



NATIONAL
TRANSITIONAL JUSTICE
WORKING GROUP
ZIMBABWE

NPRCWATCH

NPRC BRIEFING FOR THE FIRST HALF OF 2020

About this Briefing

On the 29th of June 2020, the National Transitional Justice Working Group (NTJWG) met with the National Peace and Reconciliation Commission (NPRC) to present this briefing. The issues contained herein emanated from the NTJWG's engagements with the NPRC and transitional justice stakeholders across the nation during the first half of the year 2020. The objective of the presentation of this briefing was to build synergies around transitional justice in Zimbabwe between the NPRC and transitional justice stakeholders.

The first half of this year was a difficult period for the world as a whole as the world grappled with the COVID-19 pandemic. Zimbabwe was not spared from this pandemic and recorded a total of 574 confirmed cases of COVID-19 and seven deaths by the 29th of June 2020 when this briefing was presented. In its efforts to contain the spread of this deadly disease the government of Zimbabwe implemented a twenty-one day national lockdown. The national lockdown was subsequently extended twice by fourteen days then eventually extended indefinitely subject to fortnightly reviews. While the national lockdown is arguably necessary, its enforcement has proven to be a potential cause for conflict due to reports of human rights violations by members of the security sector in response to real and perceived non-adherence to lockdown regulations by members of the public. During the presentation of this briefing the NTJWG therefore urged the NPRC to stand against such conflict inducing activities in the country which are a threat to peace and our country's transitional justice gains so far.

Resourcing of the NPRC

Resourcing of the NPRC has been a recurring theme since its operationalization and has remained a cause for concern for the NTJWG since then. The NTJWG commended the work that the NPRC is doing even without adequate funds. The NTJWG informed the NPRC that it welcomed the article in the NewsDay newspaper on the 16th of January which stated that Switzerland which is known for its expertise in dealing with the past had taken steps to capacitate the NPRC. The NewsDay reported that on the 15th of January the Swiss ambassador to Zimbabwe, Mr. Niculin Jager expressed his country's readiness to capacitate the government's peace and reconciliation initiatives. The Swiss Ambassador also handed over a motor vehicle, GPS equipment, and a video camera to the Commission. The NTJWG expressed its hope that this capacitation will go a long way in assisting the NPRC to carry out its activities in fulfilment of its mandate.

In response to the issue on the resourcing of the NPRC, the NPRC informed the NTJWG that it is experiencing intermittent resource shortages in the form of financial resources which are negatively affecting its capacity to decentralise its work to other provinces and to grassroots levels.

Departure of Commissioner Netty Musanhu

The NTJWG informed the NPRC that it had noted with concern the departure of Commissioner Netty Musanhu from the NPRC. Her departure was announced through a press statement released by the NPRC on the 20th of February 2020, stating that she left the NPRC as a result of a long standing conflict of interest. The statement indicated that Commissioner Musanhu's departure was a resolution to a four-year conflict of interest in terms of section 236(2) of the Constitution of Zimbabwe. Section 236(2) of the Constitution of Zimbabwe states that *"persons who are members of a political party or organisation on their appointment to an independent Commission must relinquish that membership without delay and in any event within thirty days of their appointment."* The statement however did not state specifically what the outstanding conflict of interest was and the NTJWG finds that this leaves room for destructive speculation. The NPRC is a constitutionally enshrined body and is expected to conduct its affairs with transparency. Given the mandate of the NPRC the need for transparency in the Commission's operations cannot be over emphasised and the lack thereof does not bode well for trust from stakeholders especially survivors. Mistrust of the NPRC from stakeholders may severely hamper the NPRC's ability to effectively fulfil its mandate as this ability is predicated upon the conviction by stakeholders particularly survivors that the NPRC and its commissioners are beyond reproach. Commissioner Musanhu's portfolio put her in charge of the Victim Support, Gender and Diversity thematic area and Resource Mobilisation. Given the nature of her portfolio it is therefore disturbing that her departure, particularly the reasons thereof, seem to be shrouded in mystery. The NTJWG then urged the NPRC to give clarity to this issue. While the NTJWG accepts that the NPRC Commissioners may leave the Commission the NPRC is encouraged to ensure that in the future if there is need for an announcement to be made in respect of such developments it is done in a manner that does not cause confusion or speculation among stakeholders. Further the NTJWG drew the NPRC's attention to the fact that the announcement was made on Twitter on the official NPRC Twitter page. Although the NTJWG acknowledged the important role played by social media platforms in information dissemination it is important for an institution such as the NPRC to also utilize more formal mediums of communication such as the Commission's website when dealing with issues of a similar nature.

