

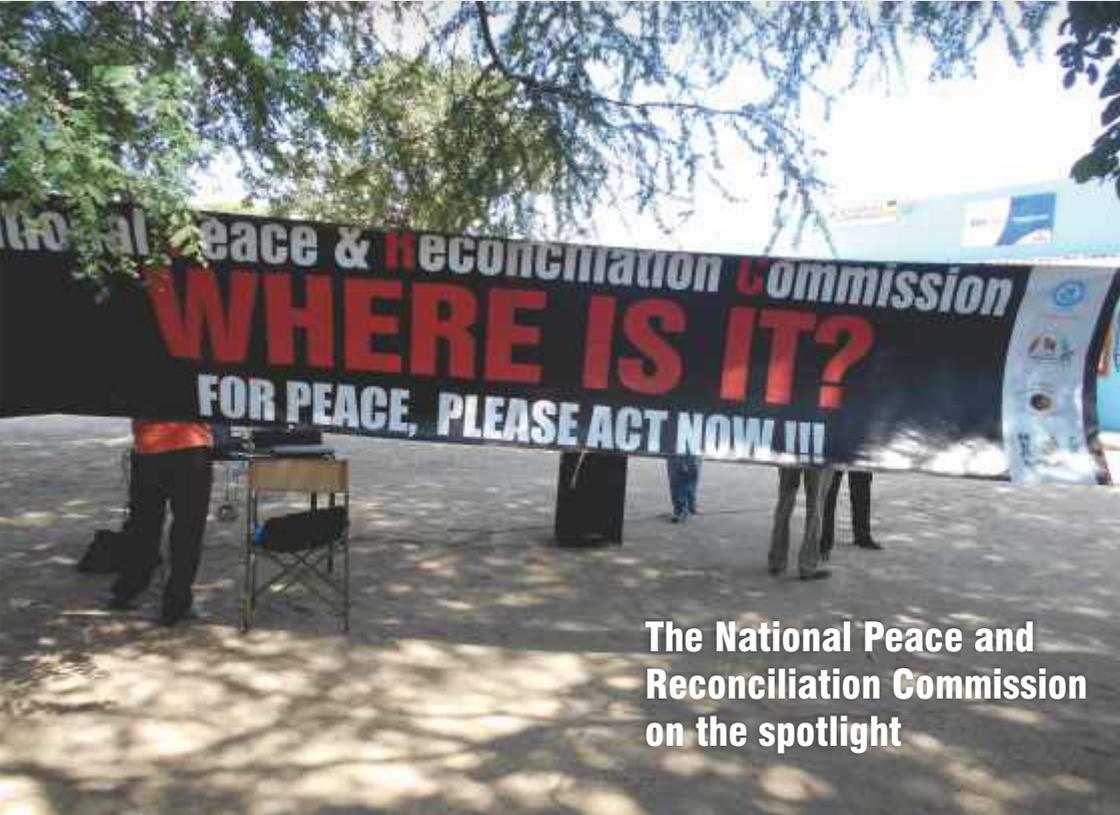


Follow all the Developments related to the NPRC

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EDITION 1 SEPTEMBER 2015



The National Peace and Reconciliation Commission on the spotlight



What you must know about the NPRC



Analysis on the Process So Far



Key recommendations by NTJWG



NATIONAL
TRANSITIONAL JUSTICE
WORKING GROUP
ZIMBABWE

NPRCWATCH

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01 INTRODUCTION

Introducing the NPRC WATCH

Welcome to the first issue of the National Peace and Reconciliation Commission (NPRC) Progress Monitoring Report - The NPRC WATCH.

This report is an update compiled by the National Transitional Justice Working Group (NTJWG). This tool is available to enable citizens and transitional justice stakeholders to track and monitor progress regarding the operationalization and subsequent operations of the NPRC.

