

Talking Points

Final Draft

FINAL DRAFT TALKING POINTS FOR FIELD ADMINISTRATION

Agreed by ZANU PF, MDC T, MDC M and Chiefs (5th Feb. 2010)

| Thematic Area | Talking Points/Key Questions |
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| <p>1.PREAMBLE</p> <p><i>A preamble is a preliminary statement that introduces a constitution. A preamble normally carries the major historical legacies and challenges of a nation and its values and aspirations</i></p> <p>2. FOUNDING PRINCIPLES OF THE CONSTITUTION</p> <p><i>Founding principles are those values that citizens commit themselves to their adherence. They are the both the soul and the spine of the constitution and they reflect the manner in which the people desire to be governed.</i></p> | <ul style="list-style-type: none"> a) What are the legacies, values and aspirations that should be carried in the preamble? b) In dealing with our historical legacies, should the preamble single out sections of our society or should it identify our legacies as collective endeavors? c) Should the constitution recognize post-independence internal challenges and conflicts? <ul style="list-style-type: none"> a) Should the founding principles recognize the need to address the historical imbalances in the ownership and utilization of land and natural resources? b) Should the founding principles of the constitution recognize the irreversibility of the process of land reform having regard to the vision of the liberation struggle and the provisions of the GPA? c) Should the founding principles recognize and celebrate the struggle of the first Chimurenga, second Chimurenga and the struggle for democracy and the rule of law by Zimbabwean men and women? d) Should the founding principles of the constitution acknowledge diversity of religion? e) Should the constitution recognize matters like non racialism, good governance, gender equality, non tribalism, non discrimination, equal treatment before the law, accountability, adherence to the rule of law, peace and tranquility? f) Should the constitution be the supreme law of Zimbabwe? g) Should the founding principles of the constitution recognize our cultural diversity, traditions and customs and their diversity? h) Should the founding principles acknowledge the national flag, national anthem and public seal? i) Should the founding principles of the constitution recognize our international relations with other countries? j) Should the founding principles of the constitution define by whom and how should hero status be conferred? k) Should the founding principles of the constitution recognize the calling for patriotism and loyalty to Zimbabwe? l) Should the founding principles of the constitution recognize the status of international treaties, conventions, and protocols and practices in our constitution? m) Should the founding principles of the constitution define the land question? If yes, what principles on land reform should be specified? n) Should the founding principles recognize the role and relevance of traditional institutions and customs in national development? |

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| <p>3. ARMS OF THE STATE (PRINCIPLE OF THE SEPARATION OF POWERS)</p> <p>EXECUTIVE ARMS OF THE STATE</p> <p><i>There are three principal functions of the state that is, making laws, interpretation of the laws and implementation of the laws. These vest in the legislature, executive and the judiciary respectively</i></p> | <ul style="list-style-type: none"> a) Should the principle of separation of powers be acknowledged in the Constitution? b) Who should be head of state? President or Prime Minister? c) Should the head of state also be the head of government? d) How should the head of state and/or government be chosen? e) What are the requirements for one to become head of state and/or head of government? f) Should there be term limits for the head of state and/or government? g) Under what circumstances should a Head of State and/or Head of Government leave office? h) Should the constitution prescribe the maximum number of ministers? i) Who should act as Head of State and/or government if the incumbent is unable to perform his/her duties? j) Should ministers be MPs? k) How should ministers be appointed? l) How should the Attorney General be appointed? Should he/she be a member of cabinet in particular? What should be his/her functions? m) Should we have an independent National Prosecuting Authority? |
| <p>LEGISLATURE- HOUSES OF PARLIAMENT</p> <p>JUDICIARY</p> | <ul style="list-style-type: none"> a) How many houses of parliament should we have? b) What should be the size(s) of the house(s) of parliament? c) How should members of parliament be elected or appointed? d) What role(s) should the house(s) of parliament play? e) Should MPs be allowed to cross the floor with their seats? f) Should any seats be reserved for women and/or special interest groups? If so how should they be selected? g) Should seats be reserved for traditional leaders? If so, how many? h) How long should be the life of parliament? i) Under what circumstances should an MP lose his/her seat? <ul style="list-style-type: none"> a) Who should appoint judges and judicial officers? b) How many levels of courts should we have? c) Do we need a separate Constitutional Court? d) What should be the qualification of judges? e) What should be the role of traditional courts? f) Who should determine the conditions of service of the judiciary? g) Who should be the head of the judiciary? How and by whom should he/she be appointed? h) Under what circumstances should a judge be removed from office? i) How long should be the tenure of office of judges? |

4. SYSTEMS OF GOVERNMENT

Systems of government refer to the manner states are organized, that is, the distribution of political power and responsibility within the state. There are three major systems of governance in modern states. These are federations, unitary states and devolved states.

Federal System

A federal system of governance obtains where two or more pre existing independent states agree to have one national government

Unitary System

A unitary system is where power is held by a single central government that controls all the political and administrative power with some devolution of power throughout the state.

