

Grand Coalition on the Campaign for a People Driven Constitution in Zambia



The Quest for a People Driven Constitution in Zambia



2011 - 2015

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in Zambia**

2011 to 2015



The Road we walked in the quest for a People-driven Constitution 2011 to 2015

'A people driven constitution is dear to our hearts, which is why we committed ourselves to the fight. Against all odds, amidst threats, intimidation, blackmail and name-calling, we stood for what is right.'

...Fr Leonard Chiti, Chairperson of the Grand Coalition on the Campaign for a People Driven Constitution, November 2015



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List of Acronyms

AGG	Alliance for Good Governance
CSCC	Civil Society Constitution Coalition
CSPR	Civil Society for Poverty Reduction
FODEP	Foundation for Democratic Process
FPTP	First Past The Post electoral system
GC	Grand Coalition on the Campaign for a People Driven Constitution
GIZ	German Agency for Development Corporation
ISCZ	Islamic Supreme Council of Zambia
LAZ	Law Association of Zambia
MISA	Media Institute of Southern Africa
MMP	Mixed Member Proportional Representation
NGOCC	Non-Governmental Organisations Coordinating Council
OSISA	Open Society Initiative for Southern Africa
OYV	Operation Young Vote
PSAf	Panos Institute Southern Africa
TCDZC	Technical Committee on Drafting the Zambian Constitution (2011)
YOGA	Youth Governance Alliance
ZaCoMeF	Zambia Community Media Forum
ZANEC	Zambia National Education Coalition
ZCEA	Zambia Civic Education Association
ZCSD	Zambia Council for Social Development
ZCTU	Zambia Congress of Trade Unions
ZGF	Zambia Governance Foundation

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Foreword by the Chairperson

A people-driven constitution is dear to our hearts, which is why we committed ourselves to the fight. Against all odds, amidst threats, intimidation, blackmail and name-calling, we stood for what is right. We formed the Grand Coalition on the campaign for a people-driven constitution (GC) as a force of the people to champion this cause.



“A people-driven constitution is dear to our hearts, which is why we committed ourselves to the fight. Against all odds, amidst threats, intimidation, blackmail and name-calling, we stood for what is right.”

The story of the GC began at the time of the commissioning of the Technical Committee on Drafting the Zambian Constitution in November 2011. At this time, various coalitions were formed to provide oversight on the constitution reform process and to ensure that Zambians get a people-driven constitution before 2016. These included the church mother-bodies and other religious groupings, the civil society movement, youth and students' movement, women's movement and professional associations.

Several months later, these various coalitions came together to form the Grand Coalition on the Campaign for a People-Driven Constitution, to ensure that the constitution reform process stops moving in circles and delivers a people driven constitution. At its formation, it consisted of 16 Coalitions representing more than 300 organisations spread across the country all driven by the need for a new constitution. As months went by, the numbers grew until the GC became a coalition of the people.

The formation of the GC was a response to the need for a coordinated effort by various stakeholders to strengthen the push for increased political will and commitment on the side of the government to deliver on their promise of a people-driven constitution for Zambia before 2016. Having witnessed the failure of four previous constitution reform processes, we were all determined to ensure that the people of Zambia finally deliver to themselves a constitution which meets their aspirations. This new constitution would be people-driven in process as well as content, and would contain a comprehensive Bill of Rights.

We believed then, and still do, that five decades after independence, it was time for Zambia to have its own home-grown constitution written by the citizens of this country for themselves. We believe a people driven constitution is a reflection of how the people want to be governed.

Limited political will caused delays in the earlier stages of the process, and as the process unfolded, the political will continued to wane. We feared a situation whereby the process would be aborted altogether. We saw the need for a stronger, coordinated voice to ensure that the people holding power see how desperately Zambians desired to have a people-driven constitution. The coming together of various coalitions and civil society groupings working on the constitution was a strategy adopted to strengthen the advocacy voice.

Together, we have walked this long journey in our quest for a new people driven constitution. We have registered some successes, as some of the provisions we campaigned for have been adopted, but the journey goes on because the comprehensive Bill of Rights has yet to be adopted and enacted. We have said, it is not a people-driven constitution unless the comprehensive Bill of Rights is a part of it.

During the course of the campaign, we lost some committed members who had hoped to see a people-driven constitution in Zambia. They fought for it and tirelessly campaigned with us, but unfortunately, they passed away before their dream could come true. These colleagues include: Ms Matrine Chulu, Mr Obby Chibuluma and Mr Kuchunga Simusamba. May Their Souls Rest in Eternal Peace.

The fight goes on... until the comprehensive bill of rights is adopted and enacted.

“We saw the need for a stronger, coordinated voice to ensure that the people holding power see how desperately Zambians desired to have a people-driven constitution.”



Fr. Leonard Chiti
Chairperson – Grand Coalition on the Campaign
for a People Driven Constitution

Grand Coalition members gathering outside the Ministry of Justice in Lusaka to present a petition for the government to stop plans to amend the constitution. This was one of the many strategies the coalition used to demand a people driven constitution.



1.0. Introduction

The Grand Coalition on the Campaign for a People Driven Constitution in Zambia is a multi-stakeholder platform made up of over 300 Civil Society Organisations collectively advocating and campaigning for the successful finalisation of the constitution reform process in Zambia.

The Grand Coalition was constituted in 2013, motivated by the need to coordinate and consolidate all the civic activities around the constitution campaign under the Technical Committee on Drafting the Zambian Constitution (2011). This was necessitated by the need for a unified and strong voice in campaigning for the completion of the Constitution Reform Process for Zambia following the lack of political will on the side of the PF Government to successfully complete the process. It is made up of various coalitions of civil society organisations, church and other religious associations, labour movement, women movement, students and youth movement.