This tool is available in hard copy and electronic copy. It is also available as an interactive platform on the NTJWG Multimedia Center on www.ntjwg.org/nprcwatch

NPRC WATCH presents the following:

- Progress update regarding the NPRC
- Links to profiles of the Prospective Commissioners
- Benchmarks and Checklist for monitoring the process
- Analysis of the process according to the NTJWG benchmarks
- Feedback from citizens and stakeholders
- Reports of Stakeholders



Talktous

Readers are encouraged to use the interactive platform on www.ntjwg.org/nprcwatch to read detailed reports and analyses from citizens, stakeholders and experts. Views can also be sent to nprcwatch@ntjwg.org. More details are given at the back of this issue. Readers can also take a poll on the site to share with NPRC WATCH what their model Commission would look like.

al Peace & Reconciliation
WHERE IS
FOR PEACE, PLEASE AC

02 | PROGRESS UPDATE 'WAITING FOR THE NPRC'

The government keeps the
nation waiting...

02 PROGRESS UPDATE

Progress update regarding the NPRC

On 22 August 2015, we marked two years since the new Constitution came into full force. The NPRC is one of the five independent commissions introduced by Chapter 12 of the Constitution. What is unique about the NPRC is that it is a temporary Commission with a lifetime limited to 10 years from 22 August 2013. Section 251 (1) says 'for a period of ten years after the effective date, there is a commission to be known as the National Peace and Reconciliation Commission.'

Recommendation 1

Legally, the lifespan of the NPRC started ticking from 22 August 2013. It is advisable for the legislature to make changes to this law so that the NPRC lifespan starts from the date the NPRC becomes operational. That would mean amending the Constitution so that section 251 (1) reads something like, 'For a period of ten years from the date the Commissioners are sworn into office, there shall be a commission to be known as the National Peace and Reconciliation Commission.'

The phrase 'effective date' is to be interpreted to mean the date the Constitution became fully operative which is the date when the President was sworn into office under the new constitution. (See section 251 (1) as read with the Interpretation Section of the Sixth Schedule as read with 3 (2)).

The President took office under the current Constitution on 22 August 2013. The functions of the NPRC are listed in section 252 of the constitution.

252. Functions of National Peace and Reconciliation Commission

The National Peace and Reconciliation Commission has the following functions –

- a. to ensure post-conflict justice, healing and reconciliation;
- b. to develop and implement programmes to promote national healing, unity and cohesion in Zimbabwe and the peaceful resolution of disputes;
- c. to bring about national reconciliation by encouraging people to tell the truth about the past and facilitating the making of amends and the provision of justice;
- d. to develop procedures and institutions at a national level to facilitate dialogue among political parties, communities, organisations and other groups, in order to prevent conflicts and disputes arising in the future;
- e. to develop programmes to ensure that persons subjected to persecution, torture and other forms of abuse receive rehabilitative treatment and support;

- f. to receive and consider complaints from the public and to take such action in regard to the complaints as it considers appropriate;
- g. to develop mechanisms for early detection of areas of potential conflicts and disputes, and to take appropriate preventative measures;
- h. to do anything incidental to the prevention of conflict and the promotion of peace;
- i. to conciliate and mediate disputes among communities, organisations, groups and individuals; and
- j. to recommend legislation to ensure that assistance, including documentation, is rendered to persons affected by conflicts, pandemics, or other circumstances.

(Extract from Constitution of Zimbabwe Amendment (No. 20) Act 2013)

Operationalising the NPRC

Section 237 of the Constitution places the duty to operationalize the NPRC on Parliament's Committee on Standing Rules and Orders (CSRO). The CSRO is the Parliament's supreme decision-making body which is chaired by the Speaker of Parliament. In line with this mandate, the CSRO advertised for nominations to the NPRC on 23 April 2014. The nominations closed on 24 May 2014.

The total number of nominations received is unknown to the NPRC WATCH. On 18 March 2015, Parliament published 33 names of persons shortlisted for appointment to the Commission. These are the names:

Eunice Bere, Geoffrey Chada, Golden Chekenyere, Lilian Chigwedere, Patience Chiradza, Chad Gandiya, Danisa Khumalo, Lizwe Jamela, Luta Shaba, Machinga Mazvita, Charles Masunungure, Dorothy Moyo, Faith Milidzane Masiye Moyo, Netty Musanhu, Musvota Charity, Leslie Ncube, Choice Ngoro, Eunice Njovana, Barbara M. Nkala, Peter B. Nyoni, Simon G. Razemba, Retired Justice Nare, Victor Ruombwa, Dennis Rwafa, Godwill Shana, Faith Sebata, Angela Tofa, Useni Sibanda, Gertrude Zhuwayo, Simbi Mubako

