

**29<sup>th</sup> May 2025**

**For Immediate Release**

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**JOINT CSO STATEMENT ON CONSTITUTIONAL (AMENDMENT) BILL 2025**

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We, the undersigned Civil Society Organisations, having carefully examined the content and implications of the proposed constitutional reforms, wish to reiterate and express our concerns regarding both the process and substance of the proposed amendments. While we firmly acknowledge the necessity of constitutional reform to consolidate our democracy, we are equally convinced that such a process must be **transparent, inclusive, and deliberative to be legitimate and sustainable**. Unfortunately, the **current proposals and process fall short on all these fronts**. Rather than addressing Zambia's longstanding governance deficits in a meaningful and cohesive way, they offer fragmented, inconsistent, and at times regressive changes that risk compounding existing weaknesses in our constitutional order.

We stress that constitutional reform must not be approached through isolated tinkering or political expediency. Instead, it requires a holistic understanding of how various institutions and provisions interact to support democratic governance, the rule of law, accountability, and inclusive development. Reform proposals should therefore be guided by transparent and rigorous analysis, broad-based public consultation, and a commitment to democratic renewal. Regrettably, the current process lacks these qualities and fails to inspire public confidence. While our concerns span multiple aspects of the proposed amendments, we wish to highlight the following key areas that are particularly problematic and emblematic of the broader flaws in the process.

## **1. Mixed Member Proportional Representation (MMPR) and Increase in Number of Constituencies: A Superficial and Poorly Conceived Reform**

The proposed introduction of a Mixed Member Proportional Representation system is presented as a tool to enhance inclusivity, particularly for women, youth, and persons with disabilities. However, this measure is both inadequately designed and poorly justified. Proportional representation, in its true sense, is meant to ensure that electoral outcomes reflect the will of the people and that marginalised voices are meaningfully included in decision-making structures. These types of systems are highly complex, with many different models in use around the world, and yet the government has not provided any analysis or research to demonstrate how they arrived at the system they outline in the Bill. The current proposal undermines that objective on several levels:

First, the proportion of seats reserved for marginalised groups under the proposed system is deeply inadequate, less than 15% for women, youth, and persons with disabilities, which is lower than the existing 18% representation of women in Parliament. This risks relegating women, youth and persons with disabilities to the reserved seats and amounting to regression rather than progress.

Second, the proposal entirely omits the local government level, which the Constitution mandates should also have fair representation of women, youth, and persons with disabilities. The local government level is a critical tier of governance, and where women and youth have historically also been most underrepresented. Without local government reform, any purported gains at the national level are likely to be illusory and disconnected from grassroots realities.

Third, the proposal lacks any binding mechanisms requiring political parties to nominate more women, youth, and persons with disabilities for both constituency seats

and the proportional-list seats. This omission renders the system largely symbolic. Without enforcement mechanisms, such as mandatory quotas or penalties for non-compliance, there is little reason to believe the proposal will translate into actual representational gains. We may, if the proposal is adopted, have less representation for marginalised groups than we currently have.

Finally, true proportionality must go beyond representation in numbers; it must encompass equity in political influence, resources, and voice. The current proposal does nothing to dismantle the institutional and cultural barriers that have historically excluded marginalised groups from politics.

Ladies and Gentlemen, the proposed increase in the number of constituencies, as outlined in the text of the draft Bill is concerning due to the lack of transparency and public engagement surrounding the process. Zambians have been denied the opportunity to review the delimitation report, which purportedly informed the decision to create 55 new constituencies. This opacity undermines the legitimacy of the process and erodes public trust in institutions tasked with upholding democratic principles. In a ministerial statement to the National Assembly in 2020, the then Minister of Justice informed the nation that the Electoral Commission of Zambia had proposed an increase of 90 constituencies, yet the current proposal for 55 new seats appears to deviate from this recommendation without explanation. The absence of the delimitation report prevents citizens, civil society, and other stakeholders from scrutinising the basis for these new constituencies, raising serious concerns about whether the delineation disproportionately favours the ruling party or other vested interests. Such secrecy is antithetical to the principles of accountability and fairness that should underpin any constitutional reform process.

Furthermore, the lack of justification for the additional constituencies risks significantly distorting the democratic principle of equal representation, as enshrined in Article 59 of the Zambian Constitution, which mandates equitable delimitation of constituencies. Without a publicly available delimitation report, there is no assurance that the proposed increase ensures fair representation or addresses population disparities. Instead, the arbitrary addition of 55 constituencies may lead to substantial imbalances in voting power, with some voters being significantly overrepresented and others underrepresented, thus undermining the one-person-one-vote principle. This apparent disregard for constitutional safeguards and transparency not only weakens the integrity of the electoral process but also fuels suspicions of partisan manipulation. The ECZ and the government must urgently release the delimitation report and provide a clear, evidence-based rationale for the proposed increase to restore public confidence and ensure that constitutional reforms serve the interests of all Zambians, not a select few.

