

**PEOPLE'S PERCEPTIONS ON ZIMBABWE'S CONSTITUTION MAKING PROCESS.
A CASE STUDY OF GLEN NORAH A, HARARE.**

By

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i. Dedication

This thesis is dedicated to my parents. Your son has become a man.

ii. Acknowledgements.

I thank God.

I thank my supervisor, Professor Mararike whose patient guidance made this thesis possible.

I am indebted to my cousin, Edward Nhariwa who welcomed me into his home during the course of the study and refined my culinary skills.

I am very grateful to my sisters; Monica, Tendayi, Theresa, Juliet and Margreth and my brothers in law for their emotional and financial support.

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iii. Abstract.

This study focused on what selected people in Glen Norah A, Harare think about Zimbabwe's 2012 constitution making process. First, it sought to find out whether people were aware of the process and second, it investigated people's perceptions on the constitution making process. It employed qualitative research techniques and took advantage of the Human Factor approach, a micro sociological framework that puts individual's personality traits at the center of its analysis. The study found that awareness of the constitution making process is impressively high and the public media played an important role in disseminating information about the process. The study also discovered that respondents hoped that a new constitution would prevent electoral violence. The study however came to the conclusion that an "excellent" constitutional blueprint is necessary but not solely sufficient to prevent electoral violence.

1. Introduction

A constitution is a very important aspect in the life of any nation. This is because a constitution regulates not only the exercise of political power by the executive; it also regulates the relationship between political institutions and between the state and its citizens. A constitution is the supreme law, therefore it aids in the organization and development of society for present and future generations. It sets up standards which people can use to gauge the performance of the government. Moreover, a constitution spells out the rights and obligations of citizens and it sets up mechanisms which allow citizens to protect their interests. Arguably, a constitution can be an important contributing factor to the development of a country by promoting good governance that is accountable and upholds the rule of law (Hatchard, 1998).

Therefore, constitution making provides a practical opportunity for the participation of various economic, social and political interests in an extremely important national endeavor. Since, arguably, constitution making is all about building consensus, the way a constitution is crafted can secure important political compromises and build confidence among groups with divergent political interests by eliminating mutual suspicions. Citizens are more likely to defend with pride a constitution when the process that made it is handled with care and is inclusive. However, Jonah (1991) argues that in practice, the powers that be tend to attempt to exclude their political opponents from full participation in the constitution making process either by subtle or overt means.

Hatchard (1998) points out that constitution making processes have changed over time. In monarchical times, it was up to the monarchy to decide on and grant the constitution to the people. The monarch could also decide whether to have a constitution or not as it was believed

that monarchs had a divine right to rule. Hatchard (1998) believes that there are traces of this belief in monarchs' divine right to rule in several constitutions made in the twentieth century. He gives examples of constitutions made in countries such as Ethiopia, Jordan, Kuwait, Nepal and Saudi Arabia that were imposed on citizens. Many more constitutions were imposed on colonized or defeated nations. Nations, defeated in wars had constitutions imposed on them, such as the MacArthur constitution in Japan after the Second World War. African countries, colonized during Europe's rush to grab African territories, had constitutions imposed on them without public participation whatsoever (Hatchard, 1998).

Democratic processes of constitution making became normal during the early and middle years of the twentieth century and parliament or constituent assemblies were given the primary responsibility to lead the process. As the twentieth century progressed towards its last years, emphasis was on the active and intensive participation of citizens; as individuals, social organizations or communities in the constitution making process. Processes in countries such as Bolivia, Kenya, Papua New Guinea, Thailand and Uganda demonstrate this shift (Hatchard, 1998). The broadening of the concept of people's democratic rights considerably facilitated this shift. These rights are enshrined in the International Covenant on Civil and Political Rights. The right of self determination has played a considerable part in facilitating this shift (Hatchard, 1998).

Contemporary constitution making processes now include a wide range of participants as the issues that modern constitutions need to address are numerous. This is in contrast to previous ages where experts in constitutional law and political science played the major role in the constitution making process, under the direction of the executive. However, it can be argued that full public participation often leads to a complex and lengthy process. This may be because a

contemporary constitution is likely expected to fulfil a variety of purposes. Consequently, greater attention is paid to how the constitution making process is designed. The basic principles that make up the substance of a constitution also go through much scrutiny. How the constitution making process is designed is quite often a matter of domestic negotiations and these can be protracted. The design of the constitution making process can also be determined or influenced by the international community (Hatchard, 1998).

Now, when Zimbabwe became independent on 18 April 1980, the constitution that came into force on that day was a product of negotiations between the internal government of Mr. Bishop Muzorewa and Mr. Ian Smith and the national liberation movement led by Mr. Robert Mugabe and Mr. Joshua Nkomo. They were conducted at Lancaster House in London and accordingly, the independence constitution is referred to as the Lancaster House Constitution. This Constitution has been amended nineteen times. All the nineteen amendments have been effected by parliament. An attempt to overhaul the Constitution was made in 1999 – 2000. In May 1999, the government appointed a four hundred member Constitutional Commission to review the constitution. This Commission was boycotted by a coalition of civil society organizations under the umbrella of the National Constitutional Assembly (NCA), a non-governmental organization formed in 1997. When the Constitutional Commission presented its draft to a referendum in February 2000, it was rejected by the electorate. The government accepted the verdict and the draft was shelved (Kersting, 2009).

All elections that followed the referendum of 2000 have been violent. It is not therefore surprising that the period from the 2000 referendum to the 2008 elections was characterized by pressure for a new constitution. In the Global Political Agreement (GPA) of 2008 between ZANU PF and the two MDC formations that created the inclusive government, the making of a

new constitution took centre stage. The GPA provides for the making of a new constitution in its Article VI which states that it is the duty of Zimbabweans to draft a constitution for themselves by themselves. The process was led by a Parliamentary Select Committee (COPAC) with its members drawn from the three political parties who signed the GPA and who are represented in parliament.

This study sought to investigate people's perceptions on Zimbabwe's constitution making process. It was carried out in Glen Norah A, Harare and intended to find out what people really think of the constitution making process as Hart (2003) points out that *how* a constitution is written matters because if a constitution is not embraced by the people, it may lose legitimacy. With the contention that the depth and effectiveness of a constitution ultimately rests on the will and motivation of the people, the study sought to find out whether people were aware of the constitution making process and what they thought of it. This study was guided by the human factor (HF) approach. The human factor approach can be considered as a micro sociological framework that puts individuals' personality traits at the centre of its analysis. It is a theory of development that states that no society has ever developed without first having developed the relevant HF values. The study employed qualitative research methods as Harre and Secord (1972) assert that qualitative methods are the best to use to gather in depth understanding of human behavior and the rules that govern such behavior. The study found that general awareness of the constitution making process is impressively high even though attendance in public outreach meetings was remarkably low and while 35% of the respondents displayed a general mistrust of the constitution making process, 90% indicated their desire to participate in the referendum. The study then came to the conclusion that an "excellent" constitutional blueprint is necessary but not solely sufficient to cure society of all its ills.

2. Statement of the problem

The study sought to find out what people in Glen Norah A, Harare think about Zimbabwe's constitution making process. If a constitution is to be viewed by people as their constitution, it must first be made popular. This is important because if people do not identify themselves with the constitution, they may neither respect it nor adhere to its stipulations rendering it vulnerable to numerous amendments or being overridden and ignored completely by whichever group in power. Since a constitution is a mere document whose operation depends upon the willingness and capability of individuals, it is important, arguably, to find out just what some of the individuals think about the constitution making process. Were they aware of the process? Were they part of the process? What do they think about the process? Do they really want a new constitution or not? These are some of the questions this study attempted to answer. In attempting to answer these questions, the study also fills the information gap on Zimbabwean constitutionalism as scholars such as Linnington (2001), Fombad (2005), Sachikonye (2010), Mbaku and Ihonvbere (2003), Hart (2003), Makumbe and Compagon (2000) and Ndoma (2011) mainly focus on the constitutional blueprint itself without acknowledging the people it is designed to protect.

3. Study Justification

This study was guided by the Human Factor approach, a micro sociological framework that places great emphasis on the personality traits of individuals and views individuals as the primary actors in the creation and functioning of the institutions that make up their environment. As such, it places the sample from Glen Norah A, Harare at the centre of its analysis by focusing on what they think about the constitution making process. The study was informed by Austin's

(2009) contention that if a constitution is not embraced by the majority as ‘our’ constitution, it may lose legitimacy. The study also realized that a constitution is nothing more than a blueprint that cannot operate itself and its successful implementation is the critical function of the human factor qualities within individuals. Therefore, the study sought to find out whether people in Glen Norah A were suitably conditioned for the effective functioning of the constitution. This study used qualitative research methods in an attempt to shed light on what people think about the constitution making process by presenting respondents’ own accounts collected via semi structured interviews.

4. Objectives

The objective of this study was to:

- Investigate people’s awareness and perceptions of the constitution making process in Glen Norah A, Harare.

5. Literature Review

A constitution can be defined as a set of fundamental principles or established precedents upon which a state is governed. It is a body of laws that embodies the fundamental political principles on which a state is governed and the rights of the subjects of that state (Linnington, 2001). There is no generally accepted definition of the word ‘constitution’, however, it will suffice to consider a constitution as what has sometimes been described by scholars as a ‘power map’ which derives its entire authority from the governed and regulates the allocation of powers, functions and duties among the various agencies and offices of government and at the same time defines the nature of their relationship with the governed (Duchacek, 1973). A constitution is ideally an enduring

document. It is law, but contrary to any other law, it is the supreme law of a country based on the sovereign will of its citizens (Mbaku and Ihonvbere, 2003).

A constitution is the main source and basis of governmental rule making and its primary role is to prevent capricious or arbitrary rule making. Basically, the important essence of a constitution is the prevention of both tyranny and anarchy. To achieve this, the constitution must give sufficient power to the government to enable it to be strong enough for effective operation, whilst concurrently imposing reasonable constraints on the government that do not make it too weak thereby creating the risk of anarchy (Fombad, 2005). Ideally, a country's constitution is that state's contract with its citizens and should express the aspirations and values of its people.

A constitution is the basic document that establishes the fundamental legal and institutional structures for the exercise of state power and the state's relationship with its citizens. Generally, a constitution is more or less a body of laws used to govern a country. However, a constitution is only as good as the mechanisms provided within it to ensure that the provisions within it are properly implemented and that any violations of the constitution are promptly sanctioned (Mbaku and Ihonvbere, 2003).

The distinction between a constitutional government and constitutionalism, Fombad (2005) argues, is much more than just a simple exercise of semantics. A constitution may very well fail to accomplish its primary objective of preventing the either extremes of tyranny and anarchy if it contains nothing more than lofty declarations of objectives and goals in a language that does not carry legally enforceable restraints. Thus, a constitutional government translates into nothing more than a government that operates in accordance with the terms of a constitutional blueprint (Fombad, 2005). Constitutionalism on the other hand, is definitely not a static principle and the elements identified are bound to change with time as better ways are devised to limit

governmental excess and protect citizens. The fundamental principle in constitutionalism is the respect for human worth and dignity. Modern constitutionalism basically involves uniting the democratic rule of men with the constitutional rule of democracy (Hart, 2003). Despite the tendency to equate constitutionalism with democracy, Sachikonye (2010) argues that just as the mere existence of a constitution does not guarantee constitutionalism, it follows that the existence of democracy does not necessarily mean that there is constitutionalism.

Fombad (2005) argues that if a constitutional blueprint is not fully embraced by the citizens of a state and if they do not regard it as their constitution, then it runs the risk of losing legitimacy and can either be amended frequently by any group of politicians that currently hold power, completely ignored by an autocratic government or else completely overridden in a coup d'état (Austin, 2009). To avoid such a fate, provisions must be contained in the constitution to make the constitution acceptable to the majority. However, this is not to say that most of the people should agree to *everything* in the constitution, only that the constitutional blueprint in its entirety be broadly acceptable to the majority. Additionally, the government is obliged to make serious and prolonged efforts to make sure that every citizen is fully aware of the constitution and its importance to them. This goes much further than simply informing people of their rights under the constitution, the government must ensure that people are aware of their responsibilities too, and how various government institutions work and the role they play in the government of the country (Makumbe and Compagon, 2000).

