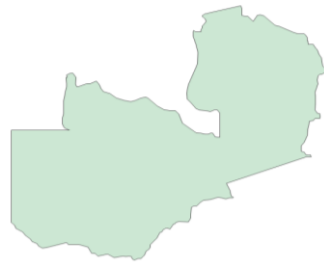




Republic of Zambia



**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**

# **REPORT ON CONSULTATIONS ON ZAMBIA'S POSITION ON ITS MEMBERSHIP TO THE INTERNATIONAL CRIMINAL COURT**

*Ministry of Justice  
May, 2017*

# FOREWORD

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In line with Zambia's aspirations of engaging all citizens in subjects that require their input to solicit collective wisdom for the advancement of democracy, the Government of the Republic of Zambia, through the Ministry of Justice, undertook a consultative process to ascertain Zambia's position on the International Criminal Court (ICC). This consultative process was triggered by a non-binding recommendation on a mass withdrawal from the ICC that was arrived at during the 28<sup>th</sup> Summit of the Assembly of the African Union (AU) which was held in Addis Ababa, Ethiopia, from 30<sup>th</sup> - 31<sup>st</sup> January, 2017.

Due to the non-binding nature of the aforementioned recommendation, some Member States of the AU expressly gave their positions to withdraw while others indicated their position not to withdraw. However, other Member States, including Zambia, had reservations to commit themselves at the meeting.

In keeping with the tenets of good governance; and in recognition of the sovereignty of the Republic of Zambia, the President, His Excellency, Mr. Edgar Chagwa Lungu, opted to consult the citizens of Zambia to solicit for their wisdom on this important matter of international concern. In this regard, the consultation process was undertaken in collaboration with some Civil Society Organisations in 31 districts of Zambia which were sampled for public sittings. However, the process was also open to all members of the general public, countrywide, who were required to make written submissions, through the offices of the District Commissioners.

On behalf of the President of the Republic of Zambia, H.E. Mr. Edgar Chagwa Lungu and Patriotic Front Government, I wish to thank all members of the general public for their participation and support during the consultative process; and members of the Civil Society Organisations who contributed to the success of this process.



Hon. Given Lubinda, M.P  
**Minister of Justice**  
**REPUBLIC OF ZAMBIA**

# ACKNOWLEDGEMENTS

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I wish to acknowledge the contribution of the following people in the preparation of this report:

1. The Minister of Justice, Hon. Given Lubinda, MP for his guidance, resilience and wise leadership that he exhibited throughout the consultative process;
2. The Secretary to the Cabinet, Dr. Roland Msiska, and his team at the Cabinet Office for timely facilitation of required logistics for the consultative process;
3. The Secretary to the Treasury, Mr. Fredson K. Yamba, Ministry of Finance, for the timely facilitation of the resources for the consultative process;
4. District Commissioners, Town Clerks, Council Secretaries and all officers from Provincial and District Administration for the role they played in coordinating all activities for the process;
5. All staff from ZANIS and Media that facilitated in the dissemination of materials and information about sittings in all districts;
6. All officers from Civil Society Organisations who were involved, namely; Mr. Mwenge Chimfwembwe (Foundation for Democratic Process); Ms. Muloongo Simuzingili (Civil Society for Poverty Reduction); Ms. Mandy Manda (Non-Governmental Organisation Coordinating Council); and Ms. Chilando Lungu (Transparency International-Zambia); and
7. All staff from the Ministry of Justice for coordinating the process.



Thandiwe Daka Oteng  
**Permanent Secretary**  
**MINISTRY OF JUSTICE**

# EXECUTIVE SUMMARY

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This report highlights the findings of the consultation process on Zambia's position on its Membership to the ICC. The consultation process commenced on 22<sup>nd</sup> March, 2017, with a Ministerial Statement and the Launch which were aimed at sensitising members of the general public and was concluded by a validation of the findings with members of the Civil Society Organisations on 19<sup>th</sup> May, 2017.

A total of 31 districts were sampled to obtain the views of the people on the subject matter: Three districts were selected from each of the 10 provinces. In addition to this, there was a sitting for Lusaka district where members of the general public made their submissions. Additionally, members of CSOs, Political Parties and Institutions were invited to make their submissions.

Participation in the consultation process was voluntary. This gave the process objectivity as it accorded members of the general public to freely participate at their own will. Their participation was informed by publicity that was done using Zambia News and Information Service (ZANIS)'s Public Address System; flyers; print and electronic media; and radio stations; prior to sittings in order to enhance people' participation.

A total of 3,489 submissions were received during the consultation process. Of this figure, 3377 were from individuals and 112 were from CSO's and institutions.

From the total submissions received, 91.43% of the petitioners were against Zambia's withdrawal of its membership from the ICC, while 8.57% were of the view that Zambia should withdraw its membership from the ICC.

Among the Petitioners who were against Zambia's withdrawal from the ICC, the highest percentage recorded was for those that felt that the ICC was required to deter leaders with dictatorial tendencies and individuals who oppress fellow human beings.

On the other hand the majority of Petitioners who submitted that Zambia should withdraw from the ICC argued that the ICC was biased towards Africans.

## **ACRONYMS AND ABBREVIATIONS**

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AU	African Union
C/Belt	Copperbelt
CSOs	Civil Society Organisations
CSPR	Civil Society for Poverty Reduction
DC	District Commissioner
ECOWAS	Economic Community of West African States
ICC	International Criminal Court
ILA	International Law and Agreements
MOJ	Ministry of Justice
NWP	North-western Province
SADC	Southern Africa Development Community
ZANIS	Zambia News and Information Services

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# Chapter 1: OVERVIEW OF THE INTERNATIONAL CRIMINAL COURT

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## 1.0 Introduction

- 1.0.1 The ICC is established under Article 1 of the Rome Statute. The Rome Statute is an international treaty which establishes a permanent court which has the power to exercise jurisdiction over persons who commit serious crimes within member states.
- 1.0.2 As of 3<sup>rd</sup> December 2016, a total of 124 states had ratified or acceded to the Rome Statute. Zambia signed the Rome Statute on 17<sup>th</sup> February, 1998 and ratified it on 13<sup>th</sup> November, 2002. The Rome Statute entered into force on 1<sup>st</sup> February, 2003.
- 1.0.3 The ICC was established in order to promote deterrence of massive killings, torture of targeted groups, apartheid, transfer of children as child soldiers, enslavement and many other massive atrocities.
- 1.0.4 The ICC imposes criminal liability on individuals for crimes committed in times of war and peace. It supplements national criminal systems because it only assumes jurisdiction if the national criminal system fails to prosecute individuals who commit large scale crimes.