By entrenching a larger National Assembly as a permanent feature of our political system, the reforms will likely increase long-term public expenditure rather than reduce it. In a context where the cost of governance already outpaces investment in essential public services, this is an unacceptable outcome.

## **2. By-Elections: A Misguided and Incomplete Attempt at Reform**

There is no doubt that the frequency and cost of by-elections in Zambia are a source of public concern. However, the proposed reforms fail to offer a principled or effective solution. Instead, they risk replacing one problem with another.

The proposal lacks detail on how vacancies will be filled by parties, creating serious legal and operational ambiguities. If political parties are to retain control of seats without clear replacement procedures, the result will be increased political gatekeeping, reduced voter influence, and weakened accountability.

A more effective solution would involve limiting by-elections to exceptional circumstances and introducing clearly defined, democratically accountable methods of replacing MPs, such as open party primaries or pre-declared party lists subjected to electoral approval. These measures would both reduce cost and enhance transparency.

### **3. Term of Parliament: A Disruptive and Illogical Adjustment**

The proposal to dissolve Parliament just one day before the general elections is both constitutionally flawed and practically unworkable. The Constitution provides that delimitation takes effect upon the dissolution of Parliament. If Parliament is dissolved one day before elections, and the Constitution requires that the decisions relating to delimitation shall come into effect on the next dissolution of Parliament or councils, it would be impossible for the Electoral Commission of Zambia to conduct elections in newly created constituencies in a timely and fair manner. Voter education, ballot printing, logistical deployment, and voter roll adjustments cannot possibly occur within 24 hours.

This proposal effectively sabotages the delimitation process and exposes elections to legal challenges and administrative chaos. It also disrupts the democratic rhythm of governance, as Parliamentarians would remain in office without performing any legislative or oversight functions for an extended period. This raises questions about

the value of their continued remuneration and the constitutional basis for their presence.

Instead, the Constitution should provide for a rational timeline for dissolution, ideally several months before elections, to allow the ECZ and other stakeholders to prepare adequately, ensuring legitimacy and integrity in the electoral process.

#### **4. Dissolution of Cabinet and Councils: A Partial Reform That Undermines Itself**

We welcome the proposal to dissolve the Cabinet ahead of elections as a safeguard against the misuse of public resources and incumbency advantages. However, this measure is fatally undermined by the concurrent proposal to extend the tenure of Members of Parliament. If ministers who were also MPs continue to receive emoluments and enjoy the privileges of office without performing legislative or executive functions, this raises serious concerns about wastefulness, unfair advantage, and public trust.

Moreover, this inconsistency creates the very conditions the reform purports to eliminate - continued access to state resources by politically active individuals during election season. A consistent and coherent reform approach would require both Cabinet and Parliament to dissolve within a reasonable timeframe, creating a level electoral playing field and restoring public confidence.

## **5. MPs in Councils: A Regressive Step That Weakens Devolution**

The proposed reintroduction of MPs into local councils flies in the face of Zambia's long-standing commitment to devolution and democratic separation of powers. MPs serve a national legislative and oversight function and should not interfere in the governance of local authorities. This move risks concentrating power at the centre, undermining local autonomy, and distorting accountability lines. Under the current proposal, on what basis would the National Assembly Committee provide oversight over the affairs of local authorities when they are actively involved in the affairs of the local authorities?

Historically, this dual-role arrangement created friction, confusion of roles, and undermined service delivery. It was removed precisely because it blurred the distinction between national oversight and local service delivery. Reinstating it without public consultation is both undemocratic and dangerous.

If MPs are reinserted into councils, local authorities will become beholden to national political interests rather than the needs of their constituencies. This risks reversing progress toward empowering local governance and decentralisation.

## **6. Term Limits for Mayors: Necessary for Democratic Practice**

Mayors hold executive office. Executive term limits are a key part of democratic practice, preventing the entrenchment of power and facilitating leadership renewal. The proposed reforms remove term limits for Mayors and Council Chairpersons, undermining democratic values and principles.

Without such limits, entrenched interests risk capturing these positions, leading to patronage networks, weakened accountability, and policy stagnation. Term limits encourage innovation, promote performance-based leadership, and strengthen democratic competition at the local level.

