



Policy, Legislation and Institutional Monitoring (PLIM)

2nd Ethics and Accountability Forum (EAF) Position Paper

Does the new draft Constitution adequately address issues of transparency, accountability and good governance?

This position paper has been prepared by the Ethics and Accountability Forum (EAF) which runs under the auspices of Transparency International Zimbabwe (TI-Z). Transparency International Zimbabwe (TI Z) is a local chapter of the global movement against corruption. Its broad mandate is to fight corruption and related vices through networks of integrity. TI-Z upholds that corruption can only be sufficiently tackled in a democratic society that follows principles of good governance. In line with its broad mandate TI-Z established the EAF as a way to bring together key stakeholders including various individuals in their personal and professional capacities from different organisations (governmental, non-governmental as well as the private sector).

The overall objective of the EAF is to bring together various players from the different sectors at national level to discuss pertinent corruption issues and find solutions to this cancer by highlighting and advocating for policies, systems and structures that encourage principles of transparency, accountability and integrity. The 2nd EAF was held on the 16th of August 2012 at the Holiday Inn in Harare. The topic which was before the EAF which is the focus of this position paper is: ***“Does the new draft Constitution adequately address issues of transparency, accountability and good governance?”***

The topic was identified based on the fact that COPAC announced its conclusion of the draft in July 2012. TI Z and the EAF are cognisant of the fact that this is a draft which, *inter alia*, is still subject to the scrutiny of the principals to the GPA as well as a referendum by the people of Zimbabwe. However, it is still of the paramount importance for the EAF (and

Zimbabweans in general) to take a keen interest in this document in order to assess its strengths and weaknesses and where necessary demand the inclusion or rejection of certain clauses. Such scrutiny will ultimately benefit all Zimbabweans to be in the position to cast a well-informed constitutional vote.

The new draft Constitution adequately addresses issues of transparency, accountability and good governance. This position was derived from the fact that there are many relevant and progressive clauses that have been included in this document that address transparency, accountability and good governance to a great extent. This means that a sufficient foundation is laid out in this draft to encourage and even mandate policy and legislation to this effect. Some noteworthy examples of this are as follows:

Preamble: Constitutional Preambles are often the first words of 'the people', their *raison d'être* and their *cri de coeur*. Their importance is not confined to the legal and political arena. Culturally specific, their simple but direct language may permeate the social and cultural fabric, acting as a potential totem for state, community and individual. The preamble in the new draft constitution is thus an important inclusion as it *Recognises the need to entrench democracy, good, transparent and accountable governance and the rule of law.*

Founding Values and Principals and National Objectives: The inclusion of these chapters is quite important especially when one takes note of the fact that they echo and enforce the requirements of the preamble by upholding the principles of

transparency, accountability and good governance.

The Executive, Legislature and Judiciary: The chapters that cover these arms of government have included clauses that, *inter alia*, make the Executive accountable to parliament, allow for public access and involvement in parliament as well as bind the judiciary to effective and transparent administration of justice. These aspects allow for greater checks and balances and a more transparent society.

Principles of Public Administration and leadership: This chapter mandates the requirement to exercise good corporate governance in public administration and even goes as far as requiring parliament to enact legislation that will mandate and regulate these principles.

Suffice it to say, the above-mentioned aspects are merely a summary of some of the aspects of this constitution. The EAF is confident in stipulating that this draft constitution adequately addresses issues of transparency, accountability and good governance as this is a clear, well-drafted theme throughout this document in almost every chapter.

The primary recommendation with regards to this document, however, is the fact that the draft lays a foundation which must be enunciated by other acts of parliament and regulations where necessary. Should the provisions surrounding the subject matter *in casu* prevail; there is still a great need for the enactment of coherent, well-informed and progressive legislation (and the enforcement there-of) in order to complete the process which this draft constitution pioneers.

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