## 1.1 Jurisdiction of the International Criminal Court

- 1.1.1 The jurisdiction of the ICC covers the following crimes as listed in Article 5 of the Rome Statute:
- a) **Genocide** (for example: killing or causing serious bodily or mental harm to members of a group);
  - b) **Crimes Against Humanity** (for example: murder; extermination; torture; sexual violence; persecution; enslavement or imprisonment or other severe deprivation of physical liberty);



- c) **War Crimes** (for example: wilful killing; torture; inhumane treatment; wilfully causing great suffering; or destruction and appropriation of property); and
- d) **Crimes of Aggression** (for example: invasion or attack by armed forces against territory; or military occupation of territory)

## **1.2 Circumstances for referral of matters to the International Criminal Court**

1.2.1 The circumstances under which a matter may be referred to the ICC are as follows:

- a) Referral by a state party to the ICC;
- b) Referral by the United Nations Security Council; and
- c) Where the prosecutor of the ICC has initiated an investigation.

## **Chapter 2: BACKGROUND ON THE CONSULTATIVE PROCESS**

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### **2.0 Introduction**

- 2.0.1 At the 28<sup>th</sup> Summit of the Assembly of the African Union that was held from 30<sup>th</sup> - 31<sup>st</sup> January, 2017 in Addis Ababa, Ethiopia, member states raised concerns regarding the partiality of the ICC.
- 2.0.2 This observation prompted debate amongst member states on whether they should withdraw or retain their membership to the ICC.

### **2.1 Proponents for Withdrawal**

- 2.1.1 Proponents for withdrawal such as Burundi, Gambia, Kenya and South Africa argue that the ICC unfairly targets Africans. They argue that since its establishment in 2002, nine of the ten situations that the ICC has investigated relate to African states, namely, the Democratic Republic of Congo, Uganda, the Central African Republic, Darfur/Sudan, Central African Republic (I & II), Kenya, Libya, Cote D'voire and Mali. At the date of the 28<sup>th</sup> Summit of the Assembly of the African Union, Georgia was the only country outside Africa facing an investigation.
- 2.1.2 Further, proponents argue that some practices of the ICC are incompatible with domestic and international norms citing the immunity of a head of state as an example. They argue that indicting a sitting president of a country is equivalent to indicting the country itself.
- 2.1.3 In addition, those in support of withdrawal from the ICC, argue that the indictments against sitting presidents interferes with the ongoing peace processes to mediate conflict situations and that there are legal mechanisms at national, regional and continental levels that can handle African cases. They contend that the ICC was meant to be a court of last resort.
- 2.1.4 Another argument in support of withdrawal is that the ICC is futile as some of the States which are responsible for violating international criminal law are not

members of the Court. It is argued that some of these countries have made themselves out of reach of international justice by not signing the Rome Statute and yet they are part of the United National Security Council which can refer situations to the ICC.

## **2.2 Opponents for Withdrawal**

- 2.2.1 Those against the withdrawal from the ICC in Africa such as Botswana, Cape Verde, Nigeria and Senegal argue that there are good reasons why most of the investigations by the Office of the Prosecutor of the ICC have been in Africa.
- 2.2.2 In addition, they argue that the jurisdiction of the ICC is limited because there are specific crimes over which the ICC has jurisdiction. The ICC supplements national criminal systems because it only assumes jurisdiction if the national criminal system fails to prosecute individuals who commit international crimes.
- 2.2.3 They also argue that investigations into African situations have been opened at the request, or with the support of African states. Five of the African situations under investigation were self-referred while two were referred by the United National Security Council and the last two were upon request of the ICC prosecutor.
- 2.2.4 Furthermore, those against the withdrawal from the ICC opine that situations under investigations or prosecutions in Africa are distinguished by the gravity of crimes perpetrated in Africa, and an unwillingness or inability on the part of the states concerned to investigate or prosecute the crimes of such great magnitude.
- 2.2.5 Lastly, those against the withdrawal from the ICC argue that the ICC is necessary to hold leaders accountable and afford justice to many victims of war crimes and genocide worldwide.

## **2.3 Resolution of the 28<sup>th</sup> Summit of the Assembly of the African Union**

- 2.3.1 In view of the foregoing, at the 28<sup>th</sup> Summit of the Assembly of the African Union (AU) that was held from 30<sup>th</sup> to 31<sup>st</sup> January, 2017 in Addis Ababa, Ethiopia,

member states resolved on a non-binding recommendation for a mass withdrawal of African states from the ICC, citing the partiality of the court.

- 2.3.2 In keeping with the tenets of good governance, His Excellency, the President of the Republic of Zambia, Mr. Edgar Chagwa Lungu, decided to consult the citizens of Zambia on this important matter of international concern. Zambia is expected to give her position on the matter during the 29<sup>th</sup> Summit of the Assembly of the African Union scheduled for July, 2017.
- 2.3.3 In this regard, the Cabinet, at its sitting on Monday, 13<sup>th</sup> February, 2017, authorised the Minister of Justice to initiate and spearhead a countrywide consultation process regarding Zambia's position on its membership to the ICC and to prepare a report on the findings.
- 2.3.4 The public consultations commenced on 27<sup>th</sup> March, 2017 and were concluded by 20<sup>th</sup> April, 2017.

## **Chapter 3: METHODOLOGY FOR CONSULTATION PROCESS**

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### **3.0 Introduction**

- 3.0.1 This Chapter outlines the methodology that was followed in conducting the consultation process.
- 3.0.2 The process comprised the following major elements:
- a) Pre-fieldwork;
  - b) Facilitation Teams; and
  - c) Fieldwork.

### **3.1 Pre-Field Work**

- 3.1.1 The pre-field work involved establishment of the teams that undertook the consultative process; preparation of the background materials for members of the general public; and the preparation of the study instruments.

### **3.2 Facilitation Teams**

- 3.2.1 Facilitators were drawn from the Ministry of Justice and some Civil Society Organisations (CSOs). Five teams of five facilitators comprising four from the Ministry of Justice and one from CSOs were constituted. Each team tackled two provinces.

### **3.3 Ministerial Statement and Launch of the Consultative Process**

- 3.3.1 In order to trigger the sensitisation of members of the general public, the Minister of Justice, Hon. Given Lubinda, MP, on 22<sup>nd</sup> March, 2017 made a Ministerial Statement to inform Members of Parliament about Government's decision to consult the people on Zambia's position on its membership to the ICC. Thereafter, the Minister launched the consultation process through the media on 23<sup>rd</sup> March, 2017. This was followed by publishing the roadmap of the consultative process in the print and electronic media.

### **3.4 Fieldwork**

3.4.1 Prior to fieldwork, some officers from the Ministry of Justice were appointed as members of the Advance Parties to conduct the following activities in respective provinces that they were allotted to:

- a) Engage Provincial Permanent Secretaries on the consultation process;
- b) Engage District Commissioners on the consultation process;
- c) Engage Town Clerks/Council Secretaries to request for venues;
- d) Engage Zambia News and Information Services (ZANIS) for publicity.
- e) Engage Zambia Police Service to provide security at the venues;
- f) Engage Community/Commercial Radio Stations for publicity;
- g) Arrange the venues for the sittings; and
- h) Distribute materials on the ICC to members of the public.

3.4.2 Participation in the consultation process was voluntary. Publicity was done using ZANIS's Public Address System; distribution of flyers; print and electronic media; and community/commercial radio stations; all prior to sittings.