These members are represented on the Steering Committee by the following coalitions:

- Oasis Forum
- NGO Coordinating Council (NGOCC)
- Media Institute of Southern Africa (MISA)
- Civil Society Constitution Coalition (CSCC)
- Foundation for Democratic Process (FODEP)
- Civil Society for Poverty Reduction (CSPR)
- Law Association of Zambia (LAZ)
- Zambia Council for Social Development (ZCSD)
- Alliance for Good Governance (AGG)
- Zambia Community Media Forum (ZaCoMeF)
- Youth movement and Students Movement
- The Islamic Supreme Council of Zambia (ISCZ)
- Zambia National Education Coalition (ZANEC)
- Zambia Congress of Trade Unions (ZCTU)

2.0 Context

A constitution is the bedrock of governance for any country. A good constitution presents the foundation of good governance and sustainable development. This was the motivation for Zambians to demand a good constitution for their country, a cause that Zambians have been fighting for since 1972.

It was widely accepted that despite numerous amendments, the Republican Constitution for Zambia was weak, thereby weakening the governance of the country.

The weaknesses of the Republican Constitution for Zambia included:

- i. **Weak Bill of Rights:** The people of Zambia viewed the constitution as limiting their greater enjoyment of Economic, Social and Cultural Rights, which were included in the preamble as mere aspirations of the state, but not as justiciable rights which people can enjoy and demand from their government. The Bill of Rights also left out such provisions as equality before the law, the right to take part in government, an enforceable right to compensation for unlawful arrest or detention, the right to leave one's country, and gender equality. Like all human rights, the rights and freedoms that were not in the Bill of Rights are necessary for individual well-being and fulfilment as well as for the preservation of peace and justice.
- ii. **Limited separation of powers:** The constitution vested excessive powers in the Executive, especially the Republican President, compared to the other arms of the state like the legislature and the judiciary. This presented risks to the tenets of democracy and weakens the capacity of various governance institutions to function in an inclusive and devolved manner, and that the exercise of governance powers is done transparently and that functionaries are accountable to the people. The concentration of powers in the Executive also limits the extent to which citizens can hold their leaders to account, resulting in leaders undertaking certain actions without considering the views of citizens. The current constitution also does not provide for a Constitutional Court to enhance and maintain a proper system of checks and balances amongst the three organs of the state. The vesting of too much power on the Executive also weakens the capacity of certain arms of the state and law enforcement agencies.
- iii. **Inadequate electoral representation of the people:** The constitution provided for a First Past The Post electoral system for the election of President, which in many instances raised concerns at outcomes of Presidential elections, where the winning candidate would have received less than 50 percent of the valid votes. This reduced public confidence in the outcomes of presidential elections. The constitution also did not clearly provide for the representation of marginalised groups such as women, youths and persons with disability in governance structures.
- iv. **Limited decentralization and lack of devolution of power:** The constitution did not adequately provide for a devolved system of governance to empower local communities to spur development. As a result of the limited decentralisation and devolution of power, citizens do have much room to exercise their powers of direct self-governance would give powers of direct self-governance.

This results in limited participation of citizens in the governance of the State and in the making of decisions that affect them.

- v. Weak provisions for land administration of customary land: The constitution had a number of issues relating to Zambia's land administration which were riddled with challenges like inefficiency and lack of transparency and accountability, resulting in a lot of Zambians failing to own land or being displaced from their land. Most of the land in Zambia is customary land. There were concerns that the weak provisions for the administration of customary land had resulted in traditional leaders not involving their subjects in the management and distribution of customary land. The provisions had potential to abuse by those charged with the responsibility to hold land on behalf of and for others.

2.1. Historical Background

Zambia has been going through constitution reform processes for a long time. At the time of writing this report, the country had gone through four failed constitution reform processes. The fifth one, the Technical Committee on Drafting the Zambian Constitution (TCDZC) was commissioned in 2011 and by the end of 2015, the draft constitution produced under this process had been taken to Parliament, where it went through with a number of amendments.

The failed processes were:

- i. Chona Commission (1972): This 19 member commission chaired by Mainza Chona was instituted by then President Kenneth Kaunda, and the main outcome of its work was the transformation of Zambia into a one party state in 1973.
- ii. Mvunga Commission (1990): President Kenneth Kaunda instituted a commission led by lawyer Patrick Mvunga at a time the country was experiencing growing intolerance of the one party system. The Mvunga Commission's Draft Constitution was enacted in August 1991, leading to multi-party elections in October 1991.
- iii. Mwanakatwe Commission (1993): The John Mwanakatwe led commission was instituted by President Frederick Chiluba in November 1993. The government reject most of the commission's proposals, but their work resulted in the amendment of the 1996 constitution in 1996, with key highlights being the declaration of Zambia as a Christian nation and provision for a simple majority for election of the President.
- iv. Mung'omba Commission (2003): In April 2003 President Levy Mwanawasa appointed a commission chaired by lawyer Willa Mung'omba. The Mung'omba Commission presented a draft which presented its report and draft Constitution to government in December 2005, leading to the establishment of the National Constitutional Conference. The Mung'omba Draft Constitution was rejected after failing to garner enough support in Parliament.

2.2. Technical Committee on Drafting the Zambian Constitution (2011)

Upon assuming office as President, Michael Sata in November 2011 appointed a 20-member Technical Committee on Drafting the Zambian Constitution (TCDZC) to draft a new Republican Constitution that would reflect the aspirations of the people. This was in line with the Patriotic Front's campaign promise "establish in consultation with stakeholders a Committee of Experts to review the recommendations of all previous Constitutional Review Commissions in order to draft and present a constitution which will reflect the will and aspirations of the people for submission to a referendum and subsequent enactment only, by the National Assembly".

