	
--	---	--	--

<p><b>Article 91:</b> <b>Spouse of public officer</b></p>	<p><b>Spouse of public officer</b> 91. A spouse of a public officer shall declare that spouse's assets and liabilities, as provided under an Act of Parliament.</p>	<p>The Conference deleted Article 91 on Spouse of public officer</p>	<p>The Conference decided to delete Article 91 of the CRC because the provision was tantamount to unfair treatment as spouses in some cases acquired and owned property in their own right.</p>
<p><b>Article 92:</b> <b>Appointment to public body</b></p>	<p><b>Appointment to public body</b> 92. Parliament shall enact legislation prohibiting -  <ul style="list-style-type: none"> <li>(a) a member of the governing body of a statutory body or company in which the Government has a controlling interest from holding any other office in the service of that body or company, except for the Governor of the Central Bank and the Commissioner of Lands; and</li> <li>(b) <b>a member of the National Assembly from being appointed to or hold office in a statutory body or company in which the Government has a controlling interest.</b></li> </ul> </p>	<p>The Conference deleted Article 92 on Appointment to public body</p>	<p>The Conference deleted Article 92 because there were no compelling reasons to include the provision in the Constitution.</p>

<p><b>Article 93: Codes of ethics for professions and other vocations</b></p>	<p><b>Codes of ethics for professions and other vocations</b></p> <p>93. Parliament shall enact legislation providing for the compiling and publication of a code of conduct and ethics for any profession or vocation that involves the provision of services to the public.</p>	<p><b>Codes of ethics for professions and other vocations</b></p> <p>77. Parliament shall enact legislation to provide for the compiling and publication of a code of conduct and ethics for any profession or vocation that involves the provision of services to the public</p>	<p>The Conference decided that Article 93 was not suitable for inclusion in the Constitution and renumbered it as Article 77. It observed that the provisions in the Article were details and resolved that Parliament should provide for codes of ethics in subsidiary legislation</p>
---	---	---	---

**PART VIII - REPRESENTATION OF THE PEOPLE  
ELECTORAL SYSTEMS AND PRINCIPLES**

Article No.	MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
<p><b>Article 94: Basis of Electoral System</b></p>	<p><b>Basis of Electoral System</b></p> <p>94. (1) The electoral system is based on the right of all citizens, who are eligible under this Constitution and any other law, to vote in any direct election or stand for any office in a direct election, as provided under this Constitution.</p> <p>(2) Subject to this Constitution, voting</p>	<p><b>Basis of Electoral System</b></p> <p>78. (1) The electoral system is based on the right of all citizens, who are eligible under this Constitution and any other law, to vote in any direct election or stand for any office in a direct election, as provided under this Constitution.</p> <p>(2) Subject to this Constitution,</p>	<p>The Conference retained the provisions in the Mung'omba Draft Constitution without amendments and renumbered it as Article 78. The Conference observed that Zambia had made minimal progress in creating an enabling environment to attain gender equality. Some members</p>

	<p>in any direct election shall be by universal adult suffrage and secret ballot.</p>	<p>voting in any direct election shall be by universal adult suffrage and secret ballot.</p>	<p>observed that women faced many obstacles in their participation in politics and proposed that the threshold be raised from 30% to 50% in line with the Southern African Development Community (SADC) requirement on gender. The Conference observed that the Article was neutral as it allowed either gender to exceed the 30% bench mark.</p>
	<p>(3) The electoral system and process shall be such as will ensure a free and fair election.</p>	<p>(3) The electoral system and process shall ensure a free and fair election.</p>	<p>The Conference agreed to provide for a mechanism for free and fair elections and a formula for achieving 30% women representation.</p>
	<p>(4) The electoral system shall ensure that-</p> <p>(a) the representation of each gender is not less than thirty per cent of the total number of seats in the National Assembly, district council or other public elective body; and</p> <p>(b) there shall be equitable representation of persons with disabilities and the youth at all levels.</p>	<p>(4) The electoral system shall ensure that-</p> <p>(a) the representation of each gender is not less than thirty per cent of the total number of seats in the National Assembly, district council or other public elective body; and</p> <p>(b) there shall be equitable representation of persons with disabilities and the youth at all levels of governance.</p>	<p>The Conference agreed to provide for a mechanism for free and fair elections and a formula for achieving 30% women representation.</p>
	<p>(5) An Act of Parliament shall provide a formular for achieving the purposes under clause (4).</p>	<p>(5) Parliament shall enact legislation -</p> <p>(a) <b>to ensure the conduct of free and fair elections; and</b></p> <p>(b) to provide a formular for</p>	

		achieving the purpose under clause (4).	
<b>Article 95: Election systems for Presidential, National Assembly and Local Government Elections</b>	<b>Election systems for Presidential, National Assembly and Local Government Elections</b>	<i>Election systems for Presidential, National Assembly and Local Government Elections</i>	The Conference failed to reach consensus on the provision of Mung’omba Draft Constitution. After protracted debate which led to a vote to decide on whether to adopt “majoritarian (50% + 1 vote) system” or “simple majority”, there was an “impasse” as no side obtained the mandatory two thirds majority. The Conference referred the matter to be decided by a referendum.  The Conference retained the provision of the Mung’omba Draft Constitution on clauses (2), (3) and (4).  The Article referred to the referendum was renumbered as
	95. (1) Elections to the office of President shall be conducted on the basis of a majoritarian system where the winning candidate must receive not less than fifty per cent plus one vote of the valid votes cast and in accordance with Article 125.	79. (1) <i>Elections to the office of President shall be conducted on the basis of a majoritarian system where the winning candidate must receive not less than fifty per cent plus one vote of the valid votes cast and in accordance with Article 125.</i>	
	(2) Elections to the National Assembly and a district council shall be conducted under a mixed member representation system and as provided under Articles 159 and 235 (b) and (c), respectively.	(2) Elections to the National Assembly and a district council shall be conducted under a mixed member representation system and as provided under Articles 159 and 235 (b) and (c), respectively.	
(3) Subject to clause (4), Parliament may enact legislation prescribing a different electoral system for election of members of the National Assembly or a district council.	(3) Subject to clause (4), Parliament may enact legislation prescribing a different electoral system for the election of members of the National Assembly or a district council.		



	(4) Any Bill providing for a different electoral system, for purposes of clause (3), shall not be passed by the National Assembly unless the Bill is supported on second and third reading by the votes of not less than two-thirds of all the members of the Assembly.	(4) Any Bill providing for a different electoral system for purposes of clause (3), shall not be passed by the National Assembly unless the Bill is supported on second and third reading by the votes of not less than two-thirds of all the members of the Assembly.	Article 79.
<b>Article 96: Losing candidates not eligible for certain appointments</b>	<b>Losing candidates not eligible for certain appointments</b>  96. (1) Any person who was a candidate for election as President, member of the National Assembly or district council and who lost the direct election is not eligible for appointment as Vice-President, Minister, Provincial Minister or Deputy Minister during the term of that National Assembly.	<b>Losing candidates not eligible for certain appointments</b>  80. Any person who was a candidate for election as President, member of the National Assembly or district council and who lost the direct election is not eligible for nomination as a member of the National Assembly or appointment as Vice-President, Minister, Provincial Minister or Deputy Minister during the term of that National Assembly.	The Conference adopted the Article with amendments and renumbered it as Article 80.  The Conference approved the provision in clause (1) because they felt that it was wrong for candidates who had failed to secure popular mandate in elections to be nominated or appointed to other elective positions. The Conference included the nomination as member of the National Assembly on the list.
	(2) Parliament may enact legislation to provide for other offices to which a person who has lost a direct election is not eligible for appointment.	Clause (2) was deleted.	The Conference deleted clause (2) because members considered it punitive for a losing candidate already subjected to the

			provision in Article 96 (1) to be denied appointment to other positions.
<b>Article 97: Independent Candidates</b>	<b>Independent Candidates</b> 97. Subject to the qualifications and disqualifications specified for election as a member of the National Assembly or a district council, a person shall be eligible to stand as an independent candidate for election as a member of the National Assembly for a constituency-based seat or councillor for a ward-based seat.	<b>Independent Candidates</b> 81. Subject to the qualifications and disqualifications specified for election as a member of the National Assembly or a district council, a person shall be eligible to stand as an independent candidate for election as a member of the National Assembly for a constituency-based seat or councillor for a ward-based seat.	The Conference adopted the provision of the Mung'omba Draft Constitution without amendments and renumbered it as Article 81.
<b>Article 98: Unopposed Candidates</b>	<b>Unopposed Candidates</b> 98. (1) If in any direct election only one candidate is nominated by the date and time set by the Electoral Commission for receiving nominations that candidate shall be declared duly elected.	<b>Unopposed Candidates</b> 82. (1) If in any direct election only one candidate is nominated by the date and time set by the Electoral Commission for receiving nominations, that candidate shall be declared duly elected.	The Conference adopted Article 98 of the Mung'omba Draft Constitution without amendments and renumbered it as Article 82.
	(2) Nothing in clause (1) shall prevent an aggrieved person from challenging the nomination and declaration made under clause (1).	(2) Nothing in clause (1) shall prevent an aggrieved person from challenging the nomination and declaration made under clause (1).	

<p><b>Article 99: Election date for General Elections</b></p>	<p><b>Election date for General Elections</b></p> <p>99. (1) Subject to clause (2) and the other provisions of this Constitution, a general election shall be held every five years on the last Wednesday of September after the last general election.</p> <p>(2) The Electoral Commission may vary the dates for a general election by not more than fourteen days, of the day specified by clause (1), when prevailing circumstances justify a variation of the date.</p> <p>(3) The day on which a general election is held shall be a public holiday.</p>	<p><b>Election date for General Elections</b></p> <p>83. (1) Subject to clause (2) and other provisions of this Constitution, a general election shall be held every five years on the last Wednesday of September after the last general election.</p> <p>(2) The Electoral Commission may vary the dates for a general election by not more than fourteen days, of the day specified by clause (1), when prevailing circumstances justify a variation of the date.</p> <p>(3) The day on which a general election is held shall be a public holiday.</p>	<p>The Conference adopted the provisions of the Mung’omba Draft Constitutions without amendments and renumbered it as Article 83. This was after consultations and consensus on presentation of the budget, in view of the change in the budget cycle.</p>
<p><b>Article 100: By-Elections</b></p>	<p><b>By-Elections</b></p> <p>100. (1) Where a vacancy occurs in a constituency-based seat or ward-based seat a by-election shall be held within ninety days of the occurrence of that vacancy.</p> <p>(2) A by-election shall not be held within the hundred and eighty days</p>	<p><b>By-Elections</b></p> <p>84. (1) Where a vacancy occurs in a constituency-based seat or ward-based seat a by-election shall be held within ninety days of the occurrence of that vacancy.</p> <p>(2) A by-election shall not be held within the hundred and eighty days</p>	<p>The Conference adopted the Article as provided in the Mung’omba Draft Constitution without amendments and renumbered it as Article 84. The Conference was of the view that the time in which by-elections were expected to take</p>

	period that precedes a general election.	period that precedes a general election.	place, when there was a vacancy in a constituency-based or ward-based seat, was adequate to allow the ECZ to prepare for elections.
	<b>100. (3)</b> The Electoral Commission shall prescribe the date and time when a by-election shall be held.	<b>84. (3)</b> The Electoral Commission shall prescribe the date and time when a by-election shall be held.	
<b>Article 101: Franchise</b>	<b>Franchise</b> <b>101. (1)</b> A citizen shall be registered as a voter for direct elections or referenda if at the date of the application for registration as a voter that citizen has attained the age of eighteen years and qualifies for registration as a voter as prescribed by an Act of Parliament.	<b>Franchise</b> <b>85. (1)</b> A citizen shall be registered as a voter for direct elections or referenda if at the date of the application for registration as a voter that citizen has attained the age of eighteen years and qualifies for registration as a voter as prescribed by an Act of Parliament.	The Conference adopted the Article as provided in the Mung'omba Draft Constitution and renumbered it as Article 85.
	<b>(2)</b> A citizen who is registered as a voter in accordance with clause (1) shall, unless disqualified from voting under an Act of Parliament, be entitled to vote in any direct election in accordance with an Act of Parliament	<b>(2)</b> A citizen who is registered as a voter in accordance with clause (1) shall, unless disqualified from voting under an Act of Parliament, be entitled to vote in any direct election in accordance with an Act of Parliament	
<b>Article 102: Electoral Process</b>	<b>Electoral Process</b> <b>102.</b> Parliament shall enact legislation regulating every direct election and providing for- (a) the continuous registration of voters;	<b>Electoral Process</b> <b>86.</b> Parliament shall enact legislation regulating every direct election.	The Conference adopted the Article with amendments and renumbered it as Article 86.  The Conference decided that paragraphs (a) to (j) were

	<ul style="list-style-type: none"> <li>(b) a voting procedure that is simple;</li> <li>(c) transparent ballot boxes that are serially marked;</li> <li>(d) ballot papers written in Braille for the use of blind persons who can read braille;</li> <li>(e) votes to be counted, tabulated and the results announced promptly at polling stations;</li> <li>(f) the accurate collation and prompt announcement of election results;</li> <li>(g) special arrangements for Members of the Defence Forces, the Police Service, the Prisons Service, election officials and other special sectors of society to vote;</li> <li>(h) facilities to enable citizens Living abroad to vote;</li> <li>(i) appropriate structures and mechanisms to eliminate all forms of electoral malpractices including the safe keeping of all election material; and</li> <li>(j) any matter dealing with the</li> </ul>		<p>administrative and that they be relegated to subsidiary legislation but adopted the first part of Article 102.</p>
--	---	--	---

	electoral process so as to ensure free and fair elections.		
<b>Article 103: Establishment and composition of Electoral Commission of Zambia</b>	<b>103. (1)</b> There is hereby established the Electoral Commission of Zambia which shall have offices in all provinces.	<b>Establishment and composition of Electoral Commission of Zambia</b>  <b>87. (1)</b> There is hereby established the Electoral Commission of Zambia.	The Conference adopted the Article with amendments and renumbered it as Article 87.  It was argued that the conception of “independent and autonomous” Electoral Commission of Zambia (ECZ) would market the institution better to the international community. However, most members argued that the inclusion of the word “independent” did not add value.  The Conference was also of the view that the reference of the ECZ having offices in all provinces be deleted as it was a detail which would be adequately dealt with by subordinate legislation.  The Conference proposal underscored the having of two

			persons qualified as judges of a superior court would adequately interpret issues relating to elections.
	<p><b>(2)</b> The Electoral Commission shall consist of the following members who shall serve on a fulltime basis:</p> <p>(a) a Chairperson and Vice-Chairperson who shall be persons qualified to be appointed as Judges of a superior court; and</p> <p>(b) five other members.</p>	<p><b>(2)</b> The Electoral Commission shall consist of the following members who shall serve on a full-time basis:</p> <p>(a) a Chairperson and Vice Chairperson who shall be persons qualified to be appointed as Judges of a superior court; and</p> <p>(b) five other members.</p>	
<p><b>Article 104:</b>  <b>Selection of members of Electoral Commission</b></p>	<p><b>Selection of members of Electoral Commission</b></p> <p><b>104. (1)</b> The President shall constitute an <u>ad hoc</u> selection committee, as provided under clause (2), for purposes of recruiting and selecting persons for appointment as members of the Electoral Commission</p>	<p><b>Selection of members of Electoral Commission</b></p> <p><b>88. (1)</b> The President shall constitute an <u>ad hoc</u> selection committee as provided under clause (2), for purposes of recruiting and selecting persons for appointment as members of the Electoral Commission.</p>	<p>The Conference adopted Article 104 of the Mung’omba Draft Constitution with amendments and renumbered it as Article 88.</p> <p>In clause (2)(e) the name Ombudsman was substituted with the name “Investigator-General” in line with the term</p>

	<p><b>(2)</b> The selection committee, constituted under clause (1), shall consist of the following members who shall be appointed by the President, subject to ratification by the National Assembly:</p> <ul style="list-style-type: none"> <li>(a) one member of the Supreme Court and Constitutional Court, nominated by the Chief Justice;</li> <li>(b) a member of the Civil Service Commission, nominated by the Chairperson of the Commission;</li> <li>(c) a member of the Judicial Service Commission, nominated by the Chairperson of the Commission;</li> <li>(d) a representative from the Church bodies; and</li> <li>(e) the Ombudsman.</li> </ul>	<p><b>(2)</b> The selection committee, constituted under clause (1), shall consist of the following members who shall be appointed by the President, subject to ratification by the National Assembly:</p> <ul style="list-style-type: none"> <li>(a) one member of the Supreme Court and Constitutional Court, nominated by the Chief Justice;</li> <li>(b) a member of the Public Service Commission, nominated by the Chairperson of the Commission;</li> <li>(c) a member of the Judicial Service Commission, nominated by the Chairperson of the Commission;</li> <li>(d) a representative from the Church bodies; and</li> <li>(e) <b>the Investigator-General.</b></li> </ul>	<p>used in Zambia. The Conference relegated clause (3) which is purely procedural to subsidiary legislation.</p> <p>In view of the relegation of the recruitment process in clause (3) to subsidiary legislation, the Conference deleted clause (4).</p>
	<p><b>(3)</b> The selection committee, constituted under clause (1), shall-</p> <ul style="list-style-type: none"> <li>(a) advertise the names of all short listed candidates for public scrutiny; and</li> </ul>	<p><b>(3)</b> Parliament shall enact legislation prescribing the rules and procedures for advertising the names of short listed candidates and selecting members for appointment to the</p>	



	(b) forward the names of the short listed candidates for appointment by the President.	Electoral Commission.	
	(4) Parliament shall enact legislation prescribing the rules and procedures for advertising the names of short listed candidates and selecting members for appointment to the Electoral Commission.		
<b>Article 105: Appointment of members of Electoral Commission</b>	<b>Appointment of members of Electoral Commission</b> 105. The President shall appoint members of the Electoral Commission from the names submitted by the selection committee under Article 104, subject to ratification by the National Assembly.	<b>Appointment of members of Electoral Commission</b> 89. The President shall appoint a Chairperson and vice Chairperson and members of the Electoral Commission from the names submitted by the selection committee under clause (2) of Article 88, subject to ratification by the National Assembly.	The Conference adopted the Article as provided in the Mung'omba Draft Constitution without amendments and renumbered it as Article 89.
<b>Article 106: Tenure of Office</b>	<b>Tenure of Office</b>  106. (1) A member of the Electoral Commission shall hold office for a term of five years and shall be eligible for re-appointment for only one further term.  (2) A member of the Electoral	<b>Article 90- Tenure of Office of Members of Electoral Commission (New Title)</b> 90. (1) A member of the Electoral Commission shall hold office for a term of five years and shall be eligible for re-appointment for only one further term.  (2) A member of the Electoral	The Conference adopted the Article as provided in the Mung'omba Draft Constitution without amendments and renumbered it as Article 90.

	Commission may be removed from office on the same grounds and same procedure as applies to a Judge of a superior court.	Commission may be removed from office on the same grounds and same procedure as applies to a Judge of a superior court.	
<b>Article 107: Independence and functions of Electoral Commission</b>	<b>Independence and functions of Electoral Commission</b> <b>107. (1)</b> The Electoral Commission shall be autonomous and impartial and shall not in the performance of its functions be subject to the direction or control of any person or authority	<b>Article 91 - Independence and functions of Electoral Commission</b> <b>91. (1)</b> The Electoral Commission shall be autonomous and impartial and shall not in the performance of its functions be subject to the direction or control of any person or authority.	The Conference adopted the Article with amendments and renumbered it as Article 91.  It approved clause (1) in the Mung'omba Draft Constitution without amendments. Regarding clause (2), the Conference adopted it but decided that paragraphs (e), (f) and (k) be deleted because -
	<b>(2)</b> The Electoral Commission shall be responsible for: (a) the registration of voters; (b) the delimitation of constituencies and wards for National Assembly and local government elections; (c) the efficient conduct and supervision of elections and referenda; (d) the review of electoral laws and the making of recommendations for their amendment; (e) the registration and supervision	<b>91. (2)</b> The Electoral Commission shall be responsible for: (a) the registration of voters; (b) the delimitation of constituencies and wards for National Assembly and local government elections; (c) the efficient conduct and supervision of elections and referenda; (d) the review of electoral laws and the making of recommendations for their amendment; (e) the settlement of minor electoral	(a) on paragraph (e) the Electoral Commission would have conflict of interest in supervision of political parties; (b) on paragraph (f), should be the function of a body that would regulate and supervise political parties; and (c) on paragraph (k) delimitation of boundaries was adequately dealt with by

	<p>of political parties;</p> <p>(f) the promotion of co-operational harmony between and among political parties;</p> <p>(g) the settlement of minor disputes;</p> <p>(h) dealing with any malpractices before or during an election;</p> <p>(i) the promotion of voter education and a culture of democracy;</p> <p>(j) facilitating of the observance, monitoring and evaluation of elections and referenda;</p> <p>(k) the recommendation, to the President, of administrative boundaries, including the fixing, reviewing and variation of boundaries of provinces, districts and wards; and</p> <p>(l) any other function provided by or under an Act of Parliament.</p>	<p>disputes;</p> <p>(f) dealing with any malpractices before or during an election;</p> <p>(g) the promotion of voter education and a culture of democracy;</p> <p>(h) facilitating of the observance, monitoring and evaluation of elections and referenda; and</p> <p>(i) any other function provided by or under an Act of Parliament.</p>	<p>Article 109 of the Mung'omba Draft Constitution.</p>
	<p><b>(3)</b> The Electoral Commission shall determine all electoral disputes and issues of malpractices occurring before or during an election within twenty-four hours of receiving a complaint.</p>	<p><b>(3)</b> The Electoral Commission shall determine electoral disputes and issues of malpractices occurring before or during an election within twenty-four hours of receiving a complaint.</p>	<p>The Conference adopted clause (3) in the Mung'omba Draft Constitution but removed the word "all" in reference to electoral disputes to give latitude to the Electoral Commission to decide which matters it should</p>

	<p><b>(4)</b> The Electoral Commission shall have powers to-</p> <ul style="list-style-type: none"> <li>(a) prohibit a person or political party from doing any act proscribed by or under an Act of Parliament;</li> <li>(b) exclude a person or agent of any person, candidate or political party from entering a polling station;</li> <li>(c) reduce or increase the number of votes cast in favour of a candidate after a recount;</li> <li>(d) disqualify the candidature of any person;</li> <li>(e) determine that the votes cast at a polling station did not tally in whole or in part;</li> <li>(f) provide for the filing of a complaint or objection;</li> <li>(g) submit a report on an election to a court or tribunal handling any electoral petition; or</li> <li>(h) cancel an election or election result and call a fresh election where the electoral malpractice is of a nature that would affect the final electoral results.</li> </ul>	<p><b>(4)</b> The Electoral Commission shall have powers to:</p> <ul style="list-style-type: none"> <li>(a) <b>correct errors made by electoral officers in an election;</b></li> <li>(b) determine that the votes cast at a polling station did not tally in whole or in part;</li> <li>(c) provide for the filing of a Complaint or objection;</li> <li>(d) submit a report on an election to a court or tribunal handling any electoral petition; or</li> <li>(e) cancel an election or election result and call a fresh election where the electoral malpractice is of a nature that would affect the final electoral results;</li> </ul> <p>such other powers provided by or under an Act of Parliament.</p>	<p>entertain.</p> <p>The Conference adopted clause (4) in the Mung’omba Draft Constitution but deleted (a), (b) and (d) because those provisions would be relegated to subsidiary legislation.</p> <p>Paragraph (c) was recast to provide that the Electoral Commission should be allowed to correct errors after a recount.</p>
--	---	---	--

	(5) A decision of the Electoral Commission on any matter, referred to in clause (4), shall be final only for purposes of proceeding with an election and is subject to judicial review where appropriate.	(5) A decision of the Electoral Commission on any matter, referred to in clause (4), shall be final only for purposes of proceeding with an election and is subject to judicial review where appropriate.	The Conference adopted clause (5) in the Mung’omba Draft Constitution without amendments.
	(6) Any complaint connected with a direct election raised after the election shall be dealt with under an election petition as provided by and under this Constitution.	(6) Any complaint connected with a direct election raised after the election shall be dealt with under an election petition as provided by and under this Constitution.	The Conference adopted clause (6) in the Mung’omba Draft Constitution without amendments.
<b>Article 108: Funds of Electoral Commission</b>	<b>Funds of Electoral Commission</b>  <b>108. (1)</b> The funds of the Electoral Commission shall include- (a) moneys appropriated by Parliament for the purposes of the Commission; and (b) any other moneys received by the Commission for the performance of its functions.	<b>Funds of Electoral Commission</b>  <b>92. (1)</b> The funds of the Electoral Commission shall include- (a) moneys appropriated by Parliament for the purposes of the Commission; and (b) any other moneys received by the Commission for the performance of its functions.	The Conference adopted provisions in Article 108 and renumbered it as Article 92 with the only amendment being substituting the term “Consolidated Fund” with “National Treasury Account.” The Conference however, observed that adequate funding was a cornerstone of ECZ’s independence.
	<b>(2)</b> The Electoral Commission shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances.	<b>(2)</b> The Electoral Commission shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances.	

	<p>(3) The Electoral Commission shall be adequately funded, in any financial year, in order for it to effectively carry out its mandate.</p> <p>(4) The expenses of the Electoral Commission, including the emoluments payable to or in respect of persons serving with the Commission, shall be a charge on the Consolidated Fund.</p>	<p>(3) The Electoral Commission shall be adequately funded, in any financial year, in order for it to effectively carry out its mandate.</p> <p>(4) The expenses of the Electoral Commission, including the emoluments payable to or in respect of persons serving with the Commission, shall be a charge on the <b>National Treasury Account</b>.</p>	
<p><b>Article 109: Delimitation of Constituencies or Wards</b></p>	<p><b>Delimitation of Constituencies or Wards</b></p> <p>109. (1) The Electoral Commission shall determine the names and boundaries of the constituencies and wards for National Assembly and local government elections.</p> <p>(2) In determining the boundaries and the naming of constituencies or wards, the Electoral Commission shall-</p> <p>(a) ensure that Zambia is divided into constituencies or wards so that the number of constituencies or wards are equal to the number of seats of members elected under the</p>	<p><b>Delimitation of Constituencies or Wards</b></p> <p>93. (1) The Electoral Commission shall determine the names and boundaries of the constituencies and wards for National Assembly and local government elections.</p> <p>(2) In determining the boundaries and the naming of constituencies or wards, the Electoral Commission shall-</p> <p>(a) ensure that Zambia is divided into constituencies or wards so that the number of constituencies or wards are equal to the number of seats of members elected under the</p>	<p>The Conference adopted Article 109 as provided in the Mung'omba Draft Constitution without amendments and renumbered it as Article 93.</p> <p>The Conference considered the provisions of Article 109 as non-controversial and members were able to achieve consensus easily.</p>

	<p>first-past-the post segment of the mixed member representation system;</p> <p>(b) seek to achieve an approximate equality of constituency or ward population, subject to the need to ensure adequate representation for urban and sparsely populated areas; and</p> <p>(c) ensure that the number of inhabitants in each constituency or ward is as nearly equal to the population quota as is reasonably practicable.</p>	<p>first-past-the-post segment of the mixed member representation system;</p> <p>(b) seek to achieve an approximate equality of the constituency or ward population, subject to the need to ensure adequate representation for urban and sparsely populated areas; and</p> <p>(c) ensure that the number of inhabitants in each constituency or ward is as nearly equal to the population quota as is reasonably practicable.</p>	
	<p><b>(3)</b> The Electoral Commission shall, at intervals of not more than ten years, review and, where necessary, alter the names and boundaries of constituencies or wards.</p>	<p><b>(3)</b> The Electoral Commission shall, at intervals of not more than ten years, review and, where necessary, alter the names and boundaries of constituencies or wards.</p>	
	<p><b>(4)</b> The names and details of the boundaries of constituencies or wards, determined under clause (1), shall be published in the <i>Gazette</i> and shall come into effect on the next dissolution of Parliament or district councils.</p>	<p><b>(4)</b> The names and details of the boundaries of constituencies or wards, determined under clause (1) shall be published in the <u><i>Gazette</i></u> and shall come into effect on the next dissolution of Parliament or district councils.</p>	

	(5) Any person may apply to the Constitutional Court for review of a decision of the Electoral Commission made under this Article.	(5) Any person may apply to the Constitutional Court for the review of a decision of the Electoral Commission made under this Article.	
<b>Article 110: Matters to be taken into account when delimiting constituencies and wards</b>	<p><b>Matters to be taken into account when delimiting constituencies and wards</b></p> <p><b>110.</b> In determining the boundaries of constituencies and wards the Electoral Commission shall take into account the history, diversity and cohesiveness of the constituency or ward having regard to-</p> <ul style="list-style-type: none"> <li>(a) population density, population trends and projections;</li> <li>(b) geographical features and urban centres;</li> <li>(c) community interest, historical, economic and cultural ties;</li> <li>(d) means of communication; and</li> <li>(e) the need to ensure that constituencies or wards are wholly within districts.</li> </ul>	<p><b>Matters to be taken into Account when delimiting constituencies and wards</b></p> <p><b>94.</b> In determining the boundaries of constituencies and wards, the Electoral Commission shall take into account the history, diversity and cohesiveness of the constituency or ward having regard to-</p> <ul style="list-style-type: none"> <li>(a) population density, population trends and projections;</li> <li>(b) geographical features and urban centres;</li> <li>(c) community interest, historical, economic and cultural ties;</li> <li>(d) means of communication; and</li> <li>(e) the need to ensure that constituencies or wards are wholly within districts.</li> </ul> <p style="text-align: center;"><b>Provided that the constituencies shall be so delimited that there shall be at least twenty constituencies</b></p>	The Conference adopted the Article with amendments and renumbered it as Article 94 by providing that in clause (e), the number of constituencies should be at least twenty (20) in each administrative province to ensure equitable representation of all the people of Zambia.



		in each administrative province.	
<b>Article 111: Legislation on Elections</b>	<b>Legislation on Elections</b>  <b>111. (1)</b> Parliament shall enact legislation for the conduct of direct and general elections and referenda including the- <ul style="list-style-type: none"> <li>(a) nomination of candidates;</li> <li>(b) registration of citizens as voters;</li> <li>(c) manner of voting at elections and referenda;</li> <li>(d) efficient supervision of elections and referenda;</li> <li>(e) election campaigns; and</li> <li>(f) voter and civic education.</li> </ul>	<b>Legislation on Elections</b>  <b>95. (1)</b> Parliament shall enact legislation for the conduct of direct general elections and referenda including the- <ul style="list-style-type: none"> <li>(a) nomination of candidates;</li> <li>(b) registration of citizens as voters;</li> <li>(c) manner of voting at elections and referenda;</li> <li>(d) efficient supervision of elections and referenda;</li> <li>(e) election campaigns; and</li> <li>(f) voter and civic education.</li> </ul>	<p>The Conference adopted Article 111 in the Mung’omba Draft Constitution without amendments and renumbered it as Article 95.</p> <p>The Conference observed that the principles for the conduct of direct elections set out in the clause should be maintained in the Constitution to oblige Parliament when enacting legislation to include the principles mentioned in the Article</p>
	<b>(2)</b> Legislation enacted under clause (1) shall provide for the- <ul style="list-style-type: none"> <li>(a) appointment of electoral officers;</li> <li>(b) functions of electoral officers; and</li> <li>(c) terms and conditions of employment of electoral officers.</li> </ul>	<b>(2)</b> Legislation enacted under clause (1) shall provide for the- <ul style="list-style-type: none"> <li>(a) appointment of electoral officers;</li> <li>(b) functions of electoral officers; and</li> <li>(c) terms and conditions of employment of electoral</li> </ul>	

		officers.	
<b>Article 112: Political Parties</b>	<p><b>Political Parties</b></p> <p><b>112. (1)</b>A political party shall-</p> <ul style="list-style-type: none"> <li>(a) have a national character;</li> <li>(b) have a democratically elected governing body;</li> <li>(c) promote and uphold national unity;</li> <li>(d) abide by the democratic principles of good governance and promote and practice democracy through regular, fair and free elections within the party;</li> <li>(e) respect the right of others to participate in the political process, including women and persons with disabilities;</li> <li>(f) promote and respect human rights and gender equality and equity;</li> <li>(g) promote the objectives and principles of this Constitution and the rule of law; and</li> <li>(h) subscribe to and observe any code of conduct for political parties prescribed by or under an</li> </ul>	<p><b>Political Parties</b></p> <p><b>96. (1)</b> A political party shall-</p> <ul style="list-style-type: none"> <li>(a) have a national character;</li> <li>(b) have a democratically elected governing body;</li> <li>(c) promote and uphold national unity;</li> <li>(d) abide by the democratic principles of good governance and promote and practice democracy through regular, fair and free elections within the party;</li> <li>(e) respect the right of others to participate in the political process, including women, <b>youth</b> and persons with disabilities;</li> <li>(f) promote and respect human rights and gender equality and equity;</li> <li>(g) promote the objectives and principles of this Constitution and the rule of law; and</li> <li>(h) subscribe to and observe any</li> </ul>	<p>The Conference adopted the Article with minor amendments and renumbered it as Article 96.</p> <p>In clause 1(e) the Conference decided to include the “youth” in the Article to encourage them to participate in the political process.</p>

	Act of Parliament.	code of conduct for political parties prescribed by or under an Act of Parliament.	
	<p>(2) A political party shall not-</p> <p>(a) be founded on a religious, linguistic, racial, ethnic, gender or provincial basis or seek to engage in propaganda based on any of those matters;</p> <p>(b) engage in or encourage violence or intimidation of its members, supporters, opponents or any other person;</p> <p>(c) establish or maintain a paramilitary force, militia or similar organization; or</p> <p>(d) engage in bribery or other forms of corrupt practices.</p>	<p>(2) A political party shall not-</p> <p>(a) be founded on a religious, linguistic, racial, ethnic, gender or provincial basis or seek to engage in propaganda based on any of those matters;</p> <p>(b) engage in or encourage violence or intimidation of its members, supporters, opponents or any other person;</p> <p>(c) establish or maintain a paramilitary force, militia or similar organization; or</p> <p>(d) engage in bribery or other forms of corrupt practices.</p>	The Conference adopted clause (2) in the Mung’omba Draft Constitution without amendments. The Conference agreed with the provisions set out in clause (2) to guide the character of political parties in Zambia.
<b>NEW ARTICLE 97</b>		<p><b>Article 97 - Political Parties’ Commission</b></p> <p><b>97. (1) There is hereby established the Political Parties’ Commission which shall consist of five part-time members who shall be</b></p>	<p>The Conference introduced a new Article and numbered it as Article 97.</p> <p>The Conference decided that the Political Parties’ Commission be created for the purpose of</p>

		appointed by the President subject to the ratification by the National Assembly.	regulating political parties because:
	<b>113 (1) The Electoral Commission shall be responsible for the registration, deregistration and regulation of political parties</b>	<b>(2) The Political Parties' Commission shall be responsible for-</b> <b>(a) the registration and regulation of political parties;</b> <b>(b) monitoring the general conduct of political parties;</b> <b>(c) the promotion of co-operational harmony between and among political parties;</b> <b>(d) the arbitration of disputes between members of a political party, and between and among political parties; and</b> <b>(e) any other function provided by</b> <b>or under an Act of Parliament.</b>	<b>(a) the Registrar of Societies did not have the capacity as it had too many other organisations to regulate; and</b> <b>(b) the ECZ would not adequately perform the function because there would be conflict of interest, hence the need for an entirely new body.</b>
		<b>(3) Parliament shall enact legislation to provide for the functions, composition, tenure of office, procedures, operations, administration, finances and financial management of the Political Parties' Commission.</b>	

<p><b>Article 113: Regulation of political parties</b></p>	<p><b>(1)</b> The Electoral Commission shall be responsible for the registration, deregistration and regulation of political parties</p>	<p><b>Article 98 - Regulation of political parties</b> Clause (1) was deleted.</p>	<p>The Conference adopted the provision of the Mung'omba Draft Constitution with amendments by substituting the name of "Electoral Commission of Zambia" with "Political Parties Commission" and renumbered the Article as 98.</p>
	<p><b>(2)</b> A person or group of persons shall not operate as a political party unless that party conforms to the principles laid down in this Constitution and is registered by the Electoral Commission in accordance with an Act of Parliament.</p>	<p><b>98. (1)</b> A person or group of persons shall not operate as a political party unless that party conforms to the principles laid down in this Constitution and is registered by the <b>Political Parties' Commission</b> in accordance with an Act of Parliament.</p>	<p>Clause (1) of Article 113 was deleted.</p>
	<p><b>(3)</b> Any person or group of persons who desires to form a political party shall furnish the Electoral Commission with a copy of its constitution and the names and addresses of its officers and satisfy the Commission that -</p> <p>(a) the party will, upon registration or soon thereafter, have branches in at least one half of the number of provinces of Zambia; and</p> <p>(b) the party name, emblem, colour, motto or any other symbol has no ethnic, provincial or other</p>	<p><b>98. (2)</b> Any person or group of persons who desires to form a political party shall satisfy the <b>Political Parties' Commission</b> that -</p> <p>(a) the party shall, within a period of twelve months from the date of its registration, have party structures in at least two-thirds of the number of provinces of Zambia; and</p> <p>(b) the party name, objectives or motto has no ethnic, provincial or other sectional connotations or gives the</p>	<p>Having decided under Article 97 for the establishment of a Political Parties Commission, the Conference resolved not to involve the Registrar of Societies nor the Electoral Commission of Zambia in the regulation of Political Parties.</p>

	sectional connotations or gives the appearance that its activities are confined only to a part of Zambia.	appearance that its activities are confined only to a part of Zambia.
	<b>(4)</b> A political party is entitled to present its programmes to the public and the State shall ensure equal access to the public media.	<b>(3)</b> A political party is entitled to present its programmes to the public and the State shall ensure equal access to the public media.
	<b>(5)</b> A political party and every candidate for election to the office of President, the National Assembly or any district council has the right to conduct their campaign freely and in accordance with the law.	<b>(4)</b> A political party and every candidate for election to the office of President, the National Assembly or any district council has the right to conduct their campaign freely and in accordance with the law.
	<b>(6)</b> Political parties may form a coalition.	<b>(5)</b> Political parties may form a coalition.
	<b>(7)</b> A political party shall, as may be provided by an Act of Parliament, submit to the Electoral Commission, evidence of its revenues and other assets and their source.	<b>(6)</b> A political party shall, as may be provided by an Act of Parliament, submit to the Political Parties' Commission, evidence of its revenues and other assets and their source.
	<b>(8)</b> A political party shall be entitled to financial support from the State through the Political Parties' Fund established under this Part.	<b>(7)</b> A political party shall be entitled to financial support from the State through the Political Parties' Fund established under this Part.

		(8) The Political Parties' Commission shall prescribe the maximum amount of money that may be spent by, or on behalf of, a candidate in respect of any direct or general election.	
	(9) Parliament shall enact legislation for the regulation and registration of political parties.	(9) Parliament shall enact legislation for the regulation and registration of political parties.	
<b>Article 114: Political Parties' Fund</b>	<b>Political Parties' Fund</b>	<b>Political Parties' Fund</b>	The Conference adopted the provisions in Article 114 of the Mung'omba Draft Constitution with amendments and renumbered it Article 99 by substituting "Electoral Commission of Zambia" with "Political Parties" Commission in clause (2)." Reference to Emoluments Commission in clause 3(a) was dropped.
	<b>114. (1)</b> There is hereby established a Political Parties' Fund	<b>99. (1)</b> There is hereby established a Political Parties' Fund.	
	<b>(2)</b> The Fund shall be administered by the Electoral Commission.	<b>(2)</b> The Fund shall be administered by the <b>Political Parties' Commission.</b>	
	<b>(3)</b> The sources of the Fund shall be- (a) moneys appropriated annually by Parliament, as determined by the Emoluments Commission; and (b) contributions and donations made to the Fund from any other source.	<b>(3)</b> The sources of the Fund shall be- (a) moneys appropriated annually by Parliament; and (b) contributions and donations made to the Fund from any other source.	
<b>(4)</b> The moneys in the Fund, not immediately required for payment to	<b>(4)</b> The moneys in the Fund, not immediately required for payment		

	political parties, shall be invested in such manner as may be approved by the Ministry responsible for finance.	to political parties, may be invested in such manner as shall be approved by the Minister responsible for finance.	
<b>Article 115: Purpose of Fund</b>	<b>Purpose of Fund</b> <b>115. (1)</b> The purpose of the Political Parties' Fund shall be to provide financial support to registered political parties with seats in the National Assembly.	<b>Purpose of Fund</b> <b>100. (1)</b> The purpose of the Political Parties' Fund shall be to provide financial support to registered political parties with seats in the National Assembly.	The Conference adopted the Article with minor amendments and renumbered it as Article 100.  The Conference adopted clause (1) in the Mung'omba Draft Constitution without amendments.
	<b>(2)</b> Notwithstanding Article 120, moneys allocated to a political party from the Fund shall be used - <ul style="list-style-type: none"> <li>(a) to assist political parties disseminate their policies;</li> <li>(b) for conducting civic and voter education;</li> <li>(c) subject to clause (3), generally for the administrative expenses of the party which expenditure shall not exceed ten per cent of the money allocated; and</li> <li>(d) for any other legitimate purpose approved by the</li> </ul>	<b>(2)</b> Notwithstanding Article 106, moneys allocated to a political party from the Fund shall be used - <ul style="list-style-type: none"> <li>(a) to assist political parties disseminate their policies;</li> <li>(b) for conducting civic and voter education;</li> <li>(c) subject to clause (3), generally for the administrative expenses of the party which expenditure shall not exceed ten per cent of the money allocated; and</li> <li>(d) for any other legitimate purpose approved by the</li> </ul>	The Conference adopted clause (2) as provided in the Mung'omba Draft Constitution with an amendment in (d) by substituting the name "Electoral Commission of Zambia" with "Political Parties" Commission".



	Electoral Commission.	<b>Political Parties' Commission.</b>	
	<p><b>(3)</b> Moneys allocated to a political party shall not be used for-</p> <p>(a) paying, directly or indirectly, remuneration, emoluments, fees, rewards or any other benefit to a member, officer or supporter of the party; or</p> <p>(b) any other purpose incompatible with the promotion of a multi-party democracy.</p>	<p><b>(3)</b> Moneys allocated to a political party shall not be used for-</p> <p>(a) paying, directly or indirectly, remuneration, emoluments, fees, rewards or any other benefit to a member, officer or supporter of the party; or</p> <p>(b) any other purpose incompatible with the promotion of a multi-party democracy.</p>	
	<p><b>(4)</b> Parliament shall enact legislation to provide for the formula to give effect to this Article.</p>	<p><b>(4)</b> Parliament shall enact legislation to provide for the formula to give effect to this Article.</p>	
<p><b>Article 116:</b> <b>Other sources of funds and maximum donations</b></p>	<p><b>Other sources of funds and maximum donations</b> <b>116. (1)</b> A political party may receive subscriptions, donations and contributions from the members and supporters of the party.</p> <p><b>(2)</b> An Act of Parliament shall specify -</p>	<p><b>Other sources of funds and maximum donations</b> <b>101. (1)</b> A political party may receive subscriptions, donations and contributions from the members and supporters of the party.</p> <p><b>(2)</b> An Act of Parliament shall specify-</p>	<p>The Conference adopted the Article without amendments and renumbered it as Article 101.</p> <p>The Conference appreciated the need to put restrictions on the amount of donations made to political parties in order to prevent persons that had made</p>

	<p>(a) the sources from which political parties shall not receive subscriptions, donations or contributions; and</p> <p>(b) the maximum donation that an individual, institution or body can make to a political party.</p>	<p>(a) the sources from which political parties shall not receive subscriptions, donations or contributions; and</p> <p>(b) the maximum donation that an individual, institution or body can make to a political party.</p>	<p>large donations from controlling the party. It was further argued that restricting the amount donated could help to even the playing field between parties.</p>
<p><b>Article 117:</b> <b>Audit of accounts</b></p>	<p><b>Audit of accounts</b> <b>117. (1)</b> A political party shall keep proper books and records of account.</p>	<p><b>Audit of accounts</b> <b>102. (1)</b> A political party shall keep proper books and records of account.</p>	<p>The Conference adopted the provision in the Mung’omba Draft Constitution with some amendments and renumbered it as Article 102. Clause (4) (b) was amended by substituting the name “Electoral Commission of Zambia” with “Political Parties Commission.”</p>
	<p><b>(2)</b> Within three months after the end of the Government’s financial year a political party, that is funded under this Part, shall submit its books and records of account to the Auditor General for audit.</p>	<p><b>(2)</b> Within three months after the end of the Government’s financial year, a political party that is funded under this Part, shall submit its books and records of account to the Auditor General for audit.</p>	
	<p><b>(3)</b> The Auditor-General shall, within three months of submission of the accounts under clause (2), audit the accounts and submit the report on the audit to the National Assembly and to the political party concerned.</p>	<p><b>(3)</b> The Auditor-General shall, within three months of the submission of the accounts under clause (2), audit the accounts and submit the report on the audit to the National Assembly and to the political party concerned.</p>	
	<p><b>(4)</b> Within one month after receipt of</p>	<p><b>(4)</b> Within one month after receipt of</p>	

	<p>the audited accounts and the Auditor-General's report, a political party shall -</p> <ul style="list-style-type: none"> <li>(a) publish the accounts and the report in the <i>Gazette</i> and in at least one newspaper circulating nationally; and</li> <li>(b) submit the accounts and report to the Electoral Commission.</li> </ul>	<p>the audited accounts and the Auditor-General's report, a political party shall -</p> <ul style="list-style-type: none"> <li>(a) publish the accounts and the report in the <i>Gazette</i> and in at least one newspaper circulating nationally; and</li> <li>(b) submit the accounts and report to the <b>Political Parties' Commission</b>.</li> </ul>	
<b>Article 118: Party Supervision</b>	<p><b>Party Supervision</b></p> <p><b>118. (1)</b> The Electoral Commission shall supervise the general conduct of political parties</p>	<p><b>Clause (1) was deleted.</b></p>	<p>The Conference deleted this provision in view of the fact that the Political Parties Commission was already created and assigned the function of regulating and supervising the conduct of political parties.</p>
	<p><b>(2)</b> A political party shall, within seven months after the end of the Government's financial year, submit to the Electoral Commission an annual report of its activities, as provided by an Act of Parliament.</p>	<p><b>Article 103 - Annual Report (New Marginal Note)</b></p> <p><b>103. (1)</b> A political party shall, within seven months after the end of the Government's financial year, submit to the <b>Political Parties' Commission</b> an annual report of its activities, as provided by an Act of Parliament.</p>	<p>The Conference adopted the new provision and re-titled it as "Annual Report " and numbered it as Article 103.</p>

	(3) The annual report of a political party may be inspected by any person, during normal office hours, at any branch of the party and at the offices of the Electoral Commission.	(2) The annual report of a political party may be inspected by any person, during normal office hours, at any branch of the party and at the offices of the <b>Political Parties' Commission.</b>	
	(4) The Electoral Commission shall prescribe the maximum amount of money that may be spent by or on behalf of, a candidate in respect of any direct or general election.	<b>Clause (4) was deleted</b>	
<b>Article 119: Party Discipline</b>	<b>Party Discipline</b> <b>119. (1)</b> A political party shall ensure internal party discipline is enforced in accordance with the rules of natural justice and democratic principles.	<b>Party Discipline</b> <b>104. (1)</b> A political party shall ensure that internal party discipline is enforced in accordance with the rules of natural justice and democratic principles.	The Conference adopted the Article as provided in the Mung'omba Draft Constitution without amendments and renumbered it as Article 104.
	(2) A political party shall not take disciplinary action against a member of the party for anything done or said by that member in the National Assembly or district council.	(2) A political party shall not take disciplinary action against a member of the party for anything done or said by that member in the National Assembly or district council.	The Conference concerned with the provisions of Article 119 to provide guidelines as to the conduct of political parties.
<b>Article 120: Prohibition on use of public resources to</b>	<b>Prohibition on use of public resources to promote party interests</b>	<b>Prohibition on use of public resources to promote party Interests</b>	The Conference adopted the Article as provided in the Mung'omba Draft Constitution

<p><b>promote party interests</b></p>	<p><b>120. (1)</b> Except as provided for under this Constitution, a person shall not use public resources to promote the interests of a political party.</p>	<p><b>105. (1)</b> Except as provided for under this Constitution, a person shall not use any public resources or institution to promote the interests of a political party.</p>	<p>without amendments and renumbered it as Article 105.</p>
	<p><b>(2)</b> Parliament shall enact legislation to give effect to clause (1).</p>	<p><b>(2)</b> Parliament shall enact legislation to give effect to clause (1).</p>	
<p><b>Article 121: Prohibition on use of public resources during election period</b></p>	<p><b>Prohibition on use of public resources during election period</b>  <b>121. (1)</b> Subject to clause (2), a person shall not use or permit any person to use any public resources, during an election period, for any purpose relating to the elections.</p>	<p><b>Prohibition on use of public resources during election period</b>  <b>106. (1)</b> Subject to clause (2), a person shall not use or permit any person to use any public resource or <b>institution</b> during an election period, for any purpose relating to the elections.</p>	<p>The Conference adopted the article in the Mung’omba Draft Constitution with amendments and renumbered it as Article 106. Clause (1) was amended by adding the word “institution” since a public institution could also be abused.</p>
	<p><b>(2)</b> Notwithstanding clause (1), the President and the Vice-President shall be entitled to use any public resource, during an election period, for their security, transportation and sustenance.</p>	<p><b>(2)</b> Notwithstanding clause (1), the President and the Vice-President shall be entitled to use any public resource during an election period, for their security, transportation and sustenance.</p>	<p>The Conference adopted clause (2) of the Mung’omba Draft Constitution without amendments.</p>
	<p><b>(3)</b> In this Article “election period” means the period which begins on the day nominations are filed and ends on the day of the announcement of election results.</p>	<p><b>Clause (3) was deleted.</b></p>	<p>The Conference moved the definition in clause (3) to the Article dealing with the general definitions.</p>

	(4) Parliament shall enact legislation to give effect to this Article.	(3) Parliament shall enact legislation to give effect to this Article	The Conference adopted clause (4) in the Mung'omba Draft Constitution without amendments.
<b>PART IX EXECUTIVE</b>			
ARTICLE NO.	PROVISIONS OF MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
<b>Article 122: - Office of President</b>	<b>Office of President</b> <b>122.</b> (1) There shall be a President of the Republic of Zambia who shall be the Head of State and Government and the Commander-in-Chief of the Defence Forces.  (2) The executive power of the Republic vests in the President and, subject to this Constitution, shall be exercised directly by the President or through officers subordinate to the President.	<b>Office of President</b> 107. (1) There shall be a President of the Republic of Zambia who shall be the Head of State and Government and the Commander-in-Chief of the Defence Force.  (2) The executive power of the Republic vests in the President and, subject to this Constitution, shall be exercised directly by the President or through officers subordinate to the President.	The Conference adopted the Article as provided in the Mung'omba Draft Constitution without amendments and renumbered it as Article 107.  In supporting the Article some members argued that Zambia has always had Executive President whose power was drawn from the Constitution. Others argued that the country had enjoyed peace under the current hybrid system. Some further argued that the President had to have more power so as to inspire confidence and a sense of security.

<p><b>Article 123: Qualifications of Presidential candidate</b></p>	<p><b>Qualifications of Presidential candidate</b></p> <p>123. (1) A person shall be qualified to be a candidate for election as President if that person-</p> <ul style="list-style-type: none"> <li>(a) is a citizen by birth or descent;</li> <li>(b) does not have dual citizenship;</li> <li>(c) has been ordinarily resident in Zambia for a continuous period of ten years immediately preceding the election;</li> <li>(d) is not less than thirty-five years of age;</li> <li>(e) has obtained, as a minimum academic qualification, a grade twelve certificate or its equivalent.</li> <li>(f) is conversant with the official language; and</li> <li>(g) declares that person's assets and liabilities as provided by this Constitution and by or under an Act of Parliament.</li> </ul>	<p><b>Qualifications of Presidential candidate</b></p> <p>"108. (1) A person shall be qualified to be a candidate for election as President if that person -</p> <ul style="list-style-type: none"> <li>(a) is a citizen by birth or descent;</li> <li>(b) does not have dual citizenship;</li> <li>(c) has been ordinarily resident in Zambia for a continuous period of ten years immediately preceding the election;</li> <li>(d) is not less than thirty-five years of age;</li> <li>(e) has obtained, as a minimum academic qualification, a <b>first degree</b> or its equivalent <b>from a recognised university or institution.</b></li> <li>(f) is conversant with the official language; and</li> <li>(g) declares that person's assets and liabilities as</li> </ul>	<p>The Conference adopted the Article with amendments and renumbered it as Article 108</p> <p>The Conference observed that the Constitution should be inclusive and non-discriminatory. It was noted that omission of the word "descent" in clause (1) would disqualify children born of parents who were genuinely serving the country outside Zambia such as diplomats.</p> <p>On education qualifications, the Conference resolved that the minimum qualification of "Grade 12 Certificate or its equivalent" for presidency be deleted in paragraph (e) of clause (1) and replaced by the term "first degree". It was noted that tertiary education had become a necessity as complex issues needed comprehensive evaluation, synthesis and critical</p>
---	---	---	--





	<p>(3) A person holding or acting in any of the following posts or office of appointment shall not qualify for election as a President:</p> <ul style="list-style-type: none"> <li>(a) the Defence Forces and national security agencies;</li> <li>(b) the public service;</li> <li>(c) a commission;</li> <li>(d) a statutory body or company in which the Government has a controlling interest ; or any other post or office specified by or under an Act of Parliament.</li> </ul> <p>(4) A person shall not be eligible to be elected as President unless that person -</p> <ul style="list-style-type: none"> <li>(a) has paid the election fee specified by or under an Act of Parliament on or before the date fixed for the delivery of nomination papers; and</li> <li>(b) has been nominated and supported by not less than one thousand registered voters.</li> </ul>	<ul style="list-style-type: none"> <li>(f) has been removed from public office on grounds of gross misconduct; or</li> <li>(g) has been found guilty of corruption by any court or tribunal.</li> </ul> <p>(3) A person holding or acting in any of the following posts or office of appointment shall not qualify for election as a President:</p> <ul style="list-style-type: none"> <li>(a) the Defence <b>Force</b> and national security agencies;</li> <li>(b) the public service;</li> <li>(c) a commission;</li> <li>(d) a statutory body or company in which the Government has a controlling interest ; or any other post or office specified by or under an Act of Parliament.</li> </ul> <p>(4) A person shall not be eligible to be elected as President unless that person -</p> <ul style="list-style-type: none"> <li>(a) has paid the election fee specified by or under an Act of Parliament on or before the date fixed for</li> </ul>	
--	---	---	--

		<p>the delivery of nomination papers; and</p> <p>(b) has been nominated and supported by not less than one thousand registered voters.”</p>	
<p><b>Article 124: Nomination for election as President</b></p>	<p><b>Nomination for election as President</b></p> <p><b>124.</b> (1) A presidential candidate shall deliver nomination papers to the Returning Officer in the manner, on the day, at the time and place, as may be prescribed by the Electoral Commission.</p> <p>(2) A presidential candidate’s nomination papers, delivered under clause (1), shall be supported by an affidavit certifying that the candidate is qualified for election as President.</p> <p>(3) The information contained in a presidential candidate’s nomination papers shall be published in the <i>Gazette</i> and in at least one electronic media and print media that</p>	<p><b>Nomination for election as President</b></p> <p>109. (1) A presidential candidate shall deliver nomination papers to the Returning Officer in the manner, on the day, at the time and place, as may be prescribed by the Electoral Commission.</p> <p>(2) A presidential candidate’s nomination papers, delivered under clause (1), shall be supported by an affidavit certifying that the candidate is qualified for election as President.</p> <p>(3) The information contained in a presidential candidate’s nomination papers shall be published in the <i>Gazette</i> and in at least one electronic media <b>that is broadcast</b>, and one print media</p>	<p>The Conference adopted the Article as provided in the Mung’omba Draft Constitution without amendments and renumbered it as Article 109.</p>

	are circulated nationally.	that is circulated, nationally.	
<b>Article 125: Election of President</b>	<p><b>Election of President</b></p> <p><b>125. (1)</b> The President shall be elected directly in accordance with this Article, Article 95 and as may be provided by or under an Act of Parliament.</p> <p>(2) The Returning Officer shall declare the presidential candidate who receives not less than fifty percent plus one of the valid votes cast as President-elect.</p> <p>(3) If at the initial ballot a presidential candidate does not receive fifty per cent plus one vote of the valid votes cast -</p> <p>(a) a second ballot shall be held, within thirty days, where the only candidates shall be those who obtained -</p> <p>(i) the highest and second highest number of valid votes cast in the initial ballot; or</p> <p>(ii) an equal number of</p>	<p><b>Election of President</b></p> <p><i>“110. (1) The President shall be elected directly in accordance with this Article, Article 79 and as may be provided by or under an Act of Parliament.</i></p> <p><i>(2) The Returning Officer shall declare the presidential candidate who receives not less than fifty percent plus one of the valid votes cast as President-elect.</i></p> <p><i>(3) If at the initial ballot a presidential candidate does not receive fifty per cent plus one vote of the valid votes cast -</i></p> <p><i>(a) a second ballot shall be held, within thirty days, where the only candidates shall be those who obtained -</i></p> <p><i>(i) the highest and second highest number of valid votes cast in the initial ballot; or</i></p>	<p>The Article was renumbered 110. On 50% plus one (provided under Article 95), members who were in support argued that both the Mvunga and Mwanakatwe Constitution Review Commission recommended for 50% plus one absolute majority provision.</p> <p>They argued that this electoral system would help reunite the nation which had drifted into regionalism and tribalism. They added that 50% plus one would compel political parties to have their presence in all the provinces.</p> <p>Members who were opposed to 50% plus one argued that, among other reasons that, Zambia’s democracy was not yet mature enough to manage 50% plus one vote electoral system, given the</p>

	<p>valid votes cast having been the highest of the valid votes cast in the initial ballot; and</p> <p>(b) the candidate who obtains fifty per cent plus one vote of the valid votes cast in the second ballot shall be declared President-elect.</p> <p>(4) If at the second ballot there is a tie between or among the presidential candidates, the Speaker shall summon the National Assembly to elect, by secret ballot, the President from the candidates and the candidate who obtains the highest number of the valid votes cast by the members of the Assembly shall be declared President-elect.</p> <p>(5) If there is a tie between or among the presidential candidates in the voting in the National Assembly the Speaker shall cast a vote.</p> <p>(6) A petition to challenge a presidential election may only be instituted after the election of the President-elect.</p> <p>(7) The Chairperson of the</p>	<p>(ii) <i>an equal number of valid votes cast having been the highest of the valid votes cast in the initial ballot; and</i></p> <p>(b) <i>the candidate who obtains fifty per cent plus one vote of the valid votes cast in the second ballot shall be declared President-elect.</i></p> <p>(4) <i>If at the second ballot there is a tie between or among the presidential candidates, the Speaker shall summon the National Assembly to elect, by secret ballot, the President from the candidates and the candidate who obtains the highest number of the valid votes cast by the members of the Assembly shall be declared President-elect.</i></p> <p>(5) <i>If there is a tie between or among the presidential candidates in the voting in the National Assembly the Speaker shall cast a vote.</i></p> <p>(6) <i>A petition to challenge a</i></p>	<p>absence of the spirit of give and take amongst politicians.</p> <p>The Conference conducted a vote over the provision. The Conference failed to reach consensus after the vote and therefore, referred the provision to a referendum for a decision.</p>
--	---	--	---

	Electoral Commission shall be the Returning Officer in a presidential election.	<i>presidential election may only be instituted after the election of the President-elect.</i> <i>(7) The Chairperson of the Electoral Commission shall be the Returning Officer in a presidential election."</i>	
<b>Article 126: Swearing in and Handing over</b>	<p><b>Swearing in and Handing over</b></p> <p><b>126.</b> (1) The President-elect shall be sworn in by the Chief Justice and shall assume office ninety days after the declaration of the presidential election results.</p> <p>(2) The incumbent President shall from the date the presidential election results are declared -</p> <p>(a) perform any of the executive functions, except the power to -</p> <p>(i) make an appointment; or</p> <p>(ii) dissolve the National Assembly;</p> <p>(b) prepare handing over notes which shall include a statement on the state of the Nation for the President-elect; and</p>	<p><b>Swearing in and Handing over</b></p> <p><b>111.</b> (1) <b>The President-elect shall be sworn in by the Chief Justice and shall assume office immediately but not later than twenty-four hours from the time of declaration of the presidential election results.</b></p> <p>(2) <b>The incumbent President shall immediately hand over the office of President to the President-elect and shall complete the procedural and administrative handing over process within twenty-one days from the date the President-elect is sworn in.</b></p> <p>(3) <b>The incumbent President shall not, within the period referred to in clause (2), perform any functions of the office of</b></p>	<p>The Conference adopted the Article with amendments and renumbered it as Article 111.</p> <p>It was decided that the winning candidate would be sworn-in within 24 (twenty-four) hours of the announcement of the election results as provided for under Article 34 (9), (10) and (22) of the current Constitution with a modification of Article 34 (10) to provide for a period of 21 days instead of 14 days.</p> <p>Clauses (3) and (4) of Article 126 were deleted because the Conference rejected clause (2) of Article 144 which provided for presidential-running-mate.</p>

	<p>(c) complete the procedural and administrative handing over process within sixty days.</p> <p>(3) If the President-elect dies or is for any other reason unable to be sworn in and assume the office of President, under this Article, the Vice-President-elect shall become the President-elect and clauses (1) and (2) shall apply.</p> <p>(4) The President, who assumed office as a result of clause (3), shall appoint a Vice-President subject to the approval of the National Assembly signified by a vote of not less than two-thirds of all the members of the Assembly.</p>	<p><b>President under this Constitution or any other law.</b></p>	
<p><b>Article 127</b> <b>Election petition</b></p>	<p><b>Election petition</b></p> <p><b>127.</b> (1) Any person may file an election petition before the Constitutional Court, which shall be presided over by the Chief Justice, to challenge the election of the President-elect on any question as to whether -</p> <p>(a) that person has been validly elected as</p>	<p><b>Election petition</b></p> <p><b>“112. (1) An election petition to challenge the election of a President on any question as to whether -</b></p> <p>(a) that person has been validly elected as President; or</p> <p>(b) any provision of this Constitution or any other</p>	<p>The Conference adopted the Article with amendments and renumbered it as Article 112.</p> <p>Members expressed concern that the words “any person” in the preamble could imply that even persons who did not have a direct interest in the matter had the right to challenge the</p>

	<p>President; or</p> <p>(b) any provision of this Constitution or any other law relating to presidential elections has been complied with.</p> <p>(2) A petition under this Article shall be filed within seven days after the date of the declaration of the presidential election results.</p> <p>(3) Where any person files an election petition under clause (1) and the incumbent President is the President-elect, the Speaker shall discharge the executive functions and if the Speaker is, for any reason, not able to discharge the executive functions the First Deputy Speaker shall discharge those functions.</p> <p>(4) The Constitutional Court shall, within ninety days of the filing of an election petition, determine the petition.</p> <p>(5) A decision of the Constitutional Court to nullify or not to nullify the election of the President-elect shall be final.</p> <p>(6) Where the election of the</p>	<p><b>law relating to presidential elections has been complied with; may be filed before the Constitutional Court by one or more of the following persons:</b></p> <p>(i) <b>a person who lawfully voted or had a right to vote at the election to which the election petition relates;</b></p> <p>(ii) <b>a person claiming to have had a right to be nominated as a candidate for election as President at the election to which the election petition relates; or</b></p> <p>(iii) <b>a candidate for election as President at the election to which the election petition relates.</b></p> <p>(2) A petition under this Article shall be filed within seven days after the date of the declaration of the presidential election results.</p>	<p>President-elect in Court.</p> <p>The Conference amended clause (1) to only allow petitioners who had "locus standi"</p> <p>The Conference also observed that a Supreme Court judgement had ruled that when a Presidential election had been nullified, the President would remain in office until the next President was appointed and the appointees that the President had made would continue.</p>
--	--	--	--

	<p>President-elect is nullified by the Constitutional Court -</p> <ul style="list-style-type: none"> <li>(a) the Speaker shall perform the executive functions; or</li> <li>(b) if the Speaker is for any reason unable to discharge the executive functions, the First Deputy Speaker shall perform those functions; and</li> <li>(c) a presidential election shall be held within ninety days from the date of the nullification.</li> </ul>	<p>(3) The Constitutional Court shall -</p> <ul style="list-style-type: none"> <li>(a) <b>when sitting to determine a petition under this Article be presided over by the Chief Justice; and</b></li> <li>(b) <b>within ninety days of the filing of an election petition, determine the petition.</b></li> </ul> <p>(4) A decision of the Constitutional Court to nullify or not to nullify the election of the President shall be final.</p> <p>(5) Where the election of the President is nullified by the Constitutional Court -</p> <ul style="list-style-type: none"> <li>(a) the <b>Vice-President</b> shall perform the executive functions; or</li> <li>(b) <b>if the Vice-President is for any reason unable to discharge the executive functions, such member of the</b></li> </ul>	
--	--	--	--