Before a constitution can achieve acceptance, it needs to go through a process of popularization with the aim of generating public interest in it. The aim of a participatory constitution making process is arguably the achievement of a legitimate constitution that upholds the rights and freedoms understood to be important and that provides the basic structure for the effective

conduct of the nation's business as it strives to achieve its economic development and provide for the welfare of its citizens (Hart, 2003). If the constitution making process is seriously flawed and contested, it would then be difficult to draft a constitution that stands the test of time and creates an acceptable contract between the government of a state and its citizens. It is of crucial importance, therefore, that all major stakeholders or at least a substantial majority endorse the constitution making process prior to the implementation of a draft constitution (Austin, 2009).

According to Hart (2003), we live in an era of constitution making. He argues that of close to two hundred national constitutions in existence today, more than half have been written or re-written in the last quarter of the century. Constitution making has become a part of many peace processes. Nations seek the democratic credentials that are often a condition for recognition by other nations and by financial, aid and trade organizations by making constitution writing a priority. It is Austin's (2009) view, however, that constitutional reform should be primarily a national responsibility even in a globalised world.

How the constitution is written and what it says, are equally important. Participatory constitution making has become a criterion of a legitimate process. Historically, constitution making processes have been designed in various ways; Scott (1999) argues that during the decolonization of a colony, the colonial power usually set up the constitution making process. In India, the process for the making of its independence constitution was imposed on it. India's Congress Party reluctantly agreed to this imposed process. India could only simplify the constitution making process after the creation of Pakistan. It follows then that in post independence periods, the government can decide on the constitution making process. This is usually done after discussions with relevant groups. This is what happened in Tanzania in 1965 when it moved towards a one party state, in Zambia in 1991 when it decided not to be a one

party state, in Uganda in 1982, in Ghana in 1992 and in Nigeria in 1979, 1989 and 1999 (Scott, 1999). In all these examples, the respective governments decided on the constitutions. Ndoma (2011) argues that constitution making processes can also be negotiated among political parties as what happened in South Africa in 1996, Fiji in 1997 and Kenya in 2010 or among a larger range of interest groups as what happened in the West African francophone states through national conferences. In conflict and post conflict situations, the constitution making process is often designed by parties engaged in the conflict. The design of the constitution making process is usually a complex set of arrangements including ceasefire, disarmament and integration of the armed forces. The United States, acting in its capacity as the occupying force, designed the 2005 Iraqi constitution making process although it had to make certain important concessions with various local groups (Democracy Reporting International Briefing Paper No. 20, 2011).

The Democracy Reporting International Briefing Paper No. 20 of 2011 describes the Nepal 2006 constitution making process as unusual in that an agreement was made without outside intervention. However, the paper points out that most agreements on constitution making processes in conflict situations have often involved the international community in important ways. A prime example of a constitution making process in times of conflict, the Paper points out is Bosnia-Herzegovina in 1995, where the constitution itself was made by the international community in an army barracks in the United States. In essence, there really was no participatory process. Usually, the design of the constitution making process or at least its outline in times of conflict is made at international conferences. The constitution making process can also be designed through international negotiations as what happened in Afghanistan and Cambodia. The process can also be designed under thorough mediation by the dominant interested states, mostly

Western as in Sudan, the states of the former Yugoslavia and Kosovo. Similarly, the Somalia constitution making process was agreed to through the mediation of the Intergovernmental Authority for Development with facilitation by the Kenyan government in 2004 (Democracy Reporting International Briefing Paper No. 20, 2011). It is not surprising therefore that the principles and degree of detail vary depending on the context and the primary parties involved in the process. The constitution making process is arguably most detailed when the negotiations are local, and is sparse when the international community is involved. A much smaller role is played by local experts when the international community is involved in the constitution making process. The ownership of the process relies as much on the degree of decision-making on the process, as on the degree of engagement of the people.

Hart (2003) points out considerable advantages to a designed constitution making process. He argues that a designed constitution making process can be used in an important way to identify the key actors and to disseminate information to the public of the objectives of the process and the road map, including the people's own role in the constitution making process. Hart (2003) asserts that a designed constitution making process provides much needed guidance on the procedure of the process and timing to those in charge of the management of the constitution making process. A designed constitution making process can also minimize disputes about the respective roles of actors moreover; it can also give an indication of the resources needed to complete the constitution making process. The rules for the drafting and adoption of the constitution, Hart (2003) argues, often influence the outcome of the process especially in terms of its legitimacy. The rules also influence the orientation and content of the constitution. It is usually the case for example, that when political parties dominate the constitution making process, greater attention is paid to the system of government. It can also be argued that the more

participatory the constitution making process, the resultant constitution is likely to have more aspirations (Hart, 2003).

In Frempong's (2007) view, the people of Ghana hardly participated in the making of a number of constitutions in their country. He points out that following the massive victory of Kwame Nkrumah's Convention People's Party (CPP) in the 1951 Ghanaian election, the party was given partial responsibility to draft the 1957 independence constitution. However, not long after the adoption of the independence constitution, Frempong (2007) argues, the CPP decided to write a new constitution on its own terms. In February 1960, the National Assembly passed the Constituent Assembly and Plebiscite Acts and empowered itself to sit at as a constituent assembly to draft the new constitution. Within a month, the National Assembly approved the CPP government's draft constitutional proposal. In April 1960, Ghanaians went into a referendum and election to approve the draft constitution and to elect the first president. This election overwhelmingly went in favor of the group in power. It is Frempong's (2007) view that the common feature linking the features of Ghana's 1960 constitution was the very wide powers it conferred on the president and effectively turned him into a constitutional dictator.

In September 1962, a private member's motion was passed and Nkrumah was made Life President. The president then used the legislature to extend the operative life of the Preventive Detention Act (PDA) which empowered the government to arrest and detain for up to five years any person whose activities were perceived to be a threat to the security of the state for another five years in 1963. In January 1964, a national referendum was held which sought two amendments to the constitution: to decide on the one party state for Ghana and to invest in the

president the power in his discretion to dismiss judges of the superior court at any time and for any reasons which appeared sufficient to him (Frempong 2007).

Frempong (2007) argues that following the February 1966 coup, the desire to prevent a reemergence of the political and constitutional arbitrariness of the previous government, impacted greatly on the constitution making process which led to the crafting of Ghana's 1969 constitution. The ruling military junta that had grabbed power through a coup, the National Liberation Council (NLC) established an 18-member Constitutional Commission on 18 November 1966 under the chairmanship of the Chief Justice to ascertain the opinions of the Ghanaian public on a new constitutional blueprint for the nation. The popular reaction to this offer to help make a brand new constitutional start was quite overwhelming. The 150-member Constituent Assembly subsequently adopted a draft constitution that made the President neither fully ceremonial nor fully executive, as a balancing act in an attempt to prevent the concentration of power in the hands of any one person. But somehow due to the apparent obsession with the immediate political past, the constitution makers hardly took into consideration of the long term problems of Ghana (Frempong, 2007). Because of this, the Progress Party won the parliamentary election of August 1969 but the life of that government and the 1969 constitution was terminated by the 13 January 1972 coup. At the start of 1977, the government formed a Committee to collect views on another new constitutional blueprint and the date for a referendum was fixed for 30 March 1978. Return to constitutional rule was scheduled for July 1979. However, this plan was halted as a result of another coup on 5 July 1978 which removed the government from power (Frempong, 2007).

Frempong (2007) asserts that the new Head of State announced new proposals to return Ghana to civilian rule and subsequently, the government lifted the ban on political parties on the first of January 1979. From that period to the late 1980s, the military was a prominent feature in Ghanaian politics. Frempong (2007) states that the process that culminated in the crafting of the 1992 Constitution can be traced to the regional fora that the National Commission for Democracy (NCD) organized from the mid 1990s to collect ideas on a new constitutional dispensation for Ghana. A 260-member Consultative Assembly (CA) was subsequently established to draft a definitive constitution. On the whole, throughout the constitution making process the CA exhibited its independence and produced a draft constitution. The draft constitution was presented to the people of Ghana who approved it through a referendum held in April 1992. This remains Ghana's Constitution (Frempong, 2007).

Sharply contrasted to Ghana's history, the South African constitution making process is widely regarded as a positive example of broad public participation. The Democracy Reporting International Briefing Paper No. 20 (2011) states that at the beginning of the transition aimed at ending apartheid, dialogue about a transitional government and constitutional reform was ultimately dominated by political parties. As such, for most of this first stage of the process, civil society was excluded from participation in the constitution making process. Only after the political parties had agreed on a transitional constitution, were elections for the Constituent Assembly held in April 1994. The Constituent Assembly then initiated a broad participatory process for the second stage of the process which was drafting the constitution. This second stage adhered to the three principles of inclusivity, accessibility and transparency. The first step in this participatory process was a widespread education campaign that was aimed at informing the general public about constitutional issues in general; their fundamental rights and their right to

participate in the constitution making process. The campaign employed newspapers including a biweekly assembly newspaper with an approximate circulation of a hundred and sixty thousand, billboards, radio and television, a telephone hotline and the internet. Citizens were then expressly invited to present submissions and more than one thousand educational workshops were held all over the country over a period of twelve months (Democracy Reporting International Briefing Paper No. 20, 2011).

According to the Democracy Reporting International Briefing Paper No. 20 (2011), one core element of this wide consultative process were the public meetings that gave members of the Constituent Assembly the opportunity to present their work to citizens and enabled participants to make their opinions heard. All of the contributions and suggestions made in these meetings were recorded and written down. Additionally, meetings were held on specific subjects, which included the bill of rights, the judiciary and the administration, where about six hundred civil society organisations participated in these meetings. Over all, members of the Constituent Assembly interacted directly with more than 117,000 people. An important cornerstone of the constitution making process was the Constituent Assembly radio programme, which broadcast in eight languages and reached approximately 10 million people per week, which translated into one quarter of the population. Citizens presented a total of 13,443 substantive submissions with 90% of these coming from individuals while over 2 million people signed petitions on various issues. Submissions presented were then processed by the secretariat of the Constituent Assembly and summarised by the technical groups that comprised the various thematic committees in order to make them more accessible. Submissions made by organisations or

groups with specialised knowledge on contentious issues were awarded special consideration (Democracy Reporting International Briefing Paper No. 20, 2011).

The public was again invited to participate and submit their views on specific issues regarding the draft text during the third stage of the constitution making process, after the publication of the draft constitution. These submissions were compacted and attached to respective articles so that members of the Constituent Assembly could consider them efficiently. With this new input, the final negotiation process began. According to the Democracy Reporting International Briefing Paper No. 20 (2011), this part of the process was heavily criticised by some observers who argued that it was wrong for deals on deadlocked issues to be struck behind closed doors during bi or multilateral party meetings as it excluded others. Despite some groups feeling excluded from the constitution making process, a substantive majority of the population held a positive impression and showed satisfaction with the level of consultation. The Constituent Assembly subsequently passed the final text of the constitution with an 85% majority, obtaining the required two - thirds majority. Seven million copies of the final text in South Africa's eleven official languages were distributed, and these were accompanied by illustrations and cartoons to cater for the illiterate. The comprehensive civic education efforts engaged by the Constituent Assembly and the proactive approach of meeting with citizens were undoubtedly crucial for the success of the participation process. Historically, South Africa had no tradition of fundamental human rights or inclusive constitutionalism moreover; a large percentage of the population lived in rural areas and could not access most media. A preliminary poll revealed that the Constituent Assembly's education campaign reached approximately 73% of all adult South Africans and that the level of knowledge about the constitution was generally high. The survey further indicated

that most people strongly regarded the constitution as theirs, thus rendering the participation process a resounding success (Democracy Reporting International Briefing Paper No. 20, 2011).

