



GRASSROOT VIEWS On

The Constitution



TISU ANHU ACHO



Campaigners for Human Rights



“The constitution of a nation is not simply a statute which mechanically defines the structures of government and the relations between the government and the governed, it is a 'mirror of the national soul', the identification of the ideals and aspirations of a nation, the articulation of the values binding its people and disciplining its government.” (Former Chief Justice of South Africa, Justice Ismail Mohammed)



Grassroots consultations on the content of the constitution

Consultative meetings held by the Zimbabwe Human Rights Association (ZimRights) have shown that the rights situation in the country hangs in a balance. Countrywide, people are afraid to embrace their right to express themselves freely on issues pertaining to their governance. In light of the impending consultative meetings by the Parliamentary Select Committee, this compromises the quality of data to be gathered by this committee.

A sneak preview of peoples' participation in governance issues has shown rampant apathy, an unwillingness to participate in processes they think will not do anything to change their situation. Of note is the lack of understanding on the importance of their participation in any of these processes. Women's participation remains a case in point as the inferiority of women in the face of their male counterparts is not yet a thing of the past. In most rural communities, the women's voice is still being swallowed by that of the father of the house.

Some of the people engaged by ZimRights have expressed concern over whether or not their contributions to the final document will be taken cognizance of. This document explores some of the key aspects that the organization has seen recurring in the questionnaires that are distributed for the people to fill in.

South Africa, in the spirit of consultation, used different participatory methods to ensure that their constitution was as inclusive of divergent views as possible. During the 1994-1996 period when they wrote their own constitution, the Constitutional Assembly, the body overseeing the constitution making process, got over two million written submissions from members of the public and ZimRights endeavours to do the same in a bid to hear the silent voices.



Background

Zimbabweans have adopted a culture of hesitation mostly in participating in issues pertaining to politics and human rights. This has been necessitated by the brutalities characterized by the involvement of activists in either politics or human rights. This trend has instilled a lot of fear in the people of Zimbabwe to an extent that they cannot openly involve themselves in governance issues.

Establishment of the Government of National Unity in February this year has not done anything to improve people's participation in governance issues. On the contrary, it has increased the amount of skepticism in the sincerity of the political leadership.

The opportunity to participate in the constitution making process as provided for in Article 6 of the Global Political Agreement (GPA) has not been embraced by many as consultations have revealed that some people are unaware of how the whole process will be carried out. Others have said that they will not be attending the meetings that have been scheduled by the Select Committee due to fear. Some people have said that they will not be able to speak at those meetings in light of the politically motivated violence perpetrated against dissenting voices last year.

ZimRights has accorded these people a chance to make their opinions heard through forms which they can fill in anonymously and give to members of this organisation. This document has been informed by the data collected from the forms.

Background to constitution making in Zimbabwe

For the last 29 years, Zimbabwe has been functioning under the Lancaster House Constitution of 1979, a document which is heavily influenced by the colonial past. To date it has been amended a record 19 times. In the year 1999, attempts were made at writing a new constitution under the Chidyausiku Commission. A convention of 396 people, including all 150 Members of the House of Assembly was created to hold consultative meetings in different constituencies. During the months of August and September of that year, the convention held over 5000 consultative meetings around the country.

At the Convention's final meeting on November 29, Justice Chidyausiku announced that the proposed constitution had been adopted "by acclamation" and did not call for a vote. There was dissent within the room, with dissenters arguing that the proposed constitution did not represent the will of the people on issues such as Presidential powers. Opponents argued that the Executive Presidency must be replaced by a Prime Minister accountable to Parliament and that there be a titular, not executive President.

Also, the draft constitution posed a number of other challenges;

1. It proposed to expand the House of assembly to 200 members, 50 elected under proportional representation and to create a 60 member Senate.
2. It proposed to limit the Presidential term to two terms, a provision that would begin after new constitution came into force.
3. The post of Executive President would remain, but be supplemented by a Prime Minister who would be head of government on a day-to-day basis.
4. Opponents of the constitution criticized the legal immunities given to the State and to individuals holding office.
5. The constitution included a clause allowing the Government to illegally dispossess white farmers of their land, with compensation to be paid by the United Kingdom. If the UK refused to pay, the government of Zimbabwe would not be obliged to pay.

All these factors were contrary to the proposals made by people during the consultations. This led to a No Vote in the referendum held on the 12th and 13th of February 2000 and a still birth to a new people driven constitution for the country.