		<p><b>Cabinet as the Cabinet shall elect shall perform the executive functions; and</b></p> <p>(c) a presidential election shall be held within ninety days from the date of the nullification.”</p>	
<p><b>Article 128: Tenure of office of President</b></p>	<p><b>Tenure of office of President</b></p> <p><b>128.</b> (1) Subject to clauses (2) and (4), a President shall hold office for five years and shall not hold any other office of profit or emolument.</p> <p>(2) Notwithstanding anything in this Constitution or any other law, a person who has twice been elected as President shall not be eligible for election as President for a third or any other subsequent term.</p> <p>(3) The President may, at any time in writing, signed personally, addressed to the Speaker of the National Assembly, resign from office.</p> <p>(4) Subject to this</p>	<p><b>Tenure of office of President</b></p> <p>“113. (1) Subject to clauses (2) and (4), a President shall hold office for five years and shall not hold any other office of profit or emolument.</p> <p>(2) Notwithstanding anything in this Constitution or any other law, a person who has twice been elected as President shall not be eligible for election as President for a third or any other subsequent term.</p> <p>(3) The President may, at any time in writing, signed personally, addressed to the Chief Justice, resign from office.</p>	<p>The Conference adopted the article with amendments and renumbered it as Article 113.</p> <p>Some members of the Conference noted that the President was a member of the National Assembly and as such should address his or her letter of resignation to the Speaker of National Assembly. However, others argued that the President was sworn-in by the Chief Justice who was also the Returning Officer for Presidential elections and, therefore, the letter of resignation should be addressed to the Chief Justice instead of the</p>

	Constitution, the President shall continue in office until the President-elect assumes office.	(4) Subject to this Constitution, the President shall continue in office until <b>the person elected at the next election to the office of President assumes office, unless -</b> (a) the President resigns; or (b) the President ceases to hold office by virtue of Article 113, 115 or 116.”	Speaker. The Conference resolved that the President could at any time resign by writing to the Chief Justice.  It also resolved that a person who had twice been elected as President shall not be eligible for election as President for any other subsequent terms.
<b>Article 129: Removal of President on grounds of incapacity</b>	<b>Removal of President on grounds of incapacity</b> 129. (1) The members of the Cabinet may resolve, by a vote supported by two-thirds of the members, that the physical or mental capacity of the President to perform the executive functions ought to be investigated. (2) Where a resolution is passed under clause (1) the Secretary to the Cabinet shall send a copy of the resolution to the Chief Justice. (3) The Chief Justice shall, on receipt of a copy of the resolution submitted under clause (1), appoint a medical board which shall inquire	<b>Removal of President on grounds of incapacity</b>  <b>“114. (1) Not less than one-third of all the members of the National Assembly may, by notice in writing to the Speaker, petition the Speaker that the physical or mental capacity of the President to perform executive functions ought to be investigated.</b> (2) The notice under clause (1) shall specify the particulars of the allegation. (3) The Speaker shall, after receipt of the notice submitted under clause (1), if the National Assembly -	The Conference adopted the Article with amendments and renumbered it as Article 114.  Some members argued that the procedure should not start with Parliament but rather with a recommendation from a medical board, arguing that Parliament should not sit before receiving professional advice on the infirmity or otherwise of the President.  Other members debated that shortening the procedures would be the best as it was contained in

	<p>into the matter specified under clause (1).</p> <p>(4) A medical board shall consist of not less than three persons selected from among persons who are registered as medical practitioners under the Laws.</p> <p>(5) The President shall, within seven days of a summons from the medical board appointed under clause (3), submit to examination by the board and failure to do so constitutes a ground for removal from office.</p> <p>(6) A medical board, appointed under clause (3), shall examine the President and report to the Chief Justice, within fourteen days of the appointment of the medical board, as to whether or not the President is capable of discharging the executive functions.</p> <p>(7) Where the medical board reports that the President is capable of performing the executive functions, the Chief Justice shall inform the National Assembly and the President shall accordingly continue</p>	<p>(a) <b>is sitting, cause a motion for the investigation of the President's incapacity to perform the executive functions to be considered by the National Assembly within seven days of the notice; or</b></p> <p>(b) <b>is adjourned or prorogued, summon the National Assembly to meet within fourteen days of the summons, and cause a motion for the investigation of the President's incapacity to perform the executive functions to be considered immediately.</b></p> <p>(4) <b>The National Assembly shall debate the motion under clause (3), and if the motion is supported by a vote of not less than two-thirds of all the members of the National Assembly, taken by</b></p>	<p>the current constitution and would dignify the President's exit from office.</p> <p>The Conference resolved to revise Clauses (1), (2), (3), (4), (5), (6), (7), (8) and (9) of the Mung'omba recommendations.</p> <p>The Conference also resolved that the new President should appoint a Vice-President without reference to the National Assembly. If there were less than twelve months remaining before the end of the Presidential term then there would be no presidential elections. Clause (10) was therefore deleted. Clause (11) was approved with amendments.</p>
--	---	---	--

	<p>to perform the executive functions.</p> <p>(8) Where the medical board reports that the President is not capable of performing the executive functions, the Chief Justice shall forward a copy of the medical report to the Speaker for the approval of the National Assembly.</p> <p>(9) The National Assembly shall by a simple majority vote of the members of the National Assembly taken by secret ballot resolve that the President should cease to hold office.</p> <p>(10) Where the President ceases to hold office by virtue of clause (9) the Vice-President shall assume the office of President for the un-expired term of that office.</p> <p>(11) Where the Vice-President assumes the office of President under clause (10), the President shall appoint a Vice-President, subject to the approval of the National Assembly signified by a vote of not less than two-thirds of all the members of the Assembly.</p>	<p><b>secret ballot, the motion shall be passed.</b></p> <p><b>(5) Where a motion is passed under clause (4), the Speaker of the National Assembly shall, within seven days of the resolution, send a copy of the resolution to the Chief Justice.</b></p> <p><b>(6) The Chief Justice shall, within fourteen days of receipt of a copy of the resolution submitted under clause (5), in consultation with the relevant professional body regulating medical practitioners, appoint a medical board which shall consist of not less than three persons who are medical practitioners, registered with the relevant professional body, to inquire into the matter specified under clause (1).</b></p> <p><b>(7) The medical board, appointed under clause (6), shall, within fourteen days of its appointment, examine the President and report to the Chief Justice, as to whether or not the President is capable of discharging the executive functions.</b></p>	
--	--	--	--

		<p>(8) The Chief Justice shall submit the report referred to under clause (7) to the National Assembly within seven days of receiving the report.</p> <p>(9) Where the medical board appointed under clause (6) reports to the National Assembly that-</p> <p>(a) the alleged physical or mental incapacity of the President to perform the executive functions has not been substantiated, the National Assembly shall resolve that-</p> <p>(i) the President is capable of performing executive functions; and</p> <p>(ii) further proceedings shall not be taken under this Article in respect of that</p>	
--	--	---	--

		<p>allegation; or</p> <p>(b) the alleged physical or mental incapacity of the President to perform the executive functions has been substantiated, the National Assembly shall, on a motion supported by the votes of not less than two-thirds of all the members of the National Assembly, by secret ballot, resolve that the President should cease to hold office.</p> <p>(10) Where a notice is submitted to the Speaker under this Article, the President shall not dissolve Parliament.</p> <p>(11) Where the National Assembly resolves that the question of the physical or mental capacity of the President to discharge the functions of the office should be investigated, the President shall, until another</p>	
--	--	--	--

		<p>person assumes the office of President or the medical board appointed under clause (6) reports that the President is not incapable of discharging the functions of the office, whichever is the earlier, cease to perform the functions of the office and those functions shall be performed by-</p> <ul style="list-style-type: none"><li>(a) the Vice-President; or</li><li>(b) in the absence of the Vice-President or if the Vice-President is unable, by reason of physical or mental infirmity, to discharge the functions of the office, by such member of the Cabinet as the Cabinet shall elect:</li></ul> <p>Provided that any person performing the functions of the office of President under this clause shall not dissolve the National Assembly or, except on the advice of the Cabinet, revoke any appointment made by the</p>	
--	--	---	--

		President.”	
<p><b>Article 130: Impeachment of President for violation of Constitution or gross misconduct</b></p>	<p><b>Impeachment of President for violation of Constitution or gross misconduct</b></p> <p>130. (1) A notice in writing to the Speaker, signed by not less than one-third of all the members of the National Assembly, may allege that the President has committed a violation of this Constitution or gross misconduct.</p> <p>(2) An act or omission which constitutes gross misconduct includes -</p> <ul style="list-style-type: none"> <li>(a) conduct which brings the office of President into hatred, ridicule or contempt;</li> <li>(b) an act or omission that involves dishonesty or moral blame;</li> <li>(c) an act or omission which is prejudicial or inimical to the economy or security of Zambia;</li> <li>(d) flagrant failure to perform an executive</li> </ul>	<p><b>Article 115: Impeachment of President</b></p> <p><b>“115. (1) If notice in writing is given to the Speaker of the National Assembly signed by not less than one-third of all the members of the National Assembly of a motion alleging that the President has committed any violation of the Constitution or any gross misconduct and specifying the particulars of the allegations and proposing that a tribunal be established under this Article to investigate those allegations, the Speaker shall -</b></p> <ul style="list-style-type: none"> <li><b>(a) if Parliament is then sitting or has been summoned to meet within five days, cause the motion to be considered by the National Assembly within seven days of the notice;</b></li> <li><b>(b) if Parliament is not then sitting and</b></li> </ul>	<p>The Conference replaced Article 130 of the Mung’omba Draft Constitution with Article 37 (1 - 6) of the current Constitution and renumbered it as Article 115.</p> <p>The Conference was of the view that some provisions under the Mung’omba Draft Review Constitution were not clear. For instance:</p> <ul style="list-style-type: none"> <li>(a) on clause 2 (a): at what point would Parliament decide that the conduct of the President had brought the office of President “into hatred, ridicule and contempt”?</li> <li>(b) the term “moral blame” in 2 (b) was vague;</li> <li>(c) listing what was considered misconduct might cause confusion;</li> <li>(d) not clear as to how a conflict would be dealt with between paragraph</li> </ul>



	<p>function;</p> <p>(e) gross negligence;</p> <p>(f) gross mismanagement of the public resources resulting in a substantial loss to the Republic; or</p> <p>(g) failure to obey an order of the Constitutional Court.</p> <p>(3) A notice under clause (1) shall specify the particulars of the allegations and propose that a tribunal be established to investigate the allegations.</p>	<p><b>notwithstanding that it may be prorogued, summon the National Assembly to meet within twenty-one days of the notice and cause the motion to be considered at that meeting.</b></p> <p><b>(2) Where a motion under this Article is proposed for consideration by the National Assembly, the National assembly shall debate the motion and if the motion is supported by the votes of not less than two thirds of all the members of the National Assembly, the motion shall be passed.</b></p> <p><b>(3) If the motion is declared to be passed under clause (2) -</b></p> <p><b>(a) the Chief Justice shall appoint a tribunal which shall consist of a Chairman and not less than two other members selected by the Chief Justice from among persons who</b></p>	<p>(g) on failure to obey an order of the Constitutional Court and clause (3).</p>
--	--	---	--

		<p>hold or have held high judicial office;</p> <p>(b) the tribunal shall investigate the matter and shall report to the National Assembly whether it finds the particulars of the allegations specified in the motion to have been substantiated; and</p> <p>(c) the President shall have the right to appear and be represented before the tribunal during its investigation of the allegations against him.</p> <p>(4) If the tribunal reports to the National Assembly that the tribunal finds that the particulars of any allegation against the President specified in the motion have not been substantiated further proceedings shall not be taken under this Article in respect of that allegation.</p>	
--	--	---	--

		<p>(5) If the tribunal reports to the National Assembly that the tribunal finds that the particulars of any allegation specified in a motion have been substantiated, the National Assembly may, on a motion supported by the votes of not less than three quarters of all members of the National Assembly, resolve that the President has been guilty of such violation of the Constitution or, as the case may be, such gross misconduct as is incompatible with his continuance in office as President and, if the National Assembly so resolves, the President shall cease to hold office on the third day following the passage of the resolution.</p> <p>(6) No proceedings shall be taken or continue under this Article at any time when Parliament is dissolved."</p>	
<p><b>Article 131: Procedure for impeachment</b></p>	<p><b>Procedure for impeachment</b></p> <p>131. (1) The Speaker shall, after receipt of the notice submitted under</p>	<p><b>The Conference deleted Article 131 on procedure for impeachment.</b></p>	<p>The Conference deleted Article 131 because its provisions were infused into the new Article 115 approved by the Conference.</p>

	<p>Article 130, if the National Assembly -</p> <ul style="list-style-type: none"><li>(a) is sitting, cause a motion for the impeachment of the President to be considered by the Assembly within seven days of the notice; or</li><li>(b) is adjourned or prorogued, summon the Assembly to meet within five days of the summons and cause a motion to impeach the President to be considered forthwith.</li></ul> <p>(2) The National Assembly shall debate a motion under clause (1) and if the motion is supported, by a secret ballot of not less than two-thirds of all the members of the National Assembly, the motion is passed.</p> <p>(3) Where a motion is passed under clause (2) the Chief Justice shall appoint a tribunal -</p> <ul style="list-style-type: none"><li>(a) consisting of a chairperson and not less than two other members selected by the Chief Justice from among persons who hold or have</li></ul>		
--	--	--	--

	<p>held office as Judges of a superior court; and</p> <p>(b) to investigate the matter and report to the National Assembly whether it finds the particulars of the allegations specified in the motion to have been substantiated.</p> <p>(4) The President shall have the right to appear and be represented before the tribunal during the investigation of the allegations.</p> <p>(5) Where the tribunal, appointed under clause (3), reports to the National Assembly that an allegation against the President specified in the motion has -</p> <p>(a) not been substantiated, the National Assembly shall resolve that -</p> <p>(i) the President was not guilty of the allegations; and</p> <p>(ii) further proceedings shall not be taken under this Article in respect of that</p>		
--	--	--	--

	<p>allegation; or</p> <p>(b) been substantiated, the National Assembly shall, on a motion supported by the votes of not less than two-thirds of all the members of the Assembly, by a secret vote, resolve that -</p> <p>(i) the President has been guilty of the allegation; and</p> <p>(ii) the conduct of the President is incompatible with the continuance in office of the President.</p> <p>(6) On the passing of the resolution under clause (5) (b) the President shall cease to hold office on the third day following the passing of the resolution.</p>		
<p><b>Article 132: Vacancy in office of President</b></p>	<p><b>Vacancy in office of President 132.</b> (1) Subject to this Constitution, where the office of President becomes vacant for any reason -</p> <p>(a) the Vice-President shall assume the office of</p>	<p><b>Vacancy in office of President</b></p> <p><b>“116. (1) If the office of President becomes vacant by reason of the death, or the resignation from office, of the President, or by reason of the President ceasing to hold office by virtue of Article 112,</b></p>	<p>The Conference adopted the Article with amendments and renumbered it as Article 116.</p> <p>The Conference decided that in view of the fact that if there was less than twelve months</p>

	<p>President for the unexpired term; or</p> <p>(b) if the Vice-President is unable for any reason or cause to assume the office of President, the Speaker or in the absence of the Speaker, the First Deputy Speaker shall perform the executive functions and a presidential election shall be held within ninety days from the date of the vacancy.</p> <p>(2) A person performing the executive functions under clause (1) (b) shall not dissolve the National Assembly and shall not, except on the advice of Cabinet, revoke an appointment that had been made by the President.</p> <p>(3) The President and the Vice-President shall not at any one time both be out of the country.</p> <p>(4) Where the Vice-President assumes office under clause (1) (a), the President shall appoint a Vice-President, subject to the approval of the National Assembly signified by</p>	<p><b>114 or 115 -</b></p> <p><b>(a) an election to the office of President shall be held in accordance with Article 110 within ninety days from the date of the office becoming vacant; and</b></p> <p><b>(b) the Vice-President or, in the absence of the Vice-President or if the Vice-President is unable, by reason of physical or mental infirmity, to discharge the functions of the office, a member of the Cabinet elected by the Cabinet, shall perform the functions of the office of President until a person elected as President in accordance with Article 110 assumes office:</b></p> <p><b>Provided that if a vacancy in the</b></p>	<p>remaining before the end of term, no Presidential by-elections should be held, and the Vice-President would assume office of President for the remainder of the term.</p> <p>Clauses (2) and (4) were amended and Clause (3) was accordingly deleted.</p>
--	--	---	--

	<p>a vote of not less than two-thirds of all the members of the Assembly.</p>	<p><b>office of President occurs at a time when less than twelve months are remaining before the expiry of the term of office of the President, the Vice-President shall assume the office of President for the unexpired term and no election to the office of President shall be held.</b></p> <p><b>(2) If the Vice-President is unable, for any reason or cause, to assume the office of President under the proviso to clause (1), such member of Cabinet, as Cabinet shall elect, shall perform the executive functions and a presidential election shall be held within ninety days from the date of the vacancy.</b></p> <p><b>(3) The Vice-President or, the member of the Cabinet as the case may be, performing the functions of the office of President under this Article shall not dissolve the National Assembly or, except on the advice of the Cabinet, revoke any appointment made by the President.</b></p> <p><b>(4) Where a person</b></p>	
--	---	---	--



		assumes office as President under the proviso to clause (1), the President shall appoint another person as Vice-President.”	
<b>Article 133: Performance of executive functions during absence or illness of President</b>	<p><b>Performance of executive functions during absence or illness of President</b></p> <p><b>133.</b> (1) If the President leaves Zambia or is ill, the President shall, by direction in writing, authorize the Vice-President to perform the executive functions, as specified by the President, until that authority is revoked.</p> <p>(2) Where the Vice-President is incapable of performing the executive functions, as provided under clause (1), the President shall appoint, subject to the ratification of the National Assembly, a member of the Cabinet to perform the functions of the Vice-President until such a time as the Vice-President is able to perform those functions.</p>	<p><b>Performance of executive functions during absence or illness of President</b></p> <p>“117. (1) If the President leaves Zambia or is ill, the President shall, by direction in writing, authorize the Vice-President to perform the executive functions, as specified by the President, until that authority is revoked.</p> <p><b>(2) If the President is incapable by reason of physical or mental infirmity of discharging the executive functions, and the infirmity is of such a nature that the President is unable to authorise another person under this Article to perform those functions -</b></p> <p>(a) the Vice President; or</p> <p>(b) if the Vice President is absent from Zambia or is for any reason unable to discharge the executive</p>	<p>The Conference adopted the Article with amendments and renumbered it as Article 117.</p> <p>The Conference resolved that in the absence or incapacitation of the President, the Vice-President would still take over the instruments of authority and that by convention, whenever, travelling outside Zambia he or she was required to assign the instruments of power irrespective of the duration of the period of absence.</p>

		<p>functions, such member of the Cabinet as Cabinet shall elect shall perform the executive functions:</p> <p>Provided that any person performing the executive functions under this clause shall not dissolve Parliament or, except on the advice of the Cabinet, revoke any appointment made by the President.</p> <p>(3) Any person performing the functions of the office of President by virtue of clause (2) shall cease to perform those functions if he is notified by the Speaker that the President is about to resume those functions or if another person is elected as, and assumes the office of, President.</p> <p>(4) For the purpose of clause (2), a certificate of the Chief Justice that -</p> <p>(a) the President is incapable by reason of physical or mental infirmity of</p>	
--	--	---	--

		<p>discharging the functions of his office and that the infirmity is of such a nature that the President is unable to authorise another person under this Article to perform those functions; or</p> <p>(b) the Vice-President is by reason of physical or mental infirmity unable to discharge the functions of his office;</p> <p>(c) shall be of no effect until such certificate is ratified by the National Assembly:</p> <p>Provided that any such certificate as is referred to in paragraph (a) shall cease to have effect if the Speaker notifies any person under clause (3) that the President is about to resume the functions of the office of the President or if another person is elected as, and assumes the office of, President."</p>	
--	--	--	--

<p><b>Article 134: Oath of President</b></p>	<p><b>Oath of President</b></p> <p>134. A person who assumes the office of President shall, before that person performs any executive function, take the Presidential Oath, as set out in the Third Schedule.</p>	<p><b>Oath of President</b></p> <p><b>118. A person assuming the office of President shall, before entering the office, take and subscribe to such oaths as may be prescribed by or under an Act of Parliament.</b></p>	<p>The Conference adopted the Article with amendments and renumbered it as Article 118.</p> <p>The Conference decided that the Oath should be in an Act of Parliament which would be easy to amend. Article 134 was, therefore, substituted with Article 40 of the current Constitution and renumbered as 118.</p>
<p><b>Article 135: Emoluments of President</b></p>	<p><b>Emoluments of President</b></p> <p>135. (1) The emoluments of the President shall be emoluments as recommended by the Emoluments Commission and specified in an Act of Parliament.</p> <p>(2) The emoluments of the President shall be a charge on the Consolidated Fund and shall not be altered to the disadvantage of the President during the term of office.</p> <p>(3) Subject to Article 136, a person who has held the office of President shall be paid, at the end of</p>	<p><b>Emoluments of President</b></p> <p><b>119. (1) The President shall receive such emoluments as may be prescribed by or under an Act of Parliament.</b></p> <p>(2) The emoluments of the President shall be a charge on the <b>National Treasury Account</b> and shall not be altered to the disadvantage of the President during the term of office.</p> <p><b>(3) Subject to clause (5), a person who has held the office of President shall receive such emoluments as may be prescribed</b></p>	<p>The Conference adopted Article 135 with amendments and renumbered it as Article 119. Paragraph (c) of clause (5) was deleted because:</p> <ul style="list-style-type: none"> <li>(a) it would provide for double punishment;</li> <li>(b) it would be inappropriate to take away accrued benefits;</li> <li>(c) the objective of punishment was to enable the guilty to reform and not to aggravate the situation.</li> </ul>

	<p>each term of office, such emoluments recommended by the Emoluments Commission, and specified by an Act of Parliament.</p> <p>(4) The emoluments of a person who has held the office of President shall be a charge on the Consolidated Fund and shall not be altered to the disadvantage of that person.</p> <p>(5) In addition to the emoluments specified in clause (3), a person who has held the office of President shall be paid a living allowance, recommended by the Emoluments Commission and specified in an Act of Parliament, if that person -</p> <p>(a) has completed a term of office as President;</p> <p>(b) does not participate in active party political activities as prescribed by an Act of Parliament; or</p> <p>(c) has not been convicted of a criminal offence as a result of the National</p>	<p><b>by or under an Act of Parliament.</b></p> <p>(4) The emoluments of a person who has held the office of President shall be a charge on the <b>National Treasury Account</b> and shall not be altered to the disadvantage of that person.</p> <p>(5) A person who has held the office of President shall be entitled to receive the emoluments provided for under clause (3) if that person -</p> <p>(a) <b>has completed a term of office as President; or</b></p> <p>(b) <b>does not participate in active politics as prescribed by an Act of Parliament.</b></p> <p>(6) A person referred to in clause (5) shall, for purposes of clause (5) (a), be deemed to have completed a term of office if that person serves for such period as may be prescribed by an Act of Parliament, and any payment for the period served which is less than the prescribed period, shall be made on a <u>pro rata</u> basis.</p>	<p>Clause (7) was deleted because it addressed the same issues covered in Article 135 (6).</p>
--	---	--	--

	<p>Assembly removing that person's immunity under Article 136.</p> <p>(6) Subject to clause (7), a person referred to under clause (5) shall, for purposes of clause (5) (a), be deemed to have completed a term of office if that person served for at least three years as President.</p> <p>(7) If a President is removed from office under Article 131 that person shall not be entitled - to the living allowance specified under clause (5); and to the portion of any gratuity or other benefits remaining to be accrued to that person for the unexpired term of office.</p>		
<p><b>Article 136: Protection of President from legal proceedings</b></p>	<p><b>Protection of President from legal proceedings</b></p> <p>136. (1) Civil proceedings shall not be instituted or continued against the President or a person performing the executive functions in respect of anything done or omitted to be done in the performance of an executive function.</p>	<p><b>Protection of President from legal proceedings</b></p> <p>120. (1) Civil proceedings shall not be instituted or continued against a person holding the office of President or performing the functions of that office in respect of <b>which relief is claimed against that person in respect of anything</b> done</p>	<p>The Conference adopted Article 136 with amendments and renumbered it as Article 120.</p> <p>The Conference resolved that a former President shall enjoy immunity from civil and criminal proceedings for acts committed or omissions made in their private capacity but this</p>

	<p>(2) The President or a person performing the executive functions shall, subject to clauses (3) and (6), be immune from criminal proceedings in respect of the performance of those executive functions.</p> <p>(3) Where there is <u>prima facie</u> evidence that a person who held the office of President committed any criminal offence when performing the executive functions, the President shall submit a report of such evidence to the National Assembly.</p> <p>(4) Where the National Assembly receives a report under clause (3), the Assembly shall constitute an <u>ad hoc</u> select committee to look into the matter and determine whether or not the immunity of the person who held the office of President should be removed and recommend its decision to the National Assembly.</p> <p>(5) The person who held the office of President shall have the right to appear and be represented before the <u>ad hoc</u> select committee</p>	<p>or omitted to be done in that person's private capacity.</p> <p><b>(2) A person holding the office of President or performing the functions of that office shall not be charged with any criminal offence or be amenable to the criminal jurisdiction of any court in respect of any act done or omitted to be done during that person's tenure of office or, as the case may be, during that person's performance of the functions of that office.</b></p> <p><b>(3) Subject to the other provisions of this Article, a person who has held, but no longer holds, the office of President shall not be charged with a criminal offence or be amenable to the criminal jurisdiction of any court, in respect of any act done or omitted to be done by that person in that person's personal capacity while the person held office of President, unless the National Assembly has, by resolution under clause (9), determined that such proceedings would not be contrary to the</b></p>	<p>immunity may be removed by the National Assembly on a resolution supported by at least two-thirds of all Members of Parliament. The Conference, however, recognised that the sitting President would have privileged information on the matter and as such he or she was best suited to submit evidence to the National Assembly in his defence.</p>
--	--	--	---

	<p>constituted under clause (4).</p> <p>(6) The National Assembly may, on the recommendation of the select committee constituted under clause (4), remove the immunity from legal proceedings granted under this Article, from any person who has held office as President by a resolution supported by a vote of not less than two-thirds of all the members of the Assembly.</p>	<p><b>interests of the State.</b></p> <p><b>(4) A notice in writing to the Speaker, signed by not less than one-third of all the members of the National Assembly, may allege that a person who held the office of President committed a criminal offence in that person's personal capacity during that person's tenure of office.</b></p> <p><b>(5) A notice under clause (4) shall specify the particulars of the allegations.</b></p> <p><b>(6) The Speaker shall, after receipt of the notice submitted under clause (4), within seven days of the notice -</b></p> <ul style="list-style-type: none"> <li><b>(a) cause a copy of the notice to be served on the person who held the office of President; and</b></li> <li><b>(b) if the National Assembly is sitting, submit such notice to the National Assembly:</b></li> </ul> <p><b>Provided that if at the time the notice under clause (4) is received</b></p>	
--	--	--	--



		<p>by the Speaker, the National Assembly is adjourned or prorogued, the Speaker shall submit the notice to the National Assembly within seven days after the National Assembly is convened.</p> <p>(7) Where the National Assembly receives a notice under clause (6) (b), the National Assembly shall constitute an <u>ad hoc</u> select committee to look into the matter and determine whether or not the immunity of the person who held the office of President should be removed and recommend its decision to the National Assembly.</p> <p>(8) The person who held the office of President shall have the right to appear and be represented before the <u>ad hoc</u> select committee constituted under clause (7).</p> <p>(9) The National Assembly may, on the recommendation of the select committee constituted under clause (7), remove the immunity from</p>	
--	--	---	--

		<p>legal proceedings granted under this Article, from any person who has held office as President by a resolution supported by a vote of not less than two-thirds of all the members of the National Assembly.</p> <p>(10) Where the immunity from legal proceedings is removed from a person who held the office of President under clause (9), a court shall try the person only on the criminal charges for which the immunity is removed by the National Assembly.</p> <p>(11) For the avoidance of doubt, where a Court acquits a person who held the office of President of the criminal charges for which the immunity from legal proceedings was removed by the National Assembly, the immunity of that person shall, without further proceedings, immediately be restored.</p> <p>(12) Where provision is made by law limiting the time within which proceedings of any description may be brought against</p>	
--	--	---	--

		any person, the term of any person in the office of President shall not be taken into account in calculating any period of time prescribed by that law which determines whether any proceedings referred to in clause (1) and (3) may be brought against the person.	
<b>Article 137: Functions of President</b>	<b>137: Functions of President</b>	<p><b>137. (1)</b> The President shall perform with dignity and integrity the acts that are necessary or expedient for, or reasonably incidental to, the performance of the executive functions of the State, subject to the overriding terms and spirit of this Constitution and the Laws which the President is obliged to protect, administer and execute.</p> <p>(2) Without limiting clause (1), the President may preside over the meetings of the Cabinet and may, subject to this Constitution -</p> <p>(a) accredit and appoint Ambassadors, High Commissioners, plenipotentiaries, diplomatic representatives and consuls;</p> <p>(b) receive and recognise foreign</p>	<p><b>121. (1)</b> The President shall perform with dignity and integrity the acts that are necessary or expedient for, or reasonably incidental to, the performance of the executive functions of the State, subject to the overriding terms and spirit of this Constitution and the laws which the President is obliged to protect, administer and execute.</p> <p>(2) Without prejudice to the generality of clause (1), the President may preside over meetings of the Cabinet and shall have the power, subject to this Constitution to-</p> <p>(a) dissolve the National Assembly as provided in Article 185;</p> <p>The Conference adopted Article 137 with amendments and renumbered it as Article 121.</p> <p>The Conference observed that Article 137 was not adequate. It was decided that those aspects from Article 44 of the current Constitution not covered in Article 137 be included through harmonisation. Paragraph (a) was, therefore, included under Article 121 (2) of the National Constitution Conference Draft Constitution.</p>

	<p>ambassadors and heads of international organisations;</p> <p>(c) pardon or reprieve offenders, unconditionally or subject to any condition;</p> <p>(d) negotiate international agreements and treaties and, subject to the National Assembly approving the final draft of the agreements or treaties, ratify or accede to such international agreements and treaties;</p> <p>(e) establish and dissolve Government ministries and departments, subject to the approval of the National Assembly;</p> <p>(f) confer honours on citizens, residents and friends of Zambia, after consultation with relevant interested persons and institutions;</p> <p>(g) initiate Bills for submission to, and consideration by, the National Assembly; and</p> <p>(h) perform any other function specified by this Constitution</p>	<p><b>(b) accredit and appoint Ambassadors, High Commissioners, plenipotentiaries, diplomatic representatives and consuls;</b></p> <p><b>(c) receive and recognise foreign ambassadors and heads of international organisations;</b></p> <p><b>(d) pardon or reprieve offenders, unconditionally or subject to any condition;</b></p> <p><b>(e) negotiate international agreements and treaties and, subject to the National Assembly approving the final draft of the agreements or treaties, ratify or accede to such international agreements and</b></p>	
--	--	--	--

	or by or under any other law.	<p>treaties;</p> <p>(f) establish and dissolve Government ministries and departments, subject to the approval of the National Assembly;</p> <p>(g) confer honours on citizens, residents and friends of Zambia, after consultation with relevant interested persons and institutions;</p> <p>(h) initiate Bills for submission to, and consideration by, the National Assembly; and</p> <p>(i) perform any other function specified by this Constitution or by or under any other law."</p>	
<b>Article 138: Declaration of war</b>	<b>Declaration of war</b> 138. (1) The President may, in consultation with Cabinet and subject to the prior approval of the National Assembly, signified by a resolution	<b>Declaration of war</b> <b>122. (1) The President may, in consultation with Cabinet, at any time, by Proclamation published in</b>	The Conference adopted Article 138 with amendments and renumbered it as Article 122.  Most of the members did not

	<p>supported by not less than two-thirds of all the members of the Assembly, declare war between Zambia and any other country.</p> <p>(2) A declaration made under clause (1) shall be by proclamation in the <i>Gazette</i> and shall continue in force until the cessation of hostilities.</p> <p>(3) An Act of Parliament shall provide for the circumstances under which a declaration may be made under clause (1).</p> <p>(4) Where it is impracticable to seek the approval of the National Assembly before making the declaration under clause (1), the President may declare war without the prior approval of the National Assembly but the President shall seek ratification of the Assembly as soon as is reasonably practicable after the declaration.</p>	<p><b>the <u>Gazette</u>, declare war.</b></p> <p><b>(2) A declaration made under clause (1) shall continue in force until the cessation of hostilities.</b></p> <p><b>(3) An Act of Parliament shall provide for the conditions and circumstances under which a declaration may be made under clause (1).</b></p>	<p>accept the provision requiring the President to consult Cabinet and getting prior approval of the National Assembly to declare war. It was argued that while that could have been relevant to wars of the past or guerrilla warfare, it was not true of modern warfare which needed swift action. The Conference observed that intelligence information could leak to enemies and the country attacked while consultations were still going on.</p>
<p><b>Article 139: Declaration of state of public emergency</b></p>	<p><b>Declaration of state of public emergency</b></p> <p>139. (1) When there is a state of war, an invasion, general insurrection,</p>	<p><b>Declaration of state of public emergency</b></p> <p><b>123. (1) The President may, in consultation with Cabinet, at any</b></p>	<p>The Conference replaced Article 139 of the Mung'omba Draft Constitution with Article 30 of the current Constitution and renumbered it as Article 123.</p>

	<p>disorder and other similar public emergency, the President may, in consultation with Cabinet, declare a state of public emergency.</p> <p>(2) A declaration made under clause (1) shall -</p> <ul style="list-style-type: none"> <li>(a) be by proclamation in the <i>Gazette</i>;</li> <li>(b) continue in force until the cessation of hostilities or other public emergency; and</li> <li>(c) cease to have effect after such cessation and the President or the National Assembly shall declare the end of the state of public emergency.</li> </ul> <p>(3) An Act of Parliament shall provide for the circumstances under which a declaration may be made or continued under clause (1).</p> <p>(4) Any emergency laws or powers in force during a state of public emergency shall cease to have effect after the cessation of hostilities</p>	<p><b>time, by Proclamation published in the Gazette declare that a State of public emergency exists.</b></p> <p><b>(2) A declaration made under clause (1) of this Article shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless, before the expiration of such period, it has been approved by a resolution of the National Assembly supported by a majority of all the members thereof not counting the Speaker.</b></p> <p><b>(3) In reckoning any period of seven days for the purposes of clause (2) account shall not be taken of any time during which Parliament is dissolved.</b></p> <p><b>(4) A declaration made under clause (1) may, at any time before it has been approved by a resolution of the National Assembly, be revoked by the President by Proclamation published in the Gazette.</b></p> <p><b>(5) Subject to clause (6) a</b></p>	<p>The Conference contrasted Article 139 with Article 30 of the current Constitution and found that, the latter was more comprehensive, hence the decision to adopt Article 30.</p>
--	--	---	---

	<p>or other public emergency.</p> <p>(5) The President may take such measures as are necessary to respond to a state of public emergency and shall, as soon as is reasonably practicable after the declaration, seek the ratification of the National Assembly for the measures that have been undertaken.</p> <p>(6) Any legislation that concerns a state of public emergency or any legislation enacted or any action taken in consequence of a declaration of a state of public emergency shall not permit or authorize indemnifying the State or any person in respect of an unlawful act.</p>	<p><b>resolution of the National Assembly under clause (2) will continue in force until the expiration of a period of three months commencing with the date of its being approved or until revoked at such earlier date of its being so approved or until such earlier date as may be specified in the resolution:</b></p> <p><b>Provided that the National Assembly may, by majority of all the members thereof, not counting the Speaker extend the approval of the declaration for periods of not more than three months at a time.</b></p> <p>(6) The National Assembly may, by resolution, at any time revoke a resolution made by it under this Article.</p> <p>(7) Whenever an election to the office of President results in a change of the holder of that office, any declaration made under this Article and in force immediately before the day on which the President assumes office shall cease to have effect on the</p>	
--	---	---	--



		<p>expiration of seven days commencing with that day.</p> <p>(8) The expiration or revocation of any declaration or resolution made under this Article shall not affect the validity or anything previously done in reliance on such declaration.</p>	
<p><b>Article 140: Declaration of threatened state of public emergency</b></p>	<p><b>Declaration of threatened state of public emergency</b></p> <p>140. (1) When there is a state of war, an invasion, general insurrection, disorder and other similar public emergency, the President may, in consultation with Cabinet, declare a state of public emergency.</p> <p>(2) A declaration made under clause (1) shall -</p> <p>(a) be by proclamation in the <i>Gazette</i>;</p> <p>(b) continue in force until the cessation of hostilities or other public emergency; and</p> <p>(c) cease to have</p>	<p><b>Declaration of threatened state of public emergency</b></p> <p>124. (1) The President may, at any time by Proclamation published in the <u>Gazette</u>, declare that a situation exists which, if allowed to continue, may lead to a state of public emergency.</p> <p>(2) A declaration made under clause (1) of this Article shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless, before the expiration of such period, it has been approved by a resolution of the National Assembly supported by a majority of all the members thereof, not</p>	<p>The Conference adopted Article 140 with amendments and renumbered it as Article 124.</p> <p>It observed that there were acceptable provisions in both the Draft Constitution and current Constitution.</p> <p>The Conference decided that the provisions under Article 140 of the Mung'omba Draft Constitution and Article 31 of the current Constitution be harmonised. The Conference adopted the harmonized article.</p>

	<p>effect after such cessation and the President or the National Assembly shall declare the end of the state of public emergency.</p> <p>(3) An Act of Parliament shall provide for the circumstances under which a declaration may be made or continued under clause (1).</p> <p>(4) Any emergency laws or powers in force during a state of public emergency shall cease to have effect after the cessation of hostilities or other public emergency.</p> <p>(5) The President may take such measures as are necessary to respond to a state of public emergency and shall, as soon as is reasonably practicable after the declaration, seek the ratification of the National Assembly for the measures that have been undertaken.</p> <p>(6) Any legislation that concerns a state of public emergency or any legislation enacted or any action taken in consequence of a declaration of a state of public</p>	<p>counting the Speaker.</p> <p>(3) In reckoning any period of seven days for the purposes of clause (2), account shall not be taken of any time during which Parliament is dissolved.</p> <p>(4) A declaration made under clause (1) may, at any time before it has been approved by a resolution of the National Assembly, be revoked by the President by Proclamation published in the <u>Gazette</u>.</p> <p>(5) Subject to clause (6) a resolution of the National Assembly under clause (2) shall continue in force until the expiration of a period of three months commencing with the date of its being approved or, until revoked on an earlier date of its being so approved or until such earlier date as may be specified in the resolution.</p> <p>(6) The National Assembly may by resolution, at any time revoke a resolution made by it under this Article.</p> <p>(7) Whenever an election to</p>	
--	---	---	--

	<p>emergency shall not permit or authorize indemnifying the State or any person in respect of an unlawful act.</p>	<p><b>the office of President results in a change of the holder of that office, any declaration made under this Article and in force immediately before the day on which the President assumes office, shall cease to have effect on the expiration of seven days commencing with that day.</b></p> <p><b>(8) The expiration or revocation of any declaration or resolution made under this Article shall not affect the validity of anything previously done in reliance on such declaration.</b></p> <p><b>(9) Any legislation that concerns a threatened state of public emergency or any legislation enacted or any action taken in consequence of a declaration of a threatened state of public emergency shall not permit or authorise indemnifying the state or any person in respect of an unlawful act.</b></p>	
<p><b>Article 141: Declaration of National Disasters</b></p>	<p><b>Declaration of National Disasters 141.</b> (1) The President may, in consultation with Cabinet, declare that a National disaster exists, which</p>	<p><b>Declaration of National Disasters 125.</b> (1) The President may, in consultation with Cabinet, declare</p>	<p>The Conference adopted Article 141 in the Mung'omba Draft Constitution with a amendment in clause (4) and renumbered it</p>

	<p>includes a natural or man-made disaster.</p> <p>(2) The President may take such measures as are necessary to respond to a National disaster.</p> <p>(3) A declaration made under this Article shall be by proclamation published in the <i>Gazette</i>.</p> <p>(4) Parliament shall enact legislation to give effect to this Article.</p>	<p>that a National disaster exists, which includes a natural or man-made disaster.</p> <p>(2) The President may take such measures as are necessary to respond to a National disaster.</p> <p>(3) A declaration made under this Article shall be by proclamation published in the <u>Gazette</u>.</p> <p><b>(4) An Act of Parliament shall provide for the conditions and circumstances under which a declaration may be made under clause (1).</b></p>	<p>as Article 125.</p> <p>The Conference decided that the Act of Parliament was to define conditions for declaration of National disasters.</p>
<p><b>Article 142: Validity of emergency</b></p>	<p><b>Validity of emergency 142.</b> The Constitutional Court shall have jurisdiction to decide on the validity of a declaration of a state of public emergency or threatened state of public emergency, including the determination of whether any measures taken as a result of the declaration are reasonable.</p>	<p><b>Validity of emergency 126.</b> The Constitutional Court shall have jurisdiction to decide on the validity of a declaration of a state of public emergency or threatened state of public emergency, including the determination of whether any measures taken as a result of the declaration are reasonable.</p>	<p>The Conference adopted Article 142 in the Mung'omba Draft Constitution without amendment and renumbered it as Article 126.</p> <p>In addressing the role of the Constitutional Court in relation to the powers of the President, the Conference observed that the Constitutional Court would make a determination after the declaration of public emergency.</p>

<p><b>Article 143: Ratifications of appointments by National Assembly</b></p>	<p><b>Ratifications of appointments by National Assembly</b></p> <p>143. (1) Where any appointment to be made by the President is expressed by this Constitution to be subject to ratification by the National Assembly, the National Assembly shall not unreasonably refuse or delay the ratification.</p> <p>(2) Where the ratification is refused, the President shall appoint another person to that office and shall submit the appointment for ratification by the National Assembly.</p> <p>(3) Where the National Assembly refuses to ratify the second appointment, the President shall invite the National Assembly to approve another appointment for the third time but if the Assembly does not ratify the third appointment, the appointment -</p> <p>(a) shall take effect from the date of the submission of the name to the Assembly, if the office to which the</p>	<p><b>Ratifications of appointments by National Assembly</b></p> <p>127. (1) Where any appointment to be made by the President is expressed by this Constitution to be subject to ratification by the National Assembly, the National Assembly shall not unreasonably refuse or delay the ratification.</p> <p>(2) Where the ratification is refused, the President shall appoint another person to that office and shall submit the appointment for ratification by the National Assembly.</p> <p>(3) Where the National Assembly refuses to ratify the second appointment, the President shall invite the National Assembly <b>to ratify another appointment for the third time, but the third appointment shall take effect irrespective of whether the National Assembly refuses the ratification, or delays it for a period of more than fourteen days.</b></p>	<p>The Conference adopted Article 143 of the Mung’omba Draft Constitution with amendments and renumbered it as Article 127.</p> <p>The Conference expressed the view that sub-paragraphs (i) and (ii) of paragraph (b) of clause (3) of Article 143 of the Draft Constitution was inadequate as it did not provide for a time-frame and direction on how the issues relating to ratification of appointees would be handled. The Conference further observed that it was inappropriate for the President to continue submitting names of candidates for ratification as provided in paragraph (ii) of paragraph (b).</p> <p>The Conference, therefore, resolved to augment Article 143 through harmonisation with clauses (4), (5) and (7) of Article 44 of the current Constitution.</p>
---	---	--	---

	<p>appointment relates is under this Part; or</p> <p>(b) shall not take effect if the office to which the appointment relates is not under this Part and the President shall -</p> <p>(i) appoint another person to that office and submit the appointment for ratification; and</p> <p>(ii) continue to submit an appointment for ratification until the National Assembly ratifies the appointment.</p>	<p><b>(4) Subject to the other provisions of this Constitution and any other law, any person appointed by the President under this Constitution or that other law may be removed by the President.</b></p> <p><b>(5) Nothing in this Article shall prevent Parliament from conferring functions on persons or authorities other than the President.</b></p>	
<p><b>Article 144: Vice-President, election to office and swearing in</b></p>	<p><b>Vice-President, election to office and swearing in</b></p> <p><b>144.</b> (1) There shall be an office of Vice-President of the Republic.</p> <p>(2) The Vice-President shall be elected as a running mate to a presidential candidate.</p>	<p><b>Vice-President, election to office and swearing in</b></p> <p><b>128.</b> (1) There shall be an office of Vice-President of the Republic.</p> <p><b>(2) In the absence of the Vice-President or if the Vice-President is unable to perform the functions of office for any reason,</b></p>	<p>The Conference adopted Article 144 of the MDC with amendments and renumbered it as Article 128.</p> <p>The Conference had to decide on three positions that had emerged through the debate, namely, the</p>

	<p>(3) The qualifications and disqualifications which apply for election to the office of President shall apply to the person who is a running mate to the presidential candidate.</p> <p>(4) An election to the office of Vice-President shall be conducted at the same time as that of an election to the office of President so that a vote cast for a presidential candidate is a vote cast for the vice-presidential candidate and if the presidential candidate is elected the vice-presidential candidate is also elected.</p> <p>(5) A person elected as Vice-President under this Article shall be sworn into office by the Chief Justice and shall assume office on the same day that the President assumes office.</p> <p>(6) Where a vacancy occurs in the office of Vice-President through death, resignation or removal from office due to incapacity or gross misconduct, the President shall appoint a person to be Vice-President and the National Assembly shall, by a resolution supported by the votes of</p>	<p><b>the President shall appoint, a member of the Cabinet to perform the functions of the Vice-President until such a time as the Vice-President is able to perform those functions.</b></p> <p><b>(3) The emoluments of the Vice-President shall be prescribed by or under an Act of Parliament.</b></p> <p><b>(4) The emoluments of the Vice-President shall be a charge on the National Treasury Account.</b></p>	<p>position held by members who advocated the adoption of the clause as contained in the Mung'omba Draft Constitution and those for the deletion of the clause.</p> <p>The other position was to adopt clause (2) subject to a proviso to the effect that the presidential candidate and the Presidential running-mate would not be of the same gender.</p> <p>The Conference resolved that the Vice-President shall be appointed by the President from amongst members of the National Assembly. Consequently, clauses (2), (3), (4), (5) and (6) were irrelevant and deleted.</p> <p>Clauses (8) and (9) were adopted with minor amendments.</p>
--	---	---	--

	<p>not less than two-thirds of all the members of the Assembly, ratify the appointment of the Vice-President who shall serve for the unexpired term of office.</p> <p>(7) In the absence of the Vice-President or if the Vice-President is unable to perform the functions of office for any reason, the President shall appoint, subject to the ratification of the National Assembly, a member of the Cabinet to perform the functions of the Vice-President until such a time as the Vice-President is able to perform those functions.</p> <p>(8) The emoluments of the Vice-President shall be as recommended by the Emoluments Commission and prescribed in an Act of Parliament.</p> <p>(9) The emoluments of the Vice-President shall be a charge on the Consolidated Fund.</p>		
<p><b>Article 145: Functions of Vice-President</b></p>	<p><b>Functions of Vice-President</b> 145. In addition to the functions of</p>	<p><b>Functions of Vice-President</b> 129. In addition to the functions of</p>	<p>The Conference adopted Article 145 without amendment and renumbered it as Article 129.</p>



	<p>the Vice-President, specified in this Constitution or under any other law, the Vice-President shall -</p> <ul style="list-style-type: none"> <li>(a) perform the functions that are assigned to the Vice-President by the President;</li> <li>(b) act as President when the President is unable to carry out the executive functions as provided under this Constitution; and</li> <li>(c) be the leader of Government business in the National Assembly.</li> </ul>	<p>the Vice-President, specified in this Constitution or under any other law, the Vice-President shall -</p> <ul style="list-style-type: none"> <li>(a) perform the functions that are assigned to the Vice-President by the President;</li> <li>(b) act as President when the President is unable to carry out the executive functions as provided under this Constitution; and</li> <li>(c) be the leader of Government business in the National Assembly.</li> </ul>	
<p><b>Article 146: Removal from office of Vice-President</b></p>	<p><b>Removal from office of Vice-President</b></p> <p><b>146.</b> Articles 129, 130 and 131 shall apply to the removal from office of the Vice-President.</p>	<p><b>Removal from office of Vice-President</b></p> <p><b>Article 146 was Deleted</b></p>	<p>The Conference deleted Article 146 as the Article was linked to the issue of running-mate which was overtaken by events.</p>
<p><b>Article 147: Ministers</b></p>	<p><b>Ministers</b></p> <p><b>147.</b> (1) The President shall appoint not more than twenty-one persons as</p>	<p><b>Ministers</b></p> <p>130. (1) The President shall appoint not more than twenty-one</p>	<p>The Conference adopted the Article with amendments and renumbered it as Article 130.</p>

	<p>Ministers or such number of Ministers as the National Assembly may approve, who are qualified to be elected as members of the National Assembly but are not members of the Assembly.</p> <p>(2) A Minister shall be responsible, under the direction of the President, for the business of the Government, including the administration of a Ministry and other State institutions as assigned by the President.</p> <p>(3) The emoluments of a Minister shall be as recommended by the Emoluments Commission and specified in an Act of Parliament and shall be a charge on the Consolidated Fund.</p> <p>(4) A Minister shall only attend the sittings of the National Assembly where it is necessary for the performance of a particular function specified under this Constitution or any other law or when required to do so by the Speaker and the Minister shall, while in attendance in the Assembly, take part in the proceedings of the Assembly but shall</p>	<p>persons as Ministers, or such number of Ministers as the National Assembly may approve, <b>from amongst members of the National Assembly.</b></p> <p>(2) A Minister shall be responsible, under the direction of the President, for the business of the Government, including the administration of a Ministry and other State institutions as assigned by the President.</p> <p><b>(3) The emoluments of a Minister shall be prescribed by or under an Act of Parliament and shall be a charge on the National Treasury Account.</b></p>	<p>It resolved that Ministers should be appointed from amongst members of Parliament. Consequently, clause (1) was amended and clause (4) was deleted.</p>
--	---	--	--

	have no vote.		
<b>Article 148: Provincial Ministers</b>	<p><b>Provincial Ministers</b></p> <p>148. (1) The President shall appoint a Provincial Minister for each province from persons who are qualified to be elected as members of the National Assembly but are not members of the Assembly.</p> <p>(2) The emoluments of a Provincial Minister shall be as recommended by the Emoluments Commission and specified in an Act of Parliament and shall be a charge on the Consolidated Fund.</p>	<p><b>Provincial Ministers</b></p> <p><b>131. (1) The President shall appoint a Provincial Minister for each province from persons who are members of the National Assembly.</b></p> <p><b>(2) A Provincial Minister shall be responsible, under the direction of the President, for the business of the Government, including the administration of a province and other State institutions, as assigned by the President.</b></p> <p><b>(3) The emoluments of a Provincial Minister shall be prescribed by or under an Act of Parliament and shall be a charge on the National Treasury Account.</b></p>	<p>The Conference adopted Article 148 with amendments and renumbered it as Article 131</p> <p>The Conference decided that Article 148 (2) be amended in line with the decision made under Article 147 of the Mung'omba Draft Constitution to appoint Ministers from within Members of the National Assembly.</p>
<b>Article 149: Deputy Ministers</b>	<p><b>Deputy Ministers</b></p> <p>149. (1) Subject to this Constitution, the President shall appoint not more than twenty-one Deputy Ministers or such number of</p>	<p><b>Deputy Ministers</b></p> <p>132. (1) Subject to this Constitution, the President shall appoint not more than twenty-one Deputy Ministers or such number of</p>	<p>For the reason stated under Article 148 of the Mung'omba Draft Constitution on Provincial Minister, Article 149 was accordingly adopted with amendments and renumbered as</p>

	<p>Deputy Ministers as the National Assembly may approve.</p> <p>(2) Article 147 (1), (2), (3) and (4) shall apply to Deputy Ministers.</p> <p>(3) A Deputy Minister shall perform any function assigned to the Deputy Minister by the President or the Minister.</p>	<p>Deputy Ministers, as the National Assembly may approve, <b>from amongst members of the National Assembly.</b></p> <p>(2) A Deputy Minister shall perform any function assigned to the Deputy Minister by the President or the Minister.</p> <p><b>(3) The emoluments of a Deputy Minister shall be prescribed by or under an Act of Parliament and shall be a charge on the National Treasury Account.</b></p>	<p>Article 132.</p>
<p><b>Article 150:</b> <b>Cabinet</b></p>	<p><b>Cabinet</b></p> <p>150. There shall be a Cabinet consisting of the -</p> <ul style="list-style-type: none"> <li>(a) President and the Vice-President;</li> <li>(b) Ministers; and</li> <li>(c) Provincial Ministers.</li> </ul>	<p><b>Cabinet</b></p> <p>133. There shall be a Cabinet consisting of the -</p> <ul style="list-style-type: none"> <li>(a) President and the Vice-President;</li> <li>(b) Ministers; and</li> <li>(c) Provincial Ministers.</li> </ul>	<p>The Conference adopted Article 150 of the Mung'omba Draft Constitution MDC without amendments and renumbered it as Article 133.</p> <p>In adopting Article 150, the Conference observed that inclusion of Provincial Ministers as members of Cabinet would enrich Cabinet with information on what was obtaining in the provinces. That would benefit the Ministers of line Ministries and the President. Since</p>

			Provincial Ministers had the opportunity of interacting with various heads of different departments, they would be able to make accurate reports on their activities.
<b>Article Functions Cabinet</b>	<b>151: of</b>	<b>Functions of Cabinet</b>  151. (1) The President shall preside at the meetings of Cabinet and in the absence of the President the Vice-President shall preside. (2) The Cabinet may perform its functions although there is a vacancy in its membership. (3) The Cabinet shall formulate Government policy and shall be responsible for advising the President with respect to the policy of the Government and any other matter.	<b>Functions of Cabinet</b>  134. (1) The President shall preside at the meetings of Cabinet and in the absence of the President the Vice-President shall preside. (2) The Cabinet may perform its functions <b>notwithstanding</b> a vacancy in its membership. (3) The Cabinet shall formulate Government policy and shall be responsible for advising the President with respect to the policy of the Government and any other matter.  The Conference adopted Article 151 with minor amendments and renumbered it as Article 134.  The Conference observed that currently, Deputy Ministers did not deputise for Ministers. It was however, explained that in the absence of a Minister, another Minister was appointed as acting Minister because Deputy Ministers were not members of Cabinet and, therefore, would not supervise line ministries. The Conference also resolved that upon dissolution of Parliament, Cabinet Ministers should remain in office until they handed over to the next office bearers in order to ensure continuity.

			There were minor amendments in the wording in Clause (2)
		<p><b>Article 135: Accountability (New Article)</b></p> <p><b>Article 135: The Cabinet and Deputy Ministers shall be accountable collectively to the National Assembly.</b></p>	<p>The Conference introduced a new Article and numbered it as Article 135.</p> <p>The Conference noted that the Article was non-contentious and was necessary in order to ensure adherence by Ministers to collective responsibility which was cardinal for smooth performance of executive functions.</p>
<b>Article 152: Oaths of office</b>	<p>Oaths of office</p> <p>152. A Minister, Provincial Minister and Deputy Minister shall not carry out the duties of office unless that person takes the Oath of Minister, Provincial Minister or Deputy Minister and the Oath of Secrecy, as set out in the Third Schedule.</p>	<p><b>Oaths of Office</b></p> <p>136. A Minister, Provincial Minister and Deputy Minister shall not carry out the duties of office unless that person takes the Oath of Minister, Provincial Minister or Deputy Minister and the Oath of Secrecy, <b>as prescribed in an Act of Parliament.</b></p>	<p>The Conference adopted Article 152 with amendment and renumbered it as Article 136.</p> <p>The Conference observed that the Article was straight forward. However, in considering the oath under the third schedule of the Draft Constitution, it was observed that while Provincial Minister was included in the title, it was left out in the text.</p>

			The Conference, decided that the term “Provincial Minister” be included in the text of the Oath.
<b>Article 153: Code of conduct</b>	<b>Code of conduct</b> 153.A Minister, Provincial Minister and Deputy Minister shall act in accordance with a code of conduct prescribed by this Constitution or any other law.	<b>Code of conduct</b> 137. A Minister, Provincial and Deputy Minister shall act in accordance with a code of conduct prescribed by <b>or under an Act of Parliament.</b>	The Conference adopted Article 153 with minor amendment in the wording and renumbered it as Article 137.
<b>Article 154: Secretary to Cabinet</b>	<b>Secretary to Cabinet</b> <b>154.</b> (1) There shall be a Secretary to the Cabinet whose office is a public office and who shall, subject to ratification by the National Assembly, be appointed by the President in consultation with the Civil Service Commission. (2) The Secretary to the Cabinet shall - (a) be chief advisor to the President on public service management; (b) be the head of the public service and responsible to the President for securing the general	<b>Secretary to Cabinet</b> 138. (1) There shall be a Secretary to the Cabinet whose office is a public office and who shall, subject to ratification by the National Assembly, be appointed by the President in consultation with <b>the relevant State institutions</b> (2) The Secretary to the Cabinet shall - (a) be chief advisor to the President on public service management; (b) be the head of the public service and responsible to the	The Conference adopted Article 154 with amendments and renumbered it as Article 138. The Conference resolved that instead of specifying the “Civil Service Commission,” in clause (1) it should be recast to refer to “relevant state institutions”. It was also agreed that ratification by the National Assembly should come after consultation.  The Conference further observed that the position of Secretary to the Cabinet was a professional position that demanded appropriate qualifications and experience, especially that the

	<p>efficiency of the public service;</p> <p>(c) have charge of the Cabinet Office;</p> <p>(d) be responsible, in accordance with the instructions of the President, for arranging the business for, and keeping the minutes of, the Cabinet and conveying decisions made by Cabinet to the appropriate authorities; and</p> <p>(e) perform any other function prescribed by or under an Act of Parliament or as directed by the President.</p> <p>(3) The Secretary to the Cabinet shall not be less than forty-five years of age.</p> <p>(4) The term of office of the Secretary to the Cabinet shall be three years, subject to renewal for further terms, on such terms and conditions as may be specified by or under an</p>	<p>President for securing the general efficiency of the public service;</p> <p>(c) have charge of the Cabinet Office;</p> <p>(d) be responsible, in accordance with the instructions of the President, for arranging the business for, and keeping the minutes of the Cabinet and conveying decisions made by Cabinet to the appropriate authorities; and</p> <p>(e) perform any other function prescribed by or under an Act of Parliament or as directed by the President.</p> <p>(3) The Secretary to the Cabinet shall not be less than <b>thirty-five</b> years of age.</p> <p>(4) The term of office of the</p>	<p>Secretary to the Cabinet was the head of the public service whose role included being chief advisor to the President on public service matters. The Conference resolved that a minimum age limit of thirty-five (35) years be adopted. On clause (5) the Conference removed the word "only".</p>
--	--	---	---



	<p>Act of Parliament.</p> <p>(5) The Secretary to the Cabinet shall be removed from office by the President only for misconduct or inability to perform the functions of office or for infirmity of mind or body.</p>	<p>Secretary to the Cabinet shall be <b>five years</b>, subject to renewal for further terms, on such terms and conditions as may be specified by or under an Act of Parliament.</p> <p>(5) The Secretary to the Cabinet shall be removed from office by the President for misconduct or inability to perform the functions of office or for infirmity of mind or body.</p>	
<p><b>Article 155: Prerogative of Mercy</b></p>	<p><b>Prerogative of Mercy</b></p> <p>The President may -</p> <p>(a) grant a pardon to a person convicted of an offence, with or without conditions;</p> <p>(b) grant to a person a respite, indefinitely or for a specified period, of the execution of a punishment imposed on that person for an offence;</p> <p>(c) substitute a less severe form of punishment for</p>	<p><b>Prerogative of Mercy</b></p> <p>139. The President may -</p> <p>(a) <b>grant any person convicted of any offence pardon, either free or subject to lawful conditions;</b></p> <p>(b) grant to a person a respite, indefinitely or for a specified period, of the execution of a punishment imposed on that person for an offence;</p> <p>(c) substitute a less severe form of punishment for</p>	<p>The Conference adopted Article 155 of the Mung’omba Draft Constitution with amendments and renumbered it as Article 139.</p> <p>The Conference was of the view that the omission of the words “lawful conditions” in Article 155 (a) in the Draft Constitution weakened the provision. The Conference agreed that Article 155 (a) be replaced with Article 59 (a) in the current Constitution.</p>

	<p>a punishment imposed on a person for an offence committed by that person;</p> <p>(d) remit the whole or part of a punishment imposed on a person for an offence committed by that person; and</p> <p>(e) remit the whole or part of a penalty, forfeiture or confiscation imposed on a person for an offence committed by that person.</p>	<p>a punishment imposed on a person for an offence committed by that person;</p> <p>(d) remit the whole or part of a punishment imposed on a person for an offence committed by that person; and</p> <p>(e) remit the whole or part of a penalty, forfeiture or confiscation imposed on a person for an offence committed by that person.</p>	
<p><b>Article 156: Advisory Committee</b></p>	<p><b>Advisory Committee</b></p> <p>156. (1) There shall be an Advisory Committee on the prerogative of mercy which shall consist of persons appointed by the President.</p> <p>(2) The Advisory Committee shall give advice to the President on persons convicted of an offence by any court or court-martial, for purposes of Article 155.</p>	<p><b>Advisory Committee</b></p> <p>140. (1) There shall be an Advisory Committee on the prerogative of mercy which shall consist of persons appointed by the President.</p> <p>(2) The Advisory Committee shall give advice to the President on persons convicted of an offence by any court or court-</p>	<p>The Conference adopted Article 156 without amendment and renumbered it as Article 140.</p> <p>The Conference concurred with the CRC on maintaining the Advisory Committee on the prerogative of mercy.</p>

	<p>(3) A member of the advisory committee shall hold office at the pleasure of the President.</p> <p>(4) The President may preside at any meeting of the Advisory Committee.</p> <p>(5) The Advisory Committee may determine its own procedure for meetings.</p>	<p> martial, for purposes of Article 154.</p> <p>(3) A member of the advisory committee shall hold office at the pleasure of the President.</p> <p>(4) The President may preside at any meeting of the Advisory Committee.</p> <p>(5) The Advisory Committee may determine its own procedure for meetings.</p>	
--	--	--	--

**PART X  
LEGISLATURE**

ARTICLE NO.	PROVISIONS OF MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
<b>Article 157: Establishment of Parliament</b>	<p><b>Establishment of Parliament</b></p> <p>157 (1) There is hereby established a Parliament of Zambia which shall consist of the National Assembly and the President.</p> <p>(2) The National Assembly may, by a resolution supported by the votes of two-thirds of all the members of the Assembly, refer to a referendum a question on the need to establish a House of Representatives as a component of Parliament.</p> <p>(3) If a referendum approves the establishment of a House of</p>	<p><b>Establishment of Parliament</b></p> <p>141. There is hereby established a Parliament of Zambia which shall consist of the National Assembly and the President.</p>	<p>The Conference adopted Article 157 with amendments and renumbered it as Article 141.</p> <p>The Conference decided to retain the unicameral Legislature consisting of the National Assembly and the President.</p> <p>The Conference rejected the possibility of establishing a House of Representatives as a second chamber of Parliament as recommended by the</p>

	<p>Representatives, Parliament shall enact legislation to provide for the establishment, composition, functions and procedures of the House.</p> <p>(4) The expenses of the House of Representatives established under clause (3), including the emoluments payable to, or in respect of, members of the House, shall be a charge on the Consolidated Fund.</p>		<p>Mung'omba Draft Constitution noting that Zambia had done very well under the unicameral legislature and that an upper chamber would only duplicate the lower house and would be too costly.</p> <p>Clauses (2), (3) and (4) of Article 157 were therefore deleted.</p>
<p><b>Article 158: Legislative power and other functions of National Assembly</b></p>	<p><b>Legislative power and other functions of National Assembly</b></p> <p>158. (1) The legislative power of the Republic is vested in Parliament.</p> <p>(2) The National Assembly shall be responsible for -</p> <p>(a) enacting legislation, as provided under this Constitution;</p> <p>(b) deliberating and resolving issues of concern to the people;</p> <p>(c) considering and passing amendments to this Constitution, subject to</p>	<p><b>Legislative power of Parliament and other functions of National Assembly</b></p> <p>142. (1) The legislative power of the Republic is vested in Parliament.</p> <p>(2) The National Assembly shall be responsible for -</p> <p>(a) enacting legislation, as provided under this Constitution;</p> <p>(b) deliberating and resolving issues of concern to the people;</p> <p>(c) considering and passing</p>	<p>The Conference adopted Article 158 of the Mung'omba Draft Constitution with amendments and renumbered it as Article 142. The Conference supported the core functions of Parliament contained in Article 158 but wished to extend the oversight of Parliament to:</p> <p>(a) financial oversight of all public expenditure including defence and security expenditure,</p> <p>(b) approving of the establishment and dissolution of</p>