In sharp contrast to South Africa's model process, the making of the 2005 Iraqi constitution is an example of constitution drafting in a difficult context. The Iraqi constitution making process was characterised by a deeply polarised society, a dangerous security situation, strong external influence and significant time pressure. According to the Democracy Reporting International Briefing Paper No. 20 (2011), these circumstances severely restricted public participation in the constitution making process. During the occupation period in 2003 and 2004, interim authorities designed a very tight timetable for the constitution making process. The constitution making process, which took ten months began with elections to the National Assembly on 30 January 2005 and ultimately ended with the constitutional referendum held on 15 October 2005. The first three months of the constitution making process were spent on the selection of a Constitutional Committee which initially comprised fifty five Assembly members but was later added onto by 15 representatives of the Sunni Arab population, which had widely boycotted the National Assembly elections. The Constitutional Committee took three months in the drafting of the constitution. After the drafting process was complete, a Leadership Council comprising senior Iraqi politicians took over and began negotiations which were so protracted that they lasted until two days before the referendum. Indirect popular participation only went as far as elections for the National Assembly and separate elections of the Sunni members for the Constitutional Committee. The Democracy Reporting International Briefing Paper No. 20 (2011) asserts that this indirect form of participation was heavily compromised by election boycotts and strong influence from the Leadership Council and external advisors, particularly from the United

Nations and the United States embassy. Moreover, direct popular participation was largely limited to the very brief drafting phase in the Constitutional Committee. The Constitutional Committee held some public conferences in conjunction with United Nations advisors during the drafting period and this included one with Shiite clerics and their students, who were already well represented in Iraq's governing interim coalition (Democracy Reporting International Briefing Paper No. 20, 2011).

A committee to encourage national dialogue on the constitutional drafting was set up, and some civil society organisations, particularly women's associations, conducted constitutional discussions on their own initiative. The problem was that these steps were taken on the understanding that the drafting process was moving forward and this left little time for thorough discussions and meaningful interaction with the Constitutional Committee. Media coverage of the constitution making process and public debate proved to be rather general. A substantive discussion only evolved when the Constitutional Committee provided more detailed texts of the draft. However, there was no procedure in place to incorporate the opinions and viewpoints of the public generated in the discussions into the deliberations and drafting of the constitution (Democracy Reporting International Briefing Paper No. 20, 2011).

The Democracy Reporting International Briefing Paper No. 20 (2011) reports that the path towards a new Kenyan constitutional blueprint went past two milestones namely: the 2005 draft that failed and the successful 2010 constitution. Pressure to democratise the Kenyan political landscape had been growing constantly ever since the early 1990s after Kenya had been a one party state for a long time. However despite the pressure, the first real attempt at a

comprehensive reform process did not begin until about ten years ago. The Constitution of Kenya Review Act was the legal basis mandating the constitutional reform process and it clearly prescribed specific modalities and detailed instruments to ensure broad public participation. After wide consultation processes which focused on both the specific issues that were to be put on the agenda and the specific substantive content of the constitution before the drafting process, the Constitution of Kenya Review Commission and the National Constitutional Conference, which was set for broad discussion and debate, presented the Bomas draft constitution in 2004. This draft constitution was thoroughly debated for about a year, but was never presented for a referendum nor enacted by parliament. One of the most divisive issues in the 2004 draft constitution related to executive power. To avoid a strong and non accountable president, the 2004 draft constitution set up a system of power sharing between the president and an executive prime minister elected by parliament. This draft constitution however, was later amended by the Kenyan parliament to provide for a weak prime minister appointed by and reporting to the president (Democracy Reporting International Paper No. 20, 2011). The opposition and parts of the governing coalition strongly criticised these amendments. The following struggle for political power and the fact that the amended 2005 draft did not wholly reflect the results of the participatory 2004 draft arguably may have contributed to the failure of the constitutional draft in the 2005 referendum, with 57 % of the vote against the draft constitution. After the 2008 post election violence, the agreement to settle the electoral conflict also provided for constitutional reform. A Committee of Experts on Constitutional Review was established and charged with drafting a new constitutional blueprint. The Committee of Experts comprised nine members; six Kenyans and three others from Zambia, South Africa and Uganda (Democracy Reporting International Briefing Paper No. 20, 2011).

One of the guiding principles for the drafting process was that the Commission and other public institutions ensure that the constitution making process provides the citizens of Kenya with an unhindered opportunity to participate actively, meaningfully and freely in the generation and debate of proposals to review and replace the constitution. In order to ensure an inclusive process, the Committee of Experts engaged in civic education programmes and public participation efforts. However, contrasted to the 2005 constitution making process, public consultation on the content of the draft constitution did not play a fundamental role before and during the drafting process. Instead, participation and outreach programmes took the form of regional public hearings, along with sectoral and thematic consultations, which largely took place after the first draft had been presented, which was stage three of the process, requesting people to suggest changes that could be made to the draft constitution. After public consultation, the draft constitution was revised and was forwarded to the competent parliamentary committee and later, to parliament. It was adopted through a 2010 referendum with a high approval rate of more than 67% (Democracy Reporting International Briefing Paper No. 20, 2011).

For its part, Zimbabwe has had a chequered history in constitution making. Prior to the arrival of the first British settlers in 1890, the area now known as Zimbabwe was occupied by the Shona and the Ndebele peoples whose chiefs exercised sovereign powers over them. On 29 October 1889, the British South African Company (BSAC) was chartered in order to colonize the territory. The driving force behind the company was Cecil John Rhodes, an English businessman and politician. It was largely due to his influence that the charter was structured "...as a semi-permanent instrument of government until such time as any settlers could take over the administration...only to be revocable in circumstances amounting to misconduct" (Palley, 1966:

33). The territory was named Southern Rhodesia in honor of Rhodes. In 1898, the British government deemed it necessary to develop and regularize aspects of governance in Southern Rhodesia. Accordingly, the Southern Rhodesian Order in Council was made on 20 October 1898. The Order provided for the appointment by the BSAC of an administrator who was to act with advice of an executive council. A Legislative Council was also formed which the power to enact laws for the ‘peace, order and good government of Southern Rhodesia’ (Palley, 1966: 34). In 1918, the Privy Council ruled that unalienated land in Southern Rhodesia vested in the British Crown and not in the Company. This really left the settlers with two options: to join the Union of South Africa or to become a self governing British colony. In 1920 the Legislative Council passed a resolution calling upon the British government to grant Southern Rhodesia responsible government. The arrival of responsible government meant that there was now need for a formal constitution. This came into being by Letters of Patent of 1 September 1923, with effect from 1 October 1923 (Linnington, 2001).

In the late 1950s, the Southern Rhodesian government decided there was need to extensively revise the 1923 Constitution. A Constitutional Conference was held in 1960 that continued into 1961. For the first time, effort was made to take into account the views of African nationalists. Mr. Joshua Nkomo, the leader of the National Democratic Party was invited to the conference. The resultant 1961 Constitution conferred a remarkable degree of self governance on Southern Rhodesia (Palley, 1966). A general election held on 14 December 1962 resulted in the rise of a new right wing political party, the Rhodesia Front. This party was strongly opposed to the advent of majority rule in Southern Rhodesia and was anxious to secure independence for the colony on a basis that would leave settler rule intact for the foreseeable future. On 5 November 1965, the Rhodesian authorities declared a state of emergency and this was followed on 11

November by a Unilateral Declaration of Independence (UDI). A new 1965 Constitution was brought into being by the Rhodesian regime. It purported to remove all of the remaining residual British powers in respect of Rhodesia. The Declaration of Rights, a feature of the 1961 constitution, was deleted from the 1965 constitution (Palley, 1966).

The British government reacted immediately to the UDI and the Governor, Sir Humphrey Gibbs, acting on instructions from the Queen dismissed Mr. Ian Smith, the Rhodesian Prime Minister and his ministers from office. The British Parliament passed the Southern Rhodesia Act 1965. Immediately after the passing of the Act, the Southern Rhodesia Order 1965 was made. This basically provided that any action taken for the purpose of facilitating the purported promulgation of any Rhodesian constitution by the Rhodesian regime was void (Linnington, 2001). Therefore, the Rhodesian constitution was deemed illegal. In the years following the UDI, a number of efforts were made to resolve Rhodesia's constitutional crisis. In 1969, a new Republican constitution was adopted. It created a non-executive presidency and the President was obliged to act on the advice of his ministers. In essence, the 1969 constitution entrenched white supremacy and racial discrimination in Rhodesia. The structure of the constitution was such that it did not envisage – even theoretically – the advent of black majority rule at some time in the future. In furtherance of its discriminatory policies, the regime enacted, in the same year, the Land Tenure Act. This made it an offence for persons to enter an area zoned for another racial group without government permission. Churches protested and refused to register under the Act or to apply for permission. They threatened to close their schools and hospitals. Eventually, the regime relented slightly and the Act was amended so that it now stated that all permits issued in respect of churches were deemed to have been issued without the churches having to apply (Palley, 1966).

In the early 1970s civil unrest within Rhodesia began to spread significantly. ZANU and ZAPU (nationalist political parties) organized armed resistance against the regime and their cadres operated from bases in Zambia and later in Mozambique. In 1978, the regime concluded talks with certain 'internal' African national parties (they were 'internal' in sense that they were allowed to operate within Rhodesia by the regime as opposed to the 'external' parties – ZANU and ZAPU – who were actively waging war against the regime and had been banned) namely the United African National Council (UANC) led by Bishop Abel Muzorewa, the Zimbabwe African National Union (ZANU) led by Ndabaningi Sithole (Sithole had been deposed as the leader of ZANU by Robert Mugabe but refused to recognize his deposition and established his own ZANU party) and the Zimbabwe United People's Organization (ZUPO) led by Senator Chirau. These groups agreed on the 1979 constitution and elections were held which were won by the UANC. Bishop Muzorewa became Prime Minister and declared that since, in his view, majority rule had now arrived, Britain ought to formally confer independence upon the country and secure the lifting of economic sanctions imposed after UDI and still in force. However the British Foreign Secretary, Lord Carrington, was reluctant to recognize the 'internal' settlement as a basis for independence.

Since neither the British government nor the international community was prepared to recognize the 'internal' settlement as a basis for independence, Lord Carrington organized a constitutional conference at Lancaster House in London. The purpose of the conference was to arrive at a constitutional settlement that would bring about genuine majority rule in an independent Zimbabwe. The conference was attended by Mr. Bishop Muzorewa and other 'internal' nationalists as well as by the 'external' nationalists led by Mr. Robert Mugabe and Mr. Joshua Nkomo. Mr. Smith and some of his colleagues were also in attendance. Eventually, the new

constitution that would form the basis of the country's independence as the State of Zimbabwe was agreed upon. It reflected to a large extent the fact that various participants had to make concessions on a number of issues. Following the successful completion of the Lancaster House Conference, Rhodesia returned briefly to a short period of direct rule by Britain. The British government appointed Lord Soames as Governor. Lord Soames organized an election that was won by Mr. Mugabe's ZANU party. On 18 April 1980, Prince Charles formally conferred independence upon Zimbabwe. The new constitution came into force on the same day (Linnington, 2001).

The Lancaster House constitution which ushered in independence in 1980 was negotiated under conditions of duress. Presided over by Britain, the Lancaster House constitution reflected the balance of powers involved in the independence negotiations as well as the balance of power in Southern Africa at that time. As a compromise, the Lancaster House constitution did not follow the processes and structures through which the new Zimbabwean state sought to consolidate her national independence and set up the basis for her social and economic development. It was expected that the Lancaster House constitution should not to have its significant provisions amended for ten years. It was therefore surprising that from 1990 (the expiry date of this constitutional blueprint) to 1998, there was no urgent attempt to review the Lancaster House constitution and carry out reform. Despite the many pressing issues relating to democracy, land reform and social rights amongst others, there was neither measured nor serious effort at constitutional reform. It is Sachikonye's (2010) view that the lack of urgency in constitutional reform during Zimbabwe's second decade of independence can in part be explained by the fact that the President himself was a major beneficiary of Constitutional Amendments that were enacted from 1987. As Sachikonye argues, the Constitutional Amendments of 1987 which

created the position of Executive President vested near absolute powers in the President in important areas of the constitutional and political process in Zimbabwe thereby creating a presidential monarch. Other analysts contend that amendments to the constitution gave the President wide powers to dismiss parliament in his discretion without having to justify his decision, and that in conducting state affairs, the President was not obliged to seek advice from his cabinet (Makumbe and Compagon, 2000). These executive powers were spelt out in Constitutional Amendment No. 7 of 1987 (Linnington, 2001).