The Technical Committee was required to consult and take into account submissions from members of the public, local and international experts on constitutional law and practice and other stakeholders at district, provincial and national levels and come up with a draft based on the views of the people as expressed through the various consultations. The Patriotic Front had indicated that this process would be completed within ninety days. However, at its appointment, the Technical Committee was mandated to complete all its processes, proceedings and submit a final report within twelve months. The Technical Committee commenced its operations in December 2011 and was expected to complete all processes and procedures within a year, and deliver the draft Constitution of Zambia Bill in 2012 and table it in Parliament before the end of 2012. The first draft was launched for public debate on 1st May 2012.

After its release, the first draft constitution was subjected to validation through broad consultations with members of the public and experts at district, provincial and national level. Further, a Sector Groups Convention bringing together technocrats and a National Convention which was a representative forum bringing together different stakeholders from the districts, provinces, interest groups, political parties, NGOs, Church, youths, Government and students; were held.

It was expected that after the release of the first draft and the subsequent consultations of stakeholders, the second and final draft constitution would be released within a few months. However, the process took longer than expected and a National Constitutional Convention was eventually held in April 2013 to consider resolutions from the provincial conventions. The submissions at the National Convention formed the basis for the second draft, which the convention resolved was to be subjected to a referendum within 12 months from the time of its submission to the President and the People.

The Technical Committee finalised its work in December 2013 with the preparation of a final draft constitution, and as resolved at the National Convention, it was expected that the final draft would be subjected to a referendum for adoption and its subsequent enactment. The government however did not release the final draft as expected, creating anxieties among citizens and other stakeholders. The apparent lack of political will to complete the process, the lack of a legal framework to protect the process, as well as lack of a clear roadmap to guide the process raised the need for advocacy to build pressure for the state to release the final draft Constitution. There were growing concerns that the draft constitution may never be released, or that the contents would be tampered with. Concerned by all these irregularities and the lack of transparency in the process, different stakeholders from civil society and church bodies launched campaigns to demand the release of the draft, and also for the government to

put in place mechanisms for the adoption and enactment. While the goal was the same, these stakeholders were working in isolation and moving in different directions.



Grand Coalition members addressing a Press Briefing towards the launch of the Coalition.

3.0 The need for a coordinated voice

Since the commissioning of the TCDZC in 2011, there was active participation of civil society organisations and other stakeholders providing oversight of the processes and campaigning for their desired contents to be included in the draft. However, this participation was not coordinated and there were weak synergies among the different actors. This resulted in duplication of efforts, and competition among them thereby weakening the advocacy voice.



The Grand Coalition campaign ensured that the views and aspirations of all interest groups were taken on board

By Mid-2013, it became apparent that the political will to see the process to completion was very weak. With the concerns of various stakeholders unresolved, there was need to heighten actions to safeguard both the content of the final draft and the process of its adoption and enactment, so that the aspirations to achieve a people-driven Constitution would be realised. The achievement of this would require a strong, consistent and sustained advocacy voice to put pressure on the Executive to deliver the constitution. With various advocacy groups advocating in different directions, and energies waning, it was evident that a winning strategy would be to bring all CSOs, Church, civic movements and the like together to advocate with one voice and exert a stronger push on the executive. The Grand Coalition was there formed by bringing together all the major stakeholders comprising of coalitions of various interest groups which were campaigning for the finalisation of the constitution reform process.

Specific motivations for the GC were as follows:

1. The need for a coordinated and consolidated advocacy voice in campaigning for the completion of the Constitution Reform Process for Zambia;
2. The need to unify various campaign interests to one national cause – people-driven constitution.

3.1. Mobilising stakeholders to come together

There were various interest groups which were campaigning for the constitution, but focussing on specific issues that were relevant to their constituencies – for instance, the women movement were interested in issues of equality, reproductive health rights and the bill of rights, the church movement were focussing on effective governance, devolution of power and the bill of rights, other stakeholders were interested in the reforms of the electoral systems and the like. The biggest challenge was that in some cases, interest groups would differ on the issues of priority, or whether a particular provision was important or not.

The first task for the Grand Coalition was to establish a common basis for the unified campaign to ensure a common agenda within the movement. The GC adopted a strategy to develop a shared basic minimum standards for the people driven constitution document which all players would buy-into and advocate for.



Father Leonard Chiti (Standing) and members of the GC Steering Committee at the Launch of the Green Ribbon Campaign in Lusaka

3.2 Development of common and shared basic minimum standards of the People-driven Constitution

The GC gathered various Basic Minimum Standard Documents from all the constituent members and synthesised it to come up with ten (10) principles that were common to all the coalitions. The basic minimums were also informed and inspired by the draft resolutions of the National Convention organized by the Technical Committee drafting the Zambian Constitution, held in April 2013.

The ten basic minimums were aimed at consolidating the position of all interest groups and to jointly campaign for protection of these provisions throughout the process.

