



REPUBLIC OF ZAMBIA

**MINISTERIAL STATEMENT**  
**BY THE**  
**HONOURABLE MINISTER OF JUSTICE,**  
**MR GIVEN LUBINDA, MP**  
**ON THE OUTCOME OF THE REFERENDUM**  
**HELD ON 11<sup>TH</sup> AUGUST 2016**  
**AND THE WAY FORWARD.**

**OCTOBER 2016.**

**MINISTERIAL STATEMENT BY THE HONOURABLE MINISTER  
OF JUSTICE MR GIVEN LUBINDA, MP ON THE OUTCOME OF  
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WAY FORWARD**

**MR SPEAKER**

ON THE 11<sup>TH</sup> DAY OF AUGUST 2016, ZAMBIA HELD A REFERENDUM ALONGSIDE THE GENERAL ELECTIONS. THE PURPOSE OF THE REFERENDUM WAS TO ALLOW ZAMBIANS TO ANSWER THE FOLLOWING QUESTION:

“DO YOU AGREE TO THE AMENDMENT TO THE CONSTITUTION TO ENHANCE THE BILL OF RIGHTS CONTAINED IN PART III OF THE CONSTITUTION OF ZAMBIA AND TO REPEAL AND REPLACE ARTICLE 79 OF THE CONSTITUTION OF ZAMBIA?”

THE REQUIREMENTS FOR THE SUCCESS OF THE REFERENDUM IN ACCORDANCE WITH ARTICLE 79 OF THE CONSTITUTION ARE TWOFOLD, FIRSTLY THAT AT LEAST HALF OF THE ELIGIBLE VOTERS MUST TURN OUT TO VOTE IN THE REFERENDUM AND SECONDLY THAT THE MAJORITY OF THOSE WHO TURN OUT MUST VOTE “YES” TO THE REFERENDUM QUESTION.

**MR SPEAKER**

THE POPULATION ESTIMATE FOR THE ELIGIBILITY TO VOTE IN THE REFERENDUM WAS PROVIDED BY THE CENTRAL STATISTICAL OFFICE IN EXERCISE OF THEIR POWERS TO USE SAMPLING METHODS TO ESTIMATE THE TOTAL POPULATION UNDER THE CENSUS AND STATISTICS ACT, CHAPTER 127 OF THE LAWS OF ZAMBIA. THE REASON FOR THIS ESTIMATION WAS BECAUSE A CENSUS IS ONLY CONDUCTED ONCE EVERY TEN YEARS AND THE NEXT CENSUS FOR ZAMBIA IS SCHEDULED TO BE HELD IN 2020. THE RESULTS OF THE 2010 CENSUS WERE STILL VALID AND COULD THEREFORE BE USED FOR THE PURPOSES OF ESTIMATING THE POPULATION OF ZAMBIANS ENTITLED TO VOTE.

**MR SPEAKER**

THE TOTAL POPULATION THAT WAS ESTIMATED TO BE ELIGIBLE TO VOTE IN THE AUGUST 11 REFERENDUM WAS SEVEN MILLION, FIVE HUNDRED AND TWENTY-EIGHT THOUSAND AND NINETY-ONE (7,528,091) ZAMBIANS. IN ORDER FOR THE REFERENDUM TO SUCCEED, AT LEAST THREE MILLION, SEVEN HUNDRED AND SIXTY-FOUR THOUSAND AND FORTY-FIVE (3,764,045) CITIZENS NEEDED TO TURN OUT. THE NUMBER OF ELIGIBLE VOTERS THAT PARTICIPATED IN THE REFERENDUM WAS (3,345,471), REPRESENTING A TOTAL

TURNOUT OF 44.44%, WHICH WAS BELOW THE 50% THRESHOLD REQUIRED FOR THE TURNOUT TO HAVE SATISFIED THE REQUIREMENTS OF ARTICLE 79 OF THE CONSTITUTION.