### **3.5 Sampled Districts**

3.5.1 A total of 31 districts were sampled for this process. There were 3 districts selected from each of the 10 provinces. In addition to this, there was a sitting for Lusaka district where in addition to the members of the general public, all CSOs, Political Parties and Institutions were invited to make their submissions.

3.5.2 The sampled districts were as follows:

#### **I. Central Province**

- a) Kabwe;
- b) Mumbwa; and
- c) Serenje;

**II. Eastern Province**

- a) Chipata;
- b) Lundanzi; and
- c) Petauke.

**III. Copperbelt Province**

- a) Ndola;
- b) Mufulira; and
- c) Mpongwe.

**IV. Luapula Province**

- a) Mansa;
- b) Samfya; and
- c) Kawambwa.

**V. Lusaka Province**

- a) Lusaka;
- b) Chirundu;
- c) Chilanga; and
- d) Chongwe.

**VI. Mchinga Province**

- a) Chinsali;
- b) Mpika; and
- c) Nakonde;

**VII. Northern Province**

- a) Kasama;
- b) Luwingu; and
- c) Mbala.

**VIII. North-Western Province**

- a) Solwezi.
- b) Mwinilunga; and
- c) Zambezi.

**IX. Southern Province**

- a) Choma;
- b) Livingstone; and
- c) Monze.

**X. Western Province**

- a) Mongu;
- b) Kalabo; and
- c) Sesheke.

3.5.3 A number of factors were taken into consideration to select the districts. The first criterion was to ensure that all Provincial Headquarters were purposefully selected. The other criterion was based on a combination of an urban and a rural set up of districts. The aspects of time limit, cost and accessibility were also taken into consideration when selecting these districts.

3.5.4 However, members of the general public were also encouraged to make written submissions through the offices of District Commissioners countrywide in order to take into consideration the districts that were not selected for public sitting.

3.5.5 All written submissions were to be forwarded to the office of the Permanent Secretary, Ministry of Justice.

**3.6 Preparations for Public Sittings**

3.6.1 Prior to the public sittings, the facilitators from the Ministry of Justice sensitised the districts where public sittings took place. In this regard, Zambia National Information Services (ZANIS) and local radio stations were engaged to sensitise the people about the ICC and the need for them to make voluntary submissions during public sittings. Information and education materials such as flyers, the Rome Statute and general information about the ICC were also distributed along with adverts on Zambia National Broadcasting and Corporation Television.

3.6.2 The Provincial Permanent Secretaries, District Commissioners and Local Authorities were also adequately sensitised and were urged to encourage the people to



make either oral submissions during public sittings or written submissions through the Offices of the DCs.

- 3.6.3 Each petitioner was allocated a maximum of 10 minutes to make oral submissions. The Chairperson had to establish whether petitioners were making submissions in their individual capacity or representing organisations.
- 3.6.4 Submissions were made in English or local languages. For those who opted to make their submissions in their local languages, an interpreter was available to translate from local language to English to enable the facilitators capture the proceedings in English.
- 3.6.5 Participants who attended sittings and petitioned were allowed to state their position on whether or not Zambia should withdraw its membership from the ICC. The positions of the participants were captured by facilitators on the "**Data Capturing Form.**"
- 3.6.6 In order to re-affirm the position of the petitioners, the chairperson of each sitting requested each petitioner to state whether he/she was **For Withdrawing** or **Against Withdrawing**, which information, was captured by ticking in the appropriate box at the bottom end of the Data Capturing Form. Further the petitioners were requested to state the reasons for their positions.

### **3.7 Data Analysis**

- 3.7.1 All submissions were immediately separated into two categories as follows:
  - a) Those against withdrawing from the ICC; and
  - b) Those advocating for withdrawing from the ICC.
- 3.7.2 The respondents' age, sex, organization, and district were also used during the analysis of the report.

- 3.7.3 This was followed by the use of analytical framework to come up with categories of responses from the submissions that were received. Key concepts and phrases were used to build up to nine (9) categories of responses. This was done by reading each and every submission and tallying them accordingly.
- 3.7.4 A further analysis was done for all the institutions that made either written or oral submissions. This was important for comparison purposes between individual responses and institutional based responses on Zambia's position on ICC.
- 3.7.5 The statistical data analysis was conducted using Microsoft Excel. This included the generation of pie charts and bar charts.

### **3.8 Validation**

- 3.8.1 The draft report was validated at national level by CSOs and Institutions that made submissions during the consultation process. All comments from the validation workshop were incorporated into the final report.

## Chapter 4: FINDINGS OF THE CONSULTATION PROCESS

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### 4.0 Introduction

4.0.1 The findings of the consultative process were categorised by province, age, gender and reason of the petitioner.

### 4.1 Total submissions by Province

4.1.1 A total of 3,489 submissions were received as indicated in Table 4.1. Of this figure, 3377 were from individual citizens; and 112 were from CSOs and institutions.

**Table 4.1: Total Submissions by Province**

Province	Submissions by Individual	Submissions by CSO's and institutions.	Total Submissions	Percentage of Totals
Central	507	0	507	14.53
Copperbelt	340	6	346	9.92
Eastern	262	5	267	7.65
Luapula	266	6	272	7.80
Lusaka	278	24	302	8.66
Muchinga	315	1	316	9.06
Northern	414	13	427	12.24
N/Western	435	7	442	12.67
Southern	373	24	397	11.38
Western	187	26	213	6.10
<b>TOTAL</b>	<b>3377</b>	<b>112</b>	<b>3489</b>	<b>100.0</b>

4.1.2 With regard to regional participation, Central province had the highest percentage at 14.53%. This was followed by North-western and Northern provinces which had 12.67% and 12.24%, respectively.

4.1.3 Western province recorded the lowest percentage of participants at 6.10% followed by Eastern province which recorded 7.65%.

## 4.2 Participation by Gender

- 4.2.1 Table 4.2 shows participation by gender. This indicates that participation was dominated by male participants (87.88%) in comparison to females who comprised only 12.12%.
- 4.2.2 Numerical analysis of participation by gender shows that the highest number of females (90) was from Central Province, followed by Northern Province which had 61 females and Lusaka Province which had 52 females. Central Province also had the highest number totalling 417 followed by North-western Province which had 395 and Northern Province which had 364.
- 4.2.3 Western Province recorded the lowest number (8) of female participants followed by Southern Province which had 22. In a similar manner, Western Province had the lowest number of male participation (205), followed by Eastern Province which had 240 males.