It is not surprising that the initial pressure for constitutional reform came from outside the then ruling ZANU PF party. Civil Society Organizations (CSOs) and opposition parties wanted such reform because the existing Lancaster House constitution was viewed as serving the interests of the elite in power (Makumbe and Compagon, 2000). The first step was taken by a broad alliance of CSOs which founded the National Constitutional Assembly (NCA) in 1998. The NCA spelt out its objectives as:

1. To identify shortcomings of the current constitution and to organize debate on possible constitutional reform.
2. To organize constitutional debate in a way that allows broad based participation.
3. To subject the constitution making process in Zimbabwe to popular scrutiny in accordance with the principle that constitutions are made for and by the people (NCA, 1998).

In 1999, President Mugabe set up a Constitutional Commission that was instructed to produce a draft constitution with the fullest public consultation. On paper, the official Observer Mission of

the Center of Democracy and Development (CDD; a London and Lagos based NGO) reported an ideal process that included public hearings, an outreach program that consisted town hall meetings and other community activities, a multi language media campaign, scientific polling and an international conference. Their report, *The Zimbabwe Constitutional Referendum, 2000* estimates that the Commission received about 7000 written submissions, set up more than 4000 meetings nationwide and interacted directly in public meetings with more than half a million citizens. But, in Hart's (2003) view, behind the formal facts was a largely manipulative process. Hart (2003) argues that the President controlled the appointed Commission, a meager 13% were women, divisive partisan disputes, intimidation and violence erupted. The Commission's draft constitution was forwarded to President Mugabe without any opportunity for further public comment. He, in turn, quickly forwarded it for a referendum and there was not the possibility of amendment. In February, 2000, the Zimbabwean electorate rejected the Commission's draft constitution by 54% to 46%. A survey carried out by Mangongera and Sithole found that 43% of 'no' voters had the impression that most people rejected the Commission's draft because it did not fully take into consideration the expressed wishes of the people (Hart, 2003).

Now, the Global Political Agreement (GPA) of 15 September 2008 that formed the inclusive government between ZANU PF and the two MDC formations provided for the making of a new constitution for Zimbabwe in its Article VI. The constitution making process was led by a Parliamentary Select Committee (COPAC) which had its members drawn from the three political parties that signed the GPA and are represented in parliament. Article VI of the GPA of 15 September 2008 focused on the constitution making process. It states that it is a fundamental right and duty of Zimbabwean people to make a constitution by themselves and for themselves in an inclusive and democratic manner. Article VI institutionalizes COPAC and gives COPAC the

mandate to coordinate the constitution making process. It also highlights how the Select Committee of Parliament was to be set up and its terms of reference. Article VI of the GPA also stipulates that the draft constitution recommended by the Select Committee should be subjected to a referendum (www.copac.org.zw).

The outreach program started with the deployment of COPAC's outreach personnel to the country's ten provinces on June 21, 2010. This was then followed by the induction of outreach team members on June 22, 2010. The induction exercise was facilitated by the Select Committee members who were charged with supervising the outreach process in the country's various provinces. Manicaland, Masvingo and Midlands provinces each had 10 teams each with 10 people, Mashonaland East and Masshonaland Central had 9 teams each with 10 people, Matebeleland North and Mashonaland West had 7 teams with 10 people each while Matebeleland South had 6 teams with 10 people each. All in all, a total of 729 people were employed to facilitate the outreach process (www.copac.org.zw).

On the third of May 2011, COPAC officially launched the sitting of the Thematic Committees which focused on 17 thematic areas which are as follows:

1. The founding principles of the state
2. Separation of powers of the state
3. Systems of government
4. Executive organs of the state, police and defense
5. Citizenship and bill of rights
6. Land and natural resources
7. Elections, independent commissions and transitional mechanisms

8. Public finance and management
9. Media
10. Traditional institutions and customs
11. Labor
12. Youth
13. The disabled
14. War veterans/freedom fighters
15. Women and gender
16. Local languages
17. Religion

The Thematic Committees comprised members of parliament, political parties' representatives and representatives of Civil Society who functioned as team members, team leaders, rapporteurs and technical advisors. After completion of the sitting of the Thematic Committees, the next phases of the constitution making process included drafting, a Second All Stakeholders Conference, presentation of the draft constitution to parliament and a referendum (www.copac.org.zw)

However, the process was slow and progress toward a referendum was inhibited by bitter political infighting between the three political parties. The Herald of January 10, 2012 reports, 'Constitution drafters yesterday resumed their duties after political parties' representatives in COPAC agreed to move the process forward. COPAC co-chairs Paul Mangwana and Douglas Mwonzora said there was now convergence on most of the issues where the political parties differed, but they said that it was unlikely for the constitution making process to be completed by 19 January 2012.' (The Herald, January 10 2012). NCA chairperson Lovemore Madhuku

believes that the stalemate in the constitution making process was largely due to the domination of political parties. He believes that the process was driven by partisan political factors. He argues that the framework that sets up COPAC are three political parties with different interests and whatever happens, it will end up a ZANU PF, MDC wrangle (The Zimbabwe Independent, January 12 2012).

A survey that was carried out by the Afrobarometer in October 16 – 19 2010 sought to find out if respondents were aware of the constitution under which they were governed by asking if they had, ‘...ever heard of the constitution of Zimbabwe?’. Apparently, popular awareness was impressively high with 75% saying they were aware while the remaining 25% said they were not. Though awareness was nationally widespread, urban residents (81%) were more aware than their rural counterparts (73%). A significant gender gap in awareness also existed, as more men (79%) than women (71%) claimed awareness. A regional inspection of the results shows the majority stayed away from the outreach meetings. Sitting at the zenith of the attendance record was Manicaland province where a majority of the residents (52%) said they had attended. Harare and Bulawayo Metropolitan provinces had significantly higher numbers of people who did not attend perhaps due to the politically motivated skirmishes that disturbed the two cities during the initial scheduled dates for this activity (Ndoma, 2011).

6. Conceptual Framework

This study was guided by the Human Factor (HF) approach which can be viewed as a micro sociological framework that places great emphasis on the qualitative nature of individuals which makes them active creators of their social environment. It is a theory of development which asserts that no society has ever developed without first having developed the relevant HF values

in its people (Chivaura and Mararike, 1998). HF is defined as the, “Spectrum of personality characteristics and other human dimensions which cause political, economic and social institutions to function effectively and continue to do so over time” (Adjibolosoo, 1993: 6). Mararike (1998) defines culture as a system of ideas; a way of life in any given society. He argues that culture plays a significant role in the formation of the human factor. Mararike (1998) points out that socialization, which takes place primarily through social interaction, transmits a society’s culture from generation to generation. Now the human factor, which is a circumstance that is expected to contribute positively to human survival and development results through deliberate and purposeful socialization. Mararike’s (1998) argument is that the human factor can only be developed in the context of a people’s culture thereby ensuring their development.

It is this spectrum of personality characteristics that influences the constitutional culture of any given society. Adjibolosoo in Chivaura and Mararike (1998) asserts that constitutional democracy in African countries will always remain elusive unless the HF is fully developed. He further states that the constitution of a country is nothing more than a blueprint which cannot operate itself as its successful implementation is the critical function of the HF. In his view, it is the HF and not the constitutional blueprint that wields the power to mobilize successful democratic rule. Okoth-Ogendo (2000) seems to back this view when he points out that a great fallacy is the assumption that constitutional reform, especially when properly conducted will cure society of all its ills (Hyden, Hastings, Oluwu and Okoth-Ogendo, 2000).

It is its people centered view point that makes the HF approach suitable for a study seeking to uncover people’s perceptions on the constitution making process in Zimbabwe. A nation’s constitution is the political blueprint that outlines clearly the various rules, regulations and principles that are relevant to the organization, operation and governance of that state.

Regardless of its stipulation, it is a document crafted by statesmen and women to guide the affairs of the country. Adjibolosoo in Chivaura and Mararike (1998) states that a constitution is an inanimate document which cannot operate itself and its operationalisation lies in the desire and willingness of citizens to respect and adhere to its stipulations. He asserts that the successful implementation is directly related to the level of HF development in the country. Kersting (2009) points out that in Zimbabwe, there has to be cultural change towards consensual politics and real reconciliation; a realization that the HF needs to be developed in Zimbabwe before constitutional democracy can be attained.

Indeed, Adjibolosoo in Chivaura and Mararike (1998) states that African countries can never achieve and maintain constitutional democracy until the HF is fully developed. He argues that, “the human factor is as essential to the effective performance of the whole human enterprise as the central nervous system is to the proper functioning of the human body” (Adjibolosoo, 2000: 3). If African countries fail to educate their citizens properly, he further states, sustainable human centered development is unattainable. Therefore, without the necessary human factor qualities and or characteristics, constitutional democracy and development cannot happen in societies. His ultimate point, simply put, is that an excellent constitutional blueprint is necessary but not solely sufficient for practicing successful democracy. It is the HF, a set of beliefs, values and attitude an individual possesses which creates a constitutional culture in people and produces aspirations for sustainable constitutional democracy. The depth and effectiveness of a constitution ultimately rests on the will and motivation of the people. Since a constitution is merely a document which outlines and explains the procedure of the democratic process, every citizen needs to be committed and dedicated to the successful implementation of the national constitution.

Adjibolosoo (Chivaura and Mararike, 1998) further states that where there is continuing HF decay in societies, the national constitution can be subverted by anyone with the means to do so. The pursuit of constitutional rule under democratic arrangements is based on the implicit assumption that every citizen will uphold the constitution to foster the rule of law and respect and protect the rights of others. Yet these goals cannot be attained without having produced men and women who have acquired the relevant human factor qualities for the effective and efficient working of the national constitution. The failure of the constitution to achieve its desired goals is a direct result of the lack of people who have developed the HF. No constitution, says Duchacek, "...can cure a sick society nor protect it against usurpers" (Duchacek, 1973: 72). Constitutions in themselves are not sufficient to foster sustainable democracy as this is the ultimate function of the HF.

The human factor also plays an important role in molding leaders that respect and uphold the constitution. Adjibolosoo (1998) argues that every group of people requires excellent leadership to successfully accomplish its intended objectives. In view of this, it can be argued that the varying performance of different societies is affected by the human qualities possessed by both leaders and their subordinates. If societies and or nations are to perform at their best, they need the type of leadership that is poised and ready to make a difference in the lives of people they lead. Adjibolosoo (1998) stresses that the significance of the human factor in leadership performance should not be devalued since it is people who have acquired the appropriate human factor characteristics who make things happen.

Leaders are viewed (Adjibolosoo, 1998) as individuals who possess a reservoir of various personality traits (for example; a clear sense of purpose, persistence, strong self image, maturity, caring, integrity, responsibility, accountability, the ability to attract and energize others toward a

certain goal and trust among others). Society demands a great deal from its leaders as they are expected to be a unique breed of men and women who must be readily available to carry out the tasks of leadership in all spheres of human endeavor. Chivaura (1998) asserts that no social, economic or political institutions can function effectively without being upheld by a network of committed persons who stand firmly by these institutions and strongly believe in and affirm the ideals of societies.

7. Research Design

The purpose of this study was to examine the perceptions of people in Glen Norah, A Harare regarding the constitution making process. This section describes the methodology of this study, explains the sample, describes the procedure used in collecting data, discusses the ethical considerations taken into account and provides an explanation of the procedure used to analyze the data.