The NPRC took note of the concerns raised by the NTJWG and stated that it did publish the departure of the former Commissioner Netty Musanhu in the Herald, but conceded that the Twitter post had been done prematurely. The Commission expressed its regret regarding the tone and language that was used to make the announcement. The Commissioners indicated that the formal announcement about the resignation of the

former Commissioner was delayed as the Commission had to adhere to exercise due diligence and adhere to internal processes before making the announcement.

Decentralisation of NPRC Operations

The NTJWG welcomed the NPRC's drive towards decentralization of its operations which has been shown by the establishment of an NPRC office in Bulawayo and the move towards capacitation of the Provincial Peace Committees (PPCs). Prior to the establishment of the Bulawayo office, the NTJWG's carried out community dialogues aimed at raising awareness about the NPRC and its mandate in communities in various provinces across the country. From the dialogues the issue of the NPRC's visibility and the question of how survivors can access the NPRC were running themes and concern was raised on the existence of only one NPRC office in the country which is located in Harare. The NTJWG further stated that most survivors bemoaned the centralisation of NPRC operations stating that given the economic strife in the country they are unable to fund trips to Harare in order to access the NPRC's offices. While the NTJWG acknowledges the funding challenges of the NPRC it urged the NPRC to further decentralise its operations and not limit them to major cities but ensure that at least each province has an NPRC office. The NTJWG encouraged the NPRC to be innovative in its approach to the recommendation to set up offices in provinces by looking into possibly setting up mobile offices that will be in each province on given days and other such initiatives to ensure that survivors across the country have easy access to the NPRC.

The NTWJG welcomed the establishment of the PPCs by the NPRC in 2019. These were set up with the mandate of carrying out peace building and conflict resolution activities in their provinces bearing. The NPRC set the PPCs up realising that different epochs of violence affected different provinces in the country and a one size fits all approach will not work to build lasting pace and facilitating reconciliation in our country. The NTJWG has been keenly following developments around the capacitation of these PPCs and commends the NPRC for the work it did in the first quarter of the year to train the members of the PPCs on how they will be expected to carry out their work. Given that the members of the PPCs will be representing the NPRC in their provinces it is crucial that they are trained not only on what they will be expected to do but also how they will be expected to do it and the principles that should underpin their engagement with stakeholders. The NTJWG stated that it looks forward to the finalisation of the PPC trainings by the NPRC with the expectation that these PPCs will be capacitated and put to work once the trainings are complete. The NTJWG reiterated that it finds the NPRC's efforts to decentralise commendable and these efforts show that the NPRC is mindful of the context within which it is operating. The operating context for the NPRC is extremely polarised and this requires an approach that brings people together from the grassroots levels in their communities right up to national level, something which can only be achieved through decentralisation.

In terms of decentralisation of the operations of the NPRC, the NPRC in its response highlighted its plans to establish District, Ward and Village Peace Committees. The NPRC however noted that decentralisation of its operations is being limited by shortage of funds which will determine where it can establish new offices, recruit regional officers and buy furniture, among other things.

Information Dissemination

On the 22nd of February, the NPRC's new website went live and the NPRC asked members of the public to visit the new website and give feedback on their experience. The new website now allows those with complaints to formally lodge them via the "Contact Us" link. During the presentation of this briefing the NTJWG congratulated the NPRC on its new look and suggested that the website be kept up to date to make information on the NPRC's activities easily accessible to all stakeholders. The NPRC's website and social media handles are pivotal to dissemination of information on the NPRC's activities and initiatives as such it is important for the NPRC to ensure that updates given on any of these platforms are not only factual but also give comprehensive information on all NPRC activities.

From 18 May to 28 May 2020, the NPRC took part in a five part series on the ZimPapers TV Network that focused on the NPRC Visibility and Awareness Campaign. During the series Commissioners Reverend Masunungure, Patience Chiradza, Choice Ngoro and Leslie Ncube discussed the mandates of the NPRC Complaints Handling and Investigations Thematic Committee, the Conflict Prevention, Management, Resolution and Transformation Thematic Committee, the Research and Knowledge Management Thematic Committee and the NPRC Healing, Reconciliation and Rehabilitation Thematic Committee. The NTJWG commended the initiative taken by the NPRC to disseminate information about its work to the public through the media especially in light of the COVID-19 pandemic which has seen public gatherings being restricted. The NTJWG urged the NPRC to generate more publicity for such initiatives in the future and to upload all the video clips of these sessions on its website and social media pages to enable stakeholders who could not follow the series live to have access and benefit from the discussions held.