2007 saw the country's three main political parties congregating in a house boat on Lake Kariba and birthing the Kariba Draft constitution. The three parties sought to create a level playing field for the holding of the 2008 harmonised elections. This document has been tabled as the reference document for the creation of the new constitution, a move that has been resisted by a number of civic groups as one that seeks to impose the document on the country instead of developing a new one.

Constitution making- the South African case

The South African Constitution was drafted in 1994-1996 by the Constitutional Assembly, which consisted of all political parties represented in Parliament after the first democratic elections in 1994. Because the Constitution would have to rally and unite a racially divided society, public involvement in the drafting process was an article of faith, as the Chairperson of the Constitutional Assembly, Mr Cyril Ramaphosa, explained in January 1995: "It is important that as we put our vision to the country, we should do so directly, knowing that people out there want to be part of the process and will be responding, because in the end the drafting of the constitution must not be the preserve of the 490 members of this Assembly. It must be a Constitution which they feel they own, a Constitution that they know and feel belongs to them."

The Constitutional Assembly ran a national media and community outreach campaign that is still regarded as one of the most successful of its kind. The campaign sought to inform and educate people about the process, and to stimulate them to take part by submitting their views on what they wanted in the Constitution. South Africans were encouraged to make written submissions to the Constitutional Assembly. One of the iconic images of the campaign was a poster of President Nelson Mandela talking on his cell phone with a talk bubble that read: "Hello, is that the Constitutional Assembly's talk-line? I would like to make my submission."

Public participation contributed to building democracy in four ways. Firstly, it raised public awareness about what constitution-making was about and how important the process was to democracy and nation-building. Secondly, the public submissions informed and educated the constitution-makers. Each submission was scrutinized by experts and all were put before the political parties. Thirdly, it contributed to national consensus and popular legitimacy for the constitution. Fourthly, it set the tone for future public participation in government. An eminent observer paid tribute to the Constitution making process as true participatory democracy.

Since such an extensive media campaign will not be carried out in Zimbabwe, ZimRights carried out their own consultations through a number of activities that they have been carrying out since July this year. A number of concerts were held in Lalapanzi, Mahusekwa, Bulawayo, Harare, Murehwa, Madziva and Neshuro. During these concerts, question and answer segments were held where people were able to speak on the issues they would like raised in the constitution. Also, members of the ZimRights secretariat mingled with the crowds, collecting views from those who were unable to speak on stage.

In Bulawayo, an information centre manned by different civic groups gave people a chance to interact, and ZimRights gave them an opportunity to fill in forms on the things that they want in their constitution.

ZimRights is currently engaged in civic education on the constitution making process in different parts of the country. This has been done through a number of meetings and workshops, according them more opportunities to engage people and their ideas. Below are some of the issues that have come up from these consultations:



Issues Raised

Below are the issues that were raised by the participants at the different consultative meetings:

RESIDENTIAL TENURE

All the people have expressed concern over the president's term of office and have added some of the areas to which the constitution should address and these are listed below:

- ➡ No one over the age of 60 should be President
- ➡ Each President should serve a maximum of two five year terms
- ➡ A President should not be less than 40
- ➡ Every person who gets into office must first declare all their assets before taking office

These suggestions have come as a result of the events that have led to the country's current political status. The constitution should therefore clearly state the conditions and the people's expectations for their leader in office. A President should not entrench him/herself in the presidency and refuse to relinquish power through constitutional amendment when the time for elections comes.

RIGHT TO EDUCATION

A dark cloud has overshadowed the state of the education sector in Zimbabwe. Despite the improvements that have been brought through the establishment of the GNU, Zimbabwe's education is still staggering. The year 2008 was declared void and a waste in terms of education since scholars at all levels had not attended enough lessons or lectures to proceed to the next level. Owing to this, schools and universities will not recruited first level students until 2010. The final straw came with the closure of the University of Zimbabwe, an institution once rated under international standards in terms of the quality of education it provided.

Given this scenario, the people emphasized the need for a constitutional guarantee to education. Some asked that all primary education be free and that students in tertiary institutions be given loans to ensure that they can pay for their education.