A Devolved System

Devolution is whereby political and administrative power is shared between a national government and lower level spheres of the state, for example, provinces and local authorities

5. CITIZENSHIP AND BILL OF RIGHTS

Citizenship

Citizenship is one's membership of a country which a person gets because they were born in that country or their parents were born in that country, lived in that country or were registered in that country

- a) What systems of national government should Zimbabwe have?
- b) What relationships should exist between central government, provincial government, local government and traditional leadership?
- c) Who should lead provincial governments and should they be chosen?
- d) How many provinces should Zimbabwe have? How should they be demarcated and named?
- e) If there are provincial and local governments, how should they be chosen?
- f) What should be the functions of provincial governments?
- g) Should all the different levels of government have a tax sharing system?
- h) Should traditional leaders be part of the national, provincial and local government structures?

- a) How should citizenship be acquired?
- b) Should dual/multiple citizenship be allowed?
- c) What are the rights and obligations of citizens and non-citizens?
- d) Should foreign spouses of citizens be entitled to Zimbabwean citizenship?

Bill of Rights

A Bill of Rights sets out the rights and freedoms which all people in Zimbabwe are entitled to.

- a) What rights and freedoms should be contained and guaranteed in the constitution?
- b) Should the bill of rights be amendable? If so how should it be amended?
- c) What are the remedies that can be made available to a citizen who is aggrieved by the violation of their rights?
- d) Should the Bill of rights contain separate and specific human rights and freedoms that relate to women in order to eliminate all forms of discrimination against women?
- e) Should it be permissible to suspend or limit rights during a state of emergency?
- f) Should the death penalty be retained?
- g) Should there be derogation from this Bill of Rights to redress historical imbalances for purposes of empowerment?
- h) Should the Bill of Rights apply to State as well as non State actors?
- i) Should a woman be allowed to marry another woman and a man to marry another man?
- j) What are the rights of children that should be protected in the constitution?

6. WOMEN AND GENDER ISSUES

- a) Should men and women be treated equally in the constitution?
- b) Should the constitution contain provisions to ensure, guarantee and enforce gender main- streaming?
- c) Should the constitution guarantee a quota system for women’s participation in politics and other decision- making public and private bodies?
- d) Should there be a gender commission? If so how exactly is it to be constituted?

7. YOUTH

- a) Who are the Youth in Zimbabwe? From what age to what age?
- b) Do we need a national body or commission for the youth? If so what should its composition, powers and functions, tenure/lifespan and funding be?
- c) Do we need national youth service? If yes should it be provided for in the constitution? And for what purpose?
- d) What specific rights of the youth should be guaranteed in the constitution?

8. THE DISABLED

- a) Should the disabled have the right to state protection
- b) How can the Constitution guarantee Parliamentary representation for the disabled?
- c) How can the constitution ensure the full participation of disabled persons in all socio-economic and cultural activities of the communities?

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| <p>9. MEDIA</p> <p>10. WAR VETERANS</p> <p>11. LAND, NATURAL RESOURCES AND EMPOWERMENT</p> <p>12. LABOUR</p> | <p>a) Should the constitution guarantee media freedom? b) What limitations, if any, should be imposed on media freedom?</p> <p>a) Should there be a war veteran's commission? If so, what should its composition, powers, functions, tenure and funding be? b) Should there be a law to deal with specific issues relating to war veterans from time to time?</p> <p>a) Should the constitution highlight that land reform is a necessary process to correct historical imbalances? b) On property rights, is there need to make special provision on land and natural resources in the constitution? c) What type of land tenure system should Zimbabwe have? d) Should the right to land ownership and/or occupation by previously disadvantaged people be entrenched in the constitution? e) Should compensation be paid when the State expropriates and/or acquires land? f) Who should pay compensation in respect of acquired land? g) Should there be a right to approach the courts in the event of land dispute? h) Should traditional leaders have a role to play in land administration? i) Who should own the land? j) Should foreigners be allowed to own land and if so, under what circumstances? k) Do we need a land commission and/or land court? If yes, what should be its powers and functions? l) How should marginalised groups be empowered with regards to land and natural resources? m) What role should traditional leaders play in the administration of land and management and exploitation of natural resources under their jurisdiction?</p> <p>a) What exact labour rights should be included in the constitution? b) Should the constitution recognize the right to strike without exception? If yes, how do you deal with the issue of essential services? c) How should the constitution promote and protect women workers' rights? d) Should the constitution recognize and incorporate international treaties, conventions, protocols and practices relating to labour?</p> |
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**13. ELECTIONS,
TRANSITIONAL MECHANISMS
AND INDEPENDENT
COMMISSIONS**

An election is an opportunity for people to choose their leaders.

There are a number of electoral systems obtaining the world over the most popular of which are the first past the post system, the proportional representation system and the hybrid system comprising the two.

First Past the Post System

This where by the person with the highest number of votes becomes the elected representative of the electorate?

Proportional Representation

This is a system by which the elected people are determined by the proportion of votes obtained by each party

Hybrid System

This is where some of the representatives are elected on the basis of the first past the post system and others on the basis of proportional representation.