	<p>this Constitution;</p> <p>(d) approving the sharing of revenue between the National government and the local government and appropriating funds for expenditure by the departments of the Government, other State organs, State institutions and other bodies;</p> <p>(e) ensuring equity in the distribution of national resources and opportunities among all parts and communities of Zambia;</p> <p>(f) scrutinising public expenditure, including defence, constitutional, special expenditure and public debt;</p> <p>(g) scrutinizing and overseeing actions of the executive organ of the State;</p> <p>(h) ratifying any</p>	<p>amendments to this Constitution,</p> <p>subject to this Constitution;</p> <p>(d) approving the sharing of revenue between the Central government and the local government and appropriating funds for expenditure by the departments of the Government, other State organs, State institutions and other bodies;</p> <p>(e) ensuring equity in the distribution of national resources and opportunities among all parts and communities of Zambia;</p> <p>(f) <b>scrutinising public expenditure, including defence and security, constitutional and special expenditure and public debt;</b></p> <p>(g) scrutinizing and overseeing actions of</p>	<p>Government Ministries, in addition to all the traditional areas of oversight.</p> <p>On the issue of Parliament approving increasing or decreasing the number of Ministers and Deputy Ministers, the Conference failed to reach consensus and referred the decision to a referendum.</p> <p>The Conference approved an additional clause to fortify clause (2) (i) which was referred to a referendum and observed that paragraph (j) was already in existence.</p> <p>The Conference observed that impeachment of a President was a cardinal function of the National Assembly because a President was human and may make mistakes. Providing for "Any other functions" could encompass those functions that had not been enumerated.</p>
--	--	--	---

	<p>appointment as required by this Constitution or by or under an Act of Parliament;</p> <p>(i) approving an increase or decrease in the number of Ministers and Deputy Ministers as provided under this Constitution on the request of the President;</p> <p>(j) approving international treaties and international agreements before these are ratified or acceded to and where necessary incorporating these international instruments into national laws;</p> <p>(k) approving the emoluments of the President and other officers specified under this Constitution;</p> <p>(l) summoning and dissolving the National Assembly;</p>	<p>the executive organ of the State;</p> <p>(h) ratifying any appointment as required by this Constitution or by or under an Act of Parliament;</p> <p>(i) <i>approving an increase or decrease in the number of Ministers and Deputy Ministers as provided under this Constitution on the request of the President;</i></p> <p>(j) <b>approving the establishment or dissolution of government ministries as provided under this Constitution;</b></p> <p>(k) approving international treaties and international agreements before these are ratified or acceded to and where necessary incorporating these international</p>	
--	---	--	--

	<p>(m) impeaching the President as provided for in this Constitution;</p> <p>(n) approving or ratifying declarations of war, state of public emergency or threatened state of public emergency and measures undertaken during these periods; and</p> <p>(o) any other function prescribed by this Constitution or by or under an Act of Parliament.</p> <p>(3) A person or body, other than Parliament, shall not have power to enact legislation, except under the authority conferred by this Constitution or by or under an Act of Parliament.</p>	<p>instruments into national laws;</p> <p>(l) approving the emoluments of the President and other officers specified under this Constitution;</p> <p>(m) summoning and dissolving the National Assembly;</p> <p>(n) impeaching the President as provided for in this Constitution;</p> <p>(o) approving or ratifying as the case may be, state of public emergency or threatened state of public emergency and measures undertaken during these periods;</p> <p>(p) any other function prescribed by this Constitution or by or under an Act of Parliament.</p> <p>(3) A person or body, other than Parliament, shall not have power to</p>	
--	---	---	--

		enact legislation, except under the authority conferred by this Constitution or by or under an Act of Parliament.	
<b>Article 159: Composition of National Assembly</b>	<p><b>Composition of National Assembly</b></p> <p><b>159</b> (1) The National Assembly shall consist of -</p> <p>(a) two hundred members directly elected on the basis of a simple majority under the first-past-the-post segment of the mixed member representation system provided for by this Constitution and as may be provided by or under an Act of Parliament;</p> <p>(b) forty per cent of the total number of constituency-based seats on the basis of the proportional representation segment of the mixed member representation system from a list of candidates submitted to the</p>	<p><b>Composition of National Assembly</b></p> <p>143. (1) The National Assembly shall consist of -</p> <p>(a) two hundred <b>and forty</b> members directly elected on the basis of a simple majority under the first-past-the-post segment of the mixed member representation system provided for by this Constitution and as may be provided by or under an Act of Parliament;</p> <p>(b) <b>thirty seats on the basis of the proportional representation segment of the mixed member representation system from a list of</b></p>	<p>The Conference adopted the provision in the MDC with amendments and renumbered as Article 143.</p> <p>In considering Article 159;</p> <p>(a) the Conference opted for a Mixed-Member Parliament to make the National Assembly more inclusive by targeting the PR seats at women and persons with disabilities; and</p> <p>(b) the Conference approved that the Speaker be an additional member of the National Assembly; and</p> <p>(c) approved the deletion of paragraph (d) of the Mung'omba Draft Constitution.</p>



	<p>Electoral Commission by each political party contesting the elections, as provided by this Constitution and by or under an Act of Parliament;</p> <p>(c) the Speaker;</p> <p>(d) the First Deputy Speaker; and</p> <p>(e) the Vice-President.</p> <p>(2) Clause (1) (a) and (b) shall be subject to Article 95 (3).</p>	<p><b>candidates submitted to the Electoral Commission by each political party contesting the elections, as provided by this Constitution and by or under an Act of Parliament;</b></p> <p>(c) <b>not more than ten members nominated by the President under Article 147; and</b></p> <p>(d) the Speaker.</p> <p>(2) Clause (1) (a) and (b) shall be subject to Clause (3) of <b>Article 80.</b></p>	
<p><b>Article 160: Qualifications and disqualifications of members of National Assembly</b></p>	<p><b>Qualifications and disqualifications of members of National Assembly</b></p> <p>160. (1) Unless disqualified under clauses (2) and (3), a person shall be eligible to be elected as a member of the National Assembly if that person –</p> <p>(a) is a citizen;</p> <p>(b) is not less than twenty-one years;</p> <p>(c) is registered as a voter;</p>	<p><b>Qualifications and disqualifications of member of National Assembly</b></p> <p>144 (1) Unless disqualified under clauses (2) and (3), a person shall be eligible to be elected as a member of the National Assembly if that person –</p> <p>(a) is a citizen of <b>Zambia</b>;</p> <p>(b) is not less than twenty-one years;</p> <p>(c) is registered as a voter;</p>	<p>The Conference adopted the provisions in the Mung’omba Draft Constitution with amendments and renumbered it as Article 144.</p> <p>In debating the Article, the Conference;</p> <p>(a) approved qualifications for election of Member of Parliament and stated that members of Parliament be sufficiently educated and</p>

	<p>(d) has obtained, as a minimum academic qualification, a grade twelve certificate of education or its equivalent;</p> <p>(e) has been ordinarily resident in the constituency or district for at least three years; and</p> <p>(f) declares that person's assets and liabilities as provided under this Constitution and by or under an Act of Parliament.</p> <p>(2) A person shall be disqualified from being elected as a member of the National Assembly if that person -</p> <p>(a) holds, or is validly nominated as a candidate in an election for, the office of President;</p> <p>(b) holds or is acting in any office that is specified by</p>	<p>has obtained, as a minimum academic qualification, a grade twelve <b>school</b> certificate of education or its equivalent; and</p> <p>(d) declares that person's assets and liabilities as provided under this Constitution and by or under an Act of Parliament.</p> <p>(2) A person shall be disqualified from being elected as a member of the National Assembly if that person -</p> <p>(a) holds, or is validly nominated as a candidate in an election for, the office of President;</p> <p>(b) holds or is acting in any office that is specified by an Act of Parliament the</p>	<p>knowledgeable to perform their Parliamentary functions; and</p> <p>(b) approved the deletion of paragraph (e) as it was an unnecessary restriction, and was discriminatory and would lead to lowering the quality of candidates aspiring in Parliamentary elections especially in rural areas. There were many examples of Members of Parliament who were not ordinarily resident in their Constituencies but who represented their Constituencies better than these who are physically resident there.</p> <p>The Conference also observed that it was important to provide for declaration of assets and liabilities to avoid negative propaganda against Members of Parliament who genuinely acquired wealth.</p>
--	---	--	---

	<p>an Act of Parliament the functions of which involve or are connected with the conduct of elections;</p> <p>(c) is of unsound mind;</p> <p>(d) is an undischarged bankrupt or insolvent;</p> <p>(e) is serving a sentence of imprisonment or is under a sentence of death;</p> <p>(f) has, at any time in the immediate preceding five years, served a term of imprisonment for the commission of an offence the sentence for which was a period of at least three years;</p>	<p>functions of which involve or are connected with the conduct of elections;</p> <p>(c) is of unsound mind;</p> <p>(d) is an undischarged bankrupt or insolvent;</p> <p>(e) is serving a sentence of imprisonment or is under a sentence of death;</p> <p>(f) has, at any time in the immediate preceding five years, served a term of imprisonment for the commission of an offence the sentence for which was a period of at least three years;</p> <p>(g) has been removed from public office on grounds of gross misconduct; or</p> <p>(h) has been found guilty of corruption by any court</p>	
--	---	--	--

	<p>(g) has been removed from public office on grounds of gross misconduct; or</p> <p>(h) has been found guilty of corruption by any court or tribunal.</p> <p>(3) A person holding or acting in any of the following posts or office of appointment shall not qualify for election as a member of the National Assembly:</p> <p>(a) the Defence Forces and National security agencies;</p> <p>(b) the public service;</p> <p>(c) a commission;</p> <p>(d) a statutory body or company in which the Government has a controlling interest ; or</p> <p>(e) any other post or office specified by or under an Act of Parliament.</p>	<p>or tribunal.</p> <p>(3) <b>Subject to clause (4),</b> a person holding or acting in any of the following posts or offices shall not qualify for election as a member of the National Assembly:</p> <p>(a) the Defence Force and national security agencies;</p> <p>(b) the public service;</p> <p>(c) a commission;</p> <p>(d) a statutory body or company in which the Government has a controlling interest ; or</p> <p>(e) any other post or office specified by or under an Act of Parliament.</p> <p><b>(4) A public officer shall qualify for election as a member of the National Assembly-</b></p> <p><b>(a) in the case of an officer who has</b></p>	
--	---	---	--

	<p>(4) In this Article, a reference to a sentence of imprisonment shall not include a sentence of imprisonment the execution of which is suspended or a sentence of imprisonment in default of payment of a fine.</p> <p>(5) A person shall not be disqualified under clause (2) (g) and (h) unless all possibility of appeal or review of the sentence or decision has been exhausted.</p>	<p>served for at least twenty years, if the officer retires from the post or office in less than twelve months before the date of the election; or</p> <p>(b) in the case of an officer who has served for less than twenty years, if the officer resigns from the post or office not less than twelve months before the date of the election.</p> <p>(5) A Chief shall not be qualified for election as a member of the National Assembly.</p> <p>(6) In this Article, a reference to a sentence of imprisonment shall not include a sentence of imprisonment the</p>	
--	---	--	--

		execution of which is suspended or a sentence of imprisonment in default of payment of a fine.	
<b>Article 161: Nomination for election to National Assembly</b>	<p><b>Nomination for election to National Assembly</b></p> <p>161. (1) Nominations for election to the National Assembly shall be delivered to a returning officer on a day, at a time and place specified by the Electoral Commission under an Act of Parliament.</p> <p>(2) A nomination for election to the National Assembly shall not be valid unless -</p> <p>(a) the candidate has paid the election fee specified by or under an Act of Parliament; and</p> <p>(b) in the case of a candidate for a constituency - based seat the nomination is supported by not less than nine persons registered as voters in the constituency in which the candidate is standing</p>	<p><b>Nomination for election to National Assembly</b></p> <p>145. (1) Nominations for election to the National Assembly shall be delivered to a returning officer on a day, at a time and place specified by the Electoral Commission under an Act of Parliament.</p> <p>(2) A nomination for election to the National Assembly shall not be valid unless -</p> <p>(a) the candidate has paid the election fee specified by or under an Act of Parliament; and</p> <p>(b) in the case of a candidate for a constituency-based seat, the nomination is supported by not</p>	<p>The Conference adopted the Article of the Mung'omba Draft Constitution without amendments and renumbered it as Article 145.</p> <p>The matters under Article 161 of the Mung'omba Draft Constitution were considered to be procedural.</p>

	for election.	less than nine persons registered voters in the constituency in which the candidate is standing for election.	
<b>New Article</b>		<p><b>Nominated members</b></p> <p><b>146. (1) The President may, at any time after a general election to the National Assembly and before the National Assembly is next dissolved, appoint not more than ten persons as nominated members of the National Assembly to enhance the representation in the National Assembly as regards special interests or skills.</b></p> <p><b>(2) Subject to this Article, a person may be appointed as a nominated member if the person is qualified under clause (1) of Article 146 and is not disqualified under clauses (2) and (3) of that Article, for election as an elected member.</b></p> <p><b>(3) The President shall not appoint a person as a nominated member if the person was a candidate for election in the last preceding general election or in</b></p>	The Conference decided to introduce and adopt a new Article and numbered the Article 146 to provide for the nomination of Members of Parliament by the President.

		any subsequent by-election.	
<p><b>Article 162: Tenure of office and vacation of office of member of National Assembly</b></p>	<p><b>Tenure of office and vacation of office of member of National Assembly</b></p> <p>162 (1) Every member of the National Assembly, except the Speaker and the First Deputy Speaker, shall vacate the seat in the National Assembly upon a dissolution of Parliament.</p> <p>(2) The office of member of the National Assembly becomes vacant if -</p> <ul style="list-style-type: none"> <li>(a) the member ceases to be a citizen;</li> <li>(b) the member resigns in writing addressed to the Speaker;</li> <li>(c) the member becomes disqualified for election under Article 160 (3);</li> <li>(d) the result of an election for that member is nullified by the Parliamentary Election Tribunal constituted under Article 165;</li> <li>(e) the member acts</li> </ul>	<p><b>Tenure of office and vacation of office of member of National Assembly</b></p> <p>147. (1) Every member of the National Assembly, except the Speaker, shall vacate the seat in the National Assembly upon dissolution of Parliament.</p> <p>(2) The office of member of the National Assembly becomes vacant if -</p> <ul style="list-style-type: none"> <li>(a) the member ceases to be a citizen of Zambia;</li> <li>(b) the member resigns in writing addressed to the Speaker;</li> <li>(c) the member becomes disqualified for election under Article 145 (3);</li> </ul>	<p>The Conference adopted the Article in the Mung’omba Draft Constitution with amendments and renumbered it Article 147.</p> <p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) amended paragraph (f) to provide for the sponsoring party by inserting the words “which sponsored the member” after Political Party; and</li> <li>(b) amended clauses (3), and (8)(b).</li> </ul> <p>The Conference could not reach consensus on Article 162 (8)(a) regarding a Member of the National Assembly holding a constituency based seat whose party is dissolved.</p> <p>The Conference referred the matter to a referendum to decide whether such a member should be an independent member or should lose the seat.</p>



	<p>contrary to a code of conduct provided by this Constitution or by or under an Act of Parliament;</p> <p>(f) the member resigns from the political party for which the member stood as a candidate for election to the National Assembly or resigns from a coalition of parties to which that member belongs;</p> <p>(g) having been elected to the National Assembly as an independent candidate, the member joins a political party;</p> <p>(h) the member is recalled in accordance with Article 189; and</p> <p>(i) the member dies.</p> <p>(3) A constituency-based member of the National Assembly who causes a vacancy in the Assembly due to the reasons specified under clause (2) (b), (c ), (e), (f), (g) and (h)</p>	<p>(d) the result of an election for that member is nullified by the High Court under Article 152;</p> <p>(e) the member acts contrary to a code of conduct provided by this Constitution or by or under an Act of Parliament;</p> <p>(f) the member resigns from the political party <b>which sponsored the member</b> for election to the National Assembly;</p> <p>(g) having been elected to the National</p>	
--	--	---	--

	<p>shall not be eligible to contest any direct election for the duration of the term of that Parliament.</p> <p>(4) Where a member of the National Assembly who holds a proportional representation seat causes a vacancy, in the National Assembly, due to death or resignation, that vacancy shall be filled by the next candidate on the political party's list as provided by an Act of Parliament.</p> <p>(5) Where a member of the National Assembly, who occupies a proportional representation seat, is expelled from the political party that has been allocated that seat, the seat shall be filled by the next candidate on the political party's list as provided by an Act of Parliament.</p> <p>(6) Where a member of the National Assembly, who occupies a constituency-based seat, is expelled by the political party which sponsored that member for election, the member shall not lose the seat unless the expulsion is confirmed by a court.</p> <p>(7) Where a court confirms</p>	<p>Assembly as an independent candidate, the member joins a political party; or</p> <p>(h) the member dies.</p> <p>(3) A constituency-based member of the National Assembly who causes a vacancy in the Assembly due to the reasons specified under clause (2) (b), (c ), (e), (f) <b>and (g)</b> shall not be eligible, <b>for the duration of the term of that Parliament-</b></p> <p>(a) to contest election or</p> <p>(b) for nomination, by the President, as a member of the National Assembly.</p> <p>(4) Where a member of the National Assembly who holds a proportional representation seat causes a vacancy, in the National Assembly, due to death or</p>	
--	--	---	--

	<p>the expulsion of a member who occupies a constituency-based seat, a by-election shall be held to fill the vacancy.</p> <p>(8) If a political party is dissolved -</p> <p>(a) a member holding a constituency-based seat shall retain the seat as an independent member; and</p> <p>(b) a member holding a proportional representation-seat shall cease to be a member and the party shall lose the seat which seat shall be re-allocated to another political party based on the next highest national aggregate vote obtained by that party in relation to the other parties who contested the election.</p> <p>(9) The creation or dissolution of a coalition of parties of which a member's political party</p>	<p>resignation, that vacancy shall be filled by the next candidate on the political party's list as provided by an Act of Parliament.</p> <p>(5) Where a member of the National Assembly, who occupies a proportional representation seat, is expelled from the political party that has been allocated that seat, the seat shall be filled by the next candidate on the political party's list as provided by an Act of Parliament.</p> <p>(6) Where a member of the National Assembly, who occupies a constituency-based seat, is expelled by the political party which sponsored that member for election, the member shall not lose the seat unless the expulsion is confirmed by a court.</p> <p>(7) Where a court confirms the expulsion of a member who occupies a constituency-based seat, a by-election shall be held to fill the vacancy.</p> <p>(8) <i>If a political party is dissolved -</i></p>	
--	---	---	--

	<p>forms part of, or a merger of two or more parties does not amount to a member resigning from the party for the purposes of clause (2)(f).</p>	<p>(a) <i>a member holding a constituency-based seat shall retain the seat as an independent member; and</i></p> <p>(b) a member holding a proportional representation-seat shall cease to be a member and the party shall lose the seat which seat shall be re-allocated to another political party <b>as provided by or under an Act of Parliament.</b></p> <p>(9) The creation or dissolution of a coalition of parties of which a member's political party forms part of, does not amount to a member resigning from the party for</p>	
--	--	--	--

		the purposes of paragraph (f) of clause (2).	
<b>New Article</b>		<p><b>Removal of Nominated Member</b></p> <p><b>148. The President may, at any time, terminate the appointment of any nominated member appointed under Article 147 and appoint another person in that member's stead.</b></p>	The Conference introduced and adopted a new Article and numbered it Article 148 to provide for the removal of a nominated Member of Parliament and to avoid creating a <i>lacuna</i> regarding the tenure of office of a nominated member.
<b>Article 163: Vacancies and by-elections for National Assembly</b>	<p><b>Vacancies and by-elections for National Assembly</b></p> <p>163. (1) Where a vacancy occurs in the office of a member of the National Assembly, as specified under Article 162 (2) and (3), the Speaker shall, within seven days of the occurrence of the vacancy, inform, in writing, the Electoral Commission of the vacancy.</p> <p>(2) Where a vacancy occurs for a constituency-based seat as specified under Article 162 and subject to Article 100 (3), a by-election shall be held within ninety days of the occurrence of the vacancy.</p>	<p><b>Vacancies and by-elections for National Assembly</b></p> <p>149. (1) Where a vacancy occurs in the office of a member of the National Assembly, as specified under clauses (2) and (3) of Article 148, the Speaker shall, within seven days of the occurrence of the vacancy, inform, in writing, the Electoral Commission of the vacancy.</p> <p>(2) Where a vacancy occurs for a constituency-based seat as specified under Article 148 and subject to Clause (2) of Article 85, a by-election</p>	<p>The Conference adopted Article 163 of the Mung'omba Draft Constitution without amendments and renumbered it as Article 149.</p> <p>The Conference was of the view that Article 163 provided for a matter of procedure.</p>

		shall be held within ninety days of the occurrence of the vacancy.	
<b>Article 164: Emoluments of Members</b>	<p><b>Emoluments of Members</b></p> <p><b>164.</b> (1) A member of the National Assembly shall be paid emoluments and provided with facilities as recommended by the Emoluments Commission and specified in or by an Act of Parliament.</p> <p>(2) The emoluments paid to, and the funds provided for facilities for, a member of the National Assembly shall be a charge on the Consolidated Fund.</p>	<p><b>Emoluments of Members</b></p> <p>150. (1) A member of the National Assembly shall be paid emoluments and provided with facilities as determined by the <b>Parliamentary Service Commission</b> and specified by or under an Act of Parliament.</p> <p>(2) The emoluments paid to, and the funds provided for facilities for, a member of the National Assembly, shall be a charge on the <b>National Treasury Account</b>.</p>	<p>The Conference adopted the Article in the Mung’omba Draft Constitution with minor amendments and renumbered it as Article 150 as follows:</p> <p>The Conference substituted the name “Emoluments Commission” with the term “Parliamentary Service Commission” proposed under Article 192 of Mung’omba Draft Constitution.</p> <p>The Conference also replaced the name “Consolidated Fund” with “National Treasury Account”.</p>
<b>Article 165: Parliamentary Election Tribunal</b>	<p><b>Parliamentary Election Tribunal</b></p> <p>165. (1) A person may file an election petition to challenge the election of a candidate as a member of the National Assembly.</p> <p>(2) The Chief Justice shall, for purposes of hearing and determining any question whether -</p> <p>(a) any person was validly</p>	<p><b>Determination of Questions as to Membership of National Assembly</b></p> <p>151. (1) The High Court shall have power to hear and determine any question whether -</p> <p><b>(a) any person has been validly elected or nominated as member of the National Assembly or the seat of any member has become vacant;</b></p>	<p>The Conference decided to adopt Article 72 of the current Constitution with amendments renumbered it as Article 151 and re-titled it as “Determination of Questions as to Membership of National Assembly” as it was more relevant.</p>

	<p>elected as a member of the National Assembly; or</p> <p>(b) the seat of any member has become vacant; constitute an <u>ad hoc</u> Parliamentary Election Tribunal.</p> <p>(3) A Parliamentary Election Tribunal shall consist of -</p> <p>(a) a Judge of the High Court as Chairperson; and</p> <p>(b) four other persons who have held the office of, or are qualified to be appointed as, Judges of the High Court.</p> <p>(4) A Parliamentary Election Tribunal shall, within ninety days of the lodging of an election petition, hear and determine the petition.</p> <p>(5) A decision of the Parliamentary Election Tribunal shall be final and the Tribunal shall stand dissolved on the determination of the election petition.</p>	<p><b>and</b></p> <p><b>(b) any person has been validly elected as Speaker or Deputy Speaker of the National Assembly or, having been so elected, has vacated the office of Speaker or Deputy Speaker.</b></p> <p><b>(2) An appeal from the determination of the High Court under this Article shall lie to the Supreme Court:</b></p> <p><b>Provided that an appeal shall lie to the Supreme Court from any determination of the High Court on any question of law including the interpretation of this Constitution.</b></p> <p><b>(3) The High Court shall, within ninety days of the lodging of an election petition, hear and determine the petition.</b></p>	<p>The Conference rejected the establishment of the ad hoc Parliamentary Election Tribunal as it was bound to lengthen the process of determining membership of National Assembly.</p> <p>Aggrieved persons could not legitimately be prevented from appealing to the High Court.</p> <p>The Conference decided that the High Court should continue to determine election petitions.</p>
--	--	--	--

	(6) The expenses of a Parliamentary Election Tribunal shall be a charge on the Consolidated Fund.		
<b>Article 166: Speaker and Deputy Speakers of National Assembly</b>	<p><b>Speaker and Deputy Speakers of National Assembly</b></p> <p>166. (1) There shall be a Speaker of the National Assembly who shall be elected by the members of the National Assembly.</p> <p>(2) A person is qualified to be a candidate for election as Speaker of the National Assembly if that person -</p> <ul style="list-style-type: none"> <li>(a) is a citizen by birth or descent;</li> <li>(b) does not have dual citizenship;</li> <li>(c) has been ordinarily resident in Zambia for a continuous period of ten years immediately preceding the election;</li> <li>(d) is not less than forty-five years of age;</li> <li>(e) has obtained, as a minimum academic</li> </ul>	<p><b>Speaker and Deputy Speakers of National Assembly</b></p> <p>152. (1) There shall be a Speaker of the National Assembly who shall be elected by the members of the National Assembly.</p> <p>(2) A person is qualified to be a candidate for election as Speaker of the National Assembly if that person -</p> <ul style="list-style-type: none"> <li>(a) is a citizen <b>of Zambia</b> by birth or descent;</li> <li>(b) does not have dual citizenship;</li> <li>(c) has been ordinarily resident in Zambia for a continuous period of <b>five years</b> immediately preceding the election;</li> <li>(d) is not less than forty-five years of age;</li> <li>(e) has obtained, as a minimum</li> </ul>	<p>The Conference adopted Article 166 of the Mung'omba Draft Constitution with amendments and renumbered it article 152.</p> <p>The amendment was meant;</p> <ul style="list-style-type: none"> <li>(a) to provide for the Speaker and the Deputy Speaker to have the necessary qualifications and to have some Parliamentary experience.</li> <li>(b) insert the word "all" in clause 8(c).</li> <li>(c) to replace the term "Consolidated Fund" with the term "National Treasury Account." as a consequential amendment in Clause</li> </ul>



	<p>qualification, a grade twelve certificate or its equivalent;</p> <p>(f) declares that person's assets and liabilities as provided by this Constitution and by or under an Act of Parliament; and</p> <p>(g) is not a member of the National Assembly.</p> <p>(3) There shall be two Deputy Speakers of the National Assembly -</p> <p>(a) one of whom shall be elected by the members of the Assembly, from among persons who are qualified to be elected as members of the Assembly but are not members of the Assembly, as First Deputy Speaker;</p> <p>(b) one of whom shall be elected by the members of the National</p>	<p>qualification, a <b>bachelor's degree</b> or its equivalent <b>from a recognised university or institution;</b></p> <p>(f) declares that person's assets and</p> <p>(g) liabilities as provided by this Constitution and by or under an Act of Parliament; and</p> <p>(h) is not a member of the Assembly.</p> <p><b>(3) A person does not qualify for election as Speaker of the National Assembly if that person-</b></p> <p>(a) <b>holds, or is validly nominated as a candidate in an election for, the office of President;</b></p> <p>(b) <b>holds or is acting in any office that is specified by an Act of Parliament the functions of which involve or are connected with the conduct of elections;</b></p>	<p>(9).</p> <p>(d) to provide for the academic qualification of a degree which the Conference decided was needed for the office of Speaker.</p> <p>(e) to provide for the two Deputy Speakers to be elected from amongst members of the National Assembly.</p>
--	--	---	--

	<p>Assembly, from among their number, as Second Deputy Speaker; and</p> <p>(c) both of whom are not members of the same political party and of the same gender.</p> <p>(4) The members of the National Assembly shall elect a person to the office of Speaker and First and Second Deputy Speakers -</p> <p>(a) when the Assembly first sits after any dissolution of Parliament; and</p> <p>(b) if any of those offices become vacant, otherwise than by reason of the dissolution of Parliament, at the first sitting of the Assembly after the office becomes vacant.</p> <p>(5) The office of Speaker and First Deputy Speaker shall become vacant -</p> <p>(a) when a new National Assembly first sits after a general election;</p>	<p>(c) is of unsound mind;</p> <p>(d) is an un discharged bankrupt or insolvent;</p> <p>(e) is serving a sentence of imprisonment or is under a sentence of death;</p> <p>(f) has, at any time in the immediate preceding five years, served a term of imprisonment for the commission of an offence the sentence for which was a period of at least three years;</p> <p>(g) has been removed from public office on grounds of gross misconduct; or</p> <p>(h) has been found guilty of corruption by any court or tribunal.</p> <p>(4) There shall be two Deputy Speakers of the National Assembly, <b>both of whom shall be elected by the members of the National Assembly from among their number, as First and Second Deputy Speaker, respectively.</b></p>	
--	---	--	--

	<p>(b) if the office holder becomes disqualified under Article 160 (2);</p> <p>(c) if the National Assembly resolves, by a resolution supported by the votes of not less than two-thirds of its members, to remove the Speaker or First Deputy Speaker on any of the following grounds:</p> <p style="padding-left: 40px;">(i) violation of this Constitution;</p> <p style="padding-left: 40px;">(ii) incapacity to discharge the duties of the office of Speaker or First Deputy Speaker due to infirmity of body or mind; or</p> <p style="padding-left: 40px;">(iii) misconduct;</p> <p>(d) if the office holder dies; or</p> <p>(e) if the office holder resigns from office in a letter addressed to the</p>	<p><b>(5) The two Deputy Speakers of the National Assembly.</b></p> <p><b>(a) shall be persons of opposite gender; and</b></p> <p><b>(b) shall not, where the Deputy Speakers are elected from among the political parties or coalition of political parties represented in the National Assembly, both belong to the same political party or coalition of political parties.</b></p> <p><b>(6) Subject to clause (7),</b> the members of the National Assembly shall elect a person to the office of Speaker and First and Second Deputy Speakers -</p> <p><b>(a) when the Assembly first sits after any dissolution of Parliament; and</b></p>	
--	--	--	--

	<p>President.</p> <p>(6) The Speaker and the First and Second Deputy Speakers shall be elected by a secret vote.</p> <p>(7) The Speaker and the First Deputy Speaker shall retire at the age of seventy-five years.</p> <p>(8) When the offices of Speaker and Deputy Speakers become vacant, business shall not be transacted in the National Assembly, other than an election to the offices of Speaker and Deputy Speakers.</p> <p>(9) The Speaker and the Deputy Speakers shall be entitled to emoluments recommended by the Emoluments Commission and specified in an Act of Parliament.</p> <p>(10) The emoluments of the Speaker and Deputy Speakers shall be a charge on the Consolidated Fund.</p>	<p>(b) if any of those offices become vacant, otherwise than by reason of the dissolution of Parliament, at the first sitting of the Assembly after the office becomes vacant.</p> <p><b>(7) A person elected as Speaker and first and second Deputy Speakers shall be conversant with the practices and Procedures of Parliament.</b></p> <p><b>(8) The office of Speaker shall become vacant -</b></p> <p>(a) when a new National Assembly first sits after a general election;</p> <p>(b) if the office holder becomes disqualified under Clause (3);</p> <p>(c) if the National Assembly resolves, by a resolution supported by the votes of not less than two</p>	
--	---	--	--

		<p>thirds of <b>all</b> its members, to remove the Speaker on any of the following grounds:</p> <ul style="list-style-type: none"> <li>(i) violation of this Constitution;</li> <li>(ii) incapacity to discharge the duties of the office of Speaker or First Deputy Speaker due to infirmity of body or mind; or</li> <li>(iii) misconduct;</li> </ul> <p>(d) if the office holder dies;</p> <p>(e) if the office holder resigns from office in a letter addressed to the President; or</p> <p>(f) if the office holder retires from office.</p> <p>(9) The office of the First Deputy Speaker and the Second Deputy Speaker shall become vacant-</p>	
--	--	--	--

		<ul style="list-style-type: none"> <li>(a) if the office holder becomes disqualified under paragraphs (c) to (h) of clause (2) of Article 145 ;</li> <li>(b) if the office holder ceases to be a member of the National assembly;</li> <li>(c) if the office holder assumes the office of President or becomes the Vice-President, a Minister, a Deputy Minister or holds or acts in any office prescribed in that behalf by or under an Act of Parliament;</li> <li>(d) if the National</li> </ul>	
--	--	---	--

		<p>Assembly resolves that the office holder should be removed from office;</p> <p>(e) if the office holder dies; or</p> <p>(f) if the office holder resigns from office in a letter addressed to the President.</p> <p>(10) The Speaker and the First and Second Deputy Speakers shall be elected by a secret vote.</p> <p>(11) When the offices of Speaker and Deputy Speakers become vacant, business shall not be transacted in the National Assembly, other than an election to the offices of Speaker and Deputy Speakers.</p> <p>(12) The Speaker and the Deputy Speakers shall be entitled to emoluments recommended by the <b>Parliamentary Service Commission</b></p>	
--	--	--	--

		<p>and specified in an Act of Parliament.</p> <p><b>(13)</b> The emoluments of the Speaker and Deputy Speakers shall be a charge on the <b>National Treasury Account.</b></p> <p><b>(14)</b> In this Article, a reference to a sentence of imprisonment does not include a sentence of imprisonment the execution of which is suspended or a sentence in default of payment of a fine.</p>	
<b>Article 167: Presiding in National Assembly</b>	<p><b>Presiding in National Assembly</b></p> <p>167. There shall preside at any sitting of the National Assembly -</p> <ul style="list-style-type: none"> <li>(a) the Speaker;</li> <li>(b) in the absence of the Speaker, the First Deputy Speaker;</li> <li>(c) in the absence of the First Deputy Speaker, the Second Deputy Speaker; or</li> <li>(d) in the absence of the Speaker and both Deputy Speakers any other member of the</li> </ul>	<p><b>Presiding in National Assembly</b></p> <p><b>153</b> There shall preside at any sitting of the National Assembly -</p> <ul style="list-style-type: none"> <li>(a) the Speaker;</li> <li>(b) in the absence of the Speaker, the First Deputy Speaker;</li> <li>(c) in the absence of the First Deputy Speaker, the Second Deputy Speaker; or</li> <li>(d) in the absence of the Speaker and both Deputy Speakers any other member of the National</li> </ul>	<p>The Conference adopted Article 167 of the Mung'omba Draft Constitution without amendment and renumbered it Article 153.</p> <p>The Conference decided that the provisions under Article 167 were a matter of procedure.</p>



	National Assembly as the Assembly may elect for that sitting.	Assembly as the Assembly may elect for that sitting.	
<b>Article 168: Leader of Opposition</b>	<p><b>Leader of Opposition</b></p> <p>168. (1) The opposition political party with the largest number of seats in the National Assembly or a coalition of opposition political parties in the Assembly shall elect, from amongst the members of the Assembly, the leader of the opposition, except that where an opposition political party has formed a coalition with the party in Government a member of the National Assembly of that political party shall not be eligible for election as the leader of the opposition.</p> <p>(2) The Standing Orders of the National Assembly shall provide for the effective participation in the Assembly of the leader of the opposition.</p>	<p><b>Leader of Opposition</b></p> <p>154. (1) Subject to clause (2), the opposition political party with the largest number of seats in the National Assembly or a coalition of opposition political parties in the Assembly shall elect, from amongst the members of the Assembly, the leader of the opposition, except that where an opposition political party has formed a coalition with the party in Government a member of the National Assembly of that political party shall not be eligible for election as the leader of the opposition.</p> <p><b>(2) Clause (1) does not apply where the opposition political party or coalition of opposition political parties in the National Assembly holds less than one-third of the total number of seats in the National Assembly.</b></p> <p>(3) The Standing Orders of the National Assembly shall provide for the effective</p>	<p>The Conference adopted Article 168 in the Mung'omba Draft Constitution with Amendments and renumbered it Article 154.</p> <p>The Conference introduced a new clause (2) to provide that where the largest opposition or coalition of parties hold less than one-third (<math>\frac{1}{3}</math>) of the number of seats, then no Member of Parliament from the opposition would qualify to be elected Leader of Opposition.</p>

		participation in the Assembly of the leader of the opposition.	
<b>Article 169: Clerk of National Assembly</b>	<p><b>Clerk of National Assembly</b></p> <p>169. (1) There shall be a Clerk of the National Assembly who shall be appointed by the Parliamentary Service Commission, subject to ratification by the National Assembly.</p> <p>(2) A person shall not be appointed Clerk of the National Assembly unless that person is at least forty-five years of age and has the academic qualifications, experience and skills specified by an Act of Parliament.</p> <p>(3) Subject to clause (4), the Clerk of the National Assembly shall retire on attaining the age of sixty-five years.</p> <p>(4) The National Assembly may, by a resolution supported by the votes of not less than two-thirds of all the members of the Assembly, remove the Clerk of the National Assembly on the same grounds that apply to the removal of a Judge of a superior court.</p>	<p><b>Clerk of National Assembly</b></p> <p>155 (1) There shall be a Clerk of the National Assembly who shall be appointed by the Parliamentary Service Commission, subject to ratification by the National Assembly.</p> <p>(2) A person shall not be appointed Clerk of the National Assembly unless that person has the academic qualifications, experience and skills specified by an Act of Parliament.</p> <p>(3) Subject to clause (4), the Clerk of the National Assembly shall retire on attaining the age of sixty-five years.</p> <p>(4) The National Assembly may, by a resolution supported by the votes of not less than two-thirds of all the members of the Assembly, remove the Clerk of the National Assembly <b>in accordance with the procedures</b></p>	<p>The Conference adopted Article 169 in the Mung’omba Draft Constitution with amendments and renumbered it Article 155.</p> <p>The Conference was of the view that the nature of the office of the Clerk of National Assembly was different from that of a Judge.</p> <p>The Conference therefore, agreed that the procedure for removal of the Clerk be different and be provided in subordinate legislation.</p> <p>The Conference accordingly amended Clause (4).</p>

		<b>laid down in an Act of Parliament.</b>	
<b>Article 170: Exercise of legislative power</b>	<p><b>Exercise of legislative power</b></p> <p>170. (1) Parliament shall enact legislation through Bills passed by the National Assembly and assented to by the President.</p> <p>(2) Any member of the National Assembly or a member of the Cabinet may introduce Bills in the National Assembly.</p> <p>(3) The expenses of drafting and introducing a Bill under clause (2) shall be a charge on the Consolidated Fund and a member of the National Assembly shall not be required to pay for any expenses attaching to the drafting of the Bill and introduction and passage of the Bill in the National Assembly.</p> <p>(4) A Bill that would confer a pecuniary benefit on members of the National Assembly, the President, Vice-President, a Minister, Provincial Minister or Deputy Minister shall not be introduced in the National Assembly unless it has been recommended by the Emoluments</p>	<p><b>Exercise of legislative power</b></p> <p>156 (1) Parliament shall enact legislation through Bills passed by the National Assembly and assented to by the President.</p> <p>(2) Any member of the National Assembly or a member of the Cabinet may introduce Bills in the National Assembly.</p> <p>(3) The expenses of enacting Government Bill or Private Member's Bill shall be a charge on the <b>National Treasury Account</b> and a member of the National Assembly shall not be required to pay for any expenses attaching to the <b>Introduction and passage</b> of the Bill in the National Assembly.</p> <p>(4) A Bill that would confer a pecuniary benefit on members of the National Assembly, the President, Vice-President, a Minister, Provincial Minister or Deputy Minister shall not be introduced in the National Assembly unless it has been</p>	<p>The Conference adopted Article 170 with amendments and renumbered it Article 156.</p> <p>Under Clause (3) the Conference decided that the cost of enacting a Government Bill or a Private Member's Bill would be borne by the Government.</p> <p>This was intended to enhance the power of the legislature.</p>

	<p>Commission.</p> <p>(5) A Bill introduced in the National Assembly shall be -</p> <p>(a) accompanied by an explanatory memorandum, signed by the proposer or the Attorney-General, if the Bill has been initiated by the Government, outlining -</p> <p>(i) the objectives of the proposed legislation;</p> <p>(ii) any Bill of Rights limitation, derogation or any other constitutional implication;</p> <p>(iii) any relevant provisions of Part III that have been taken into account;</p> <p>(iv) any public consultation undertaken during the preparation of the Bill;</p> <p>(b) any further public consultation that is recommended before the Bill is enacted; and</p> <p>(c) any other matter relevant to the Bill; and</p> <p>(d) published in the <i>Gazette</i> at least fourteen days before the date of its introduction in the Assembly,</p>	<p>recommended by the <b>Parliamentary Service Commission.</b></p> <p><b>(5) For the purposes of this Article, unless the context otherwise requires-</b></p> <p><b>“Government Bill” means a bill introduced to the National Assembly by a Government Minister and which affects the public as a whole; and</b></p> <p><b>“Private Member’s Bill” means a bill introduced to the National Assembly by a member who is not a government minister and which affects the public as a whole.</b></p>	
--	---	---	--

	<p>unless due to the urgency of the matter, the Speaker otherwise determines.</p> <p>(6) After a Bill is read the first time in the National Assembly it shall be referred to a standing committee of the Assembly which shall examine the Bill in detail and make inquiries in relation to it as the committee considers expedient or necessary.</p> <p>(7) A Bill that has been deliberated upon by a standing committee shall be reported to the National Assembly which shall debate the Bill and procedurally pass the Bill, with or without amendments, or reject the Bill.</p> <p>(8) A Bill that has been referred to a standing committee under clause (5) shall not be held at that committee for more than sixty days.</p>		
<p><b>Article 171: Retrospective Legislation</b></p>	<p><b>Retrospective Legislation</b> Parliament may make laws with retrospective effect but does not have the power to enact any law which operates retrospectively to impose any</p>	<p><b>Retrospective Legislation</b> Article 157 Parliament may make laws with retrospective effect <b>for the purpose of conferring a benefit or advantage but does not have the</b></p>	<p>The Conference adopted Article 171 with amendments and renumbered it Article 157. This was in order to make it more explicit that any retrospective</p>

	limitations on, or to adversely affect the personal rights and freedoms of, any person or to impose a burden, liability or an obligation on any person.	<b>power</b> to enact any law which operates retrospectively to impose any limitations on, or to adversely affect the personal rights and freedoms of, any person or to impose a burden, liability or an obligation on any person.	legislation could only be enacted to confer a benefit or advantage.
<b>Article 172: Money Bills</b>	<p><b>Money Bills</b></p> <p>172. (1) A Money Bill shall only be introduced by a Minister.</p> <p>(2) In this Part "Money Bill" includes a Bill that provides for -</p> <ul style="list-style-type: none"> <li>(a) the imposition, repeal, remission, alteration or regulation of taxes;</li> <li>(b) the imposition of charges on the Consolidated Fund or any other public fund or the variation or repeal of any of those charges;</li> <li>(c) the appropriation, receipt, custody, investment, issue or audit of accounts of public moneys;</li> <li>(d) the grant of moneys to any person or authority</li> </ul>	<p><b>Money Bills</b></p> <p>158. (1) A Money Bill shall only be introduced by a Minister.</p> <p>(2) In this Part "Money Bill" includes a Bill that provides for -</p> <ul style="list-style-type: none"> <li>(a) the imposition, repeal, remission, alteration or regulation of taxes;</li> <li>(b) the imposition of charges on the <b>National Treasury Account</b> or any other public fund or the variation or repeal of any of those charges;</li> </ul>	The Conference adopted Article 172 in the Mung'omba Draft Constitution with minor amendments and renumbered it Article 158. The amendment was meant to substitute the term "Consolidated Fund" with "National Treasury Account" in clause (2)(b).

	<p>or the variation or revocation of the grant of public moneys;</p> <p>(e) the raising or guaranteeing of any loan or the repayment of it; or</p> <p>(f) subordinate matters incidental to any of the matters specified under this clause.</p>	<p>(c) the appropriation, receipt custody, investment, issue or audit of accounts of public moneys;</p> <p>(d) the grant of moneys to any person or authority or the variation or revocation of the grant of public moneys;</p> <p>(e) the raising or guaranteeing of loan or the repayment of any it; or</p> <p>(f) subordinate matters incidental to any of the matters specified under this clause.</p>	
--	---	--	--

<p><b>Article 173: Presidential assent and referral</b></p>	<p><b>Presidential assent and referral</b></p> <p>173. (1) Where a Bill is presented to the President for assent the President shall, within twenty-one days after receipt of the Bill -</p> <ul style="list-style-type: none"> <li>(a) assent to the Bill; or</li> <li>(b) refer the Bill back to the Speaker for re-consideration by the National Assembly, indicating any reservation that the President has concerning the Bill.</li> </ul> <p>(2) If the President refers the Bill back for re-consideration by the National Assembly, the Assembly may -</p> <ul style="list-style-type: none"> <li>(a) amend the Bill in the light of the President's reservations; or</li> <li>(b) pass the Bill a second time, without amendment, by a vote supported</li> </ul>	<p><b>Presidential assent and referral</b></p> <p>159. (1) Where a Bill is presented to the President for assent the President shall, within twenty-one days after receipt of the Bill -</p> <ul style="list-style-type: none"> <li>(a) assent to the Bill; or</li> <li>(b) refer the Bill back to the Speaker for reconsideration by the National Assembly, indicating any reservation that the President has concerning the Bill.</li> </ul> <p><b>(2) If the President refers the Bill back for reconsideration by the National Assembly, the Assembly may pass the Bill a second time, with or without amendment, by a vote supported by at least two-thirds of all of the members of the National Assembly.</b></p> <p>(3) If the National</p>	<p>The Conference adopted Article 173 in the Mung'omba Draft Constitution with amendments and renumbered it Article 159. The amendments were as follows:</p> <ul style="list-style-type: none"> <li>(a) to compel the President to give assent within 14 days under clause (4)(b) failure to which the Bill would be taken to have been assented to; and</li> <li>(b) the principle of compelling the President to assent was agreed by the Conference as preferable to either "killing the Bill" or "killing the National Assembly and the President" by dissolution of Parliament.</li> <li>(c) introduction of a new clause (8) to provide for a declaration of a bill as unconstitutional by a Constitutional Court. The amendment in clause (8) was intended to make the</li> </ul>
---	---	---	--



	<p>by at least two-thirds of all of the members of the National Assembly.</p> <p>(3) If the National Assembly amends the Bill, in the light of the President's reservation, the Speaker shall submit the Bill to the President for assent.</p> <p>(4) If the National Assembly, after considering the President's reservation, passes the Bill a second time by a vote supported by two-thirds of all of the members of the National Assembly, without amending the Bill -</p> <p>(a) the Speaker shall within seven days re-submit it to the President; and</p> <p>(b) the President shall within seven days assent to the Bill; unless the President's</p>	<p>Assembly passes the Bill, with amendments, in the light of the President's reservation, the Speaker shall submit the Bill to the President for assent.</p> <p>(4) If the National Assembly, after considering the President's reservation, passes the Bill a second time by a vote supported by two-thirds of all of the members of the National Assembly, without amending the Bill -</p> <p>(a) the Speaker shall within seven days re-submit it to the President; and</p> <p>(b) the President shall within <b>fourteen days</b> assent to the Bill; unless the President's reservation is on a question of the constitutionality of the Bill, in which case the President shall refer the Bill to the Constitutional Court whose decision on the matter shall be final.</p> <p>(5) If the National</p>	<p>provisions more complete.</p>
--	--	---	----------------------------------

	<p>reservation is on a question of the constitutionality of the Bill, in which case the President shall refer the Bill to the Constitutional Court whose decision on the matter shall be final.</p> <p>(5) If the National Assembly fails to pass the Bill for a second time as required under (2) (b) the Bill shall not again be presented for assent.</p> <p>(6) If the President refuses or fails to assent to a Bill, within the periods prescribed in clauses (1) and (4), without further action being taken in accordance with those clauses, the Bill shall be taken to have been</p>	<p>Assembly fails to pass the Bill for a second time as required under clause (2), the Bill shall not again be presented <b>to the National Assembly in that session of the National Assembly.</b></p> <p>(6) If the President refuses or fails to assent to a Bill, within the periods prescribed in clauses (1) and (4), without further action being taken in accordance with those clauses, the Bill shall be taken to have been assented to upon the expiration of those periods.</p> <p>(7) Subject to Article 161, where thirty or more members of the National Assembly or any person, with leave of the Constitutional Court, challenges a Bill on a question of the constitutionality of the Bill, the President shall not assent to the Bill until the Constitutional Court has determined the matter.</p> <p><b>(8) If the Constitutional Court determines that a bill is constitutional, the President shall assent to the bill within seven days of the decision of the Court.</b></p>	
--	--	--	--

	<p>assented to upon the expiration of those periods.</p> <p>(7) Subject to Article 174, where thirty or more members of the National Assembly or any person, with leave of the Constitutional Court, challenges a Bill on a question of the constitutionality of the Bill, the President shall not assent to the Bill until the Constitutional Court has determined the matter.</p>		
<p><b>Article 174: Challenge of Bill and reference to Constitutional Court</b></p>	<p><b>Challenge of Bill and reference to Constitutional Court</b></p> <p>174. (1) Thirty or more members of the National Assembly or any person, with leave of the Constitutional Court, may challenge a Bill for its constitutionality within three days after the final reading of the Bill in the Assembly.</p> <p>(2) Where the Constitutional Court considers that a challenge of a Bill under this Article is frivolous or vexatious, the Court shall not decide further on the question as to whether the Bill would be or is inconsistent with this Constitution</p>	<p><b>Challenge of Bill and reference to Constitutional Court</b></p> <p>160. (1) Thirty or more members of the National Assembly or any person, with leave of the Constitutional Court, may challenge a Bill for its constitutionality within three days after the final reading of the Bill in the Assembly.</p> <p>(2) Where the Constitutional Court considers that a challenge of a Bill under this Article is frivolous or vexatious, the Court shall not decide further on the question as to whether the Bill would be or is inconsistent with this</p>	<p>The Conference adopted Article 174 with an amendment and renumbered it Article 160.</p> <p>The Conference decided that challenging the Bill in the Constitutional Court did not amount to judicial involvement in the legislative process.</p>

	<p>and shall dismiss the action.</p> <p>(3) Where the Constitutional Court determines that any provision of a Bill would be or is inconsistent with any provision of this Constitution the Court shall so inform the Speaker and the President.</p> <p>(4) Nothing in clauses (1), (2) and (3) shall apply to a Money bill or a Bill containing only proposals for amending this Constitution or the Constitution of Zambia Act.</p> <p>(5) The Standing Orders of the National Assembly shall provide for the procedure to be followed by members who intend to challenge a Bill.</p>	<p>Constitution and shall dismiss the action.</p> <p>(3) Where the Constitutional Court determines that any provision of a Bill would be or is inconsistent with any provision of this Constitution the Court shall <b>declare the provision unconstitutional</b> and inform the Speaker and the President.</p> <p>(4) Nothing in clauses (1), (2) and (3) shall apply to a Money bill or a Bill containing only proposals for amending this Constitution or the Constitution of Zambia Act.</p> <p>(5) The Standing Orders of the National Assembly shall provide for the procedure to be followed by members who intend to challenge a Bill.</p>	<p>Under clause (3) the Conference provided for the Constitutional Court to actually declare a provision unconstitutional.</p>
<p><b>Article 175: Coming into</b></p>	<p><b>Coming into force of laws</b> 175. A Bill passed by the National</p>	<p><b>Coming into force of laws</b> 161 A Bill passed by the National</p>	<p>The Conference adopted the Article without amendments</p>

<p><b>force of laws</b></p>	<p>Assembly and assented to by the President -</p> <p>(a) shall be published in the <i>Gazette</i> within seven days of the assent; and</p> <p>(b) shall come into force on the fourteenth day after its publication in the <i>Gazette</i> unless the Act otherwise provides.</p>	<p>Assembly and assented to by the President -</p> <p>(a) shall be published in the <i>Gazette</i> within seven days of the assent; and</p> <p>(b) shall come into force on the fourteenth day after its publication in the <i>Gazette</i> unless the Act otherwise provides.</p>	<p>and renumbered it Article 161</p>
<p><b>Article 176: Acts of Parliament and enactment clause</b></p>	<p><b>Acts of Parliament and enactment clause</b></p> <p>176. All laws enacted by Parliament shall be styled "Acts" and the words of enactment shall be "Enacted by the Parliament of Zambia."</p>	<p><b>Acts of Parliament and enactment clause</b></p> <p><b>162</b> All laws enacted by Parliament shall be styled "Acts" and the words of enactment shall be "Enacted by the Parliament of Zambia."</p>	<p>The Conference adopted Article 176 without amendments and renumbered it Article 162.</p>
<p><b>Article 177 -Right to petition and make comments</b></p>	<p><b>Right to petition and make comments</b></p> <p>177. (1) Every person has a right to petition Parliament to enact, amend</p>	<p><b>Right to petition and make comments</b></p> <p>163. (1) Every citizen of Zambia has a right to petition Parliament to</p>	<p>The Conference adopted Article 177 with amendments and renumbered it Article 163.</p>

	<p>or repeal any legislation.</p> <p>(2) Every citizen may make any comment on the deliberations, statements and decisions of the National Assembly.</p>	<p>enact, amend or repeal any legislation.</p> <p>(2) Every citizen may make any comment on the deliberations, statements and decisions of the National Assembly.</p>	<p>The Conference replaced words “every person” with the words “every citizen” to reserve the right to petition to citizens.</p>
<p><b>Article 178:</b> <b>Quorum</b></p>	<p><b>Quorum</b> 178. The quorum for a meeting of the National Assembly shall be one-third of all the members of the Assembly.</p>	<p><b>Quorum</b> 164. The quorum for a meeting of the National Assembly shall be one-third of all the members of the Assembly.</p>	<p>The Conference adopted Article 178 without amendments and renumbered it Article 164.</p>
<p><b>Article 179:</b> <b>Voting in National Assembly</b></p>	<p><b>Voting in National Assembly</b> 179. (1) Except as otherwise provided in this Constitution, any question proposed for decision in the National Assembly shall be determined by a majority of the members present and voting. (2) Except as provided under Article 125 (5), on a question proposed for decision in the National Assembly - (a) the Speaker shall have no vote; and</p>	<p><b>Voting in National Assembly</b> 165. (1) Except as otherwise provided in this Constitution, any question proposed for decision in the National Assembly shall be determined by a majority of the members present and voting. (2) Except as provided under Article 111 (5), on a question proposed for decision in the National Assembly <b>the Speaker shall have no vote in the first instance, but in the case of a tie, the Speaker shall have the casting vote.</b></p>	<p>The Conference adopted Article 179 with amendments and renumbered it Article 165. Under Clause (2) the Conference decided that the Speaker be allowed a casting vote in the case of a tie on a question proposed for decision in the National Assembly.</p>

	(b) in the case of a  tie the question  shall be lost.		
<b>Article 180: Procedure and committees of National Assembly</b>	<b>Procedure and committees of National Assembly</b>  180. (1) The National Assembly may - (a) regulate its own procedure and shall make Standing Orders for the orderly conduct of its proceedings; and (b) establish standing committees and any other committee in the manner and for the general or special purposes that it considers necessary and shall regulate the procedure of any committee established under this Article.  (2) The standing committees of the National Assembly	<b>Procedure and committees of National Assembly</b>  166. (1) The National Assembly may - (a) regulate its own procedure and shall make Standing Orders for the orderly conduct of its proceedings; and (b) establish standing committees and any other committee in the manner and for the general or special purposes that it considers necessary and shall regulate the procedure of any committee established under this Article.  (2) The proceedings of the National Assembly shall not be	The Conference adopted Article 180 with amendments and renumbered it Article 166.  The Conference deleted clauses (2) and (3) which were matters of detailed procedure unsuitable for a Constitution. The Conference then provided for the enactment of subsidiary legislation to provide for the functioning of standing committees.

