

**THE CONSTITUTION OF ZAMBIA (AMENDMENT)
BILL, 2016**

MEMORANDUM

The object of this Bill is to amend the Constitution of Zambia so as to—

- (a) revise the Bill of Rights to include civil, political, economic, social, cultural, environmental, further and special rights;
- (b) entrench the supremacy of the Constitution, Articles 4 and 5 of the Constitution, the electoral systems for the election of a President and Members of Parliament, the tenure of office of a President and vacancy in the office of President, the election of a Vice-President as a running mate to a presidential candidate, the provisions on the appointment, responsibilities and tenure of Ministers and Provincial Ministers, and the provisions relating to the amendment of the Constitution;
- (c) revise the provisions relating to the declaration of war, state of public emergency, threatened state of public emergency and national disasters;
- (d) revise the provisions on amendment of the Constitution; and
- (e) provide for matters connected with, or incidental to, the foregoing.

A. MWANSA,
Solicitor-General

N.A.B. 37, 2016
23rd May, 2016

A BILL

ENTITLED

An Act to amend the Constitution of Zambia.

ENACTED by the Parliament of Zambia

Enactment

1. This Act may be cited as the Constitution of Zambia (Amendment) (No.) Act, 2016, and shall be read as one with the Constitution of Zambia, in this Act referred to as the Constitution.

Short title

Cap. 1

5 2. The Constitution is amended by the repeal of Part III and the substitution thereof of the following:

Repeal and replacement of Part III

PART III

BILL OF RIGHT

Status, Application and Interpretation

10 11. (1) The Bill of Rights, as provided for in this Part, is fundamental to democracy and constitutionalism and shall be the basis of Zambia's social, political, legal, economic and cultural policies and State action.

Status of Bill of Rights

(2) The rights and freedoms set out in this Bill of Rights—

15 (a) are inherent in each individual;

(b) protect the dignity of the person;

(c) include rights and freedoms which are consistent with this Constitution but not expressly provided for, except those that are repugnant to the morals and values of the people of Zambia; and

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(d) are subject to the limitations, derogations and restrictions provided for in Articles 53, 54 and 55.

N.A.B. 37, 2016

Recognition of role of civil society	12. The State shall recognise the role of civil society in the promotion and protection of the Bill of Rights.	
Development of jurisprudence and Bill of Rights interpretation	13. (1) Where legislation does not give effect to a right or freedom, the Constitutional Court shall develop human rights jurisprudence.	5
	(2) A court, the Human Rights Commission, a State institution, a person or body shall interpret a right or freedom in a manner consistent with Articles 11, 266, 267 and 272.	

Civil and Political Rights

Protection from discrimination	14. A person shall not be discriminated against, except under a law that provides for affirmative action.	10
Right to life	15. (1) A person has the right to life.	
	(2) The life of a person begins at conception.	
	(3) A person shall not be deprived of life intentionally, except for a capital offence the sentence of which is death, subject to limitations, defences and extent prescribed.	15
	(4) A court shall not impose a sentence of death on a convict—	
	(a) who is pregnant;	
	(b) who is a child; or	
	(c) where there are extenuating circumstances relating to the commission of the offence.	20
Freedom of person	16. A person has the right to freedom of the person which includes the right not to be deprived of that freedom arbitrarily.	
Security of person and protection from inhuman treatment	17. (1) A person has the right to security of the person which includes the right not to be subjected to human trafficking.	25
	(2) A person has the right not to be—	
	(a) subjected to torture; or	
	(b) treated or punished in a cruel, inhuman or degrading manner.	
Protection from slavery, servitude and forced labour	18. (1) A person shall not be held in slavery or servitude.	30
	(2) A person shall not be required to perform forced labour.	

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A. MWANSA,
Solicitor-General

19. A person has the right to privacy, which includes the right not to—

Protection of
privacy of
person, home,
property and
communication

- (a) be searched;
- (b) have that person's home or property searched;
- 5 (c) have that person's possessions seized;
- (d) have information relating to that person's family, health status or private affairs unlawfully required or revealed; or
- (e) have the privacy of that person's communications infringed.

10 20. (1) A person has the right to freedom of conscience, belief and religion.

Freedom of
conscience,
belief and
religion

(2) A person has the right, individually or in community with others, publicly or privately, to manifest any religion or belief through worship, observance, practice or teaching, including the observance
15 of a day of worship.

(3) Clause (2) does not extend to conduct or statements that infringe the enjoyment of freedom of conscience, belief and religion by others or that may incite religious wars.

(4) A person shall not be compelled to act, or engage in an act
20 that is, contrary to that person's conscience, belief or religion.

(5) A person shall not be deprived of access to an institution or a facility on the basis of that person's belief or religion.

21. (1) A person has the right to freedom of expression which includes—

Freedom of
expression

- 25 (a) freedom to hold an opinion;
- (b) freedom to receive or impart information or ideas;
- (c) freedom of artistic creativity;
- (d) academic freedom; and
- 30 (e) freedom of scientific and technological research, as prescribed.

(2) Clause (1) does not extend to—

- (a) conduct or statements which incite war, genocide, crimes against humanity or other forms of violence; or
- (b) statements which—
 - 35 (i) vilify or disparage others; or
 - (ii) incite hatred.