In response to the issues highlighted by the NTJWG, the NPRC indicated that due to the COVID-19 outbreak it has since started utilising online and virtual platforms for information dissemination. However, the Commissioners also highlighted that using the media is very expensive and this affects the number of engagements they can do at any given time.

Conflict Mapping and Baseline Survey

The NTJWG noted with interest the NPRC's plans to undertake a conflict mapping baseline survey. Such an exercise is necessary for establishing the nature, scope, causes, consequences, actors and impact of conflicts in our country. It will be crucial in informing

the NPRC on how to formulate a holistic and national approach to transitional justice in Zimbabwe which encompasses programs that are responsive to the needs of each province. Although this exercise is crucial and necessary the NTJWG pointed out to the NPRC the need to maintain a victim centred approach in implementing its programs. This survey may result in revictimisation if carried out in a manner that does not put victims at the centre of the process as such it is of absolute importance that the NPRC endeavours to avoid this at all costs.

The NPRC informed the NTJWG that it has developed a policy and implementation framework for victims and survivors that will inform the conflict-mapping exercise and baseline survey. The Commissioners reported that this exercise should have commenced early this year, but due to the COVID-19 outbreak it has been suspended until further notice. The NPRC and the NTJWG agreed that there was room for possible collaboration in regard to this exercise and committed to explore ways in which the NTJWG could give its input.

[COVID-19 Lockdown Mid-term Review Statement](#)

On the 15th of April, the NPRC released its COVID-19 lockdown mid-term review statement. In the statement the NPRC commended citizens for adhering to the lockdown regulations and encouraged those who were defying to comply. The NPRC also commended the restraint shown by law enforcement officers, but flagged out that there were “a few misguided and undisciplined elements who had violated the rights of citizens”. The NPRC further stated that there was a need to improve the relationship between the media and the security sector. The NTJWG welcomed the statement by the NPRC and the efforts it is making to monitor the prevailing context and make recommendations for what must be done to ensure peace during this difficult time. The NTJWG then brought to the NPRC’s attention that a total of 278 cases of assault, 16 cases of attacks on journalists, 2 cases of malicious damage to property and three cases of abductions have been documented by the Zimbabwe Human Rights NGO Forum since the beginning of the national lockdown until 17 June 2020. A further 452 cases of arrests have also been documented with allegations of law enforcement officers demanding bribes in some cases as a pre-condition for releasing arrested individuals. The NTJWG emphasised that these numbers are a cause for concern as they speak to a culture of impunity and lack of respect for human rights in Zimbabwe. This culture has resulted in atrocities being committed by officers in the security sector and in most cases they have not been held accountable for the violations. The NTJWG pointed out that as the independent commission with the mandate of peace building in Zimbabwe it is important for the NPRC to champion holding of law enforcement officers accountable for violations perpetrated during this national lockdown period so as to ensure non-recurrence of the violations. This is a critical step in ensuring peace and reconciliation in our country and assuring victims that the NPRC is not only effective but victim centred as well.

The NPRC responded by informing the NTJWG that its statement only reported the 14 cases of human rights violations that were reported directly to the Commission. The Commission also reported that it engaged the security sector to seek clarity on the reported violations and they confirmed that army and police do not have a policy which enables and condones human rights violations in Zimbabwe and that the violations are being investigated. The Commissioners also added that all the human rights violations that occurred during and after the lockdown shall be included in its 2020 report to Parliament. The Commissioners implored the NTJWG to encourage victims of human rights violations to lodge complaints directly with the NPRC, and for organisations working with victims to complement the NPRC's work by forwarding cases to them.

[NPRC on Politicisation of Food Aid and Subsidised Mealie-meal](#)

According to a report by Commissioner Reverend Masunungure the NPRC met with a representative from the Grain Millers Association on 18 April 2020 in response to numerous complaints received by the NPRC around subsidized mealie-meal distribution and sales throughout the country. In line with this, the NTJWG noted that the NPRC reported that following a complaint by Transparency International Zimbabwe in connection with looting and hoarding of government subsidised mealie-meal in Kuwadzana 5, Harare, the NPRC had engaged the police for further investigation. Consequently a suspect had then been arrested and detained at the Kuwadzana Police Station pending court appearance. The NTJWG also noted that the NPRC convened a meeting in Gwanda which was aimed at addressing the issue of politicisation of food aid and to call for transparency in the procurement and distribution of subsidised mealie-meal.