7.1 Methodology

This study made use of qualitative research methods as they are arguably the best to use to gather an in depth understanding of human behavior and the reasons that govern such behavior (Burgess, 1984). Qualitative research can be defined as a system of inquiry that seeks to build a holistic and largely narrative description that is designed to inform the researcher's understanding of a social or cultural phenomenon. Qualitative research usually takes place in natural settings and makes use of a combination of observations, interviews, and document reviews. Burgess (1984: 47) defined qualitative research as, "...primarily an inductive process of organizing data into categories and identifying patterns (relationships) among categories." This definition carries the implication that data and meaning arise "organically" from the research

context. Qualitative research methods are supposed to be flexible and to find out the world views of research participants. Thus the qualitative method is arguably most suitable for investigating the perceptions that people have on Zimbabwe's constitution making process.

The qualitative method is largely based on the assumption that reality is a social construct that is brought about socially by individuals and by the meaning they attach to it, thereby creating social order. An important aspect of the qualitative research design is the reflexive position. The researcher and the object of study are affected by and are both part of the process of investigation. Therefore, they are not viewed as independents, but as social actors that create the research process from interpretation, in a historical and social context which is inclusive of race, sex or class, among many other things. Moreover, the qualitative paradigm has critical and reversible capacity. Critical, in the sense that it is not a matter of rigid sequence since the investigation is a process of construction; and reversible, considering that the methodological sequence is wholly enriched throughout the process. In this way, the research processes with this methodological focus are mainly characterized by gathering information that is based on social discourse, which mainly uses techniques of recollection of information such as observation, questionnaires, interviews, focus group discussions and analysis and review of existing data. However, qualitative studies are more difficult to systemize due to the nature of the information (Benny and Hughes, 1956).

7.1.1 Data Collection

In order to understand how people view the constitution making process, this study employed semi structured interviews. As long ago as 1942, Allport pointed out that if you wanted to know

something about people's activities, the best way to find out was to ask them. Harre and Secord (1972) made a similar point and they emphasized the expertise and experience that is unique to the respondent in the research process and the viability of using the respondents' own accounts as scientific data. It is this willingness to treat individuals as their own drama, as valuable sources of particular information which makes semi structured interviewing highly compatible with a study on how people perceive Zimbabwe's constitution making process. The central value of the semi structured interview in this research procedure is that it allowed both parties to explore the meaning of the questions and the answers involved. There is an explicit negotiation of understanding in the interview situation which is not so central and any misunderstandings on the part of the interviewee or interviewer can be checked immediately. Interviews are so extensively used by sociologists that Benney and Hughes (1956: 56) referred to modern sociology as, 'the science of the interview'. Qualitative interviewing is generally meant to be flexible and to find out the world views of research participants.

As has been noted earlier, the study employed semi structured interviews which used a set of themes and topics which formed the questions that were asked respondents during the course of the interview. This strategy, it is argued (Burgess, 1984) gives informants an opportunity to create their responses outside a structured format. Bryman (2001) has identified three main types of questions that are used. First; descriptive questions which allow informants to give first hand statements about their activities. Second, structural questions which attempt to discover how informants organize their knowledge and finally, contrast questions which allow respondents to discuss the meanings of situations and provide respondents an opportunity to give comparisons between situations and events in their world. This study made use of all three types of questions.

The researcher had a list of questions to be answered but the respondent had a great deal of leeway in how to reply. At times questions did not follow on in exactly the way outlined on the guide and questions not included in the guide were sometimes asked as the researcher picked up on things said by the respondent. But, by and large, all of the questions were asked and a similar method was used from respondent to respondent. The researcher approached each individual personally and introduced himself and his study and the introduction letter from the University of Zimbabwe's Department of Sociology was very useful in gaining entry. Respondents had political fears dispelled when they read the letter that reiterated that the study was purely academic. Twenty semi structured interviews were conducted with twenty individuals.

7.1.2 Sampling

Sampling is primarily concerned with the selection of a subset of individuals from within a statistical population to estimate characteristics of the whole population (Burgess, 1984). Glen Norah A was chosen for the study because it is where the researcher lives therefore close proximity to the sample allowed for easy access to the respondents and negotiating entry was also made a lot easier as the respondents were comfortable talking to a member of their own community. In the selection of respondents, the study employed purposive or judgmental sampling. This is a non probability sampling technique where the researcher selects respondents to take part in a research process on the basis of the researcher's own judgment about which respondent will be most useful or representative. Judgmental issues taken into consideration for this sample included the age of the respondents; very young children were avoided as it was highly likely that they did not have knowledge about the constitution making process. The

researcher also made an effort to maintain proportionate gender representation; therefore an equal number of men and women were included in the sample. The sample consisted twenty individuals, ten females and ten males. Moreover, the willingness of respondents to take part in the research was also an important factor in the selection of the sample. However, results obtained from a judgmental sample are subject to some degree of bias due to the frame not being identical.

7.2 Data Analysis

This study employed thematic data analysis which is arguably the most common form of analysis in qualitative research (Bryman, 2001). Thematic data analysis emphasizes pointing out, examining, and recording patterns within data. Themes can be defined as recurring patterns across data sets that are considered important in describing a phenomenon and are usually associated to a specific research question. The selected themes then become categories for data analysis. Thematic data analysis has also been linked to phenomenology because of its focus on the subjective human experience. This approach emphasizes the participants' perceptions, feelings and experiences as the important object of study and it leaves the respondents to discuss the topic in their own way, free of the constraints imposed by fixed response usually questions found in quantitative studies. The researcher derived themes from the data gathered during the research process which were then used for analysis, focusing on what the respondents said. The aim was to highlight the respondents' perceptions.

7.3 Ethical Considerations

Ethical considerations are an important part of any social research. Before initiating this study, the researcher and the respondent created an oral agreement that clarified the obligations and

responsibilities for of each of them since social investigations require informed consent. The nature of the investigation was carefully explained. Respondents expressed their acceptance of tolerating inconvenience and the investigator guaranteed the safeguard of confidentiality and the welfare of the participant. To safeguard respondents' confidentiality, their names have been changed. Respondents were made to feel that they could abandon the study at any moment, without any penalization or repercussion. The use of deceit in social investigations undoubtedly represents an ethical challenge since the informant cannot use accurately informed consent (Bryman, 2001), therefore this study did not use any deceit whatsoever. The researcher strived to be truthful and straightforward with respondents and it was made clear to respondents that they were not to expect any monetary compensation for their participation.

8. Presentation of Findings

Respondent 1

Felix Sibanda is a 36 year old single male who works as an insurance broker at Henderson and Rugg Insurance Brokers. He reached 'A' level and went on to study finance at Higher National Diploma level at a local college. Felix described a constitution as laws used to govern a country. He added that it is a tool used to manage the affairs of a country. Felix disclosed that the constitution spells out his rights and obligations as a citizen and he viewed it as an instrument that can be used to protect him. The respondent affirmed having knowledge of the constitution of Zimbabwe and added that it was crafted at Lancaster House prior to Zimbabwe's independence. Felix disclosed that he knew about the current constitution making process and disclosed that he had come to know about it through newspapers and the television. He felt that the government was undertaking a constitutional overhaul in order to further its own interests saying, "Vari kuzviita kuti vagadzirise kuside kwavo ivo chete" (They are carrying out the process to benefit themselves.) He asserted that the constitution was a tool used by politicians to stay in power. As such, he felt the whole overhaul process was a waste of time, accusing political parties of pushing their own agendas.

Respondent 2

Andrew Murena is a 26 year old male who works as an accountant at TN Bank in the CBD. He is single and lives with his parents. The respondent obtained a Bsc in Accounting at Midlands State University. Andrew defined a constitution as the law that governs a country which stipulates what one does and does not do. He added that it maintains cordial human relations and it stipulates how people interact with institutions. Andrew disclosed that the constitution protects

him. He stressed that awareness of the constitution is necessary if one is to use it to protect his rights saying, “If you know your rights, you are protected.” Andrew responded that he had heard of the constitution of Zimbabwe several times because of the ongoing constitution making process. He disclosed that he had heard of the constitution making process through the electronic media and newspapers. Andrew felt that a new constitution is necessary owing to the many times the current one has been amended and he pointed out that there is a pressing need to adapt to changes in Zimbabwe’s political, social and economic environment. However, the respondent did not participate in the public outreach meetings for fear of harassment. Andrew declined the opportunity to participate in the referendum as he did not participate in the initial stages.

Respondent 3

Virginia Kangai is a 32 year old single female who works as a secretary at Schweppes. Virginia reached ‘O’ level and proceeded to acquire a secretariat diploma at a local college where she is now studying for a Higher National Diploma. She has no children but lives with her two siblings who she looks after. Virginia defined a constitution as, “...bumbiro remutemo rinoshandiswa nyika yese zvichisiyana siyana mafield.” (a body of laws used country wide in different fields). She stated that it codifies rules and regulations and enshrines people’s rights. In explaining what a constitution does, she said that it protects people’s interests as their views and aspirations are stipulated in the constitution. However, she acknowledged that other people’s views may not be considered especially the disadvantaged; physically and economically. She added that women’s views are not incorporated due to gender inequality and domestic violence. Virginia emphasized domestic violence and disclosed that the constitution may not be entirely helpful in curbing domestic violence as some women may not opt not to report cases of abuse fearing that if the breadwinner is locked away, the family will starve. Virginia said that constitutional laws without

women are useless. The respondent affirmed that she had heard of the constitution of Zimbabwe and that she knew of the current constitution making process through the media. Virginia disclosed that the constitution making process gave people a platform to express their views which are then incorporated into the new constitution. She however felt that the views were 'diluted' as some people did not attend the public outreach meetings failed to do so due to violence. Virginia also pointed out how some women whose husbands did not want them to attend failed to do so and as such their views were not heard. The respondent believes that the overhaul is being undertaken because of the shaky coalition that is the inclusive government. She felt that it has nothing to do with the country's development but more to do with the mistrust among politicians themselves. Virginia did not attend public outreach meetings as she was afraid of violence saying, "zveconstitution izvi zvinotyisa coz zviri associated nepolitics. (Constitutionalism is frightening because it is associated with politics). Virginia expressed her desire to participate in the referendum, provided the ballot is secret for she fears victimization.

Respondent 4

Mbuya Sundire is a 52 year old widow who is unemployed and lives with her two grand children in the house she built with her husband. She has three children; a daughter and two sons who are gainfully employed and give her remittances for her survival. Mbuya Sundire reached standard six and did odd jobs but she gave that up and became a full time housewife. Mbuya Sundire had a hard time describing what a constitution is, but contended that it had something to do with laws, "handinyatsoziva nezvazvo mwanangu asi zvinenge zvine chekuita nemitemo yenyika." (I don't really know about it but I think it has something to do with the country's laws). The respondent disclosed that she really didn't know much about the constitution. She added, however that she had heard talk of the constitution making process in the radio and that she did

not pay it much attention. The respondent disclosed that politics was best left to politicians as such she had no desire to participate in the constitution making process.

Respondent 5

Lawson Tanganyika is a 46 year old teacher at Shiryedenga Primary School in Glen Norah. Lawson is married and has three children, one who is in high school while the other two are primary scholars. His wife, Mary is a cross boarder trader. Lawson displayed considerable knowledge of what a constitution is by describing it as a body of laws that governs a country and stipulates the rights and obligations of citizens. The respondent disclosed that a constitution can be used to protect citizens but it can also be used to prop dictatorships that masquerade as democracies. Passionately, he invoked the Zimbabwean experience and cited laws such as the Public Order and Security Act and the Access to Information and Publicity Act which he believes are used by the government to hold on to power, “Vanongogadzira zvimutemo zvavo kuti zvikutsikirirei ivo vogara vachitonga.” (They formulate laws designed to oppress you so they can stay in power). Lawson disclosed that he had heard of the constitution of Zimbabwe, adding that it had been crafted in 1979 to facilitate the independence of the country. He further stated that the independence constitution did not fully liberate Zimbabwe as it had clauses that protected the settlers’ interests, hence the numerous amendments. Lawson acknowledged that he had heard of the current constitution making process through the electronic media and the press. For him, a new constitution is necessary to do away with what he called draconian laws. He was also fluent on the maximum presidential terms stating that no president should be allowed to run for more than two terms. However, Lawson had some misgivings about the overhaul process, pointing out how politicians’ leading role compromised inclusivity as they had partisan ideologies that they are pushing in spite of people’s views. The respondent asserted that the

constitutional overhaul was necessitated by a shaky inclusive government. Lawson did not attend public outreach meetings for fear of violence. He feels that people's views will not be taken seriously due to the partisan agendas of COPAC. Lawson said he intends to participate in the referendum as it is his duty as a patriotic citizen.