OUT OF THE VOTERS THAT TURNED OUT AND VOTED, ONE MILLION, EIGHT HUNDRED AND FIFTY-TWO THOUSAND, FIVE HUNDRED AND FIFTY-NINE (1,852,559) VOTED "YES" WHILE SEVEN HUNDRED AND FIFTY-THREE THOUSAND, FIVE HUNDRED AND FORTY-NINE (753,549) VOTED "NO" AND SEVEN HUNDRED AND THIRTY-NINE THOUSAND THREE HUNDRED AND SIXTY THREE (739,363), VOTES WERE REJECTED.

**MR SPEAKER**

THE FAILURE OF THE REFERENDUM ENTAILS THAT THE CURRENT BILL OF RIGHTS, CONTAINED IN PART III OF THE CONSTITUTION, CONTINUES TO BE IN EFFECT UNTIL SUCH A TIME THAT A REFERENDUM SUCCEEDS.

**MR SPEAKER**

AS THIS AUGUST HOUSE IS AWARE, THE CONSTITUTION REQUIRED REFORMING IN ITS ENTIRETY IN ORDER TO MEET THE ASPIRATIONS OF THE PEOPLE. THE FACT THAT PART OF THE CONSTITUTION HAS BEEN REFORMED MAKES IT EVEN

MORE IMPERATIVE THAT THE BILL OF RIGHTS BE EXPANDED IN ORDER TO GIVE MORE RIGHTS TO THE CITIZENS. THE RIGHTS CONTAINED IN THE PROPOSED BILL OF RIGHTS WHICH WAS SUBJECTED TO THE REFERENDUM INCLUDED ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS AND FURTHER AND SPECIAL RIGHTS. MORE SPECIFICALLY THESE RIGHTS WOULD HAVE INCLUDED:

1. RIGHT TO HEALTH CARE SERVICES;
2. RIGHT TO EDUCATION;
3. RIGHT TO DECENT HOUSING;
4. RIGHT TO FOOD OF ACCEPTABLE STANDARD;
5. RIGHT TO CLEAN AND SAFE WATER;
6. RIGHT TO DECENT SANITATION AND SOCIAL PROTECTION;
7. RIGHT TO CHOOSE A TRADE, OCCUPATION OR PROFESSION;
8. RIGHT TO EMPLOYMENT AND FAIR LABOUR PRACTICES;
9. CONSUMER RIGHTS;
10. LANGUAGE, CULTURE AND INTELLECTUAL PROPERTY RIGHTS;
11. RIGHT TO SAFE, CLEAN AND HEALTHY ENVIRONMENT
12. FURTHER RIGHTS FOR OLDER MEMBERS OF SOCIETY.
13. FURTHER PROTECTIONS AND RIGHTS RELATING TO MARRIAGE;
14. SPECIAL AND FURTHER RIGHTS FOR CHILDREN;

15. FURTHER RIGHTS FOR YOUTHS AND FURTHER PROTECTION OF YOUNG PERSONS;
16. FURTHER RIGHTS FOR PERSONS WITH DISABILITIES;
17. FREEDOMS OF DEMONSTRATION, PICKET AND PETITION;
18. ACCESS TO INFORMATION AND FREEDOM OF MEDIA;
19. GENERAL RIGHT TO PARTICIPATE IN POLITICAL ACTIVITIES;
20. RIGHT OF ASYLUM SEEKERS AND REFUGEES NOT TO BE RETURNED TO COUNTRY OF ORIGIN OR OTHER COUNTRY WHERE THEY HAVE A WELL-FOUNDED FEAR OF PERSECUTION;
21. EQUALITY BEFORE LAW, FAIR ADMINISTRATION, ACCESS TO JUSTICE, RETRIAL AND RE-EXAMINATION OF EVIDENCE;
22. RIGHTS OF SUSPECTS, PERSONS IN CUSTODY AND DETAINEES;
23. EQUALITY OF BOTH GENDER AND SO ON.