The NTJWG commended the initiative taken by the NPRC. In a country like Zimbabwe where according to a report by the United Nations Special Rapporteur on the Right to Food after an official visit to Zimbabwe in November 2019¹, 60% of the Zimbabwean population is food insecure. It is therefore clear that issues of politicisation of food aid and government subsidies are potentially a major cause of conflict that should be addressed urgently in Zimbabwe to ensure lasting peace. The NTJWG also commended the collaboration between the NPRC, civil society and the police and urged the NPRC to continue with similar initiatives and ensure that the public remains informed of its interventions. In response the NPRC encouraged the reporting of such cases to its offices given that the one case that was lodged with them led to an arrest of the culprit.

[Exhumations of Remains of Human Rights Atrocities](#)

The issue of exhumations was a very topical issue in the first half of this year with different stakeholders adding their voices to discourse around this important transitional justice issue. The NTJWG welcomed the increased interest in this issue particularly from the

¹ United Nations Human Rights Council Report of the Special Rapporteur on the Right to Food Hilal Elver (19 February 2020) UN Doc A/HRC/43/44/Add.2

executive which has seen President Emmerson Mnangagwa committing to ensuring that exhumations for Gukurahundi victims are prioritised. The NTJWG noted an article that was published by the Herald newspaper on 29 May 2020 which reported that the Ministry of Home Affairs and Cultural Heritage had come up with a Liberation War Mass Graves and Human Remains Management Policy to help address some of the challenges being faced in maintaining some of the shrines both at home and in neighbouring countries. It was reported on 28 May 2020 that there was a reburial of the remains of 300 people who were killed during the liberation war at Matumba Six Shrine near Old Mutare. Speaking at the reburial Deputy Home Affairs and Cultural Heritage Minister Mike Madiro said that the reburial would not be the last one. While there is an undeniable need for exhumations to be carried out in Zimbabwe the NTJWG drew the NPRC's attention to issues that emanate from the topic of exhumations. The NTJWG acknowledged that by their very nature exhumations require experience and technical expertise as they are a difficult area to explore. However the NTJWG pointed out that exhumations are critical for transitional justice purposes especially in our country where an estimated twenty thousand people were killed in the Gukurahundi atrocities alone. The discussion on exhumations in Zimbabwe is not a new phenomenon and it is important to contextualise issues around this and act in a manner that is cognizant of the developments that have happened in this area. One important development that the NTJWG reminded the NPRC of was the Fallen Heroes Trust case where an interim order was given to stop exhumations from proceeding. While the order was not a final order it is important for any exhumations process in Zimbabwe to bear in mind the arguments put forward by the applicants in that case such. Of particular importance to the NTJWG is the argument by the applicant that exhumations must meet the international standards laid out in the Un Model Protocol on the Forensic Investigation of Deaths Suspected to have been caused by a Human Rights Violation. In relation to exhumations, the NPRC acknowledged that this is indeed a very sensitive issue which was suspended by the Executive so that important stakeholders such as Chiefs and CSOs are consulted. The NPRC Chairperson assured the NTJWG that this issue has not been shelved and that more processes were supposed to follow but were disrupted by the COVID-19 lockdown. The Commission called on the NTJWG to share with the NPRC its views on exhumations which they think should be included in the consultative process. The Commission also called on the NTJWG to motivate survivors to lodge complaints in relation to exhumations.

Reporting Obligations of the NPRC

The NPRC is an independent commission which was established by the 2013 Constitution but officially operationalized on 5 January 2018, following the promulgation of the National Peace and Reconciliation Commission Act [Chapter 10:32]. Section 323 of the Constitution of Zimbabwe, imposes an obligation on the NPRC to present its annual report to Parliament describing in full its operations and activities no later than the end of March of the year following the implementation of such activities. This is both a constitutional and a statutory obligation. Consequently the NPRC's 2018 Annual Report