You can read more about these candidates on the following links

<http://www.theindependent.co.zw/2015/04/02/peace-commission-who-will-carry-zims-burden/>

<http://www.theindependent.co.zw/2015/04/17/nation-awaits-setting-up-of-peace-reconciliation-body/>

31 Candidates were interviewed publicly at the Senate Chambers on 25 March 2015. Some could not make it in time but were said to have been interviewed later. A shortlist of 16 candidates has since been submitted to the President. From the 16, the President will appoint eight members of the Commission. He will then appoint the Chairperson separately in consultation with the CSRO and the Judicial Service Commission. The nation remains hopeful that sooner than later, the President will make the appointments.



A shortlist of 16 candidates has since been submitted to the President. From the 16, the President will appoint eight members of the Commission. He will then appoint the Chairperson separately in consultation with the CSRO and the Judicial Service Commission

03 | ANALYSIS

Media practitioners follow NTJWG
Press briefing on the NPRC

03 ANALYSIS

Analysis on the Process So Far Time

Because the NPRC lifetime is limited, its immediate realisation is of great importance. Unfortunately, it has now taken Parliament almost two years just to come up with a shortlist. Firstly, this militates against the spirit of the Constitution, which states in section 324 that *“all constitutional obligations must be performed diligently and without delay.”* Secondly, Zimbabwean communities continue to suffer the scourge of violence. With ongoing abductions and an increase in intra-party political violence, the work of building peace becomes more urgent each day.

Public Participation

In November 2014, the NTJWG issued the Minimum Standards for an Effective NPRC. Standard Number 5 emphasizes the need for public information and involvement in the process. The process has so far fallen below this standard. The CSRO has only been placing adverts in the main national daily newspapers and neglecting radio and television as well as provincial newspapers. These are platforms that are closer to communities that have an interest in national healing. From the public engagement meetings done by stakeholders, it is clear that there is information starvation among citizens.

Without information, there will be no meaningful participation in the process.

Recommendation 2

CSRO must increase publicity on the NPRC and commence civic education programmes. All past notices regarding the National Peace and Reconciliation Commission have been placed in leading English Newspapers. These are not accessible in all the areas of Zimbabwe. The CSRO must utilise radio, television as well as community based newspapers for all notices regarding the NPRC. These platforms must also be used to motivate public participation.

The Interviews

On 25 March 2015, the shortlisted candidates were interviewed at the Senate Chambers in Harare. The Constitution requires that there be public interviews for the prospective commissioners. In principle, it can be said that this requirement

was satisfied, but substantially the process left much to be desired. There was no adequate public participation. Access to the Senate Chambers was restricted as security details argued that there was no space in the public gallery. Visitors were not allowed to take notes or record the proceedings. Meaningful participation and analysis was thus hampered. The NTJWG had recommended that the interviews be broadcast. This however was not done. As it stands, the CSRO has not informed the public of the outcome of the interviews.

Thirdly, the interviews were too flat, non-interactive and non-interrogatory. There was no room for follow-up questions. The questions did not solicit information as to integrity or suitability and allowed the candidates to get away with as little information as possible. The panel made no attempt to confront potential areas of conflict in the candidates' profiles. For example, some candidates were related to some active political groups. Such persons could have been asked if their relationships would not affect their impartiality when dealing with possible cases of political violence involving the political organisations to which their relatives belong.

A good number of candidates, however, answered the questions very well. Despite the flat type questions, some of them outdid the panel and volunteered information that was essential to the process.

There was a somewhat fair distribution of candidates from the different provinces of Zimbabwe. Several were from the legal fraternity and the clergy. There was good representation from the academia and civil society. It is fair to say that with sufficient political will, it is possible to have a good commission from the candidates. It is also possible to have an ineffective commission. The NTJWG hopes that the executive will choose the best commissioners.

The Enabling Legislation

It remains an issue of concern that the NPRC enabling legislation is still to be brought to Parliament. This paralyses the process and maybe is the cause for the current slow pace of things. The Constitution as expected, gives the broad mandate. It does not provide the operational modalities of how the NPRC will perform its duties. These are expected to be in the enabling law.

