

Initial thoughts on the Matabeleland constitutional outreach Experience'

<http://www.solidaritypeacetrust.org/870/initial-thoughts-on-the-matabeleland-constitutional-outreach-experience/>

I have on my desk, a silver, two-shilling, 1947, Southern Rhodesia King George VI coin, and two big copper pennies with holes in the middle, one from 1949 (Southern Rhodesia) and one from 1956 (Rhodesia and Nyasaland). These are prized souvenirs of my time in a COPAC outreach team, physical memorabilia for one of many fascinating memories that my trips into the farthest corners of rural Matabeleland have left me enriched by.

I came by these coins in a remote rural village (that shall be kept nameless to protect its inhabitants) where we had a very outspoken and ebullient meeting with around 150 people, unbelievably squashed into one school classroom. [1] It was one of those windy days that one gets in late winter, ahead of the rains – gusting dust across a dry and barren landscape. People in this area harvested very little last year, there is no grazing left now, and every living creature is hungry and waiting for the rains – desperately waiting for them. As was our usual experience, scores of people were patiently sitting in the sparse shade of the thorn trees, looking out for our convoy of four 4x4s to arrive from Bulawayo to give them their turn to speak out, to tell us what they wanted a new Zimbabwean constitution to say. We also, predictably, had the usual clutch of plain-clothes police and secret police, who had arrived in a vehicle ahead of us.

This was a typical COPAC gathering for Matabeleland – out of well over one hundred participants, only sixteen people were visibly aged under twenty five, with the majority aged over fifty, and a good smattering of octogenarians. There is simply a missing generation out there – nearly all the young adults have gone to Johannesburg or elsewhere in search of work. Many people were skeletally thin. Most were dressed in their best, in recognition of the importance of the occasion – old suits held together with careful, obvious stitches on the corners of pockets and along the frayed ends of jacket sleeves; beautiful but often thread-bare dresses, along with coats and scarves. Some had shoes that were so cracked and torn that it was hard to believe that they still remained on a pair of feet. A scattering of mostly very well behaved babies sat on their mothers' laps, breastfeeding and dozing, and occasionally coughing with that hacking cough of winter. As the meeting progressed the numbers swelled, as people who had walked many kilometers to be there finally arrived, and as word spread that the COPAC team really had arrived for the advertised meeting.[2] And towards the end of the meeting, as evening approached, women began to filter out, to go and begin cooking what could well have been the only meal for that day, before the light disappeared entirely, leaving them in the electricity-less dark of their huts.

This particular grouping was anxious to speak out immediately – they were unstoppable in their opinions on everything. From the minute the national anthem was over, they began to express their views on how they were being governed. They were angry, but in a polite and orderly fashion. One after another, they stood up and blamed the government for their poverty, for their lack of development, for the fact that their children had all had to leave the area in order to survive, and had had precious little schooling in the last few years. There were no skills training opportunities locally, there were no jobs, there was no food, there had been no government sponsored development projects of any kind since 1968...

Yes, but in view of all this, what therefore do you want to see in the constitution, they were constantly reminded. What should the constitution say about your rights? about youth? about empowerment? about the media?

We want a constitution that does not let one person stay in power for thirty years!

We want a constitution that gives us compensation for Gukurahundi – we were murdered in this region more than twenty years ago, and there are widows and orphans from those years that have remained poor all their lives because of these murders!

Yes, yes! – this angry man had very obvious support, he was being egged on by many of those present.

An old man stood up with the aid of his walking stick and announced – I am more than seventy years old, and have no birth certificate. I lost it many, many years back and went to (main town in district) and was told that I must go to Harare to get a long birth certificate. To Harare! He waves his stick in disgust. How am I supposed to get money to go to Harare? I now accept that I shall die without a birth certificate – at my age! As if I had never been born. He sat down.

A woman put her hand up and then related that when her old mother went to the local government offices to apply for a passport, she was shouted at by a Shona-speaking youngster who ordered her to speak Shona. She could not, and so left the office in confusion.

This is Matabeleland, the woman politely pointed out to us, government officials must speak to us in our language, in SiNdebele! We want a constitution that says this. We want our children taught in their first language up to grade seven – and we want local radio stations in our language. Some people here speak Kalanga and others elsewhere in Matabeleland speak Tonga, and Venda and Sotho. They must all have radio stations, and schools, in their languages.