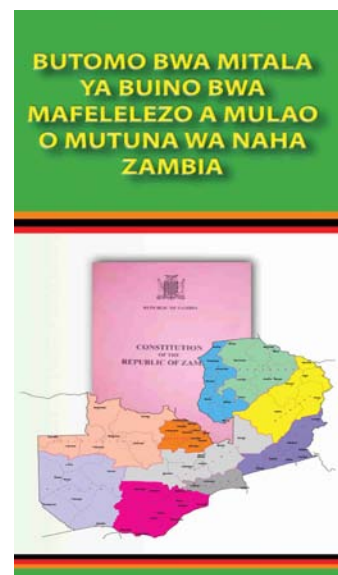
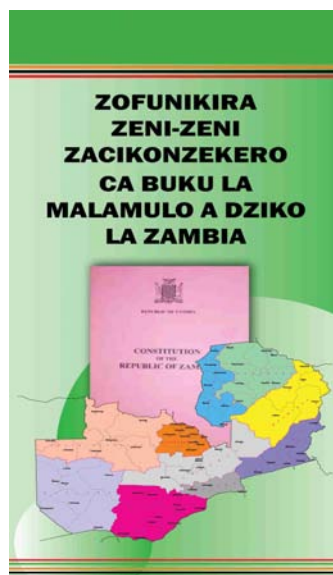
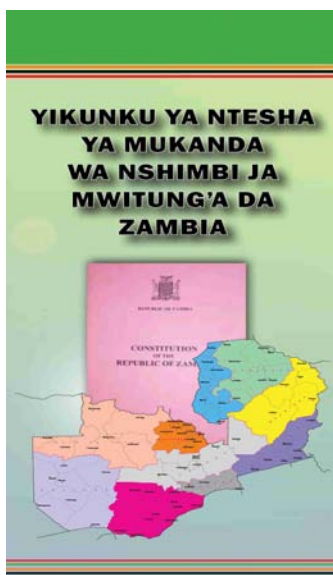
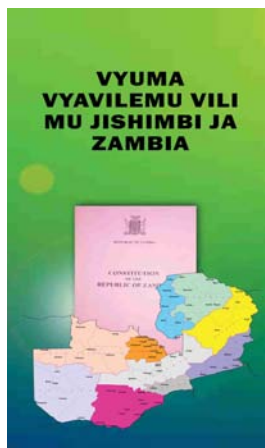
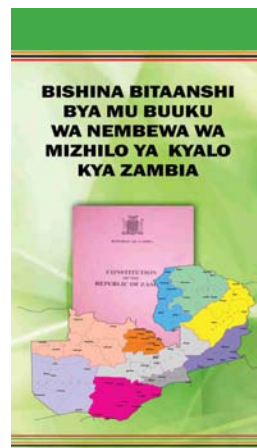
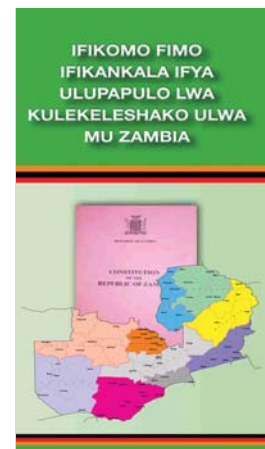
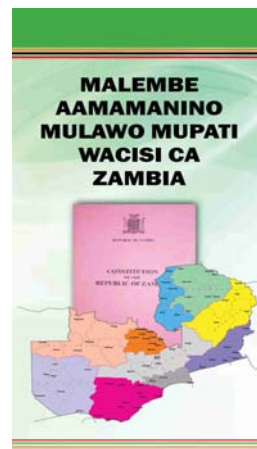
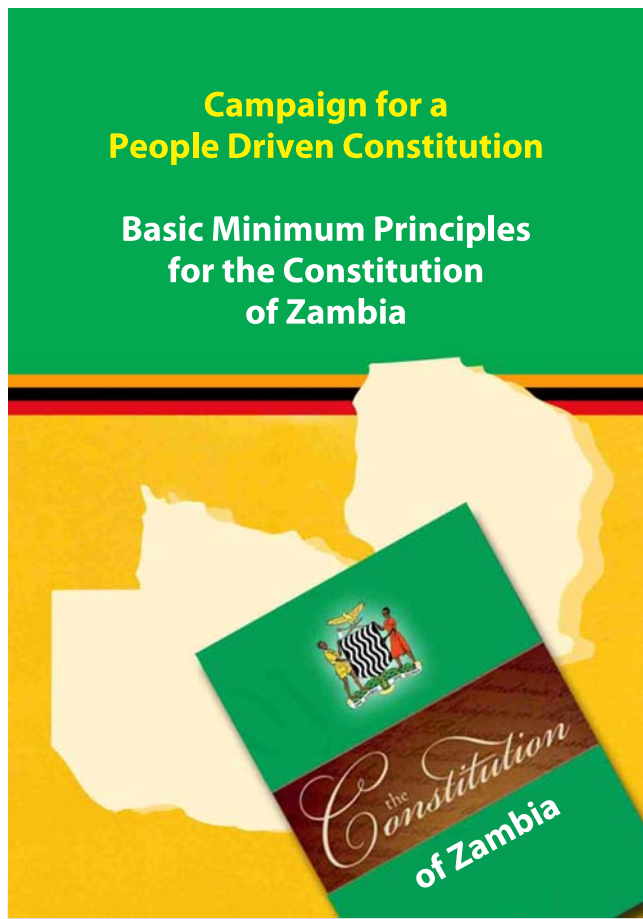
These ten basic minimums were grouped under the following issues:

- i. Enjoyment of fundamental rights
- ii. Status of the constitution and Amendments to Constitution
- iii. Equality before the law and Rule of Law
- iv. Separation of powers
- v. Representation of the people
- vi. Traditional Leaders and Customs
- vii. Structure of Government (decentralization and devolving of power)
- viii. Public Bodies, authorities and Commissions
- ix. Land protection
- x. Adoption and Enactment Process (Referendum)

The advocacy around the basic minimums included the following:

1. Translation of the ten basic minimums: The ten Basic Minimums were abridged and published in English and seven local languages, namely: Nyanja, Bemba, Lozi, Tonga, Luvale, Kaonde and Lunda. This made them accessible to people in all parts of the country, enabling the Grand Coalition to influence the constitution debate in all the major languages spoken in the country.
2. Dissemination and popularisation of the ten basic minimums: The Campaign popularised the ten basic minimums through various platforms to ensure that all citizens regardless of location and literacy level were able to relate with the content. The basic minimums were popularized through platforms like the mainstream and community media, social media, community outreaches, prayer meetings, street campaigns, among others.