RIGHT TO HEALTH

The health sector in Zimbabwe crumbled when most of its medical personnel left the country for greener pastures as a result of the economic decay. Zimbabwe's poor economy and hyper inflationary environment made the purchase of hospital equipment almost impossible. Chronic water shortages and power cuts led to an increase in the mortality rate as some critical procedures could not be carried out, depriving people of their right to health. The outbreak of cholera, a treatable ailment, exposed the glaring gaps in the health sector as many succumbed to this illness. It took international intervention to avert the situation. Signing of the Global Political Agreement has improved the situation, but the right needs to be enshrined in the constitution so that this right can be protected in future.

GENDER EQUALITY

Participation of women in governance and development issues has been greatly limited. This has led to calls from the people and especially women to have an equal representation of both men and women. Gender based discrimination should be stopped, affording men and women equal opportunities. There should be an equal representation of both men and women from state governing arms to the lowest community level.

FREE SPEECH

Last year's political violence and attacks on individuals and groups have led to calls for freedom before and after speech. People were unable to say what they want for fear of being victimized. Politicians threatened people with the notion that if you are not with us then you are against us, depriving people from enjoying their freedom of speech. A person had to be careful who is listening before saying his/her thoughts.

FREE MOVEMENT

During last year's election period, it was difficult for people to move from one place to another without being questioned or interrogated. They were expected to produce party cards that show the party to which one belong. Violence could erupt at any time, making it difficult to move from one place to another. Consequently, the right to free movement was said to be an essential component of the Bill of Rights.

FREE ASSEMBLY

Political chaos deprived the people of the right to assemble or hold meetings of any kind. In the worst case scenario even church gatherings, meetings and workshops held by ZimRights and other Civil Society organizations were banned under allegations that they were part of the opposition. The people of Zimbabwe are calling for the freedom to assemble and interact freely.

VOTING

Last year's election violated the people's right to support and vote for the political party of their without fear of victimization. Your vote is your secret and no one has the right to impose a decision on anyone. However, many people were coerced into supporting and voting for a party that they did not want. Some people said that it was necessary that electoral reform include legislation demanding the release of results within 72 hours. Also, parties must be free to campaign and elections should take place on a level playing field.

In a true democracy, people should exercise their right to vote for the party of their choice. Voting is for the people by the people to elect the president of their choice.

MEDIA FREEDOM

Despite references made in the GPA for the need for media freedom, the opening up of democratic space has been limited. One of the greatest impediments has been the strangle-hold that government has maintained on the media.

Reports acquired by the organisation have shown an overwhelming call for the opening up of the media to more players to ensure plurality of voices and independent media commission

RIGHT TO FOOD

Every living being has the right to food, a right that was, for many Zimbabweans violated owing to the economic crisis either because of unaffordable prices (inflation) or because the shops were empty. Grassroots communities could not access agricultural resources, yet they rely on farming as their basic means of survival. Food aid was distributed on partisan basis, necessitating the need to enshrine this right in the new constitution.

RIGHT TO SHELTER

The violence that occurred during the pre and post election period destroyed homes displace families and left many without anywhere to stay. Political processes such as Operation Murambatsvina and the land reform programme largely contributed to hundreds of people becoming homeless. The government has the responsibility to ensure that every citizen of Zimbabwe has a safe place to call home, guaranteeing their right to shelter.

FREE ASSOCIATION

During the pre and post election period of 2008, it was impossible to have people supporting different political parties to associate with each other. Any form of association would lead to suspicion amongst the other party members and this usually led to violence and in the worst scenario, even death. Neighbours, friends and relatives could not visit each other if they are from different parties because this could endanger their lives as they would risk being regarded as sell outs.

Zimbabweans are calling for an end to this because in a true democratic country, people should interact and associate despite their different political affiliations.

DEVOLUTION OF POWERS

Unlike a cabbage that is all head, a country should have different arms amongst which power should be shared. Powers on decision making should not be concentrated on the Executive. The various state governing arms should be in a position to make decisions on their own without having to wait for the president to pass all decisions. Calls from Bulawayo and the Matabeleland regions are that they be governed from Bulawayo instead of Harare as is the case now. Some people are calling for more power to be passed from the Executive to the local authorities as these are closer to the people and can be more accountable to them.

RIGHT TO LIFE

Following the upsurge of politically motivated violence last year, some people pointed to the need to guarantee the right to life. In that same vein, it was agreed that there should not be wanton torture, forced disappearances and maiming. After guaranteeing the right to life, it would be prudent for the government to ratify the Convention Against Torture and Forced Disappearances. This will help to guarantee the safety of Zimbabwean citizens.