There is an argument that the commissioners will help establish the law. This approach is a repeat of the same mistake that was made with the Human Rights Commission. To date, the Human Rights Commission is still struggling to take off and discharge its mandate. It further violates the principles of accountability to ask the appointed commissioners to come up with their laws. It would sound like an employee who gets hired without a job description in anticipation that s/he will draft their own terms of reference.

Recommendation 3

Putting in place a Commission without the enabling law is like hiring an employee without drafting the terms of reference. The CSRO must ensure that there is an enabling law which explicitly defines the terms of reference of the NPRC in line with the functions outlined in section 252 of the Constitution and the Minimum Standards and Guidelines proposed by the NTJWG.

The Next Expected Steps

As the nation waits for the announcement of the NPRC, the NTJWG wishes to commend the CSRO for taking the process to the level it currently is, despite many challenges and even threats against the NPRC. To help the executive in decision making and the stakeholders in monitoring the NPRC, NPRC Watch reproduces in the editorial the statement by the NTJWG on who is best suited to lead the NPRC.

“ To date, the Human Rights Commission is still struggling to take off and discharge its mandate. It further violates the principles of accountability to ask the appointed commissioners to come up with their laws. ”

Who is best suited to lead our national peace and reconciliation process?



Civil society and media follow a press conference by the NTJWG on the qualities for the prospective NPRC Commissioners

The National Transitional Justice Working Group (NTJWG) acknowledges the progress made by the government towards operationalising the NPRC in line with the Constitution.

The NTJWG is concerned about the appointment process for the commissioners who will be appointed to the National Peace and Reconciliation Commission (NPRC).

Thirty-three candidates were shortlisted, and some of them were interviewed. A shortlist was presented to the President, who will appoint eight commissioners plus a chairperson.

We believe the NPRC must reflect gender balance in line with the Constitution. The chairperson and the deputy chairperson must not be of the same gender.

In this statement, we wish to outline the qualities, which the President must consider in appointing the final NPRC commissioners. We have said in the past that the legitimacy and credibility of the NPRC will stand or collapse mainly on the quality of the persons who will be appointed to it. We can never overemphasise the importance of a commission charged with such an enormous responsibility of ensuring post-conflict justice healing and reconciliation.

Recommendation 4

A feedback monitoring mechanism and public liaison office must be established at least in each province to ensure that the feedback from the members of the public informs the process of establishing the National Peace and Reconciliation Commission.

Section 251(4) of the Constitution states that the members of the NPRC must be chosen for their integrity, their knowledge and understanding of, and experience in, mediation, conciliation, conflict prevention and management, post-conflict reconciliation or peacebuilding.

Building on this requirement, it is important to have clear guidelines of how this requirement can be realised in practice and what qualities the commissioners must have beyond the generalisations. These guidelines are not new but have been issued by various stakeholders previously. We are merely restating and

emphasising what is already in the public domain. The commissioners must satisfy the following:

- a. Must be persons of unquestionable integrity. Persons of questionable moral stature, scandalous or suspicious behaviour have no place in the NPRC;
- b. Must be without spot or blemish. Their character and reputation must be unshakeable and beyond reproach;
- c. Must not have been involved in violation of human rights in the past. Thorough background checks must be done to ensure that the prospective commissioners do not have any connection whatsoever with violators of human rights or persons or organisations that sponsor or support the violation of human rights;
- d. Must possess demonstrable commitment and leadership to the cause of human rights, conflict transformation, conciliation or mediation;
- e. Must have no conflict of interest. They must have no past or existing membership or association to organisations or individuals that may be subject to an investigation by the NPRC. Politicians and political activists must have no space in the NPRC; and
- f. Must be unifying and not divisive figures. They must inspire confidence among stakeholders especially the victims of past violations.

Regarding the process, we note that the shortlist comes almost a year after the nomination process, and two years after the Constitution came into full operation. This delay has been a cause for anxiety to stakeholders with an interest in transitional justice processes. We hope the process will now move faster without compromise to quality.