	<p>shall be established at the first sitting of the National Assembly after a general election and after the election of the Speaker and the Deputy Speakers.</p> <p>(3) In electing members of a committee the National Assembly shall ensure that there is equitable representation of the political parties or groups that are represented in the National Assembly as well as of the members not belonging to any political party or group.</p> <p>(4) The proceedings of the National Assembly shall not be invalid because of -</p> <p>(a) a vacancy in its membership; or</p> <p>(b) the presence or participation of any person not entitled to be present at, or to participate in, the proceedings of the National Assembly.</p> <p>(5) Parliament shall enact legislation providing for the functions of a standing committee which shall</p>	<p>invalid because of -</p> <p>(a) a vacancy in its membership; or</p> <p>(b) the presence or participation of any person not entitled to be present at, or to participate in, the proceedings of the National Assembly.</p> <p><b>(3) Parliament shall enact legislation providing for the functions of a standing committee.</b></p>	
--	--	--	--



	<p>include the following:</p> <ul style="list-style-type: none"> <li>(a) investigate or inquire into the administration of Government ministries and departments;</li> <li>(b) examine and make recommendations on Bills that are referred to the committee;</li> <li>(c) initiate any Bill within its area of competence;</li> <li>(d) assess and evaluate estimates of revenue and expenditure, including the management of revenue and expenditure, by the Government and other bodies who directly or</li> </ul>		
--	--	--	--

		<p>indirectly receive services or resources from the Government;</p> <p>(e) carry out research and studies in its area of competence; and</p> <p>report to the National Assembly on its functions and activities.</p>		
<b>Article 181: Power to call evidence</b>	<b>Power to call evidence</b>	<p>181. (1) In the performance of its functions -</p> <p>(a) the National Assembly or any of its committees may call any Minister, any person holding a public office or any private individual to submit memoranda or appear before it to give</p>	<b>Power to call evidence</b>	<p><b>167. In the performance of its functions, the National Assembly or any of its committees may call any Minister, any person holding a public office or any private individual to submit memoranda or appear before it to give evidence.</b></p>
				<p>The Conference adopted Article 181 of the provisions of the Mung'omba Draft Constitution with amendments and renumbered it as Article 167. The amendments were as follows:</p> <p>(a) approved clause (1) (a), and deleted clauses (1) (b) and (1) (c) because they were catered for by the National Assembly,</p>

	<p>evidence;</p> <p>(b) a committee of the National Assembly may co-opt any member of the National Assembly or engage qualified persons to assist it in the performance of its functions; and</p> <p>(c) the National Assembly or any of its committees has the powers of -</p> <p>(i) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;</p> <p>(ii) compelling the production of documents; and</p> <p>(iii) issuing a commission or request to examine witnesses abroad.</p>		<p>Powers and Privileges Act; and</p> <p>(b) deleted clauses (2) and (3) because they were procedural matters more suitable for subordinate legislation.</p>
--	--	--	--

	<p>(2) A person summoned to attend to give evidence or produce a document before the National Assembly or any of its committees is entitled, in respect of that evidence or the production of the document, to the same privileges and protections as those that a person would be entitled to before a court.</p> <p>(3) An answer by any person to a question put by the National Assembly or any of its committees is not admissible in evidence against that person in any civil or criminal proceedings in any court, except for perjury under criminal law.</p>		
<p><b>Article 182:</b> <b>Public access and participation</b></p>	<p><b>Public access and participation</b> 182. (1) The National Assembly shall -</p> <ul style="list-style-type: none"> <li>(a) facilitate public involvement in the legislative process; and</li> <li>(b) conduct its business in an open manner and hold its sittings and those of its committees</li> </ul>	<p><b>Public access and participation</b> 168. (1) The National Assembly shall -</p> <ul style="list-style-type: none"> <li>(a) facilitate public involvement in the legislative process; and</li> <li>(b) conduct its business in an open manner and hold its sittings</li> </ul>	<p>The Conference adopted Article 182 without amendments and renumbered as Article 168.</p> <p>The Conference acknowledged the importance of public process to Parliament.</p> <p>The Conference accepted the vesting of power in the Speaker</p>

		<p>in public.</p> <p>(2) The National Assembly or any of its committees shall not exclude the public or any public or private media from any of its sittings unless, in exceptional circumstances, the Speaker determines that there are justifiable reasons for doing so.</p>	<p>and those of its committees in public.</p> <p>(2) The National Assembly or any of its committees shall not exclude the public or any public or private media from any of its sittings unless, in exceptional circumstances, the Speaker determines that there are justifiable reasons for doing so.</p>	<p>to determine the exceptional circumstances when the public or/and media can be excluded from attending the proceedings of Parliament or its Committees.</p>
<p><b>Article 183: Powers, privileges and immunities</b></p>	<p><b>183: Powers, privileges and immunities</b></p> <p>183. (1) There shall be freedom of speech and debate in the National Assembly and that freedom shall not be impeached or questioned in any court or tribunal.</p> <p>(2) The National Assembly shall, for the purpose of the orderly and effective discharge of the business of the National Assembly, have the powers, privileges and immunities specified by an Act of Parliament.</p>	<p><b>Power, privileges and immunities</b></p> <p>169. (1) There shall be freedom of speech and debate in the National Assembly and that freedom shall not be impeached or questioned in any court or tribunal.</p> <p>(2) The National Assembly shall, for the purpose of the orderly and effective discharge of the business of the National Assembly, have the powers, privileges and immunities specified by an Act of Parliament.</p>	<p>The Conference adopted Article 183 without amendment and renumbered it as Article 169.</p> <p>The Conference concurred with the provisions, guaranteeing and protecting freedom of speech in the National Assembly.</p>	
<p><b>Article 184: Sittings of National Assembly</b></p>	<p><b>184: Sittings of National Assembly</b></p> <p>184. (1) After members of the National Assembly are elected in a</p>	<p><b>Sittings of National Assembly</b></p> <p>170. (1) After members of the National Assembly are elected in a</p>	<p>The Conference adopted Article 184 in the Mung'omba Draft Constitution</p>	

<p><b>Assembly</b></p>	<p>general election the Speaker shall, by notice in the <i>Gazette</i>, appoint a date, not more than thirty days after the general election, for the first sitting of the Assembly.</p> <p>(2) There shall be a session of Parliament at least once every year so that a period of twelve months shall not intervene between the last sitting of the National Assembly in one session and the commencement of the next session.</p> <p>(3) The sittings of the National Assembly in any session of Parliament after the commencement of that session shall be held at such times and on such days as the Speaker shall appoint.</p> <p>(4) The President may in writing request the Speaker to summon a special meeting of the National Assembly to consider extraordinary or urgent business and when so requested the Speaker shall summon the National Assembly within fourteen days.</p> <p>(5) Notwithstanding this Article, two-thirds of the members of</p>	<p>general election, the President shall, by notice in the <i>Gazette</i>, appoint a date, not more than thirty days after the general election, for the first sitting of the Assembly.</p> <p>(2) There shall be a session of Parliament at least once every year so that a period of twelve months shall not intervene between the last sitting of the National Assembly in one session and the commencement of the next session.</p> <p>(3) <b>There shall be at least three sittings</b> of the National Assembly in any session of Parliament after the commencement of that session which shall be held at such times and on such days as the Speaker shall appoint.</p> <p>(4) The President may in writing request the Speaker to summon a special meeting of the National Assembly to consider extraordinary or urgent business and when so requested the Speaker shall summon the National Assembly within fourteen days.</p> <p>(5) Notwithstanding this</p>	<p>with amendments and renumbered it Article 170. The amendment in clause (3) was meant to prevent the President or Speaker from refusing to summon the National Assembly for prolonged periods.</p>
------------------------	---	---	--

	<p>the National Assembly may request a meeting and on receipt of that request the Speaker shall summon the National Assembly within seven days.</p> <p>(6) Where the Speaker fails to summon the National Assembly when requested to do so under this Article, two-thirds of the members of the Assembly may sit to consider the motion to summon the National Assembly and shall for that purpose elect one member from amongst their number to preside over the proceedings and that member shall have all the powers of the Speaker for purposes of that motion.</p> <p>(7) A motion to summon the National Assembly, under clause (6), shall be passed by a vote supported by two-thirds of the members present and voting.</p>	<p>Article, two-thirds of all the members of the National Assembly may request a meeting and on receipt of that request the Speaker shall summon the National Assembly within seven days.</p>	
<p><b>Article 185: Life and prorogation of Parliament</b></p>	<p><b>Life and prorogation of Parliament</b>  185. (1) The life of Parliament shall be five years from the date of the declaration of the results of a general election and Parliament shall stand prorogued ninety days before the holding of the next general election.</p>	<p><b>Life and prorogation of Parliament</b>  171. (1) The life of Parliament shall be five years from the date of the declaration of the results of a general election and Parliament shall stand <b>dissolved</b>.</p>	<p>The Conference adopted Article 185 in the Mung’omba Draft Constitution with amendments and renumbered as Article 171. The amendments were as follows:</p>

	<p>(2) At any time when the Republic is at war the National Assembly may, by resolution supported by a simple majority vote of the members of the Assembly, extend the term of Parliament for not more than twelve months at a time.</p> <p>(3) The President shall dissolve Parliament -</p> <p>(a) if the situation is such that the Executive cannot effectively govern the Republic with the current National Assembly; and</p> <p>(b) the Constitutional Court determines that the situation specified under paragraph (a) exists.</p> <p>(4) If Parliament is dissolved by virtue of clause (3), presidential and National Assembly elections shall be held within ninety days of the dissolution.</p> <p>(5) After a dissolution of Parliament and before the holding of general elections the President may,</p>	<p><b>(2) The President may, in consultation with the Speaker, prorogue Parliament by proclamation.</b></p> <p><b>(3) Parliament shall stand dissolved ninety days before the holding of the next general election.</b></p> <p>(4) At any time when the Republic is at war the National Assembly may, by resolution supported by a simple majority vote of the members <b>present and voting</b> extend the term of Parliament for not more than twelve months at a time.</p> <p><b>(5) Subject to clauses (6) and (7), the President may dissolve Parliament where the President has reasonable grounds to believe that the Executive cannot effectively govern the Republic with the current National Assembly.</b></p> <p><b>(6) Where the President intends to dissolve Parliament pursuant to clause (5), the President shall so inform the public and shall refer the matter to the Constitutional Court for</b></p>	<p>(a) that in a war situation, Parliament could extend its sittings by 12 months by simple majority instead of <math>\frac{2}{3}</math>; and</p> <p>(b) the Conference introduced new clauses to provide for the circumstances and procedure to be followed if the President wishes to dissolve Parliament because the Executive can not govern effectively with the current National Assembly.</p>
--	--	--	--



	<p>due to a state of war or state of public emergency or threatened state of public emergency, recall the National Assembly that was dissolved to meet.</p> <p>(6) The Speaker may, in consultation with the President, prorogue Parliament by proclamation.</p>	<p><b>determination that the situation exists.</b></p> <p><b>(7) The Constitutional Court shall determine a matter referred to it under clause (6) within seven days of the receipt of the matter.</b></p> <p><b>(8) The Constitutional Court shall, where it determines that the situation in clause (6) exists, so inform the President and the President shall dissolve Parliament.</b></p> <p><b>(9) If Parliament is dissolved by virtue of clause (8), Presidential and Parliamentary elections shall be held within ninety days of the dissolution.</b></p> <p><b>(10) Notwithstanding a dissolution of Parliament, the President, may, due to a state of war or state of public emergency or threatened state of public emergency, recall the Parliament that has been dissolved to meet and that Parliament shall be deemed to be the Parliament for the time being.</b></p>	
--	--	---	--

<p><b>Article 186: President may address National Assembly</b></p>	<p><b>President may address National Assembly</b>  186. (1) The President may at any time attend and address the National Assembly.  (2) The President may send messages to the National Assembly and the message shall be read at the first convenient sitting of the National Assembly, after it is received, by the Vice-President or by a Minister designated by the President.</p>	<p><b>President may address National Assembly</b>  172. (1) The President may at any time attend and address the National Assembly.  (2) The President may send messages to the National Assembly and the message shall be read at the first convenient sitting of the National Assembly, after it is received, by the Vice-President or by a Minister designated by the President.</p>	<p>The Conference adopted Article 186 without amendment and renumbered it Article 172.   The Article was considered to be non-controversial.</p>
<p><b>Article 187: Statutory instruments</b></p>	<p><b>Statutory instruments</b>  187. (1) Nothing in Article 158 or 170 shall prevent Parliament from conferring on any person or authority power to make statutory instruments.  (2) Every statutory instrument shall be published in the <i>Gazette</i> not later than twenty-eight days after it is made or, in the case of a statutory instrument which will not have the force of law unless it is approved by some person or authority other than the person or authority by which it was made, not later than twenty-eight days after it is so</p>	<p><b>Statutory instruments</b>  173. (1) Nothing in Article 143 or 157 shall prevent Parliament from conferring on any person or authority power to make statutory instruments.  (2) Every statutory instrument shall be published in the <u>Gazette</u> not later than twenty-eight days after it is made or, in the case of a statutory instrument which will not have the force of law unless it is approved by some person or authority other than the person or authority by which it was made, not</p>	<p>The Conference adopted Article 187 in the Mung'omba Draft Constitution without amendments and renumbered it Article 173.</p>

	<p>approved and if it is not so published it is void from the date on which it was made.</p> <p>(3) Thirty or more members of the National Assembly or any person, with the leave of the Constitutional Court, may challenge a statutory instrument for its constitutionality within fourteen days of the publication of the instrument in the <u>Gazette</u>.</p> <p>(4) Where the Constitutional Court considers that a challenge of a statutory instrument under this Article is frivolous or vexatious, the Court shall not decide further on the question as to whether the statutory instrument would be or is inconsistent with this Constitution and shall dismiss the action.</p> <p>(5) Where the Constitutional Court determines that any provision of a statutory instrument would be or is inconsistent with any provision of this Constitution that statutory instrument shall be void from the date on which it was made.</p>	<p>later than twenty-eight days after it is so approved and if it is not so published it is void from the date on which it was made.</p> <p>(3) Thirty or more members of the National Assembly or any person, with the leave of the Constitutional Court, may challenge a statutory instrument for its constitutionality within fourteen days of the publication of the instrument in the <u>Gazette</u>.</p> <p>(4) Where the Constitutional Court considers that a challenge of a statutory instrument under this Article is frivolous or vexatious, the Court shall not decide further on the question as to whether the statutory instrument would be or is inconsistent with this Constitution and shall dismiss the action.</p> <p>(5) Where the Constitutional Court determines that any provision of a statutory instrument would be or is inconsistent with any provision of this Constitution that provision shall</p>	
--	--	---	--

		<p>(6) The Standing Orders of the National Assembly shall provide for the procedure to be followed by members who intend to challenge a statutory instrument.</p>	<p>be void to the extent of the inconsistency, from the date on which it was made.</p> <p>(6) The Standing Orders of the National Assembly shall provide for the procedure to be followed by members who intend to challenge a statutory instrument.</p>	
<p><b>Article 188: Censure of Minister</b></p>	<p><b>188: Censure of Minister</b></p>	<p>188. (1) The National Assembly may censure a Minister by resolution supported by two-thirds of the votes of all the members of the National Assembly in accordance with this Article.</p> <p>(2) Any proceedings for the censure of a Minister shall be by a petition to the President, through the Speaker, which has been signed by not less than one-third of all the members of the National Assembly giving notice that the members are dissatisfied with the conduct or performance of the Minister and intend to move a motion for a resolution to censure the Minister and setting out the particulars of the</p>	<p><b>Censure of Minister</b></p> <p><b>Article 188 on Censure of Minister was deleted.</b></p>	<p>The Conference deleted Article 188, considering censure to mean to reprimand or to rebuke. The Conference observed that Cabinet worked by collective responsibility and as such an act done by a Minister was on behalf of the government. The Conference decided that the Article was dangerous and would be prone to abuse by opponents, who might use the provision as a tool to isolate individual Ministers.</p> <p>The Conference was of the opinion that a provision to censure a Minister would not be suitable for the Zambian</p>

	<p>grounds in support of the motion.</p> <p>(3) The President shall, on receipt of the petition under clause (2), cause a copy of the petition to be given to the Minister in question.</p> <p>(4) The motion for the resolution to censure a Minister shall not be debated until after the expiry of thirty days from the date the petition was sent to the President.</p> <p>(5) A Minister who is the subject of a petition shall be entitled to be heard in the Ministers' defence during the debate of a motion under this Article.</p> <p>(6) If a vote of censure is passed, in accordance with clause (1), against a Minister, the President shall, unless the Minister resigns, take appropriate action in the matter.</p>		<p>environment and decided to delete the Article from the Constitution.</p>
<p><b>Article 189: Recall of member of National Assembly</b></p>	<p><b>Recall of member of National Assembly</b></p> <p>189. (1) A member of the National Assembly who holds a constituency-based seat may be recalled by the electorate in that</p>	<p><b>Recall of member of National Assembly</b></p> <p><b>Article 189 on Recall of member of National Assembly was deleted.</b></p>	<p>The Conference deleted the Article because the Conference rejected the principle of recalling a Member of Parliament.</p> <p>The Conference observed that</p>

	<p>constituency as follows:</p> <ul style="list-style-type: none"> <li>(a) a recall shall only be initiated where the member of the National Assembly has persistently neglected to perform the member's responsibilities in the constituency as required of the member by law;</li> <li>(b) a recall shall be initiated by petition signed by at least fifty per cent of the registered voters in the constituency; and</li> <li>(c) the petition shall be presented to the Chairperson of the Electoral Commission who shall constitute a tribunal to inquire into the matter and report back within thirty days with its recommendation.</li> </ul> <p>(2) A member of the National Assembly who is the subject of an inquiry under clause (1), shall</p>		<p>Article 189 was a recipe for chaos and confusion especially in Zambia where the expectations of the people go beyond the job description of a Member of Parliament.</p> <p>The Conference was of the view that Article 189 would make it difficult for Members of Parliament to operate effectively as many would be fighting against recall petitions.</p>
--	--	--	--

	<p>have the right to be heard, be present and have representation before the tribunal constituted under clause (1).</p> <p>(3) The Chairperson of the Electoral Commission shall, within fourteen days of the receipt of the recommendation, submitted under clause (1), act in accordance with the recommendations of the tribunal.</p> <p>(4) An Act of Parliament shall provide for -</p> <ul style="list-style-type: none"> <li>(a) the functions and duties of a member of the National Assembly in relation to the constituency the member represents;</li> <li>(b) grounds on which a member of the National Assembly may be recalled; and</li> <li>(c) the composition, powers, sittings and procedures of a tribunal constituted under this Article.</li> </ul>		
<p><b>Article 190:</b>  <b>Oaths to be taken by Speaker,</b></p>	<p><b>Oaths to be taken by Speaker, Deputy Speakers</b>  190. (1) The Speaker and the</p>	<p><b>Oaths to be taken by Speaker, Deputy Speakers and members</b>  174. (1) The Speaker and the</p>	<p>The Conference adopted Article 190 with minor amendments and renumbered it Article 174. The</p>

<p><b>Deputy Speakers and members</b></p>	<p>Deputy Speakers, before carrying out the duties of office, shall take the Oath of Speaker or Deputy Speaker, as set out in the Third Schedule.</p> <p>(2) A member of the National Assembly, before taking the member's seat in the Assembly, shall take the Oath of a member of the National Assembly, as set out in the Third Schedule.</p>	<p>Deputy Speakers, before carrying out the duties of office, shall take the Oath of Speaker or Deputy Speaker, as <b>prescribed by or under an Act of Parliament.</b></p> <p>(2) A member of the National Assembly, before taking the member's seat in the Assembly, shall take the Oath of a member of the National Assembly, as <b>prescribed by or under an Act of Parliament.</b></p>	<p>Conference approved the oaths to be taken by the Speaker and Deputy Speakers but decided that the oaths be taken before the President and not the Chief Justice. The Conference also approved the oath to be taken by a Member of the National Assembly.</p> <p>The Conference however, decided that the Oaths be provided for in an Act of Parliament and not in a schedule to the Constitution.</p>
<p><b>Article 191: Officers of National Assembly</b></p>	<p><b>Officers of National Assembly</b></p> <p>191. (1) There shall be appointed officers in the department of the Clerk of the National Assembly, as may be provided by an Act of Parliament.</p> <p>(2) The office of Clerk and offices of members of staff are offices in the Parliamentary Service.</p>	<p><b>Officers of National Assembly</b></p> <p>175. (1) There shall be appointed officers in the department of the Clerk of the National Assembly, as may be provided by an Act of Parliament.</p> <p>(2) The office of Clerk and offices of members of staff are offices in the Parliamentary Service.</p>	<p>The Conference adopted Article 191 in the Mung'omba Draft Constitution without amendments and renumbered it Article 175.</p>
<p><b>Article 192: Parliamentary Service Commission</b></p>	<p><b>Parliamentary Service Commission</b></p> <p>192. (1) There is hereby established a Parliamentary Service Commission which shall consist of the</p>	<p><b>Parliamentary Service Commission</b></p> <p>176. (1) There is hereby established a Parliamentary Service Commission which shall consist of</p>	<p>The Conference adopted Article 192 of the MDC with amendments and renumbered it Article 176.</p>



	<p>following part-time members:</p> <ul style="list-style-type: none"> <li>(a) the Speaker, as Chairperson;</li> <li>(b) five members appointed by the National Assembly from amongst its members of whom – <ul style="list-style-type: none"> <li>(i) three shall be nominated by the political party forming the Government; and</li> <li>(ii) two other persons of opposite gender who shall be nominated by the other political parties in the National Assembly which do not form the Government; and</li> </ul> </li> <li>(c) two members of the</li> </ul>	<p>the following part-time members:</p> <ul style="list-style-type: none"> <li>(a) the Speaker, as Chairperson;</li> <li><b>(b) the Minister responsible for finance;</b></li> <li>(c) five members appointed by the National Assembly from amongst its members <b>as follows:</b> <ul style="list-style-type: none"> <li>(i) <b>two persons of opposite gender nominated by the political party or parties forming the Government; and</b></li> <li><b>(ii) two persons of opposite gender and who are not members of the same Political party nominated by the other political parties in the National Assembly which do not form the Government; and</b></li> <li><b>(iii) an independent member of the National Assembly nominated by other independent members; and</b></li> </ul> </li> </ul>	<p>The Conference approved the establishment of the Parliamentary Service Commission and defined its composition and mandate. The Conference proposed that the Parliament Service Commission would include the minister responsible for finance; would provide for gender balance; provide for two members to be appointed from outside National Assembly; and provide for conditions of service of the Speaker, Deputy Speaker, members of Parliament and staff.</p>
--	---	---	---

	<p>opposite gender appointed by the National Assembly from among persons who are not members of the National Assembly but are experienced in public affairs, to serve for a period of five years</p> <p>(2) A member of the Parliamentary Service Commission shall vacate office if that member is -</p> <p>(a) a member of the National Assembly-</p> <p>(i) upon the dissolution of Parliament; or</p> <p>(ii) on that person ceasing to be a member of the Assembly; or</p> <p>(b) a member appointed under clause (1) (c), on the revocation of that person's appointment by</p>	<p><b>(d) two members of opposite gender appointed by the Speaker, subject to ratification by the National Assembly, from among persons who are not members of the National Assembly but are experienced in public affairs; to serve for a period of five years.</b></p> <p>(2) A member of the Parliamentary Service Commission shall vacate office if that member is -</p> <p>(a) a member of the National Assembly-</p> <p>(i) upon the dissolution of Parliament; or</p> <p>(ii) on that person ceasing to be a member of the Assembly; or</p> <p>(b) a member appointed under clause (1) (c), on the revocation of that person's appointment</p>	
--	--	---	--

	<p style="text-align: center;">the National Assembly.</p> <p>(3) The Parliamentary Service Commission shall have the following functions:</p> <ul style="list-style-type: none"> <li>(a) the appointment of the Clerk of the National Assembly, in accordance with this Constitution;</li> <li>(b) providing necessary services and facilities to ensure efficient and effective functioning of the National Assembly;</li> <li>(c) constituting offices in the Parliamentary Service and appointing office holders;</li> <li>(d) preparing, jointly with the Government, the annual estimates of expenditure for the Parliamentary Service and for the National Assembly;</li> <li>(e) exercising budgetary control over the Parliamentary Service</li> </ul>	<p style="text-align: center;"><b>by the Speaker.</b></p> <p>(3) The Parliamentary Service Commission shall have the following functions:</p> <ul style="list-style-type: none"> <li>(a) the appointment of the Clerk of the National Assembly, in accordance with this Constitution;</li> <li>(b) providing necessary services and facilities to ensure efficient and effective functioning of the National Assembly;</li> <li>(c) constituting offices in the Parliamentary Service and appointing office holders;</li> <li>(d) <b>undertaking, on its own or jointly with other relevant organisations, programmes to promote the ideals of parliamentary democracy;</b> and</li> <li>(e) carrying out other functions - <ul style="list-style-type: none"> <li>(i) necessary for the well-being of the <b>Speaker, Members of Parliament, officers and</b> the staff of the National Assembly; or</li> </ul> </li> </ul>	
--	--	--	--

	<p>and the National Assembly;</p> <p>(f) undertaking, on its own or jointly with other relevant organisations, programmes to promote the ideals of parliamentary democracy; and</p> <p>(g) carrying out other functions -</p> <p style="padding-left: 40px;">(i) necessary for the well-being of the staff of the National Assembly; or</p> <p style="padding-left: 40px;">(ii) provided by or under an Act of Parliament.</p> <p>(4) The office of Clerk shall be the secretariat for the Parliamentary Service Commission.</p> <p>(5) The Parliamentary Service Commission shall, with the prior approval of the National Assembly, make regulations, by</p>	<p>(ii) provided by or under an Act of Parliament.</p> <p>(4) The office of Clerk shall be the secretariat for the Parliamentary Service Commission.</p> <p>(5) The Parliamentary Service Commission shall, with the prior approval of the National Assembly, make regulations, by statutory instrument, providing for the terms and conditions of service of the <b>Speaker, Deputy Speakers, Members of Parliament, officers and staff</b> in the Parliamentary Service and generally for the effective and efficient administration of the Parliamentary Service.</p>	
--	--	--	--

	<p>statutory instrument, providing for the terms and conditions of service of the officers and other employees in the Parliamentary Service and generally for the effective and efficient administration of the Parliamentary Service.</p> <p>(6) The Parliamentary Service Commission shall be a self-accounting institution which shall deal directly with the Ministry responsible for finance on matters relating to its finances.</p> <p>(7) The Parliamentary Service Commission shall be adequately funded to enable it to effectively carry out its mandate.</p> <p>(8) The expenses of the Parliamentary Service and the Parliamentary Service Commission shall be a charge on the Consolidated Fund.</p>		
<p><b>New Article</b></p>		<p><b>Financial independence of National Assembly</b></p> <p>177. (1) The Parliamentary Service Commission shall annually prepare and submit its budget estimates to the Minister</p>	<p>The Conference introduced and adopted a new Article and numbered it 177 which is similar to Article 196 of the Mung'omba Draft Constitution providing for financial independence of the</p>

		<p>responsible for finance who, taking into consideration equitable sharing of national resources, shall determine the budget for the National Assembly.</p> <p>(2) The Parliamentary Service Commission shall be adequately funded in any financial year to enable it to effectively carry out its mandate.</p> <p>(3) The Parliamentary Service Commission shall exercise budgetary control over the Parliamentary Service and the National Assembly.</p> <p>(4) The Parliamentary Service Commission shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance in matters relating to its finances.</p> <p>(5) The expenses of the Parliamentary Service Commission, including emoluments payable to or in respect of the Speaker, Deputy Speakers, Members of the</p>	<p>Judiciary. The amendment was meant to provide for financial autonomy of the Legislature and to ensure its independence from the Executive.</p>
--	--	--	---

		National Assembly, officers and staff of the National Assembly, shall be a charge on the National Treasury Account.	
<b>PART XI - JUDICIARY</b>			
ARTICLE NO.	PROVISIONS OF THE MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
Article 193: Establishment of Courts of Judiciary	<p><b>Establishment of Courts of Judiciary</b></p> <p><b>193.</b> (1) There is hereby established -</p> <p>(a) the superior courts of the Judiciary comprising -</p> <p>(i) the Supreme and Constitutional court;</p> <p>(ii) the Court of Appeal</p> <p>(iii) the High Court;</p> <p>(b) the subordinate courts;</p> <p>(c) the local courts; and</p> <p>(d) any other court established by an Act of Parliament.</p> <p>(2) The superior courts and</p>	<p><b>Establishment of Courts of Judiciary</b></p> <p><b>178.</b> (1) There is hereby established-</p> <p>(a) the superior courts of the Judiciary comprising -</p> <p>(i) the Supreme and Constitutional Court;</p> <p>(ii) the Court of Appeal;</p> <p>(iii) the High Court; and</p> <p>(iv) <b>the Industrial Relations Court;</b></p> <p>(b) the subordinate courts;</p> <p>(c) the local courts; and</p> <p>(d) any other court</p>	<p>The Conference adopted Article 193 with amendments by establishing the Industrial Relations Court as one of the superior courts and re-numbered it as Article 178.</p> <p>The Conference:</p> <p>(a) observed that the Constitutional Court was desirable, among other things, to handle election petitions expeditiously.</p> <p>(b) approved the</p>

	<p>subordinate courts shall be courts of record.</p> <p>(3) Except as otherwise provided in this Constitution or as may be ordered by a court, in the interest of public morality, public security, public order or the protection of children or other vulnerable persons, proceedings, including the delivery of a decision by a court, shall be in public.</p>	<p>established by an Act of Parliament.</p> <p>(2) The superior courts and subordinate courts shall be courts of record.</p> <p>(3) Except as otherwise provided in this Constitution or as may be ordered by a court, in the interest of public morality, public security, public order or the protection of children or other vulnerable persons, proceedings, including the delivery of a decision by a court, shall be in public.</p>	<p>establishment of the Court of Appeal because it would bring finality to appeals by de-congesting the Supreme Court. Further, the appeals procedure provided checks on the Judiciary thereby reducing the opportunity of the levels of compromise.</p> <p>(c) favoured the establishment of Industrial Relations Court (IRC) as an independent court from the High Court because it was more accessible as it did not have rules and procedures that necessitated legal representation and that the cost of proceedings were lower. It was observed that the Court was already established in terms of infrastructure and staffing.</p>
--	---	---	---



<p><b>Article: 194:</b> <b>Vesting of judicial powers</b></p>	<p><b>Vesting of judicial powers</b></p> <p><b>194.</b> (1) The judicial power of Zambia shall vest in the courts and shall be exercised by the courts in accordance with this Constitution and the laws.</p> <p>(2) The Judiciary shall have jurisdiction, subject to this Constitution, in -</p> <ul style="list-style-type: none"> <li>(a) civil and criminal matters;</li> <li>(b) matters relating to, and in respect of, this Constitution; and</li> <li>(c) any other matter specified by or under an Act of Parliament.</li> </ul> <p>(3) In exercising its jurisdiction the court shall be guided by the following principles:</p> <ul style="list-style-type: none"> <li>(a) justice shall be done to all, irrespective of social status;</li> <li>(b) justice shall not be delayed;</li> <li>(c) adequate and prompt</li> </ul>	<p><b>Vesting of judicial powers</b></p> <p><b>179.</b> (1) The judicial power of Zambia shall vest in the courts and shall be exercised by the courts in accordance with this Constitution and the law.</p> <p>(2) The Judiciary shall have jurisdiction, subject to this Constitution, in -</p> <ul style="list-style-type: none"> <li>(a) civil and criminal matters;</li> <li>(b) matters relating to, and in respect of, this Constitution; and</li> <li>(c) any other matter specified by or under an Act of Parliament.</li> </ul> <p>(3) A court may, in exercise of its judicial power, in any matter within its jurisdiction, issue orders to ensure the enforcement of a judgement or other decision of the court.</p>	<p>The Conference adopted Article 194 of Mung’omba Draft Constitution with amendments and re-numbered it as Article 179.</p> <p>The Conference decided to delete clause (3) of Article 194 of Mung’omba Draft Constitution because the courts were already applying the principles stated therein.</p>

	<p>compensation shall be awarded to victims of wrong ; and</p> <p>(d) reconciliation, mediation or arbitration between parties, where appropriate, shall be promoted.</p> <p>(4) In exercise of the judicial power, a court may, in any matter within its jurisdiction, issue orders to ensure the enforcement of a judgement or other decision of the court.</p>		
<p><b>Article 195: Independence of Judiciary</b></p>	<p><b>Independence of Judiciary</b></p> <p><b>195.</b> (1) The Judiciary, in exercise of its judicial and administrative functions and management of its financial affairs, shall be subject only to this Constitution and the Laws and shall not be subject to the control or direction of any person or authority.</p> <p>(2) A member of the Executive, Legislature, State institution or any other person shall not interfere with the Judges or judicial officers in the</p>	<p><b>Independence of Judiciary</b></p> <p><b>180.</b> (1) <b>The Judiciary is autonomous and shall be administered in accordance with the provisions of an Act of Parliament.</b></p> <p>(2) A member of the Executive, Legislature, a State institution or any other person shall not interfere with the judges or judicial officers in the exercise of their judicial powers.</p> <p>(3) A person exercising judicial power shall not be liable for any act or omission done or omitted to be</p>	<p>The Conference adopted Article 195 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 180.</p> <p>The Conference:</p> <p>(a) approved the Article and agreed that the independence and autonomy of the Judiciary should be expressly provided for as</p>

	<p>exercise of their judicial powers.</p> <p>(3) The Executive, Legislature and all State institutions shall accord to the Judiciary the assistance required by the Judiciary to protect the independence, dignity and effectiveness of the Judiciary.</p> <p>(4) A person exercising judicial power shall not be liable for any act or omission done or omitted to be done in the exercise of any judicial power.</p> <p>(5) The office of a judge of any of the superior courts shall not be abolished while there is a substantive holder of the office.</p>	<p>done in the exercise of any judicial power.</p> <p>(4) The office of a judge of any of the superior courts shall not be abolished while there is a substantive holder of the office.</p>	<p>reflected in clause (1) of Article 180; and</p> <p>(b) deleted clause (3) of Article 195 because members were of the view that a constitutional provision should provide a principle and not a request for assistance.</p>
<p><b>New Article</b></p>		<p><b>Code of conduct</b></p> <p><b>181. The judges and judicial officers of the courts referred to in clause (1) of article 193 shall be independent, impartial and subject only to this Constitution and the law and shall conduct themselves in accordance with a code of conduct promulgated by Parliament.</b></p>	<p>The Conference introduced a new provision from Article 91 of the current Constitution and re-numbered it as Article 181.</p> <p>The Article was included because the Conference noted that the conduct of some judges and judicial officers had attracted increasing public criticism which necessitated the need for a code</p>

			of conduct to regulate their behaviour.
<b>Article 196: Financial Independence of Judiciary</b>	<p><b>Financial Independence of Judiciary</b></p> <p><b>196.</b> (1) The Judiciary shall annually prepare and submit its budget estimates to the Minister responsible for finance who, taking into consideration the equitable sharing of national resources, shall determine the budget for the Judiciary.</p> <p>(2) The Judiciary shall be adequately funded in any financial year to enable it to effectively carry out its mandate.</p> <p>(3) The Judiciary shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance in matters relating to its finances.</p> <p>(4) The expenses of the Judiciary, including emoluments payable to or in respect of a judge or judicial officer, shall be a charge on the Consolidated Fund.</p>	<p><b>Finances of Judiciary</b></p> <p>182. (1) The Judiciary shall annually prepare and submit its budget estimates to the Minister responsible for finance who, taking into consideration the equitable sharing of national resources, shall determine the budget for the Judiciary.</p> <p>(2) The Judiciary shall be a self-accounting institution and shall deal directly with the Ministry responsible for finance in matters relating to its finances.</p> <p>(3) The expenses of the Judiciary, including emoluments payable to or in respect of a judge or judicial officer, shall be a charge on the National Treasury Account."</p>	<p>The Conference adopted Article 196 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 182.</p> <p>The Conference:</p> <p>(a) deleted clause (2) of Article 196 of the Mung'omba Draft Constitution because the word "adequate" was vague as it was difficult to determine whether the Judiciary was adequately funded or not; and</p> <p>(b) decided to substitute the marginal note "<i>Financial independence of the judiciary</i>" with "<i>Finances of Judiciary.</i>"</p>

<p><b>Article 197: Supreme and Constitutional Court</b></p>	<p><b>Supreme and Constitutional Court</b></p> <p>197. The Supreme and Constitutional court shall consist of -</p> <ul style="list-style-type: none"> <li>(a) the Chief Justice;</li> <li>(b) the Deputy Chief Justice;</li> <li>and</li> <li>(c) not more than nine Judges, at least three of whom are persons with - <ul style="list-style-type: none"> <li>(i) a law degree;</li> <li>(ii) specialist training or Experience in constitutional and human rights law; and</li> <li>(iii) not less than ten years experience in the field of constitutional law.</li> </ul> </li> </ul>	<p><b>Supreme and Constitutional Court</b></p> <p>183. The Supreme and Constitutional court shall consist of-</p> <ul style="list-style-type: none"> <li>(a) the Chief Justice</li> <li>(b) the Deputy Chief Justice;</li> <li>and</li> <li>(c) nine judges of the Supreme and Constitutional Court or such greater number of judges as shall be determined by or under an Act of Parliament”.</li> </ul>	<p>The Conference adopted Article 197 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 183.</p> <p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) approved the provision but decided that paragraph (c) relating to the number of judges and qualifications should be relegated to an Act of Parliament as those matters were administrative; and</li> <li>(b) amended paragraph (c) by stipulating the minimum number of judges in order to eliminate chances of manipulation by the Executive.</li> </ul>
<p><b>Article 198: Composition for Sittings of</b></p>	<p><b>Composition for Sittings of Supreme Court</b></p> <p>198. (1) The Supreme and</p>	<p><b>Composition for Sittings of Supreme Court</b></p> <p>184. The Supreme and</p>	<p>The Conference adopted Article 198 of the Mung’omba Draft</p>

<p><b>Supreme Court</b></p>	<p>Constitutional Court, when sitting as a Supreme Court and determining a matter, other than an interlocutory matter, shall be duly constituted by an uneven number of not less than three judges of the Supreme and Constitutional Court.</p> <p>(2) The Supreme Court shall not be bound by its previous decisions if it considers it necessary in the interest of justice and the development of the law.</p>	<p>Constitutional Court, when sitting as a Supreme Court and determining a matter, other than an interlocutory matter, shall be duly constituted by an uneven number of not less than three judges of the Supreme and Constitutional Court.</p>	<p>Constitution with amendments and re-numbered it as Article 184.</p> <p>The Conference approved Article 198 subject to the deletion of clause (2) because it contradicted the common law principle that a last court of instance should be bound by its previous decisions unless it had justifiable reasons not to do so.</p>
<p><b>Article 199 Jurisdiction of Supreme Court</b></p>	<p><b>Jurisdiction of Supreme Court</b></p> <p><b>199.</b> (1) The Supreme Court is the final court of appeal of Zambia, except in constitutional matters.</p> <p>(2) The Supreme Court shall have -</p> <p>(a) appellate jurisdiction to hear and determine appeals from -</p> <p>(i) the Court of Appeal; and</p> <p>(ii) any other court or tribunal, except the Parliamentary Election Tribunal and the Local</p>	<p><b>Jurisdiction of Supreme Court</b></p> <p><b>185.</b> (1) The Supreme Court is the final court of appeal of Zambia, except in constitutional matters.</p> <p>(2) The Supreme Court shall have -</p> <p>(a) appellate jurisdiction to hear and determine appeals from the Court of Appeal; and</p> <p>(b) any other jurisdiction conferred on it by this Constitution or any other law;</p> <p>(3) Subject to Article 192 (3), an appeal shall lie to the Supreme</p>	<p>The Conference adopted Article 199 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 185.</p> <p>The Conference:</p> <p>(a) deleted clause (2) (a) (ii) to avoid rendering the Court of Appeal irrelevant and so that the judicial hierarchy was adhered to; and</p> <p>(b) observed on clause (3) of</p>

	<p>Government Election Tribunal whose decisions are final, prescribed by an Act of Parliament; and</p> <p>(d) any other jurisdiction conferred on it by this Constitution or any other law.</p> <p>(3) Subject to Article 206 (3), an appeal shall lie to the Supreme Court from a decision of the Court of Appeal with leave of the Court of Appeal.</p>	<p>Court from a decision of the Court of Appeal with leave of the Court of Appeal.”</p>	<p>Article 199 that seeking leave to appeal was procedural and necessary.</p>
<p><b>Article 200: Composition for Sittings of Constitutional Court</b></p>	<p><b>200.</b> (1) The Supreme and Constitutional Court, when sitting as the Constitutional Court, shall be duly constituted by an uneven number of not less than three and not more than nine of the judges of the Supreme and Constitutional Court, which number shall include at least one Judge with specialization in constitutional and human rights law.</p>	<p><b>186.</b> (1) The Supreme and Constitutional Court, <b>when sitting as the Constitutional Court, and determining a matter, other than an interlocutory matter,</b> shall be duly constituted by <b>an uneven number of not less than three judges</b> of the Supreme and</p>	<p>The Conference adopted Article 200 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 186.</p> <p>The Conference decided that:</p> <p>(a) the wording in Article 198 stating that “an uneven</p>

	(2) The Constitutional Court shall be constituted by the full bench when reviewing a decision made by it.	Constitutional Court. (2) The Constitutional Court shall, when determining an election petition or reviewing a decision made by it, be constituted by the full bench as shall be determined by an Act of Parliament.” .	number of not less than three judges” be incorporated in clause (1) of Article 200; and (b) decided that clauses (1) and (2) of Article 200 be harmonised taking into account that clause (2) would apply when the Constitutional Court was reviewing its own decisions and determining presidential election petitions.
<b>Article 201: Jurisdiction of Constitutional Court</b>	<b>Jurisdiction of Constitutional Court</b> 201. (1) Subject to clause (2), the Constitutional Court shall have original and final jurisdiction - (a) in all matters of interpretation of this Constitution; (b) to determine an election petition challenging the election of a President-elect; (c) to determine whether any provision of this Constitution or any law	<b>Jurisdiction of Constitutional Court</b> 187. (1) The Constitutional Court shall have original and final jurisdiction - (a) to determine a presidential election petition challenging the election of the President elect; (b) to determine disputes between State organs or	The Conference adopted Article 201 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 187.  The Conference decided that: (a) the Constitutional Court should have original and final jurisdiction in the matters provided for in Article 201 (1) (b), (f), (g) and (h) so that, among other



	<p>relating to election of a President has been complied with;</p> <p>(d) to determine a question of violation of any provision of the Bill of Rights;</p> <p>(e) to determine whether an Act of Parliament, a Bill or statutory instrument contravenes this Constitution;</p> <p>(f) to determine disputes between State organs or State institutions at National or Local government level concerning their constitutional status, powers or functions;</p> <p>(g) to determine whether or not a matter falls within the jurisdiction of the Court; and</p> <p>(h) in any constitutional matter provided for by this Constitution or an Act of Parliament.</p> <p>(2) The Constitutional Court</p>	<p>State institutions;</p> <p>(c) to determine whether or not a matter falls within the jurisdiction of the Court; and</p> <p>(d) in any Constitutional matter provided for by this Constitution or an Act of Parliament.</p> <p>(2) The Constitutional Court shall have appellate jurisdiction -</p> <p>(a) in all matters of interpretation of this Constitution;</p> <p>(b) to determine whether an Act of Parliament or Statutory Instrument contravenes this Constitution; and</p> <p>(c) to determine a question of violation of any provision of the Bill of Rights.</p>	<p>things, constitutional matters were expeditiously dealt with;</p> <p>(b) the Constitutional Court should have appellate jurisdiction in the matters provided for in Article 201 (1) (a), (d) and ((e) so as to, among other things, decongest the court;</p> <p>(c) clause (2) be deleted; and</p> <p>(d) clauses (4) to (9) be relegated to an Act of Parliament because those matters were procedural.</p>
--	--	---	---

	<p>shall not have original or final jurisdiction over any matter that is within the jurisdiction of the Parliamentary Elections Tribunal and the Local Government Election Tribunal, as provided by this Constitution.</p> <p>(3) The Constitutional Court may review a decision made by it.</p> <p>(4) A person or group of persons who alleges that -</p> <p>(a) an Act of Parliament, a Bill or any other law or anything done under the authority of any law; or</p> <p>(b) any act of or omission by any person or group of persons or authority;</p> <p>is inconsistent with or in contravention of this Constitution, may petition the Constitutional Court for a declaration to that effect and for redress.</p> <p>(5) Where upon the determination of a petition under clause (4), the Constitutional Court</p>	<p>(3) The Constitutional Court may review a decision made by it.</p> <p>(4) Parliament shall enact legislation to provide for the powers, sittings and procedures of the Constitutional Court.</p>	
--	---	---	--

	<p>considers that there is need for redress, in addition to the declaration sought, the Court may -</p> <ul style="list-style-type: none"><li>(a) make an order for redress; or</li><li>(b) refer the matter to the High Court to determine the appropriate redress.</li></ul> <p>(6) Where in any proceedings in any court a question arises as to an interpretation of any provision of this Constitution the court shall refer the question to the Constitutional Court for determination.</p> <p>(7) Where a question is referred to the Constitutional Court under clause (6), the Court shall give its decision on the question and the court in which the question arose dispose of the case in accordance with that decision.</p> <p>(8) Where a petition is submitted under clause (4) or a question is referred under clause (6), the Constitutional Court shall proceed to hear and determine the petition or question as soon as possible and may, for that purpose, suspend any other matter pending before it.</p> <p>(9) The Constitutional Court shall</p>		
--	--	--	--

	not order security for costs on matters relating to public interest litigation.		
<b>Article 202: Production of official documents</b>	<p><b>Production of official documents</b></p> <p><b>202.</b> (1) When in proceedings in a court, other than the Supreme Court, a question arises as to the production of an official document and the person or authority that has custody, legal or otherwise of the document, refuses, on request, to produce that document on the ground -</p> <p>(a) that the document belongs to a class of documents which is prejudicial to the security of the State or injurious to the public interest; or</p> <p>(b) that the disclosure of the contents will be prejudicial to the security of the State or injurious to the public interest;</p> <p>the court shall stay the proceedings and refer the question to the Supreme</p>	<b>Production of official documents</b>	<p>The Conference deleted Article 202 on the production of official documents.</p> <p>The Conference decided to delete Article 202 of the Mung’omba Draft Constitution because it was adequately covered in the State Proceedings Act, the State Security Act and the Rules of Evidence.</p>

	<p>Court for determination.</p> <p>(2) The Supreme Court may -</p> <ul style="list-style-type: none"><li>(a) order the person who or the authority that has custody of the document to produce it for inspection by the Supreme Court; and</li><li>(e) determine whether or not the document shall be produced in the court, from which the reference was made, after hearing the parties or their legal representatives or after having given them the opportunity of being heard.</li></ul> <p>(3) Where the Supreme Court considers that the document shall be produced, it shall make an order for that person or authority to produce the document or so much of the contents of it as is essential for the proceedings.</p> <p>(4) Where the question of the discovery of an official document arises in any proceedings in the Supreme Court, in the circumstances mentioned in clause (1), the Supreme Court shall be governed by clauses (2)</p>		
--	---	--	--

	and (3) for the determination of the question that has arisen.		
<b>Article 203: Chief Justice</b>	<p><b>Chief Justice</b>  <b>203.</b> (1) There shall be a Chief Justice who shall be -</p> <p>(a) the head of the Judiciary; and</p> <p>(b) the president of the Constitutional Court.</p> <p>(2) The Chief Justice may issue orders and give directives considered necessary by the Chief Justice for the efficient administration of the Judiciary.</p> <p>(3) In the absence of the Chief Justice or in the event of a vacancy in the office, the Deputy Chief Justice shall perform the functions of the Chief Justice until the Chief Justice resumes office or an appointment is made to the office of Chief Justice.</p>	<p><b>Chief Justice</b>  188. (1) There shall be a Chief Justice who shall be the head of the Judiciary;</p> <p>(2) The Chief Justice may issue orders and give directives considered necessary by the Chief Justice for the efficient administration of the Judiciary.</p> <p>(3) In the absence of the Chief Justice or in the event of a vacancy in the office, the Deputy Chief Justice shall perform the functions of the Chief Justice until the Chief Justice resumes office or an appointment is made to the office of Chief Justice.</p>	<p>The Conference adopted Article 203 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 188.</p> <p>The Conference supported the provision but decided that clause (1) should be amended to refer to the Chief Justice as “head of the Judiciary” and not “president” since the Court was not a “stand-alone” court.</p>
<b>Article 204: Deputy Chief Justice</b>	<p><b>Deputy Chief Justice</b>  <b>204.</b> (1) There shall be a Deputy Chief Justice who shall, unless otherwise provided in this Part -</p> <p>(a) perform the functions of the Chief Justice as stated under Article 203;</p>	<p><b>Deputy Chief Justice</b>  189. (1) There shall be a Deputy Chief Justice who shall, unless otherwise provided in this Part-</p> <p>(a) perform the functions of the</p>	<p>The Conference adopted Article 204 of the Mung’omba Draft Constitution with amendments and re-numbered it Article 189.</p> <p>The Conference amended the</p>

	<p>(b) be the president of the Court of Appeal;</p> <p>(c) assist the Chief Justice in the performance of the administrative functions of the Chief Justice; and</p> <p>(d) perform any other function assigned by the Chief Justice.</p> <p>(2) Where -</p> <p>(a) the office of the Deputy Chief Justice is vacant;</p> <p>(b) the Deputy Chief Justice is acting as Chief Justice; or</p> <p>(c) the Deputy Chief Justice is for any reason unable to perform the functions of that office; the President shall, in consultation with the Judicial Service Commission, designate a judge of</p>	<p>Chief Justice as stated under Article 203;</p> <p>(b) be the head of the Court of Appeal;</p> <p>(c) assist the Chief Justice in the performance of the administrative functions of the Chief Justice; and</p> <p>(d) perform any other function assigned by the Chief Justice.</p> <p>(2) Where -</p> <p>(a) the office of the Deputy Chief Justice is vacant;</p> <p>(a) the Deputy Chief Justice is acting as Chief Justice; or</p> <p>(b) the Deputy Chief Justice is for any reason unable to perform the functions of that office; the President shall, in consultation with</p>	<p>provision by referring to the Deputy Chief Justice as “head of the Court of Appeal” and not “President of the Court of Appeal” for the reasons given in the discussion of Article 203 of the Mung’omba Draft Constitution above.</p>
--	--	---	---

	<p>the Supreme Court to perform the functions of the Deputy Chief Justice until the Deputy Chief Justice resumes duty or a substantive appointment is made to the office.</p>	<p>the Judicial Service Commission, designate a judge of the Supreme Court to perform the functions of the Deputy Chief Justice until the Deputy Chief Justice resumes duty or a substantive appointment is made to the office.</p>	
<p><b>Article 205: Court of Appeal</b></p>	<p><b>Court of Appeal</b> 205. The Court of Appeal shall consist of - (a) the Deputy Chief Justice; and (b) not more than six Judges.</p>	<p><b>Court of Appeal</b> 190. The Court of Appeal shall consist of - (a) the Deputy Chief Justice; and (b) such number of judges as shall be determined by an Act of Parliament.</p>	<p>The Conference adopted Article 205 of Mung'omba Draft Constitution with amendments and re-numbered it as Article 190.</p> <p>The Conference decided that the number of judges of the Court of Appeal should be specified in an Act of Parliament to allow for ease of amendments if need arose.</p>



<p><b>Article 206: Jurisdiction of Court of Appeal</b></p>	<p><b>Jurisdiction of Court of Appeal</b>  <b>206.</b> (1) The Court of Appeal, as appellate court, shall have jurisdiction to determine, as provided under an Act of Parliament -  (a) appeals from the High Court; and  (b) appeals from other courts or tribunals, except the Parliamentary Election Tribunal and the Local Government Election Tribunal whose decisions are final.  (2) Subject to Article 199 (3) an appeal shall lie to the Supreme Court from a decision of the Court of Appeal with leave of the Court of Appeal.  (3) If the Court of Appeal refuses to grant leave to the Supreme Court on any matter, that decision shall be final and binding.</p>	<p><b>Jurisdiction of Court of Appeal</b>  191. (1) The Court of Appeal, as appellate court, has jurisdiction to determine, as provided under an Act of Parliament, appeals from the High Court, the Industrial Relations Court and tribunals.  (2) Subject to Article 199 (3), an appeal shall lie to the Supreme Court from a decision of the Court of Appeal with leave of the Court of Appeal.”</p>	<p>The Conference adopted Article 206 of Mung’omba Draft Constitution with amendments and re-numbered it as Article 191.</p> <p>The Conference:  (a) approved clause (1) subject to the deletion of reference to the Parliamentary Election Tribunal and the Local Government Election Tribunal which the Conference decided should not be established;  (b) approved clause (2); and  (c) decided to delete clause (3) because the right to appeal was a human and constitutional right.</p>
<p><b>Article 207: Sittings of Court of Appeal</b></p>	<p><b>Sittings of Court of Appeal</b>  <b>207.</b> The Court of Appeal when determining an appeal, other than an interlocutory appeal, shall be -</p>	<p><b>Sittings of Court of Appeal</b>  192. The Court of Appeal when determining an appeal, other than an interlocutory appeal, shall be -</p>	<p>The Conference adopted Article 207 of Mung’omba Draft Constitution with amendments</p>

	<p>(a) constituted by an uneven number of not less than three judges of the Court of Appeal; and</p> <p>(b) presided over by the Deputy Chief Justice, and in the absence of the Deputy Chief Justice, the most senior judge of the Court as constituted shall preside.</p>	<p>(a) constituted by an uneven number of not less than three judges of the Court of Appeal; and</p> <p>(b) presided over by the Deputy Chief Justice, and in the absence of the Deputy Chief Justice, the most senior judge of the Court of Appeal.</p>	<p>and re-numbered it as Article 192.</p> <p>The Conference amended paragraph (b) by substituting the words “the most senior judge of the Court as constituted shall preside” with “the most senior judge of the Court of Appeal.”</p>
<p><b>Article 208: Sittings of Court of Appeal</b></p>	<p><b>Sittings of Court of Appeal 208.</b> (1) The High Court shall consist of -</p> <p>(a) the Chief Justice, as an ex-officio member; and</p> <p>(b) such number of judges as shall be determined by an Act of Parliament.</p> <p>(2) The High Court shall be duly constituted by a single judge of the Court.</p>	<p><b>Sittings of Court of Appeal 193.</b> (1) The High Court shall consist of -</p> <p>(a) the Chief Justice, as an ex-officio member; and</p> <p>(b) such number of judges as shall be determined by an Act of Parliament.</p> <p>(2) The High Court shall be duly constituted by <b>one</b> judge of the Court.</p>	<p>The Conference adopted Article 208 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 193.</p> <p>The Conference decided to substitute the word “single” with “one” in order to avoid ambiguities arising out of the use of the word “single” which might be construed to refer to marital status.</p>
<p><b>Article 209: Jurisdiction of</b></p>	<p><b>Jurisdiction of High Court 209.</b> The High Court have, subject to</p>	<p><b>Jurisdiction of High Court 194.</b> (1) Subject to this</p>	<p>The Conference adopted Article</p>

<p><b>High Court</b></p>	<p>this Constitution -</p> <p>(a) unlimited and original jurisdiction in any civil or criminal matter; and</p> <p>(b) appellate and review jurisdiction as conferred on it by or under an Act of Parliament.</p>	<p>Constitution, the High Court shall have:</p> <p>(a) unlimited and original jurisdiction in any civil or criminal matter:</p> <p>Provided that the High Court shall not have jurisdiction with respect to -</p> <p>(i) proceedings in which the Industrial Relations Court has exclusive jurisdiction as provided by an Act of Parliament; or</p> <p>(ii) in any matter in which the Constitutional Court has original and final jurisdiction;</p> <p>(b) in all matters of interpretation of this Constitution; to determine whether an Act of Parliament or Statutory Instrument, contravenes this Constitution; and to determine a question of violation of any provision of the Bill of Rights.</p>	<p>209 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 194.</p> <p>The Conference:</p> <p>(a) observed that there was need to qualify jurisdiction of the High Court as was the case in Article 94 of the current Constitution where there was in-built qualification that labour and industrial relations were reserved for the Industrial Relations Court (IRC);</p> <p>(b) noted that since the Constitutional Court was the court of first instance on constitutional matters, the High Court should not have unlimited original jurisdiction; and</p> <p>(c) decided that Article 209 should be harmonised with Article 210, taking into</p>
--------------------------	--	---	---

		<p>(2) The High Court shall have appellate and review jurisdiction as conferred on it by or under an Act of Parliament.</p> <p>(3) A person or group of persons who alleges that -</p> <ul style="list-style-type: none"> <li>(a) an Act of Parliament or any thing done under the authority or any law; or</li> <li>(b) any act of or omission by any person or group of persons or authority; is inconsistent with, or in contravention of, this Constitution, may petition the High Court for a declaration to that effect and for redress.</li> </ul> <p>(4) Where upon the determination of the petition under clause (3), the High Court considers that there is need for redress, in addition to the declaration sought, the court may make an order for redress and determine the appropriate</p>	<p>account the decision of the Conference on the jurisdiction of the Constitutional Court, and Article 94 of the current Constitution.</p>
--	--	---	--

		<p>redress.</p> <p>(5) Where in any proceedings in any court a question arises as to the interpretation of any provision of this Constitution, the court shall refer the question to the High Court for determination.</p> <p>(6) Where a question is referred to the High Court under clause (5), the court shall give its decision on the question and the court in which the question arose shall dispose of the case in accordance with that decision.</p> <p>(7) Where a petition is submitted under clause (3) or a question is referred under clause (5) the High Court shall proceed to hear and determine the petition and question as soon as possible and may, for that purpose, suspend any other matter pending before it.</p> <p>(8) The High Court shall not order security for costs on matters relating to the public interest litigation.</p>	
--	--	---	--

<p><b>Article 210: Supervisory jurisdiction of High Court</b></p>	<p><b>Supervisory jurisdiction of High Court</b></p> <p><b>210.</b> (1) The High Court shall have supervisory jurisdiction over courts subordinate to the High Court and over any body or authority that exercises a judicial or quasi - judicial power.</p> <p>(2) The High Court, in the exercise of its supervisory powers under clause (1), may make orders and give directions to ensure the fair administration of justice.</p>	<p><b>Supervisory jurisdiction of High Court</b></p> <p>195. (1) The High Court <b>has</b> supervisory jurisdiction over courts <b>subordinate to it</b> and over any body or authority that exercises a judicial or quasi-judicial power.</p> <p>(2) The High Court, in the exercise of its supervisory power under clause (1), may make orders and give directions to the courts subordinate to it to ensure the fair administration of justice.</p>	<p>The Conference adopted Article 210 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 195.</p> <p>The Conference substituted:</p> <p>(a) the words “shall have” with the word “has” in clause (1) of Article 210; and</p> <p>(b) the words “subordinate to the High Court” with “<b>subordinate to it.</b>”</p>
<p><b>Article 211: Divisions of High Court</b></p>	<p><b>Divisions of High Court</b></p> <p><b>211.</b> (1) The Industrial Relations Court and Commercial Court shall be established as divisions of the High Court.</p> <p>(2) The Industrial Relations Court shall have exclusive jurisdiction in Industrial and labour relations matters, as provided by an Act of Parliament.</p>	<p><b>Divisions of High Court</b></p> <p><b>196. Parliament may enact legislation to create other courts as divisions of the High Court -</b></p> <p><b>(a) to sit and adjudicate in any part of Zambia; and</b></p> <p><b>(b) to adjudicate over specified Subject areas, within the jurisdiction of the High Court, and provide for the composition, powers, sittings</b></p>	<p>The Conference adopted Article 211 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 196.</p> <p>The Conference agreed that:</p> <p>(a) the Industrial Relations Court should be established separately from</p>

	<p>(3) Parliament may enact legislation to provide for the composition, powers, sittings and procedures of the Industrial Relations Court and Commercial Court.</p> <p>(4) Parliament may enact legislation to create other courts as divisions of the High Court -</p> <p>(a) to sit and adjudicate in any part of the country; and</p> <p>(b) to adjudicate over specified subject areas, within the jurisdiction of the High court, and provide for the composition powers, sittings and procedures of those courts.</p>	<p><b>and procedures of those courts.</b></p>	<p>the High Court; and</p> <p>(b) the Industrial Relations Court should retain its rules and procedures which were flexible;</p> <p>(c) the Chairperson and Vice-Chairperson of IRC should be at the same level as High Court Judges;</p> <p>(d) members of the IRC be appointed by the Judicial Service Commission; and</p> <p>(e) the establishment of the Commercial Court should be relegated to an Act of Parliament.</p>
<p><b>Article 197: (New Article)</b></p>		<p><b>Article 197: Industrial Relations Court</b></p> <p><b>197. (1) The Industrial Relations Court has exclusive jurisdiction in industrial and labour relations matters as provided by an Act of Parliament.</b></p> <p><b>(2) The members of the Industrial Relations Court shall be</b></p>	<p>The Conference decided to introduce a new Article 197 as a consequence of having established the IRC as a “stand-alone” court in Article 178.</p>

		<p>appointed by the Judicial Service Commission.</p> <p>(3) Parliament may enact legislation to provide for the composition, powers, sittings and procedures of the Industrial Relations Court.</p>	
<p>Article 212: Accessibility to courts</p>	<p><b>Accessibility to courts</b></p> <p>212. Parliament shall enact legislation to provide for accessibility to the courts, including the lowest levels of administration as far as is necessary and practicable.</p>	<p><b>Accessibility to courts</b></p> <p>The Conference decided to delete Article 212 of the Mung'omba Draft Constitution on accessibility to courts.</p>	<p>The Conference deleted Article 212 of the Mung'omba Draft Constitution because it was not clear whether accessibility to the courts meant access to justice, having courts all over the country or it referred to the physical entry into courts for persons with disabilities.</p>
<p>Article 213: Appointment of Judges of Superior Courts</p>	<p><b>Appointment of Judges of Superior Courts</b></p> <p>213. (1) The President, after consultation with the Judicial Service Commission and subject to ratification by the National Assembly, shall appoint the -</p> <ul style="list-style-type: none"> <li>(a) Chief Justice;</li> <li>(b) Deputy Chief Justice;</li> <li>(c) other judges of the</li> </ul>	<p><b>Appointment of Judges of Superior Courts</b></p> <p>198. (1) The President shall, on the recommendation of the Judicial Service Commission, and subject to ratification by the National Assembly, appoint -</p> <ul style="list-style-type: none"> <li>(a) the Chief Justice;</li> <li>(b) the Deputy Chief</li> </ul>	<p>The Conference adopted Article 213 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 198.</p> <p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) decided that the President should make the</li> </ul>



	<p>Supreme and Constitutional Court;</p> <p>(d) the judges of the Court of Appeal; and</p> <p>(e) the judges of the High Court.</p>	<p>Justice;</p> <p>(c) the judges of the Supreme and Constitutional Court;</p> <p>(d) the judges of the Court of Appeal;</p> <p>(e) the judges of the High Court;</p> <p>and</p> <p>(f) the Chairperson and Deputy Chairperson of the Industrial Relations Court.</p> <p>(2) Article 214 to 220 apply to the Chairperson and the Deputy Chairpersons of the Industrial Relations Court.</p>	<p>appointments of judges “on the recommendation of the “Judicial Service Commission (JSC)” instead of in consultation with the Judicial Service Commission, to avoid the observed public perception that judges, in discharging their work, were inclined to favour the appointing authority; and</p> <p>(b) included paragraph (f) in clause (1) as a consequence of an earlier decision by the Conference that the Chairperson and Deputy Chairpersons of the IRC should be at par with judges of the High Court.</p>
<p><b>Article 214:</b> <b>Acting Appointments</b></p>	<p><b>Acting Appointments 214.</b> Except with respect to the Chief Justice and the Deputy Chief Justice, where -</p> <p>(a) the office of a judge of a superior court becomes vacant; or</p> <p>(b) the Chief Justice informs</p>	<p><b>Acting Appointments 199.</b> Except with respect to the Chief Justice and the Deputy Chief Justice, where -</p> <p>(a) the office of a judge of a superior court becomes vacant; or</p> <p>(b) the Chief Justice</p>	<p>The Conference adopted Article 214 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 199.</p> <p>The Conference decided to recast</p>

	<p>the President that there is a need to make an acting appointment;</p> <p>the President shall, in consultation with the Judicial Service Commission, shall appoint a person qualified to act in the respective court until the appointment is revoked by the President acting in accordance with the advice of the Judicial Service Commission.</p>	<p>informs the President that there is a need to make an acting appointment;</p> <p>the President shall, <b>on the recommendation of</b> the Judicial Service Commission, appoint a person qualified to act in the respective court until the appointment is revoked by the President acting in accordance with the advice of the Judicial Service Commission.”</p>	<p>the last paragraph of Article 214 to empower the President to make acting appointments of serving judges to higher offices on the recommendation of the JSC.</p>
<p><b>Article 215: Qualification for Appointment of Judges of Superior Courts</b></p>	<p><b>Qualification for Appointment of Judges of Superior Courts</b></p> <p>215. (1) A person shall not qualify for appointment as a judge of a superior court unless that person has attained the age of forty-five years, is of proven integrity and -</p> <p>(a) holds or has held high judicial office; or</p> <p>(b) has been an advocate, in the case of -</p> <p>(i) the Supreme and Constitutional Court,</p>	<p><b>Qualification for Appointment of Judges of Superior Courts</b></p> <p>200. (1) Subject to clause (2), a person shall not qualify for appointment as a judge of a superior court unless that person is of proven integrity and -</p> <p>(a) holds or has held high judicial office; or</p> <p>(b) has been an advocate, in the case of -</p> <p>(i) the Supreme and Constitutional Court, for not less than fifteen</p>	<p>The Conference adopted Article 215 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 200.</p> <p>The Conference:</p> <p>(a) deleted the minimum age requirement for appointment as Judge of Superior Courts as it</p>

	<p>for not less than fifteen years;</p> <p>(ii) the Court of Appeal, for not less than twelve years; or</p> <p>(iii) the High Court, for not less than ten years.</p> <p>(c) in the case of a Judge of the Constitutional Court, has the qualifications specified by Article 197 ( c).</p> <p>(2) A person appointed as Judge to a specialised court shall have the relevant expertise in the area of jurisdiction of that court, as provided by an Act.</p>	<p>years;</p> <p>(ii) the Court of Appeal, for not less than twelve years; or</p> <p>(iii) the High Court, for not less than ten years.</p> <p>(2) A person appointed as Judge to a specialised court shall have the relevant expertise in the area of jurisdiction of that court, as provided by an Act of Parliament.</p>	<p>would disadvantage newly qualified career adjudicators; and</p> <p>(b) deleted paragraph (c) of clause (1) of Article 215 as a consequence of having relegated the qualifications of judges of the Constitutional Court as outlined in Article 197 ( c) to an Act of Parliament.</p>
<p><b>Article 216:</b> <b>Tenure of office of judge of superior court</b></p>	<p><b>Tenure of office of judge of superior court</b> <b>216.</b> (1) Subject to clause (3), the Chief Justice and the Deputy Chief Justice shall hold office until they attain the age of seventy-five years and shall then retire.</p>	<p><b>Tenure of office of judge of superior court</b> <b>201.</b> (1) Subject to clause (3), the Chief Justice and the Deputy Chief Justice shall hold office until they attain the age of seventy years and shall then retire.</p>	<p>The Conference adopted Article 216 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 201.</p>

	<p>(2) Any other judge of a superior court shall retire from office on attaining the age of seventy- five years.</p> <p>(3) A judge of a superior court may retire at any time after attaining the age of sixty-five years.</p> <p>(4) A person who has retired as a judge shall not be eligible for appointment as a judge.</p> <p>(5) Where a judge of a superior court has attained the prescribed retirement age specified under this Article and there are proceedings that were commenced before the judge attained the age of retirement, the judge may continue in office, for a period not exceeding six months, to deliver judgement or to perform any other function in relation to those proceedings.</p>	<p>(2) A judge of a superior court shall retire from office on attaining the age of seventy years.</p> <p>(3) A judge of a superior court may retire upon attaining the age of sixty-five years.</p> <p>(4) A person who retires as Judge shall not be eligible for appointment as a judge.</p> <p>(5) Where a judge of a superior court has attained the prescribed retirement age specified under this Article and there are proceedings that were commenced before the judge attained the age of retirement, the judge may continue in office for a period not exceeding six months, to deliver judgment or to perform any other function in relation to those proceedings."</p>	<p>The Conference:</p> <p>(a) decided that the retirement age for judges be reduced to seventy (70) years from the recommended age of seventy-five (75) years. That was because members were of the view that judges would not be able to conduct their work effectively after the age of seventy (70) years; and</p> <p>(b) supported the recommendation of giving judges the option to retire after attaining the age of 65.</p>
<p><b>Article 217: Removal of Judge from Office</b></p>	<p><b>Removal of Judge from Office 217.</b> A judge of a superior court may be removed from office only on the following grounds:</p> <p>(a) inability to perform the functions of office arising</p>	<p><b>Removal of Judge from Office 202.</b> A judge of a superior court may be removed from office only on the following grounds:</p> <p>(a) inability to perform the functions of office arising</p>	<p>The Conference adopted Article 217 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 202.</p>

	<p>from infirmity of body or mind;</p> <p>(b) breach of the code of conduct provided for in this Constitution or by an Act of Parliament;</p> <p>(c) corruption;</p> <p>(d) incompetence;</p> <p>(e) bankruptcy or insolvency;</p> <p>(f) stated misbehaviour or misconduct; or</p> <p>(g) undue or unreasonable delay in the delivery of a judgement.</p>	<p>from infirmity of body or mind; or</p> <p>(b) breach of the code of conduct provided for by an Act of Parliament.”</p>	<p>The Conference observed that the grounds for the removal of judges were clearly outlined in the Judicial Code of Conduct. Therefore, the Conference amended Article 217 of the Mung’omba Draft Constitution to take into account the provisions of that Code.</p>
<p><b>Article 218: Procedure for Removal of Judge</b></p>	<p><b>Procedure for Removal of Judge</b></p> <p>218. (1) A person who has a complaint against a judge of a superior court, based on the grounds specified under Article 217, may submit a petition to the Judicial Complaints Commission established under this Constitution.</p> <p>(2) The Judicial Complaints Commission shall, on receipt of a petition, determine whether the petition is not frivolous, vexatious or malicious and thereafter submit the petition and a report on the matter to the President within twenty-one days.</p>	<p><b>Procedure for Removal of Judge</b></p> <p>203. (1) The President shall where the President has reasonable grounds to believe that the question of removing a judge of a superior court ought to be investigated, appoint a tribunal in accordance with this Article.</p> <p>(2) A person who has a complaint against a Judge of a superior court, based on the grounds specified under</p>	<p>The Conference adopted Article 218 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 203.</p> <p>The Conference, in order to safeguard the integrity of the Judiciary, agreed that the following should be incorporated in Article 218 of the Mung’omba Draft Constitution:</p> <p>(a) some provisions in Article 98 (2), (3), (4)</p>

	<p>(3) The President shall, within fourteen days of receipt of the petition and the report submitted under clause (2), refer the petition and the report to the National Assembly.</p> <p>(4) On the receipt of the petition and the report by the National Assembly, the Speaker shall constitute a committee of the National Assembly to examine whether -</p> <ul style="list-style-type: none"> <li>(a) the petition is not frivolous, vexatious or malicious; and</li> <li>(b) the grounds do or do not relate to the physical or mental incapacity of the judge; and submit a report to the speaker.</li> </ul> <p>(5) Where the report of the committee, constituted under clause (4) states that the petition is not frivolous, vexatious or malicious and the grounds do not relate to the physical or mental incapacity of a judge -</p> <ul style="list-style-type: none"> <li>(a) the Speaker shall constitute a tribunal, as provided under clause (6), to investigate the</li> </ul>	<p>Article 203, may submit a petition to the Judicial Complaints Authority established under an Act of Parliament.</p> <p>(3) The Judicial Complaints Authority shall, on receipt of a petition, determine whether the petition is not frivolous, vexatious or malicious and thereafter submit the petition and a report on the matter to the President within twenty-one days.</p> <p>(4) The President shall within fourteen days of receipt of a petition and the report submitted under clause (3), if the report states that the petition is not frivolous, vexatious or malicious, and if the President considers that the question of removing the Judge under this Article ought to be investigated, then -</p>	<p>and (5) of the current Constitution and Article 218 (1) and (2) of the Draft Constitution;</p> <ul style="list-style-type: none"> <li>(b) a recommendation by the National Assembly;</li> <li>(c) a role for the President to initiate the removal process; and</li> <li>(e) a role for an individual to initiate a complaint against a judge and the procedure of where to direct such a complaint.</li> </ul>
--	--	---	--

	<p>complaint against the judge; and</p> <p>(b) the National Assembly may recommend to the President the suspension of the judge from office.</p> <p>(6) A tribunal to investigate a complaint against a judge, as provided under clause (5), shall be composed of -</p> <p>(a) a retired judge of the Supreme Court, or the Supreme and Constitutional Court who shall be the Chairperson;</p> <p>(b) a legal practitioner who qualifies to be appointed a judge of the Court of Appeal; and</p> <p>(c) one other person with experience in public service matters.</p> <p>(7) Where a complaint relating to the removal of a judge is based on the physical or mental incapacity of the Judge, the Speaker shall constitute a</p>	<p>(a) the President shall appoint a tribunal which shall consist of a Chairperson and not less than two other members, who hold or have held high judicial office; and</p> <p>(b) the tribunal shall inquire into the matter and report on the facts thereof to the President and advise the President whether the Judge ought to be removed from office under this Article.</p> <p>(5) Where a tribunal appointed under clause (4) advises the President that a Judge of a Superior Court ought to be removed from office, the President shall remove such judge from office, subject to ratification by the National Assembly.</p>	
--	--	---	--