One of the few young men present, made a point about empowerment – we want local jobs for local people, and we want local control of our resources. Why do people come from Harare and show a paper that they say is permission from the government to chop down our trees, in this district so far from Harare? They do not even employ locally, they bring outsiders to chop our trees! And wild animals like elephants have more rights than we do – they trample our crops, even our children, but we cannot kill them, by law.

An old woman stood with difficulty, and smoothed down her skirt. We think we should be able to send someone from our village to Harare to see how the national budget is drawn up, and to make sure those who draw up the budget understand our needs. How is it that every year there is a government budget for roads, and schools and clinics, yet we have never seen any of these things built in our area, for how many years? Maybe they don't know that we need these things.

And so on, and so on. Our rapporteurs consulted and translated these issues into 'constitution-speak': language rights, minority rights, cultural rights, local rights, media rights, freedom from torture and murder, the right to compensation after government abuse – and the big one – devolution of power. People across the Matabeleland region expressed their frustration and indignation at the lack of accessibility to official services locally, the centralisation of power and processes in Harare, the opaque nature of decision making, far away, around issues that intimately affected their daily lives. The overwhelming request was for greater powers for local authorities, and local control of expenditure in the provinces across the board.

Will the COPAC findings result in a constitution written by “the people”?

To be honest, it has never been my conviction that “the people” and the monumental 30,000 pages of rapporteurs' reports, were really going to contribute more than marginally to a new constitution. Ultimately, lawyers and politicians are going to sit around many tables, and argue for possibly many months, about what should be in our new constitution. [3] This will be a continuation of a discussion that has been going on for over a decade that has involved civics and all political parties since the National Constitutional Assembly first made a new constitution a national issue in the 1990s.

It is in fact almost nonsensical to talk of ordinary people writing a constitution. At a meeting where the COPAC team had just asked what “the people's opinion” was, in relation to the offices of the ombudsman and the comptroller general, an old man pointed out – it is as if you have just described to me a new food that I have never heard of, or seen, and then asked me how I like the taste!

Most people at our meetings had no idea of what the difference was between an ‘Independent’ and an ‘Executive’ Commission, which commissions currently existed, or how their members should be appointed. They had no clue as to how judges are currently appointed and therefore could only guess on the spur of the moment how they should be appointed in the future. Is it on the basis of such guesses and wondrous exclamations that our constitution should be written?

On the other hand, certain broad trends that are relevant to our future constitution were clear after listening to what “the people” had to say. For example, while a full range of opinions were expressed over time, the emphatic trends in our meetings were the desire for devolution of power to provincial governments, and a dominating idea that all government positions at national and provincial level should be filled either through elections, or by appointment of parliament – and not the president. And as already illustrated in the earlier description in this article, people have ideas of what should be in a Bill of Rights.

Yet it is equally clear that these broad trends have varied considerably depending on which province in Zimbabwe was expressing the opinions, and depending also on how free people felt to speak out. The COPAC experience has been far from uniform – and much of the independent media reporting has exposed the atmosphere of fear and intimidation in which many outreach meetings were held, in Manicaland, Masvingo and Mashonaland – and which we in Matabeleland were luckily spared. In Harare, some meetings over the weekend of 30 October once again degenerated into a ZANU controlled farce. [4]

How then, is it going to be possible to reconcile the often very opposed and oppressed opinions that have come to the fore nationally? These opinions will simply become the fodder for the teams of lawyers, who will use their very general prevalence to lobby for their particular viewpoints during those months of round table negotiations.

But as a constitutional lawyer recently pointed out to me, constitutions are not written to protect the rights of majorities, but to protect minorities and the powerless. Writing a constitution is not a process where the numerically dominant view automatically has to prevail; the principles that best protect the rights and needs of all people are what should be included, not the possibly repressive, power hungry position of a controlling majority.

Choosing principles for a constitution should not be about “vote counting” but about weighing up which systems are most democratic, and would allow all people including minorities, a strong say in their own governance. But, in our intensely polarised Zimbabwe, each political party will try to push whichever version of a constitution favours its own power base, and principles of inclusivity and fairness are in danger of being pushed to one side for short-term political gain.