Respondent 6

Theresa Madondo is a 32 year old married female, a teacher by profession. Her husband, Tinashe works as a mines safety engineer at Anglo-American. Theresa completed her teaching diploma at Gweru Teacher's College and teaches English and Shona at Glen Norah High 1. Theresa defined a constitution as, "Bumbiro remutemo rinogoverna munhu wese munyika kubva kuna president." (It is a body of laws that governs everyone, even the president). She added that the constitution governs people and stipulates how government works. The respondent disclosed how the constitution affects her, saying, "Harinyatsondiafecta." (It doesn't really affect me). She explained how people don't really appreciate the importance of the nation no one really cares about the law anymore. The respondent affirmed that she had heard of the constitution during the 1999 referendum. Theresa disclosed that she knew of the current constitution making process, saying, "Hongu. Taingonzwa kuti riri kugadzirwa asi hatina kuona vagadziri varo." (Yes, we heard that it was being crafted but we haven't seen the crafters). She said that she had heard about the constitution making process through the media and through her peers in the staffroom. Theresa added, "Dai zvaitwa zvine national interest kwete party interest." (If only the process was driven by national interest, not partisan interests). She explained that the overhaul process is being carried out because for ZANU PF, it is a gimmick to gain legitimacy, while for the MDC it is a campaign tool that sits well with their slogan that they can bring change to Zimbabwe. Theresa said that perhaps a new constitution is necessary to curtail excessive executive powers,

but she does not feel that the contributions people made will be taken seriously as she insisted that political party competition will overshadow the process. The respondent did not attend public outreach meetings for fear of violence but intends to participate in the referendum.

Respondent 7

Mbuya va Primrose is a 56 year old mother of five and a grandmother of eight. She is married and both she and her husband are retired civil servants who survive on their pensions and the remittances from their children. The respondent and her husband are both devout Watchtower followers. The respondent displayed no clear understanding of what a constitution is and simply declared that government has a God given right to govern the country as they see fit as long as it does not clash with the law of God as stipulated in the book of Moses in the form of the ten commandments. The respondent disclosed that she didn't know when the current constitution was crafted only that it came into force on independence. She added that she heard about the constitution making process on the radio but did not participate in any public outreach meetings on religious grounds. The respondent said that she didn't care about a new constitution or the current constitution making process and that she will not give it any thought as long as the constitution guarantees freedom of religion. She said that she will not participate in the referendum as she is strictly apolitical.

Respondent 8

Tichaona Mubako is a 26 year old married male and the father of a six month old baby. Tichaona is an electrician by profession and he got a diploma at Harare Polytechnic College. The respondent defined a constitution as the laws used to govern a country. He added that these laws are enforced by the police who can arrest a citizen deemed to be in violation of any of these laws.

Tichaona explained that provisions of the constitution help maintain order in a country and protects citizens from abusing each other and from abuse by the state. The respondent disclosed that the constitution checks his behavior by preventing him from doing as he pleases. The respondent confirmed that he had heard of the constitution of Zimbabwe and the current constitution making process through the media. Tichaona felt that a new constitution is necessary as the current one has been amended too many times. He also pointed out that it is a chance for him to have his views incorporated into the new constitution. However, Tichaona felt that politicians should not be leading the process as they had their own interests, “Zvatoo zvepolitics ka izvi mudhara. Saka isu tokwana papi?” (It is political, so where do we come in?). He added, “Kudyisana mari uku. Havanei nesu vanhu ava.” (They are creating opportunities for themselves to make money. These people don’t care about us.) Tichaona said he didn’t attend public outreach meetings as he didn’t know where they were being held. He feels that the contributions people made will be taken seriously as there was now a counterbalance of power in government in the form of the MDC and he expressed his desire to participate in the referendum.

Respondent 9

Kudzanai Mutema is a 26 year old divorcee who sells vegetables at the market in Glen Norah A shopping centre. She reached ‘O’ level but failed to sit for exams due to pregnancy. She lives with her parents, siblings and son. Kudzanai defined a constitution as, “Mutemo unoshandiswa kutonga nyika.” (Laws used to govern a country). She added that it stipulates how people behave as it encodes rules and regulations that guide people in their day to day activities. She disclosed that the constitution protects people from crime and she stressed how the law is helpful in her maintenance claim from her ex-husband for her son. Kudzanai said she heard of the constitution of Zimbabwe only recently when talk of a new constitution started doing the rounds. She said

she heard about it from her friends. The respondent disclosed that a new constitution is necessary in order to redress gender imbalances and enable women to compete with men at an equal footing in the economic sphere. She disclosed that the government is undertaking the constitution to pave way for elections, “Kugadzirira ma elections kuti vanhu vasarovane. Arova mumwe anofanira kusungwa. Hatichade mhirizhonga seyakitika gore riya.” (The overhaul is in preparation for elections to prevent violence. Whoever perpetrates violence must be arrested. We do not want the violence that rocked the country that year). The respondent felt that a new constitution is necessary to prevent electoral violence. With a new constitution in force, Kudzanai feels the country will be peaceful as the law will be respected and upheld. However, the respondent did not participate in any public outreach meeting as she could not leave her business, “Musika wangu ndaiwusiya nani? Ndopane sadza ka apa mukwasha. Zvebumbiro izvi hazvibhadhare!” (Who would I have left my business to? It is where my survival is.)

Respondent 10

Lionel Chibaya is a 48 year old married man who is a mechanic by profession and works at an informal garage at Glen Norah A shopping center. Lionel described a constitution as, “Mitemo inoshandiswa kutonga nyika kuti ifambe zvakanaka.” (Laws used to run the country smoothly). Lionel added that a constitution stipulates what one does and doesn't do. He said that it informs and regulates how people behave in relation with each other. The respondent disclosed that a constitution helps him in his business if a client refuses to pay for services rendered as he can always go to the police and report the case to recover his money. Lionel confirmed that he had heard of the constitution of Zimbabwe and that it was crafted at Lancaster to pave way for independence. He added that he knew of the current constitution making process, saying that he had heard about it in the television and radio. The respondent hoped that the new constitution

would mainstream SMEs so that they can compete in the formal economy. Lionel felt the government was overhauling the constitution because they wanted elections as they could not coexist in the GNU. However, he said that a new constitution is necessary to strengthen the protection of human rights in the country. He alleged arbitrary arrest, police brutality and the flippant attitude the uniformed forces have towards civilians. The respondent felt that a new constitution would help him legalize his garage. Lionel did not attend public outreach meetings because, "I had work to do." He however intends to participate in the referendum.

Respondent 11

Primrose Gwandomba is a 17 year old girl who is a lower six pupil at Noteview College in Glen Norah A. She lives with her parents and siblings. Primrose described a constitution as, "Mutemo wakaiswa nehurumende kuti munyika muite order." (Laws set up by government to maintain order in the country). She explained what a constitution does by pointing out how laws prevent violence and make people live together peacefully. She disclosed that the constitution protects her from abuse by upholding her rights as a school child by guaranteeing her right to education. She added that the constitution protects her from sexual as offenders are put in jail. The respondent disclosed that she had heard of the current constitution making process through the television. She explained that the constitution making process was good and hoped that the new constitution would enshrine and uphold children's rights and the empowerment of women. She disclosed that she didn't understand why the government was undertaking the overhaul but was confident that it was being done for the good of the country.

Respondent 12

Oliver Sithole is a 24 year old, unemployed, single male. The respondent described a constitution as a collection of laws used by government to run the country. He added that the laws are used to uphold people's rights. The respondent disclosed that the constitution protects him by upholding his rights and thus protecting him from theft, robbery, assault and or murder. Oliver disclosed that he had heard about the current constitution making process through the media. He expressed faith in the current constitution making process, explaining that the country needs a new constitution to limit the sprouting of religious sects as he feels that they stimulate Satanism. He added that a new constitution will also minimize corruption. Oliver explained further that the overhaul process was being done in order to bring the leadership and the electorate closer. The respondent attended a public outreach meeting and feels that his contributions will be taken seriously. The respondent described the atmosphere in the outreach meeting as politically charged as ZANU PF supporters clashed on a number of issues with MDC supporters. He explained, "Vaita sevacharovana. Vamwe vacho vakatanga kutukana nezvinyadzi. Nyaya yemapresidential terms ndoyakakonzeresa bongozozo nenyaya yekuti munhu achembera haafaniri kutonga." (It seemed they were going to engage in fisticuffs. They brandied obscene insults. The contentious issues were presidential terms and the age of an incumbent president). The respondent disclosed that the officials with the help of the police were able to restore order and the meeting proceeded. Oliver explained that COPAC officials gave everyone a chance to air their views in whatever language they felt comfortable with. The respondent disclosed that he felt compelled to air his views and he expressed his desire to have a clause in the draft constitution that caters for the unemployed with benefits which was applauded by the people in attendance at the meeting.

Respondent 13

Farisai Musemi is a 23 year old unemployed single female who lives with her parents. Farisai described a constitution as a body of laws used by those in power to run the affairs of the country. She explained that it spells out the laws of the country and stipulates what people should and should not do. The respondent confirmed that she had heard of the current constitution making process through the media and from friends. The respondent disclosed what she thought of the process, saying, “Hazvina basa izvi. Vanoda kungotinyepera sepave zvavari kugadzira ipo pasina.” (It is not important. They are posturing as if they are doing something when they are not). Farisai explained that a new constitution is necessary to fix the country. The respondent did not attend public outreach meetings as she feared violence but she intends to participate in the referendum provided there is no violence.

Respondent 14

Paddington Madimutsa is a 56 year old widower with four children and he lives with his grandchildren. The respondent defined a constitution as, “Mutemo wenyika” (Laws of a country). He further explained that these laws ensure the country runs smoothly and develops and he pointed out that without order there is no development. The respondent added that the constitution makes everyone equal before the law to avoid oppression. The respondent confirmed knowledge of the current constitution making process which he acquired from the media and his children. He said that the process is necessary as he thinks that it will help Zimbabwe develop. Paddington feels the government is overhauling the constitution because SADC told it to do so. The respondent stated that a new constitution is necessary to prevent political violence. He did

not attend public outreach meetings because his children strongly discouraged him but he intends to participate in the referendum.

Respondent 15

Oswald Rubaba is a 24 year old single, unemployed male. He obtained a diploma in carpentering at Harare Polytechnic College. Oswald defined a constitution as, “Mitemo yedu inotaura zvinofanira kuitika munyika” (Our laws that stipulate what happens in the country). The respondent explained that the constitution protects him from abuse and violence. He added that he has heard of the constitution of Zimbabwe and that he had heard of the current constitution making process through the newspapers and the television. Oswald feels that the process is necessary to prevent violence during elections. He explained that violence in previous elections because the law was selectively applied and that a new constitution would ensure full application of the law. The respondent stated that the government is undertaking the current constitutional overhaul to facilitate violence free elections to do away with the GNU which he claims to be dysfunctional due to partisan divisions. Oswald disclosed that he had participated in a public outreach meeting. He described the atmosphere as calm and relaxed and he disclosed that he was surprised as he had attended despite the fear of violence. The respondent explained that there was no violence and the meeting was conducted in a peaceful manner although voices were raised here and there. Oswald disclosed that COPAC officials were fully in charge of the meeting and debate was lively as people aired their opinions freely without coercion. He did not make any contributions as he disclosed that he is shy of speaking before a crowd. Oswald feels that the contributions made will be taken seriously; hence he intends to participate in the referendum.