LAND REDISTRIBUTION

The process of land distribution was not fair following the possession of more than three or more farms by government officials. Additionally the criteria that was used was not transparent and was carried out on partisan basis. Every Zimbabwe has the right to land regardless of which party they support. It was suggested that land be redistributed, a land audit be carried out and that people's right to own their ancestral land be guaranteed.

EMPLOYMENT

The last decade has seen an increase in the unemployment rate, increasing the levels of poverty and widening the gap between the haves and have nots. A large percentage of the people spoke to the need for a guarantee of employment in the Bill of Rights. This will then put the onus on the government to provide this employment for the people.



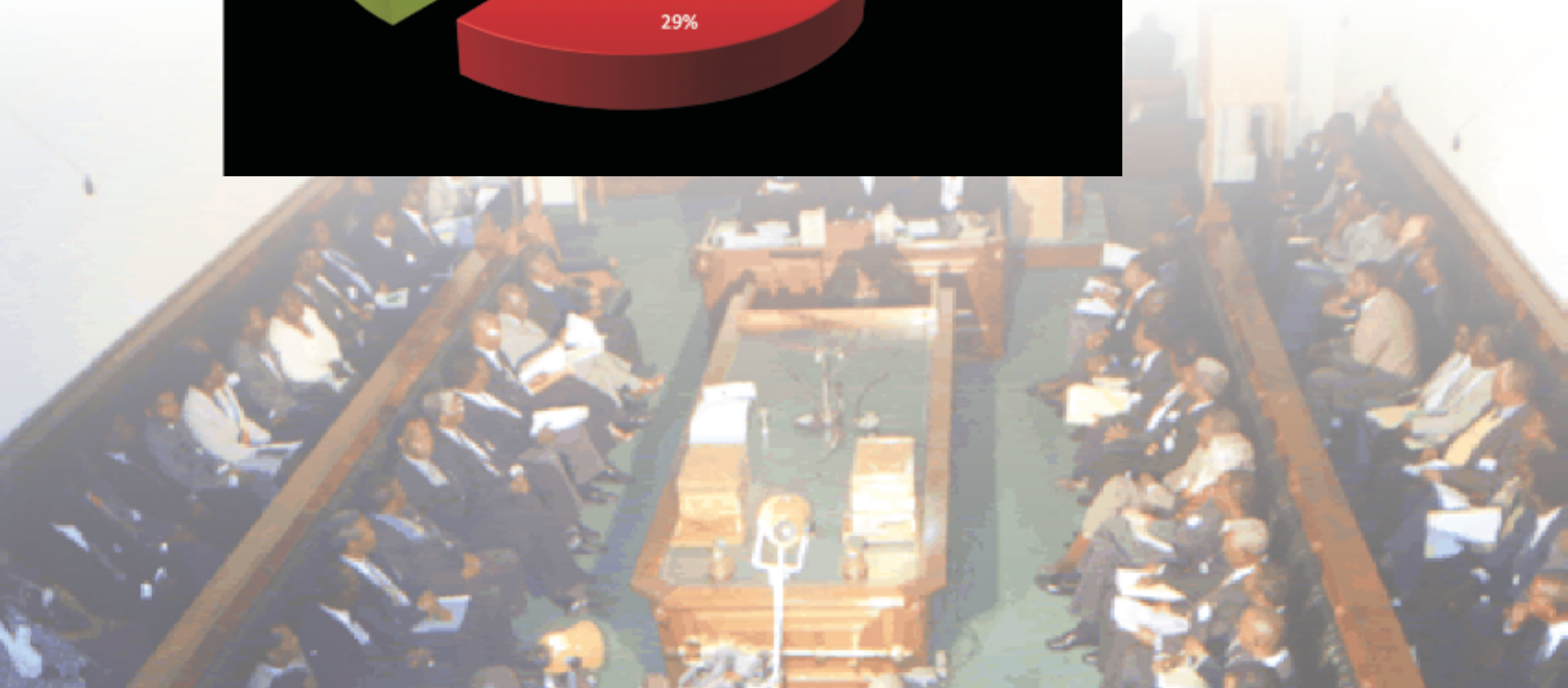
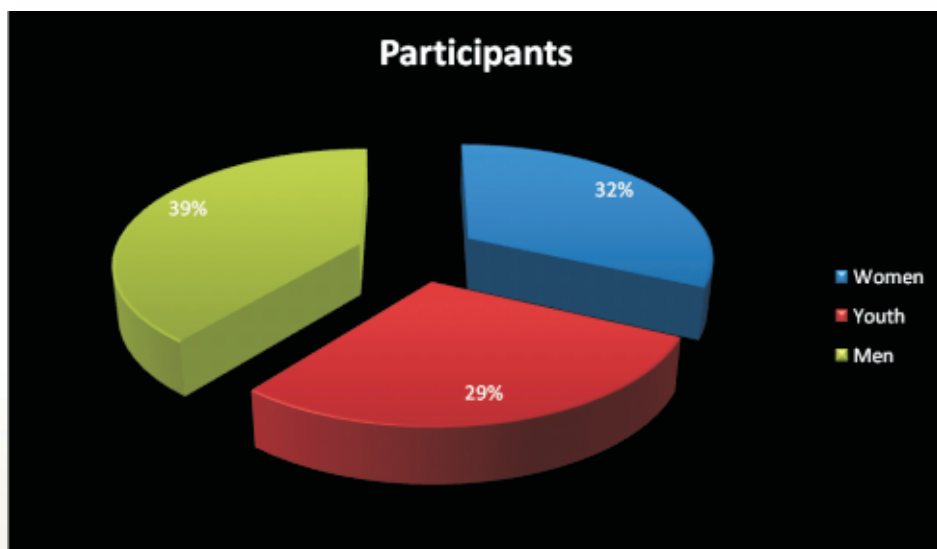
Conclusion