This obsession with short-term gains rather than the two-hundred-year perspective was very clear during the outreach exercise. People seemed unable to think beyond the next election, and which system would most benefit their party in that election. When ZANU PF supporters argued for the continuation of a supreme president with sweeping powers, I couldn’t help wondering if it ever crossed the corners of their minds that the next, all powerful president just might not be from ZANU PF, and whether, in that event, they might regret him having enormous powers? Similarly, when MDC supporters argued for a 24 hour hand-over/take-over after elections – and ZANU PF argued for a six month hand-over/take-over, I again wondered if anyone was really thinking beyond the next election and to all the elections thereafter.

While MDC supporters may shout – out, out, the president must just go, same day as the election result – I wonder if they will be still saying that in a hypothetical six or ten or twelve years, when it may be their president who must “just go”. And would ZANU PF in that latter situation be arguing for him to stay another six months to ensure a smooth transition...? It is to be hoped that cool, calm constitutional experts with a longer perspective will play a role in our constitution-making....

What did the COPAC outreach achieve, if anything?

Our constitution will of course be the product of political compromise, as bearing in mind the balance of political powers in the current unity government, all three principles will have to agree to it, however grudgingly, before it is put to public referendum. No single party can carry the 66% majority vote needed in parliament to adopt a new constitution, and therefore by the time a draft appears in the public eye, the political horse-trading will have already been done. If it is horse-trading that will indubitably decide our constitutional future, what then has been the benefit, if any, of COPAC outreach? Here, I can speak only from personal observation, resulting from three months of almost daily outreach meetings.

In spite of the presence of police and CIO, each of our Matabeleland meetings ended with a tangible burst of excitement and relief, as people filed out with a sense, at the very least, of having spoken out without being told that this, or that, was something that they could not say. People in our region experienced the power of catharsis, as they stood up and recited tales of frustration and despair while others listened, and these small moments of ‘truth telling’ certainly left outreach teams with a clear message and hopefully gave those who spoke out a sense of being heard, which can be beneficial in and of itself.

These remote communities had never before had an official delegation, including members of parliament, sit and listen to them without judgement for hours on end, simply asking questions and writing down what they said. MPs and other ‘important’ people might on rare occasions have appeared previously, but this would have mostly been in the context of political rallies, where people would have been lectured at, and given the usual false promises. COPAC allowed ordinary folk to turn the tables, to lecture and pronounce back at officials for once in their lives, and to criticise those who make false promises and abuse them.

Furthermore, people who showed up at our COPAC meetings and sat through twenty-six “talking points” left with a more developed sense of what is included in a constitution, and of how a nation is governed. It was not the role of COPAC to offer detailed civic education. This should have been done prior to COPAC by civics, but by and large was not, partly owing to lack of political space in large parts of the country, and owing also to civic misgiving over the process, which meant that many organisations held back. [5] Nonetheless, every COPAC meeting was a crash course in the constitution, exposing many people for the first time to the idea of separation of powers, and to the existence of various structures and checks and balances that are supposed to make states accountable. “New foods” were briefly described to audiences hungry to hear about them.

Every COPAC meeting was video recorded and tape-recorded. This means that an incredibly rich archive now exists, which – in our region at least – has captured on a wide scale the preoccupations of ordinary people in 2010: their daily vexations, their assumptions and preconceptions about government, about the police, about citizenship, land, war veterans and traditional leaders. And many of these opinions were surprising. A gold mine of reference material now exists, much of which is more relevant to social historians and humanitarian agencies than to those who write constitutions, and it is to be hoped that in due course, once the constitutional exercise is well over, this material will be made available to scholars and policy makers across a broad spectrum.

In parts of the country beyond Matabeleland, where many outreach meetings were reportedly highly repressed, resulting even in violence on occasions [6], one lesson at least is clear from COPAC – the political space to hold an election simply does not exist, if a simple meeting to gather views around the constitution is not possible without thuggery and intimidation.

Further observations

The overwhelming impression carried away from one remote Matabeleland village after another was the profound alienation of ordinary people from the body-politic, and their very clear and unambiguous perception that their grinding poverty should be laid at the doors of those who have (badly) governed them for all the decades of their lives – both pre and post independence.

It is not my conviction that anything is going to change in the lives of Zimbabwe’s poorest rural dwellers any time soon. Certainly a new constitution will change little on the ground, however wonderful or otherwise the final draft may be. A constitution is a piece of paper, and while it can lay an important

foundation for governance, it will require many significant shifts in socio-economic conditions before life advances for most Zimbabweans. Democratisation consists of so much more than a constitution, it needs a state that cares enough to enforce the Bill of Rights, to provide quality health care and education and food to all citizens, to ensure a country in which economic expansion can provide work for generations of youngsters to come – and many other things.