	<p>medical board composed of not less than three medical practitioners, nominated by the body responsible for the registration of medical practitioners, registered under the Laws, to examine the judge.</p> <p>(8) A tribunal or medical board, constituted under this article, shall conduct an investigation of the complaint or medically examine the judge, as the case may be, and submit its recommendations, in writing, to the National Assembly, within thirty days of being constituted.</p> <p>(9) Proceedings under this Article shall be held in camera and the judge being investigated or examined shall be entitled to appear and be heard and to be represented by a legal practitioner or other expert.</p> <p>(10) Where a tribunal or medical board, constituted under this Article, recommends to the National Assembly that the judge -</p> <p style="padding-left: 40px;">(a) should be removed from office on the grounds specified in the recommendation; or</p>	<p>(6) If the question of removing a judge of superior court from office has been referred to a tribunal under clause (4), the President may suspend the judge from performing the functions of office, and any such suspension may at any time be revoked by the President and shall in any case cease to have effect if the tribunal advises the President that the judge ought to be removed from office.”</p>	
--	---	---	--



	<p>(b) should not be removed from office for the reasons specified in the recommendation; the National Assembly shall endorse the recommendation and the Speaker shall inform the President about the recommendation made by the tribunal or medical board.</p> <p>(11) Where a medical board or a tribunal constituted under this Article recommends that a judge be removed from office, the President shall remove the judge from office.</p>		
<p><b>Article 219: Remuneration of Judges</b></p>	<p><b>Remuneration of Judges 219.</b> (1) The Judicial Service Commission shall review and submit recommendations for the emoluments and other conditions of service of judges to the Emoluments Commission.</p> <p>(2) The Emoluments Commission shall review recommendations from the Judicial Service Commission and make appropriate recommendations for the emoluments of Judges for ratification by the National Assembly.</p> <p>(3) The National Assembly shall</p>	<p><b>Remuneration of Judges 204</b> (1) The Judicial Service Commission shall review and submit recommendations for the emoluments and other conditions of service of judges to the Minister responsible for finance.</p> <p>(2) The Minister responsible for finance shall review recommendations from the Judicial Service Commission and make appropriate recommendations for the emoluments of judges for</p>	<p>The Conference adopted Article 219 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 204.</p> <p>The Conference:</p> <p>(a) substituted the term “Emoluments Commission” with “Minister responsible for Finance” in clauses (1), (2) and (3); and</p>

	<p>enact legislation providing for the emoluments and the other terms and conditions of service for judges, taking into consideration the recommendations of the Emoluments Commission.</p> <p>(4) The emoluments of a judge shall not be reduced to the disadvantage of the judge during the judge's tenure of office.</p> <p>(5) A judge shall not, while the judge continues in office, hold any other office of profit or emolument.</p>	<p>ratification by the National Assembly.</p> <p>(3) Parliament shall enact legislation to provide for the emoluments and the other terms and conditions of service of judges, taking into consideration the recommendations of the Minister responsible for finance.</p> <p>(4) The emoluments of a judge shall not be reduced to the disadvantage of the judge during the Judge's tenure of office.</p> <p>(5) A judge shall not, while the judge continues in office, hold any other office of profit or emoluments."</p>	<p>(b) approved clauses (4) and (5) without amendments.</p>
<p><b>Article 220: Oath of Office of Judges</b></p>	<p><b>Oath of Office of Judges</b>  <b>220.</b> A judge shall, before assuming office, take the Judicial Oath set out in the Third Schedule.</p>	<p><b>Oath of Office of Judges</b>  <b>205.</b> A judge shall, before assuming office, take the Judicial Oath as may be prescribed by or under <b>an Act of Parliament.</b></p>	<p>The Conference adopted Article 220 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 205.</p> <p>The Conference amended the Article by providing that the</p>

			oath of office of judges should be in an Act of Parliament to allow for ease of amendments if need arose.
Article 221: Appointment, Retirement and Removal of Judicial Officers	<p><b>Appointment, Retirement and Removal of Judicial Officers</b></p> <p><b>221.</b> (1) The Judicial Service Commission shall appoint such number of judicial officers as the Judicial Service Commission considers necessary for the proper functioning of the Judiciary.</p> <p>(2) The Judicial Service Commission shall appoint judicial officers on such terms and conditions, including emoluments, as shall be approved by the Emoluments Commission.</p> <p>(3) An Act of Parliament shall provide for the qualifications for appointment to a judicial office.</p> <p>(4) A judicial officer, except a local court justice, shall retire on attaining the age of sixty years.</p> <p>(5) A local court justice shall retire at the age of seventy-five years.</p>	<p><b>Appointment, Retirement and Removal of Judicial Officers</b></p> <p>206. (1) The Judicial Service Commission shall appoint, such number of Judicial officers as the Judicial Service Commission considers necessary for the proper functioning of the Judiciary.</p> <p>(2) The Judicial Service Commission shall appoint judicial officers on such terms and conditions including emoluments, as shall be approved by the <b>Minister responsible for finance</b>.</p> <p>(3) An Act of Parliament shall provide for the qualifications for appointment to a judicial office.</p> <p>(4) A judicial officer, except a local court magistrate, shall</p>	<p>The Conference adopted Article 221 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 206.</p> <p>The Conference amended Article 221 as follows:</p> <p>(i) substituted "Emoluments Commission" with "Minister responsible for finance" in clause (2);</p> <p>(ii) included in clause (4) the following words: that "and may retire with full benefits on the attainment of fifty-five years"; and</p> <p>(iii) that in clause (5) "a Local Court Justice"</p>

		<p>retire on attaining the age of sixty years <b>and may retire with full benefits on the attainment of fifty-five years.</b></p> <p>(5)A local court <b>magistrate</b> shall retire at the age of <b>seventy years.</b>"</p>	<p>should read "Local Court Magistrate" in line with an amendment to the Local Courts Act.</p>
<p><b>Article 222: Jurisdiction and Divisions of Lower Courts</b></p>	<p><b>Jurisdiction and Divisions of Lower Courts</b></p> <p><b>222.</b> (1) Parliament shall enact legislation to provide for the jurisdiction, powers and procedures of the subordinate courts, the local courts and other lower courts.</p> <p>(2) There shall be established a Family Court and Juvenile Court as a divisions of the subordinate courts and local courts.</p> <p>(3) The composition, jurisdiction, powers, sittings and procedures of the Family Court and Juvenile Court as divisions of the subordinate courts and local courts shall be as provided by or under an Act of Parliament.</p>	<p><b>Jurisdiction and Divisions of Lower Courts</b></p> <p><b>207.</b> (1) Parliament shall enact legislation to provide for the jurisdiction, powers and procedures of the subordinate courts, the local courts and other lower courts.</p> <p>(2) There shall be established a Juvenile Court as a division of the subordinate court.</p> <p>(3) The composition, jurisdiction, powers, sittings and procedures of the Juvenile Court shall be provided by or under an Act of Parliament."</p>	<p>The Conference adopted Article 222 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 207.</p> <p>The Conference decided:</p> <p>(a) to delete reference to the Family Court because establishment of the Court was an administrative matter which should be left to the discretion of Parliament and the Chief Justice; and</p>

			(b) that the Juvenile Court should be a division of the subordinate court as opposed to local court because local court magistrates were not adequately trained to deal with matters relating to juveniles.
<b>Article 223: Judicial Service</b>	<b>Judicial Service</b> <b>223.</b> The office of judge and judicial officer are offices in the Judicial Service.	<b>Judicial Service</b> The Conference deleted Article 223 of the Mung'omba Draft Constitution on the Judicial Service.	The Conference deleted Article 223 of the Mung'omba Draft Constitution because it was superfluous.
<b>Article 224: Judicial Service Commission</b>	<b>Judicial Service Commission</b> <b>224.</b> (1) There is hereby established the Judicial Service Commission. (2) The Judicial Service Commission shall consist of: (a) the Chief Justice who shall be the Chairperson; (b) the Attorney-General; (c) one person nominated by the Civil Service	<b>Judicial Service Commission</b> <b>208.</b> (1) There is hereby established the Judicial Service Commission. (2) The members of the Judicial Service Commission shall be appointed by the President. (3) Parliament shall enact legislation to provide for the functions, powers, independence, composition, tenure of office, staff, procedures, operations, finances and financial	The Conference adopted Article 224 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 208.  The Conference decided that the composition of the Judicial Service Commission should be provided by or under an Act of Parliament which would be

	<p>Commission;</p> <p>(d) the Permanent Secretary responsible for public service management;</p> <p>(e) one Judge of the Supreme and Constitutional Court nominated by the Chief Justice;</p> <p>(f) one Judge of the Court of Appeal nominated by the Chief Justice;</p> <p>(g) one member of the Law Association of Zambia, with not less than fifteen years practice as a lawyer, nominated by the Association;</p> <p>(h) the Dean of the Law School of any public university;</p> <p>(i) one member of the Human Rights Commission;</p> <p>(j) one representative of magistrates nominated by a body representing magistrates; and</p> <p>(k) the person responsible for</p>	<p>management of the Commission.</p>	<p>easier to amend.</p>
--	---	--------------------------------------	-------------------------

	<p>the administration of the local courts.</p> <p>(3) The members of the Judicial Service Commission shall be appointed by the President.</p> <p>(4) A person nominated under clause (2) (c) and (g), shall not qualify to be appointed a member of the Judicial Service Commission unless that person is of proven integrity.</p> <p>(5) A person nominated under clause (2) (c) , (g), (i) or (j) shall hold office for a term of four years and shall be eligible for re-appointment for only one further term of four years.</p> <p>(6) A member referred to in clause (6) shall vacate office -</p> <ul style="list-style-type: none"> <li>(a) at the expiry of the term of office specified under that clause; or</li> <li>(b) if the member is elected or appointed to an office that is likely to compromise the independence of the Judicial Service Commission, as determined by the Chief</li> </ul>		
--	---	--	--

	<p style="text-align: center;">Justice.</p> <p>(7) A member who represents a body or institution shall vacate office if that body or institution nominates another person to represent it.</p>		
<p><b>Article 225: Functions of Judicial Service Commission</b></p>	<p><b>Functions of Judicial Service Commission</b></p> <p>225. (1) The functions of the Judicial Service Commission shall be -</p> <p>(a) to supervise the operations of the Judicial Service;</p> <p>(b) to advise the Government on the administration of justice and matters that relate to the Judiciary;</p> <p>(c) to review and make recommendations on the emoluments and other terms and conditions of service of judges and judicial officers to the Emoluments Commission;</p> <p>(d) subject to this Constitution,</p>	<p>The Conference deleted Article 225 of the Mung'omba Draft Constitution on the functions of the Judicial Service Commission.</p>	<p>The Conference deleted Article 225 of the Mung'omba Draft Constitution and decided that the functions of the Judicial Service Commission should be relegated to an Act of Parliament as envisaged in clause (3) of Article 208 for ease of amendments if need arose.</p>



	<p>to appoint, discipline and remove judicial officers and other employees of the Judicial service;</p> <p>(e) to prepare and implement programmes for the continuing education and training of judges, judicial officers and other employees of the Judicial Service;</p> <p>(f) to advise the Government on access to justice and legal aid; and</p> <p>(g) perform any function conferred on it by or under this Constitution or by or under an Act of Parliament.</p> <p>(2) The Judicial Service Commission shall be independent and shall not be subject to the direction or control of any person or authority in the performance of its functions under this Constitution or any other law.</p>		
--	---	--	--

<p><b>Article 226: Chief Administrator of Judicial Service</b></p>	<p><b>Chief Administrator of Judicial Service</b></p> <p><b>226.</b> (1) There shall be a Chief Administrator for the Judicial Service who shall be appointed by the President on the recommendation of the Judicial Service Commission.</p> <p>(2) The Chief Administrator -</p> <p>(a) shall be responsible for the day-to- day administration of the Judicial Service and for the implementation of the decisions of the Judicial Service Commission;</p> <p>(b) shall be the controlling officer for the Judicial Service; and</p> <p>(c) shall perform any other function as provided by or under an Act of Parliament.</p>	<p><b>Chief Administrator of Judicial Service</b></p> <p><b>209.</b> (1) There shall be a Chief Administrator of the Judicial Service who shall be appointed by the President on the recommendation of the Judicial Service Commission.</p> <p>(2) Parliament shall enact legislation to provide for the qualifications and functions of the Chief Administrator.</p>	<p>The Conference adopted Article 226 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 209.</p> <p>The Conference decided that clause (2) be deleted and the functions of the Chief Administrator of the Judicial Service be provided for in an Act of Parliament which would be easier to amend if such a need arose.</p>
<p><b>Article 227: Secretary to Judicial Service Commission</b></p>	<p><b>Secretary to Judicial Service Commission</b></p> <p><b>227.</b> The Chief Administrator shall</p>	<p>The Conference deleted Article 227</p>	<p>The Conference deleted Article</p>

	be the Secretary to the Judicial Service Commission	of the Mung'omba Draft Constitution on the Secretary to Judicial Service Commission.	277 of the Mung'omba Draft Constitution.  The Conference decided that the Registrar of the High Court, who was a lawyer, should be the Secretary of the Judicial Service.
<b>Article 228: Judicial Oath</b>	<b>Judicial Oath</b> 228. A judicial officer shall, before assuming office, take the Judicial Oath set out in the Third Schedule.	<b>Judicial Oath</b> 210. A judicial officer shall, before assuming office, take the Judicial Oath as may be prescribed by or under an Act of Parliament.	The Conference adopted Article 228 of the Mung'omba Draft Constitution with amendments and re-numbered it Article 210.  The Conference amended the Article by substituting the term "Third Schedule" with "as may be prescribed by or under an Act of Parliament" for ease of amendment if need arose.
<b>Article 229: Rules of court</b>	<b>Rules of court</b> 229. (1) Parliament shall enact legislation to empower the Chief Justice to prescribe rules and procedures for the courts and tribunals established under this Constitution or any other law. (2) Rules made under clause (1)	<b>Rules of court</b> 211. The Chief Justice may prescribe rules of practice and procedure for the courts and tribunals established under this Constitution or any other law.	The Conference adopted Article 229 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 211.  The Conference decided that

	shall provide for expeditious determination of cases before the courts and tribunals.		Article 229 be substituted with Article 94 (8) of the current Constitution with appropriate modifications.
--	---	--	--

<b>PART XII LOCAL GOVERNMENT</b>			
<b>ARTICLE NO.</b>	<b>PROVISIONS OF MUNG'OMBA DRAFT CONSTITUTION</b>	<b>RESOLUTIONS OF THE CONFERENCE</b>	<b>RATIONALE/REMARKS</b>
<b>Article 230:</b>  <b>Establishment and objectives of local government</b>	<b>System of Local Government</b>  <b>Establishment and objectives of local government</b>  <b>230.</b> There is hereby established a local government system the objectives of which are to – (a) ensure that powers, functions, responsibilities and resources from the National Government are transferred to the district council and sub-district authorities in a coordinated manner; (b) promote the people’s participation in democratic governance at the local level;	<b>System of Local Government</b>  <b>Establishment and objectives of local government</b>  <b>212.</b> (1) There is hereby established a system of local government that shall be based on decentralisation. (2) The objectives of local government are to – (a) promote the people's participation in democratic governance at the local level; (b) enhance the capacity of district councils to plan, control, co-operate, manage and execute policies in	The Conference adopted Article 230 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 212.  The Conference:  (a) observed that petitioners to the Mung'omba Constitution Review Commission overwhelmingly demanded for decentralisation as the

	<p>(c) promote cooperative governance with the national government in order to support and enhance the developmental role of local government;</p> <p>(d) enhance the capacity of district councils to plan, control, co-operate, manage and execute policies in respect of matters that affect the people within their respective localities;</p> <p>(e) promote social and economic development at the district level;</p> <p>(f) establish for each district council a sound financial base with reliable and predictable sources of revenue;</p> <p>(g) oversee the performance of persons employed by the National Government to provide services in the districts and to monitor the provision of Government services or the implementation of projects in the districts;</p> <p>(h) ensure accountability of district and sub-district authorities; and</p> <p>(i) recognize the right of the districts to manage their local affairs and to form partnerships, networks and</p>	<p>respect of matters that affect the people within their respective localities;</p> <p>(c) promote social and economic development at the district level;</p> <p>(d) promote a safe and healthy environment;</p> <p>(e) establish for each district council a sound financial base with reliable and predictable sources of revenue; and</p> <p>(f) ensure accountability of district Councils.</p>	<p>desired system of Local Government. Consequently, the Conference decided that the opening paragraph to Article 230 be revised into two sections in order to provide for the desires of the people and the Decentralisation Policy embarked upon by Government;</p> <p>(b) deleted paragraph (a) because it could be interpreted to mean that the central government would surrender all its powers, functions and responsibilities to the local authorities;</p> <p>(c) approved paragraphs (b), (d), (e), (f) and (h) be without amendments; and</p> <p>(d) decided to delete paragraphs (c) and (i) because they were not clear; and paragraph (g) because its provisions were part of the</p>
--	---	--	---

	associations to assist in management and to further their development.		current responsibilities of Cabinet Office.
<b>Article 231: Co-operation between National Government and local government and between local authorities</b>	<p><b>Co-operation between National Government and local government and between local authorities</b></p> <p><b>231.</b> (1) The National Government and the local government shall –</p> <p>(a) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of either government and shall respect the constitutional status, institutions and rights of the other; and</p> <p>(b) maintain liaison with each other for the purpose of exchange of information, co-ordination of policies, administration and enhancement of capacity.</p> <p>(2) District councils shall assist, support and consult with each other and shall, as appropriate, implement the laws being issued by the other.</p> <p>(3) District councils shall, to the extent necessary in any particular circumstance, co-operate in the</p>	The Conference deleted Article 231 of the Mung’omba Draft Constitution on co-operation between national government and local government and between local authorities.	The Conference deleted Article 231 of the Mung’omba Draft Constitution because it was observed that it would be tantamount to introducing a federal system of governance of councils which would create serious functional problems. It was therefore, decided that functional relationship between the Central Government and local authorities be provided for under an Act of Parliament as that relationship was amenable to change over time.

	<p>performance of their functions and, for that purpose, may set up joint committees and joint authorities.</p> <p>(4) District councils involved in an inter-district dispute shall make every reasonable effort to settle the dispute by means of procedures provided by or under an Act of Parliament for that purpose and shall exhaust all other remedies before they approach a court to resolve the dispute.</p>		
<p><b>Article 232: Structures and principles of decentralised government</b></p>	<p><b>Structures and principles of decentralised government</b> 232. (1) Parliament shall enact legislation applicable to provinces, districts and local authorities.</p> <p>The National Government shall ensure the decentralisation of functions, powers and responsibilities to the province, the district and such sub-districts as may be provided by or under an Act of Parliament.</p> <p>(3) The principal role of a provincial council is to co-ordinate the implementation, within the districts forming the province, of programmes and projects that extend to two or</p>	<p><b>Structures and principles of decentralised government</b> 213. (1) Parliament shall enact legislation applicable to provinces, districts and local authorities.</p> <p>(2) The Government shall ensure the decentralisation of functions, powers, resources and responsibilities to the province, the district and local authorities as may be provided by or under an Act of Parliament.</p>	<p>The Conference adopted Article 232 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 213.</p> <p>The Conference:</p> <p>(a) adopted clause (1) without amendments;</p> <p>(b) in clause (2), included the word "resources" and substituted the word "National" with "Government" because Zambia was a unitary State. The words "such as sub-districts"</p>

	<p>more districts of the province and to provide a forum through which the local authorities recommend policy and legislation concerning the province for enactment by Parliament.</p> <p>(4) The principal role of a district council is to administer the district, implement programmes and projects in the districts, issue by-laws and recommend local Bills for enactment by Parliament.</p>		<p>were substituted with “Local Authorities”; and</p> <p>(c) resolved to delete clauses (3) and (4) of Article 232 of Mung'omba Draft Constitution because:</p> <p>(i) the clauses were details which should be provided for in an Act of Parliament. It was also noted that the provisions in those clauses were covered under clauses (1) and (2) of the same Article; and</p> <p>(ii) there would be difficulties in differentiating between local authorities, district boundaries and sub-districts.</p>
--	--	--	---



<p><b>Article 233: Districts and district councils</b></p>	<p><b>Districts and district councils</b>  <b>233.</b> (1) The Republic of Zambia shall be divided into districts as may be specified by or under an Act of Parliament.  (2) The district shall be the principal unit for the decentralisation of functions to the local level.  (3) There shall be such number of wards in each district as may be specified by or under an Act of Parliament.  (4) There shall be established for each district a district council.  (5) Every district council shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.  (6) Parliament shall enact legislation to determine the different types of district councils and their corporate names.</p>	<p><b>Districts and district councils</b>  <b>214.</b> (1) The Republic of Zambia shall be divided into districts as may be specified by or under an Act of Parliament.  (2) The district shall be the principal unit for the decentralisation of functions to the local level.  (3) There shall be such number of wards in each district as may be specified by or under an Act of Parliament.  (4) There shall be established for each district a district council.  (5) Every district council shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.  (6) Parliament shall enact legislation to determine the different types of district councils and their corporate names.</p>	<p>The Conference adopted Article 233 of the Mung’omba Draft Constitution without amendments and re-numbered it as Article 214.</p> <p>The Conference noted that sub-districts were not explicitly mentioned and, that issues of structures were details that should not be provided for in the Constitution but in an Act of Parliament.</p>
<p><b>Article 234: Functions of</b></p>	<p><b>Functions of district councils</b>  <b>234.</b> (1) Subject to this</p>	<p><b>Functions of district councils</b>  <b>215</b> (1)Parliament shall enact</p>	<p>The Conference adopted Article 233 of the Mung’omba Draft</p>

<p><b>district councils</b></p>	<p>Constitution, a district council shall be the highest executive and legislative authority of the district.</p> <p>(2) Parliament shall enact legislation to prescribe the functions of district councils which shall include -</p> <p>(a) the preparation of comprehensive development plans for the district for submission to the National Government for integration into the National development plan;</p> <p>(b) the formulation and execution of plans, programmes and strategies for the effective mobilisation of resources for development of the district;</p> <p>(c) the issuance of by-laws, within its jurisdiction, and recommending or initiating local Bills for enactment by Parliament;</p> <p>(d) co-ordinating the functions of wards and other sub-district authorities within the district;</p> <p>(e) providing organised fora through which the people in the district can participate in the formulation of proposals for local Bills, budget submissions, development programmes and district council by-</p>	<p>legislation to prescribe the functions of district councils which shall include-</p> <p>(a) the preparation of comprehensive development plans for the district for submission to the Government for integration into the national development plan;</p> <p>(b) the formulation and execution of plans, programmes and strategies for the effective mobilisation of resources for the development of the district;</p> <p>(c) the issuance of by-laws, within its jurisdiction;</p> <p>(d) co-ordinating the functions of wards and other authorities within the district;</p> <p>(e) disaster prevention and management; and</p> <p>(f) any other function provided by or under an Act of Parliament.</p>	<p>Constitution with amendments and re-numbered it as Article 215.</p> <p>The Conference observed that:</p> <p>(a) providing for initiation of local bills by district councils would inhibit necessary corrective interventions by Government;</p> <p>(b) clause (1) of Article 234 of the Mung'omba Draft Constitution was lifted from the South African Constitution which provided for a federal system where local authorities initiated bills. That arrangement would be improper for Zambia, where initiation of bills was the preserve of relevant ministries, in consultation with the Ministry of Justice;</p> <p>(c) paragraphs (e) to (p) of</p>
---------------------------------	---	---	--

	<p>laws;</p> <p>(f) levying and collection of prescribed taxes, rates, levies, tolls duties and fees;</p> <p>(g) developing measures for the protection of natural resources and the environment; (h) developing and maintaining infrastructure; (i) the supply of water and the provision of sanitation; (j) disaster management; (k) the management of the decentralised structures relating to health and education; (l) the regulation of trade and business; (m) the provision of agricultural extension services; (n) provision of community policing and prison facilities; (o) preparation of progress reports for the district; and (p) any other function provided by or under an Act of Parliament.</p>		<p>Article 234 (2) were details to be provided in an Act of Parliament; and</p> <p>(d) there was need to amend paragraph (d) to provide for "disaster prevention and management." In amending the clause, the Conference observed that the function currently fell under Central Government.</p> <p>The Conference adopted the amendments in order to enable local authorities participate in the function at the local level and address current operational challenges relating to bureaucracy in managing disasters.</p>
--	--	--	---

<p><b>Article 235: Election of councillors and composition of district councils</b></p>	<p><b>Election of councillors and composition of district councils</b></p> <p><b>235.</b> (1) Subject to clause (5), elections to a district council shall be conducted under the mixed member representation system specified under Article 95 and as provided under this Article.</p> <p>(2) A district council shall consist of the following councillors:</p> <ul style="list-style-type: none"> <li>(a) a mayor;</li> <li>(b) other councillors elected directly for each of the number of wards in the district on the basis of the first past-the-post segment of the mixed member representation system, as prescribed by or under an Act of Parliament;</li> <li>(c) forty per cent of the total number of councillors elected on the basis of the proportional representation segment of the mixed member representation</li> </ul>	<p><b>Election of councillors and composition of district councils</b></p> <p><b>216.</b> (1) Subject to clause (5), elections to a district council shall be conducted under the mixed member representation system specified under Article 80 and as provided under this Article.</p> <p>(2) A district council shall consist of the following councillors:</p> <ul style="list-style-type: none"> <li>(a) a mayor;</li> <li>(b) other councillors elected directly for each of the number of wards in the district on the basis of the first past-the-post segment of the mixed member representation system, as prescribed by or under an Act of Parliament;</li> <li>(c) forty percent of the total number of councillors elected on the basis of the proportional representation</li> </ul>	<p>The Conference adopted Article 235 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 216.</p> <p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) adopted clauses (1) and (2) without amendments;</li> <li>(b) approved clause (3) with amendments, and also amended clause (4) by providing that a councillor could be entitled to a further allowance at the expiry of term of office; and</li> <li>(c) introduced a new provision on functions and duties of a councillor as reflected in clause (3) of Article 216.</li> </ul> <p>The Conference observed that:</p>

	<p>system from a party list submitted to the Electoral Commission by each political party contesting the elections, as prescribed by or under an Act of Parliament;</p> <p>(d) members of the National Assembly from the district;</p> <p>(e) three chiefs elected from the chiefs in the district by the chiefs to represent all the chiefs in that district;</p> <p>(f) one representative from the Defence Forces and national security agencies operating in the district; and</p> <p>(g) one representative of the business community in the district.</p> <p>(3) The term of a district council shall be five years.</p> <p>(4) A councillor shall be paid such allowances as may be determined by the Minister responsible for local government, subject to the ability of the district council to pay the allowances.</p>	<p>segment of the mixed member representation system from a party list submitted to the Electoral Commission by each political party contesting the elections, as prescribed by or under an Act of Parliament;</p> <p>(d) members of the National Assembly from the district;</p> <p>(e) three chiefs elected from the chiefs in the district by the chiefs to represent all the chiefs in that district;</p> <p>(f) one representative from the Defence Force and national security agencies operating in the district; v</p> <p>(g) one representative of the business community in the district.</p> <p>(3) The functions and duties of a councillor shall be provided for by or under an Act of Parliament.</p> <p>(4) The term of a district council shall be five years and shall run concurrently with the term of the</p>	<p>(a) clause (1) was linked to clauses (2) and (3) of Article 95 in the Mung'omba Draft Constitution which provided that local government elections should be conducted under the mixed member proportional representation (MMP) system;</p> <p>(b) the MMP system was good because, if adopted, some of the councillors would be elected through the First-Past-the-Post (FPTP) system while others would be appointed through the Proportional Representation (PR) system. That would address the non-representational problem faced by minority and disadvantaged groups particularly persons with disabilities and the youths. The provision would also facilitate the appointment of</p>
--	---	---	--

		<p>National Assembly.</p> <p>(5) The mayor, deputy mayor, chairman or vice-chairman of a council shall be elected by the councillors referred to in clause (2) from among the elected councillors referred to in paragraph (b) of clause (2) and as provided by or under an Act of Parliament.</p> <p>(6) A councillor shall be paid -</p> <ul style="list-style-type: none"> <li>(a) such allowances as may be prescribed by or under an Act of Parliament; and</li> <li>(b) a further allowance, at the expiry of that councillor's tenure of office, as recommended by the Minister responsible for finance and prescribed by or under an Act of Parliament, in addition to any allowances payable under paragraph (a).</li> </ul>	<p>people with special expertise.</p>
--	--	---	---------------------------------------

<p><b>Article 236: Tenure of office and vacation of office of councillor</b></p>	<p><b>Tenure of office and vacation of office of councillor</b> 236. Article 162 shall apply to the office of councillor.</p>	<p><b>Vacation of office of councillor</b> 217. (1) Subject to clause (2), a councillor shall vacate office upon the dissolution of the council. (2) The office of a councillor shall become vacant if - (a) the councillor ceases to be a citizen of Zambia; (b) the councillor resigns in writing addressed to the Mayor; (c) the election of that councillor is nullified by the Local Government Election Tribunal; (d) the councillor acts contrary to a code of conduct as provided by or under an Act of Parliament; (e) the Councillor resigns from the political party which sponsored the Councillor for election to the Council; (f) if circumstances arise that, if the holder of the office were not a councillor would</p>	<p>The Conference adopted Article 236 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 217.  The Conference decided to harmonise the provisions in Article 236 with Article 162 of the Mung'omba Draft Constitution and also aligned the provisions with the office of councillor.  The marginal note to Article 236 was amended by removing "tenure of office" because it was covered in Article 216 (4), above.</p>
--	---	--	--

		<p>disqualify the councillor for election as such; or</p> <p>(g) the councillor dies.</p> <p>(3) A councillor who causes a vacancy in a district council due to the reasons specified under paragraphs (b), (c), (d) and (e) of clause (2) is not eligible to contest in a council election for the duration of the term of that district council.</p> <p>(4) Where a councillor who holds a proportional representation seat, causes a vacancy in the council due to death or resignation, the vacancy shall be filled by the next candidate on the political party's list as provided by or under an Act of Parliament.</p> <p>(5) Where a Councillor, who occupies a proportional representation seat, is expelled from the political party that has been allocated that seat, the seat shall be filled by the next candidate on the political party's list as provided by an Act of Parliament.</p> <p>(6) Where a councillor, who occupies a ward -based seat, is</p>	
--	--	--	--



		<p>expelled by the political party which sponsored that councillor for election, the councillor shall not lose the seat unless the expulsion is confirmed by a court.</p> <p>(7) Where a court confirms the expulsion of a councillor who occupies a ward-based seat, a by-election shall be held to fill the vacancy:</p> <p style="padding-left: 40px;">Provided that no by-election to fill the vacancy created by the expulsion of a councillor who occupies a ward-based seat shall be held where the period remaining before the expiry of the term of office of that councillor is less than twelve months.</p> <p>(8) If a political party is dissolved -</p> <p style="padding-left: 20px;">(a) a councillor holding a ward-based seat shall</p>	
--	--	---	--

		<p>retain the seat in the council; and</p> <p>(b) a councillor holding a proportional representation-seat shall cease to be a councillor and the party shall lose the seat which seat shall be re-allocated to another political party as provided by or under an Act of Parliament.</p> <p>(9) The creation or dissolution of a coalition of parties of which a councillor's political party forms part of does not amount to a councillor resigning from the party for the purposes of paragraph (e) of clause (2).</p>	
<b>Article 237: By-election for district council</b>	<p><b>By-election for district council</b></p> <p><b>237.</b> Article 163 shall apply to the office of councillor.</p>	<p><b>Vacancies and by-elections for district council</b></p> <p><b>210. (1)</b> 218. (1) Where a vacancy occurs in the office of a councillor as specified under clause (2) of Article 235, the Mayor shall,</p>	<p>The Conference adopted Article 237 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 218.</p>

		<p>within seven days of the occurrence of the vacancy, inform in writing, the Electoral Commission of the vacancy.</p> <p>(2) Subject to clauses (2) and (3) of Article 100, where a vacancy occurs in the district council, a by-election shall be held within ninety days of the occurrence of the vacancy:</p> <p style="padding-left: 40px;">Provided that no by-election to fill the vacancy which occurs in a district council for a ward based-seat shall be held where the period remaining before the expiry of the term of office of the councillors of that district council is less than twelve months.</p>	<p>The Conference decided to harmonise the provisions in Article 237 with those in Articles 163 and 100 (1) of the Mung'omba Draft Constitution in order to relate them to the district council.</p> <p>The Conference also changed the marginal note to read: "Vacancies and by-elections for District Council." That was to relate the by-elections to the occurrence of a vacancy in the office of councillor and the District Council.</p>
<p><b>Article 238:</b> <b>Expulsion of councillor</b></p>	<p><b>Expulsion of councillor</b> <b>238.</b> (1) A councillor who has been expelled by that councillors' political party and who has</p>	<p><b>219. Expulsion of councillor</b> A councillor who has been expelled by that councillors' political party and who has challenged the</p>	<p>The Conference adopted Article 238 of the Mung'omba Draft Constitution with amendments</p>

	<p>challenged the expulsion in court shall hold the seat in the district council pending the conclusion of the petition or matter.</p> <p>(2) If a matter referred to under clause (1) is decided in favour of a councillor that councillor shall retain the seat in the district council as an independent.</p>	<p>expulsion in court shall hold the seat in the district council pending the conclusion of the petition or matter.</p>	<p>and re-numbered it as Article 219.</p> <p>The Conference observed that it was necessary to provide for parity of governance between the offices of member of Parliament and councillor in relation to the procedure that applied for expulsion of office bearers. That was in view of a similar provision which the Conference had earlier made for the expulsion of a member of Parliament.</p> <p>The Conference, however, decided to delete clause (2).</p>
<p><b>Article 239: Qualifications and disqualifications for election to district council</b></p>	<p><b>Qualifications and disqualifications for election to district council</b>  <b>239.</b> (1) A person shall qualify to be elected as a councillor of a district council, excluding councillors specified under Article 235 (2) (a), (d), (e), (f) and (g), if that person-</p> <p>(a) is not a member of the National Assembly but qualifies to be</p>	<p><b>Qualifications and disqualifications for election to district council</b>  <b>220.</b> (1) A person shall qualify to be elected as a councillor of a district council, excluding councillors specified under Article 235 (2) (a), (d), (e), (f) and (g), if that person-</p>	<p>The Conference adopted Article 239 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 220.</p> <p>The Conference:  (a) adopted the provisions in</p>

	<p>elected as a member of the National Assembly, subject to this Article;</p> <p>(b) is not less than eighteen years of age;</p> <p>c) has obtained, as a minimum academic qualification, a grade nine certificate of education or its equivalent;</p> <p>(d) has been resident in the ward for which the election is sought for a period of five years immediately preceding the election or is resident in the district and is in possession of a certificate of title showing ownership of property in the district; and</p> <p>(e) has a certificate of clearance showing the payment of council rates and rentals, where applicable.</p> <p>(2) The disqualifications that apply to the election of a member of the National Assembly shall apply to an election of a councillor to a district council.</p>	<p>(a) is not a member of the National Assembly but qualifies to be elected as a member of the National Assembly, subject to this Article;</p> <p>(b) is not less than eighteen years of age;</p> <p>(c) has obtained, as a minimum academic qualification, a grade <i>twelve</i> certificate of education or its equivalent;</p> <p>(d) is resident in the <i>district</i> or has been resident in the ward for which the election is sought for a period of <i>two</i> years immediately preceding the election; and</p> <p>(e) has a certificate of clearance showing the payment of council rates and rentals, where applicable.</p> <p><b>(2) A person shall be disqualified from being elected as councillor if that person -</b></p> <p><b>(a) holds, or is validly nominated as a candidate in an election for, membership of the National Assembly;</b></p> <p><b>(b) holds or is acting in any office</b></p>	<p>paragraphs (a), (b) and (e) of clause (1) of Article 239;</p> <p>(b) deleted clause (2) of Article 239 of the Mung'omba Draft Constitution and substituted it with a new clause (2) as reflected in revised Article 220;</p> <p>(c) harmonised the provisions in paragraph (f) of clause (2) with the provisions in Article 65 of the current Constitution.</p> <p>(d) decided to raise the minimum academic qualification for councillor because they were managers of District Councils who should be able to provide policy direction in their districts; and</p> <p>(e) substituted the word "ward" with "district" in paragraph (d) in order to allow the eligible residents in the whole district to participate</p>
--	--	---	---

		<p>that is specified by an Act of Parliament the functions of which involve or are connected with the conduct of elections;</p> <p>(c) is of unsound mind;</p> <p>(d) is an undischarged bankrupt or insolvent;</p> <p>(e) is serving a sentence of imprisonment or is under a sentence of death;</p> <p>(f) within a period of five years before that person's nomination for election, has been convicted of an offence under any law and been sentenced therefore for a period exceeding six months;</p> <p>(g) has been removed from public office on grounds of gross misconduct;</p> <p>(h) has been found guilty of corruption by any court or tribunal;</p> <p>(i) holds the office of Mayor;</p> <p>(j) is a Chief; or</p> <p>(k) is a member of the Defence Force and security agencies operating in the district.</p>	<p>in the elections and make them broad-based.</p>
--	--	--	--

		(3) In this Article, the reference to a sentence of imprisonment shall be construed as not including a sentence of imprisonment the execution of which is suspended or a sentence of imprisonment in default of payment of a fine.	
<b>Article 240: Petitions and Local Government Election Tribunal</b>	<b>Petitions and Local Government Election Tribunal</b>  240. (1) A person may file a petition with a Local Government Election Tribunal, established under clause (2), to challenge the election of a mayor or a councillor elected for a ward-based seat. (2) The Chief Justice shall establish an <u>ad hoc</u> Local Government Election Tribunal to hear and determine whether - (a) a person has been validly elected as a councillor; or (b) the seat of a councillor has become vacant. (3) A Local Government Election Tribunal shall be presided over by a	<b>Petitions and Local Government Election Tribunal</b>  221. (1) A petition to challenge the election of a councillor to a ward-based seat of a district council may be lodged with the Chairperson of the Electoral Commission by one or more of the following persons: (a) a person who lawfully voted or had a right to vote at the election to which the election petition relates; (b) a person claiming to have had a right to be nominated as a candidate for election as councillor at the election to which the election petition relates; or (c) a candidate for election as	The Conference adopted Article 240 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 221.  The Conference: (a) resolved to harmonise the provisions in Article 240 of the Mung'omba Draft Constitution with the provisions in the current Constitution in order to clearly outline the procedure to be followed when filing for an election petition. Also to clearly

	<p>magistrate of the First Class sitting with two other members, appointed by the Chief Justice from amongst legal practitioners or retired magistrates of the First Class.</p> <p>(4) A petition shall be determined within ninety days of the filing of the election petition.</p> <p>(5) A decision of the Local Government Election Tribunal shall be final and the Tribunal shall stand dissolved on the determination of the election petition.</p> <p>(6) A councillor whose election is petitioned shall hold the seat in the district council pending the determination of the petition.</p> <p>(7) The expenses of the Local Government Election Tribunal shall be a charge on the Consolidated Fund.</p>	<p>councillor at the election to which the election petition relates.</p> <p>(2) A petition under this Article shall be filed within seven days after the date of the declaration of the election results.</p> <p>(3) The Chairperson of the Electoral Commission shall, within seven days of the receipt of the petition under clause (1), submit it to the Chief Justice.</p> <p>(4) The Chief Justice shall upon receipt of a petition from the Chairperson of the Electoral Commission under clause (3), establish an <u>ad hoc</u> Local Government Election Tribunal to hear and determine whether -</p> <p>(a) a person has been validly elected as a councillor; or</p> <p>(b) any provision of this Constitution or any other law relating to elections of councillors has been complied with.</p> <p>(5) A Local Government Election Tribunal shall be presided over by a</p>	<p>state who qualified to petition;</p> <p>(b) In adopting clause (4), the Conference observed that:</p> <p>(i) the establishment of the Local Government Tribunal would take justice closer to the people in the provincial centres and therefore, reduce on cost;</p> <p>(ii) the addition of legal practitioners to the Tribunal as provided for in clause (5) would enhance the quality of adjudication in the election petition and achieve finality.; and</p> <p>(iii) the provision would shorten the process of disposing of election petitions and ensure that justice was not unnecessarily</p>
--	---	---	---



		<p>magistrate of the Subordinate Court of the First Class sitting with two other members, appointed by the Chief Justice from amongst legal practitioners or retired magistrates of the Subordinate Court of the First Class.</p> <p>(6) A petition shall be determined within ninety days of the filing of the election petition.</p> <p>(7) Any party aggrieved by a decision of the Local Government Election Tribunal may appeal to the High Court.</p> <p>(8) A councillor whose election is petitioned shall hold the seat in the district council pending the determination of the petition.</p> <p>(9) The expenses of the Local Government Election Tribunal shall be a charge on the National Treasury Account.</p>	<p>delayed.</p> <p>The term "Consolidated Fund" was substituted with "National Treasury Account" in clause (9).</p>
<p><b>Article 241:</b> <b>Recall of councillor</b></p>	<p><b>Recall of councillor</b></p> <p><b>241.</b> (1) A councillor who holds a ward-based seat may be recalled by</p>	<p>The Conference deleted Article 214 of the Mung'omba Draft Constitution on recall of councillor.</p>	<p>The Conference deleted Article 241 of Mung'omba Draft Constitution.</p>

	<p>the electorate in that ward as follows :</p> <p>(a) a recall shall only be initiated where a councillor has persistently neglected to perform the councillor's responsibilities in the ward as may be required of the councillor by law;</p> <p>(b) a recall shall be initiated by a petition signed by at least fifty per cent of the registered voters in the ward; and</p> <p>(c) the petition shall be presented to the Chairperson of the Electoral Commission who shall constitute a tribunal to inquire into the matter and report back within thirty days with its recommendation.</p> <p>(2) A councillor who is the subject of an inquiry under clause (1) shall have the right to be heard, be present and have representation before the tribunal constituted under clause (1).</p> <p>(3) The Chairperson of the Electoral Commission shall, within fourteen days of the receipt of the tribunals' recommendations, act in accordance with the recommendations of the tribunal.</p>		<p>While aware of the argument that the provision might provide protection and safeguards against abuse of the mandate of the office of councillor, the Conference noted that the provision would promote witch-hunting by some losing candidates and lead to more frequent and costly by-elections as recalls might be initiated on flimsy grounds.</p> <p>The Conference decided to delete provisions in the Article except provisions in clause (4) which were fused into Articles 215 and 219 on election of councillor, composition of district councils and expulsion of councillors, respectively.</p>
--	---	--	---

	<p>(4) An Act of Parliament shall provide for -</p> <p>(a) the functions and duties of a councillor in relation to the ward a councillor represents;</p> <p>(b) the grounds on which a councillor may be recalled; and</p> <p>(c) the composition, powers, sittings and procedures of a tribunal constituted under this Article.</p>		
<p><b>Article 242:</b> <b>Mayor</b></p>	<p><b>Mayor</b> <b>242.</b> (1) There shall be a mayor for every district council.</p> <p>(2) A mayor shall be -</p> <p>(a) elected directly by universal adult suffrage through a secret ballot by registered voters resident within the district;</p> <p>(b) elected for a term of five years and may be elected for only one further term of five years; and</p> <p>(c) subject to the same qualifications and disqualifications that apply to an election of a member to the National Assembly.</p> <p>(3) The emoluments of a mayor shall be determined by the</p>	<p>The Conference deleted Article 242 of the Mung'omba Draft Constitution on the mayor.</p>	<p>The Conference deleted Article 242 of Mung'omba Draft Constitution because:</p> <p>(a) electing a mayor through universal adult suffrage would be cumbersome and costly as it would require additional resources to hold tripartite elections to which the election of an executive mayor would be added;</p> <p>(b) the Speaker of the National Assembly, an</p>

	<p>Emoluments Commission upon recommendations of the district council.</p> <p>(4) A mayor shall, for purposes of any benefits determined by the Emoluments Commission under clause (3), be deemed to have completed a term of office if the mayor served for at least three years.</p>		<p>equally important position, was currently elected by the members of Parliament; and</p> <p>(c) it would create problems due to political alignments.</p>
<p><b>Article 243: Functions of mayor</b></p>	<p><b>Functions of mayor</b></p> <p><b>243.</b> (1) A mayor shall exercise executive functions of a district, subject to this Constitution and any other law.</p> <p>(2) Without limiting clause (1), a mayor shall -</p> <p>(a) preside at the meetings of the district council and the district executive committee;</p> <p>(b) oversee and monitor generally the functions of the district council and give directions on matters of policy as determined by the district council; and</p> <p>(c) perform any other function specified by or under an Act of Parliament.</p>	<p>The Conference deleted Article 243 of the Mung’omba Draft Constitution on the functions of mayor.</p>	<p>The Conference deleted Article 243 of the Mung’omba Draft Constitution.</p> <p>Article 243 was deleted by Conference as a consequence of having deleted Article 242.</p>

<p><b>Article 244: Conduct of councillors</b></p>	<p><b>Conduct of councillors</b></p> <p><b>244.</b> (1) A councillor shall act in accordance with the code of ethics provided in this Constitution and by or under an Act of Parliament. (2) A councillor shall not act in a way that is inconsistent with a councillor's civic duties and responsibilities.</p>	<p>The Conference deleted Article 244 of the Mung'omba Draft Constitution on conduct of councillors.</p>	<p><b>Conduct of councillors</b></p> <p>The Conference deleted Article 244 of the Mung'omba Draft Constitution and resolved that issues relating to ethics were details that should be relegated to an Act of Parliament.</p>
<p><b>Article 245: Accountability of councillors</b></p>	<p><b>245.</b> Councillors shall be accountable, collectively and individually, to the residents in their districts and to the National Government for the exercise of their powers and performance of their functions.</p>	<p>The Conference deleted Article 245 of the Mung'omba Draft Constitution on accountability of councillors.</p>	<p>The Conference deleted Article 245 of the Mung'omba Draft Constitution.</p> <p>The Conference observed that provisions relating to accountability of councillors should be provided for in an Act of Parliament.</p>
<p><b>Article 246: District Executive Committee</b></p>	<p><b>District Executive Committee</b></p> <p><b>246.</b> (1) There shall be constituted for every district council an executive committee. (2) An executive committee shall consist of – (a) the mayor; (b) the principal administrative officer</p>	<p>The Conference deleted Article 246 of the Mung'omba Draft Constitution on district executive committee.</p>	<p>The Conference deleted Article 246 of the Mung'omba Draft Constitution.</p> <p>The Conference observed that the provision would have been applicable where an executive mayor was to be elected by universal adult suffrage.</p>

	<p>of the district council; and</p> <p>(c) such other officers that shall be appointed by the mayor with the approval of the district council;</p>		
<p><b>Article 247: Functions of district executive committee</b></p>	<p><b>Functions of district executive committee</b></p> <p><b>247.</b> Subject to this Constitution, an executive committee of a district council shall perform the executive functions of the district council and shall-</p> <p>(a) ensure the implementation of Acts of Parliament and district by-laws within the district; and</p> <p>(b) perform any other function provided by or under an Act of Parliament.</p>	<p>The Conference deleted Article 247 of the Mung’omba Draft Constitution on functions of district executive committee.</p>	<p>The Conference deleted Article 247 of the Mung’omba Draft Constitution as a consequence of having deleted Article 246.</p>
<p><b>Article 248: Principal administrative officer and functions</b></p>	<p><b>Principal administrative officer and functions</b></p> <p><b>248.</b> (1) There shall be appointed for every district council a principal administrative officer who shall be the administrative head of the district and shall be responsible for the day-to-day administration of the district.</p>	<p>The Conference deleted Article 248 of the Mung’omba Draft Constitution on principal administrative officer and functions.</p>	<p>The Conference relegated Article 248 of the Mung’omba Draft Constitution to an Act of Parliament. The provisions called for detailed description and were amenable to change overtime, therefore, not suitable for inclusion in the Constitution.</p>

	<p>(2) The principal administrative officer shall -</p> <p>(a) implement Acts of Parliament and district by-laws within the district;</p> <p>(b) co-ordinate and supervise the activities of the district council and other sub-district authorities in the district;</p> <p>(c) co-ordinate and monitor Government functions between or among districts and between districts and the Government; and</p> <p>(d) perform any other function provided by or under an Act of Parliament.</p> <p>(3) In the performance of the functions under clause (2), the principal administrative officer shall be subject to the decisions and directions of the district council and shall be answerable to the council.</p>		
<p><b>Article 249: Other committees of district council</b></p>	<p><b>Other committees of district council</b></p> <p><b>249.</b> A district council -</p> <p>(a) shall appoint standing</p>	<p>The Conference deleted Article 249 of the Mung'omba Draft</p>	<p>The Conference deleted Article 249 of the Mung'omba Draft Constitution.</p>

	<p>committees and assign to them such functions as the council may consider necessary for the effective and efficient administration of the district; and</p> <p>(b) may appoint <u>ad hoc</u> committees consisting of councillors or non-councillors or both, to advise on any matter referred to them by the council.</p>	<p>Constitution on other committees of district council.</p>	<p>The Conference decided that the provisions in Article 249 be provided for in an Act of Parliament as they were amenable to change over time.</p>
<p><b>Article 250:</b> <b>Funds for district council</b></p>	<p><b>Funds for district council</b> 250. (1) There shall be established a Local Government Equalisation Fund. (2) Parliament shall, annually, appropriate a percentage of the total annual revenues of the Republic, as may be determined by the Emoluments Commission, to the Local Government Equalisation Fund for the sustenance, development and administration of the communities in a district. (3) The revenue referred to under clause (2) shall be in addition to revenues raised by a district council and retained by it.</p>	<p><b>Funds for district council</b> 222. (1) There shall be established a Local Government Equalisation Fund. (2) Parliament shall, annually, appropriate a percentage of the total annual revenues of the Republic, as may be determined by the Minister responsible for finance, to the Local Government Equalisation Fund for the sustenance, development and administration of the communities in a district. (3) The revenue referred to under clause (2) shall be in addition to revenues raised by a district council and retained by it.</p>	<p>The Conference adopted Article 250 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 222.</p> <p>The Conference resolved to adopt the Article as provided in the Mung'omba Draft Constitution except for clause (5) which was deleted because it was covered in Article 240 of Mung'omba Draft Constitution. The Article would compel Government to adequately fund local authorities, particularly, in</p>



	<p>(4) The Government may provide additional funds and grants beyond what is provided under clause (2) to a district council, conditionally or unconditionally.</p> <p>(5) Subject to this Constitution, a district council shall be competent to levy, impose, recover and retain property rates, levies, charges, fees, taxes, tolls and tariffs as may be necessary to perform its functions.</p>	<p>(4) The Government may provide additional funds and grants beyond what is provided under clause (2) to a district council, conditionally or unconditionally.</p>	<p>view of a decentralised government system where operations of the local authorities in providing quality services to the people would be critical.</p>
<p><b>Article 251: Staff of Local government</b></p>	<p><b>Staff of Local government</b></p> <p><b>251.</b> A district council shall appoint such staff and employees as are necessary for the effective implementation of the functions of the district council.</p>	<p>The Conference deleted Article 251 of the Mung'omba Draft Constitution on staff of local government.</p>	<p>The Conference deleted Article 251 of the Mung'omba Draft constitution.</p> <p>The Conference resolved that the responsibility to employ officers of councils should be provided for in an Act of Parliament.</p>
<p><b>Article 252: Provinces</b></p>	<p><b>Provinces</b></p> <p><b>252.</b> The Republic of Zambia shall be divided into provinces as shall be provided by or under an Act of Parliament.</p>	<p><b>Provinces</b></p> <p><b>223.</b> The Republic of Zambia shall be divided into provinces as shall be provided by or under an Act of Parliament.</p>	<p>The Conference adopted Article 252 of the Mung'omba Draft Constitution without amendments and re-numbered it as Article 223.</p>

			The Conference deemed the provision on "Provinces" necessary.
<b>Article 253: Provincial administration</b>	<b>Provincial administration</b> <b>253.</b> (1) There shall be established for each province a provincial administration. (2) A Provincial Minister shall be the political head of the province and the representative of the President in the province. (3) A provincial Permanent Secretary shall be the administrative head of the province.	<b>Provincial administration</b> <b>224.</b> (1) There shall be established for each province a provincial administration. (2) The functions of the Provincial Administration shall be prescribed by or under an Act of Parliament. (3) A Provincial Deputy Minister shall be responsible for the administration of any province as the President may assign to such Provincial Deputy Minister.	The Conference adopted Article 253 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 224.  The Conference: (a) adopted clause (1) as provided in the Mung'omba Draft Constitution;  (b) revised clause (2) to provide that the functions of the Provincial Administration should be prescribed in an Act of Parliament since those functions were amenable to change; and  (c) substituted clauses (3) and (4) with the provisions in clause (3) of Article 46 of the current Constitution.

<p><b>Article 254: Provincial council</b></p>	<p><b>Provincial council</b>  <b>254.</b> There shall be established a provincial council consisting of –</p> <ul style="list-style-type: none"> <li>(a) the Provincial Minister;</li> <li>(b) the provincial Permanent Secretary;</li> <li>(c) the mayors of the district councils in the province;</li> <li>(d) three chiefs, representing all the chiefs in the province, who shall be elected by the chiefs in the province; and</li> <li>(e) such other officers as may be specified by or under an Act of Parliament.</li> </ul>	<p>The Conference deleted Article 254 of the Mung’omba Draft Constitution on Provincial council.</p>	<p>The Conference deleted Article 254 of the Mung'omba Draft Constitution.</p> <p>While acknowledging the validity of having a provincial body the Conference observed that:</p> <ul style="list-style-type: none"> <li>(a) a Provincial council would not be an ideal institution and that the Provincial Administration established under Article 253 would adequately perform the desired role;</li> <li>(b) creation of a Provincial council negated the intentions and vision of decentralisation, whose primary focus was on the district and lower organs; and</li> <li>(c) providing for Provincial council would be tantamount to</li> </ul>
---	--	--	---

			advocating for a federal system and would aggravate red tape and stifle the operations of district councils.
<b>Article 255: Functions of provincial council</b>	<p><b>Functions of provincial council</b></p> <p><b>255.</b> (1) The functions of a provincial council shall be to -</p> <p>(a) co-ordinate and consolidate district plans into provincial development plans for submission to the National Government;</p> <p>(b) monitor the utilisation of resources and implement development programmes in the province;</p> <p>(c) coordinate and ensure the auditing of local government institutions in the province;</p> <p>(d) prepare provincial progress reports for the National Government on the implementation of development programmes and projects;</p> <p>(e) ensure implementation of the National Government's policies in the province;</p>	The Conference deleted Article 255 of the Mung'omba Draft Constitution on functions of Provincial council.	<p>The Conference deleted Article 255 of the Mung'omba Draft Constitution as a consequence of having deleted Article 254.</p> <p>In addition, it was observed that the functions outlined in Article 255 (1) were currently the functions of the provincial administration.</p>

	<p>(f) implement national development projects and programmes;</p> <p>(g) ensure proper utilisation and maintenance of Government buildings, equipment, plant, machinery and other infrastructure in the province;</p> <p>(h) retain oversight responsibility over functions of the district councils in the province in areas of -</p> <ul style="list-style-type: none"> <li>(i) financial accountability; and</li> <li>(ii) developmental programmes; and</li> <li>(iii) perform any other function provided by or under an Act of Parliament.</li> </ul> <p>(2) A provincial Permanent Secretary shall be responsible for ensuring the implementation of the functions specified under clause (1).</p>		
<p><b>Article 256:</b>  <b>Reserved power over non-performing district councils</b></p>	<p><b>Reserved power over non-performing district councils</b></p> <p>256. (1) A provincial council</p>	<p>The Conference deleted Article 256 of the Mung'omba Draft Constitution on reserved power over</p>	<p>The Conference deleted Article 256 of the Mung'omba Draft Constitution.</p>

	<p>shall assume the functions of any district council in any of the following circumstances, where:</p> <p>(a) a district council requests and it is in a district council's interest to do so;</p> <p>(b) it has become extremely difficult or impossible for a district council to full-fill its functions and obligations;</p> <p>(c) a district council has failed to meet established minimum standards for rendering of services in the district;</p> <p>(d) it is prudent to prevent a district council from taking unnecessary action that is prejudicial to the interests of another district council or to the province as a whole; and</p> <p>(e) it is necessary to maintain the economic and sovereign unity of the Republic.</p> <p>(2) Where a provincial council intends to assume the functions of a district council under clause (1) it shall -</p> <p>(a) prior to assuming those</p>	<p>non-performing district councils.</p>	<p>The Conference observed that:</p> <p>(a) the principle of having a supervisory institution was important but that should be provided for in an Act of Parliament;</p> <p>(b) details relating to Article 256 were adequately covered under Article 253; and</p> <p>(c) the role of the Provincial Administration be restricted to coordination of policy implementation and advisory functions and that, powers under Article 256 were too wide.</p> <p>The primary focus of decentralisation was on the district and lower organs. Failure to empower the district councils would result in continued inability to provide quality services.</p>
--	---	--	--

	<p>functions obtain the written permission of the Minister responsible for local government; and</p> <p>(b) issue a directive to the district council giving reasons why the provincial council is assuming the functions of the district council and stating what the district council is required to do in order to resume its operations.</p> <p>(3) Where a district council fails to carry out remedial action as required under clause 2 (b), a provincial council shall perform the functions of a district council for a period not exceeding ninety days after which fresh elections shall be held to elect other councillors.</p> <p>(4) The performance of the functions of a district council, by a provincial council under this Article, shall be exercised through persons or officers and under directives provided by or under an Act of Parliament.</p> <p>(5) Any person may challenge the assumption by a provincial council of the functions of a district council, under this Article, in the</p>		
--	---	--	--

	<p>Constitutional Court.</p> <p>(6) Parliament shall enact legislation to provide for the governance and regulation of a district council during the period a provincial council is performing the functions of a district council.</p>		
<p><b>Article 257: Legislation to further regulate local government</b></p>	<p><b>Legislation to further regulate local government</b></p> <p>257. Parliament shall enact legislation to provide for –</p> <p>(a) wards and other sub-district authorities of the district councils;</p> <p>(b) the financial control and accountability measures needed to be put in place for compliance by district councils;</p> <p>(c) matters that relate to the raising of loans, grants and other financial instruments by district councils;</p> <p>(d) the election of councillors and mayors of district councils;</p> <p>(e) the manner in which district councils shall initiate local bills for enactment by the National Assembly; and</p> <p>(f) the effective implementation of</p>	<p>The Conference deleted Article 244 of the Mung'omba Draft Constitution on legislation to further regulate local government.</p>	<p>The Conference deleted Article 257 of the Mung'omba Draft Constitution.</p> <p>The Conference observed that:</p> <p>(a) Article 257 of the Mung'omba Draft Constitution was interrelated with Articles 232 (3) and 233 of the Draft Constitution;</p> <p>(b) both Articles 232 (1) and 257 provided that <i>Parliament shall enact legislation</i> related to the same institutions;</p> <p>(c) enactment of legislation was a primary mandate of Parliament. It would, therefore, be superfluous to restate it;</p>



	this Part.		<p>(d) Articles 232 (3) and 234 (2) (e), like Article 257 (e), provided for a forum through which district councils would initiate local bills;</p> <p>(e) allowing local authorities to initiate bills to Parliament would be inappropriate and inconsistent with the existing Policy formulation process; and</p> <p>(f) regarding Article 257 (c), district councils were corporate bodies which could sue or be sued and had the inherent legal right to raise finances.</p>
--	------------	--	--

**PART XIII  
CHIEFTAINCY AND HOUSE OF CHIEFS**

<b>Article 258: Institution of Chieftaincy</b>	<b>Institution of Chieftaincy</b>  258. (1) The institution of chieftaincy together with its traditional councils as established by	<b>Institution of Chieftaincy</b>  225. The institution of Chieftaincy together with its traditional councils as established by customary law and	The Conference adopted Article 258 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 225.
--	---	---	---

	<p>customary law and its usage is hereby guaranteed, subject to this Constitution.</p> <p>(2) Parliament shall not enact legislation which –</p> <p>(a) confers on any person or authority the right to accord or withdraw recognition to or from a chief for any purpose; or</p> <p>(b) in any way derogates from the honour and dignity of the institution of chieftaincy.</p> <p>(3) Nothing in this Article or any other provision in this Constitution shall be construed so as to prevent Parliament from enacting legislation for –</p> <p>(a) the determination by a traditional council, in accordance with the appropriate customary law and its usage, of the validity of the nomination, election, selection, installation or deposition of a person as a chief; or</p> <p>(b) the registration of chiefs and the public notification in the <u>Gazette</u> or otherwise of the recognition of a person as chief.</p>	<p>its usage is hereby guaranteed, subject to this Constitution.</p> <p>(2) Nothing in this Article or any other provision in this Constitution shall be construed so as to prevent Parliament from enacting legislation for –</p> <p>(a) the determination by a traditional council, in accordance with the appropriate customary law and its usage, of the validity of the nomination, election, selection, installation or deposition of a person as a chief; or</p> <p>(b) the registration of chiefs and the public notification in the <u>Gazette</u> or otherwise of the recognition of a person as chief.</p> <p>(3) Subject to this Constitution, the institution of chief shall exist in any area of Zambia in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.</p> <p>(4) In a community where the issue of the installation of a chief has not been resolved, by the community concerned, the issue shall be referred to the House of Chiefs for resolution.</p>	<p>The Conference decided to delete clause (2) of Article 258 in the Mung'omba Draft Constitution because enactment of legislation was the primary mandate of Parliament.</p> <p>The words "a court" were replaced with the words "the High Court" in the last line of clause (7) of Article 258. That was in order to be specific as to the level of courts the appeals should be made.</p>
--	---	---	--

	<p>(4) Subject to this Constitution, the institution of chief shall exist in any area of Zambia in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.</p> <p>(5) In a community where the issue of the installation of a chief has not been resolved, by the community concerned, the issue shall be referred to the House of Chiefs for resolution.</p> <p>(6) If any person is aggrieved with a resolution of the House of Chiefs that person may appeal to a court.</p> <p>(7) Parliament may enact legislation to provide for the succession and installation of chiefs in accordance with customary law and its usage.</p>	<p>(5) If any person is aggrieved with a resolution of the House of Chiefs that person may appeal to the High Court.</p> <p>(6) Parliament may enact legislation to provide for the succession and installation of chiefs in accordance with customary law and its usage.</p>	
<p><b>Article 259: Concepts and principles relating to chieftaincy</b></p>	<p><b>Concepts and principles relating to chieftaincy</b></p> <p><b>259.</b> The following concepts and principles shall apply in relation to the chieftaincy :</p> <p>(a) the institution of chief shall be a corporation sole with perpetual</p>	<p><b>Concepts and principles relating to chieftaincy and principles relating to chieftaincy</b></p> <p><b>226.</b> The following concepts and principles shall apply in relation to the Chieftaincy:</p> <p>(a) the institution of Chieftaincy</p>	<p>The Conference adopted Article 259 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 226.</p>

	<p>succession and capacity to sue and be sued and to hold assets or properties in trust for itself and the people under a chief's jurisdiction;</p> <p>(b) a chief may own assets or properties acquired in a personal capacity; and</p> <p>(c) a chief shall enjoy privileges and benefits -</p> <ul style="list-style-type: none"> <li>(i) conferred by the Government; or</li> <li>(ii) a district council; and</li> <li>(iii) bestowed by or under culture, custom and tradition.</li> </ul>	<p>shall be a corporation sole with perpetual succession and with capacity to sue and be sued and to hold assets or properties in trust for itself and the people under a chief's jurisdiction;</p> <p>(b) nothing in paragraph (a) shall be taken to prohibit a chief from holding any asset or property acquired in a personal capacity; and</p> <p>(c) a chief shall enjoy such privileges and benefits as may be conferred by the Government and the local government or as that chief may be entitled to under culture, custom and tradition.</p>	<p>The Conference observed that clauses (b) and (c) were not explicit and decided to amend their provisions. Further, the words "the people concerned" were replaced with the words "the people under a chief's jurisdiction".</p>
<p><b>Article 260:</b> <b>Participation of chiefs in public affairs</b></p>	<p><b>Participation of chiefs in public affairs</b></p> <p><b>260.</b> (1) A chief may -</p> <p>(a) seek and hold any public office; or</p> <p>(b) participate in political activities and stand for any elective public office.</p> <p>(2) Parliament may enact legislation to provide for the role of chiefs, other traditional leaders and</p>	<p><b>Participation of chiefs in public affairs</b></p> <p><b>227.</b> (1) A person shall not, while remaining a chief, join or participate in partisan politics.</p> <p>(2) Parliament may enact legislation to provide for the role of chiefs and the local authority in the management, control and sharing of natural and other resources in their</p>	<p>The Conference adopted Article 260 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 227.</p> <p>The Conference made the following observations on paragraphs (a) and (b) of clause (1) of Article 260 of the Mung'omba Draft Constitution:</p> <p>(a) that chiefs had the right as</p>

	the local government in the management, control and sharing of natural and other resources in their localities.	localities.	<p>citizens, to take part in active politics;</p> <p>(b) the Constitution should not be discriminatory;</p> <p>(c) decision to take part in politics would be determined by the respective tribes; but</p> <p>(d) that chiefs who opted to take part in active politics should abdicate their positions.</p> <p>With those observations, it was decided that the paragraphs be deleted and replaced with a new text as reflected in clause (1) of Article 227.</p>
<b>Article 261: House of Chiefs</b>	<p><b>House of Chiefs</b></p> <p><b>261.</b> (1) There shall be established a House of Chiefs for the Republic which shall be an advisory body to the Government on traditional, customary and any other matters referred to it by the President or as may be provided by or under an Act of Parliament.</p> <p>(2) The House of Chiefs shall consist of not more than five chiefs elected by the chiefs from each</p>	<p><b>House of Chiefs</b></p> <p><b>228.</b> (1) There shall be established a House of Chiefs for the Republic which shall be an advisory body to the Government on traditional, customary and any other matters referred to it by the President or as may be provided by or under an Act of Parliament.</p> <p>(2) The House of Chiefs shall consist of not more than five chiefs elected by the chiefs from each province.</p> <p>(3) The Chairperson and Vice-</p>	<p>The Conference adopted Article 261 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 228.</p> <p>The Conference:</p> <p>(a) adopted provisions in clauses (1) to (4) of Article 261; and</p> <p>(b) amended clause (5) by substituting the term "Emoluments</p>

	<p>province.</p> <p>(3) The Chairperson and Vice-Chairperson of the House of Chiefs shall be elected annually from amongst the members of the House of Chiefs.</p> <p>(4) The Chairperson and the Vice-Chairperson of the House of Chiefs shall rotate annually amongst the provinces.</p> <p>(5) The Emoluments of the chiefs serving in the House of Chiefs shall be as recommended by the Emoluments Commission and prescribed in an Act of Parliament.</p> <p>(6) The expenses of the House of Chiefs shall be a charge on the Consolidated Fund.</p>	<p>Chairperson of the House of Chiefs shall be elected annually from amongst the members of the House of Chiefs.</p> <p>4) The Chairperson and the Vice-Chairperson of the House of Chiefs shall rotate annually amongst the provinces.</p> <p>(5) The Emoluments of the chiefs serving in the House of Chiefs shall be as recommended by the Minister responsible for finance and prescribed in an Act of Parliament.</p> <p>(6) The expenses of the House of Chiefs shall be a charge on the National Treasury Account.</p>	<p>Commission" with "Minister responsible for finance" in line with an earlier decision; and</p> <p>(c) substituted the term "Consolidated Fund" was substituted with "National Treasury Account" in clause (6).</p>
<p><b>Article 262: Functions of House of Chiefs</b></p>	<p><b>Functions of House of Chiefs</b></p> <p><b>262.</b> Without limiting Article 261 (1), the House of Chiefs may -</p> <p>(a) consider and discuss any Bill, referred to it by the President, dealing with, or touching on, custom or</p>	<p><b>Functions of House of Chiefs</b></p> <p><b>229.</b> Without limiting Article 229 (1), the House of Chiefs may -</p> <p>(a) consider and discuss any Bill, referred to it by the President, dealing with, or touching on, custom or</p>	<p>The Conference adopted Article 262 of the Mung'omba Draft Constitution without amendments and re-numbered it as Article 229.</p>

	<p>tradition before it is introduced into the National Assembly;</p> <p>(b) discuss matters relating to national development;</p> <p>(c) initiate, discuss and decide on matters that relate to customary law and practice;</p> <p>(d) initiate, discuss and make recommendations regarding the local community's welfare;</p> <p>(e) consider and discuss any matter referred to it by the President or approved by the President for reference to the House;</p> <p>(f) submit resolutions on any Bill or matter referred to it by the President and the President shall cause the resolutions of the House of Chiefs to be laid before the National Assembly; and</p> <p>(g) recommend to the President persons to be bestowed with honours.</p>	<p>tradition before it is introduced into the National Assembly;</p> <p>(b) discuss matters relating to national development;</p> <p>(c) initiate, discuss and decide on matters that relate to customary law and practice;</p> <p>(d) initiate, discuss and make recommendations regarding the local community's welfare;</p> <p>(e) consider and discuss any matter referred to it by the President or approved by the President for reference to the House;</p> <p>(f) submit resolutions on any Bill or matter referred to it by the President and the President shall cause the resolutions of the House of Chiefs to be laid before the National Assembly; and</p> <p>(g) recommend to the President persons to be bestowed with honours.</p>	
<b>Article 263: Tenure of office and vacancy</b>	<b>Tenure of office and vacancy</b> 263. (1) A chief - (a) shall hold office in the House of Chiefs for a period of five	<b>Tenure of office and vacancy</b> 230. (1) A chief - (a) shall hold office in the House of	The Conference adopted Article 263 of the Mung'omba Draft

	<p>years and is eligible for election after that term; and</p> <p>(b) may resign from the House of Chiefs upon giving one month's notice in writing to the Chairperson.</p> <p>(2) The office of chief in the House of Chiefs shall become vacant if the chief -</p> <p>(a) dies;</p> <p>(b) ceases to be a chief;</p> <p>(c) resigns;</p> <p>(d) becomes a member of the National Assembly or is appointed to any public office;</p> <p>(e) is adjudged or becomes an undischarged bankrupt; or</p> <p>(f) is declared to be or becomes of unsound mind under any law.</p>	<p>Chiefs for a term of five years and is eligible for election after that term; and</p> <p>(b) may resign from the House of Chiefs upon giving one month's notice in writing to the Chairperson.</p> <p>(2) The office of chief in the House of Chiefs shall become vacant if the chief-</p> <p>(a) dies;</p> <p>(b) ceases to be a chief;</p> <p>(c) resigns;</p> <p>(d) is adjudged or becomes an undischarged bankrupt; or</p> <p>(e) is declared to be or becomes of unsound mind under any law.</p>	<p>Constitution with amendments by deleting paragraph (d) of clause (2) and re-numbered it as Article 230.</p> <p>The Conference was of the view that a chief who held a public office would not have enough time to devote to the management of the chiefdom.</p>
<p><b>Article 264:</b> <b>Oaths of members of House of Chiefs</b></p>	<p><b>Oaths of members of House of Chiefs</b></p> <p><b>264.</b> Every chief elected to the House of Chiefs shall take the Oath of member of the House of Chiefs, as set out in the Third Schedule.</p>	<p><b>Oaths of members of House of Chiefs</b></p> <p>231. Every chief elected to the House of Chiefs shall take the Oath of member of the House of Chiefs, as prescribed by or under an Act of Parliament.</p>	<p>The Conference adopted Article 265 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 231.</p> <p>The Conference substituted the words "as set out in the schedule"</p>



			with the words "as prescribed by or under an Act of Parliament."
<b>Article 265: Staff of House of Chiefs</b>	<b>Staff of House of Chiefs</b> <b>265.</b> (1) There shall be a Clerk of the House of Chiefs and such other staff as may be necessary for carrying out the functions under this Part or any other law. (2) The emoluments of the Clerk and other staff of the House of Chiefs shall be a charge on the Consolidated Fund.	<b>Staff of House of Chiefs</b> <b>232.</b> (1) There shall be a Clerk of the House of Chiefs and such other staff as may be necessary for carrying out the functions under this Part or any other law. (2) The emoluments of the Clerk and other staff of the House of Chiefs shall be a charge on the National Treasury Account.	The Conference adopted Article 265 of the Mung'omba Draft Constitution without amendments and re-numbered it as Article 232.
<b>Article 266: Regulations for House of Chiefs</b>	<b>Regulations for House of Chiefs</b> <b>266.</b> Subject to this Constitution, the President may make regulations -  (a) for the appointment of the Clerk and other staff of the House of Chiefs; (b) for the proceedings, sittings and conduct of the House of Chiefs; (c) for the application of any of the privileges and immunities of the National Assembly and its members to the House of Chiefs and its members; and	<b>Regulations for House of Chiefs</b> <b>233.</b> Subject to this Constitution, the President may make regulations:-  (a) for the appointment of the Clerk and other staff of the House of Chiefs; (b) for the proceedings, sittings and conduct of the House of Chiefs; (c) for the application of any of the privileges and immunities of the National Assembly and its members to the House of Chiefs and its members; and	The Conference adopted Article 266 of the Mung'omba Draft Constitution without amendments and re-numbered it as Article 233.