Participation in the constitution making process is an opportunity that Zimbabweans have not been awarded before. However, Zimbabwe cannot claim a democratic status when the needs and expectations of the people are not met. Whilst the country is going through the transitional period, it is important that both the process and the content of constitution making are people driven. Politicians should approach this process as ordinary people and put aside their interests for the sake of the people who have elected them to their political positions. Zimbabwe has come out of a period where politicians made and imposed decisions on the people. The people are working towards restoration and the constitution process has provided a start point.

People all over Zimbabwe anticipate that this opportunity is a take off for Zimbabwe towards true democracy. The parliamentary select committee that is leading this process should ensure that the views and expectations of the people of Zimbabwe, and not politicians or government, are included in the constitution. ZimRights will continue to give civic education on the constitution making process and encourage people to take part and forward the key aspects that they want included in the constitution.

People Consulted by constituencies

ZimRights held workshops and concerts in Harare, Bulawayo, Mashonaland and Mataberland. At the fore was educating people on the constitution making process and how they can get involved. More men than women participated in the workshops and the youth were usually out numbered.



Listed below are the lists of some of the wards and the number of people consulted:

GOROMONZI SOUTH

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Goromonzi South, 8	200
Goromonzi South, 2	160
Goromonzi South, 5	167
Goromonzi South, 11	254
Goromonzi South, 6	267
Goromonzi South, 10	354
Total	1402

MUREHWA NORTH

CONSTITUENCY AND WARD	TIME
Murehwa North, 1	234
Murehwa North, 2	193
Murehwa North, 4	190
Murehwa North, 5	156
Murehwa North, 9	253
Murehwa North, 16	169
Murehwa North, 30	154
Murehwa North, 6	156
Murehwa North, 7	193
Murehwa North, 8	176
Murehwa North, 3	183
Murehwa North, 10	213
Total	1698



MUREHWA WEST

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Murehwa West, 26	242
Murehwa West, 13	234
Murehwa West, 27	256
Murehwa West, 28	176
Murehwa West, 12	176
Murehwa West, 11	189
Murehwa West, 14	193
Murehwa West, 15	176
Murehwa West, 25	153
Total	1795

MARONDERA URBAN

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Marondera Urban 1 and 2	243
Marondera Urban 3 and 4	243
Marondera Urban 5 and 6	340
Marondera Urban 7 and 8	233
Marondera Urban 9 and 10	265
Marondera Urban 11 and 12	241
Total	1565



MARONDERA WEST

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Marondera West 9,	143
Marondera West 10	162
Marondera West 17	188
Marondera West 11	243
Marondera West 13	156
Marondera West 15	234
Marondera West 12	142
Marondera West 18	254
Marondera West 14	156
Marondera West 16	267
Total	1268