**MR SPEAKER**

THE PATRIOTIC FRONT GOVERNMENT REMAINS COMMITTED TO ENSURE THAT THE WILL OF THE ZAMBIAN PEOPLE IS RESPECTED AND THAT THE CITIZENS ARE GIVEN ANOTHER OPPORTUNITY AS SOON AS PRACTICALLY POSSIBLE IN ORDER FOR THEM TO VOTE TO GIVE THEMSELVES AN ENHANCED BILL OF RIGHTS.

**MR SPEAKER**

AS ALL HONOURABLE MEMBERS OF THE AUGUST HOUSE ARE AWARE, THE HOLDING OF A REFERENDUM IS AN EXTREMELY COSTLY BUT IMPORTANT EXERCISE, WHICH NEEDS TO BE UNDERTAKEN IN A MANNER THAT ENSURES THE GREATEST LIKELIHOOD OF SUCCESS. FURTHER, THE RESPONSIBILITY OF GOVERNMENT TO SENSITISE THE PEOPLE ON THE IMPORTANCE OF THE REFERENDUM AND THE BILL OF RIGHTS DOES NOT END MERELY BECAUSE THE REFERENDUM OF 11<sup>TH</sup> AUGUST, 2016 DID NOT SUCCEED.

**MR SPEAKER**

IT IS GOVERNMENT'S INTENTION TO CONTINUE SENSITISING THE CITIZENS ON THE IMPORTANCE OF THE BILL OF RIGHTS AND THE NEED TO VOTE IN THE REFERENDUM. FURTHER, GOVERNMENT REMAINS COMMITTED TO ENSURING THAT THE ENHANCED BILL OF RIGHTS SUCCESSFULLY GETS ADOPTED THROUGH THE REFERENDUM.

**MR SPEAKER**

IN ORDER TO DEFINITELY DETERMINE THE NEXT STEPS FORWARD, GOVERNMENT IS UNDERTAKING CONSULTATIONS IN ORDER TO DETERMINE THE BEST WAY TO ENSURE THAT THE

ENHANCED BILL OF RIGHTS FORMS PART OF THE CONSTITUTION.

**MR SPEAKER**

ONCE GOVERNMENT HAS CONCLUDED THESE CONSULTATIONS, A COMPREHENSIVE STATEMENT ON THE WAY FORWARD WILL BE ISSUED WITH REGARD TO THE ADOPTION OF THE ENHANCED BILL OF RIGHTS THROUGH A REFERENDUM.

**MR SPEAKER**

I WISH TO COMMEND ALL THOSE STAKEHOLDERS NAMELY, THE CHURCHES, CIVIL SOCIETY ORGANISATIONS, AND POLITICAL PARTIES WHO SENSITISED PEOPLE ON THE NEED TO VOTE IN THE REFERENDUM, ESPECIALLY THOSE WHO CAMPAIGNED FOR THE YES VOTE. IN ADDITION I COMMEND THOSE WHO TURNED OUT TO VOTE AND VOTED "YES".

I FURTHER WISH TO CALL ON ALL STAKEHOLDERS TO GET INVOLVED IN FURTHER SENSITISATION OF THE PEOPLE AS WE PREPARE FOR THE NEXT PROCESSES.



**MR SPEAKER**

LET ME END BY REMINDING OURSELVES THAT IN WHATEVER WE DO, WE SHOULD NOT REFLECT OUR PERSONAL MYOPIC INTERESTS BUT REFLECT THE INTERESTS OF OUR CHILDREN AND THEIR CHILDREN AFTER THEM. THIS IS IN CONSONANT WITH WHAT HIS EXCELLENCY PRESIDENT EDGAR CHAGWA LUNGU SAID AT THE OPENING OF THE FIRST SESSION OF THE TWELFTH NATIONAL ASSEMBLY NAMELY AND I QUOTE "WE DO NOT INHERIT OUR COUNTRY FROM OUR FOREFATHERS OR ANCESTORS, WE BORROW IT FROM OUR CHILDREN.

MR SPEAKER, I THANK YOU!