	(d) providing for such other matters as are necessary or conducive to the better carrying out of the purposes of this Part.	(d) providing for such other matters as are necessary or conducive to the better carrying out of the purposes of this Part.	
<b>PART XIV</b> <b>PUBLIC SERVICE AND COMMISSIONS</b>			
ARTICLE NO.	PROVISIONS OF THE MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
<b>Article 267:</b> <b>Values and Principles of Public Service</b>	<b>Values and Principles of Public Service</b>  267 (1)The guiding values and principles of the public service shall include- (a) maintenance and promotion of the highest standards of professional ethics and integrity; (b) promotion of efficient, effective and economic use of resources; (c) effective, impartial, fair and equitable provision of	<b>Values and Principles of Public Service</b>  <b>234. (1) Parliament shall enact legislation to provide for the guiding values and principles of the public service.</b> <b>(2) The values and principles referred to under clause (1) shall apply to public service-</b> <b>(a) at national and local government level; and</b> <b>(b) in all state organs and state institutions.</b>	<p>The Conference adopted Article 267 of the Mung'omba Draft Constitution with amendments to clauses (1) and (2) (a), (b) and re-numbered it as Article 234.</p> <p>The Conference observed that the principles and values though important should not be itemised in the Constitution and that they should be provided for in an Act of Parliament.</p>

	<p>services;</p> <p>(d) encouragement of people to participate in the process of policy making;</p> <p>(e) prompt, efficient and timely response to people's needs;</p> <p>(f) commitment to the implementation of public policy and programmes;</p> <p>(g) accountability for administrative acts of omission and commission;</p> <p>(h) transparency fostered by providing the public with timely, accessible and accurate information;</p> <p>(i) subject to paragraph (k), merit as the basis of appointment and promotion;</p> <p>(j) adequate and equal opportunities for appointments, training and advancement of members of both gender and members of all ethnic groups; and</p>		
--	--	--	--

	<p>(k) representation of Zambia's diverse communities and persons with disability in the composition of the public service at all levels.</p> <p>(2) The values and principles stated under clause (1) apply to public service -</p> <p>(a) at National and local government; and</p> <p>(b) in all State organs and State institutions.</p>		
<p><b>Article 268: Offices for Republic</b></p>	<p><b>Offices for Republic</b></p> <p>268. (1) Subject to this Constitution and any other law -</p> <p>(a) the power to constitute public offices for the Republic and the power to abolish any of those offices vests in the President; and</p> <p>(b) the power to appoint persons to hold or act in offices constituted for the Republic, to confirm appointments, to exercise disciplinary control over persons</p>	<p><b>Offices for Republic</b></p> <p>235. (1) Subject to the other provisions of this Constitution and any other law-</p> <p>(a) the power to constitute public offices for the Republic and the power to abolish any of those offices vest in the President; and</p> <p>(b) the power to appoint persons to hold or act in offices constituted for the Republic, to confirm</p>	<p>The Conference adopted Article 268 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 235.</p> <p>The Conference:</p> <p>(a) approved Article 268 (1) as its provisions were a prerogative of the President as head of the Executive wing of government under which the public offices</p>

	<p>holding or acting in those offices and to remove any of those persons from office vests in the President.</p> <p>(2) The expenses, including emoluments, of any public office constituted under this Part shall be a charge on the Consolidated Fund.</p> <p>(3) In this Part “public officer” does not include persons serving in the Judiciary, a member of any Commission established by this Constitution or an Act of Parliament, any officer serving in the Parliamentary Service Commission, a member of Parliament, a councillor or any person serving under a district council.</p>	<p>appointments, to exercise disciplinary control over persons holding or acting in those offices and remove any of those persons from office vests in the President.</p> <p>(2) The expenses, including emoluments, of any public office constituted under this Part shall be a charge on the National Treasury Account.</p> <p>(3) In this Part “public officer” <b>does not include a judge, a judicial officer</b>, a member of any Commission established by this Constitution or an Act of Parliament, any officer serving in the Parliamentary Service Commission, <b>a member of Parliament or a councillor.</b></p>	<p>fell; and</p> <p>(b) approved clause (2) with the substitution of the term “Consolidated Fund” with “National Treasury Account”; and</p> <p>(c) amended clause (3) by:</p> <p>(i) substituting the words “does not include persons serving in the Judiciary” with “does not include a judge, a judicial officer”; and</p> <p>(ii) substituting the words “a member of Parliament, a councillor or any person serving under a district council” with “a member of Parliament <b>or</b> a councillor.”</p>
<p><b>Article 269:</b> <b>Attorney-General</b></p>	<p><b>Attorney-General</b> 269. (1) There shall be an Attorney-General of the Republic whose office is a public office and who shall be appointed by the President on the recommendation of</p>	<p><b>Attorney-General</b> 236. (1) There shall be an Attorney-General of the Republic whose office is a public office and who shall be appointed by the</p>	<p>The Conference adopted Article 268 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 236. The Conference decided to delete</p>

	<p>the Judicial Service Commission, subject to ratification by the National Assembly.</p> <p>(2) The person appointed Attorney-General under clause (1) shall not be appointed as a Minister or hold any other public office.</p> <p>(3) The Attorney-General shall be-</p> <ul style="list-style-type: none"> <li>(a) an ex-officio member of the Cabinet;</li> <li>(b) not less than forty-five years of age; and</li> <li>(c) a person qualified to be appointed as a Judge of a superior court.</li> </ul> <p>(4) Subject to this Article, a person holding the office of Attorney-General shall retire from office on attaining the age of sixty years and may retire on attaining the age of fifty-five years.</p> <p>(5) The Attorney-General shall only be removed from office on the same grounds and same procedure as those that apply to a Judge of a superior court.</p> <p>(6) The Attorney-General may</p>	<p>President, subject to ratification by the National Assembly.</p> <p>(2) The person appointed Attorney-General under clause (1) shall not be appointed as a Minister or hold any other public office.</p> <p>(3) The Attorney-General shall be-</p> <ul style="list-style-type: none"> <li>(a) an ex-officio member of Cabinet;</li> <li>(b) not less than <b>forty-five</b> years of age; and</li> <li>(c) a person qualified to be appointed as a Judge of a superior court.</li> </ul> <p>(4) The office of Attorney-General shall become vacant if the holder of the office is removed from office by the President.</p> <p>(5) The Attorney-General may resign from office on giving three months notice in writing to the President.</p> <p>6) The functions of the Attorney-General shall include-</p> <ul style="list-style-type: none"> <li>(a) being the principal legal adviser to the Government;</li> <li>(b) <b>causing the drafting of</b></li> </ul>	<p>clauses (4) and (5) of Article 269 and substituted them with clause (5) of Article 54 of the current Constitution. That was because under the current constitution, the Attorney-General did not enjoy the security of tenure because he/she was part of the executive.</p> <p>The Conference amended clause (7) to include some provisions of the current constitution and decided to substitute clause (8) of Article 269 with Article 54 (3) of the current constitution because it was more comprehensive.</p>
--	---	--	---

	<p>resign from office on giving three months notice in writing to the President.</p> <p>(7) The functions of the Attorney-General shall include -</p> <ul style="list-style-type: none"> <li>(a) being the principal legal adviser to the Government;</li> <li>(b) the signing of all Government Bills to be presented to the National Assembly;</li> <li>(c) representing the Government in the courts or any other legal proceedings to which Government is a party, and</li> <li>(d) any other function assigned to the Attorney-General by the President or by any other law.</li> </ul> <p>(8) Subject to this Constitution, an agreement, treaty or convention shall not be concluded without the legal advice of the Attorney-General, except where the National Assembly otherwise directs and subject to the</p>	<ul style="list-style-type: none"> <li>(c) <b>and signing, all Government Bills to be presented to Parliament; drawing and perusing agreements, contracts, treaties, conventions and documents, by whatever name called, to which the Government is a party or in respect of which the Government has an interest;</b></li> <li>(d) representing the Government in the courts or any other legal proceedings to which Government is a party; and</li> <li>(e) any other functions assigned to the Attorney-General by the President or by any other law.</li> </ul> <p>(7) Subject to the other provisions of this Constitution, an agreement, contract, treaty, convention or document by whatever name called, to which Government is a party or in respect of which the Government has an interest, shall not be concluded</p>	
--	---	---	--

	<p>conditions provided by an Act of Parliament.</p> <p>(9) The Attorney-General shall not be subject to the direction or control of any other person or authority in the performance of the Attorney-General's functions under this Constitution.</p>	<p>without the legal advice of the Attorney-General, except in such cases and subject to such conditions as Parliament may by law prescribe.</p> <p><b>(8) In the exercise of the power to give directions to the Director of Public Prosecutions conferred by clause (6) of Article 239, the Attorney-General shall not be subject to the direction or control of any other person or authority.</b></p>	
<p><b>Article 270: Solicitor-General</b></p>	<p><b>Solicitor-General</b></p> <p>270. (1) There shall be a Solicitor-General of the Republic whose office is a public office and who shall be appointed by the President on the recommendation of the Judicial Service Commission, subject to ratification by the National Assembly.</p> <p>(2) A person shall not qualify to be appointed to the office of Solicitor-General unless that person is qualified for appointment as a Judge of a superior court. (3)</p> <p>Subject to this Article, a person holding the office of Solicitor-General shall retire from</p>	<p><b>Solicitor-General</b></p> <p>237. (1) There shall be a Solicitor-General of the Republic whose office is a public office and who shall be appointed by the President, subject to ratification by the National Assembly.</p> <p>(2) A person shall not qualify to be appointed to the office of Solicitor-General unless that person is qualified for appointment as a Judge of a superior court.</p> <p>(3) The office of Solicitor-General shall become vacant if the holder of the office is removed from office by</p>	<p>The Conference adopted Article 270 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 237.</p> <p>The Conference adopted clauses (1), (2), (3) and (6) of Article 270 and substituted clause (5) with clause (3) of Article (55) of the current Constitution.</p> <p>The Conference observed that in ratifying presidential appointments, the National Assembly consulted all stakeholders, including the Judicial</p>



	<p>office on attaining the age of sixty years and may retire on attaining the age of fifty-five years.</p> <p>(4) The Solicitor-General shall only be removed from office on the same grounds and same procedure as those that apply to a Judge of a superior court.</p> <p>(5) The Solicitor-General may resign from office on giving three months notice in writing to the President.</p> <p>(6) A function conferred on the Attorney-General by this Constitution or any other law may be performed by the Solicitor-General -</p> <p>(a) when the Attorney-General is unable to act owing to illness or absence from office for any reason; and</p> <p>(b) in any case where the Attorney-General has authorised the Solicitor-General to perform that function.</p>	<p>the President.</p> <p>(4) The Solicitor-General may resign from office on giving three months notice in writing to the President.</p> <p>(5) A function conferred on the Attorney-General by this Constitution or any other law may be performed by the Solicitor-General-</p> <p>(a) when the Attorney-General is unable to act owing to illness or absence from office for any reason; and</p> <p>(b) in any case where the Attorney-General has authorised the Solicitor-General to perform that function.</p>	<p>Service Commission.</p>
--	--	--	----------------------------

<p><b>Article 271: Solicitor- General</b></p>	<p><b>Director of Public Prosecutions</b></p> <p>271 (1) There shall be a Director of Public Prosecutions whose office is a public office and who shall be appointed by the President on the recommendation of the Judicial Service Commission, subject to ratification by the National Assembly.</p> <p>(2) A person shall not qualify to be appointed to the office of Director of Public Prosecutions unless that person -</p> <ul style="list-style-type: none"> <li>(a) is not less than forty-five years of age;</li> <li>(b) has experience in criminal prosecutions; and</li> <li>(c) is qualified to be appointed as a Judge of a superior court.</li> </ul> <p>(3) Except as otherwise provided in this Constitution or any other law, the Director of Public Prosecutions may -</p> <ul style="list-style-type: none"> <li>(a) institute and undertake</li> </ul>	<p><b>Director of Public Prosecutions</b></p> <p>238. (1) There shall be a Director of Public Prosecutions whose office is a public office and who shall be appointed by the President subject to ratification by the National Assembly.</p> <p>(2) A person shall not qualify to be appointed to the office of Director of Public Prosecutions unless that person is qualified to be appointed as a Judge of a superior court <b>with experience biased towards criminal law.</b></p> <p>(3) Except as otherwise provided in this Constitution or any other law, the Director of Public Prosecutions may-</p> <ul style="list-style-type: none"> <li>(a) institute and undertake criminal proceedings against a person before a court, other than a court-martial, in respect of an offence alleged to have been committed by that person;</li> <li>(b) take over and continue criminal proceedings instituted or undertaken by any other person or</li> </ul>	<p>The Conference adopted Article 271 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 238.</p> <p>The Conference:</p> <ul style="list-style-type: none"> <li>(a) approved clause (1) without amendments;</li> <li>(b) amended clause (2) to provide that only a person who qualified to be a judge with a bias in criminal law should be eligible to be appointed DPP;</li> <li>(c) referred clause (4) to a referendum for decision because the Conference could not attain consensus on the matter.</li> <li>(d) included clause (8) to empower Parliament to enact legislation to establish a National Prosecution Authority which should be headed by the Director of Public Prosecutions.</li> </ul>
---	--	---	---

	<p>proceedings against a person before a court, other than a court-martial, in respect of an offence alleged to have been committed by that person;</p> <p>(b) take over and continue criminal proceedings instituted or undertaken by any other person or authority; and</p> <p>(c) discontinue, at any stage before judgment is delivered, criminal proceedings instituted or undertaken.</p> <p>(4) The Director of Public Prosecutions shall not enter a <u>nolle prosequi</u> except with the leave of the court.</p> <p>(5) The functions of the Director</p>	<p>authority; and</p> <p>(c) discontinue, at any stage before judgment is delivered, criminal proceedings instituted or undertaken.</p> <p>(4) The functions of the Director of Public Prosecutions under clause (3) may be exercised in person or by a public officer or class of public officers or legal practitioners, specified by the Director of Public Prosecutions, acting under the general or special instructions of the Director of Public Prosecutions.</p> <p>(5) For the purposes of clause (3)-</p> <p>(a) an appeal from a judgment in any criminal proceeding before a court or a case stated or question of law reserved for the purposes of proceedings to any other court, shall be part of the criminal proceedings; and</p> <p>b) the power conferred on the Director of Public Prosecutions by paragraph (c) of that clause shall not be exercised in relation to</p>	
--	---	--	--

	<p>of Public Prosecutions under clause (3) may be exercised in person or by a public officer or class of public officers or legal practitioner, specified by the Director of Public Prosecutions, acting under the general or special instructions of the Director of Public Prosecutions.</p> <p>(6) For the purposes of clause (3) -</p> <p>(a) an appeal from a judgment in any criminal proceeding before a court or a case stated or question of law reserved for the purposes of proceedings to any other court, shall be part of the criminal proceedings; and</p> <p>(b) the power conferred on the Director of Public Prosecutions by paragraph (c) of that clause shall not be exercised in relation to an appeal by a person</p>	<p>an appeal by a person convicted in a criminal proceeding, to a case stated or to a question of law reserved at the instance of that person.</p> <p>(6) The Director of Public Prosecutions shall not be subject to the direction or control of any person or authority in the performance of the functions of Director of Public Prosecutions:</p> <p><b>Provided that when the exercise of any power in any case may, in the judgement of the Director of Public Prosecutions involve general consideration of public policy, the Director of Public Prosecutions shall bring the case to the notice of the Attorney-General and shall in the exercise of powers in relation to that case, act in accordance with any directions of the Attorney-General.</b></p> <p>(7) In exercising the powers conferred by this Article, the Director of Public Prosecutions shall have</p>	
--	---	---	--

	<p>convicted in a criminal proceeding, to a case stated or to a question of law reserved at the instance of that person.</p> <p>(7) The Director of Public Prosecutions shall not be subject to the direction or control of any person or authority in the performance of the functions of Director of Public Prosecutions.</p> <p>(8) In exercising the powers conferred by this Article the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.</p>	<p>regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.</p> <p><b>8) Parliament shall enact legislation to-</b></p> <p><b>(a) establish a National Prosecution Authority which shall be headed by the Director of Public Prosecutions;</b></p> <p><b>(b) provide for the functions, powers, independence, operations, administration, finances and financial management of the National Prosecution Authority;</b></p> <p><b>(c) provide for the composition, tenure of office and procedures of the Board of the National Prosecution Authority, whose chairperson shall be the Director of Public Prosecutions;</b></p> <p><b>(d) provide for the decentralisation of the offices of the National Prosecution Authority to the provinces and progressively to the districts;</b></p>	
--	--	---	--

		<b>and (e) provide for any other function of Director of Public Prosecutions.</b>	
<b>Article 272: Performance of functions of Director of Public Prosecutions during absence, illness or other cause</b>	<b>Performance of functions of Director of Public Prosecutions during absence, illness or other cause</b>  272. Where the Director of Public Prosecutions is absent from Zambia or is unable to perform the functions of office because of illness or for any other cause, the President shall, on the recommendation of the Judicial Service Commission, appoint any other person to perform the functions of the Director of Public Prosecutions until that appointment is revoked	<b>Performance of functions of Director of Public Prosecutions during absence, illness or other cause</b>  239. Where the Director of Public Prosecutions is absent from Zambia or is unable to perform the functions of office because of illness or for any other cause, the President shall, on the recommendation of the Judicial Service Commission, appoint any other person to perform the functions of the Director of Public prosecutions until that appointment is revoked.	The Conference adopted Article 272 of the Mung'omba Draft Constitution without amendments and re-numbered it as Article 239.
<b>Article 273: Tenure of office of Director of Public Prosecutions</b>	<b>Tenure of office of Director of Public Prosecutions</b>  273. (1) Subject to this Article, a person holding the office of Director of Public Prosecutions shall retire from office on attaining the age of sixty years and may retire on attaining the age of fifty-five years.	<b>Tenure of office of Director of Public Prosecutions</b>  240. (1) Subject to this Article, a person holding the office of Director of Public Prosecutions shall retire from office on attaining the age of sixty years and may retire on attaining the age of fifty-five years.	The Conference adopted Article 273 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 240.  The Conference approved clauses

	<p>(2) The Director of Public Prosecutions may be removed from office on the same grounds and procedure as those that apply to a Judge of a superior court.</p> <p>(3) The Director of Public Prosecutions may resign from office on giving three months notice to the President.</p> <p>(4) Parliament shall enact legislation to provide for any other function of the Director of Public Prosecutions and for the decentralisation of that office to the provinces.</p>	<p>(2) The Director of Public Prosecutions may be removed from office on the same grounds and same procedure as those that apply to a Judge of a superior court.</p> <p>(3) The Director of Public Prosecutions may resign from office on giving three months notice in writing to the President.</p>	<p>(1), (2) and (3) of Article 273 without amendments.</p> <p>The Conference deleted clause (4), because the provision could be attained administratively.</p>
<p><b>Article 274:</b> <b>Permanent Secretaries</b></p>	<p><b>Permanent Secretaries</b></p> <p>274. (1) Subject to this Constitution, a ministry or department of the Government shall be under the supervision and administration of a Permanent Secretary whose office is a public office.</p> <p>(2) A Permanent Secretary shall be a career civil servant appointed by the President in accordance with the advice of the Civil Service</p>	<p><b>Permanent Secretaries</b></p> <p>241. (1) Subject to this Constitution, a <b>province</b>, ministry or department of the Government shall be under the supervision and administration of a Permanent Secretary whose office is a public office.</p> <p>(2) A Permanent Secretary shall be appointed by the President in accordance with the recommendation of the Public Service Commission.</p>	<p>The Conference adopted Article 274 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 241.</p> <p>The Conference:</p> <p>(a) decided to include the term "province" in clause (1) in order to provide for office of Permanent Secretary at the Provincial level;</p>

	<p>Commission, subject to ratification by the National Assembly.</p> <p>(3) The functions of a Permanent Secretary shall include -</p> <ul style="list-style-type: none"> <li>(a) the organisation and administration of a department or ministry;</li> <li>(b) tendering advice to the responsible Minister in respect of the business and function of the department or ministry;</li> <li>(c) implementation of the policies of the Government; and</li> <li>(d) responsibility for the proper financial management and expenditure of public funds by or in connection with the department or ministry.</li> </ul>	<p><b>(3) Parliament shall enact legislation to provide for the functions and qualifications of a Permanent Secretary.</b></p>	<ul style="list-style-type: none"> <li>(b) substituted the term “civil service” in clause (2) with “public service” which was more encompassing. In the same clause, the Conference did not support the ratification of the appointment of Permanent Secretaries by the National Assembly because the Public Service Commission was the appropriate institution to make recommendation on the appointments;</li> <li>(c) expressed the view that requiring Parliament to ratify the appointments would lead to delays because there would be too many appointments requiring ratification; and</li> <li>(d) resolved that functions of Permanent Secretary should be provided for in an Act of Parliament.</li> </ul>
--	--	--	---



<p><b>Article 275: Protection of Public officers</b></p>	<p><b>Protection of Public</b>  275 A public officer shall not be -  (a) victimized or discriminated against for having performed functions in good faith in accordance with this Constitution or any other law; or  (b) dismissed or removed from office or reduced in rank or otherwise punished without just cause and due process</p>	<p>The Conference deleted Article 275 of the Mung’omba Draft Constitution on protection of public officers.</p>	<p>The Conference deleted Article 275 of the Mung’omba Draft Constitution.</p> <p>The Conference observed that:  (a) matters relating to human resources should not be in the Constitution; and  (b) public officers were already protected through various Acts of Parliament.</p>
<p><b>Article 276: Services and Service commissions</b></p>	<p><b>Services and Service commissions</b>  276. (1) There shall be established the following Services:  (a) the Civil Service; and  (b) the Teaching Service.  (2) Parliament shall, subject to this Constitution, enact legislation to provide for each Service established under clause (1), for the establishment of a service</p>	<p><b>Public Service Commission and other service commissions</b>  <b>242. (1) There is hereby established the Public Service Commission.</b>  <b>(2) The Public Service Commission shall consist of a Chairperson and not less than four or more than six other members: Provided that at least one member shall be a person with a disability.</b>  <b>(3) The Chairperson and members of the Public Service</b></p>	<p>The Conference adopted Article 276 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 242.</p> <p>The Conference adopted Article 276 but resolved that it should be harmonised with Article 123 of the current Constitution as reflected in Article 242.</p>

	<p>commission for each Service and in particular to provide for -</p> <ul style="list-style-type: none"> <li>(a) the composition of each service commission;</li> <li>(b) the functions and powers of each service commission;</li> <li>(c) the operations, procedures and finances of each service commission;</li> <li>(d) the functions of each service;</li> <li>(e) the membership of each service; and</li> <li>(f) the structures and other provisions necessary for the proper and efficient administration and operation of each Service and service commission.</li> </ul>	<p><b>Commission shall be appointed by the President.</b></p> <p><b>(4) A person shall not qualify to be appointed as a Chairperson or member of the Public Service Commission unless that person is -</b></p> <ul style="list-style-type: none"> <li>a) a person of proven integrity; and</li> <li>b) not a member of the National Assembly or a public officer.</li> </ul> <p><b>(5) Subject to clause (6) and (7), the Chairperson and members of the Public Service Commission shall hold office for a term of four years and shall be eligible for reappointment for only one further term of four years.</b></p> <p><b>(6) The office of Chairperson or member of the Public Service Commission shall become vacant if the holder of the office is removed from office by the President.</b></p> <p><b>(7) Subject to the other provisions of this Article, a Chairperson or member of the Public Service Commission shall vacate office -</b></p> <p><b>Article, a Chairperson or member of</b></p>	<p>In addition, the marginal note was amended to read: "Public Service Commission and other Service Commissions."</p>
--	--	--	---

		<p><b>the Public Service Commission shall vacate office -</b></p> <ul style="list-style-type: none"><li><b>(a) at the expiry of the term of office specified under clause (5);</b></li><li><b>(b) if any circumstances arise that, if the person were not a member of the Commission, would cause the person to be disqualified for appointment as such; or</b></li><li><b>(c) in the case of a member who represents a body or institution, if that body or institution nominates another person to represent it.</b></li></ul> <p><b>(8) The President may give to the Public Service Commission or to any person, to whom the functions or powers of the Commission are delegated by or under an Act of Parliament, such general directions with respect to the exercise of the functions or powers of the Commission, as the President may consider necessary and the Commission or that person shall</b></p>	
--	--	---	--

		<p>comply with those directions.</p> <p>(9) Except as otherwise provided by clause (8), the Public Service Commission shall not be subject to the direction or control of any other person or authority in the exercise of its functions under this Constitution</p> <p>(10) Parliament shall enact legislation to provide for the functions, powers, procedures, operations, administration, finances and financial management of the Public Service Commission.</p> <p>(11) Parliament may enact legislation to-</p> <p>(a) establish other commissions that may be necessary for the efficient and effective functioning of the public service; and</p> <p>(b) provide for the functions, <b>powers, independence,</b> composition, tenure of office, procedures, operations, administration, finances and financial management of a commission established by or under this clause.</p>	
--	--	---	--

<p><b>Article 277: Establishment of investigative commissions</b></p>	<p><b>Establishment of investigative commissions</b></p> <p>277 (1) There is hereby established the following investigative commissions -</p> <ul style="list-style-type: none"> <li>(a) the Anti-Corruption Commission;</li> <li>(b) the Anti-Drug Abuse Commission;</li> <li>(c) the Judicial Complaints Commission; and</li> <li>(d) the Police and Public Complaints Commission.</li> </ul> <p>(2) Parliament shall enact legislation to provide for the functions, composition, tenure of office, procedures, operations, administration, finances and financial management of a Commission established under this Article.</p>	<p><b>Establishment of Investigative Commissions</b></p> <p><b>245. (1) There shall be established for the Republic investigative commissions etc.</b></p> <p>(2) Parliament shall enact legislation to provide for the functions, <b>powers, independence,</b> composition, tenure of office, procedures, operations, administration, finances and financial management of an investigative Commission established under <b>clause (1).</b></p> <p><b>(3) Commissions, other than investigative commissions, may be established for the Republic by or under an Act of Parliament and shall have functions and powers as may be prescribed by or under an Act of Parliament.</b></p>	<p>The Conference adopted Article 277 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 245.</p> <p>The Conference decided that Article 277 be harmonised with Articles 276 and 278 and that Article 123 (3) of the current Constitution be adopted as it provided for the establishment of other commissions.</p>
<p><b>Article 278: Other additional commissions</b></p>	<p><b>Other additional commissions</b></p> <p>278. Parliament may enact legislation to</p> <ul style="list-style-type: none"> <li>(a) establish other commissions that may be necessary for the efficient and effective</li> </ul>	<p>The Conference deleted Article 278 of the Mung’omba Draft Constitution on other additional commissions.</p>	<p>The Conference deleted Article 278 of the Mung’omba Draft Constitution.</p> <p>The Conference resolved that Article 278 be harmonised with Articles 276</p>

	<p>functioning of the public service; and</p> <p>(b) provide for the functions, composition, tenure of office, procedures, operations, administration, finances and financial management of a commission established by or under this Article</p>		<p>and 277 as provided under harmonised Article 245. With that decision, it was agreed that the harmonisation should include a provision for establishment of other commissions in future.</p>
<p><b>Article 279: Membership of Commissions</b></p>	<p><b>Membership of Commissions</b> 279 Subject to this Constitution, Parliament shall in enacting legislation in respect of a commission established under this Part ensure that -</p> <p>(a) a commission shall be composed of not less than three persons and not more than seven persons;</p> <p>(b) at least one member is a person with disability;</p> <p>(c) a person does not qualify to be appointed to a commission unless that person is -</p> <p>(i) a citizen;</p> <p>(ii) permanently resident in</p>	<p>The Conference deleted Article 279 of the Mung'omba Draft Constitution on membership of commissions</p>	<p>The Conference deleted Article 279 of the Mung'omba Draft Constitution</p> <p>The Conference decided that some provisions of Article 279 be harmonised with Article 278 because the issues under that Article were similar to those in Article 278 (b), and further that the rest of the provisions be relegated to an Act of Parliament.</p>

	<p>Zambia;</p> <p>(iii) not an office bearer or employee of any political party;</p> <p>(iv) a person who has not been convicted of theft, fraud, forgery, perjury or any other offence that involves dishonesty; and</p> <p>(v) a person of high moral standing and proven integrity; and</p> <p>(d) the members of a commission shall be appointed by the President, subject to ratification by the National Assembly.</p>		
<p><b>Article 280:</b></p> <p><b>Independence and powers of Commissions</b></p>	<p><b>Independence and powers of Commissions</b></p> <p>280. (1) In the performance of</p>	<p>The Conference deleted Article 280 of the Mung'omba Draft Constitution on independence and powers of commissions.</p>	<p>The Conference deleted Article 280 of the Mung'omba Draft Constitution and provided for the independence and powers of</p>

	<p>its functions under this Constitution or any other law, a commission established under this Part shall not be subject to the control or direction of any person or authority.</p> <p>(2) A commission established under this Part shall be provided with adequate funding to enable it to effectively carry out its mandate.</p> <p>(3) A commission established under this Part -</p> <ul style="list-style-type: none"> <li>(a) shall have the power to appoint its staff;</li> <li>(b) may initiate its own investigations on information available to it;</li> <li>(c) may refer matters within its powers to appropriate State organs or State institutions for action;</li> <li>(d) may receive complaints from any person or group of persons on matters within its powers; and</li> <li>(e) shall submit annual reports to the National</li> </ul>		<p>commissions in clause (2) of Article 245.</p>
--	---	--	--



	Assembly on its activities and any other report as provided by or under an Act of Parliament.		
<b>Article 281: Appointment of Chief executive of Commissions</b>	<b>Appointment of Chief executive of Commissions</b>  281. A Commission established under this Part shall have a chief executive who shall be appointed by the respective commission	<b>Appointment of Chief executive of Commissions</b>  The Conference deleted Article 281 of the Mung'omba Draft Constitution on appointment of chief executive of commissions.	The Conference deleted Article 281 of the Mung'omba Draft Constitution.  The Conference decided that Article 281 be relegated to an Act of Parliament.
<b>Article 282: Participation in politics</b>	<b>Participation in politics</b>  282. A public officer who seeks election to a political office shall take early retirement in the national interest if that officer has served for at least twenty years or resign from the public service.	<b>Participation in politics</b>  <b>246. (1) A public officer shall not, while remaining a public officer, join or participate in partisan politics.</b> (2) A public officer who seeks election to a political office shall take early retirement in the national interest if that officer has served for at least twenty years or resigns from public service.	The Conference adopted Article 282 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 246.  The Conference agreed that every Zambian had a right to associate with any other person, group of persons or organisations. The Conference also observed that public officers' involvement in

			partisan politics would interfere with the efficient performance of their duties.
<b>Article 283: Retirement of public officers</b>	<b>Retirement of public officers</b> 283. (1) A public officer shall, unless otherwise provided in this Constitution, retire from the public service on attaining the age of sixty years and may retire with full benefits on the attainment of fifty-five years.  (2) A public officer may, unless otherwise provided in this Constitution, retire from the public service at any time after a continuous service of twenty years, with the approval of the Government.  (3) A public officer that has retired from the public service shall not be engaged, except that an officer that has special professional qualifications may be engaged on contract.	<b>Retirement of public officers</b> 247. (1) A public officer shall, unless otherwise provided in this Constitution, retire from the public service on attaining the age of sixty years and may retire with full benefits on the attainment of fifty-five years. (2) A public officer may, unless otherwise provided in this Constitution, retire from the public service at any time after a continuous service of twenty years, with the approval of the Government. (3) A public officer who has retired from the public service shall not be re-engaged, except that an officer who has special professional qualifications or <b>has acquired special skills</b> may be re-engaged on contract	The Conference adopted Article 283 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 247.  The Conference approved Article 283 clauses (1) and (2) of the Mung'omba Draft Constitution.  Clause (3) was approved with minor amendments as it was felt that some public officers might acquire special skills while in employment.
<b>Article 284: Pension,</b>	<b>Pension, gratuity and retrenchment benefits for public officers</b>	<b>Pension, gratuity and retrenchment benefits for public officers</b>	The Conference adopted Article 284 of the Mung'omba Draft

<p><b>gratuity and retrenchment benefits for public officers</b></p>	<p>284.(1) The right of a public officer to a pension, gratuity or retrenchment benefits is hereby guaranteed.</p> <p>(2) Any benefit which a public officer is entitled to or under an Act of Parliament shall not be withheld or altered to that officer's disadvantage, except to an upward adjustment to the extent provided by law.</p> <p>(3) The law to be applied with respect to any pension benefits that were granted to any person before the commencement of this Constitution shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is favourable to that person.</p> <p>(4) The law to be applied with respect to pension benefits, other than as provided in clause (2), shall-</p> <p>(a) where those benefits are wholly in respect of a period of service as a public officer, member of the Defence Forces or of the national security agencies that</p>	<p>248.(1) The right of a public officer to a pension, gratuity or retrenchment benefits, <b>to which the public officer is entitled under the terms and conditions of service or by or under an Act of Parliament</b>, is hereby guaranteed.</p> <p>(2) Any <b>pension, gratuity or retrenchment benefits</b> which a public officer is entitled to <b>under the terms and conditions of service</b> or by or under an Act of Parliament shall not be withheld or altered to that officer's disadvantage, except to an upward adjustment to the extent provided by law.</p> <p>(3) The law to be applied with respect to any pension benefits that were granted to any person before the commencement of this Constitution shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is favourable to that person.</p> <p>(4) The law to be applied with respect to pension benefits, other than</p>	<p>Constitution with amendments and re-numbered it as Article 248.</p> <p>The Conference:</p> <p>(a) amended clause (1) by making reference to public officer's terms and conditions of service;</p> <p>(b) harmonised clause (2) with Article 124 of the current Constitution in order to avoid the collapse of the Pensions Fund;</p> <p>(c) approved clause (3) by substituting the term "Consolidated Fund" with "National Treasury Account";</p> <p>(d) amended clause (6) the term "surviving spouses" in recognition of both customary and statutory marriages; and</p> <p>(e) adopted clauses (3) and (4) without amendments.</p>
--	---	--	---

	<p>commenced before the commencement of this Constitution, be the law in force immediately before that date; or where those benefits are wholly or partly in respect of a period of service as a public officer, member of the Defence Forces or national security agencies that commenced after the commencement of this Constitution, be the law in force on the date on which that period of service commenced; or any law in force at a later date that is not less favourable to that person.</p> <p>(5) All pension benefits, unless otherwise charged on a fund established by or under an Act of Parliament, shall be a charge on the Consolidated Fund.</p> <p>(6) In this Article “pension benefits” includes any pension, compensation and gratuity or similar allowance for persons in respect of their service as public officers, members of the Defence Forces and</p>	<p>as provided in clause (2), shall-</p> <p>(a) where those benefits are wholly in respect of a period of service as a public officer, <b>as an officer in the department of the Clerk of the National Assembly</b>, member of the Defence Force or of the national security agencies that commenced before the commencement of this Constitution, be the law in force immediately before that date; or</p> <p>(b) where those benefits are wholly or partly in respect of a period of service as a public officer, member of the Defence Forces or national security agencies that commenced after the commencement of this Constitution, be the law in force on the date on which that period of service commenced; or any law in force at a later date that is not less favourable to that person.</p> <p>(5) All pension benefits <b>or retrenchment benefits</b>, unless otherwise charged on a fund</p>	
--	---	---	--

	<p>national security agencies or for the children, dependants or personal representatives of those persons in respect of the service.</p>	<p>established by or under an Act of Parliament, shall be a charge on the <b>National Treasury Account.</b></p> <p>(6) In this Article “pension benefits” includes any pension, compensation and gratuity or similar allowance for persons in respect of their service as public officers, <b>officers in the department of the Clerk of the National Assembly</b>, members of the Defence Forces and national security agencies or for the <b>surviving spouses</b>, children, dependants or personal representatives of those persons in respect of the service.</p>	
<p><b>Article 285: Pension to be reviewed</b></p>	<p><b>Pension to be reviewed</b></p> <p>285. (1) Pensions shall be reviewed upwards periodically to take into account changes in the value of money or a review of salaries.</p> <p>(2) Pension in respect of service in the public service is exempt from tax.</p>	<p><b>Pensions to be reviewed</b></p> <p>249. Pensions shall be reviewed upwards periodically to take into account changes in the value of money or a review of salaries.</p>	<p>The Conference adopted Article 285 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 249.</p> <p>The Conference approved clause (1) without amendments. Clause (2) was deleted because it would impact negatively on the capacity of government to provide adequate</p>

			public services as government had no other means of raising resources apart from taxes. Further, public officers, after retirement, continued to access public services provided by government through revenue generated from taxes.
<b>Article 286: Pension and retrenchment benefits to be paid promptly</b>	<b>Pension and retrenchment benefits to be paid promptly</b> 286. (1) The payment of pension or retrenchment benefit shall be paid on the last working day and any instalments of pension benefits shall be paid regularly and shall be easily accessible to pensioners. (2) Where pension or retrenchment benefit due is not paid on the last day of an employee's working day, the employee shall stop work but the retiree's or retrenchee's name shall be retained on the payroll until payment of the pension or retrenchment benefit. (3) A retiree or retrenchee who does not receive the retiree's pension or retrenchee's benefits on the last working day shall be entitled to -	<b>Pension and retrenchment benefits to be paid promptly</b>  Article 286 was revised and harmonised with Article 287 as provided in Article 250 below.	The Conference decided that Article 286 of the Mung'omba Draft Constitution be harmonised with Article 287.  The Conference observed that there were similarities in clauses (1) and (3) (a), (b) and (c) and decided that the provisions in those clauses be harmonized while ensuring that the intention of each clause was maintained.

	<ul style="list-style-type: none"> <li>(a) be retained on the payroll;</li> <li>(b) a salary and to any increment in salary given to public officers in the salary scale that the retiree or retrenchee was on at the date of retirement or retrenchment; and</li> <li>(c) a pension or retrenchment benefit based on the last salary received by the retiree or retrenchee while on the payroll by virtue of this Article.</li> </ul>		
<p><b>Article 287: Legislation on pensions and gratuities</b></p>	<p><b>Legislation on pensions and gratuities</b></p> <p>287. Parliament shall enact legislation to provide for pensions and gratuities for service in the public service and for an efficient and effective system for the administration of pension</p>	<p><b>Legislation on pension, gratuity and retrenchment benefits for public officers</b></p> <p><b>250. (1) Parliament shall enact legislation to-</b></p> <p><b>(a) provide for pensions, gratuities and retrenchment benefits for service in the Public Service and for an efficient and effective system for the</b></p>	<p>The Conference adopted Article 287 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 250.</p> <p>The Conference decided that Article 287 be harmonised with Article 286 because their provisions were interrelated.</p>

		<p>administration of pensions;</p> <p>(b) specify the period, which period shall not exceed six months from the date of retirement or retrenchment, within which pension or retrenchment benefits shall be paid to a retired or retrenched public officer;</p> <p>(c) provide for the retention on the pay roll, until payment of the pension or retrenchment benefits, of a public officer who is retired or retrenched but is not paid pension or retrenchment benefits; and</p> <p>(d) specify what constitutes pension or retrenchment benefits for purposes of retaining a retired or retrenched public officer on the pay roll by virtue of this Article.</p> <p>(2) A public officer referred to under paragraph (c) of clause (1) shall stop work on their last working day but shall be entitled to -</p> <p>(a) a salary and to any increment in salary given to public officers in the salary scale that the public officer was on at the date of</p>	
--	--	--	--



		<p>retirement or retrenchment; and</p> <p>(b) a pension or retrenchment benefits based on the last salary received by the retired or retrenched public officer while on the pay roll by virtue of this Article.</p> <p>(3) Any salary which is paid to a retired or retrenched public officer while on the pay roll by virtue of this Article shall not be deducted from that retired or retrenched public officer's pension or retrenchment benefits.</p>	
--	--	--	--

**PART XV  
PARLIAMENTARY OMBUDSMAN**

ARTICLE No.	PROVISIONS OF THE MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
<b>Article 288: Establishment of office of Parliamentary Ombudsman</b>	<b>Establishment of office of Parliamentary Ombudsman</b>  288. (1) There is hereby established the Office of the Parliamentary Ombudsman which shall have offices in all of the provinces and progressively in the districts.	<b>Establishment of office of Investigator-General</b>  251. (1) There is hereby established the office of the <b>Investigator-General</b> which shall have offices in all the provinces and progressively in the districts.	The Conference adopted Article 288 and re-numbered it as Article 251. The Conference approved clause (1) of Article 288 but decided to amend the title from "Ombudsman" to "Investigator-General" in order to make it- (a) easier to pronounce; (b) more user-friendly; and (c) understood by ordinary people.
	(2) The Ombudsman shall be appointed by the Parliamentary Service Commission, subject to ratification by the National Assembly.  (3) Parliament shall enact legislation to provide for the	(2) The <b>Investigator-General</b> shall be appointed by the President on the advice of the Judicial Service Commission, subject to ratification by the National Assembly.  (3) Parliament shall enact legislation	Clauses (2) and (3) were approved with some minor amendments.

	procedures, staff, financial resources, financial management and operations of the office of the Parliamentary Ombudsman.	to provide for the functions, powers procedures, staff, financial resources, financial management and operations of the office of the <b>Investigator-General</b> .	
<b>Article 289: Qualification for appointment and conditions of service</b>	<p><b>Qualification for appointment and conditions of service</b></p> <p>289. (1) A person shall qualify to be appointed to the office of the Ombudsman if that person-</p> <ul style="list-style-type: none"> <li>(a) is qualified to be appointed as a Judge of a superior court; and</li> <li>(b) does not hold the office of President, Vice-President, Minister, Provincial Minister, Deputy Minister, member of the National Assembly or councillor.</li> </ul> <p>(2) The terms and conditions of service of the Ombudsman, including the grounds and procedure for removal from office, shall be the same as apply to a Judge of a superior court.</p>	<p><b>Qualification for appointment and conditions of service</b></p> <p>252. (1) A person shall qualify to be appointed to the office of the <b>Investigator-General</b> if that person-</p> <ul style="list-style-type: none"> <li>(a) is qualified to be appointed as a Judge of a superior court; and</li> <li>(b) does not hold the office of President, Vice-President, Minister, Provincial Minister, Deputy Minister, member of the National Assembly or councillor.</li> </ul> <p>(2) The terms and conditions of service of the <b>Investigator-General</b> including the grounds and procedure for removal from office, shall be the same as apply to a Judge of a superior court.</p> <p>(3) The <b>Investigator-General</b> shall not hold any other office of profit or</p>	<p>Having substituted "Ombudsman" with "Investigator-General" under Article 288, the Conference accepted the proposed qualifications and conditions under Article 289 (1), (2), (3) and (4) of the Mung'omba Draft Constitution with amendments, and re-numbered Article 289 as Article 252.</p>

	<p>(3) The Ombudsman shall not hold any other office of profit or emolument.</p> <p>(4) Where the Ombudsman dies, resigns, is removed from office, is absent from Zambia or is for any other reason unable to perform the functions of office the National Assembly shall, on the recommendation of the Parliamentary Service Commission, appoint a person who is qualified to be appointed as Ombudsman to act until the Ombudsman resumes office or another Ombudsman is appointed.</p>	<p>emolument.</p> <p>(4) Where the <b>Investigator-General</b> dies, resigns, is removed from office, is absent from Zambia or is for any other reason unable to perform the functions of office, the <b>President</b> shall, on the recommendation of the <b>Judicial</b> Service Commission, appoint a person who is qualified to be appointed as <b>Investigator-General</b> to act until the <b>Investigator-General</b> resumes office or another <b>Investigator-General</b> is appointed.</p>	
<p><b>Article 290- Functions of Ombudsman (Investigator-General)</b></p>	<p><b>Functions of Ombudsman (Investigator-General)</b></p> <p>290. (1) The Ombudsman may investigate an action taken or omitted to be taken, as specified under clause (2), by or on behalf of any State institution in the performance of an administrative</p>		<p>The Conference deleted Article 290 of the Mung'omba Draft Constitution. This was because the Conference resolved that the functions of Investigator-General should be provided for under an Act of Parliament as they were amenable to change over time.</p>

	<p>function.</p> <p>(2) An action taken or omitted to be taken under clause (1), is an action which is -</p> <ul style="list-style-type: none"> <li>(a) an abuse of office;</li> <li>(b) an unfair or unjust decision or action; or</li> <li>(c) an action not complying with the rules of natural justice.</li> </ul> <p>(3) For the purpose of clauses (1) and (2), the Ombudsman may -</p> <ul style="list-style-type: none"> <li>(a) bring an action before a court and seek a remedy which is available from the court;</li> <li>(b) hear and determine an appeal by a public officer serving in the public service or an employee of any State institution relating to an act or omission taken in respect of that officer which</li> </ul>		
--	---	--	--

	<p>contravenes this Article;</p> <p>(c) make any decision after investigations, and where appropriate, on any disciplinary action to be taken against a public officer serving in the public service which decision shall be implemented by the appropriate authority; and</p> <p>(d) issue regulations regarding the manner and procedure for bringing complaints before the Ombudsman and the investigation of matters or complaints.</p> <p>(4) The Ombudsman may -</p> <p>(a) issue a statement of opinion on the administration of State institutions;</p> <p>(b) make recommendations</p>		
--	---	--	--

	<p>on the review, harmonisation and development of the law for the purpose of improving administrative justice in State institutions; and</p> <p>(c) perform any other function provided by an Act of Parliament.</p> <p>(5) The Ombudsman shall have the powers of the High Court in -</p> <p>(a) enforcing the attendance of witnesses and examining them on oath;</p> <p>(b) compelling the production of documents; and</p> <p>(c) issuing a commission or request to examine witnesses abroad.</p> <p>(6) A person summoned to attend to give evidence or to produce a document before the Ombudsman shall be entitled, in respect of that</p>		
--	---	--	--

	<p>evidence or the production of the document, to the same privileges and protections as those that a person would be entitled to before a court.</p> <p>(7) An answer by a person to a question put by the Ombudsman shall not be admissible in evidence against that person in any civil or criminal proceedings in any court, except for perjury under criminal law.</p>		
<p><b>Article 291: Independence of Ombudsman and funding</b></p>	<p><b>Independence of Ombudsman and funding</b></p> <p>291. (1) In the performance of functions conferred on the Ombudsman under this Constitution or any other law, the Ombudsman and the staff of the office of the Ombudsman shall be subject only to this Constitution and shall not be subject to the direction or control of any person or authority.</p> <p>(2) The appointment of staff of the</p>	<p><b>Independence of Investigator-General</b></p> <p><b>253.</b> In the performance of functions of the <b>Investigator-General</b>, the <b>Investigator-General</b> and the staff of the office of the <b>Investigator-General</b> shall be subject only to this Constitution and any other law and shall not be subject to the direction or control of any person or authority.</p>	<p>The Conference adopted Article 291 with amendments and decided to delete clauses (2), (3), (4) and (5) because they were either covered under other Articles or were misplaced. The Conference re-numbered Article 291 as Article 253.</p>



	<p>office of Ombudsman shall be made by the Ombudsman.</p> <p>(3) The emoluments of the Ombudsman shall be determined by the Emoluments Commission and provided for in an Act of Parliament and shall be a charge on the Consolidated Fund.</p> <p>(4) The Ombudsman shall take measures to educate the people on the functions of the Ombudsman.</p> <p>(5) The office of the Ombudsman shall be adequately funded to enable the office to effectively carry out its mandate.</p> <p>(6) The expenses of the office of the Ombudsman, including the emoluments of staff, shall be a charge on the Consolidated Fund.</p>		
<p><b>Article 292: Limitation of powers of Ombudsman</b></p>	<p><b>Limitation of powers of ombudsman (Investigator-General)</b></p> <p>292. The Ombudsman shall not investigate a matter -</p> <p>(a) which is before a court or a quasi-judicial</p>		<p>The Conference deleted Article 292 of the Mung'omba Draft Constitution and decided to provide for it under an Act of Parliament in line with its decision under clause (3) of Article 251.</p>

	<p>tribunal;</p> <p>(b) involving the relations or dealings between the Government and any foreign government or international organisation; or</p> <p>(c) relating to the exercise of the prerogative of mercy.</p>		
<b>Article 293: Accountability</b>	<p><b>Accountability</b></p> <p>293. The Ombudsman shall be accountable to the National Assembly.</p>	<p><b>Accountability</b></p> <p><b>254. The Investigator-General shall report to the National Assembly and shall be accountable to the President.</b></p>	<p>The Conference adopted Article 293 of the Mung'omba Draft Constitution with amendments because it was felt that both the National Assembly and the President had a role to play in the functions performed by the Investigator-General. The Conference renumbered Article 293 as Article 254.</p>
<b>Article 294: Accounts and audit</b>	<p><b>Accounts and audit</b></p> <p>294. (1) The Ombudsman shall keep books of account and proper records in relation to the accounts in the</p>		<p>The Conference deleted Article 294 of the Mung'omba Draft Constitution and decided to provide for it under an Act of Parliament as it was felt that provisions under</p>

	<p>form approved by the Auditor-General.</p> <p>(2) The Ombudsman shall, within three months after the end of the financial year, submit its accounts to the Auditor-General for audit.</p> <p>(3) The Auditor-General shall, within three months of the submission under clause (2), make a report on the audit to the Ombudsman with a copy of the report to the President and to the National Assembly.</p>		Article 294 were details.
<b>Article 295: Annual report</b>	<p><b>Annual report</b></p> <p>295. The Ombudsman shall, within six months after the end of each financial year, submit an annual report on the activities of the office of Ombudsman, for the previous year, to the National Assembly with a copy to the President.</p> <p>(2) The annual report shall contain -</p> <p>(a) a review of all the complaints lodged with the Ombudsman;</p>		The Conference deleted Article 295 of the Mung'omba Draft Constitution and decided to provide for it under an Act of Parliament

	<p>(b) a summary of the matters dealt with and the actions taken on them;</p> <p>(c) a summary of the remedies awarded to aggrieved persons; and</p> <p>(d) a statement on the areas where the Ombudsman failed to take action to remedy an injustice and the reasons for the failure.</p>		
	<p><b>PART XVI</b></p> <p><b>DEFENCE AND NATIONAL SECURITY</b></p>		
ARTICLE NO.	PROVISIONS OF THE MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
<p><b>Article 296 - Establishment of Defence Forces and functions</b></p>	<p><b>Establishment of Defence Forces and functions</b></p> <p>296. (1) There shall be established the Defence Forces of Zambia consisting of the -</p> <p style="padding-left: 40px;">(a) Zambia Army;</p>	<p><b>Zambia Defence Force</b></p> <p><b>255. (1) There shall be an armed force to be known as the Zambia Defence Force.</b></p> <p><b>(2) The Zambia Defence Force shall be non-partisan, national in</b></p>	<p>The Conference deleted Articles 296 to 303 of the Mung'omba Draft Constitution and substituted them with Articles 100 to 108 of the current Constitution on Defence Force and National Security Agencies</p>

	<p>(b) Zambia Air Force; and (c) Zambia National Service.</p> <p>(2) The Defence Forces shall -</p> <p>(a) preserve and defend the sovereignty and territorial integrity of the Republic;</p> <p>(b) foster harmony and understanding between the Zambia Army, Zambia Air Force and Zambia National Service and the members of the society;</p> <p>(c) co-operate with civilian authorities in times of public emergencies and National disasters;</p> <p>(d) engage in productive activities for the development of the country ; and</p> <p>(e) perform other functions provided for each force by or under an Act of Parliament.</p>	<p><b>character, patriotic, professional, disciplined, productive and subordinate to the civilian authorities as established under this Constitution.</b></p> <p><b>(3) Members of the Zambia Defence Force shall be citizens of Zambia who do not have dual citizenship and are of good character.</b></p> <p><b>(4) A person shall not raise an armed force except in accordance with this Constitution.</b></p> <p><b>Functions of Defence Force</b></p> <p><b>256. The functions of the Zambia Defence Force shall be to-</b></p> <p><b>(a) preserve and defend the sovereignty and territorial integrity of Zambia;</b></p> <p><b>(b) co-operate with the civilian authorities in emergency situations and in case of natural disasters;</b></p> <p><b>(c) foster harmony and understanding between the Zambia Defence Force and civilians; and</b></p> <p><b>(d) engage in productive activities</b></p>	<p>with amendments in order to distinguish the respective provisions from each other and re-numbered them as Articles 255 to 263.</p>
--	---	--	---

		for the development of Zambia.	
<b>Article 297: Establishment of national security agencies and functions</b>	<p><b>Establishment of national security agencies and functions</b></p> <p>297. (1) There shall be established national security agencies which shall consist of the -</p> <ul style="list-style-type: none"> <li>(a) Zambia Police Service;</li> <li>(b) Zambia Security Intelligence Service; and</li> <li>(c) Zambia Prisons Service.</li> </ul> <p>(2) The Zambia Police Service shall -</p> <ul style="list-style-type: none"> <li>(a) protect life and property;</li> <li>(b) preserve peace, law and order;</li> <li>(c) ensure the security of the people;</li> <li>(d) prevent and detect crime;</li> <li>(e) protect the rights and freedoms enshrined in this Constitution;</li> <li>(f) foster and promote good relationship with members of the society; and</li> <li>(g) perform other functions provided by or under an</li> </ul>	<p><b>Legislation on Defence Force</b></p> <p>257. Parliament shall enact legislation to regulate the Zambia Defence Force and to provide for -</p> <ul style="list-style-type: none"> <li>(a) the organs and structures of the Zambia Defence Force;</li> <li>(b) the recruitment of persons into the Zambia Defence Force from every district of Zambia;</li> <li>(c) the terms and conditions of service of members of the Zambia Defence Force; and</li> <li>(d) the deployment of troops outside of Zambia.</li> </ul> <p><b>Zambia Police Service</b></p> <p>258. (1) There shall be a police service to be known as the Zambia Police Service and such other police services as Parliament may by law prescribe.</p> <p>(2) Subject to the other provisions of this Constitution, every police</p>	

	<p>Act of Parliament.</p> <p>(3) The Security Intelligence Service shall be responsible for -</p> <ul style="list-style-type: none"> <li>(a) security intelligence and counter intelligence aimed at ensuring national security;</li> <li>(b) defence of this Constitution against any act of sabotage or subversion; and</li> <li>(c) other functions as provided by or under an Act of Parliament.</li> </ul> <p>(4) The Prisons Service shall be responsible for the management, control and security of prisoners and prisons and for other functions that relate to prisoners as provided by an Act of Parliament.</p>	<p><b>service in Zambia shall be organised and administered in such a manner and shall have such functions as Parliament may, by law, prescribe.</b></p> <p><b>(3) The Zambia Police Service shall be nationalistic, patriotic, non-partisan, professional, disciplined, competent and productive and its members shall be citizens of Zambia who do not have dual citizenship and are of good character.</b></p> <p><b>Functions of Zambia Police Service</b></p> <p><b>259. The functions of the Zambia Police Service shall include the following:</b></p> <ul style="list-style-type: none"> <li><b>(a) to protect life and property;</b></li> <li><b>(b) to preserve law and order;</b></li> <li><b>(c) to detect and prevent crime; and</b></li> <li><b>(d) to co-operate with the civilian authorities and other security organs established under this Constitution and with the population generally.</b></li> </ul> <p><b>Legislation on Zambia Police Service</b></p>	
--	---	--	--

		<p>260. Parliament shall enact legislation to regulate the Zambia Police Service and to provide for-</p> <ul style="list-style-type: none"> <li>(a) the organs and structures of the Zambia Police Service;</li> <li>(b) the recruitment of persons into the Zambia Police Service from every district of Zambia;</li> <li>(c) the terms and conditions of service of members of the Zambia Police Service; and</li> <li>(d) the regulation generally of the Zambia Police Service.</li> </ul> <p><b>Prisons Service</b></p> <p>261. (1) There shall be the Zambia Prisons Service.</p> <p>(2) Members of the Zambia Prisons Service shall be citizens of Zambia who do not have dual citizenship and are of good character.</p> <p><b>Legislation on Zambia Prisons Service</b></p>	
--	--	--	--



		<p><b>262. Parliament shall enact legislation to regulate the Zambia Prisons Service and to provide for-</b></p> <ul style="list-style-type: none"> <li><b>(a) the functions, organs and structures of the Zambia Prisons service;</b></li> <li><b>(b) the recruitment of persons to the Zambia Prisons Service from every district of Zambia;</b></li> <li><b>(c) the terms and conditions of service of members of the Zambia Prisons Service; and</b></li> <li><b>(d) the regulation generally of the Zambia Prisons Service.</b></li> </ul> <p><b>Establishment of Police and Prisons Service Commission</b></p> <p><b>263. (1) There is hereby established the Police and Prisons Service Commission.</b></p> <p><b>(2) Parliament shall enact legislation to provide for the functions, powers, independence, composition, tenure of office, staff, procedures, operations, finances and financial management of the Police and Prisons Service Commission.</b></p>	
--	--	---	--

		<p><b>Zambia Security Intelligence Service</b></p> <p><b>264. (1) There shall be a Zambia Security Intelligence Service.</b></p> <p><b>(2) Members of the Zambia Intelligence Service shall be citizens of Zambia who do not have dual citizenship and are of good character.</b></p> <p><b>(3) Parliament shall enact legislation to regulate the Zambia Security Intelligence Service and to provide for-</b></p> <p><b>(a) the functions, organs and structures of the Zambia Security Intelligence Service;</b></p> <p><b>(b) the recruitment of persons into the Zambia Security Intelligence Service from every district of Zambia;</b></p> <p><b>(c) the terms and conditions of service of members of the Zambia Security Intelligence Service; and</b></p> <p><b>(d) the regulation generally of the Zambia Security Intelligence Service.</b></p>	
--	--	---	--

<p><b>Article 298 - Establishment of Police and Prisons Service Commission</b></p>	<p><b>Establishment of Police and Prisons Service Commission</b> 298. (1) There is hereby established the Police and Prisons Service Commission. (2) Parliament shall enact legislation to provide for the functions, composition, tenure or office, procedures, finances and financial management of the Police and Prisons Service Commission. (3) The provisions of Part XIV relating to the membership, independence, powers and appointment of the Chief Executive of a commission shall apply to the Police and Prisons Service Commission.</p>		
<p><b>Article 299 - Objectives and expenses of Defence Forces and national security agencies</b></p>	<p><b>Objectives and expenses of Defence Forces and national security agencies</b> 300. (1) The primary objectives of the Defence Forces and the national security agencies shall be to - (a) safeguard the well-being of the people of Zambia; and (b) secure and guard the sovereignty, peace, national unity and territorial integrity of the Republic in</p>		

	<p>accordance with the Constitution and other laws.</p> <p>(2) The Defence Forces and national security agencies shall be nationalistic, patriotic, professional, disciplined, competent and productive and their members shall be citizens who do not have dual citizenship.</p> <p>(3) The Defence Forces and the national security agencies shall not -</p> <ul style="list-style-type: none"> <li>(a) act in a partisan manner;</li> <li>(b) further the interests or cause of any political party; or</li> <li>(c) act against a political interest or cause permitted under this Constitution or any other law.</li> </ul> <p>(4) Clause (2) shall apply to every member of the Defence Forces and national security agencies but nothing this Constitution shall prevent a member of those forces and agencies from registering as a voter or voting in any National elections or referenda.</p> <p>(5) The Defence Forces and national security agencies-</p> <ul style="list-style-type: none"> <li>(a) shall be subject to civilian</li> </ul>		
--	--	--	--

	<p>authority; and</p> <p>(b) shall be adequately and properly equipped to enable them effectively attain their objectives and perform their functions.</p> <p>(6) The expenses of the Defence Forces and national security agencies shall be a charge on the Consolidated Fund.</p>		
<b>Article 300 - Peace keeping missions</b>	<p><b>Peace keeping missions</b></p> <p>300. Except where a mission or service is approved by the President, with the prior approval of the National Assembly signified by the votes of not less than two-thirds of all the members of the National Assembly, personnel of the Defence Forces shall not be deployed outside the Republic on a peace-keeping mission or other similar service.</p>		The Conference decided to delete Article 300 of Mung’omba Draft Constitution on Peace Keeping Missions and decided to provide for it under Article 257 dealing with legislation on defence force.
<b>Article 301 - Deployment outside the Republic</b>	<p><b>Deployment outside the Republic</b></p> <p>301. (1) Subject to any law relating to the procedure and rules for deployment of personnel of the Defence Forces outside the Republic, the President may –</p> <p>(a) at any time order that the whole</p>		The Conference decided to delete Article 301 and provide for deployment outside the Republic under Article 257.