UZUMBA/MARAMBA/PFUNGWE

CONSTITUENCY AND WARD	NUMBER OF PEOPLE COSULTED
Maramba Pfungwe 1	297
Maramba Pfungwe 2	220
Maramba Pfungwe 3	167
Maramba Pfungwe 4	155
Maramba Pfungwe 5	178
Maramba Pfungwe 16	231
Maramba Pfungwe 6	178
Maramba Pfungwe 7	189
Maramba Pfungwe 8	274
Maramba Pfungwe 9	243
Maramba Pfungwe 17	201
Uzumba–Nyamara	287
Uzumba–Nhakiwa	289
Uzumba–Marembera	278
Uzumba–Marembera	256
Total	3443

MUTOKO SOUTH

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Mutoko South 25	243
Mutoko South 26	253
Mutoko South 21	254
Mutoko South 29	278
Mutoko South 27	244
Mutoko South 28	167
Mutoko South 20, 24, 23, 22	893
Total	2332

MARONDERA EAST

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Marondera East 19	187
Marondera East 20	167
Marondera East 21	155
Marondera East 22	189
Marondera East 2	243
Marondera East 4	267
Marondera East 16	176
Marondera East 18	254
Marondera East 3	152
Marondera East 1	195
Marondera East 23	167
Marondera East 14	209
Marondera East 15	206
Marondera East 6	130
Marondera East 5	170
Marondera East 7	167
Marondera East 8	194
Marondera East 17	165
Marondera East 9	142
Marondera East 10	243
Marondera East 11	195
Marondera East 12	167
Marondera East 13	176
Total	4316

MUTOKO NORTH

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Mutoko North, Mavanga	165
Mutoko North, Nyamukapa	132
Mutoko North, Mbudzi	194
Mutoko North, Kavere	165
Mutoko North, Kabasa	243
Mutoko North, Kabasa	165
Mutoko North, Charehwa A	186
Mutoko North, Charehwa B	195
Mutoko North, Chindenga	135
Mutoko North, Nyamutsahuni	166
Mutoko North, NYamuganhu	165
Total	1911

MUTOKO EAST

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Mutoko East 18	167
Mutoko East 14	253
Mutoko East 19	113
Mutoko East 13	103
Mutoko East 17	163
Mutoko East 15	234
Mutoko East 16	105
Mutoko East 9	112
Total	1250



MUREHWA SOUTH

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Murehwa South 20	120
Murehwa South 21	133
Murehwa South 22	113
Murehwa South 17	137
Murehwa South 18	140
Murehwa South 19	103
Murehwa South 23	178
Murehwa South 24	127
Murehwa South 29	133
Total	1184

GOROMONZI NORTH

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Goromonzi North 10	142
Goromonzi North 11	156
Goromonzi North, Mwanza	106
Goromonzi North, Acturus	178
Goromonzi North, Chinyika	243
Goromonzi North, Chishawasha	156
Goromonzi North, Ivordale	193
Goromonzi North Ward 14	243
Goromonzi North 1	198
Goromonzi North 2	275
Goromonzi North 4	143
Goromonzi North 7	235
Goromonzi North 8	242
Goromonzi North 9	178
Total	2092

MUDZI

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Mudzi South 15 / 18	475
Mudzi South 12	142
Mudzi South 16	156
Mudzi South 14	189
Mudzi South 13	175
Mudzi North 17	148
Mudzi North 10 / 2	253
Mudzi North 11	182
Mudzi North 9 / 1	194
Mudzi West 7	179
Mudzi West 5 / 3	297
Mudzi West 8	253
Mudzi West 6 / 4	156
Total	2799

HWEDZA

CONSTITUENCY AND WARD	NUMBER OF PEOPLE CONSULTED
Hwedza South	1623
Hwedza North	1534
Total	3157



CHIKOMBA WEST

CONSTITUENCY AND WARD		NUMBER OF PEOPLE CONSULTED	
Ward 9	Ward 9	239	239
Ward 10	Ward 10	243	243
Ward 11	Ward 11	154	154
Ward 12	Ward 12	165	165
Ward 15	Ward 15	181	181
Ward 8	Ward 8	167	167
Ward 19	Ward 19	208	208
Ward 18	Ward 18	215	215
Ward 21	Ward 21	199	199
Ward 7	Ward 7	154	154
Ward 7	Ward 7	178	178
Ward 1	Ward 1	264	264
Ward 20	Ward 20	174	174
Ward 13	Ward 13	198	198
Ward 5	Ward 5	138	138
Ward 6	Ward 6	193	193
Ward 15	Ward 15	185	185
Ward 2	Ward 2	146	146
Total		178	178

185

187

179

159

217

4506