Respondent 16

Rutendo Marembo is a 33 year old unemployed married woman with two children. She failed to reach 'O' level and her husband works as a security guard. The respondent described a constitution as laws used by the police to arrest those that have contravened such laws to arrest them. She explained that a constitution is used to curb criminal acts by imprisoning anyone deemed to be in violation of the law. The respondent disclosed that the constitution protects her from unscrupulous people as it inhibits them from committing acts of robbery, rape, and or theft. Rutendo is aware of the current constitution making process and she gathered this knowledge from the television. She however expressed little faith in the process saying, "Dai hurumende yatanga yagadzirisa nyika. Mwana ari kuchema uyu ndomupa constitution?" (If only the government could fix the country. Can I feed this crying child a constitution?). She added that the government is misleading the country so that the politicians can make money. Rutendo did not attend public outreach meetings and disclosed she will not participate in the referendum as she feels it is a waste of time.

Respondent 17

Clive Mushavi is a 20 year old unemployed single male who reached 'O' level and lives with his parents. The respondent defined a constitution as a body of laws used by the government to run the country. He added that the government makes these laws to ensure that the country runs smoothly. Clive explained that the constitution ensures that people live together peacefully by outlining the law which is then enforced by the police. The respondent disclosed that the constitution protects him by enshrining his rights and prevents infringements on his freedom. He confirmed that he had heard of the constitution of Zimbabwe and is aware of the current

constitution making process, knowledge of which he acquired through the media. The respondent felt that if the process is done in a genuine and transparent manner, it might help stabilize the country and create employment opportunities. Clive disclosed, however that the current process is neither genuine nor transparent and he indicated that political jockeying had taken precedence over national interests. He explained that the government is undertaking the overhaul in order to terminate the inclusive government. Clive did not participated attend public outreach meetings as he feared violence but he intends to participate in the referendum.

Respondent 18

Alina Kundiona is a 26 year old female who is a hairdresser at a saloon at Glen Norah A shopping center. She is married, has one child and lives with her husband, a commuter bus driver. Alina defined a constitution as a body of laws that ensures people live together peacefully. She explained, “Mutemo unoita kuti vanhu vadzikame vasaita zvavanoda.” (The law prevents people from doing as they please). The respondent disclosed that the constitution protects her from harm and encourages her clients to pay their bills. The respondent confirmed that she had heard of the constitution of Zimbabwe and the current constitution making process through the media. She disclosed that a new constitution is necessary to bring peace and tranquility to the country. Alina explained that the government is undertaking this overhaul process to pave way for elections and prevent violence. She did not attend public outreach meetings for fear of violence but she intends to participate in the referendum.

Respondent 19

Bothwell Nhindiri is a 26 year old male who is a clothes trader. He is married, has one child and he lives with his unemployed wife. Bothwell defined a constitution as laws used to run a country.

He explained what a constitution does by pointing out that these laws make people afraid to commit criminal offences, thus ensuring peace. The respondent confirmed that he had heard about the constitution of Zimbabwe and the current constitution making process through the media. Bothwell said that the government is undertaking the overhaul process in order to do away with the current one which has been amended too many times. He feels that a new constitution might help mainstream the informal sector and he dreams of owning a clothes shop in the CBD. Bothwell did not attend any public outreach meeting as he feared violence. He however feels that the views of those that attended will be taken seriously and he intends to participate in the referendum and he explained that it is the duty of every patriotic citizen to take part in referenda that shape the country's future.

Respondent 20

Marian Mushongabvudzi is a 22 year old female. She is an accounting student at Solusi University. She is unemployed, single and lives with her parents. Marian defined a constitution as a body of laws used to govern the country. She stated that it is a set of rules and regulations that must be followed by both the leadership and the electorate. The respondent disclosed that the constitution protects her from acts of violence and it also stipulates her obligations as a citizen. She confirmed that she knew about the constitution of Zimbabwe and the current constitution making process through the media and social networking sites on the internet. Marian disclosed that ideally, a new constitution is necessary to bring about a new political dispensation in Zimbabwe which will lay the foundation for the country's economic recovery. She however expressed doubt in the sincerity of the current process and believes that it is mere political gesturing that lacks the interests of Zimbabwe. The respondent explained that the government is undertaking this process to further partisan interests at the expense of the ordinary Zimbabwe.

She did not attend any public outreach meeting as she feared violence and does not intend to participate in the referendum.

9. Data Analysis

This section analyses the data collected from the study. The analysis is presented in themes which are then discussed.

9.1 Knowledge of the Constitution of Zimbabwe

General awareness of what a constitution is among respondents is impressively high. Respondents generally described a constitution as a body of laws that is used to govern a country. Respondents 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 (90%) knew what a constitution is and they pointed out a constitution's enabling and restrictive nature. Only two respondents; 4 and 7 did not know what a constitution is. Respondent 4 is a 52 year old widow and her lack of knowledge can be attributed to the simple fact that she does not care about the constitution. Respondent 7 however, disclosed that her religious beliefs prevented her from having any interest in matters deemed to be political and the constitution is one such matter. What is striking about these two respondents is their somewhat similar profile; their age, sex and level of education. However, one cannot draw the conclusion based solely on these two respondents that females advanced in age do not know what a constitution is.

The 18 respondents that knew what a constitution is also knew about the Constitution of Zimbabwe. Respondents disclosed that the Constitution of Zimbabwe spells out their rights and obligations as citizens. Respondents 1, 5 and 10 explained that the constitution was crafted at Lancaster House in London in order to facilitate independence. Respondent 5 described the Lancaster House Constitution as being used to prop up dictatorship and he cited laws such as the

Public Order and Security Act and the Access to Information and Publicity Act which he felt are draconian. Generally, awareness of the Constitution of Zimbabwe is impressively high. Awareness of the constitution is important and Austin (2009) asserts that the government must make serious and prolonged efforts to make sure that everyone is aware of the constitution and its significance. This goes further than informing people of their rights under the constitution. Makumbe and Compagon (2000) point out that people must be aware of their responsibilities too and of the way institutions of government work and the part they play in the government of the country. It is of critical importance in the development of relevant human factor values that citizens are aware of the constitution under which they are governed and their obligations towards it. Since a constitution is an inanimate document which cannot operate itself, its operationalisation lies in the desire of the citizens to respect and adhere to its stipulations. Citizens can only do this if they are aware of the constitution. Therefore, knowledge of the constitution is a key factor in building the necessary HF qualities that promote constitutionalism.

9.2 Awareness of the Constitution Making Process

Awareness of the constitution making process was impressively high among respondents. 98% of the respondents indicated that they were aware of the constitution making process. The respondents disclosed that they got information about the constitution making process from public media; TV, radio and newspapers. Apparently, information about the constitution making process was widely in the public media (both state owned and private owned) such that anyone who had access to newspapers, television and the radio was highly likely to come across information about the constitution making process. It is important that people are aware of the constitution making process to ensure that they be able to participate in debates and discussions of issues surrounding the process. More importantly, a constitution needs to be popularized

before it can achieve legitimacy. Once people identify themselves with the constitution, they are more likely to respect it and adhere to its stipulations. Awareness of the constitution making process is arguably an important prerequisite to participation in the process as one cannot be part of a process she or he is unaware of. Through participation in the constitution making process, citizens identify themselves with the constitutional blueprint and by doing so they cultivate the relevant human factor qualities which encourage them to uphold the stipulations of the constitution.

Even though the level of awareness about the constitution making process is impressively high, two respondents; respondent 4 and respondent 7 did not care much about the process. Respondent 4 disclosed that she had heard about the constitution making process but did not care at all about the process. She disclosed that all she cared about is the day to day welfare of her family. Respondent 7 disclosed that her religious beliefs prevented her from forming any opinion regarded to be political. Durkheim viewed religion as a unified system of beliefs and practices relative to sacred things and he presented religion as having the functional role of uniting society (Stark, 2001). In this instance, religion can be viewed as an important aspect in the formation of the stream of personality characteristics and other human dimensions which allow institutions effective functionality; the human factor. Therefore, awareness of the constitution making process is indeed important but is not solely sufficient to motivate individuals to identify themselves with the process. It is imperative that they become active participants in the constitution making process as this is a critical aspect in the development of the relevant human factor qualities (such as patriotism, national pride, abiding by the law among others) that promote and sustain constitutional culture in a country. It is also notable that none of the respondents claimed to have come across information of the constitution making process from

popular social networking sites such as facebook and twitter. This arguably limited debate on constitutional issues and undoubtedly alienated a large number of youths who frequently use the social networking sites.

9.3 Participation in the Constitution Making Process

As noted in the above section, awareness of the constitution making process alone was not sufficient to entice people to take part in the process by attending public outreach meetings. COPAC was mandated by Article VI of the Global Political Agreement to convene public outreach meetings throughout the country with the aim to create a participatory constitution making process. However, respondents 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 18, 19 and 20 (90%) did not attend public outreach meetings despite being aware of the constitution making process. These respondents cited violence as the major deterring factor. Ndoma (2011) reports that in the initial stages of the constitution making process, violence rocked Harare and Bulawayo metropolitan cities and most people shied away from the public outreach meetings due to the eruption of violence mainly between ZANU PF and MDC supporters. These skirmishes between the two political parties' supporters arguably compromised most people's desire to identify themselves with the constitution making process as they could not freely express their opinions and aspirations to be included in the draft's text. It is important that people participate in the constitution making process since the more participatory the process, the more aspirational it is likely to be. A constitutional blueprint that carries the aspirations of a nation is more likely to attract the commitment and dedication of citizens, leading to its successful implementation. Commitment and dedication are an important part of the stream of characteristics that form the human factor and Adjibolosoo (Chivaura and Mararike, 1998) assert that without these necessary human factor qualities, constitutional democracy cannot happen in societies.

Only two respondents; respondent 12 and respondent 15 (10%) attended public outreach meetings. These two respondents described the meetings as free of violence and intimidation and they explained that there was enough security in the form of police personnel to ensure that violence did not occur. Respondent 12 disclosed that he was compelled to give his opinion as the debate was open and lively. Respondent 15 however disclosed that he is of a shy disposition and did not speak at the public outreach meeting but was intrigued by what others had to say. These two respondents expressed faith in the meetings and they disclosed that they felt that the contributions made will be taken seriously. Reports of violence deterred many people from attending public outreach meetings but respondents 12 and 15 insisted that there was no violence at the meetings they attended.

Article VI of the Global Political Agreement that set up the Government of National Unity focuses on the constitution making process and it stipulates that the draft constitution recommended by the Select Committee be submitted to a referendum. Respondents 3, 5, 6, 8, 10, 12, 13, 14, 15, 17, 18 and 19 (60%) disclosed that they intend to participate in the referendum despite not attending public outreach meetings. Respondent 5 explained that it was his duty as a patriotic citizen to participate in the referendum. Participation in the referendum is critically important as the referendum ultimately rejects or endorses the draft constitution. Respondents intended to make up for not attending public outreach meetings by voting in the referendum. It would appear that taking part in the referendum would act as a counter balance to the wide spread non attendance of respondents in public outreach meetings, thereby ensuring that they are part of the constitution making process and enabling them to identify with the process and regard the ensuing constitution as theirs.

Hart (2003) argues that in this era of constitution making around the world, *how* a constitution is written is very important. Participatory constitution making has become a criterion of a legitimate process. A legitimate constitution making process is crucial for the formation of relevant human factor qualities in individuals to enable them to abide by the stipulations of the constitution, defend it and uphold it. Through participation in the referendum, respondents are likely to identify themselves with the constitution making process thereby taking the first step in the formation relevant human factor qualities that are essential if constitutional democracies are to exist in societies (Chivaura and Mararike, 1998).