	<p>or any part of the Forces shall be deployed out of or beyond Zambia;</p> <p>(b) order any officer of the Forces to proceed to any place outside Zambia to undergo instruction, training or duty; or</p> <p>(c) where the consent of the officer or soldier of the Defence Forces is first obtained, place the officer or soldier at the disposal of the military authorities of any other country or territory to be attached to the armed or air forces of that country or territory.</p> <p>(2) Where the President intends to exercise any power under clause (1) (a), the President shall obtain the prior approval of the National Assembly signified by not less than two-thirds of the votes of all the members of the Assembly.</p>		
<p><b>Article 302 - Prohibition of certain activities</b></p>	<p><b>Prohibition of certain activities</b></p> <p>302. Except as provided for under this Constitution or by an Act of Parliament, a person shall not -</p> <p>(a) raise an armed force;</p> <p>(b) establish -</p>		<p>The Conference deleted Article 302 and resolved to provide for prohibition to raise an armed force under clause (4) of Article 255.</p>

	<ul style="list-style-type: none"> <li>(i) an air force;</li> <li>(ii) a national service;</li> <li>(iii) a police service;</li> <li>(iv) a prisons service; or</li> <li>(v) a security intelligence service; or</li> </ul> <p>(c) be concerned in the raising of an armed force or the establishment of any of the Defence Forces and national security agencies.</p>		
<p><b>Article 303 -Legislation to further regulate Defence Forces and national security agencies</b></p>	<p><b>Legislation to further regulate Defence Forces and national security agencies</b></p> <p>303. Subject to this Constitution, Parliament shall enact legislation to provide generally for the effective operation of the Defence Forces and national security agencies and shall provide for -</p> <ul style="list-style-type: none"> <li>(a) the regulation of the Defence Forces and national security agencies;</li> <li>(b) their organs and structures;</li> <li>(c) their operations and</li> </ul>		<p>The Conference deleted Article 303 and provided for legislation to further regulate Defence Forces and National Security Agencies under Articles 257 and 264.</p>

	<p>administration;</p> <p>(d) the recruitment of persons from every district of the country into the Defence Forces and national security agencies;</p> <p>(e) the appointment, qualifications, retirement, placement, transfer and discipline of defence and security chiefs and other personnel of the Defence Forces and national security agencies;</p> <p>(f) the terms and conditions of service of personnel and members;</p> <p>(g) such other functions as may be necessary for the effective operation of the Defence Forces and national security agencies;</p> <p>(h) other Defence Forces and national security agencies; and</p> <p>(i) the regulation of private security organisations.</p>		
--	---	--	--



**PART XVII  
PUBLIC FINANCE AND BUDGET**

ARTICLE NO.	PROVISIONS OF MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
Article 304: Imposition of tax	<p><b>Imposition of tax</b></p> <p>(1) A tax shall not be imposed except by or under an Act of Parliament.</p> <p>(2) Where legislation, enacted under clause (1), confers powers on any person or authority to waive or vary a tax imposed by that legislation, that person or authority shall make a report to the National Assembly on the exercise of those powers as provided by or under an Act of Parliament</p>	<p><b>Imposition of tax</b></p> <p>265. (1) Subject to the provisions of this Article, taxation shall not be imposed or altered except by or under an Act of Parliament.</p> <p>(2) Except as provided by clauses (3) and (4), Parliament shall not confer upon any other person or authority power to impose or to alter, otherwise than by reduction, any taxation.</p> <p>(3) Parliament may make provisions under which the President, the Vice-President or a Minister may, by order, provide that, on or after the publication of a Bill being a Bill approved by the President that it is proposed to introduce into the National Assembly and providing for the imposition or alteration of taxation,</p>	<p>The Conference substituted the provisions of Article 304 of the Mung'omba Draft Constitution with provisions of Article 114 of the current Constitution of Zambia which was wider in scope. The Conference adopted Article 304 and renumbered it as Article 265.</p> <p>The Conference rejected the notion of Parliament enacting legislation conferring power on "any person" other than itself or an authority established for the purposes of local government to waive or vary a tax, in order to prevent possible abuse. Therefore, tax can only be waived, varied or dealt with by Parliament directly or by a local government authority authorized to do so by</p>

		<p>such provisions of the Bill as may be specified in the order shall, have the force of law for such period and subject to such conditions as may be prescribed by Parliament:  <b>Provided that any such order shall, unless sooner revoked, cease to have effect -</b></p> <ul style="list-style-type: none"> <li>(a) if the Bill to which it relates is not passed; within such period from the date of its first reading in the National Assembly as may be prescribed by Parliament;</li> <li>(b) if, after the introduction of the Bill to which it relates, Parliament is prorogued or the National Assembly is dissolved;</li> <li>(c) if, after the passage of the Bill to which it relates, the President refuses to assent to it;</li> </ul>	<p>Parliament.  The Conference considered the important role played by the President in levying taxes namely; to approve the tax bill to be introduced in Parliament and to assent to all taxation Bills before they become law.</p>
--	--	--	--

		<p>or</p> <p>(d) at the expiration of a period of three months from the date on which it came into operation or such longer period from that date as may be specified in any resolution passed by the National Assembly after the Bill to which it relates has been introduced.</p> <p>(4) Parliament may confer upon any authority established by law for the purposes of local government power to impose taxation within the area for which that authority is established and to alter taxation so imposed.</p> <p>(5) Where the Appropriation Act in respect of a financial year has not come into force at the expiration of six months from the commencement of that financial year, the operation of any law relating to the collection or recovery</p>	
--	--	--	--

		<p>of any tax upon any income or profits or any duty, on customs or excise shall be suspended until that Act comes into force:</p> <p>Provided that -</p> <p>(a) in any financial year in which the National Assembly stands dissolved at the commencement of that year, the period of six months shall begin from the day upon which the National Assembly first sits following that dissolution instead of from the commencement of the financial year; and</p> <p>(b) the provisions of this clause shall not apply in any financial year in which the National Assembly is dissolved after the laying of estimates in accordance with</p>	
--	--	---	--

		Article 370 and the appropriation by Parliament.	
<p><b>Article 305 Consolidated Fund</b></p>	<p><b>Consolidated Fund</b></p> <p>(1) There shall be established a fund to be known as the Consolidated Fund of the Republic.</p> <p>(2) Subject to clause (3), all moneys raised or received for the purposes of, on behalf of, or in trust for, the Republic shall be paid into the Consolidated Fund.</p> <p>(3) The moneys referred to in clause (2), do not include moneys-</p> <p>(a) that are payable under this Constitution or an Act of Parliament into some other public fund established for a specific purpose; or</p> <p>(b) that may, under this Constitution or an Act of Parliament, be retained by the State organ or State institution that receives it for the purpose of</p>	<p><b>National Treasury Account</b></p> <p>266. (1) There shall be a <b>National Treasury Account for the Republic which shall be held at the Central Bank.</b></p> <p>(2) Subject to clause (3), all moneys raised or received for the purposes of, on behalf of, or in trust for, the Republic shall be paid into the <b>National Treasury Account.</b></p> <p>(3) The moneys referred to in clause (2) do not include moneys -</p> <p>(a) that are payable under this Constitution or an Act of Parliament into some other public <b>account operated</b> for a specific purpose; or</p> <p>(b) that may, under this Constitution or an Act of Parliament, be retained by a State organ or State</p>	<p>The Conference adopted Article 305 of the Mung’omba Draft Constitution with amendments and re-numbered it as Article 266.</p> <p>The Conference decided to substitute the name “<i>Consolidated Fund</i>” with “<i>National Treasury Account</i>” as there were too many institutions in the country called “Fund” and the name “Consolidated Fund” was a hangover from the British exchequer system.</p>

	defraying the expenses of that State organ or State institution	institution that receives it for the purpose of defraying the expenses of that State organ or State institution.	
<b>Article 306: Withdrawal from consolidated fund</b>	<p><b>Withdrawal from consolidated fund.</b></p> <p>(1) Subject to Article 307, moneys shall not be withdrawn from the Consolidated Fund except -</p> <p>(a) to meet expenditure charged on the Consolidated Fund by this Constitution or by an Act of Parliament; or</p> <p>(b) where the issuance of those moneys have been authorized by an Appropriation Act or a Supplementary Appropriation Act.</p> <p>(2) Moneys shall not be withdrawn from any other public fund of the Republic unless withdrawal has been authorized by an Act of Parliament.</p> <p>(3) Moneys shall not be</p>	<p><b>Withdrawal from National Treasury Account</b></p> <p><b>267. (1) Moneys shall not be expended from the general revenues in the National Treasury Account of the Republic unless -</b></p> <p>(a) the expenditure is authorized by a warrant under the hand of the President;</p> <p>(b) the expenditure is charged by this Constitution or any other law on the general revenues of the Republic; or</p> <p>(c) the expenditure is of moneys received by a department of government and is made under the</p>	<p>The Conference adopted Article 306 of the Mung'omba Draft Constitution with amendments moving the provisions of clause (2) of Article 307 to Article 306 with amendments and renumbered the provisions as clause (3). Further, the Conference amended paragraph (a) of clause (2) by limiting the amount to be withdrawn for the services of the Republic before the Appropriation Account came into force to twenty-five percent (25% of the total proposed for the year. Article 306 was renumbered as Article 267</p>

	<p>withdrawn from the Consolidated Fund unless the withdrawal has been approved in the manner provided by an Act of Parliament.</p>	<p>provisions of any law which authorises that department to retain and expend those moneys for defraying the expenses of the department.</p> <p>(2) A warrant shall not be issued by the President authorizing expenditure from the general revenue of the Republic unless -</p> <p>(a) the expenditure is authorized by an Appropriation Act or a Supplementary Appropriation Act;</p> <p>(b) the expenditure is necessary to carry on the services of the Government in respect of any period, not exceeding three months, beginning at the commencement of a financial year during which the Appropriation Act for that financial year is not in force;</p>	
--	---	---	--

		<p>(c) the expenditure has been proposed in a supplementary estimate approved by the National Assembly and is authorized in a Supplementary Appropriation Act;</p> <p>(d) provision does not exist for the expenditure and the President considers that there is such an urgent need to incur the expenditure that it would not be in the public interest to delay the authorization of the expenditure until such time as a supplementary estimate can be laid before, and approved by, the National Assembly; or</p> <p>(e) the expenditure is incurred on capital</p>	
--	--	--	--



		<p>projects continuing from the previous financial year and is so incurred before the commencement of the Appropriation Act for the current financial year.</p> <p>(3) Moneys withdrawn in any financial year from the National Treasury Account under paragraph (b) of clause (2) in respect of any service of the Republic -</p> <p>(a) shall not exceed twenty-five per cent of the amount shown as required in respect of that service in the budget estimates for that financial year; and</p> <p>(b) shall be set off against the amount provided in respect of that service in the Appropriation Act for that financial year when that Act comes into force.</p>	
--	--	---	--

		<p>(4) The President shall, immediately after signing any warrant authorizing expenditure from the general revenue of the Republic, cause a copy of the warrant to be transmitted to the Auditor-General.</p> <p>(5) The issue of warrants under paragraph (d) of clause (2), the investment of moneys forming part of the general revenues of the Republic and the making of advances from such revenues shall be subject to such limitations and conditions as Parliament may prescribe.</p> <p>(6) For purposes of this Article, the investment of moneys forming part of the general revenues of the Republic or the making of recoverable advances there from shall not be regarded as expenditure, and the expression "investment of moneys" means investment in readily marketable securities and deposits with a financial institution approved by the Minister responsible for finance.</p>	
--	--	--	--

<p><b>Article 307: Expenditure in advance of appropriation</b></p>	<p><b>Expenditure in advance of appropriation</b></p> <p>(1) Where, in any financial year, the President is satisfied that the Appropriation Act in respect of that financial year will not come into operation by the beginning of that year, the President may authorize the withdrawal of moneys from the Consolidated Fund to meet expenditure necessary to carry on the services of the Government until the expiry of four months from the beginning of that financial year or the coming into force of the Appropriation Act, whichever is the earlier.</p> <p>(2) Moneys withdrawn in any financial year from the Consolidated Fund under clause (1) in respect of any service of the Republic -</p> <p>(a) shall not exceed the amount shown as required in respect of that service in the vote approved by the National Assembly for that</p>	<p>The Conference deleted Article 307 of the Mung'omba Draft Constitution.</p>	<p>The Conference decided to delete Article 307 on Expenditure in Advance of appropriation because paragraph (b) of clause (1) of Article 306 of the Mung'omba Draft Constitution provided for most of what clause (1) of Article 307 contained. Further the provisions in clause (2) of Article 307 had been infused into the new clause (3) of Article 306 with amendment.</p>
--	---	--	--

	<p>financial year; and</p> <p>(b) shall be set off against the amount provided in respect of that service in the Appropriation Act for that financial year when that Act comes into force.</p>		
<p><b>Article 308: Compensation Fund</b></p>	<p><b>Compensation Fund</b></p> <p>(1) Parliament shall enact legislation to establish a Compensation Fund for purposes of paying claims against the State and to provide for the operation of the Compensation Fund.</p> <p>(2) Moneys shall not be withdrawn from the Compensation Fund unless the withdrawal is authorized under an Act of Parliament.</p>	<p><b>Compensation Fund</b></p> <p><b>268. (1) There is hereby established the Compensation Fund for purposes of paying claims against the State.</b></p> <p>(2) Moneys shall not be withdrawn from the compensation Fund unless the withdrawal is authorized under an Act of Parliament.</p> <p><b>(3) Parliament shall enact legislation to provide for -</b></p> <p><b>(a) the operation of the Compensation Fund;</b></p> <p><b>(b) the control and management of the Compensation Fund; and</b></p>	<p>The Conference adopted Article 308 of the Mung’omba Draft Constitution with amendments and renumbered it as Article 268.</p> <p>In adopting the Article, the Conference decided that the “Compensation Fund” should be created by the Constitution itself instead of providing for it in an Act of Parliament.</p>

		(c) any other matter necessary for the efficient and effective operation of the Compensation Fund.	
<b>Article 309 Annual Financial Estimates</b>	<p><b>Annual Financial Estimates</b></p> <p>309 (1) The President shall, subject to clause (2), cause to be prepared and laid before the National Assembly in each financial year, not later than ninety days before the commencement of the financial year, estimates of revenues and expenditure of the Government for the next financial year.</p> <p>(2) In any year where a general election takes place and an election petition has been filed challenging the election of a President-elect, the President shall cause to be prepared and laid before the National Assembly, within ninety days of the swearing in of the President, estimates of revenues and expenditure of the</p>	<p><b>Annual Financial Estimates</b></p> <p><b>269.</b> (1) The President shall, subject to clause (2), cause to be prepared and laid before the National Assembly in each financial year, not later than ninety days before the commencement of the financial year, estimates of revenue and expenditure of the Government for the next financial year.</p> <p>(2) In any year where a general election takes place and an election petition has been filed challenging the election of a President-elect, the President shall cause to be prepared and laid before the National Assembly, within ninety days of the swearing in of the President, estimates of revenue and expenditure of the Government for</p>	<p>The Conference adopted Article 309 with amendments and renumbered it as Article 269.</p> <p>The Conference observed the urgent need to change the Budget Cycle to allow for the Budget to be presented and approved before the financial year to which it applied commenced in order to provide for the spending institutions sufficient time in which to implement development projects.</p>

	<p>Government for that financial year.</p> <p>(3) Not later than six months before the end of each financial year, the heads of each State organ and State institution, shall submit estimates of revenues and expenditure for the following financial year to the Minister responsible for finance.</p> <p>(4) In the preparation of estimates and expenditure under clause (2), the inputs of the people in the wards, districts and provinces shall be sought.</p> <p>(5) The estimates prepared under clause (2) shall be laid before the National Assembly by the Minister responsible for finance, on behalf of the President.</p> <p>(6) Notwithstanding clause (1), the President may cause to be prepared and laid before the National Assembly -</p> <p>(a) fiscal and monetary programmes and plans for economic and social</p>	<p>that financial year.</p> <p>(3) Not later than six months before the end of each financial year, the heads of each State organ and State institution shall submit estimates of revenue and expenditure for the following financial year to the Minister responsible for finance.</p> <p>(4) In the preparation of estimates <b>of revenue</b> and expenditure under clause <b>(1) or (2)</b>, the input of the people in the wards, <b>constituencies</b> or districts and provinces shall be sought.</p> <p>(5) The estimates of <b>revenue and expenditure</b> prepared under clause <b>(1) or (2)</b> shall be laid before the National Assembly by the Minister responsible for finance, on behalf of the President.</p> <p>(6) Notwithstanding clause (1), the President <b>shall</b> cause to be prepared and laid before the National Assembly -</p> <p>(a) fiscal and monetary programmes and</p>	
--	--	--	--

	<p>development covering periods exceeding one year; and</p> <p>(b) estimates of revenue and expenditure covering periods exceeding one year.</p> <p>(7) Before the National Assembly considers the estimates of revenues and expenditure, laid before it by the Minister responsible for finance, the appropriate committee of the National Assembly shall discuss and review the estimates and make appropriate recommendations to the National Assembly.</p> <p>(8) The committee referred to under clause (7) shall, in considering the estimates of the revenues and expenditure, seek public opinion from the districts and provinces on the estimates and expenditure and shall take these into consideration in its recommendations to the National Assembly.</p> <p>(9) The National Assembly may, subject to clause (2), amend but</p>	<p>plans for economic and social development covering periods exceeding one year; and</p> <p>(b) estimates of revenue and expenditure covering periods exceeding one year.</p> <p>(7) Before the National Assembly considers the estimates of revenue and expenditure, laid before it by the Minister responsible for finance, the appropriate committee of the National Assembly shall discuss and review the estimates and make appropriate recommendations to the National Assembly.</p> <p>(8) The committee referred to under clause (7) shall, in considering the estimates of the revenue and expenditure, seek public opinion on the estimates and expenditure and shall take these into</p>	
--	---	--	--

	<p>shall not vary the total estimates of revenues and expenditure and shall in any case approve the budget not later than the thirty-first day of December.</p>	<p>consideration in its recommendations to the National Assembly.</p> <p>(9) The National Assembly may amend, but shall not vary, the total estimates of revenue and expenditure and shall, in any case, subject to clause (2), approve the budget not later than the thirty-first day of December.</p>	
<p><b>Article 310: Budget Act</b></p>	<p><b>Budget Act</b></p> <p>310. Parliament shall enact a Budget Act which shall provide for matters that relate to the annual budget and shall include -</p> <ul style="list-style-type: none"> <li>(a) the method for the preparation of the budget;</li> <li>(b) the preparation of medium and long-term development plans indicating corresponding sources of financing;</li> <li>(c) the participation of the people at the district and provincial levels, ensuring representation from both gender, in the formulation of development plans and</li> </ul>	<p><b>Legislation on Budgeting and Planning</b></p> <p>270. Parliament shall enact a <b>Planning and Budget Act</b> which shall provide for matters that relate to the annual budget <b>and to medium and long-term development plans</b> and shall include -</p> <ul style="list-style-type: none"> <li>(a) the method for the preparation of the budget;</li> <li>(b) the preparation of medium and long-term development plans indicating corresponding sources of financing;</li> <li>(c) <b>the participation in</b></li> </ul>	<p>The Conference adopted Article 310 of the Mung’omba Draft Constitution with amendments and renumbered it as Article 270.</p> <p>In amending the Article the Conference observed that the scope of the proposed Budget Act included both long term and medium term development planning. Therefore, the Conference resolved to change the title of the Article to “Legislation on Budgeting and Planning”. The Conference also made minor amendments to what was proposed in the Mung’omba Draft Constitution</p>



	<p>preparation of the annual budget;</p> <p>(d) the submission of anticipated revenues and expenditure for each financial year by the Minister responsible for finance to the appropriate committee of the National Assembly for prior consideration before the preparation and submission of the actual estimates for the financial year; and</p> <p>(e) the contents, subject to this Constitution, of the financial report of the Government provided for under Article 314.</p>	<p><b>the formulation of medium and long-term development plans and the preparation of the annual budget of -</b></p> <p><b>(i) State organs and State institutions;</b> <b>and</b></p> <p><b>(ii) the people at the ward, constituency, district and provincial levels ensuring representation of both gender;</b></p> <p>(d) the submission of anticipated revenues and expenditure for each financial year by the Minister responsible for finance to the appropriate committee of the</p>	<p>by including “constituencies” and substituting the word “estimates” with the words “estimates of revenue and expenditure”.</p>
--	---	---	---

		National Assembly for prior consideration before the preparation and submission of the actual estimates for the financial year.	
<b>Article 311: Appropriation Bill and Supplementary Appropriation Bill</b>	<p><b>Appropriation Bill and Supplementary Appropriation Bill</b></p> <p>311. (1) When the estimates of expenditure have been approved by the National Assembly they shall be appropriated in an Appropriation Bill for issue from the Consolidated Fund.</p> <p>(2) Where in respect of a financial year the amount appropriated under an Appropriation Act is insufficient or a need arises for expenditure for a purpose for which an amount has not been appropriated, under that Act, a supplementary estimate showing the amount required shall be laid before the National Assembly for approval.</p> <p>(3) Where a supplementary estimate is approved under clause (2) a Supplementary Appropriation Bill showing the estimates approved shall</p>	<p><b>Appropriation Bill and Supplementary Appropriation Bill</b></p> <p><b>271</b> (1) When the estimates of the expenditure have been approved by the National Assembly, <b>the heads of the estimates together with the amount approved in respect of each head shall be included in an Appropriation Bill which shall be introduced in the National Assembly to provide for the payment of those amounts for the purposes specified, out of the general revenues of the Republic.</b></p> <p>(2) Where in respect of a financial year the amount appropriated under an Appropriation Act is insufficient or a need arises for expenditure for a purpose for which an amount has not been appropriated</p>	<p>The Conference adopted Article 311 of the Mung'omba Draft Constitution with amendments and renumbered it as Article 271. The Conference-</p> <p>(a) discouraged supplementary expenditure requests, but acknowledged the possibility of unforeseen circumstances making supplementary expenditure unavoidable;</p> <p>(b) rejected the practice of presenting the Supplementary Appropriation Bill the following year;</p>

	<p>be laid before the National Assembly in the next financial year.</p> <p>(4) Subject to this Constitution, the Minister responsible for finance shall release adequate appropriated funds, on quarterly basis and on time, to the institutions and bodies entitled to the appropriations.</p>	<p>under that Act, a supplementary estimate showing the amount required <b>and the sources of the revenue to cover the amount</b> shall be laid before the National Assembly for approval <b>by the Minister responsible for finance:</b></p> <p><b>Provided that subject to paragraph (d) of clause (2) of Article 267, no supplementary expenditure shall be incurred before the approval of the supplementary estimate by the National Assembly.</b></p> <p>(3) <b>Where in a financial year expenditure has been authorized by a warrant issued by the President under paragraph (d) of clause (2) of Article 267, the Minister responsible for finance shall cause supplementary estimates relating to that expenditure to be laid before the National Assembly for its approval before the expiration of a period of four months from the issue of the warrant or, if the National Assembly is not sitting at the expiration of that period, at the first sitting of the National Assembly thereafter.</b></p>	<p>(c) resolved that all supplementary expenditure requests be approved by the National Assembly;</p> <p>and</p> <p>(d) expenditure authorised by the President for emergency purposes should be approved by the National Assembly before the expenditure was effected within a period of four months of such expenditure.</p>
--	---	--	--

		<p>(4) Where a supplementary estimate is approved under clause (2) a Supplementary Appropriation Bill showing the estimates approved shall <b>immediately</b> be laid before the National Assembly <b>for approval</b>.</p> <p>(5) Subject to this Constitution, the Minister responsible for finance shall release the appropriated funds, on a quarterly basis and on time, to the institutions and bodies entitled to the appropriations.</p>	
<p><b>Article 272:</b> <b>Grants, donations, etc.</b>  (New Article)</p>	<p>There was no provision for accounting for Grants, gifts, aid-in-kind and donations</p>	<p><b>Grants, donations, etc.</b></p> <p><b>272. The Minister responsible for finance shall cause to be valued all donations, gifts and aid-in-kind received in any financial year on behalf of the Republic, from any source within or outside the Republic, and shall include that value in the financial report prepared and laid before the National Assembly for that financial year under Article 276.</b></p>	<p>The Conference adopted a new Article and numbered it as Article 272. The new Article was created because when considering Article 309 of the Mung'omba Draft Constitution which provided for Annual Financial Estimates, the Conference observed that there was need to account for the receipt of gifts, grants, donations and aid -in-kind.</p>

<p><b>Article 312: Borrowing by Government</b></p>	<p><b>Borrowing by Government</b></p> <p><b>312</b> (1) The Government may, subject to this Article, borrow from any source.</p> <p>(2) Government shall not borrow, guarantee or raise a loan on behalf of itself or any State organ, State institution, authority or person except as authorized by or under an Act of Parliament.</p> <p>(3) Legislation enacted under clause (2) shall provide -</p> <p>(a) that the terms and conditions of the loan shall be laid before the National Assembly and shall not come into operation unless they have been approved by a resolution of the National Assembly; and</p> <p>(b) that any money received in respect of that loan shall be paid into the Consolidated Fund or into some other public fund which exists or</p>	<p><b>Borrowing and lending by Government</b></p> <p><b>273. (1) Subject to this Article, the Minister responsible for finance may borrow from any source, on behalf of the Republic:</b>  <b>Provided that the Minister responsible for finance shall not, in any financial year, borrow beyond the aggregate debt stock, including interest and fees on the debt, approved by the National Assembly for that year.</b></p> <p>(2) <b>The Minister responsible for finance</b> shall not borrow, guarantee or raise a loan on behalf of any State organ, State institution, authority or person except as authorized by or under an Act of Parliament.</p> <p>(3) Legislation enacted under clause (2) shall provide -</p> <p>(a) <i>that the terms and conditions of the loan shall be laid before the National Assembly and shall not come into</i></p>	<p>The Conference adopted Article 312 with amendments and re-titled it as “Borrowing and lending by Government”) and renumbered it as Article 273.</p> <p>In order to improve on accountability, the Conference-</p> <p>(a) amended Article 273 by substituting the words “Government” and “President” with the words “<b>Minister responsible for finance</b>” in contracting debt and in reporting to the National Assembly;</p> <p>(b) provided for a ceiling for borrowing by the Minister responsible for finance authorized by the National Assembly when approving aggregate debt for the year; and</p> <p>(c) could not reach agreement on paragraph (a) of clause (3) and, therefore, referred it to the National Referendum.</p>
--	--	--	--

	<p>is created for the purpose of the loan.</p> <p>(4) The President shall, at such times as the National Assembly may determine, cause to be presented to the National Assembly information concerning any loan including -</p> <p>(a) the source of the loan;</p> <p>(b) the extent of the total indebtedness by way of principal and accumulated interest;</p> <p>(c) the provision made for servicing or repayment of the loan; and</p> <p>(d) the utilization and performance of the loan.</p> <p>(5) The National Assembly may, by resolution, authorize the Government to enter into an agreement for the giving of a loan or grant out of the Consolidated Fund or any other public fund or account.</p> <p>(6) An agreement entered into under clause (5) shall be laid before the National Assembly and shall not</p>	<p><i>operation unless they have been approved by a resolution of the National Assembly (Referred to Referendum).</i></p> <p>(b) that any money received in respect of that loan shall be paid into the National Treasury Account or into some other public fund which exists or is created for the purpose of the loan.</p> <p><b>(4) The Minister responsible for finance</b> shall, at such times as the National Assembly may determine, <b>present</b> to the National Assembly information concerning any loan including -</p> <p>(a) the source of the loan;</p> <p>(b) the extent of the total indebtedness by way of principal and accumulated interest;</p> <p>(c) the provision</p>	
--	--	--	--

	<p>come into force unless it has been approved by a resolution supported by the vote of not less than two-thirds of all the members of the National Assembly.</p> <p>(7) For the purposes of this Article, "loan" includes any moneys lent or given to or by the Government on condition of return or repayment and any other form of borrowing or lending in respect of which moneys from the Consolidated Fund or any other public fund or account may be used for payment or repayment.</p>	<p>made for servicing or repayment of the loan; and</p> <p>(d) the utilization and performance of the loan.</p> <p>(5) The National Assembly may, by resolution, authorize the <b>Minister responsible for finance</b> to enter into an agreement for the giving of a loan or grant out of the <b>National Treasury Account</b> or any other public fund or account.</p> <p>(6) An agreement entered into under clause (5) shall be laid before the National Assembly <b>by the Minister responsible for finance</b> and shall not come into force unless it has been approved <b>by a resolution</b> of a simple majority of all the members of the National Assembly.</p> <p>(7) For the purposes of this Article, "loan" includes any moneys lent or given to or by the <b>Minister responsible for finance</b> on condition of return or repayment and any other form of borrowing or lending in respect of which moneys from the</p>	
--	--	---	--

		<p><b>National Treasury Account</b> or any other public fund or account may be used for payment or repayment.</p>	
<p><b>Article 313: Public Debt</b></p>	<p><b>Public Debt</b></p> <p><b>313</b> (1) The public debt of Zambia shall be a charge on the Consolidated Fund and any other public fund.</p> <p>(2) The National Assembly shall approve all direct borrowing by the Government, before these take effect, for the purposes of incurring public debt or loan guarantees.</p> <p>(3) For the purposes of this Article, the public debt includes the interest on that debt, sinking fund payments in respect of that debt, the costs, charges and expenses incidental to the management of that debt.</p>	<p><i>Management of Public debt</i></p> <p><b>274.</b> (1) The public debt of Zambia shall be a charge on the <b>National Treasury Account</b> and any other public fund.</p> <p>(2) <b>The Minister responsible for finance shall report all borrowings by any State institution or authority in value, annually, to the National Assembly.</b></p> <p>(3) <b>The Minister responsible for finance shall manage the public debt of Zambia.</b></p> <p>(4) <b>Parliament shall enact legislation to provide for the management of public debt.</b></p> <p>(5) For the purposes of this Article, the public debt includes the interest on that debt, sinking fund payments in respect of that debt, the costs, charges and expenses incidental to the management of that debt.</p>	<p>The Conference adopted Article 313 of the Mung'omba Draft Constitution with amendments and renumbered it as Article 274. In amending the Article the Conference observed that Article 274 on Public debt actually dealt with management of debt. The Conference, therefore, deleted clause (2) as it covered borrowing which was provided for under Article 273.</p> <p>In addition, the Conference:</p> <p>(a) approved two new clauses (2) and (3) providing for compelling of the Minister responsible for finance to report annually to the National Assembly all borrowing by any State institution or authority; and</p> <p>(b) charging the Minister responsible for finance with</p>



			the responsibility of managing the national debt.
<b>Article 275: Remuneration of certain officers (new Article)</b>		<p><b>Remuneration of certain officers</b></p> <p><b>275. (1) There shall be paid to the holders of the offices to which this Article applies such salary and such allowances as may be prescribed by or under an Act of Parliament.</b></p> <p><b>(2) The salary payable to the holder of any office to which this Article applies and the terms of office shall not be altered to the</b></p>	The Conference decided to create a new Article on Remuneration of certain officers and numbered it as Article 275. That was in line with its decision to delete Article 322 of the Mung'omba Draft Constitution on the establishment of the National Fiscal and Emoluments Commission which was going to duplicate and introduce conflict

		<p>person's disadvantage after the person's appointment.</p> <p>(3) Where a person's salary or terms of office depend upon the person's option, the salary or terms for which the person opts shall, for the purposes of clause (2), be deemed to be more advantageous to the person than any others for which the person might have opted.</p> <p>(4) This Article applies to the offices established by this Constitution and to such other offices as may be prescribed by or under an Act of Parliament.</p> <p>(5) The expenses, including emoluments of any public office constituted under this Constitution by or under an Act of Parliament shall be a charge on the National Treasury Account.</p>	<p>in the functions currently performed by the Ministry responsible for finance and national planning and the National Assembly. Therefore, the Conference provided for the remuneration of holders of constitutional offices, by adopting Article 119 of the current Constitution.</p>
<p><b>Article 314: Financial Report of Government</b></p>	<p><b>Financial Report of Government</b></p> <p>314 (1) The Minister responsible for finance shall within six months after the end of each financial year prepare and submit to the Auditor-General the financial report of the Government in respect of the preceding financial year.</p>	<p><b>Financial Report of Government</b></p> <p>276. (1) The Minister responsible for finance shall, within six months after the end of each financial year, prepare and submit to the Auditor-General, the financial report of the Government in respect of the</p>	<p>The Conference adopted Article 314 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 276.</p> <p>In adopting Article 314, the</p>

	<p>(2) The financial report, referred to under clause (1), shall include information on -</p> <ul style="list-style-type: none"> <li>(a) revenue and other moneys received by the Government during that financial year;</li> <li>(b) the expenditure of the Government during that financial year, including expenditure charged by this Constitution or any other law on the Consolidated Fund or other public fund;</li> <li>(c) debt repayments;</li> <li>(d) payment made in that financial year for purposes other than expenditure;</li> <li>(e) the financial position of the Republic at the end of that financial year; and</li> <li>(f) any other information as specified under the Budget Act.</li> </ul>	<p>preceding financial year.</p> <p>(2) The financial report referred to under clause (1) shall include information on -</p> <ul style="list-style-type: none"> <li>(a) revenue and other moneys received by Government during that financial year;</li> <li>(b) the expenditure of the Government during that financial year, including expenditure charged by this Constitution or any other law on the <b>National Treasury Account</b> or other public fund;</li> <li>(c) the payments made in the financial year otherwise than for the purposes of expenditure;</li> </ul>	<p>Conference introduced two new paragraphs under clause (2) to include information on receipt and disposal of grants, donations, aid-in-kind and on loans and grants given out by the Government under Article 273.</p>
--	--	--	--

	<p>(3) The Auditor-General shall examine the financial report submitted by the Minister responsible for finance under clause (1) and express an opinion on the report.</p> <p>(4) The Minister responsible for finance shall within nine months after the end of the financial year lay the financial report of the Government, with the Auditor General's opinion, before the National Assembly.</p>	<p>(d) debt repayments;</p> <p>(e) <b>gifts, donations and aid-in-kind received on behalf of the Republic in that financial year and how they were disposed off;</b></p> <p>(f) <b>loans and grants given out by the Government under Article 273;</b></p> <p>(g) the financial position of the Republic at the end of that financial year; and</p> <p>(h) any other information as specified under the <b>Planning and Budget Act.</b></p> <p>(3) The Auditor-General shall examine the financial report submitted by the Minister responsible for finance under clause (1) and express an opinion on the report in accordance with international</p>	
--	---	--	--

		<p>auditing standards.</p> <p>(4) The Minister responsible for finance shall within nine months after the end of the financial year lay the financial report of the Government, with the Auditor-General's opinion, before the National Assembly.</p>	
<p><b>Article 315: Disposal of State Assets</b></p>	<p><b>Disposal of State Assets</b></p> <p>Any major State asset, such as a parastatal company or a commercial enterprise of the State, shall not be sold, transferred or disposed of, except with the prior resolution of the National Assembly supported by a vote of not less than two-thirds of all the members of the National Assembly.</p>	<p><b>Disposal of State Assets</b></p> <p><b>277. Parliament shall enact legislation to -</b></p> <p>(a) regulate the manner in which State assets shall be sold, disposed of or otherwise dealt with;</p> <p>(b) provide for the role of Parliament in the processes referred to under paragraph (a); and</p> <p>(c) provide for the effective management of State assets.</p>	<p>The Conference adopted Article 315 of the Mung'omba Draft Constitution with amendments and renumbered it as Article 277. In doing so the Conference observed-</p> <p>(a) the need to provide for Parliamentary oversight in all sales of major State assets;</p> <p>(b) that requiring two-thirds majority of all Members of Parliament may prove restrictive in practice; and</p> <p>(c) that debating the disposal or sale of any major State asset in the National Assembly was sufficient to provide details of the transaction to</p>

			<p>the people and their representatives.</p> <p>The Conference, therefore, provided for the disposal of State assets under an Act of Parliament.</p>
<p><b>Article 316</b> <b>State Audit Commission</b></p>	<p><b>State Audit Commission</b></p> <p><b>316</b> (1) There is hereby established a State Audit Commission, which shall be the policy body for the Auditor General's Office.</p> <p>(2) The State Audit Commission, established under clause (1), shall consist of five members who shall serve on a part-time basis.</p> <p>(3) The members of the State Audit Commission shall be persons from the private sector with -</p> <p>(a) expertise and experience in state audit, internal or external audit or finance;</p> <p>(b) considerable experience in public finance; or</p> <p>(c) professional qualifications</p>	<p>The Conference deleted Article 316 of the Mung'omba Draft Constitution</p>	<p>The Conference decided to delete Article 316 of the Mung'omba Draft Constitution on the establishment of the State Audit Commission because it observed that:</p> <p>(a) The Office of the Auditor-General (OAG) was currently performing well and only needed strengthening by:</p> <p>(i) enhancing efficiency by providing adequate funding and personnel; and</p> <p>(ii) providing mechanisms to ensure</p>

	<p>of relevance to the work of the State Audit Commission.</p> <p>(4) The members of the State Audit Commission shall be nominated by the relevant professional civil society organizations with similar objectives as is relevant to the work of the State Audit Commission and appointed by the President, subject to ratification by the National Assembly.</p> <p>(5) A member of the State Audit Commission shall serve for a term of three years and shall be eligible to serve for only one further term of three years.</p> <p>(6) The functions of the State Audit Commission shall include-</p> <p>(a) making recommendations to the President on the appointment of the Auditor-General;</p> <p>(b) providing policy direction to the office of the Auditor-General; and</p> <p>(c) performing such other</p>		<p>enforcement of the recommendations of the Office of the Auditor-General; and</p> <p>(b) the establishment of the State Audit Commission would not only increase running costs for the Government but that it would also compromise the independence of the Office.</p>
--	--	--	---

	<p>functions as provided by this Constitution and by or under an Act of Parliament.</p> <p>(7) The Auditor-General's Office shall be the secretariat for the State Audit Commission.</p> <p>(8) The expenses of the State Audit Commission shall be a charge on the Consolidated Fund.</p>		
<p><b>Article 317</b> <b>Auditor General</b></p>	<p><b>Auditor-General</b></p> <p><b>317</b> (1) There is hereby established the office of the Auditor-General the holder of which is the Auditor-General.</p> <p>(2) The office of Auditor-General is a public office.</p> <p>(3) The Auditor-General shall be appointed by the President on the recommendation of the State Audit Commission, subject to ratification by the National Assembly.</p> <p>(4) The Auditor-General may only be removed from office on the same grounds and procedure that apply</p>	<p><b>Auditor-General</b></p> <p><b>278. (1) There shall be an Auditor-General for the Republic whose office shall be a public office and who shall be appointed by the President, subject to ratification by the National Assembly.</b></p> <p><b>(2) Subject to the provisions of this Article, the Auditor-General shall retire from office on the attainment of sixty years of age.</b></p> <p><b>(3) A person holding the office of Auditor-General may be removed from office only for inability to perform the functions of</b></p>	<p>The Conference adopted some provisions of Article 317 and 320 of Mung'omba Draft Constitution and merged them with the provisions from Articles 121 and 122 of the current Constitution and renumbered the provisions as Article 278.</p> <p>This was because the Conference observed that the provision on the Auditor-General in the Mung'omba Draft Constitution was essentially the same as that provided for in the current Constitution but split in clauses. For instance, clauses (1), (2) and</p>



	<p>to a Judge of a superior court.</p> <p>(5) The Auditor-General shall retire from office on the attainment of seventy years of age.</p> <p>(6) The emoluments and other terms and conditions of service of the Auditor-General shall be as recommended by the Emoluments Commission and approved by the National Assembly.</p> <p>(7) Parliament shall enact legislation to provide for -</p> <p>(a) the qualification and retirement from office of the Auditor-General;</p> <p>(b) the operations and management of the office of the Auditor-General;</p> <p>(c) the recruitment, supervision, grading, promotion and discipline</p>	<p><b>the office, whether arising from infirmity of body or mind, or for incompetence or for misbehavior and shall not be so removed except in accordance with the provisions of this Article.</b></p> <p><b>(4) If the National Assembly resolves that the question of removing a person holding the office of Auditor-General from office under this Article ought to be investigated, then-</b></p> <p><b>(a) the National Assembly shall, by resolution appoint a tribunal which shall consist of a Chairperson and not less than two other members, who hold or have held high judicial office;</b></p> <p><b>(b) the tribunal shall inquire into the matter and report on the facts thereof to the National Assembly; and</b></p> <p><b>(c) the National Assembly shall consider the</b></p>	<p>(3) of Article 317 of the Mung'omba Draft Constitution is a split of the provision in clause (1) of Article 121 of the current Constitution.</p>
--	---	--	---

	<p>of the staff of the Auditor-General; and</p> <p>(d) the finances of the office of the Auditor-General.</p>	<p>report of the tribunal at the first convenient sitting of the National Assembly after it is received and may, upon such consideration, by resolution, remove the Auditor-General from office.</p> <p>(5) If the question of removing the Auditor-General from office has been referred to a tribunal under this Article, the National Assembly may, by resolution, suspend that person from performing the functions of the office, and any such suspension may at any time be revoked by the National Assembly by resolution and shall in any case cease to have effect if, upon consideration of the report of the tribunal in accordance with the provisions of this Article, the National Assembly does not remove the Auditor-General from office.</p> <p>(6) A person who holds or has held the office of Auditor-</p>	
--	---	---	--

		<p><b>General shall not be appointed to hold or to act in any other public office.</b></p> <p><b>(7) A person who holds the office of Auditor-General may resign upon giving three months' notice to the President.</b></p>	
<p><b>Article 318 Independence of the Auditor General</b></p>	<p><b>Independence of the Auditor-General</b></p> <p>In the performance of the functions conferred on the Auditor-General under this Constitution or any other law, the Auditor-General and the staff of the office of the Auditor-General shall not be subject to the direction or control of any person or authority.</p>	<p><b>Independence of Auditor General</b></p> <p>"319. In the performance of the functions conferred on the Auditor-General under this Constitution or any other law, the Auditor-General and the staff of the office of the Auditor-General shall not be subject to the direction or control of any person or authority."</p>	<p>The Conference adopted Article 318 of the Mung'omba Draft Constitution without amendments and renumbered it as Article 280.</p>
<p><b>Article 319 Funding of Auditor General</b></p>	<p><b>Funding of Auditor General</b></p> <p><b>319</b> (1) The office of Auditor-General shall be adequately funded to enable the office to effectively carry out its mandate.</p> <p>(2) The expenses of the office of the Auditor-General, including the emoluments of staff, shall be a charge on the Consolidated Fund.</p>	<p><b>Funding of Auditor General</b></p> <p><b>281.</b> (1) The office of Auditor-General shall be funded to enable the office to effectively carry out its mandate.</p> <p>(2) The expenses of the office of the Auditor-General shall be a charge on the <b>National Treasury Account.</b></p>	<p>The Conference adopted Article 319 of the Mung'omba Draft Constitution with amendments by inserting the words "<b>National Treasury Account</b>" in clause (2) and renumbered it as Article 281.</p>

<p><b>Article 320</b> <b>Functions</b> <b>of Auditor</b> <b>General</b></p>	<p><b>Functions of Auditor General</b></p> <p>320 (1) The Auditor-General shall -</p> <ul style="list-style-type: none"> <li>(a) audit the accounts of - <ul style="list-style-type: none"> <li>(i) the National Government and local authorities;</li> <li>(ii) all offices financed wholly or partly from public funds including the universities, the Central Bank, State organs and State institutions;</li> </ul> </li> <li>(b) audit the accounts that relate to the stocks, shares and stores of the Government;</li> <li>(c) conduct financial and value for money audits, including environmental audits, forensic audits and any other type of audit, in respect of any project that involves the use of public funds;</li> <li>(d) ascertain that money appropriated by Parliament or raised by the Government and disbursed -</li> </ul>	<p><b>Functions of Auditor General</b></p> <p><b>279. (1) The Auditor-General shall -</b></p> <ul style="list-style-type: none"> <li><b>(a) ensure that the provisions of this Part are being complied with;</b></li> <li><b>(b) ensure that the moneys expended have been applied to the purposes for which they were appropriated by the Appropriation Act or by the Supplementary Appropriation Act, in accordance with the approved estimates or supplementary estimates, as the case may be, and that the expenditure conforms to the authority that governs it;</b></li> <li><b>(c) audit the accounts relating to the moneys from the general revenues of the Republic appropriated by Parliament to the</b></li> </ul>	<p>The Conference deleted Article 320 of the Mung'omba Draft Constitution because its provisions were drawn from Articles 121 and 122 of the current Constitution and that for that reason decided that the provisions in Article 320 be incorporated in the new Articles 278 and 279.</p>
---	--	--	--

	<p>(i) has been applied for the purpose for which it was appropriated;</p> <p>(ii) was expended in conformity with the authority that governs it; and</p> <p>(iii) was expended economically, efficiently and effectively;</p> <p>(e) recommend to the Director of Public Prosecutions or any other law enforcement agency any matter, within the competence and functions of the Auditor-General, that may require to be prosecuted; and</p> <p>(f) perform any other function specified by or under an Act of Parliament.</p> <p>(2) For the purposes of clause (1), the Auditor-General or a person authorized or appointed by the Auditor-General shall have access to all documents that relate to or are relevant to an audit.</p>	<p><b>National Assembly and the Judiciary and the expenditure of such moneys by those institutions;</b></p> <p><b>(d) audit the accounts relating to the stocks and stores of the Government and the accounts of such other bodies as may be prescribed by or under any law; and</b></p> <p><b>(e) audit the accounts relating to any expenditure charged by this Constitution or any other law on the general revenues of the Republic and submit a report thereon to the President not later than nine months after the end of each financial year.</b></p> <p><b>(2) The Auditor-General and any officer authorized by the Auditor-General shall have access to all books, records, reports and other</b></p>	
--	--	--	--

<p>(3) Accounts which are subject to auditing by the Auditor-General shall be kept in the form approved by the Auditor-General.</p> <p>(4) The Auditor-General shall, not later than nine months after the end of each financial year, submit a report of the accounts audited under clause (1) in respect of the immediately preceding financial year to -</p> <p style="padding-left: 40px;">(a) the President; and</p> <p style="padding-left: 40px;">(b) the National Assembly.</p> <p>(5) The National Assembly shall, within three months after the submission of the report referred to in clause (4), consider the report and take appropriate action.</p> <p>(6) The Auditor-General may conduct audits of public accounts at intervals and with the regularity that the Auditor-General considers necessary.</p> <p>(7) The President, the National Assembly or any public officer may, at any time, in the public interest,</p>	<p><b>documents relating to any of the accounts referred to in clause (1) and which are relevant to an audit.</b></p> <p><b>(3) The Auditor-General shall, not later than nine months after the end of each financial year, submit a report on the accounts referred to in paragraph (c) of clause (1) in respect of that financial year to the President who shall, not later than seven days after the first sitting of the National Assembly next after the receipt of such report, cause it to be laid before the National Assembly.</b></p> <p><b>(4) If the President defaults in laying the report before the National Assembly, the Auditor-General shall submit the report to the Speaker of the National Assembly or, if the office of the Speaker is vacant or if the Speaker is for any reason unable to perform the functions of the office, to the Deputy Speaker, who shall cause it to be laid before the National Assembly.</b></p> <p>(5) The National Assembly shall, within three months after the submission of the report referred to in</p>	
--	--	--

	<p>request the Auditor-General to audit the accounts of a State organ, State institution or body that is subject to audit under this Part.</p> <p>(8) The office of the Auditor-General shall be audited and the report shall be submitted to the National Assembly and the President by external auditors appointed by the State Audit Commission.</p>	<p>clause (4), consider the report and take appropriate action <b>including referring any cases of malpractice or financial impropriety to any public institution which is competent in the matter for necessary action.</b></p> <p><b>(6) The Auditor-General shall perform such other duties and exercise such other powers in relation to all accounts of the Government or the accounts of other public authorities or other bodies as may be prescribed by or under an Act of Parliament.</b></p> <p>(7) The President, the National Assembly or any <b>citizen</b> may, at any time, in the public interest, request the Auditor-General to audit the accounts of a State organ, State institution or body that is subject to audit under this Part.</p> <p>(8) The office of the Auditor-General shall be audited and the report shall be submitted to the National Assembly and the President by external auditors appointed by the <b>Minister responsible for finance.</b></p>	
--	---	--	--

<p><b>Article 321 Reference by Auditor General</b></p>	<p><b>Reference by Auditor General</b> 321. The Auditor-General may refer any case of malpractice or financial impropriety to any public institution which is competent in the matter for action.</p>	<p><b>Reference by Auditor General</b> <b>282.</b> The Auditor-General <b>shall</b> refer any case of mal-practice or financial impropriety to any public institution which is competent in the matter for action.</p>	<p>The Conference adopted Article 321 with amendments by substituting the word “may” with the word “<b>shall</b>” and renumbered it as Article 282.</p> <p>This was because the Conference observed that it was necessary to report cases of financial malpractices and impropriety to any public institutions competent in the matter in order to curb the rampant increase in such cases.</p>
<p><b>Article 322 National Fiscal and Emolument s Commissi on</b></p>	<p><b>National Fiscal and Emoluments Commission</b> 322. (1) There is hereby established the National Fiscal and Emoluments Commission of which the membership, additional functions, operations, management, finances and structures shall be provided for by an Act of Parliament.</p> <p>(2) Without limiting clause (1), the functions of the National Fiscal and Emoluments Commission shall include</p>	<p>The Conference deleted Article 322 on National Fiscal and Emoluments Commission</p>	<p>The Conference deleted Article 322 of the Mung’omba Draft Constitution because it was observed that the functions that the proposed National Fiscal and Emoluments Commission was to perform were already being performed by existing competent State institutions and State organs.</p> <p>Therefore, the Conference decided against creating the</p>



	<p>-</p> <ul style="list-style-type: none"> <li>(a) assessing the financial and fiscal policies of the Government and recommending to the Government equitable financial and fiscal allocations to be appropriated to the National Government, the provinces and local authorities;</li> <li>(b) recommending for the approval of the National Assembly the emoluments of public officers specified by this Constitution and other public officers, as may be provided by or under an Act of Parliament; and</li> <li>(c) any other function specified by this Constitution or any other law.</li> </ul>		<p>National Fiscal and Emoluments Commission but instead to adopt Article 119: Remunerations of Certain Officers from the current Constitution of Zambia and re-numbered it as Article 275. The provision of Article 275 is presented above.</p>
--	--	--	--

**PART XVIII - CENTRAL BANK**

<p><b>Article 323</b> <b>Central Bank</b></p>	<p><b>Central Bank</b></p> <p>323 (1) There is hereby established the Central Bank of Zambia.</p> <p>(2) The Bank of Zambia shall be the Central Bank of Zambia and the only authority to issue the currency of Zambia.</p> <p>(3) The authority of the Central Bank shall vest in the Board of Directors of the Bank as constituted by an Act of Parliament.</p> <p>(4) Except as otherwise provided in this Constitution, the power to appoint, promote, and discipline and determine the terms and conditions of service of staff and other employees of the Central Bank vests in the Board of</p>	<p><b>Central Bank</b></p> <p>283. (1) There is hereby established the Central Bank of Zambia.</p> <p><b>(2) The Central Bank of Zambia shall be called the Bank of Zambia and shall be the only authority to issue the currency of Zambia.</b></p> <p>(3) The authority of the Central Bank shall vest in the Board of Directors of the Bank as constituted by an Act of Parliament.</p>	<p>The Conference adopted Article 323 of the Mung’omba Draft Constitution with amendments by inserting a new clause (2) which assigns the name “Bank of Zambia” to the Central Bank of Zambia.</p>
---	--	---	--

	Directors.		
<b>Article 324 Independence of Central Bank</b>	<b>Independence of Central Bank</b> In the performance of the functions of the Central Bank, the Governor, Deputy Governor, directors and staff of the Bank shall be subject to this Constitution and any other law and shall not be subject to the direction or control of any person or authority.	<b>Independence of Central Bank</b> 284. <b>(1) Subject to clause (2),</b> in the performance of the functions of the Central Bank, the Governor, <b>the Board of</b> Directors and staff of the Bank shall be subject to this Constitution and any other law and shall not be subject to the direction or control of any person or authority. <b>(2) The Minister responsible for finance may give policy direction to the Central Bank on any matter.</b>	The Conference adopted Article 324 of the Mung'omba Draft Constitution with amendments and re-numbered it as Article 284. The Conference observed that although the Governor, Directors and staff of the Central Bank should enjoy operational independence and autonomy, they should remain subject to policy direction of the Minister responsible for Finance.
<b>Article 325 Governor of Central Bank</b>	<b>Governor of Central Bank</b> 325 (1) There shall be a Governor of the Central Bank who shall be - (a) a citizen by birth or descent; (b) not less than forty-five years old; (c) a person with extensive	<b>Governor of Central Bank</b> <b>285.</b> There shall be a Governor of the Central Bank who shall- (a) be a citizen by birth or descent; (b) be a person of proven integrity; (c) be appointed by the President, subject to ratification by the National Assembly, for a	The Conference adopted Article 325 of the Mung'omba Draft Constitution with amendments and renumbered it as Article 285. In amending the Article, the Conference observed that provisions in paragraph (b), (c) (e), (f) and (g) of clause (1) and clauses (2) and (3) were minute details which would best be provided for under an Act of

	<p>knowledge and experience in matters that relate to economics, finance or accounting, banking, law or other fields relevant to banking;</p> <p>(d) a person of proven integrity;</p> <p>(e) appointed by the President, subject to ratification by the National Assembly, for a fixed term of office as provided by or under an Act of Parliament;</p> <p>(f) the chairperson of the Board of Directors; and</p> <p>(g) removed from office only on the same grounds and</p>	<p>fixed term of office as provided by or under an Act of Parliament; and</p> <p><b>(d) hold such other qualifications as may be specified by or under an Act of Parliament.</b></p>	<p>Parliament and, therefore, deleted them.</p>
--	--	--	---

	<p>procedure that apply to a judge of a superior court.</p> <p>(2) The emoluments of the Governor shall be as recommended by the Emoluments Commission and approved by the National Assembly.</p> <p>(3) The Governor shall before assuming office take the Official Oath, as set out in the Third Schedule.</p>		
<p><b>Article 326</b> <b>Legislation on Central Bank</b></p>	<p><b>Legislation on Central Bank</b></p> <p>Parliament shall enact legislation to provide for -</p> <p>(a) the functions of the Bank, its operations and management;</p> <p>(b) the appointment, qualifications, tenure of office and other terms and conditions of service of the Board of Directors, other</p>	<p><b>Legislation on Central Bank</b></p> <p><b>286.</b> Parliament shall enact legislation to provide for -</p> <p>(a) the functions of the Bank, its operations and management;</p> <p>(b) <b>the removal from office of the Governor;</b></p> <p>(c) the appointment, qualifications, tenure of office and other terms and conditions of service</p>	<p>The Conference adopted Article 326 with amendments by inserting paragraph (b) which provides for Parliament to enact legislation providing for the removal of the Governor and re-numbered it as Article 286.</p>

	<p>than the Governor;</p> <p>(c) election of a vice-chairperson from amongst the members of the Board of Directors;</p> <p>(d) the grounds for removal of a director of the Board, other than the Governor;</p> <p>(e) the appointment, qualifications, retirement, tenure of office and functions of the Deputy-Governor; and</p> <p>(f) other matters necessary for the effective performance of the functions of the Bank.</p>	<p>of the Board of Directors, other than the Governor; and</p> <p>(d) other matters necessary for the effective performance of the functions of the Bank.</p>	
--	---	---	--

**PART XIX  
LAND AND PROPERTY**

<b>ARTICLE NO.</b>	<b>PROVISIONS OF MUNG'OMBA DRAFT CONSTITUTION</b>	<b>RESOLUTIONS OF THE CONFERENCE</b>	<b>RATIONALE/REMARKS</b>
<p><b>Article 327: Basis of Land Policy</b></p>	<p><b>Basis of Land Policy</b></p> <p>327. The land policy of Zambia shall ensure-</p> <p>(a) equitable access to land and associated resources;</p> <p>(b) equitable access and ownership of land by women;</p> <p>(c) security of land rights for land holders;</p> <p>(d) sustainable and productive management of</p>	<p><b>Basis of Land Policy</b></p> <p>287. The land policy of Zambia shall ensure-</p> <p>(a) equitable access to land and associated resources;</p> <p>(b) <b>equitable access to and ownership of land;</b></p> <p>(c) security of land rights <b>and recognition of indigenous cultural rights.</b></p> <p>(d) sustainable and productive management of land resources;</p> <p>(e) transparent and cost effective administration of land;</p> <p>(f) sound conservation and protection of ecologically sensitive areas;</p>	<p>The Conference adopted Article 327 of Mung'omba Draft Constitution with amendments and renumbered it as Article 287. Paragraph (b) was amended by the deletion of the word "by women" in order to avoid making the Constitution discriminatory against the male gender in matters of land alienation.</p> <p>Paragraph (c) was amended in order to take into account culture and cultural rights when formulating a policy.</p>

	<p>(e) land resources; transparent and cost effective administration of land;</p> <p>(f) sound conservation and protection of ecologically sensitive areas;</p> <p>(g) cost effective and efficient settlement of land disputes; and</p> <p>(h) that river frontages, islands and lakeshores are not leased fenced or sold.</p>	<p>(g) cost effective and efficient settlement of land disputes; and</p> <p>(h) that river frontages, islands and lakeshores are not leased fenced or sold.</p>	
<b>Article 328: Classification of Land</b>	<p><b>Classification of Land</b></p> <p>328. All land in Zambia shall be classified as customary land, State land or such other classification as may be provided by or under an Act of Parliament, and shall</p>	<p><b>Classification of Land</b></p> <p>288. All land in Zambia shall be classified as customary land, State land or such other classification as may be provided by or under an Act of Parliament, and shall be <i>delimited</i> in accordance with an Act of Parliament.</p>	<p><b>Classification of Land</b></p> <p>The Conference adopted Article 328 of the Mung'omba Draft Constitution with an amendment by substituting the word "delimitated" with the word, "delimited" on account that the latter was mostly used in the Zambian legislation and renumbered it as Article</p>



	be delimited in accordance with an Act of Parliament.		288.
<b>Article 329 : State Land</b>	<p><b>State Land</b></p> <p>329. (1) State land is -</p> <p>(a) land held by any person under leasehold tenure;</p> <p>(b) land which at the commencement of this constitution was unalienated state land as defined by an act of Parliament;</p> <p>(c) land lawfully held, used or occupied by any government ministry, department, agency or</p>	<p><b>State Land</b></p> <p>289. (1) State land is -</p> <p>(a) land held by any person under leasehold tenure;</p> <p>(b) land which at the commencement of this constitution was unalienated state land as defined by an act of Parliament;</p> <p>(c) land lawfully held, used or occupied by any government ministry, department, agency or local authority;</p> <p>(d) land in respect of which no heir can by ordinary legal process be identified;</p> <p>(e) any land not classified as customary land under this constitution; and</p> <p>(f) any other land declared as state land by an act of Parliament.</p>	<p>The Conference adopted Article 329 of Mung'omba Draft Constitution with amendments and renumbered it as Article 289. The amendments were as follows:</p> <p>(a) deleted paragraph (d) of Article 329 of the Mung'omba Draft Constitution because issues regarding minerals were dealt with under a new Article specifically dealing with minerals and petroleum;</p> <p>(b) deleted paragraph (f) as it would be a challenge to implement it since Customary land too contained natural resources such as trees, rivers and natural vegetation. Further the provision meant that customary land with watershed and river sources should be classified state land. This would displace a lot of people and potentially declare some Chiefdoms landless.</p>

	<p>local authority;</p> <p>(d) land on or under which minerals are found as specified under law;</p> <p>(e) land in respect of which no heir can by ordinary legal process be identified;</p> <p>(f) land occupied by, or through which, any natural resource passes including gazetted or declared national forests, game reserves and</p>	<p>(2) State land shall not be alienated or otherwise used except in terms of legislation specifying the nature and terms of that alienation or use.</p>	
--	---	--	--

