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SUMMARY OF THE 9TH EDITION OF THE NPRC WATCH REPORT

Introduction

The National Transitional Justice Working Group (NTJWG) is pleased to issue the 9th Edition of its NPRC Watch Report which reports on events and activities from July to December 2019. This Issue of the NPRC Watch Report discusses the NPRC's work, its legal set up, what stakeholders have been saying about its work and gives recommendations on what can be improved. In this summary, we will take you through the main highlights of this Issue and these include press statements published by the NTJWG, a timeline highlighting the NPRC's activities, comments that have been made about the NPRC's work by stakeholders and activities of the NTJWG and its stakeholders.

The period from July to December 2019 was marred with severe economic challenges coupled with crippling industrial action across the country by medical doctors and nurses in State medical facilities. This caused a huge disaster in Zimbabwe's health sector. This period was also characterized by regular price hikes of basic foodstuffs meaning that the health and nutrition of many Zimbabweans, especially children, remained compromised. While all this has been happening, political tensions have continued to rise with numerous cases of State-perpetrated violence against opposition supporters, various workers from different unions, the Association of Rural Teachers Union of Zimbabwe and the Hospital Doctors Association of Zimbabwe being the main ones facing the brunt in the second half of 2019. While the government's stance has been that the Zimbabwe Republic Police assaults demonstrators as a matter of maintaining peace and order in the country, the NTJWG unreservedly condemns this stance and encourages lawful and proportionate means of maintaining the peace.

On 6 September 2019, Zimbabwe's long-time ruler Robert Gabriel Mugabe passed on in Singapore. The news of his death was met with mixed reactions but the questions remain as to his legacy and what it means for the many victims of human rights violations under his reign, from Gukurahundi to the many epochs of State-sponsored and politically-motivated violence that he presided. What is clear, however, is that institutions like the NPRC have a pivotal role to play in facilitating healing and the achievement of justice for the many victims of his violent and brutal rule.

We encourage you to access the 9th Edition of the NPRC Watch Report for more information by visiting <http://www.ntjwg.org.zw> and feel free to write to us on info@ntjwg.org.zw

NTJWG STATEMENT ON THE NPRC AND THE NEED FOR AN INCLUSIVE PROCESS TO DEVELOP A LEGAL FRAMEWORK FOR EXHUMATIONS

On the 15th of December 2019, the NTJWG published a statement in the Standard Newspaper and that statement forms part of the 9th Edition of the NPRC Watch Report. This statement was informed by a briefing conducted by the NTJWG with the NPRC, where the NPRC indicated that it has gotten the green light from the President to carry out exhumations and the subsequent comments made by President Emmerson Mnangagwa during his meeting with the Matabeleland Collective in February 2020 in when he said Government was working at achieving consensus on how best to address the exhumation and reburial of Gukurahundi victims in a manner that will not offend anyone. In that statement the NTJWG highlighted the following issues:

In 2011, an organization called *Fallen Heroes Trust* started a series of exhumations around the country claiming to be exhuming remains of freedom fighters. The process was stopped by the High Court following an application by the Zimbabwe People's Revolutionary Army *Veterans Trust*, which successfully argued that the process was meant to interfere with evidence of post-independence atrocities and that some of the people being exhumed were part of its membership massacred during Gukurahundi. Justice Mathonsi sitting in the High Court heard the matter and delivered a judgment in which he directed the government to come up with a legal process, after consultation with all stakeholders and interested parties countrywide, which shall be the framework for any exhumation of the remains of persons who died or disappeared during the pre-independence or post-independence military or political hostilities in Zimbabwe.

There is need to acknowledge the High Court's order such that a legal framework on exhumations should come out of a consultative process, including capturing the views and needs of stakeholders in Zimbabwe, particularly those of victims.

The NPRC, while being an independent Commission, remains a public institution whose mandate is governed by law. A Presidential Proclamation does not appear to meet the transparent standards expected of a national transitional justice process.

Exhumations must be handled as part of a comprehensive transitional justice process which includes issues of truth recovery, healing, and justice. In this process, documentation and preservation of evidence of crimes is an essential part of the process.

NTJWG PRESS STATEMENT ON THE NPRC'S REPORTING OBLIGATIONS AND QUESTIONS ABOUT ITS INDEPENDENCE AND CREDIBILITY

On the 15th of December 2019, the NTJWG published a press statement in *The Standard* Newspaper on the NPRC's reporting obligations and also discussing the NTJWG's concerns about the NPRC's independence and credibility in light of its participation in the Political Actors Dialogue (POLAD). The NTJWG highlighted the following issues in that press statement:

According to section 323 of the Constitution, the NPRC should present its annual report to Parliament describing in full its operations and activities no later than by the end of March of the year following the implementation of such activities. Accordingly, the NPRC's 2018 Annual Report became due on the last day of March 2019. Moreover, 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. This means that the NPRC has been in breach of the Constitution since 31 March 2019. At a time when there is a public outcry for the thorough account of the government, independent commissions must be seen to be above reproach. The NTJWG, therefore, urges the NPRC to urgently address this matter and immediately submit the outstanding report to Parliament to remedy the breach.