The people who gathered to speak to us were poor, mostly extremely so, and many appeared to have a deep-seated awareness that they currently had no control over whatever-out-there might change that for their children.

The desire to make it very clear to COPAC how national policy has driven the already poor into worse poverty was demonstrated graphically at that late winter gathering in Matabeleland, where we began this account. An old man rose up very deliberately in the middle of the meeting and came up to the front tables. As he walked towards us, he fished deep into his pockets, and by the time he reached us, his hands were full of coins and notes of all descriptions. These he thrust down in front of us, stood back and pointed at them – a pile of worthless Zimbabwe coins and notes of every denomination – the old ‘bearer cheques’ and the ones that came before and after these – hundreds, thousands, millions and billions in obsolete currency.

How is it possible, he asked, for a man to have so much money in his pocket and to be starving? How is it possible for a man to be so rich and yet to have no money to buy food? This is what Zimbabwe has done to us.

Behind him people laughed and cheered in appreciation and identification, as we did too. This was not the first time our COPAC team had been reminded that people have huts full of worthless notes, but the first time it had been so graphically illustrated. This was clearly a long planned and deeply felt statement. The old man must have thought about it for days when he heard COPAC was coming. He must have gathered up his junk money and deliberately brought it to the meeting and then sat there, waiting for his moment to throw it down and express his indignation.

I was staring fascinated at all these coins, when I spied the three – the silver two-shilling piece and the two pennies. I commented, and asked to meet the old man after the meeting. I explained that some people collected such old coins and I would take his name and address and look up the value on the internet for him, and get in touch in the future. This I did, and established the worth of the silver two-shillings and the pennies. In due course, I arranged to swop ‘real’ money for these collector’s items.

Now I have these three coins on my desk, to remind me every day of how people who deserve better have been abused by their governments over the decades, of how honest, hard working men and women have seen their frugal savings turned to dust. These coins also remind me of the dreams, aspirations and frustrations of the thousands of Zimbabweans we met, and who hope, although not always with conviction, that a new constitution might change the future for them – or that COPAC might, at the very least, convey their heartfelt disempowerment up the ladder of control.

The views and impressions expressed in this article are those of the author alone and in no way claim to represent the official views of COPAC itself.

[1] The meeting described here could be any one of dozens that we attended – issues raised were very similar from one venue to another, across all the districts of Matabeleland. Original contributions were in SiNdebele and are paraphrased here, and at times several similar comments made over the course of the meeting that forms the backbone of this article, were condensed into one. However, everything that this article claims to have been said, was actually said at one of our meetings.

[2]Owing to logistical chaos, official announcements did not always mean the arrival of a team, which affected attendances. Often the outriders supposed to advertise the event only reached the village concerned a day before the team, or even on the same day, which also severely undermined participation at times, or resulted in COPAC aborting meetings because nobody had showed up. However, in such instances the meetings were, in our area, always re-advertised and took place at a later date.

[3] This is a personal view, not COPAC's. There have been well over 4,000 COPAC meetings, attended by around 800,000 people countrywide: if one estimates 8 pages of transcripts per meeting, this is over 30,000 pages of reporting! It would take months to collate this systematically.

[4] Other COPAC meetings, such as those in Chitungwiza and Glen View, Belvedere, Kuwadzana, Kambuzuma, Highfields, all in Harare, were reported as having proceeded peacefully and without interference this same weekend: The Standard, "Heavy police presence at COPAC meetings", 30 October 2010.

[5] Precisely because the exercise was seen as potentially a farce that would be hijacked by politicians, many NGOs made a point of boycotting involvement, but in the opinion of this author, by so doing they missed an opportunity to undertake civic education that would have benefited people above and beyond the COPAC exercise. The Matabeleland Constitutional Reform Agenda did reach around 10,000 people in constitutional civic education meetings during 2009/10, but this was a fraction of the number of 70,000+ that finally attended meetings across this region.

[6] See ZZZICOMP reports, June to October, which recorded thousands of violations during the outreach. Also, for example, Veritas Zimbabwe, Peace Watch 10/2010, 10 October 2010.