	<p>water catchment areas, rivers and other natural flowing water resources, national parks, animal sanctuaries and specially protected areas;</p> <p>(g) any land not classified as customary land under this constitution; and</p> <p>(h) any other land declared as state land by an act of Parliament.</p> <p>(2) State land shall not be alienated or otherwise used except in terms of legislation specifying the nature and terms of that</p>		
--	---	--	--

	alienation or use.		
<b>Article 330: Customary Land</b>	<p><b>Customary Land</b></p> <p>330. (1) Customary land is land held by communities identified on the basis of tribe, residence or community of interest.</p> <p>(2) For the purposes of clause (1), Customary land includes -</p> <p>(a) land customarily held, managed or used by specific communities as community forests, grazing areas or shrines;</p> <p>(b) land lawfully alienated to a specific community by any process of</p>	<p><b>Customary Land</b></p> <p>290. (1) Customary land is land held by communities identified on the basis of tribe, residence or community of interest.</p> <p>(2) For the purposes of clause (1), Customary land includes-</p> <p>(a) land customarily held, managed or used by specific communities as community forests, grazing areas or shrines;</p> <p>(b) land lawfully alienated to a specific community by any process of law;</p> <p>(c) ancestral lands traditionally occupied by a <i>tribal</i> community; and</p> <p>(d) any other land declared to be customary land by an act of Parliament.</p> <p>(3) Customary land shall not be alienated or otherwise used until the approval of the chief and local authority in whose area the land is situated has first</p>	<p>The Conference adopted Article 330 of Mung'omba Draft Constitution with an amendment by substituting the word "ethnic" with the word "tribal" in paragraph (c), of clause (2) in line with the preamble. The Article was renumbered as Article 290.</p>

	<p>law;</p> <p>(c) ancestral lands traditionally occupied by an ethnic community; and</p> <p>(d) any other land declared to be customary land by an act of Parliament.</p> <p>(3) Customary land shall not be alienated or otherwise used until the approval of the chief and local authority in whose area the land is situated has first been obtained and as may be provided by or under an act of Parliament.</p> <p>(4) an approval under clause (3), shall not be unreasonably withheld.</p>	<p>been obtained and as may be provided by or under an act of Parliament.</p> <p>(4) an approval under clause (3), shall not be unreasonably withheld.</p>	
--	--	--	--

<p><b>Article 331: Vesting of Land</b></p>	<p><b>Vesting of Land</b></p> <p>331. (1) Land in Zambia is vested in the President and is held by the President in trust for and on behalf of the people of Zambia.</p> <p>(2) All land in Zambia shall be administered and controlled for the use or common benefit, direct or indirect, of the people of Zambia.</p> <p>(3) Subject to clause (3), the president may, through the Lands Commission, chiefs or local authorities, alienate land to citizens or to non-citizens, as provided by this constitution and by or under an act of Parliament.</p> <p>(4) Subject to article 330 (3), land situated in a district shall be administered by the local authority in that district.</p>	<p><b>Vesting Of Land</b></p> <p>291. (1) Land in Zambia is vested in the President and is held by the President in trust for and on behalf of the people of Zambia.</p> <p>(2) All land in Zambia shall be administered and controlled for the use or common benefit, direct or indirect, of the people of Zambia.</p> <p>(3) Subject to clause (3) <i>of Article 290</i>, the president may, through the <i>Commissioner of Lands</i>, chiefs or local authorities, alienate land to citizens as provided by this constitution and by or under an act of Parliament.</p> <p>(4) Subject to clause (3) of Article 290), land situated in a district shall be administered by the local authority in that district.</p>	<p>The Conference adopted Article 331 of Mung'omba Draft Constitution with amendments and renumbered it as Article 291.</p> <p>The Conference amended the Article by substituting the words "Lands Commission" with the words "Commissioner of Lands" because the Article on Lands Commission was deleted.</p>
<p><b>Article 332: Land Tenure</b></p>	<p><b>Land Tenure</b></p> <p>332. (1) Land in Zambia</p>	<p><b>Land Tenure</b></p> <p>292. (1) Land in Zambia shall be</p>	<p>The Conference adopted Article 332 of Mung'omba Draft Constitution and renumbered it as Article 292.</p>

	<p>shall be alienated and held on the basis of customary, leasehold or other tenure, as provided by this constitution or by or under an Act of Parliament.</p> <p>(2) Subject to clause (1), State land may be held on a lease of ninety-nine years or such lesser years as may be provided by legislation for different categories of State land.</p> <p>(3) A person who is not a citizen shall only be entitled to lease land for a restricted period of time, as provided by an Act of Parliament.</p> <p>(4) Parliament shall enact legislation to provide for the categories of non-citizens that may hold land and the conditions under which they may do so.</p>	<p>alienated and held on the basis of customary leasehold or other tenure, as provided by this constitution or by or under an Act of Parliament.</p> <p>(2) Subject to clause (1), State land may be held on a lease of ninety-nine years or such lesser years as may be provided by legislation for different categories of State land.</p> <p>(3) A person who is not a citizen shall only be entitled to lease land for a restricted period of time, as provided by an Act of Parliament.</p> <p>(4) Parliament shall enact legislation to provide for the categories of non-citizens that may hold land and the conditions under which they may do so.</p>	<p>In adopting Article 322, the Conference observed that The restriction on leasing land to non-citizens was necessary in order to ensure that land was reserved for future generations since land was a fixed asset which did not expand.</p>
<p><b>Article 293: Minerals And Petroleum (New</b></p>		<p><b>Minerals And Petroleum</b></p> <p><b>293. (1) All rights of ownership in, searching for, mining and disposing of, minerals and petroleum wheresoever</b></p>	<p>The Conference created Article 333 on Minerals and Petroleum to specifically address matters relating to how the various stakeholders including individuals, communities and Government to a particular piece of land would</p>

<p>Article)</p>		<p>located in Zambia are hereby vested in the president in trust for and on behalf of the people of Zambia.</p> <p>(2) The provisions of this article have effect notwithstanding any right, title or interest which any person may possess in any water body or over the soil in, on or under which minerals and petroleum are found.</p> <p>(3) A person holding land which is the subject of a mining right shall take equity in the mining which is the subject of the right in lieu of compensation.</p> <p>(4) Subject to this Article, Parliament shall enact legislation regulating: -</p> <ul style="list-style-type: none"> <li>(a) the exploitation of minerals and petroleum;</li> <li>(b) the equitable sharing of royalties arising from mineral and petroleum exploitation;</li> <li>(c) the conditions for payment of indemnities arising out of exploitation of minerals and</li> </ul>	<p>benefit from proceeds accruing from the exploitation of minerals and petroleum discovered on that land.</p> <p>However, that the details of administering these provisions should go to an Act of Parliament.</p>
-----------------	--	--	--



		<p>(d) petroleum; and the conditions regarding the restoration of derelict lands.</p> <p>(5) Minerals, mineral ores and petroleum shall be exploited taking into account the interest of the individual landowners, local communities and the Government.</p>	
<p><b>Article 333: Regulation of Land use and Development of Property</b></p>	<p><b>Regulation of Land use and Development of Property</b></p> <p>333 (1) The state is empowered to regulate the use of any land, interest or right in land in the interest of defence, public safety, public order, public morality, public health, land use planning or the development or utilisation of property.</p> <p>(2)The state shall encourage and provide a conducive social, economic, political and legal environment for the creation, development and management of property.</p>	<p><b>Regulation of Land use and Development of Property</b></p> <p><b>294.(1) Subject to Article 63</b>, the state is empowered to regulate the use of any land, interest or right in land in the interest of defence, public safety, public order, public morality, public health, land use planning or the development or utilisation of property.</p> <p>(2) The state shall encourage and provide a conducive social, economic, political and legal environment for the creation, development and management of property.</p> <p>(3) Parliament shall enact legislation ensuring that major investments in land benefit local communities and their</p>	<p>The Conference adopted Article 333 of the Mung’omba Draft Constitution with amendments and renumbered it as Article 294.</p> <p>The Conference adopted clause (1) subject to Article 63 of the Mung’omba Draft Constitution in order to provide for safeguard measures to protect the citizens against overriding powers of the President.</p>

	(3) Parliament shall enact legislation ensuring that major investments in land benefit local communities and their economy.	economy.	
<b>Article 334: Commissioner of Lands</b>	<p><b>334.</b> (1) The office of Commissioner of Lands is a public office and the Commissioner of Lands shall be appointed by the president, subject to ratification by the National Assembly.</p> <p>(2) The Commissioner of Lands shall be the chief administrator of the Lands Commission and shall perform the functions of office under the supervision of the Lands Commission.</p> <p>(3) The term of office of the commissioner of lands shall be five years, subject to renewal or until the person attains retirement age as specified by an act of</p>	<p><b>Commissioner of Lands</b></p> <p><b>295.</b> (1) <b>There shall be a Commissioner of Lands whose office is a public office and who shall be appointed by the president, subject to ratification by the National Assembly.</b></p> <p>(2) <b>the commissioner of lands shall -</b>  <b>(a) administer, manage and alienate land on behalf of the president; and</b>  <b>(b) perform any other function provided by or under an Act of Parliament.</b></p> <p>(3) The term of office of the Commissioner of Lands shall be as specified by an Act of Parliament.</p>	<p><b>Commissioner of Lands</b></p> <p>The Conference adopted Article 334 of Mung'omba Draft Constitution with amendments and renumbered it as Article 295. The amendments were as follows:</p> <p>(a) amended the provision in clause (1) in order to establish the Office of Commissioner of Lands;</p> <p>(b) substituted clause (2) with a new provision because the Mung'omba Draft Constitution provision was going to create unnecessary bureaucracy. Paragraph (a) of the new clause (2) (a) would spell out the specific functions of the Commissioner of Lands which were not currently spelt out. In creating paragraph (a), the Conference observed that the details of these functions should be provided for in an Act of Parliament to facilitate flexibility when need arose.</p> <p>In amending clause (3), the Conference observed</p>

	Parliament.		that there was no need to specify the period in the Constitution but that it should be provided for under an Act of Parliament.
<b>Article 335: Lands Commission</b>	<p><b>Lands Commission</b></p> <p>335. (1) There is hereby established a Lands Commission which shall consist of the commissioner of lands and four other part-time members appointed by the President, subject to ratification by the National Assembly.</p> <p>(2) Parliament shall enact legislation to provide for the Lands Commission, its financial resources and financial management, procedures, administration, appointments, qualifications, promotions, transfer, retirement and discipline of staff, including the Commissioner of Lands, and generally for the functioning of the Commission.</p> <p>(3) The Lands Commission shall establish</p>	The Conference deleted Article 335 of the Mung'omba Draft Constitution on Lands Commission.	<p>The Conference deleted Article 335 of the Mung'omba Constitution because:</p> <p>(a) the existing problems or mischief that the establishment of the Lands Commission was going to address were not spelt out;</p> <p>(b) the Lands Commission would create duplicity in management of land issues as its proposed functions would be a duplication of the existing responsibilities of the Ministry of Lands, particularly the Commissioner of Lands; and</p> <p>(c) the proposed Lands Commission would cause delays in land alienation as it would only sit quarterly.</p>

	<p>offices in every province.</p> <p>(4) The expenses of the Lands Commission, including the emoluments of the staff of the commission, shall be a charge on the Consolidated Fund.</p>		
<b>Article 336: Tenure of Office</b>	<p><b>Tenure of Office</b></p> <p>336. (1) A member of the Lands Commission, except the Commissioner of Lands, shall hold office for a term of three years, subject to renewal for only one further term of three years.</p> <p>(2) Parliament shall enact legislation providing for the removal from office of a member of the Lands Commission.</p>	The Conference deleted Article 336 of the Mung'omba Draft Constitution on Tenure of Office	Having deleted Article 335 on the establishment of the Lands Commission the Conference consequentially deleted Article 336 on Tenure of office of a members Lands Commission.
<b>Article 337: Functions of Lands Commission</b>	<p><b>Functions of Lands Commission</b></p> <p>337. The functions of the Lands Commission shall</p>	The Conference deleted Article 337 of the Mung'omba Draft Constitution on Functions of Lands Commission	Having dropped Article 335 of the Mung'omba Draft Constitution, the Conference consequentially deleted Article 337.

	<p>include the following-</p> <ul style="list-style-type: none"> <li>(a) administer, manage and alienate land on behalf of the President;</li> <li>(b) formulate and recommend to the Government a National Lands Policy;</li> <li>(c) advise the Government and local authorities on a policy framework for the development of selected areas of Zambia and to ensure that the development of customary land is in accordance with the development plan for the area;</li> <li>(d) advise the Government on, and assist in the execution of, a comprehensive programme for the registration of leasehold title in land throughout Zambia;</li> </ul>		
--	---	--	--

	<p>(e) conduct research related to land and natural resource use and make recommendations to appropriate authorities;</p> <p>(f) facilitate the participation of communities in the formulation of land policies;</p> <p>(g) monitor and have oversight responsibilities over land use planning throughout the country; and</p> <p>(h) any other function provided by or under an Act of Parliament.</p>		
<b>Article 338: Legislation on Land</b>	<p><b>Legislation on Land</b></p> <p>338. Parliament shall enact legislation to:</p> <p>(a) revise, consolidate and rationalise existing laws relating to land;</p>	<p><b>Legislation on Land</b></p> <p><b>296.</b> Parliament shall enact legislation to:</p> <p>(a) revise, consolidate and rationalise existing laws relating to land;</p>	<p>The Conference adopted Article 338 of the Mung’omba Draft Constitution with amendments and renumbered it as Article 296.</p> <p>In making the amendment to paragraph (g), the</p>

	<p>(b) prohibit speculation in land;</p> <p>(c) revise sectoral land use law in accordance with national land policy;</p> <p>(d) regulate the manner in which any land may be converted from one classification or category to another;</p> <p>(e) protect, conserve and provide equitable access to all state land;</p> <p>(f) enable the settlement of landless people including the rehabilitation of spontaneous settlements of rural and urban communities; and</p> <p>(g) prescribe minimum and maximum land holding acreage in arable areas.</p>	<p>(b) prohibit speculation in land;</p> <p>(c) revise sectoral land use law in accordance with national land policy;</p> <p>(d) regulate the manner in which any land may be converted from one classification or category to another;</p> <p>(e) protect, conserve and provide equitable access to all state land;</p> <p>(f) enable the settlement of landless people including the rehabilitation of spontaneous settlements of rural and urban communities;</p> <p>(g) prescribe minimum and maximum <i>extent of</i> land holding;</p> <p>(h) <b>address imbalances in the alienation of land;</b></p> <p>(i) <b>provide for a periodic audit of land holding and tenure; and</b></p> <p>(j) <b>provide security of tenure for customary land which shall be issued by a chief.</b></p>	<p>Conference observed that:</p> <p>(a) the minimum or maximum amount of land a farmer required depended on the purpose the land was going to be used for;</p> <p>(b) a limit on the size of land was also important and not whether it was arable or not; and</p> <p>(c) arable land today may not be arable in future; and</p> <p>(d) land that may be of no use today may be very useful in future due to technological advancement.</p> <p>In making amendments to paragraph (h), the Conference observed that the paragraph was meant to address the current challenges where some of the citizens were holding large tracts of land, which they did not utilize in full, at the expense of many Zambians who were landless.</p> <p>Further, the Conference created paragraphs (i) and (j) to-</p> <p>(a) address land alienation problems that might arise in other provinces as was currently the case in Southern Province where a number of indigenous citizens had been displaced from their customary land in order to pave</p>
--	---	---	--

			<p>way for development projects;</p> <p>(b) assist the Government to make informed decisions on matters of land alienation in relation to available land; and</p> <p>(c) provide security of tenure for customary land where people were being evicted by reigning chiefs even if tenure was authorised by their predecessors.</p>
<p><b>PART XX</b></p> <p><b>ENVIRONMENT AND NATURAL RESOURCES</b></p>			
<p><b>Article 339: Basis of Environment Policy</b></p>	<p><b>Basis of Environment Policy</b></p> <p>339. The management and development of Zambia's natural resources shall -</p> <p>(a) respect the integrity of natural processes and ecological communities including conservation of habitats and species;</p> <p>(b) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources for</p>	<p><b>Basis of Environment and Natural Resources Policy</b></p> <p><b>297. The environment and natural resources policy of Zambia shall provide that the management and development of Zambia's environment and natural resources shall ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources for the present and future generations.</b></p>	<p>The Conference adopted Article 339 of the Mung'omba Draft Constitution with amendments and renumbered it as Article 297. In amending Article 339, the Conference decided to-</p> <p>(a) include natural resources since PART XX was not restricted to issues on environment only; and</p> <p>(b) provide the provisions of paragraphs (c) to (l) under an Act of Parliament.</p>



	<p>the present and future generations;</p> <p>(c) ensure equitable sharing of benefits, amongst the local communities accruing from exploitation and utilisation of the environment and natural resources;</p> <p>(d) ensure equitable access to all natural resources;</p> <p>(e) recognise that natural resources have an economic and social value and this should be reflected in their use;</p> <p>(f) not bestow private ownership of any natural resource or authorise its use in perpetuity;</p> <p>(g) ensure gender mainstreaming by promoting equity between the opposite</p>		
--	--	--	--

	<p>gender and involve women in decision making processes relating to the use of natural resources and ensure efforts to reduce poverty are undertaken;</p> <p>(h) ensure that social and cultural values and methods traditionally applied by local communities for the sustainable management of the environment and natural resources are observed;</p> <p>(i) ensure that planning and utilisation of the environment takes account of disadvantaged areas and their inhabitants;</p> <p>(j) promote energy saving and the use of solar energy and other renewable energy sources;</p>		
--	---	--	--

	<p>(k) prevent pollution and ecological degradation; and</p> <p>(l) allocate adequate resources to reclaim and rehabilitate degraded areas and those prone to disasters to make them habitable and productive;</p>		
<p><b>Article 340: Protection of the Environment</b></p>	<p><b>Protection of the Environment</b></p> <p>340. Every person has a duty to co-operate with state organs and state institutions and other persons -</p> <p>(a) to ensure ecologically sustainable development and use of natural resources;</p> <p>(b) to respect, protect and safeguard the environment;</p> <p>(c) to prevent or discontinue</p>	<p><b>Protection of the Environment</b></p> <p>298. Every person has a duty to co-operate with State organs and State institutions and other persons -</p> <p>(a) to ensure ecologically sustainable development and use of natural resources;</p> <p>(b) to respect, protect and safeguard the environment;</p> <p>(c) to prevent or discontinue an act which is harmful to the environment;</p> <p>(d) to direct the appropriate authority to take measures to prevent or</p>	<p>The Conference adopted Article 340 of the Mung'omba Draft Constitution without amendments and renumbered it as Article 298.</p>

	<p>an act which is harmful to the environment;</p> <p>(d) to direct the appropriate authority to take measures to prevent or discontinue an act or omission which is harmful to the environment; and</p> <p>(e) to maintain a clean, safe and healthy environment.</p>	<p>discontinue an act or omission which is harmful to the environment; and</p> <p>(e) to maintain a clean, safe and healthy environment.</p>	
<p><b>Article 341: Conservation of Environment</b></p>	<p><b>Conservation of Environment</b></p> <p><b>341.</b> In the utilisation and management of the environment the State shall -</p> <p>(a) protect genetic resources and biological diversity;</p> <p>(b) discourage waste and encourage recycling;</p> <p>(c) establish systems of environmental impact assessment, environmental audit and for monitoring of the environment;</p>	<p><b>Conservation of Environment</b></p> <p><b>299.</b> In the utilisation and management of the environment the State shall -</p> <p>(a) protect genetic resources and biological diversity;</p> <p>(b) discourage waste and encourage recycling <b>and carbon trading</b>;</p> <p>(c) establish systems of environmental impact assessment, environmental audit and for monitoring of the environment;</p> <p>(d) encourage public participation;</p>	<p>The Conference adopted Article 341 of the Mung'omba Draft Constitution with an amendment in Paragraph (b) by including the phrase "<b>and carbon trading</b>" in order to provide for issues relating to carbon trading. Article 341 was renumbered as Article 299.</p>

	<p>(d) encourage public participation;</p> <p>(e) protect and enhance the intellectual property in, and indigenous knowledge of, biodiversity and genetic resources of the local communities; and</p> <p>(f) ensure that the environmental standards enforced in the republic are of essential benefit to all citizens.</p>	<p>(e) protect and enhance the intellectual property in, and indigenous knowledge of, biodiversity and genetic resources of the local communities; and</p> <p>(f) ensure that the environmental standards enforced in the republic are of essential benefit to all citizens.</p>	
<p><b>Article 342: Utilisation and Development of Natural Resources</b></p> <p>Utilisation and Development of Natural Resources</p>	<p>342. (1) The State shall ensure the protection, management, promotion and sustainable development of natural resources in accordance with the basic policy under this part and shall-</p> <p>(a) ensure an increase in output and profits;</p> <p>(b) undertake strategic</p>	<p><b>Utilisation and Development of Natural Resources</b></p> <p>342 The Conference dropped all the provisions in Article 342 (1).</p> <p><b>Legislation on Environment and Natural Resources</b></p> <p>300. Parliament <b>shall</b> enact legislation to:</p> <p>(a) <b>provide for the utilisation and management of a natural resource by a local authority in the area where the natural</b></p>	<p>The Conference adopted Article 342 of Mung'omba Draft Constitution with amendments and renumbered it as Article 300.</p> <p>In adopting Article 342, the Conference deleted clause (1) of Article 342 of the Mung'omba Draft Constitution because its provisions were addressed by Article 297.</p> <p>With the deletion of clause (1), of Article 342, clause (2) was revised into an Article titled <b>Legislation on environment and natural resources</b> and additional clauses were created.</p>

	<p>research to ensure their enhancement;</p> <p>(c) eliminate unfair trade practices in their production, processing, distribution and marketing;</p> <p>(d) regulate their exportation and importation;</p> <p>(e) regulate their origin, quality, methods of production, harvesting and processing;</p> <p>(f) eliminate processes and activities that are likely to endanger or curtail their existence; and</p> <p>(g) utilise them for the benefit of all the people of Zambia.</p> <p>2. Parliament may enact legislation to provide for the utilization and management of a natural resource by a local authority where the resource is located and shall enact legislation to:</p> <p>(a) regulate sustainable</p>	<p><b>resource is located;</b></p> <p>(b) regulate sustainable exploitation, utilisation, management of <b>natural</b> resources and equitable sharing of benefits accruing from natural resources;</p> <p>(c) <b>regulate the origin, quality, methods of production, harvesting and processing of natural resources; and</b></p> <p>(d) protect the intellectual property rights and indigenous knowledge of local communities in biodiversity and access to genetic resources.</p>	
--	--	---	--

	<p>exploitation, utilization, management of national resources and equitable sharing of benefits accruing from natural resources; and</p> <p>(b) protect the intellectual property rights and indigenous knowledge of local communities in biodiversity and access to genetic resources.</p>		
<p><b>Article 343: Agreements Relating to Natural Resources</b></p>	<p><b>Agreements Relating to Natural Resources</b></p> <p>343. A transaction involving the grant of a right or concession by or on behalf of any person, including the government, to another person, for the exploitation of any natural resource of Zambia shall be in accordance with this constitution and royalties shall be paid in respect of the exploitation of the natural resource</p>	<p><b>Agreements Relating to Natural Resources</b></p> <p>301. A transaction involving the grant of a right or concession by or on behalf of any person, including the government, to another person, for the exploitation of any natural resource of Zambia shall be in accordance with this constitution and royalties shall be paid in respect of the exploitation of the natural resource: <b>provided that -</b> <b>(a) where the right or concession is in respect of a renewable natural resource, the holder of the right or concession shall replenish the natural resource that is exploited; and</b></p>	<p>The Conference Adopted Article 343 of the Mung’omba Draft Constitution with amendments and renumbered it as Article 301.</p> <p>In amending the Article, the Conference created paragraphs (a) and (b) to -</p> <p>(a) address the continued utilization of natural resources without replenishing; and</p> <p>(b) ensure that the local communities from where natural resources were exploited also benefited from the exploitation of the natural resources.</p>

		(b) there is equitable sharing of the royalties paid in respect of the exploitation of the natural resource.	
<b>PART XXI</b>			
<b>REVIEW, ADOPTION AND AMENDMENT OF CONSTITUTION</b>			
ARTICLE NO.	PROVISIONS OF THE MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
<b>Article 344: Review, Adoption and Amendment of Constitution</b>	<b>Review, Adoption and Amendment of Constitution</b> <b>344.</b> (1) A complete review or replacement of this Constitution shall be done by the people of Zambia exercising their constituent power in accordance with an Act of Parliament which provides for the conditions, the process and method of review.	<b>Review, Adoption and Amendment of Constitution</b> <b>302.</b> (1) A complete review or replacement of this Constitution shall be done by the people of Zambia exercising their constituent power in accordance with an Act of Parliament which provides for the conditions, the process and method of review.	The Conference adopted Article 344 of Mung'omba Draft Constitution with amendments and renumbered it as Article 302. The Conference adopted clause (1) of Article 344 of the Mung'omba Draft Constitution without amendments.
	(2) Nothing in this Constitution or any other law shall be construed as preventing the people of Zambia from adopting a	(2) Nothing in this Constitution or any other law shall be construed as preventing the people of Zambia from adopting a Constitution in exercise of their constituent power <b>in accordance</b>	The Conference adopted clause (2) of Article 344 of the Mung'omba Draft Constitution with an amendment by inserting the words " <b>in accordance with an Act of Parliament</b> " at the end of the provision in place of the words



	<p>Constitution in exercise of their constituent power through any means, including the use of a Constituent Assembly or referendum.</p>	<p><b>with an Act of Parliament.</b></p>	<p><b>“through any means, including the use of a Constituent Assembly or Referendum.”</b> This was to avoid tying future amendments to a specific body such as the National Constitutional Conference or Constituent Assembly in recognition of the fact that values and needs change and, therefore, prescribing methods of adopting the Constitution would limit citizens from forming their own roadmaps.</p>
	<p>(3) Subject to this Constitution, a provision of this Constitution may be amended by an Act of Parliament.</p> <p>(4) An amendment of a provision of this Constitution shall be in accordance with the procedure laid down in this Part.</p>	<p>(3) Subject to this Constitution, a provision of this Constitution may be amended by an Act of Parliament.</p> <p>(4) An amendment of a provision of this Constitution shall be in accordance with the procedure laid down in this Part.</p>	<p>The Conference adopted clauses (3) and (4) of Article 344 of the Mung’omba Draft Constitution without amendments.</p>
	<p>(5) A Bill to amend a provision of this Constitution shall have the sole purpose of amending that provision and shall not provide for any other matter.</p> <p>(6) A Bill to amend a provision of this Constitution</p>		<p>The Conference decided to delete clauses (5) and (6) of Article 344 of the Mung’omba Draft Constitution. The deletion was consequential upon the adoption of clause (1) of Article 344 and clause (7) of Article 344 of the Mung’omba Draft Constitution.</p>

	<p>which is on the objectives, principles or structures of local government, shall not be introduced in the National Assembly unless the Bill has been approved by a resolution supported by the votes of not less than two-thirds of all councillors of the district councils.</p>		
	<p>(7) For the purpose of this Part, “amend” means to alter, repeal, replace, vary, add to or cancel, whether in part or in whole, a provision of this Constitution.</p>	<p>(5) For the purpose of this Part, “amend” means to alter, repeal, replace, vary, add to or cancel, whether in part or in whole, a provision in this Constitution.</p>	<p>The Conference adopted clause (7) of Article 344 of the Mung’omba Draft Constitution without amendments and renumbered it clause (5)</p>
<p><b>Article 345- Amendment by Referendum</b></p>	<p><b>Amendment by Referendum</b></p> <p><b>345.</b> (1) A Bill to amend this Constitution in respect of any of the following areas shall be by a referendum and</p>	<p><b>Amendment by Referendum</b></p> <p><b>303.</b> (1) A Bill to amend this Constitution in respect of any of the following areas shall be by a referendum and in accordance with this Article:</p>	<p><b>Amendment by Referendum</b></p> <p>The Conference adopted Article 345 of the Mung’omba Draft Constitution and with amendments and renumbered it as Article 303.</p> <p>The Conference adopted clause (1) of Article 345 of the Mung’omba Draft Constitution without amendments.</p>

	<p>in accordance with this Article:</p> <p>(a) the supremacy and defence of this Constitution and the Republic of Zambia and its sovereignty, Parts I and II;</p> <p>(b) citizenship, Part V;</p>	<p>(a) <b>Articles 4 and 5;</b></p> <p>(b) the Bill of Rights, Part VI, <b>except Articles 64 to 70 inclusive;</b></p>	<p>The Conference adopted paragraph (a) of clause (1) of Article 345 of the Mung'omba Draft Constitution with amendments by entrenching only Article 4 on Republican status of Zambia and Article 5 on sovereignty of Zambia in order to prevent the ceding of Zambia's territory to other territories without the consent of the people.</p> <p>The Conference deleted paragraph (b) of clause (1) of Article 345 of the Mung'omba Draft Constitution for the following reasons:</p> <p>(a) that if a person's rights in respect of their citizenship were violated the matter could be addressed through the Bill of Rights; and</p> <p>(b) that matters of citizenship were very fluid and, therefore, it was not advisable to define and limit those matters by entrenching them in the Draft Constitution.</p>
--	---	--	---

	<p>(c) the Bill of Rights, Part VI;</p> <p>(d) Representation of the People, Articles 93 to 109;</p> <p>(e) the Executive, Articles 121, 122, 123, 124, 129, 130, 131, 132, 133, 135, 136, 137, 138, 139;</p> <p>(f) the Legislature, Articles 158 and 170;</p>	<p>(c) <b>Article 113 (1) and (2) on the tenure of office of the President of Zambia;</b></p> <p>(d) <b>the institution of Chieftaincy, Article 225 (1); and</b></p>	<p>The Conference adopted paragraph (c) of clause (1) of Article 345 of the Mung’omba Draft Constitution with amendments by not entrenching Articles 64 to 70 that dealt with economic, social and cultural rights because if those rights were entrenched and there were problems in the implementation then the country would have to go to a referendum, which would be costly.</p> <p>The Conference adopted paragraph (d) of Article 345 (1) of the Mung’omba Draft Constitution with an amendment and renumbered it as paragraph (c) to entrench the tenure of office of the President of Zambia only. This was meant to deter would be leaders with motives of extending their stay in office.</p> <p>The Conference deleted (e) of clause (1) of Article 345 of the Mung’omba Draft Constitution because it was not necessary to entrench the Articles providing for the Executive.</p> <p>The Conference resolved to delete paragraph (f) of Article 345 (1) of the Mung’omba Draft Constitution because the provision would inhibit creativity of leaders as a result of the provisions it sought to entrench Articles 158 and 170 relating to the Legislature.</p>
--	---	--	---

	<p>(g) the Judiciary, Articles 193, 194 and 216;</p> <p>(h) Review, adoption and amendment of Constitution, Part XXII;</p> <p>(i) Local Government, Part XII; and</p> <p>(j) Chieftaincy and House of Chiefs, Part XIII</p>	<p>(e) the review, adoption and amendment of Constitution, Part XXI.</p>	<p>The Conference deleted paragraph (g) of Article 345 (1) of the Mung’omba Draft Constitution as it was not necessary to entrench the establishment of courts of Judiciary, the vesting of judiciary powers and the tenure of office of Judges of superior courts, which provisions were covered by Articles 193, 194 and 216.</p> <p>The Conference adopted paragraph (h) of Article 345 of the Mung’omba Draft Constitution with amendments by replacing “<b>Part XXII</b>” with “<b>Part XXI</b>” in order to accurately reflect the part of the Draft Constitution where the provisions were contained. Paragraph (h) was renumbered (e).</p> <p>The Conference resolved to delete paragraph (i) of Article 345 of the Mung’omba Draft Constitution because it was of the view that it should not be entrenched in the Draft Constitution. The part has 28 Articles dealing with system of Local Government.</p> <p>The Conference adopted paragraph (j) of Article 345 of the Mung’omba Draft Constitution with amendments by entrenching clause (1) of Article 225 in the Draft Constitution and not the whole of Part XIII. Paragraph (j) was renumbered as paragraph (d) of clause (1) of Article 345. This</p>
--	---	--	--

	<p>(2) A Bill to amend any provision of this Constitution, in the areas specified under clause (1), shall be published in the <i>Gazette</i> and shall be laid before the National Assembly for first reading at the end of one month after the publication.</p> <p>(3) After the first reading, the Speaker shall suspend further action on the Bill, referred to under clause (2), and refer the Bill to the Electoral Commission for a referendum to be held on the Bill within ninety days of receipt of the Bill.</p> <p>(4) If in a referendum at least fifty percent of the registered voters vote and</p>	<p>(2) A Bill to amend any provision of this Constitution, in the areas specified under clause (1), shall be published in the <i>Gazette</i> and shall be laid before the National Assembly for first reading at the end of one month after the publication.</p> <p>(3) After the first reading, the Speaker shall refer the Bill to the Electoral Commission for a referendum to be held on the Bill within ninety days of receipt of the Bill.</p> <p><b>(4) If, in a referendum, the majority of all the persons registered as voters vote in favour of the Bill, the National</b></p>	<p>was to prevent the institution of chieftaincy from being abolished as was the case in some African countries. Chiefs were the custodians of Zambia's culture, customs and traditions; therefore, if the institution was not entrenched, Zambia's culture, customs and traditions would be lost.</p> <p>The Conference adopted clause (2) of Article 345 of the Mung'omba Draft Constitution without amendments.</p> <p>The Conference adopted clause (3) of Article 345 of the Mung'omba Draft Constitution with an amendment by deleting the words <b>"suspend further action on the Bill referred to under clause (2) and."</b></p> <p>The Conference adopted clause (4) of Article 345 of the Mung'omba Draft Constitution with amendments by deleting reference to the</p>
--	---	---	---

	seventy percent vote in favour of the amendment the National Assembly shall proceed to pass the Bill referred to under clause (2).	<b>Assembly shall proceed to pass the Bill.</b>	percentage of voters in preference for the majority of registered voters. The Conference was of the view that the Mung'omba Draft Constitution provision was not appropriate because the threshold of <b>at least fifty percent</b> was not adequate as it did not connote a majority vote.
<b>Article 346- Amendment without referendum</b>	<b>Amendment without referendum</b>  346. (1) A Bill to amend a provision of the Constitution, other than a Bill specified in Article 345, shall be in accordance with this Article.  (2) A Bill referred to, under clause (1), shall be published in the <i>Gazette</i> .  (3) A Bill referred to, under clause (1), shall be laid before the National Assembly one month after the date of its	<b>Amendment without referendum</b>  304 (1) A Bill to amend a provision of the Constitution, other than a Bill specified in Article 345, shall be in accordance with this Article.  (2) A Bill referred to in clause (1), shall be published in the <u>Gazette</u> and shall be laid before the National Assembly one month after the date of its publication. (3) A Bill referred to in clause (1), shall not be taken as passed by the National Assembly unless the Bill is approved at the second and third readings by the votes of <b>not less than</b> two-thirds of all the members of the National Assembly.	The Conference adopted Article 346 of Mung'omba Draft Constitution with amendments and renumbered it as Article 304. The Conference adopted clause (1) of Article 346 of the Mung'omba Draft Constitution without amendments.  The Conference adopted clauses (2) and (3) of Article 346 of the Mung'omba Draft Constitution and merged them and renumbered them as clause (2) of Article 304.  The Conference adopted clause (4) of Article 346

	<p>publication.</p> <p>(4) A Bill referred, to under clause (1), shall not be taken as passed by the National Assembly unless the Bill is approved at the second and third readings by the votes of at least two-thirds of all the members of the National Assembly, by a secret vote.</p>		<p>of the Mung’omba Draft Constitution with an amendment by replacing the words “<b>at least two-thirds</b>” with the words “<b>not less than</b>” in conformity with the wording in Article 79 of the current Constitution. Also the words “<b>by a secret vote</b>” were deleted because the Members of Parliament were accountable to their constituents who would want to know how they had voted on Bills that affect them. Clause (4) of Article 346 of the Mung’omba Draft Constitution was renumbered as clause (3) of Article 304.</p>
<p><b>Article 347- Certificate of Compliance of Compliance</b></p>	<p><b>Certificate of Compliance</b> 347. A Bill for the amendment of a provision of this Constitution which has been passed in accordance with this Part shall be assented to by the President only if -</p> <p>(a) it is accompanied by a certificate from the Speaker that this Part has been complied with in relation to it; and</p> <p>(b) in the case of a Bill to amend a provision that</p>	<p><b>Certificate of Compliance</b> 307. A Bill for the amendment of a provision of this Constitution which has been passed in accordance with this Part shall be assented to by the President only if -</p> <p>(a) it is accompanied by a certificate from the Speaker that this Part has been complied with in relation to it; and</p> <p>(b) in the case of a Bill to amend a provision that requires a referendum, it is accompanied by a certificate from the Electoral Commission, signed by the Chairperson of the Commission and</p>	<p>The Conference adopted paragraphs (a) and (b) of Article 347 of the Mung’omba Draft Constitution without amendments and renumbered it as Article 305.</p>



	requires a referendum, it is accompanied by a certificate from the Electoral Commission, signed by the Chairperson of the Commission and bearing the seal of the Commission, signifying that the Bill was approved at a referendum in accordance with this Part.	bearing the seal of the Commission, signifying that the Bill was approved at a referendum in accordance with this Part.	
--	--	---	--

**PART XXII  
MISCELLANEOUS**

ARTICLE NO.	PROVISIONS OF THE MUNG'OMBA DRAFT CONSTITUTION	RESOLUTIONS OF THE CONFERENCE	RATIONALE/REMARKS
Article 348- Legal Aid	<b>Legal Aid</b>  348. (1) For the purposes of enforcing any provision of this Constitution, a person is entitled to legal aid in connection with any proceedings relating to this Constitution and any other	<b>Legal Aid</b>  306. (1) For the purposes of enforcing any provision of this Constitution, a person <b>may be granted legal aid in accordance with an Act of Parliament,</b> in connection with any proceedings relating to this Constitution and any other matter if that person has reasonable grounds for taking,	The Conference adopted Article 348 of the Mung'omba Draft Constitution with amendments and renumbered it as Article 306.  The Conference adopted clause (1) of Article 348 of the Mung'omba Draft Constitution with amendments by replacing the words " <b>is entitled to</b> " with the words " <b>may be granted</b> " in order to clarify that not all persons were entitled to legal aid. The Conference also included the words " <b>in accordance with an Act of Parliament,</b> " in order to recognise that provision of legal aid in Zambia was governed by Legal Aid Board through the

	<p>matter if that person has reasonable grounds for taking, defending, prosecuting or being a party to the proceedings.</p> <p>(2) Parliament shall enact legislation to regulate the grant of legal aid.</p>	<p>defending, prosecuting or being a party to the proceedings.</p> <p>(2) Parliament shall enact legislation to regulate the grant of legal aid.</p>	<p>Legal Aid Act.</p> <p>The Conference adopted clause (2) of the Draft Constitution without amendments.</p>
<p><b>Article 349- Interpretation of Constitution</b></p>	<p><b>Interpretation of Constitution</b></p> <p><b>349.</b> (1) This Constitution shall be interpreted in a manner that -</p> <p>(a) promotes its purposes, values and principles;</p> <p>(b) advances the Bill of Rights and the rule of law;</p> <p>(c) permits the development of the law; and</p> <p>(d) contributes to good governance.</p> <p>(2) If there is a conflict between different language versions of this Constitution</p>	<p><b>Interpretation of Constitution</b></p> <p>307. (1) If there is a conflict between different language versions of this Constitution the English language version shall prevail.</p> <p>(2) <b>In this Constitution-</b></p>	<p>The Conference adopted Article 349 of the Mung'omba Draft Constitution with amendments and renumbered it as Article 307.</p> <p>The Conference deleted clause (1) of Article 349 of the Mung'omba Draft Constitution. The provision was deleted to avoid monotony because the rules of the interpretation outlined by the provision were the same as those developed by the courts and were provided for the relevant statutes.</p> <p>The Conference adopted clause (2) of Article 349 of the Mung'omba Draft Constitution without amendments and renumbered it as clause (1).</p> <p>The Conference deleted the preamble and</p>

	<p>the English language version shall prevail.</p> <p>(3) Every provision of this Constitution shall be construed according to the doctrine of interpretation that the law is always speaking and accordingly -</p> <p>(a) a power granted or duty imposed by this Constitution may be exercised or performed, as occasion requires, by the person holding the office to which the power is granted or the duty is assigned;</p> <p>(b) any reference in this Constitution or any other law to a person holding an office under this Constitution or under any other law, includes a reference to the person lawfully performing the</p>	<p>(a) a power granted or duty imposed by this Constitution may be exercised or performed, as occasion requires, by the person holding the office to which the power is granted or the duty is assigned;</p> <p>(b) <b>any reference</b> to a person holding an office under this Constitution or under any other law, includes a reference to the person lawfully performing the functions of that office at any particular time;</p> <p>(c) <b>a reference</b> to an office, State organ</p>	<p>substituted it with a preamble that did not make reference to the doctrine of interpretation to avoid monotony as the Courts of Law and or Common Law had developed the same doctrine.</p> <p>The Conference adopted paragraphs (a) of Article 349 of the Mung'omba Draft Constitution without amendments.</p> <p>The Conference adopted paragraphs (b) and (c) of Article 349 of the Mung'omba Draft Constitution with amendments.</p>
--	--	--	--

	<p>functions of that office at any particular time;</p> <p>(c) a reference in this Constitution or any other law to an office, State organ or State institution or locality named in this Constitution shall be read with any formal alteration necessary to make it applicable in the circumstances;</p> <p>(d) a reference in a provision applying that provision to another provision shall be read with any formal modification necessary to make it applicable in the circumstances; and</p> <p>(e) a reference in this Constitution to an office, body or organisation is a reference to that office, body or organisation,</p>	<p>or State institution or locality named in this Constitution shall be read with any formal alteration necessary to make it applicable in the circumstances;</p> <p>(d) a reference in a provision applying that provision to another provision shall be read with any formal modification necessary to make it applicable in the circumstances; and</p> <p>(e) a reference to an office, body or organisation is a reference to that office, body or organisation, or if the office, body or organisation has ceased to exist, to its successor or to the equivalent office, body or</p>	<p>The Conference adopted paragraph (d) of Article 349 of the Mung’omba Draft Constitution without amendments.</p> <p>The Conference adopted paragraph (e) of Article 349 of Mung’omba Draft Constitution with amendments.</p>
--	---	--	--

	<p>or if the office, body or organisation has ceased to exist, to its successor or to the equivalent office, body or organisation.</p> <p>(4) For the purposes of this Constitution and any other law, a person shall not be considered as holding a public office by reason only of the fact that the person is in receipt of emoluments in respect of service under or for the Government.</p> <p>(5) Under this Constitution or any other law, power to appoint a person to hold or to act in an office in the public service includes the power to confirm appointments, to exercise disciplinary control over the person holding or acting in the office and to remove that person from office.</p> <p>(6) A provision of this Constitution or of any other</p>	<p>organisation.</p> <p>(3) For the purposes of this Constitution and any other law, a person shall not be considered as holding a public office by reason only of the fact that the person is in receipt of emoluments in respect of service under or for the Government.</p> <p>(4) Under this Constitution or any other law, power to appoint a person to hold or to act in an office in the public service includes the power to confirm appointments, to exercise disciplinary control over the person holding or acting in the office and to remove that person from office.</p> <p>(5) A provision of this Constitution or of any other law, to the effect that a person, an authority or institution is not subject to the direction or control of any other person or authority in the performance of any functions under this Constitution or that law, does not preclude a court from exercising jurisdiction in relation to any question whether that person, authority or institution has performed those functions</p>	<p>The Conference adopted clauses (4), (5), (6), (7), (8), (9), (10) and (11) of Article 349 of the Mung'omba Draft Constitution without amendments.</p>
--	--	--	--

	<p>law, to the effect that a person, an authority or institution is not subject to the direction or control of any other person or authority in the performance of any functions under this Constitution or that law, does not preclude a court from exercising jurisdiction in relation to any question whether that person, authority or institution has performed those functions in accordance with this Constitution or the law.</p> <p>(7) Where in this Constitution or any other law, power is given to a person or an authority to do or enforce the doing of an act, the power includes the necessary and ancillary powers to enable that person or authority to do or enforce the doing of the act.</p> <p>(8) Where in this Constitution or any other</p>	<p>in accordance with this Constitution or the law.</p> <p>(6) Where in this Constitution or any other law, power is given to a person or an authority to do or enforce the doing of an act, the power includes the necessary and ancillary powers to enable that person or authority to do or enforce the doing of the act.</p> <p>(7) Where in this Constitution or any other law, power is conferred on a person or an authority to issue orders, make rules, regulations, other statutory instrument, a resolution or direction, the power includes the power to be exercised in the same manner, to amend or revoke the orders, rules, regulations other statutory instrument, resolution or direction.</p> <p>(8) In this Constitution, unless the context otherwise requires -</p> <p>(a) persons include corporations;</p> <p>(b) words in the singular include the plural and words in the plural include the singular; and</p> <p>(c) where a word or expression is defined any grammatical variation or cognate expression of that word shall be</p>	
--	---	---	--

	<p>law, power is conferred on a person or an authority to issue orders, make rules, regulations, other statutory instrument, a resolution or direction, the power includes the power to be exercised in the same manner, to amend or revoke the orders, rules, regulations other statutory instrument, resolution or direction.</p> <p>(9) In this Constitution, unless the context otherwise requires -</p> <p>(a) persons include corporations;</p> <p>(b) words in the singular include the plural and words in the plural include the singular; and</p> <p>(c) where a word or expression is defined any grammatical variation or cognate expression of that word shall be read with the changes required by the context.</p> <p>(10) A person shall not be regarded as disqualified for</p>	<p>read with the changes required by the context.</p> <p>(9) A person shall not be regarded as disqualified for appointment to any office to which a public officer is not qualified to be appointed by reason only that that person holds a public office if that person is on leave of absence pending relinquishment of that office.</p> <p>(10) Subject to this Constitution, reference in this Constitution to the power to remove a public officer from office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from public service.</p> <p>(11) Any reference in this Constitution to a law that amends or replaces any other law shall be construed as including a reference to a law that modifies, <b>re-enacts</b>, with or without amendment or modification, or makes different provision in <u>lieu</u> of that other law.</p> <p>(12) Where any Act passed after the commencement of this Constitution, <b>repeals</b> any provision thereof then, unless</p>	<p>The Conference adopted clause (12) of Article 349 of the Mung’omba Draft Constitution with an amendment by replacing the word “re-acts” with the word “re-enacts” as it was considered to be more appropriate and renumbered it as clause (11).</p> <p>Clause (13) of Article 349 was adopted by the Conference with amendments by replacing the terms “<b>amend</b>” “<b>amends</b>”, “<b>amended</b>” and</p>
--	--	--	--

	<p>appointment to any office to which a public officer is not qualified to be appointed by reason only that that person holds a public office if that person is on leave of absence pending relinquishment of that office.</p> <p>(11) Subject to this Constitution, reference in this Constitution to the power to remove a public officer from office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from public service.</p> <p>(12) Any reference in this Constitution to a law that amends or replaces any other law shall be construed as including a reference to a law that modifies, re-acts, with or without amendment or modification, or makes different provision in <u>lieu</u> of that other law.</p>	<p>the contrary intention appears, the <b>repeal</b> shall not -</p> <p>(a) revive anything not in force or existing at the time at which the <b>repeal</b> takes effect;</p> <p>(b) affect the previous operation of any provision so <b>repealed</b> or anything duly done or suffered under any provision so <b>repealed</b>;</p> <p>(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any provision so <b>repealed</b>;</p> <p>(d) affect any penalty, forfeiture or confiscation or punishment incurred under the provision so <b>repealed</b>; or</p> <p>(e) affect any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or confiscation or punishment and any investigation, legal proceeding or remedy may be instituted, continued or enforced</p>	<p><b>“amending”</b> with the terms <b>“repeal”, “repeals”, “repealed”</b> and <b>“repealing,”</b> respectively. The Conference considered the terms to be more appropriate in the context.</p> <p>Clause (13) was renumbered as clause (12).</p>
--	--	--	---



	<p>(13) Subject to this Constitution, where any Act to amend a provision of this Constitution, amends any provision then, unless the contrary intention appears, the amendment shall not -</p> <p>(a) revive anything not in force or existing at the time at which the amendment takes effect;</p> <p>(b) affect the previous operation of any provision so amended or anything duly done or suffered under any provision so amended;</p> <p>(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any provision so amended;</p> <p>(d) affect any penalty, forfeiture or confiscation or</p>	<p>and any penalty, forfeiture or confiscation or punishment may be imposed, as if the <b>repealing</b> Act had not been passed.</p> <p>(13) Where this Constitution confers any power or imposes any duty, the power may be exercised and the duty shall be performed as occasion requires.</p> <p>(14) Where by an Act which amends, <b>repeals or</b> re-enacts, with or without modification, any provision of this Constitution and which is not to come into force immediately on the publication of the Act there is conferred -</p> <p>(a) a power to make or a power exercisable by making statutory instruments;</p> <p>(b) a power to make appointments; or</p> <p>(c) a power to do any other thing for the purposes of the provision in question; that power may be exercised at any time on or after the date of publication of the Act in the <u>Gazette</u>, except that an instrument, appointment or thing made or done under that power shall not, unless it is necessary to bring the Act into</p>	<p>The Conference adopted clause (14) of Article 349 of the Mung’omba Draft Constitution without amendments and renumbered it as clause (13).</p> <p>The Conference adopted clause (15) of Article 349 of the Mung’omba Draft Constitution with an amendment by including the words “<b>repeals or</b>” in the opening paragraph in order to include circumstances when the Act repeals any provision in the Constitution. Clause 15 was renumbered as clause (14).</p>
--	---	--	---

	<p>punishment incurred under the provision so amended; or</p> <p>(e) affect any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or confiscation or punishment and any investigation, legal proceeding or remedy may be instituted, continued or enforced and any penalty, forfeiture or confiscation or punishment may be imposed, as if the amending Act had not been passed.</p> <p>(14) Where this Constitution confers any power or imposes any duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.</p> <p>(15) Where by an Act which amends and re-enacts,</p>	<p>force, have any effect until the commencement of the Act.</p> <p><b>(15) Parliament shall enact legislation to provide for the computation of time for purposes of this Constitution.</b></p>	<p>The Conference deleted clause (16) of Article 349 of Mung'omba Draft Constitution and substituted it with a new provision to provide an enabling provision for the computation of time. The Conference observed that details in the provision of the Mung'omba Draft Constitution would best be elaborated in an Act of Parliament. This would facilitate ease of amendments if the situation so demanded. The new clause was renumbered as clause (15).</p>
--	---	--	---

	<p>with or without modification, any provision of this Constitution and which is not to come into force immediately on the publication of the Act there is conferred -</p> <p>(a) a power to make or a power exercisable by making statutory instruments;</p> <p>(b) a power to make appointments; or</p> <p>(c) a power to do any other thing for the purposes of the provision in question; that power may be exercised at any time on or after the date of publication of the Act in the <u>Gazette</u>, except that an instrument, appointment or thing made or done under that power shall not, unless it is necessary to bring the Act into force, have any effect until the commencement of the Act.</p>	<p>(16) Where any person is empowered to make an appointment under this Constitution that person shall ensure that equitable consideration is given to persons of both gender.</p>	<p>The Conference deleted clause (17) of Article 349 of the Mung'omba Draft Constitution because its principle was adequately addressed in the provision which the Conference earlier adopted which stated that <i>"The State shall direct the policies and laws towards securing and promoting gender equality."</i></p> <p>The Conference approved clause (18) of Article 349 of the Mung'omba Draft Constitution without amendments and renumbered it as clause (16).</p>
--	---	--	--

<p><b>Article 352- Definitions</b></p>	<p>(16) In computing time for the purposes of any provision of this Constitution, unless a contrary intention is expressed -</p> <p>(a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;</p> <p>(b) if the last day of the period is Sunday or a public holiday, which days are in this clause referred to as “excluded days”, the period shall include the next following day, not being an excluded day;</p> <p>(c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day the act or proceeding shall be considered as done or taken in due time if it is done or</p>	<p><b>Definitions</b></p>	<p>The Conference adopted Article 352 of the Mung’omba Draft Constitution with amendments in order to provide for additional terms not earlier defined or in order to amend definitions to some terms and renumbered it as Article 308.</p>
--	---	---------------------------	---

	<p>taken the next day afterwards, not being an excluded day;</p> <p>(d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.</p> <p>(17) Where any person is empowered to make appointments under this Constitution that person shall ensure that either gender is not less than thirty percent of the total appointments made.</p> <p>(18) Where any person is empowered to make an appointment under this Constitution that person shall ensure that equitable consideration is given to persons of both gender.</p>		
--	---	--	--

	<p><b>Definitions</b></p> <p><b>352.</b> In this Constitution unless the context otherwise requires -</p> <p>“adult” means an individual who has attained the age of eighteen years;</p> <p>“affirmative action” includes any measure designed to overcome or ameliorate an inequity or the systematic denial or infringement of a right or freedom;</p> <p>“Bill” means a draft of a proposed law;</p> <p>“Bill of Rights” means the rights and freedoms set out</p>	<p><b>308.</b> In this Constitution, unless the context otherwise requires -</p> <p><b>“Act of Parliament” means a law enacted by Parliament;</b></p> <p>“adult” means an individual who has attained the age of eighteen years;</p> <p>“affirmative action” includes any measure designed to overcome or ameliorate an inequity or the systematic denial or infringement of a right or freedom;</p> <p><b>“Article” means an Article of this Constitution;</b></p> <p>“Bill” means a draft of a proposed law;</p> <p>“Bill of Rights” means the rights and freedoms set out in Part VI and includes</p>	
--	---	--	--

	<p>in Part VI and includes their status, application, interpretation, derogations and enforcement as specified under that Part;</p> <p>“chief” means a person recognised as chief and who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that chief;</p> <p>“child” means a person who is below the age of eighteen years;</p> <p>“citizen” means a citizen of Zambia;</p> <p>“commission” means a commission established by or under this Constitution;</p> <p>“constituency” means any of the constituencies into which Zambia is divided as provided by this Constitution;</p>	<p>their status, application, interpretation, derogations, and enforcement as specified under that Part;</p> <p>“chief” means a person recognised as chief and who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that chief;</p> <p>“child” means a person who is below the age of eighteen years;</p> <p>“citizen” means a citizen of Zambia;</p> <p>“commission” means a commission established by or under this Constitution;</p> <p>“constituency” means any of the constituencies into which Zambia is divided as provided by this Constitution;</p>	
--	---	--	--

	<p>“constituency-based seat” means a National Assembly seat which has been contested for or won through the first-past-the-post segment of the mixed member representation system;</p> <p>“Constitutional Court” means the Supreme and Constitutional Court when it is sitting as a Constitutional Court;</p> <p>“councillor” means a member of a city, municipal or district council;</p> <p>“court” means a court of competent jurisdiction established by or under the authority of this Constitution;</p>	<p>“constituency-based seat” means a National Assembly seat which has been contested for or won through the first-past-the-post segment of the mixed member representation system;</p> <p>“Constitutional Court” means the Supreme and Constitutional Court when it is sitting as a Constitutional Court;</p> <p>“councillor” means a member of a city, municipal or district council;</p> <p>“court” means a court of competent jurisdiction established by or under the authority of this Constitution;</p> <p>“direct election” means an election –</p> <ul style="list-style-type: none"> <li>(a) to the office of the President;</li> <li>(b) for a member of the National Assembly;</li> <li>(c) for a councillor of a district council;</li> </ul>	
--	---	---	--



	<p>“district council” includes a city or municipal council;</p> <p>“disability” means any restriction resulting from an impairment or inability to perform any activity in the manner or within the range considered normal for a human being;</p> <p>“election tribunal” means an <u>ad hoc</u> Presidential Election Tribunal, Parliamentary Election Tribunal or Local Government Election Tribunal constituted by this Constitution;</p> <p>“Electoral Commission” means the Electoral Commission of Zambia established under this Constitution;</p> <p>“emolument” includes salaries, allowances, benefits and rights that form an individual’s remuneration for services rendered,</p>	<p>“district council” includes a city or municipal council;</p> <p><b>“disability” means a permanent physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder the person’s full and effective participation in society on an equal basis with others;</b></p> <p>“election period” means the period which begins on the day nominations are filed and ends on the day of announcement of election results;</p> <p>“Electoral Commission” means the Electoral Commission of Zambia established under this Constitution;</p> <p>“emolument” includes salaries, allowances, benefits and rights that form an individual’s remuneration for services rendered, including pension, gratuity and other benefits on retirement;</p>	
--	--	--	--



	<p>Article 166 (3) (a);</p> <p>“functions” includes powers and duties;</p> <p>“gender” means female or male and the role individuals play in society as a result of their sex and status;</p> <p>“general election” means Presidential, National Assembly and local government elections when these are held on the same day;</p> <p>“individual” means a natural person;</p> <p>“incumbent President” means a person who is currently in office as President and who is to hand over to the President-elect;</p>	<p>Article 152 (4);</p> <p>“functions” includes powers and duties;</p> <p>“gender” means female or male and the role individuals play in society as a result of their sex and status;</p> <p>“general election” means Presidential, National Assembly and local government elections when these are held on the same day;</p> <p>“individual” means a natural person;</p> <p>“incumbent President” means a person who is currently in office as President and who is to hand over to the President-elect;</p> <p><b>“Investigator-General”</b> means the <b>Investigator-General</b> whose office is established under this Constitution;</p>	
--	---	---	--

	<p>“judgment” includes a decision, an order or decree of a court or any authority prescribed by an Act of Parliament;</p> <p>“judicial officer” includes a magistrate, local court justice and a senior employee of the Judicial Service;</p> <p>“Laws” means the Laws of Zambia;</p> <p>“mayor” includes a chairperson of a municipal or district council;</p> <p>“Minister” means a Cabinet Minister;</p> <p>“mixed member representation system” means the electoral system</p>	<p>“judgment” includes a decision, an order or decree of a court or any authority prescribed by an Act of Parliament;</p> <p>“judicial officer” includes a magistrate, local court <b>magistrate</b> and a senior employee of the Judicial Service;</p> <p>“Laws” means the Laws of Zambia;</p> <p>“Local government election tribunal” means an adhoc local government tribunal constituted by this Constitution;</p> <p>“mayor” includes a chairperson of a municipal or district council;</p> <p>“Minister” means a Cabinet Minister;</p> <p>“mixed member representation system” means the electoral system specified by this Constitution for -</p>	
--	--	--	--

	<p>specified by this Constitution for -</p> <p>(a) electing a person as a member of the National Assembly or as a councillor; and</p> <p>(b) nominating a person on a party list to represent a political party that is contesting a proportional representation seat in a National Assembly election or district council election;</p> <p>“oath” includes an affirmation;</p> <p>“office holder” means a person who holds an office of trust as a public leader or in the public sector;</p> <p>“older member of society” means an individual who is above the age of sixty-five years;</p> <p>“Ombudsman” means the Parliamentary Ombudsman</p>	<p>(a) electing a person as a member of the National Assembly or as a councillor; and</p> <p>(b) nominating a person on a party list to represent a political party that is contesting a proportional representation seat in a National Assembly election or district council election;</p> <p>“oath” includes an affirmation;</p> <p>“office holder” means a person who holds an office of trust as a public leader or in the public sector;</p> <p>“older member of society” means an individual who is above the age of sixty-five years;</p>	
--	---	--	--

	<p>whose office is established under this Constitution;</p> <p>“party list” means a list of candidates submitted by a political party in accordance with a law relating to elections;</p> <p>“person” includes an individual, a company, an association of persons whether corporate or unincorporated;</p> <p>“political party” means an association or organisation whose members are citizens and whose objectives include the contesting of election in order to form government or influence the policy of the National or local government;</p>	<p>“party list” means a list of candidates submitted by a political party in accordance with a law relating to elections;</p> <p>“person” includes an individual, a company, an association of persons whether corporate or unincorporated;</p> <p><b>“person with disabilities” means a person who has a permanent physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder that person’s full and effective participation in society on an equal basis with others;</b></p> <p>“political party” means an association or organisation whose members are citizens and whose objectives include the contesting of elections in order to form government or influence the policy of the National or local government;</p>	
--	---	--	--

	<p>“power” includes privilege, authority and discretion;</p> <p>“public office” includes an office the emoluments of which are a charge on or paid out of the Consolidated Fund, other public fund or out of moneys appropriated by Parliament;</p> <p>“public officer” means a person holding or acting in a public office;</p> <p>“public service” includes service in a public office or State institution;</p> <p>“President-elect” means the person who has been declared by the Returning Officer as having won an election to the office of</p>	<p>“power” includes privilege, authority and discretion;</p> <p><b>“public fund” includes moneys donated to non- governmental organisations;</b></p> <p>“public office” includes an office the emoluments of which are a charge on or paid out of the <b>National Treasury Account</b>, other public fund or out of moneys appropriated by Parliament;</p> <p>“public officer” means a person holding or acting in a public office; <b>commission or a statutory body in which the government has a controlling interest;</b></p> <p>“public service” includes service in a public office or State institution;</p> <p>“President-elect” means the person who has been declared by the Returning Officer as having won an election to the office of President;</p>	
--	--	--	--

	<p>President;</p> <p>“presidential candidate” means a person nominated to stand for election as President;</p> <p>“presidential election” means an election to the office of President and includes the election of a Vice-President as a running mate to the President;</p> <p>“proportional representation seat” means a National Assembly or district council seat contested for or won through the proportional representation segment of the mixed member representation system;</p> <p>“Provincial Minister” means a Minister appointed by the President for a province;</p> <p>“Republic” means the Republic of Zambia;</p> <p>“Second Deputy Speaker” means the person elected</p>	<p>“presidential candidate” means a person nominated to stand for election as President;</p> <p>“presidential election” means an election to the office of President;</p> <p>“proportional representation seat” means a National Assembly or district council seat contested for or won through the proportional representation segment of the mixed member representation system;</p> <p>“Provincial Minister” means a Minister appointed by the President for a province;</p> <p>“Republic” means the Republic of Zambia;</p> <p>“Second Deputy Speaker” means the person elected Second Deputy Speaker</p>	
--	--	---	--



	<p>Second Deputy Speaker under Article 166 (3) (b);</p> <p>“State organ” means the Executive, Legislature or Judiciary;</p> <p>“Speaker” means the person elected Speaker of the National Assembly under Article 166;</p> <p>“State institution” includes a ministry or department of the Government, a public office, agency or institution, statutory body or company in which the Government has a controlling interest or</p>	<p>under Article 152 (4) (b);</p> <p><b>“session” means the sitting of the National Assembly beginning when it first sits after the coming into operation of this Constitution or after Parliament is prorogued or dissolved at any time and ending when Parliament is prorogued or is dissolved without having been prorogued;</b></p> <p><b>“sitting” means a period during which the National Assembly is sitting without adjournment and includes any period during which it is in committee;</b></p> <p>“State organ” means the Executive, Legislature or Judiciary;</p> <p>“Speaker and Deputy Speakers of National Assembly” means the persons elected Speaker and Deputy Speakers of the National Assembly under Article 152 (1) and (4) respectively;</p> <p>“State institution” includes a ministry or department of the Government, a public office, agency or institution, statutory body or company in which the Government has a controlling interest or commission or body, other than a State organ, established under this</p>	
--	---	---	--

	<p>commission or body, other than a State organ, established under this Constitution or by or under an Act of Parliament;</p> <p>“statutory instrument” means a rule, regulation, by-law, order or other similar law made under a power conferred by an Act of Parliament;</p> <p>“superior court” means the Supreme and Constitutional Court, the Court of Appeal and the High Court;</p> <p>“Supreme Court” means the Supreme and Constitutional Court when it is sitting as a Supreme Court;</p> <p>“taxes” includes rates, levies, charges, tariffs, tolls and duties;</p> <p>“treason” includes -  (a) instituting a war against the Republic or assisting any state or</p>	<p>Constitution or by or under an Act of Parliament;</p> <p>“statutory instrument” means a rule, regulation, by-law, order or other similar law made under a power conferred by an Act of Parliament;</p> <p>“superior court” means the Supreme and Constitutional Court, the Court of Appeal and the High Court <b>and the Industrial Relations Court;</b></p> <p>“Supreme Court” means the Supreme and Constitutional Court when it is sitting as a Supreme Court;</p> <p>“taxes” includes rates, levies, charges, tariffs, tolls and duties;</p> <p>“treason” includes -  (a) instituting a war against the Republic or assisting any state or person or inciting or conspiring</p>	
--	--	--	--

	<p>person or inciting or conspiring with any state or person to institute war against the Republic;</p> <p>(b) effecting or attempting to effect by force of arms or other violent means the overthrow of a State organ or State institution;</p> <p>(c) effecting or attempting or being concerned in any act to overthrow, abrogate or suspend the operation of this Constitution;</p> <p>“ward” means any of the units into which a district council area is divided under; and</p> <p>“ward-based seat” means a district council seat contested for or won through the first-past- the-post segment of the mixed member representation system.</p>	<p>with any state or person to institute war against the Republic;</p> <p>(b) effecting or attempting to effect by force of arms or other violent means the overthrow of a State organ or State institution;</p> <p>(c) effecting or attempting or being concerned in any act to overthrow, abrogate or suspend the operation of this Constitution;</p> <p>“ward” means any of the units into which a district council area is divided under or by an Act of Parliament; and</p> <p>“ward-based seat” means a district council seat contested for or won through the first-past- the-post segment of the mixed member representation system.</p>	
--	--	--	--