The Grand Coalition's position was that if the final draft constitution met at least 80% of the basic minimum standards, then it met the people's aspirations and would therefore be acceptable to go for a referendum.



The Grand Coalition published ten basic minimum principles, which were also translated into seven local languages

4.0 The Campaign

Once the consolidation of the GC as one giant advocacy voice was achieved, the campaign hit the ground running. At this time, the nation was awaiting the release of the final draft constitution which had delayed.

4.1. Campaign for the Release of the Final Draft Constitution

The first stage of the Grand Coalition campaign focused on demanding the timely release of the final draft constitution as compiled by the Technical Committee. A key concern during this stage was the lack of political will to finalise and release the final draft.



Grand Coalition members during a retreat in Siavonga, April 2015



Grand Coalition Steering committee members Fr. Lungu and Ms Emily Sikazwe addressing a press briefing in Lusaka.



Newspaper article based on one of the Grand Coalition's many interventions to push for the release of the final draft constitution. As the campaign intensified, the Grand Coalition's calls for the release of the final draft made headlines in mainstream, community and online media.

4.1.1. Strategies used to campaign for release of final draft

The Grand Coalition mobilised citizens across the country to agitate and push for the release of the final draft constitution. Garnering its strengths from various constituent members and widespread outreach of its members that GC went flat out mobilising people to demand for its release through public rallies, radio, prayer meeting and the like. The GC's campaign emphasized that the draft compiled by the Technical Committee was a people's draft and there was no reason for the PF government to keep or hide the draft constitution from its owners. Grand Coalition conducted a coordinated and sustained nationwide and systematic campaign for the release of the final draft constitution. The coalition implemented the following activities as part of its campaign for the release of the draft constitution:

- i. **Prayer Meetings:** The coalition held prayer meetings demanding for the immediate release of the second draft Constitution. The prayer meetings were held at the Cathedral of the Holy Cross in Lusaka, and in other provincial capitals such as Mansa, Kitwe, Chipata, Kasama, Mongu and Choma. The December 2013 mass prayer meeting held at the Cathedral of the Holy Cross in Lusaka was viewed as the first time since the 1991 gathering at the same venue that the nation had seen such a huge gathering again at a church over an issue of national interest, bringing together About 4,000 concerned citizens came together to press for the immediate release of the second and final Draft Constitution



GC members at a prayer meeting at the Cathedral of the Holy Cross in Lusaka.



Journalists interviewing Grand Coalition Steering committee member Pamela Chisanga after a media breakfast meeting



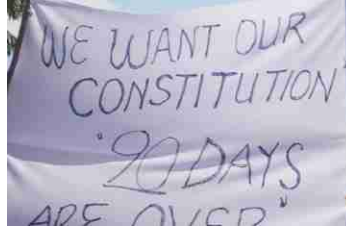
A Journalist interviewing GC Vice Chairperson Sara Longwe

- ii. Mass Media Campaign: The campaign facilitated awareness creation through mass media platforms across the country using community radio stations, using interactive Radio and Television Programmes, Radio and Television Jingles, Newspaper Adverts, Media Fellowships for investigative and in-depth coverage of the constitution reform process. The platforms featured different stakeholders demanding for the release of the final draft, and the need to ensure that the content was not manipulated.
- iii. Picketing: Members of the Grand Coalition picketed outside Parliament demanding MPs to push for the immediate release of the draft Constitution. The gathering in the Parliament grounds compelled some opposition MPs to challenge the Minister of Justice to provide a well-articulated roadmap for the next steps in the review process. Similarly, the student movement also staged at least three demonstrations demanding for the release of the Constitution.
- iv. Green Ribbon Campaign: Members of the Grand Coalition implemented a green ribbon campaign, whereby they would wear green ribbons on their attire until after the release of the final draft.
- v. Honking: The Grand Coalition members honked on selected days to push the government to release the final draft constitution.



A Journalist interviewing GC Chairperson Fr Chiti.

- vi. Community mobilization and outreaches: In order to reach out to different stakeholder groups, the campaign conducted community outreach meetings in selected districts across the country. The community outreach meetings brought together various stakeholders at community level and enabled the campaign to reach out and disseminate the basic minimums and information on the constitution to a wider audience across the targeted sites.



The GC membership was spread across the country, including far flung areas. The pictures above show community members with some hand written placards carrying GC messages.

- vii. Biblical guide on the constitution: The Grand Coalition published, translated and distributed information packages that included a *biblical guide on the Constitution* spelling out the need, rationale and benefits for the release of a people driven Constitution in line with biblical principles. These were disseminated across the country, and also broadcast on community radio stations across the country.
- viii. Stakeholder meetings: The campaign organized a series of stakeholder meetings bringing together like minded stakeholders from the church, civil society organisations, youth movement, and opposition political parties. The buy-in from the diverse stakeholder groups has created a solid base at both the national and the local level for sustained dialogue on the debate demanding for the release of the Constitution.
- ix. Lobbying Political Stakeholders: The campaign lobbied political stakeholders especially Members of Parliament and leaders of political parties to demand for the release of the final draft constitution. Lobbying meetings were held with presidents of 16 opposition political parties. Additional lobbying meetings were held with Members of Parliament, as individuals and in groups. This engagement created fertile ground for influencing action at Parliamentary level through the MPs. The lobbying resulted in more than 60 opposition MPs protesting in Parliament demanding the release of the second draft Constitution.



GC placards and banners demanding the release of the final draft constitution with a clear for its adoption and enactment.