Respondents 1, 2, 4, 7, 9, 11, 16 and 20 (40%) disclosed that they would not take part in the referendum. The general reason that they gave for their non participation was that they were not part of the process from the start since they had not participated in public outreach meetings. Respondents 1 and 16 shared the view that taking part in the referendum was a waste of time. These two respondents disclosed that the constitution making process was merely for politicking so they had no desire to be part of the process. Respondent 16 who is an unemployed mother put the needs of her family over participation in the constitution making process. She emphasized material needs over a new constitution. The respondents that declined the opportunity to take part in the referendum apparently did not believe that the politicians that were in charge of the process possessed the necessary human factor qualities to produce a draft that reflects the aspirations of the people.

9.4 Reasons for the Constitution Making Process

Respondents gave various reasons as to why the constitution making process was undertaken. Respondents 1, 2, 5, 6, 8, 17 and 20 (35%) disclosed that the constitution making process was

undertaken to further politicians' interests. They pointed out that the process was a ploy used by politicians to consolidate their hold on power and make some money. The general sentiment among these respondents was that the three political parties behind the constitution making process were battling among themselves for political control and thus were advancing their own interests and not the country's interests. These respondents felt that the constitution making process was merely a power struggle between the political parties that make up the inclusive government.

Respondents 3, 9, 14, 15 and 18 disclosed that the constitution making process was done in order to pave way for elections. The respondents shared the view that the coalition between ZANU PF and the two MDC formations was shaky, rendering the government largely dysfunctional. They disclosed that a new constitution was necessary to enable a free and fair election. The Global Political Agreement that set up the inclusive government outlines a framework for the Government of National Unity. This framework states that the Executive Authority of the Inclusive Government shall vest in and be shared among the President, the Prime Minister and the Cabinet. It also states that in the exercise of executive authority, the President and Prime Minister must regard the principles and the spirit underlying the formation of the inclusive government and accordingly act in a manner that seeks to promote cohesion both inside and outside government. The GPA however, fails to outline in precise terms just how executive power is to be shared and this has arguably been the root of much tension and friction in the inclusive government. It can be argued that this has led respondents to believe that the inclusive government has been dysfunctional and the constitution making process was carried out to terminate the inclusive government. Respondents disclosed that a new constitution is necessary to prevent electoral violence. However, Okoth-Ogendo argues that constitutional reform, no

matter how well it is carried out, cannot cure society of its ills (Hyden, Hastings, Oluwu and Okoth-Ogendo, 2000).

Respondent 2 disclosed that the constitution making process was necessitated by the fact that the Lancaster House constitution had been amended too many times and that there was a pressing need for a new constitution that adapts to changes in Zimbabwe's political, social and economic environment. Respondent 5 disclosed that the numerous amendments to the Lancaster House constitution had resulted in the enactment of what he called draconian laws. He gave the Public Order and Security Act and the Access to Information Privacy and Publicity Act as examples. Respondent 8 also felt that the Lancaster House constitution had gone through too many amendments and had to be replaced with a new constitution. The Lancaster House constitution has been amended nineteen times and all the amendments have been effected by parliament. Respondents 10 and 11 disclosed that the constitution making process was done in order to protect basic human rights. Respondent 11 hoped that a new constitution would go a long way in promoting children's rights. Respondent 10 on the other hand, alleged gross human rights abuses perpetrated by the police and the army. He believed that a new constitution would help prevent these violations. Respondent 18 disclosed that the constitution making process was undertaken to promote peace and tranquility.

While respondents gave varying reasons as to why the government took steps to draft a new constitution, there was a general consensus that the process was done in order to pave way for elections and end the inclusive government. Respondents seemed confident that a new constitution would be sufficient to prevent electoral violence.

9.5 Women and the Constitution Making Process

80% of the female respondents disclosed their desire to be adequately represented in the new constitution. Respondents 3, 6, 9, 13, 18 and twenty disclosed that they hoped that the new constitution would protect women from domestic violence. They also acknowledged that for the law to work effectively to curb domestic violence, victims of domestic violence must be willing to use the law to protect themselves. Respondents disclosed that economic dependency on abusive spouses and lack of knowledge about the law causes victims to suffer in silence. Respondent 3 explained that laws designed to protect women against domestic violence are useless unless they are accompanied by economic reforms aimed at empowering women. Female respondents disclosed that they hoped that women would be afforded opportunities to economically empower themselves under a new constitutional dispensation. Respondents also hoped that a new constitution would counter cultural practices that put the girl child at a disadvantage such as under age marriage, forced marriage, *kuzvarira* (arranged marriage) and *kugara nhaka* (bridal inheritance) and guarantee the girl child the right to education on equal footing with their male counterparts.

All of the female respondents did not attend public outreach meetings. They disclosed that they were too busy taking care of their families to attend public outreach meetings. Respondents 9 and 16 emphasized bread and butter issues and they disclosed that these were more important than a new constitution. These respondents felt that the government should have spent more effort trying to resuscitate the economy. They disclosed that a new constitution was not really necessary. Generally, female respondents seemed more concerned with domestic violence and bread and butter issues over the politics behind the constitution making process. However, as Duchacek (1973) argues, no constitution can cure society of all its ills. It becomes apparent that

if citizens possess the relevant human factor qualities, they are more likely to respect each other and adhere to the constitutional stipulations against violence, thereby curbing domestic violence. Adjibolosoo (1998) argues that the pursuit of constitutional rule under democratic arrangements is based on the implicit assumption that every citizen will uphold the constitution to foster the rule of law and respect and protect the rights of others.

10. Conclusion

The goal of this study was to find out the perceptions that people in Glen Norah A, Harare have about Zimbabwe's constitution making process. To this end, the study was guided by the human factor approach; a micro sociological framework that emphasizes the personality traits of individuals. The study also employed qualitative research techniques namely; semi structured interviews with twenty respondents. The study found that an impressive 98% of the respondents were aware of the constitution making process. However, awareness of the process did not translate into participation in outreach meetings. Respondents cited violence as the major deterring factor and 90% did not attend outreach meetings. 50% of the respondents welcomed the constitution making process and disclosed that a new constitution was necessary to replace the Lancaster House constitution and prevent electoral violence. This group of respondents disclosed that they had faith in the politicians running the process and that the views of the people who attended public outreach meetings would be taken seriously.

On the other hand, 35% of the respondents disclosed that they did not trust the politicians behind the process. They felt that the politicians running the process were using the process to further their political agendas as they grapple for political power as the end of the inclusive government draws near. 10% disclosed that they did not care for a new constitution and that they were more

concerned about how to feed their families. There was an apparent consensus however, that the constitution making process was being done to pave way for elections to end the inclusive government. Respondents seemed to agree that constitutional reform was necessary in order to avoid electoral violence. However as Duchacek (1973) argues, no constitution no matter how well written can rid society of its ills. Indeed, a constitution is merely a blueprint that relies on people for its operation. It can be argued that the specter of electoral violence that haunts Zimbabwe can only be exorcised if the relevant human factor qualities are conditioned in society. Adjibolosoo (1998: 10-11) defines the human factor as, “a spectrum of personality characteristics and the other dimensions of human performance that enable social, economic and political institutions to function and remain functional over time.” Individuals who possess the relevant HF qualities are more likely to abide by the law and refrain from violence. An “excellent” constitutional blueprint is necessary, but not solely sufficient to counter electoral violence.

11. Bibliography

Adjibolosoo, S. 2000. "The Human Factor Approach in Nation Building." *Review of Human Factor Studies*, 5 (1&2): 1 - 15.

Adjibolosoo, S. 1998. "Making a Difference: A Human Factor Anatomy of the Essence of Being And Leading." *Review of Human Factor Studies*, 4 (1): 1 – 20.

Adjibolosoo, S. 1993. "The Human Factor in Development." *The Scandinavian Journal of Development Alternatives*, 12 (4): 139 – 149.

Allport, G. 1942. *The use of Personal Documents in Psychological Science*. Social Sciences Research Council: New York.

Austin, R. 2009. "The Zimbabwe Constitution Reform Process." In *NIMPD, Writing Autobiographies of Nations*. NIMPD: Hague.

Benney, M. and **Hughes, E.** 1956. "Of Sociology and the Interview." *American Journal of Sociology*. Vol 62, no. 2, pp 137-142.

Bourdieu, P. 1990. *In Other Words. Essays Towards A Reflexive Sociology*. Polity Press: Cambridge.

Bryman, A. 2001. *Social Research Methods*. Oxford University Press: Oxford.

Burgess, R. 1984. *In the Field. An Introduction to Field Research*. Allen and Unwin: London.

Chivaura, V.G. "Conditioned Human Factor in Africa and its Implications for Development: The Example of Zimbabwean Writers in English from their Sensibility, Confessions and Selected Works." *Review of Human Factor Studies*, 4 (1): 50 – 68.

Chivaura, V. and Mararike, C. (eds) 1998. *The Human Factor Approach to Development in Africa*. University of Zimbabwe Publications: Harare.

Democracy Reporting International Briefing Paper No. 20 of 2011.

Deng, F. 2008. *Identity, Diversity and Constitutionalism in Africa*. USIP: Washington.

Duchacek, K. 1973. *Power Maps : Comperative Politics of Constitutions*. Clio Press: London.

Fehrenbacher, E. 1989. *Constitutions and Constitutionalism in the Slave Holding South*. University of Georgia Press: Georgia.

Fombad, G. 2005. *Challenges to Constitutionalism and Constitutional Rights in Africa and the Enabling Role of Political Parties*. Baobab Press: Nairobi.

Frempong, D. 2007. *Constitution Making And Constitutional Rule in Ghana*. Ghana Universities Press: Accra.

Hare, R. and Secord, P. 1972. *The Explanation of Social Behavior*. Blackwell: Oxford.

Hart, V. (2003) *Democratic Constitution Making*. United States Institute of Peace. Special Report 107. Alport and Alfred: New York.

Hatchard, J. 1998. "Perfecting Imperfections: Developing Procedures for Amending Constitutions in Commonwealth Africa." *The Journal of Modern African Studies*. 36(3): 381-398.

Hyden, G. Oluwu, D. Hastings, W.O and Okoth-Ogendo (eds). 2000. *African Perspectives on Governance*. Africa World Press Inc: Eritrea.

Jonah, K. 1991. "The Monopolisation and Manipulation of the Constitution Making Process in Ghana." In **Kwame, A.** and **Francis, K.** (eds) *Ghana's Transition to Constitutional Rule*. Ghana Universities Press: Accra.

Kersting, N. 2009. *Constitution in Transition: Academic Inputs For A New Constitution in Zimbabwe*. BMZ: Belgravia.

Linnington, G. 2001. *Constitutional Law of Zimbabwe*. University of Zimbabwe Publications: Harare.

Makumbe, J. and **Compagon, J.** 2000. *Behind the Smokescreen*. University of Zimbabwe Publications: Harare.

Mararike, C. 1998. "The Role of Culture and History in Human Factor Development: A Comparative Analysis." *Review of Human Factor Studies*, 4 (1): 21 – 35.

Mbaku, M. and **Ihonvbere, J.** 2003. *The Transition to Democratic Governance in Africa*. Baobab: Nairobi.

National Constitutional Assembly. 1998. *Building a People's Constitution*. Newsletter: Harare.

Ndoma, R. 2011. Afrobarometer Briefing Paper. No. 100. Baobab: Nairobi.

Palley, C. 1966. *The Constitutional History and Law of Southern Rhodesia, 1888 – 1965*. Clarendon Press: Oxford.

Sachikonye, L.M. 2003. "The Electoral System and Democratization In Zimbabwe." *Journal of African Studies*, 2 (1): 66 – 85.

Sachikonye, L.M. 2004. *Constitutionalism, The Electoral System and Challenges for Governance and Stability in Zimbabwe*. University of Zimbabwe Publications: Harare.

Scott, G. 1999. *Controlling the State: Constitutionalism From Ancient Athens to Today*. Harvard University Press: London.

Stark, R. 2007. *Sociology*. Wadsworth: California.

The Herald, January 10 2012

The Zimbabwe Independent, January 12 2012

www.copac.org.zw

Zembe, W. 2010. *Constitutionalism in Zimbabwe; Unfinished Business: A People Driven Process*. Lambert Academic Publishing: London.