**INDEPENDENT
COMMISSIONS
ANTI-CORRUPTION/
MEDIA/HUMAN RIGHTS/
PUBLIC
PROTECTOR/ELECTORAL**

- a) What type of electoral system should Zimbabwe have?
 - First past the post?
 - Proportional representation?
 - Hybrid?
 - b) How often should we have elections for:
 - Head of State?
 - Head of government?
 - Parliament?
 - Local government?
 - c) Should we have harmonized elections for the Head of State and/or Head of government, parliament and local government?
 - d) Who qualifies to register as a voter and to vote at elections for the Head of State and/or Head of government, parliament and local authorities?
 - e) What body should run elections and what should be its powers and functions?
 - f) Should Zimbabweans living in the Diaspora be allowed to vote?
 - g) Should voter registration be mandatory?
 - h) Should the constitution incorporate international treaties, conventions, protocols and practices dealing with free and fair elections?
 - i) How should we deal with electoral disputes?
 - j) Should there be term limits for elected officials?
 - k) In the event of vacancies arising, how should these be filled?
 - l) Should a specific time frame be given for the inauguration into office of the President, Prime Minister, Members of Parliament, Cabinet and Councilors?
 - m) If there are term limits, should the person whose term has expired run for another post?
 - n) If the Head of State and/or Head of government becomes incapacitated, who should run the country before an election is held and how long should it take for such an election to be held?
 - o) How long after the referendum should the constitution come into force?
 - p) Under what circumstances should a candidate be barred from standing in an election?
 - q) Who should assist those unable to vote on their own?
 - r) How many Parliamentary constituencies should the country be divided into?
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- a) What should be the mandate and functions of the Anti-Corruption/Media/Human Rights Commissions, Public Protector, Electoral Commission?
 - b) What should be their composition?
 - c) How and by whom should they be appointed?
 - d) What should their qualifications be?
 - e) What other executive commissions and organs should we have?

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| <p><i>Independent commissions are constitutional watchdogs for monitoring and implementation of their areas of specialty.</i></p> | <ul style="list-style-type: none"> f) What should be their functions? g) How should their members be appointed? h) Who should they be accountable to? |
| <p>14. EXECUTIVE ORGANS OF THE STATE</p> <p>PUBLIC SERVICE, DEFENCE FORCES, POLICE FORCE, PRISON SERVICE and their COMMISSIONS</p> | |
| <p><i>Are bodies through which the state implements laws and policies.</i></p> | <ul style="list-style-type: none"> a) What is the Public Service/Defence Forces/Police Service/Prison Service? b) What is their role and function? c) How should members be recruited and/or appointed? d) What other executive commissions and organs should we have? e) Who should they be accountable to? |
| <p>15. PUBLIC FINANCE <i>Any funds that accrue to the state</i></p> <ul style="list-style-type: none"> a) The Consolidated Revenue Fund b) Auditing of Public Finances | <ul style="list-style-type: none"> a) Should the office of the Comptroller and Auditor- General be specifically provided for in the constitution? b) Should the office of the Comptroller and Auditor- General be independent? c) By whom and how should the Comptroller and Auditor- General be appointed? |
| <p>NATIONAL BUDGET</p> | <ul style="list-style-type: none"> a) Should the constitution ensure and guarantee transparency and accountability in the management of public finances? b) How should the constitution provide for the national budgeting process? c) Should the National Budget be gender sensitive/responsive and allocate resources in a way that recognizes men and women's differential needs? d) How should we ensure that there is transparency in the utilization of public finances? e) How do we ensure that Government procurement is transparent? |
| <p>CENTRAL BANK</p> | <ul style="list-style-type: none"> a) What should be the primary function of the Central Bank? b) Should the constitution stipulate the role, functions, duties and obligations of the Central Bank? c) How and who should appoint the Governor of the Central Bank? d) Should the Central Bank be independent? e) Who should play an oversight role over the operations of the Central Bank? |

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| <p>GOVERNMENT BORROWING</p> | <ul style="list-style-type: none"> a) Who should oversee the borrowing and granting of government guarantees? b) How exactly should government loan contraction be implemented? c) Who should set the limits for government borrowing and granting of guarantees? d) Should the constitution provide for the oversight powers of Parliament on government borrowing? |
| <p>16. TRADITIONAL INSTITUTIONS AND CUSTOMS</p> | <ul style="list-style-type: none"> a) What ought to be the relationship between elected representatives and traditional leaders? b) Should traditional leaders have judicial functions? c) What constitutional provisions should we have to guarantee the security of tenure, dignity and status of traditional leaders? d) Should we have a special commission to manage the day to day affairs, welfare, appointment and removal from office of traditional leaders? e) Should the constitution stipulate that all traditional leaders should not be active in politics? |
| <p>17. RELIGION</p> | <ul style="list-style-type: none"> a) Should the constitution guarantee freedom of religious practice, worship, association, assembly, conscience and expression? b) Should the constitution acknowledge the supremacy of God? |
| <p>18. LANGUAGES, ARTS AND CULTURE</p> | <ul style="list-style-type: none"> a) Which languages spoken in Zimbabwe should be protected, preserved, promoted and developed? b) Should the constitution guarantee protection of monuments, cultural practices, sites and localities? c) What rights and interests of artists should be acknowledged, protected, preserved, promoted and developed? |