- x. Constitution Song: The Grand Coalition commissioned the composition, production and release of a constitution song in five languages, calling for the government to release the final draft constitution and its adoption through a referendum. The composition, production and performance of the song was through a collaboration involving musicians from across the country. The collaborating musicians performed the song at the public launch of the Grand Coalition. The song was disseminated widely through radio stations, especially community radio stations.
- xi. Press Briefings: The campaign conducted regular press briefings to raise awareness about the state of the constitution making, and the urgent need for the government to release the second draft. The press briefings resulted in improved coverage of the coalition's activities and concerns by the mainstream, commercial, community and online media houses.



GC Vice Chair Sara Longwe (2nd from Right) addressing a press briefing. She is flanked by Steering Committee Members Guess Nyirenda (right) and Judith Mulenga (2nd from left), and Vusumuzi Sifile fom secretariat.

4.1.2. Release of the Final Draft Constitution

Facing pressure from the Grand Coalition, the Government called for various consultation meeting with GC Leadership, the GC Steering Committee and its members, and eventually released the draft constitution to Parliament on 23 October 2014.

The challenge was that the draft was released without a roadmap outlining the next steps towards adoption and enactment. This presented another campaign leg for the GC. There were concerns that the release of the final draft would not lead to adoption and enactment.



The GC continued lobbying with messages such as this one, resulting in the release of the final draft constitution on 23 October 2014

4.2. Advocacy for a Roadmap

Following the release of the final draft constitution to Parliament in October 2014, a concern for the Grand Coalition was that the draft was not accompanied by a roadmap as expected. This created a lot of uncertainty in terms of how the government was planning to take the process forward. The Grand Coalition advocated for the release of a roadmap that provided clear timeliness for the completion of the process in terms of the adoption and enactment of the draft, and measures to protect both the content of the final draft and the process of adopting it.



GC members demanding for the release of a roadmap and legal framework

During this stage of the campaign, the Grand Coalition blocked government manoeuvres to alter the final draft. This stage of the campaign covered the following:

4.2.1. Lobbying Members of Parliament

The Grand Coalition lobbied MPs directly and through their political parties to pressurize the Speaker of the National Assembly to guide the house and compel the Ministry of Justice to lay out a clear roadmap for the rest of the Constitution review process. As a result of the GC lobbying, the MPs led protests in Parliament on the need to release a roadmap. The lobbying also resulted in UPND MP Gary Nkombo presenting a Private Members Bill compelling the state to spell out a clear road map for the rest of the Constitutional review process, including the mode of adoption and the enactment process.



Then Justice Minister Edgar Lungu could not resist the pressure and pledged to release a roadmap, which he eventually did.

4.2.2. Putting the constitution on the Presidential election agenda No Constitution, no Vote!

Following the death of President Michael Sata in October 2014, a presidential by-election would be held on 20 January 2015. A concern for the Grand Coalition was that with focus shifting to the presidential by-election, the constitution agenda would fall off the radar. The Grand Coalition lobbied all presidential election candidates to make the constitution an election campaign issue, and to commit to prioritise the adoption and enactment of the final draft once elected into power. The Grand Coalition implemented a No Constitution No Vote Campaign whereby the coalition would campaign against candidates who did not prioritise the constitution.



United Party for National Development (UPND) President Hakainde Hichilema signing the social contract in November 2014. Looking on are Grand Coalition Chairperson Fr. Leonard Chiti (right) and former Vice Chairperson Mrs. Beatrice Grillo (left).

- i. Social Contract: The Grand Coalition developed social contracts that were signed by the presidential election candidates, committing to prioritise adoption and enactment of the constitution if elected into office.



Some of the Candidates in the 20 January 2015 presidential election, Edith Nawakwi (2nd from Right) of FDD and Elias Chipimo Jnr (Right) of NAREP signing the social contract in November 2014, while GC chairperson Fr. Leonard Chiti (left) and Vice Chairperson Ms. Sara Longwe (2nd from left), and officials from FDD and NAREP (standing) look on.

- ii. Mass media campaign: The Grand Coalition implemented a vibrant mass media campaign using television and radio spots/jingles, interactive radio programmes on mainstream and community radio stations, live television discussions, media fellowships, and newspaper adverts, among others to provide information about the importance of the constitution as a presidential election campaign issue.
- iii. Live Presidential Debates: The Grand Coalition partnered with other stakeholders to facilitate presidential debates featuring all the 11 candidates in the 20 January 2015 election. The presidential debates provided a platform for presidential candidates to state how they would handle the constitution reform process once elected, and provided an opportunity for citizens, through Grand Coalition members, to ask question and get instant feedback.
- iv. Social media campaign: The Grand Coalition implemented a social media campaign to mobilise citizens to demand that presidential election candidates should prioritise the constitution and facilitate its adoption and enactment once they are elected. The Grand Coalition used the following social media platforms: Facebook, Twitter, WhatsApp, Bulk SMS, YouTube and SoundCloud, as well as offline social tools such as community theatre and arts performances.

4.2.3. Proposed Roadmap Released

This campaign for a roadmap yielded results in January 2015 just before the by-elections when the Government yielded to the Grand Coalition's demands and published the Government's Draft Proposed Constitution Roadmap and Guidelines for Public Validation of the Contents of the Final Draft Constitution. The Government roadmap also met some of the Grand Coalition's demands, like the need to hold a referendum before the 2016 general elections.

4.2.4. Campaign for a Referendum:

When the government started making pronouncements about amending the current constitution instead of presenting a wholesome new constitution, the Grand Coalition campaigned for the holding of a referendum as the only credible means of adopting the people driven constitution before its enactment in Parliament. The government's preferred route was to make piecemeal amendments to the current constitution where they would unilaterally select what they viewed as contentious and non-contentious issues, and subject them to Parliamentary debate.



The GC used various tools and platforms to demand for the adoption of the constitution through a referendum.