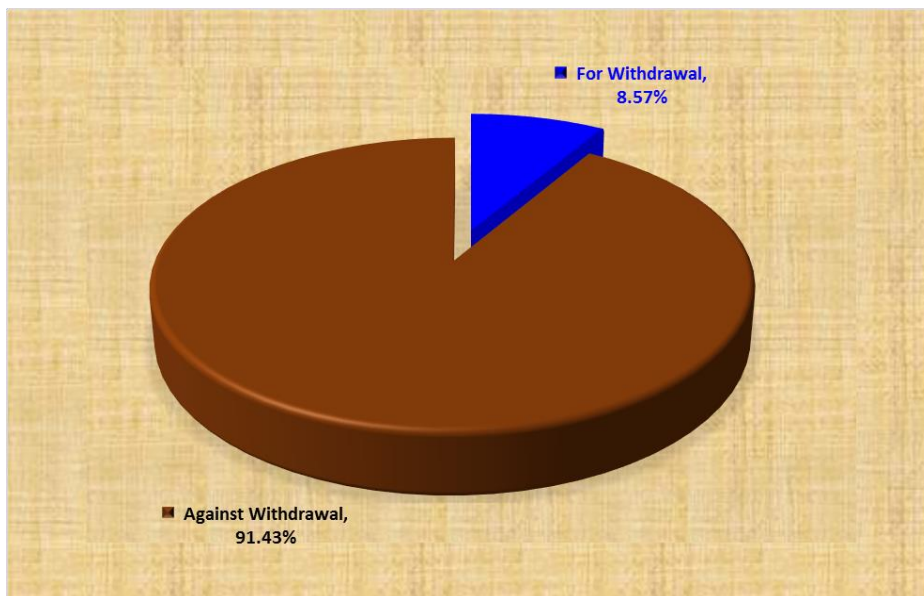
**Table 4.2: Participation by Gender**

Province	Gender				Total
	Males	Percentage	Females	Percentage	
Central	417	82.25	90	17.75	507
Copperbelt	300	86.71	46	13.29	346
Eastern	240	89.89	27	10.11	267
Luapula	238	87.50	34	12.50	272
Lusaka	250	82.78	52	17.22	302
Muchinga	282	89.24	34	10.76	316
Northern	364	85.25	63	14.75	427
N/Western	395	89.37	47	10.63	442
Southern	375	94.46	22	5.54	397
Western	205	96.24	8	3.76	213
<b>TOTAL</b>	<b>3066</b>	<b>87.88</b>	<b>423</b>	<b>12.12</b>	<b>3489</b>

## 4.3 Analysis of results at National Level

- 4.3.1 From the total submissions received, 91.43% of the petitioners were against Zambia's withdrawal of its membership from the ICC, while 8.57% were of the view that Zambia should withdraw its membership from the ICC as shown in Figure 4.1.

**Figure 4.1: Percentage of Results at National Level**



#### **4.4 Analysis of results by Province**

- 4.4.1 Respective percentage of results within respective provinces are indicated in Table 4.3. According to Table 4.3, the highest percentage of petitioners that preferred Zambia's withdrawal of its membership from the ICC was recorded from Muchinga Province at 16.46%. This was followed by Copperbelt and Eastern Provinces which recorded 15.32% and 13.11%, respectively.
- 4.4.2 The lowest percent of submissions which preferred Zambia's withdrawal from the ICC was recorded from Southern Province at 0.76%; Western Province at 2.35% and North-Western Province at 3.39%.

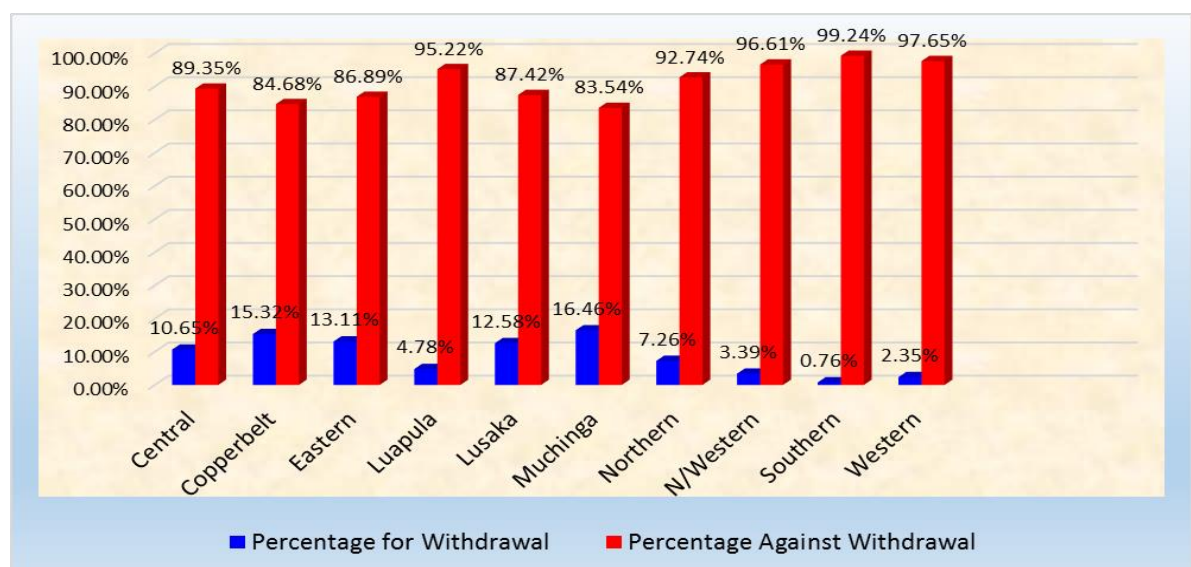
**Table 4.3: Total Submissions and Results by Province**

Province	For Withdrawal	Percentage for Withdrawal	Against Withdrawal	Percentage Against Withdrawal	Total Submissions
Central	54	10.65	453	89.35	507
Copperbelt	53	15.32	293	84.68	346
Eastern	35	13.11	232	86.89	267
Luapula	13	4.78	259	95.22	272
Lusaka	38	12.58	264	87.42	302
Muchinga	52	16.46	264	83.54	316
Northern	31	7.26	396	92.74	427
N/Western	15	3.39	427	96.61	442
Southern	3	0.76	394	99.24	397
Western	5	2.35	208	97.65	213
<b>TOTAL</b>	<b>299</b>	<b>8.57</b>	<b>3190</b>	<b>91.43</b>	<b>3489</b>

4.4.3 On the other hand, the highest percentage of submissions that were against Zambia's withdrawal of its membership from the ICC was recorded from Southern Province at 99.24%. This was followed by Western and North-western Province at 97.65% and 96.61%, respectively.

4.4.4 Figure 4.2 depicts graphical analysis of the results by each province.

**Figure 4.2: Graphical Representation of the Results by each Province**



## 4.5 Analysis of Results from Individual Submissions

4.5.1 Table 4.4 shows results from Individual Citizens. This indicates that 9.03% of individuals were of the view that Zambia should withdraw from the ICC while 90.97% were against.

**Table 4.4: Results from Individual Submissions by Province**

Province	For Withdrawal	Percentage for Withdrawal	Percentage Against Withdrawal	Percentage Against Withdrawal	Total Submissions
Central	54	1.60	453	13.41	507
Copperbelt	53	1.57	287	8.49	340
Eastern	36	1.07	226	6.69	262
Luapula	13	0.38	253	7.49	266
Lusaka	43	1.27	235	6.95	278
Muchinga	52	1.54	263	7.78	315
Northern	32	0.95	382	11.31	414
N/Western	15	0.44	420	12.43	435
Southern	3	0.09	370	10.95	373
Western	4	0.12	185	5.47	189
<b>TOTAL</b>	<b>305</b>	<b>9.03</b>	<b>3074</b>	<b>90.97</b>	<b>3379</b>

## 4.6 Results from Civil Society Organisations and Institutions

4.6.1 With regard to the CSOs and Institutions, 0.89% were of the view that Zambia should withdraw from the ICC while 98.21% were against Zambia's withdrawal from the ICC, as shown in Table 4.5.

