

Where We Stand on the Constitution

A Comprehensive Statement on the Current Constitution Issue

From the

Zambia Episcopal Conference

2nd August 2007

“Happy those who hunger and thirst for what is right; they shall be satisfied”
(Matthew 5:6)

PREAMBLE

- 1. The Catholic Church in Zambia has a rich history of speaking out on important national issues going back to the pre-Independence days. We have consistently spoken about issues touching on political and economic justice, national elections, development, HIV and AIDS, women, and constitutional issues. Over the years, our interventions have been greatly valued by people from all churches and faiths in our nation.**
- 2. Our speaking out comes from the firm belief that it is our prophetic duty to do so in order that people may have that fullness of life promised by our Lord and Saviour (see John 10:10). After all, it was Christ Himself who gave to His disciples the mandate to “go out to the whole world” to “proclaim Good News to all creation” (Mk16:15).**
- 3. It is in this historical context that this intervention on the current constitutional issues must be seen. We have said time and again that we are *non-partisan*. Our concern is always to ensure that such fundamental values and principles as the truth, love, social justice, and the common good, are effectively served in our governance systems.**
- 4. We now feel compelled to speak out once again so as to give further clear guidance to the nation. The people of Zambia have the right to know where we Catholic Bishops stand on the constitutional process and content. This is especially true in the current context where the truth is not being seen to be served as required. What we are saying here therefore is nothing new. It is simply further clarification to what we have already said in our Pastoral Letter, *Let My People Go*, November 2003, and the *Pastoral Statement* we issued in May 2007.**

PROCESS

- 5. When we met the Republican President recently, we reiterated our conviction that we shall never have a legitimate constitution unless we have a document that is genuinely a product of national consensus, that is, inclusive of all social groups in this country: political, religious, civil society, government, etc.**

6. **We regret that in the current debate, the term “road-map” has lost its true meaning regarding authentic constitutional reform. A road-map serves an important role in the constitutional making process by pointing out the necessary steps that ought to be taken and in what sequence. This is something not designed by politicians or groups of one brand or another. Rather it should come from the people themselves.**
7. **This is critically important in a situation like ours because on three previous attempts at constitutional reform, our politicians ignored what people had submitted to the various Commissions. History shows that politicians desired to adopt constitutional amendments that only served their short term political interests. Unfortunately, we have the bitter experience of the Chona CRC in 1972-73, the Mvunga CRC in 1990-91 and the Mwanakatwe CRC in 1995-96. Who would deny the fact of such a biased process relating to the three Constitution Review Commissions?**
8. **According to our traditional Zambian wisdom and practice, all serious issues are to be thrashed out in a wide group, representative of different opinions and viewpoints; otherwise there is danger that a wise decision will not be reached and that the decision will not be accepted by the people. This is why; the Mung’omba CRC went out of its way to suggest a roadmap towards a comprehensive review of the constitution. They recommended, as the people have always overwhelmingly demanded, that the adoption of the Constitution must be done by a popular body (which they called Constituent Assembly), followed by a national referendum, to endorse or reject the new constitution. Enactment by parliament follows the referendum.**
9. **In this process parliament only plays the role of making the constitution into law by passing the Constitutional Act, and not to have a final say on the contents of the constitution. It is the referendum that binds parliament to enact the constitution into law as adopted by the popular body. This is why we regard it as an important recommendation by the Mung’omba CRC, that the current constitution must be repealed and replaced.**
10. **Participation in the Constituent Assembly/Constitutional Conference must not be dominated by any interest group, not political parties, civil society organisations, government officials, etc. Control by a single group will not produce the desired constitution. We therefore urge a clear public scrutiny of the participant list before it is approved. And we also join our voice to those who are calling for patriotic sacrifice by the participants who should serve on the basis of sponsorship by their own organisations so as to reduce overall costs.**

CONTENT

11. **We are cognisant of the fact that content issues will be the subject of debate for purposes of refinement in the Constituent Assembly or whatever name the body will finally have (such as Constitutional Conference). However, there are fundamental aspects that cannot be glossed over due to their importance to the growth of our democracy. These have been repeatedly**

expressed by the people of Zambia, our churches and civil society groups. Some people refer to these as *basic minimums*.

12. The Mung'omba Draft Constitution has included most of the following provisions, which risk being left out again if parliament or politicians alone, in parliament, shape what is to be contained in the new constitution:

- We wish to see the entrenchment of fundamental human rights in the Bill of Rights, inclusive of economic, social and cultural rights as demanded by the people of Zambia (right to education, to health care, to food and adequate housing, etc.). This is clearly a possibility following the good example of South Africa's new constitution (as is evidenced in the Mung'omba draft which speaks of "progressive realisation" of these rights.).
- There is need to apply the electoral reforms as suggested by the Electoral Reforms Technical Committee (ERTC) such as the demand for the return to the 50% plus 1 winning margin for the presidential candidate, and the appointment of an independent Electoral Commission.
- The powers of the president need to be reduced in line with the recommendations of the Mung'omba CRC.
- The separation of powers will be enhanced by the call for ministers to be appointed from outside parliament.
- To do away with the District Commissioners who only serve at the pleasure of the appointing authority.
- Constitutional Offices currently lack constitutional protection or security of tenure. We think offices such as that of the Auditor General, the Inspector General of Police, Commissions such as the Drug Enforcement Commission, the Anti-Corruption Commission, etc.

13. Furthermore, there is need for the establishment of the Constitutional Court which can handle both human rights cases and electoral issues. Nominating Members of Parliament has clearly showed that it distorts the will of the people as has been demonstrated through national elections. There are also other critical issues like the direct election of Mayors by popular vote, etc

COMPREHENSIVE REVIEW

14. In the light of the very clear popular recommendation coming from the Mung'omba CRC, we stand by the repeated demand of the people of Zambia for a new constitution, not an amended old constitution. This is the only way to avoid repeated attempts in future years to give us a good people-oriented constitution. We feel that the approach suggested by the Zambia Centre for Inter-party Dialogue (ZCID) will result in the tried and failed piecemeal approach that successive governments used to deal with recommendations coming from the Chona, Mvunga and Mwanakatwe CRCs. A comprehensive review will demand a new constitution, once and for all!

CONCLUSION

15. This is indeed a critical moment in the democratic life of our beloved Zambia. We therefore call upon the Catholic faithful to study this statement

in their Small Christian Communities (SCCs) to be able to understand what is at stake. We encourage our people to call on their local Members of Parliament to come before them to fully explain to them how she or he will represent them on these constitutional issues if and when they come up in Parliament.

16. In order to promote the public dialogue so very necessary at this moment, we will instruct that this ZEC statement be read in all Catholic Churches on 12 August 2007, the second Sunday of August. Moreover, we will provide translations of the statement so that our faithful have easy access to it. And we instruct all our church-sponsored community radio stations throughout the country to broadcast the statement at least once a day during the first two weeks of August.
17. It is our fervent prayer that the God of justice will continue to bless this nation and guide us to come up with a Constitution that really serves the best interests and common good of all Zambians in the many years to come. May we be faithful to the call of justice and peace that our Lord Jesus has sent us out to share with all peoples!

2nd August 2007

Signed:

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Archbishop of Lusaka
President – Zambia Episcopal Conference