The GC took to the mainstream, community and social media, and conducted public rallies and prayer meetings with the message that taking the entire constitution to parliament was treacherous for the following reasons:

1. It would take away the democratic right of the people of Zambia to decide what kind of constitution they want by voting Yes or No;
2. It would subject the people's aspirations to debate and alterations in parliament. With the numbers in parliament favouring the PF at this time, the parliamentary process will be under the control of the PF, thereby jeopardising any content that the people want if the PF are not comfortable with it;
3. It would relegate the Bill of Rights as a secondary consideration which should ordinarily be dealt with much earlier. The Bill of Rights remains the most important aspect of the new draft constitution as it directly touches on the welfare of the people. Indicating that the Bill of Rights can wait is as good as telling people that, 'your life and your welfare is not important and therefore can wait.'

The Coalition implemented what it termed *No Referendum, No Constitution*, where it emphasised that the only credible way of adopting the new constitution is through a national referendum. At this stage the

Grand Coalition advocated for the adoption of the final draft constitution and its enactment before the 2016 General Elections. The Grand Coalition concerned that the current process has now reached the stage where previous processes failed, hence the need to mobilise citizens and stakeholders to ensure that the people's desires are not betrayed once again. This phase is currently underway.

As part of the No Referendum No Constitution campaign, the Grand Coalition conducted the following activities:

- i. Lobbying MPs: The Grand Coalition lobbied Members of Parliament as individuals and as groups to reject the government's planned piecemeal amendments to the constitution. The Grand Coalition also made numerous presentations to the Parliamentary Committee on Legal Affairs to make submissions to parliament on the referendum as a preferred mode of adoption and risks of the current state of affairs.
- ii. Lobbying government: The government held a number of meetings with government officials, mostly through the Ministry of Justice to emphasise the need to complete the constitution making process in a way that is in line with the aspirations of the Zambian people.
- iii. Lobbying cooperating partners: The Grand Coalition engaged with cooperating partners and representatives of foreign missions in Zambia to clarify the coalition's position on various aspects of the constitution making process.
- iv. Lobbying political parties: The Grand Coalition lobbied political parties, especially those with representation in Parliament to mobilise their members to reject the government's planned patchwork approach.
- v. Mass media campaign: The Grand Coalition implemented a vibrant mass media campaign using television and radio spots/jingles, interactive radio programmes on mainstream and community radio stations, live television discussions, media fellowships, and newspaper adverts, among others to provide information about the importance of the constitution as a presidential election campaign issue. In all these media platform, the Grand Coalition emphasized the No Referendum No Constitution position, making it clear that the constitution had to be adopted through a referendum, and encouraging citizens to participate in the referendum once it was called.
- vi. Lobbying traditional leaders: The Grand Coalition visited chiefs in all Central, North Western, Northern, Luapula, Eastern, Lusaka and Muchinga provinces to sensitise them on the referendum, and get their buy-in to mobilise their subjects to participate in the referendum once it is called.



Members of the GC leadership and secretariat with chiefs from Luapula province (right) and on the way to meet chiefs in Eastern Province.

While the campaign raged on, the Executive held several negotiation meetings with the GC and its members to negotiate on the mode of adoption. Several arguments were made that a referendum cannot be possible because it is costly. The GC maintained its position. However, the government went ahead to publish a Constitution Amendment Bill (2015), to table the amendments before parliament.

4.3. Advocacy for Protection of the content

While the Constitution Amendment Bill contained all the provisions in the final draft except the Bill of Rights which would be taken to a referendum, the GC's concerns remained that the bill would be exposed to debates in parliament which would alter its character. The Grand Coalition engaged politicians, traditional leaders, religious leaders and all citizens in various groups to continue pushing for the constitution that meets the aspirations of the people.

- i. Petitions: The Grand Coalition petitioned the Minister of Justice not to amend the constitution but facilitate the adoption and enactment of the new constitution.
- ii. Prayers: The Grand Coalition conducts regular prayer events to pray for issues relating to the constitution making process. In addition to its own prayers, the Grand Coalition also participated in the 2015 National Day of Prayer and Fasting, where the coalition had six prayer points which are in line with its demands for a new people driven constitution.
- iii. Lobbying Members of Parliament: The Grand Coalition is lobbying Members of Parliament to reject the Constitution amendment Bill, so that the government sends the final draft back to the people for adoption. The lobbying of Members of Parliament is through formal meetings between MPs and the Grand Coalition Steering Committee, lobbying of individual MPs through formal and informal meetings, petitions, picketing, and through other forums that bring together MPs and Grand Coalition members.
- iv. Social media campaign: The Grand Coalition is implementing a vibrant social media campaign on Facebook, WhatsApp, Twitter, Google +, LinkedIn, YouTube, and Soundcloud, among others.
- v. Mass media campaign: The Grand Coalition is implementing a mass media campaign that involves regular press statements and press briefings, interactive radio and TV programmes, jingles, vox pops, print media fellowships, among others, to raise awareness about the final draft constitution, the Bill of Rights, and the adoption and enactment processes.
- vi. Public events: The Grand Coalition is facilitating public events where various members and other stakeholders come together and emphasise the need for the government not to betray the interests of the people.

4.4 Parliamentary Amendment

The PF Government went ahead and published a Constitution Amendment Bill No. 16 and No. 17 which would be presented in parliament for debate. The contents of the Constitution Amendment Bill consisted of mostly what was contained in the final draft constitution but without a Bill of Rights.

At this point, the GC adopted a strategy that was targeted at the MPs to appeal to their conscience to protect the people's interests. The GC used bulk SMS, television and radio jingles, talk shows and press briefings to target MPs. The coalition also held a number of formal and informal meetings with Members

of Parliament. In some cases, groups of MPs met with the GC steering committee or leadership, while the GC members also met the MPs as individuals or “ambushed” them at other functions or events that involved GC members.