**Table 4.5: Total Submissions and Results for CSOs and Institutions by Province**

Province	For Withdrawal	Percentage for Withdrawal	Against Withdrawal	Percentage Against Withdrawal	Total Submissions
Central	0	0.00	0	0.00	0
Copperbelt	0	0.00	6	5.36	6
Eastern	0	0.00	5	4.46	5
Luapula	0	0.00	5	4.46	6
Lusaka	1	0.89	23	20.54	24
Muchinga	0	0.00	1	0.89	1
Northern	0	0.00	13	11.61	13
N/Western	0	0.00	7	6.25	7
Southern	0	0.00	24	21.43	24
Western	0	0.00	26	23.21	26
<b>Grand Total</b>	<b>1</b>	<b>0.89</b>	<b>110</b>	<b>98.21%</b>	<b>112</b>

#### 4.7 Analysis of Results by Regional Participation and by Gender

- 4.7.1 Table 4.6 shows results of regional participation of petitioners by gender. The total number of petitioners who were of the view that Zambia should withdraw its membership from the ICC was 299. Of this figure, 38 were females while 261 were males. The highest number of females that preferred Zambia's withdrawal was recorded in the Copperbelt Province (9) and Lusaka Province (9). This was followed by Central and Muchinga Provinces which recorded 6 each. Luapula, Southern and Western had no females that were in preference of Zambia's withdrawal while Eastern and Northern Provinces had 2 each.
- 4.7.2 With regard to those against Zambia's withdrawal, Central Province had the highest number of females (84), followed by Northern Province which recorded 61; and Lusaka and North-western Provinces which had 43 each.
- 4.7.3 The highest number of males for withdrawal was recorded in Central Province (48) followed by Muchinga Province (46) while the lowest number of males was recorded in Western and Southern Province at 5 and 2, respectively. Under those that were against withdrawal of Zambia's membership from the ICC, Northern Province (384), Southern Province (372), Central Province (369) recorded the highest numbers of petitioners while Western (200), Eastern (207) and Lusaka Provinces (221) recorded the lowest petitioners.

**Table 4.6: Results by Regional Participation and by Gender**

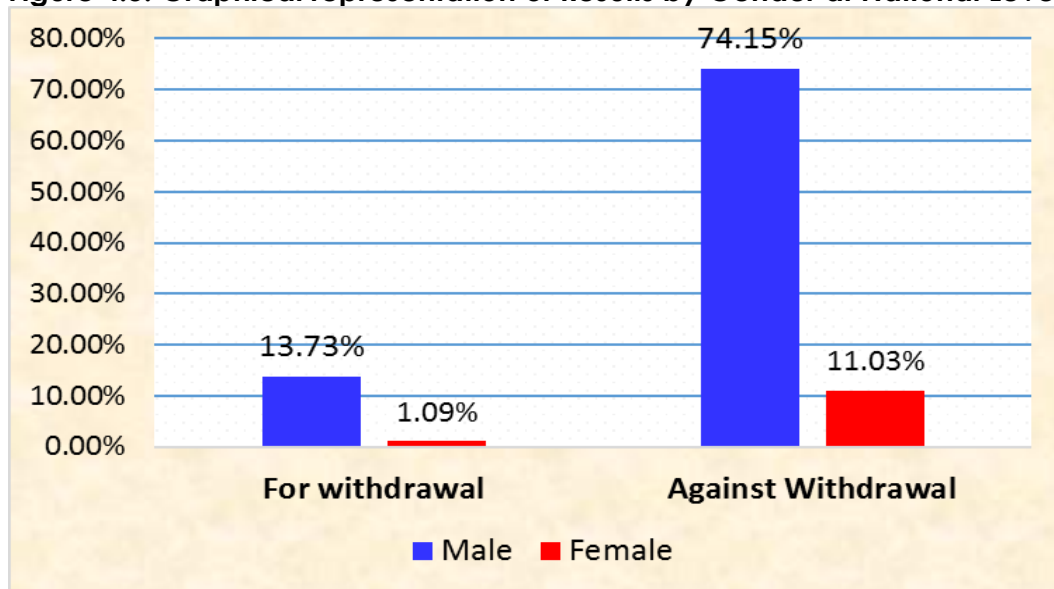
FOR WITHDRAWAL											
GENDER	Central	C/belt	Eastern	Luapula	Lusaka	Muchinga	Northern	NWP	Southern	Western	Total
Male	48	44	33	13	29	46	29	11	3	5	261
Female	6	9	2	0	9	6	2	4	0	0	38
S/Total	<b>54</b>	<b>53</b>	<b>35</b>	<b>13</b>	<b>38</b>	<b>52</b>	<b>31</b>	<b>15</b>	<b>3</b>	<b>5</b>	<b>299</b>
AGAINST WITHDRAWAL											
GENDER	Central	C/belt	Eastern	Luapula	Lusaka	Muchinga	Northern	NWP	Southern	Western	Total
Male	369	256	207	225	221	236	335	384	372	200	2805
Female	84	37	25	34	43	28	61	43	22	8	385
S/Total	<b>453</b>	<b>293</b>	<b>232</b>	<b>259</b>	<b>264</b>	<b>264</b>	<b>396</b>	<b>427</b>	<b>394</b>	<b>208</b>	<b>3190</b>
G/TOTAL	<b>507</b>	<b>346</b>	<b>267</b>	<b>272</b>	<b>302</b>	<b>316</b>	<b>427</b>	<b>442</b>	<b>397</b>	<b>213</b>	<b>3489</b>



## 4.8 Analysis of Results by Gender at National Level

4.8.1 Analysis of results by gender at national level revealed that of the 87.88% (referred to in Table 4.2) of the males who were consulted, the majority (74.15%) were against Zambia's withdrawal from the ICC while 13.73% were in favour of for Zambia's withdrawal. Similarly, out of the 12.12% of the females who were consulted, the majority (11.03%) were against Zambia's withdrawal from the ICC while only 1.09% were for in favour of Zambia's withdrawal as shown in Figure 4.3. Details of absolute figures by province are given in Annex 2.

**Figure 4.3: Graphical representation of Results by Gender at National Level**



## 4.9 Analysis of Results by Age Group at National Level

4.9.1 Table 4.7 shows the results of petitioners by their age group at national level. This illustrates that the age group, 31-50 years old, had the highest percentage of submissions against Zambia's withdrawal from the ICC at 40.73%. This was followed by the age group from 51-70 years old at 32.76%. In a similar manner, the age group, 31-50 years old, recorded the highest number of those who preferred that Zambia withdraw from the ICC at 5.89% followed by the age group from 51-70 years old at 1.98%. The lowest percentage was recorded from the age group, 30 years old and below, at 1.03% the age group, 70 years old and above, at 0.17%.