## **7. Experience of the Secretary to the Cabinet: Diluting Professional Standards of the Public Service**

The Secretary to the Cabinet is the apex of Zambia's civil service and plays a critical role in ensuring institutional memory, policy continuity, and administrative integrity. The proposal to weaken the minimum qualifications and experience required for this position threatens the professionalisation of the public service. Moreover, there has been no justification for this requirement.

While inclusivity in public appointments is desirable, it must not come at the cost of competence, impartiality, and experience. Lowering the threshold for one of the most senior public offices risks politicising the civil service and weakening its effectiveness. A more appropriate approach would be to retain rigorous qualification standards, and broaden the eligibility criteria to include appropriate senior government roles, while enhancing access through transparent, merit-based recruitment processes.

## **8. Presidential Nominees in Parliament: A Democratic Contradiction**

The proposal to increase the number of presidential nominees in Parliament undermines the spirit of the separation of powers and only works to extend Executive influence on the legislature. This is an affront to representative democracy and an



open invitation to executive overreach. In a genuine proportional representation system, the need for nominated MPs becomes obsolete, as diversity and representation are achieved through electoral design.

Increasing presidential nominees undermine the doctrine of separation of powers, diminish the independence of Parliament, consolidate power in the hands of the President, and is out of step with modern constitutional reforms. It creates a class of legislators whose loyalty is to the appointing authority, not the electorate, and who cannot be held accountable by citizens.

We strongly oppose this proposal and call for the complete elimination of nominated MPs. Parliament must be composed entirely of elected representatives who derive their legitimacy from the people.

Ladies and Gentlemen, when proposing these reforms, those in support and the government argued that the President has not appointed women, youth and persons with disabilities because there are no express provisions to mandate this. In the proposal, the President is still not mandated to ensure that his appointments ensure fair representation for marginalised groups. This highlights how disingenuous the government has been about these proposals.

## **Conclusion**

The current constitutional reform proposals are fundamentally flawed in content, method, and ambition. They offer fragmented changes that neither address Zambia's deep-rooted governance challenges nor align with democratic principles. The reforms are riddled with contradictions, omissions, and inconsistencies that betray a lack of vision and inclusive engagement. The proposed constitutional reforms in Zambia are

marred by a troubling lack of transparency regarding the studies, reports, or research that ostensibly underpin the government's positions. The absence of publicly accessible documentation, such as the delimitation report informing the proposed increase in constituencies, prevents Zambians from understanding the rationale behind critical amendments, including the determination of which provisions are deemed "non-contentious." This opacity raises serious questions about the legitimacy of the reform process and undermines public trust in governance institutions. Without access to the evidence base—whether demographic data, electoral studies, or stakeholder analyses—citizens and civil society organisations are unable to scrutinise the proposals or verify their alignment with Zambia's democratic principles. This lack of transparency not only violates the spirit of accountable governance but also risks entrenching reforms that may serve partisan interests rather than the collective good, further eroding confidence in the constitutional framework.

Equally concerning is the absence of a credible, meaningful, and transparent consultative process to guide the development of these reforms. Constitutional amendments of this magnitude require broad-based, inclusive engagement with citizens, civil society, political parties, and other stakeholders to ensure that the resulting framework reflects the aspirations of all Zambians. Instead, the process has been marked by limited public participation and inadequate opportunities for meaningful dialogue, leaving many feeling excluded from a process that will fundamentally shape the nation's governance. A credible consultative process would involve public hearings, accessible dissemination of proposed changes, and clear timelines for feedback, none of which have been adequately provided. This failure to engage Zambians in a transparent and participatory manner contravenes the principles of democratic governance and risks producing a constitution that lacks

legitimacy and broad-based support, ultimately undermining its durability and effectiveness.

We therefore demand an immediate halt to the current process and a reconstitution of a credible, inclusive, and transparent constitutional reform agenda.

We call on the government to honour the democratic aspirations of the Zambian people and to abandon these regressive and piecemeal proposals in favour of a comprehensive, citizen-driven process.

Zambia deserves a constitution that is inclusive, coherent, future-focused, and anchored in the lived realities and aspirations of all its people, not one that serves narrow interests or short-term political convenience.

[Original Copy signed]

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**TI-Z EXECUTIVE DIRECTOR**

For and On Behalf of:

1. Action Aid Zambia
2. Advocates For Democratic Governance Foundation
3. Alliance for Accountability Advocates Zambia
4. Alliance for Community Action
5. Chapter One Foundation
6. Christian Churches Monitoring Group
7. Operational Young Vote
8. People's Action for Accountability and Governance in Zambia
9. Transparency International Zambia
10. Women in Law in Africa
11. Zambia Council for Social Development