We further note with concern the lack of public information and limited participation in the NPRC process. We encourage the government to widen the publicity and increase public participation. Currently, only one official language is being used to inform the public and only through the mainstream print media. Information about the process must be made available in at least all the official languages and be disseminated in both print and electronic media with specific attention to community information channels like provincial newspapers, community papers, church newsletters and community radio stations.

The national broadcaster must be able to give regular updates regarding the process. A feedback monitoring mechanism and public liaison office must be established at least in each province to ensure that the feedback from the members of the public informs the process. We commend civil society and other stakeholders who are undertaking public awareness campaigns on the NPRC and encourage the CSRO to do more in raising awareness.

We reiterate our call to the Parliament of Zimbabwe to urgently pass the NPRC enabling legislation as well as commence public information programmes on the NPRC to ensure maximum public participation.

The NTJWG remains committed to offer support to government and stakeholders at every stage of this process.

“

We reiterate our call to the Parliament of Zimbabwe to urgently pass the NPRC enabling legislation as well as commence public information programmes on the NPRC to ensure maximum public participation

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A woman wearing a black and white striped short-sleeved shirt and a blue patterned wrap sits on a stone. She is holding and reading a document. In the background, other people are visible, some sitting on the ground, and a white bucket is present. The scene appears to be outdoors in a community setting.

04 | ACTIVITIES FROM STAKEHOLDERS

Women in Binga participate in civic education campaign on the NPRC

04 ACTIVITIES FROM STAKEHOLDERS

Stakeholder Involvement

A number of stakeholders have been engaged in the NPRC Process. We feature here some of their work and encourage you to be involved.

Research and Advocacy Unit Report on the NPRC

The Research and Advocacy Unit (RAU) has published a report titled, 'Suggestions for Setting Up the National Peace and Reconciliation Commission'. The report gives a number of suggestions on how the NPRC can operate. The report is based on the monograph from the International Center for Transitional Justice (ICTJ), Drafting a Truth Commission Mandate: A Practical Tool. The report shares some views on the drafting of objectives for the NPRC, its powers and its structure. The entire report is available on the RAU website.

Church and Civil Society Forum (CCSF) Statement Regarding the Shortlisting of NPRC Commissioners

On 20 March 2015, CCSF issued a press statement applauding the Parliament of Zimbabwe for shortlisting candidates for the NPRC. CCSF urged the Parliament to speedily enact the NPRC enabling Act. The statement is available on the CCSF website www.ccsf.org.zw

Zimbabwe Human Rights NGO Forum's Outreach on the NPRC

The Zimbabwe Human Rights NGO Forum has held a number of community meetings, giving information to citizens about the NPRC. The organisation seeks to activate public participation and keep members of the public informed about the developments regarding the NPRC. Meetings were held in Harare, Bulawayo, Chinhoyi, Masvingo, Hwange, Bindura, Kariba, Binga, Plumtree, Chipinge and Mutare. Three radio programmes were held on ZiFM Stereo in which the Forum discussed the ongoing NPRC process. To keep in touch with these events, follow the Forum on their social networks.

If you are doing any activities related to the NPRC or release any publications please email NPRC Watch on nprcwatch@ntjwg.org You can also visit the NTJWG Multimedia Centre and register as a partner on www.ntjwg.org to stay in touch with other stakeholders and their activities.



Residents in Masvingo scramble for the constitution during an NPRC Information Kiosk

About The National Transitional Justice Working Group

The National Transitional Justice Working Group (NTJWG) is a platform established by Zimbabwean transitional justice stakeholders to provide the interface between transitional justice stakeholders and the official transitional justice processes in Zimbabwe.

Vision

A peaceful, just, accountable and democratic society.

Mission

To create inclusive space for the coordination of transitional justice stakeholders, share experiences; build synergies for comprehensive, accountable, victim- centred and participatory transitional justice processes in Zimbabwe.

Values

Integrity: Professionalism, Commitment, Truth, Transparency, Diligence, Honesty, and Confidentiality.

Inclusivity: Involving everyone regardless of sex, race, ethnicity, age, sexuality, belief, ideology and geography

Impartiality: Non-partisanship, Independence, and Objectivity.

Thematic Areas

Reparations

Promotion of Truth

Justice and Accountability

Memorialization

Gender

Institutional Reform

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