**Table 4.7: Results of Age Group at National Level**

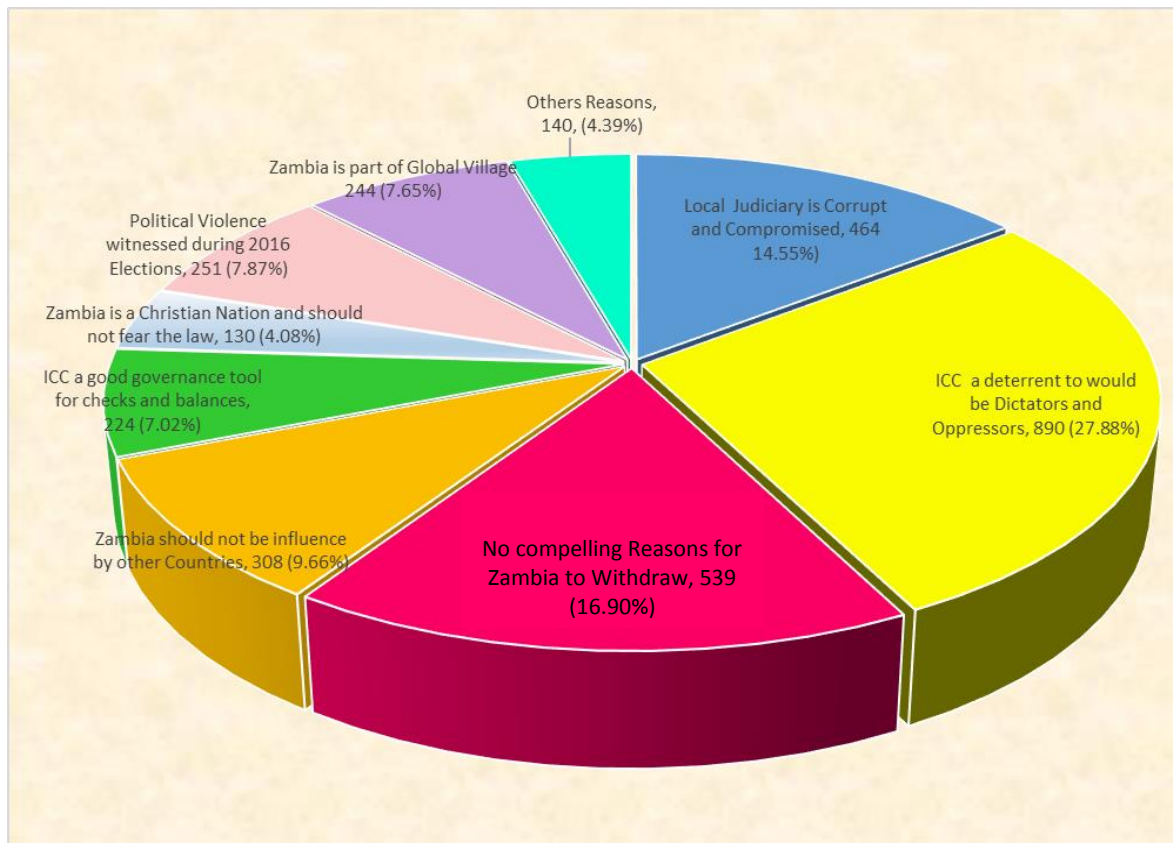
Level	Age Group (Years)	For withdraw	%age For Withdraw	Against Withdraw	%age Against Withdraw	Total
National	30 and below	36	1.03%	431	12.35%	467
	31-50	188	5.39%	1421	40.73%	1609
	51-70	69	1.98%	1143	32.76%	1212
	70 and above	6	0.17%	195	5.59%	201
			<b>299</b>	<b>8.57%</b>	<b>3190</b>	<b>91.43%</b>

#### 4.10 Petitioner's Reasons Against Withdrawal

4.10.0 A number of reasons were cited by the Petitioners against the withdrawal of Zambia from the ICC. The reasons have been consolidated into nine (9) categories as follows and summarised in respective manner in Figure 3.

- a) Zambia's Judicial system is compromised and corrupt or it cannot handle certain cases;
- b) ICC is required to deter leaders with dictatorial tendencies and other individuals who oppress fellow human beings;
- c) Zambia has no compelling problem to justify its withdrawal from the ICC;
- d) Zambia should not be influenced by leaders advocating for withdrawal because some of such leaders are perceived to have abused the rights of their citizens and may have a hidden agenda;
- e) Zambia should remain a member of the ICC because it is a good governance tool that provides checks and balances;
- f) Zambia is a Christian Nation and should not fear the law (Rome Statute/ICC).
- g) Zambia's electoral violence witnessed during the August, 2016 is a potential for crimes against humanity; and
- h) Zambia is part of the International Community (Global Village) and agrees with the ideals of the ICC.

**Figure 4.4: Responses on Reasons against Withdrawal**



4.10.1 Among the petitioners who indicated that Zambia should not withdraw from the ICC, the highest percentages (27.88%) indicated that the ICC is required to deter leaders with dictatorial tendencies and other individuals who oppress fellow human beings followed by those who cited the reason that Zambia has no compelling problem to justify its withdrawal from the ICC, at 16.90%. Those who cited the reason that Zambia's Judicial system is compromised and corrupt or it cannot handle certain cases were third 14.55%; The fourth group, with a score of 9.66%, in this category, cited the reason that Zambia should not be influenced by leaders advocating for withdrawal because some of such leaders are perceived to have abused the rights of their citizens and may have a hidden agenda.