When the bill was tabled in parliament, the debate that followed saw the passing of some critical provisions that the GC had been campaigning for:

1. Majoritarian vote for electing president, which means for one to be declared winner of Presidential election they must garner more than 50%+1 of the total votes cast. This provision states that if at the initial ballot a presidential candidate does not receive more than fifty percent of the valid votes cast, a second ballot shall be held within thirty-seven days of the initial ballot, where the only candidates shall be the presidential candidates who obtained the highest and second highest number of valid votes cast in the initial ballot.
2. Runningmate clause: This provision entails that a person running for election as president must have a running mate, and when the presidential candidate wins, the running mate becomes Vice President of the Republic.
3. Dual Citizenship Clause: This clause allows Zambians citizens to be concurrently recognised as citizens of other countries, as provided for in the laws of those countries, and provides for modalities of acquiring Zambian citizenship.

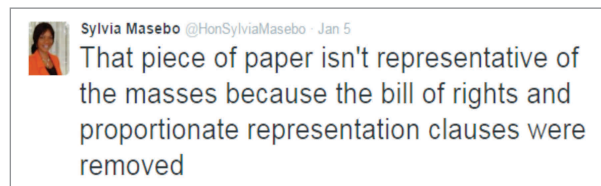
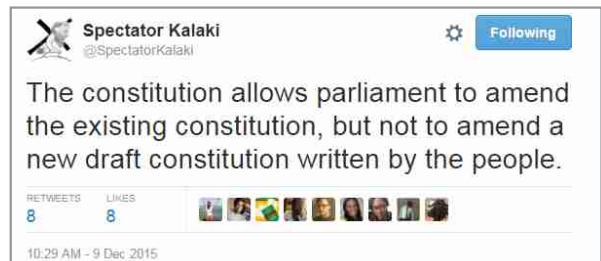
However, while the above three provisions were included in the amended constitution, some key provisions were shot down. The provisions which were shot down comprised mostly those which would enhance citizens’ participation in the governance of the country. They include:

1. Mixed Member Proportional Representation (MMP) electoral system: This provision would enhance the effective representation of marginalised groups such as women, youth, and Persons Living with Disabilities, but it was shot down in Parliament.
2. Provincial Assemblies: This provision aimed at enhancing citizens’ participation in the governance of the country at their local levels. The Grand Coalition had campaigned for this clause so that through provincial assemblies, citizens would effectively participate in local governance. The clause was shot down in Parliament on account of expenses in implementation.
3. Appointment of Cabinet from Outside Parliament: This clause aimed to enhance the doctrine of Separation of Powers. This clause was shot down in Parliament.
4. Voting on the budget: The Parliamentary amendment left out public submissions as contained in the final draft constitution that the budget must be passed by a two thirds majority of Members of Parliament, and maintained the current clause that provides for a simple majority to pass the budget.

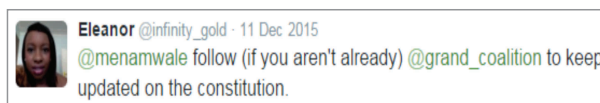
4.5. GC Opinion on the Outcome of the Parliamentary Amendment

The GC recorded this as partial success of the campaign that aimed to hold 2016 general elections under the new provisions of 50%+1 for the election of a Presidential election candidate, the provision for a presidential running mate, but the lack of effective representation through the provincial assemblies and the mixed member proportional representation were considered losses for an effective people-driven constitution. This partial success vindicated the GC’s campaign against the Parliamentary route.

There were mixed reactions among citizens. Some felt the amendments were victory for citizens as some progressive clauses were included, while others felt the constitution had been mutilated and "left for dead". Below are some excerpts from citizens' reactions on social media.



There were mixed reactions among citizens. Some felt the amendment were victory for citizens as some progressive clauses were included, while others felt the constitution had been "mutilated and left for dead".



The GC became a reliable source of information on the constitution making process.



Citizens joined the GC in expressing displeasure about the Parliamentary route. Some commended the GC for keeping the pressure.

5.0 Challenges

The campaign experienced a number of challenges, key among them:

- i. Lack of Legal Framework: Since its inception, the TCDZC (2011) did not have a legal framework to protect the process. As a result, it depended on the good will of those in power to move from one stage to another, and there was no mechanism in place to hold them accountable.
- ii. Lack of political will: The lack of political will in the executive and the ruling party has resulted in the process taking longer than expected and getting hijacked and sabotaged at the most critical moment.
- iii. Limited Financing: Most of the GC activities were implemented with meagre resources.
- iv. Political Intolerance: The GC experienced intolerance in the hands of political actors who were not comfortable with the GC's resolute and principled stance. These intolerant political actors used various platforms to discredit and threaten the GC, but this did not deter the campaign.

However, the challenges did not deter the GC from moving ahead. The GC members stayed focused on the goal, and the GC eventually achieved some positive results through the progressive clauses that were passed.

In reaction to the GC's campaign, President Edgar Lungu promised to call for a referendum for the adoption of the Bill of Rights. At the time of writing this report, the referendum had not been held and the President had not indicated when it would be held.

6.0 Way Forward

The Grand Coalition is a long journey that the Zambian people have walked in the quest for a people driven constitution. The GC has demonstrated that unity of purpose gives people the power to influence their leaders. When people move in one accord and speak with one voice, they achieve more than they would working individually.

The focus of the GC going forward will be to fight for the adoption and enactment of the expanded Bill of Rights. The Grand Coalition is going to reposition the campaign and develop new strategies to ensure that a comprehensive expanded Bill of Rights is adopted through a national referendum, and enacted in 2016.

As the journey continues...

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Vision: A Southern African community
that drives its own development