became due on the last day of March 2019 and its 2019 Annual Report also became due on the last day of March 2020. Furthermore, section 16(7) of the NPRC Act obliges the NPRC to further make public the Annual Report and any other reports expected to have been presented to Parliament within thirty days. During the briefing the NTJWG pointed out that the above effectively means that the NPRC is currently in breach of its reporting obligations. While the NTJWG acknowledged that the NPRC is an independent Commission it reminded the NPRC that it is still accountable to Parliament and the people of Zimbabwe. A key part of ensuring that the NPRC remains accountable is through the public evaluation of its Annual Report, which should outline what activities have been carried out and how the Commission has made use of the public resources allocated to it. Given the importance of the NPRC's mandate to our country and the fact that state resources are allocated to it to enable it to fulfill its mandate the need for accountability cannot be disputed. The NPRC is provided for in Chapter 12 of the Constitution as part of the commissions supporting democracy and it is important for it to be above reproach and to be perceived as such. The NTJWG, urged the NPRC to urgently address this matter and immediately submit the outstanding report to Parliament in order to remedy this breach. Given Zimbabwe's checkered past the NTJWG further urged the NPRC to publicise its annual report as a way of accounting to the people of Zimbabwe and giving them information on what it is doing to facilitate peace and reconciliation in Zimbabwe.

The NPRC reported that it has since complied with its constitutional and statutory obligations by submitting the 2018 and 2019 annual reports to the Minister responsible before they are presented before Parliament. The NPRC reported that upon following up on this matter it had been notified that the Minister has been trying to engage Parliament but the latter has not been sitting due to the lockdown.

[Engaging Victims of Police Brutality](#)

On the 7th May of 2020, Commissioner Leslie Ncube led an NPRC delegation that visited sisters Nokuthula and Ntombizodwa Mpofo who were assaulted by police officers in Bulawayo on 16 April 2020. In an interview with journalists from the Centre for Innovation & Technology (CITE) Commissioner Ncube condemned the conduct of the police officers and indicated that the NPRC will keep working on the matter until the responsible police officers are brought to book. The NTJWG commended the NPRC for taking up this case and urged the Commission to work with the Zimbabwe Republic Police as it is empowered to do by the Constitution to ensure that this case is thoroughly investigated and the police officers involved are held accountable. The conduct of the police in this case is an example of the culture of impunity by law enforcement officers in Zimbabwe which has been a source of conflict between the police and citizens for many years. This case therefore falls squarely within the ambit of the mandate of the NPRC as it has conflict inducing elements and the NTJWG urged the NPRC to be actively involved in it and keep the nation updated on developments around this case. In response the NPRC stated that it will share with the public its findings, but highlighted that it has had

to suspend any investigations as the police have since commenced their own investigations.

Abduction and Torture of MDC Alliance Members

On 13 May 2020 MDC Alliance Member of Parliament Honorable Joana Mamombe and party members Cecelia Chimbiri and Netsai Marova were arrested and taken to Harare Central Police Station on charges of breaking lockdown regulations and staging an unsanctioned demonstration. Their arrest was confirmed by the Zimbabwe Republic Police Spokesperson Assistant Commissioner Paul Nyathi. They went missing after their arrest and were found badly bruised and traumatised, dumped in Bindura South on 15 May 2020. They reported that they had been, psychologically, physically and sexually assaulted, including being forced to drink and eat human excreta. While the three women were receiving treatment for their injuries they were charged with violating Section 37 of the Criminal Code in gathering with intent to promote public violence, breach of peace and Section 5(3) and (1) of COVID-19 Regulations SI99 of 20 on gatherings. They were also charged with lying about their abductions. During the presentation of this briefing the NTJWG indicated that given the NPRC's constitutionally enshrined mandate to facilitate peace and reconciliation in Zimbabwe and the history of violence and torture perpetrated against opposition party members Zimbabwe the NTJWG finds the NPRC's silence regarding this issue concerning. The NTJWG urged the NPRC to be victim centred and stand against reports of torture and persecution of victims of torture who have the courage to tell their stories.

In this case, the NPRC reported that the Commission only managed to interview one of the victims before the police commenced their own investigations. However, the Commission noted that it cannot embark on its own parallel investigation as it is obliged to receive not look for complaints, the Commission further noted that only one victim had approached them and the complaint was on file. The Commissioners emphasised that a thorough response to this matter shall be published in the 2020 Annual Report. The Commission further indicated that, whilst it waits for a conclusive investigation and report from the police, the NPRC will develop a written response to the Executive and the Minister.

Conclusion

The NTJWG would like to congratulate the NPRC for the work it carried out from January to June 2020. The NTJWG is hopeful that the pledge made by both the NPRC and the NTJWG to cooperate and engage as much as possible and establish a relationship based on facts as opposed to assumptions will be honored. Both entities remain committed to work more as partners than competitors as their mandates are complimentary. The NTJWG therefore looks forward to continuously engaging and working closely with the NPRC to further the transitional justice agenda in our country.