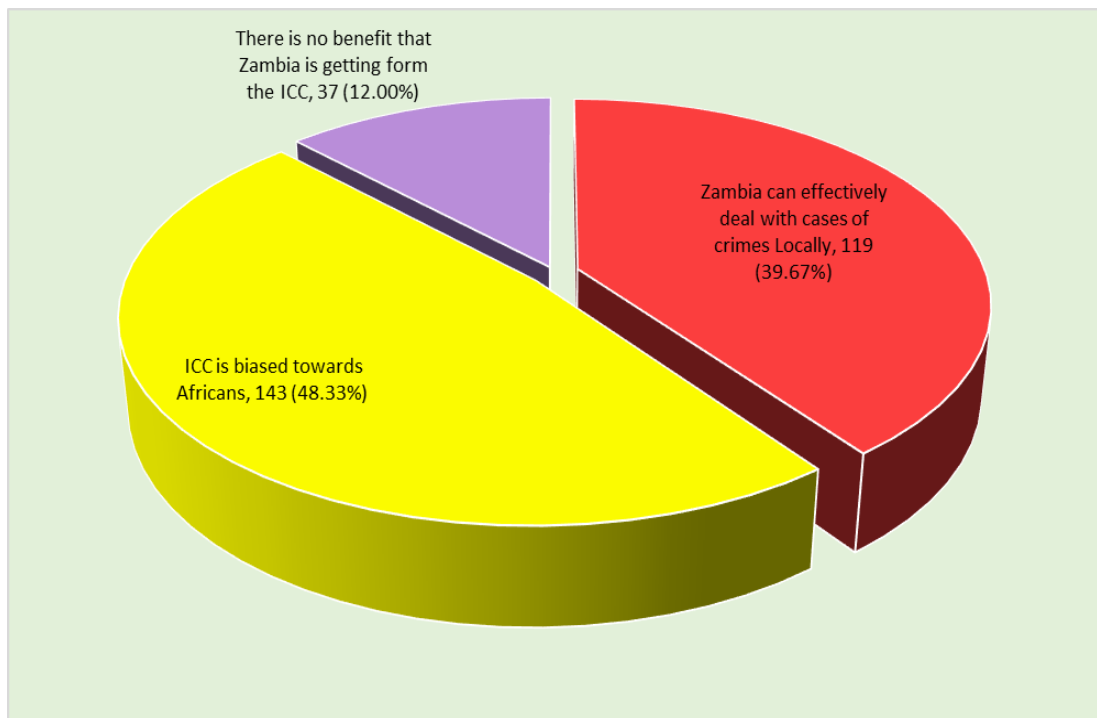
4.10.2 Whereas lower percentages were recorded from those who cited the following reasons such as Zambia's electoral violence witnessed during the August, 2016, General Elections reflects a potential threat to peace and security in the country, at 7.87%; Zambia is part of the International Community (Global Village) at 7.65%; ICC is a good governance tool for checks and balances at 7.02% and that Zambia is a Christian Nation and should not fear the law at 4.08%. Details with regard to absolute figures are given in Annex 3.

#### 4.11 Petitioners' Reasons for Withdrawal

4.11.1 The following reasons were cited by those in support of Zambia's withdrawal from the ICC.

- a) Zambia has its own courts that can effectively deal with cases of crimes against humanity;
- b) ICC is biased towards Africans; and
- c) There is no benefit that Zambia is getting from the ICC apart from losing money through contributions.

**Figure 4.5: Responses on Reasons for Withdrawal**



4.11.2 The majority (48.33%) of petitioners who submitted that Zambia withdraws from the ICC cited the reason that ICC was biased towards Africans. This was followed by those who gave the reason of the fact that Zambia has its own judicial system which can adequately prosecute the crimes stipulated under the Rome Statute at 39.67%. The rest of the petitioners cited the reasons that there is no benefit to membership of the ICC at 12.00% as indicated in Figure 4.5.

## **Chapter 5: OBSERVATIONS AND LIMITATIONS**

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### **5.0 Introduction**

- 5.0.1 This Section of the report outlines observations and limitations made on the consultation process.
- 5.0.2 The observations and limitations may also be used as part of lessons learnt for improvement of future studies where appropriate.

### **5.1 Observations**

- 5.1.1 The key observations made on the consultation process were as follows:
- a) Most submissions were received at individual level as compared to those made by CSO's and Institutions;
  - b) It was noted that there were very few youths and women who attended the public sittings and who made submissions on the question of membership to the ICC;
  - c) There were varied views by members of the public on the justification for the ICC consultation process. The majority members of the public expressed gratitude for being given an opportunity to express their views on the subject whilst others felt that the exercise was costly;
  - d) Members of the public expressed reservations on the modality of making written submissions through offices of the District Commissioners; and
  - e) Some stakeholders were expectant that the outcome of the public sittings would be announced immediately after the sittings.

## **5.2 Limitations**

- a) Some Districts had no access to radio stations and so publicity was limited;
- b) The information packs were not translated into local languages; and
- c) The draft report was only validated by the Lusaka based CSOs and Institutions owing to time constrains.

## **Chapter 6: CONCLUSION**

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### **6.0 Conclusion**

- 6.1 The consultation process on Zambia's position on its membership to the International Criminal Court was successful. The Ministry of Justice managed to hold public sittings in all the 10 provinces (31 districts), and the participation was generally impressive and incident free.
- 6.2 According to the findings, 91.43% of total submissions received were against Zambia's withdrawal of her membership from the ICC while 8.57% indicated that Zambia should withdraw its membership from the ICC.
- 6.3 The key reason advanced by the petitioners who were against Zambia's withdrawal from the ICC was that ICC deters leaders from oppressing citizens. On the other hand, the key reason advanced by those who were advocating for Zambia's withdrawal of her membership from the ICC was that ICC was biased to Africans.
- 6.4 One key recommendation from the petitioners was that African States should consider strengthening the ICC from within and resolve the shortcomings as opposed to calling for a mass withdrawal.

## **Chapter 7: RECOMMENDATIONS BY PETITIONERS**

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### **7.0 Recommendations**

7.0.1 The recommendations that were given by petitioners were as follows:

- a) African States should consider strengthening the ICC from within and resolve the shortcomings as opposed to calling for a mass withdrawal;
- b) Africa should create a Continental Court with the mandate and jurisdiction to prosecute the crimes under the Rome Statute;
- c) SADC should emulate ECOWAS Court so that we may have a Regional Court with criminal jurisdiction;
- d) Zambia should consider domesticating the Rome Statute to enable the Judiciary to hear and prosecute crimes under the said Statute; and
- e) There is need to explore modalities to enable more youths and women to participate in such important national matters.



**ANNEX 1: REGIONAL PARTICIPATION BY GENDER**

<b>FOR WITHDRAWAL</b>											
<b>GENDER</b>	<b>Central</b>	<b>Copperbelt</b>	<b>Eastern</b>	<b>Luapula</b>	<b>Lusaka</b>	<b>Muchinga</b>	<b>Northern</b>	<b>NWP</b>	<b>Southern</b>	<b>Western</b>	<b>Total</b>
<b>Male</b>	48	44	33	13	29	46	29	11	3	5	261
<b>Female</b>	6	9	2	0	9	6	2	4	0	0	38
<b>Sub-Total</b>	<b>54</b>	<b>53</b>	<b>35</b>	<b>13</b>	<b>38</b>	<b>52</b>	<b>31</b>	<b>15</b>	<b>3</b>	<b>5</b>	<b>299</b>

<b>AGAINST WITHDRAWAL</b>											
<b>GENDER</b>	<b>Central</b>	<b>Copperbelt</b>	<b>Eastern</b>	<b>Luapula</b>	<b>Lusaka</b>	<b>Muchinga</b>	<b>Northern</b>	<b>NWP</b>	<b>Southern</b>	<b>Western</b>	<b>Total</b>
<b>Male</b>	369	256	207	225	221	236	335	384	372	200	2805
<b>Female</b>	84	37	25	34	43	28	61	43	22	8	385
<b>Sub-Total</b>	<b>453</b>	<b>293</b>	<b>232</b>	<b>259</b>	<b>264</b>	<b>264</b>	<b>396</b>	<b>427</b>	<b>394</b>	<b>208</b>	<b>3190</b>
<b>GRAND TOTAL</b>	<b>507</b>	<b>346</b>	<b>267</b>	<b>272</b>	<b>302</b>	<b>316</b>	<b>427</b>	<b>442</b>	<b>397</b>	<b>213</b>	<b>3489</b>

**ANNEX 2: PARTICIPATION AND RESULTS BY AGE-GROUP**

<b>FOR WITHDRAWAL</b>											
<b>Age Group</b>	<b>Central</b>	<b>Copperbelt</b>	<b>Eastern</b>	<b>Luapula</b>	<b>Lusaka</b>	<b>Muchinga</b>	<b>Northern</b>	<b>NWP</b>	<b>Southern</b>	<b>Western</b>	<b>Total</b>
30 Years and Below	4	2	8	2	6	9	8	0	0	0	39
31-50 Years	36	34	17	9	27	26	19	9	2	5	185
51-70 Years	14	16	8	2	4	15	4	6	1	0	70
71 Years and Above	0	1	2	0	1	2	0	0	0	0	6
<b>SUB-TOTAL</b>	<b>54</b>	<b>53</b>	<b>35</b>	<b>13</b>	<b>38</b>	<b>52</b>	<b>31</b>	<b>15</b>	<b>3</b>	<b>5</b>	<b>299</b>

<b>AGAINST WITHDRAWAL</b>											
<b>Age Group</b>	<b>Central</b>	<b>Copperbelt</b>	<b>Eastern</b>	<b>Luapula</b>	<b>Lusaka</b>	<b>Muchinga</b>	<b>Northern</b>	<b>NWP</b>	<b>Southern</b>	<b>Western</b>	<b>Total</b>
30 Years and Below	74	20	42	45	19	38	58	25	92	17	430
31-50 Years	199	148	92	116	150	124	196	172	150	80	1427
51-70 Years	151	117	77	85	85	84	115	201	126	95	1136
71 Years and Above	29	8	21	13	10	18	27	29	26	16	197
<b>SUB-TOTAL</b>	<b>453</b>	<b>293</b>	<b>232</b>	<b>259</b>	<b>264</b>	<b>264</b>	<b>396</b>	<b>427</b>	<b>394</b>	<b>208</b>	<b>3190</b>
<b>GRAND TOTAL</b>	<b>507</b>	<b>346</b>	<b>267</b>	<b>272</b>	<b>302</b>	<b>316</b>	<b>427</b>	<b>442</b>	<b>397</b>	<b>213</b>	<b>3489</b>

**ANNEX 3: REASONS AGAINST AND FOR WITHDRAW**

REASON AGAINST WITHDRAW	Central	C/belt	Eastern	Luapula	Lusaka	Muchinga	Northern	NWP	Southern	Western	Total
Local Judiciary is Corrupt and Compromised	86	22	34	30	64	43	29	33	81	42	464
ICC a deterrent to would be Dictators and Oppressors	128	144	49	75	44	73	99	176	62	39	890
No Compelling Reasons for Zambia to Withdraw	62	66	13	60	20	23	153	91	33	18	539
Zambia should not be influence by other Countries	54	0	57	17	36	36	21	14	48	25	308
ICC a good governance tool for checks and balances	32	33	15	5	21	24	11	22	36	25	224
Zambia is a Christian Nation and should not fear the law	15	7	14	11	14	10	10	14	22	13	130
Political Violence witnessed during 2016 Elections	44	1	16	13	30	22	7	42	50	26	251
Zambia is part of Global Village	17	15	18	35	20	19	42	31	34	13	244
Others Reasons	15	5	16	13	15	14	23	4	28	7	140
<b>SUB-TOTAL</b>	<b>453</b>	<b>293</b>	<b>232</b>	<b>259</b>	<b>264</b>	<b>264</b>	<b>395</b>	<b>427</b>	<b>394</b>	<b>208</b>	<b>3190</b>

REASON FOR WITHDRAW	Central	C/belt	Eastern	Luapula	Lusaka	Muchinga	Northern	NWP	Southern	Western	Total
Zambia can effectively deal with cases of crimes locally	19	15	18	4	23	21	12	2	3	2	119
ICC is biased towards Africans	31	25	16	9	13	27	11	10	0	3	143
There is no benefit that Zambia is getting form the ICC	4	13	1	0	2	4	9	3	0	0	37
<b>SUB-TOTAL</b>	<b>54</b>	<b>53</b>	<b>35</b>	<b>13</b>	<b>38</b>	<b>52</b>	<b>32</b>	<b>15</b>	<b>3</b>	<b>5</b>	<b>299</b>
<b>GRAND TOTAL</b>	<b>507</b>	<b>346</b>	<b>267</b>	<b>272</b>	<b>302</b>	<b>316</b>	<b>427</b>	<b>442</b>	<b>397</b>	<b>213</b>	<b>3489</b>

## **ANNEX 4: FACILITATORS FOR CONSULATIONS FROM MINISTRY OF JUSTICE**

### **I. Directors/Heads of Units**

- a) Mrs. Conceptor C. Zulu - Administrator-General & Official Receiver
- b) Mr. Arthur Choobe - Human Resource & Admin (Former)
- c) Ms. Doreen N. Chilobya - Human Resource & Admin (Current)
- d) Mr. Martin Lukwasa - International Law and Agreements
- e) Mr. Charm Kalimbika - Governance Department
- f) Mr. Joe Simachela - Civil Litigation & Prerogative of Mercy
- g) Mr. Chola Mwewa - Deputy Chief Parliamentary Counsel
- h) Mrs. Faides Kalangwa - Principal Accountant
- i) Mr. Muyunda Namushi - Head Procurement

### **II. Secretariat**

- a) Mr. Davies Chikalanga - Access to Justice Specialist
- b) Mr. Vanny Hampondela - Monitoring and Evaluation Specialist
- c) Mrs. Natasha B. Museba - Senior State Advocate
- d) Mr. Rodney Machila - Corporate Governance Analyst
- e) Ms. Chisanga L. Kasonde - State Advocate

### **III. Professional Staff**

- a) Mrs. Yihemba Chirwa - Acting Deputy Administrator General
- b) Mr. Abraham Miti - Economic Governance Specialist
- c) Ms. Lydia Matapo - Assistant Director
- d) Mrs. Olipa Jere Sakala - Parliamentary Counsel
- e) Ms. Bernadette Makondo - Senior Human Resource Management Officer
- f) Mr. Francis Chilunga - Parliamentary Council
- g) Ms. Murah K. Kapamba - Senior State Advocate
- h) Ms. Diana Shamabobo - Assistant State Advocate
- i) Ms. Esther Mukala - Executive Officer
- j) Mrs. Natasha Kalimukwa - Principal Legal Officer
- k) Mr. Fred Imasiku - Principal State Advocate
- l) Mr. Christopher Zulu - Research Assistant
- m) Ms. Ketness Banda - Assistant Accountant
- n) Mr. Kennedy Sinkala - Assistant Accountant
- o) Mr. Evans Mumbi - Assistant Accountant
- p) Mr. John Chanda - Procurement and Supply Officer
- q) Ms. Naureen Kabaso - Procurement and Supply Officer
- r) Ms. Abigail C. Mwila - Procurement and Supply Officer
- s) Ms. Getrude Kaonga - Procurement and Supply Officer