Just as the NPRC had started consultations with stakeholders on a framework for national dialogue, President Emmerson Mnangagwa launched the Political Actors Dialogue (POLAD). The NPRC immediately stopped consultations and shifted its attention to POLAD. The POLAD process has increasingly been viewed by many stakeholders as a partisan platform that does not embrace inclusivity and adopts political positions usually associated with the ruling party. The role of the NPRC in this platform has caused concern among stakeholders who have seen this as a serious assault on the independence of the NPRC, which is now forced to take positions with one side in a major political conflict that needs credible mediation. While it has been argued that the Chairperson of the NPRC may be acting in his personal capacity at POLAD, this remains unfortunate. The Chairperson of the NPRC must act in a manner that does not compromise the integrity of his office, even in his private capacity.

In the NTJWG Code of Inclusion, the NTJWG noted that participation in national healing and reconciliation processes must be substantial and not based on mere tokenism. The NPRC must ensure that expediency does not come at the expense of the meaningful participation of all interested parties.

NPRC TIMELINE

4 July 2019: Establishment of the multi-stakeholder Provincial Peace Committees (PPCs) in all the provinces mandated with facilitating peace building in their respective provinces.

22 July 2019: Commissioner Patience Chiradza spelled out the NPRC strategy in an interview with the *Herald*. She said the strategy includes facilitating exhumations and reburial of victims as part of peace building and reconciliation processes.

22 July 2019: The NPRC rolled out the Women Safe Spaces and Wellness Program to ensure inclusive and transformative healing and reconciliation processes in which women can actively participate.

19 – 21 August 2019: The NPRC, the Parliamentary Portfolio Committee on Justice, Legal and Parliamentary Affairs and the Thematic Committee on Human Rights had a joint workshop in Bulawayo on the mandate of the NPRC. The workshop was aimed at informing participants on what the mandate of the NPRC is so they can effectively participate in NPRC programs.

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23 August 2019: Following the recruitment of more staff for the NPRC Secretariat, the NPRC old and new staff members underwent an upskilling workshop on complaints handling and investigations.

25 September 2019: The NPRC carried out an induction and orientation exercise for the PPCs.

7 October 2019: The NPRC put out a media release dismissing claims in an article published by *The Standard* Newspaper alleging that the NPRC has been rocked by divisions with some Commissioners said to be unhappy over the government's lack of commitment in addressing past human rights abuses and conflicts which was evident from allocation of inadequate funds for to the NPRC for its operations.

30 October 2019: the NPRC introduced the Complaints Handling and Investigations Thematic Department which will be responsible for receiving, considering complaints from the public and conducting investigations into any dispute or conflict within the mandate of the NPRC. The NPRC also introduced its Committee on Prevention and Conflict Prevention, Management, Resolution and Transformation Department which is mandated to give policy guidance on conflict management, conflict prevention, conflict transformation and guarantee of non-recurrence.

6 November 2019: the NPRC put out a press release outlining the procedure of making a complaint to the NPRC.

2 December 2019: The NPRC introduced the Victim Support, Gender, and Diversity (VSGD) Thematic Department.

4 November 2019: The NPRC introduced the Research and Knowledge Management (RKM) Thematic Department to produce evidence-based research for informed policy and decision-making.

ASSESSMENT OF NPRC INTERVENTIONS FROM STAKEHOLDERS AND TRANSITIONAL JUSTICE EXPERTS

Heal Zimbabwe Trust (HZZ) comments on the establishment of the Provincial Peace Committees in its Focus on Peace Building Issue 1/2019: In the first issue of its Focus on Peace Building Report, the Heal Zimbabwe Trust (HTZ) listed several weaknesses that are inherent in the structure of the PPCs. Key among issues of concern is the need to ensure that perpetrators do not form part of the PPCs membership as this compromises security and confidence in the process. HZZ also noted that the selection of high-profile people to be members of in the PPCs might lead to community members not feeling comfortable in discussions and thus stifle discussions and open communication for fear of reprisals. HZZ also noted that there is no clear representation of victims' voices and that is problematic. However, the HZZ pointed out that there are opportunities around the use of traditional justice systems in resolving conflicts as well as improving on context-specific dialogue in resolving community conflicts.

Comments on the NPRC Strategy and Gukurahundi exhumations: One of the key protagonists of justice for Gukurahundi victims, human rights lawyer Siphosami Malunga, makes the argument that the NPRC and the government of Zimbabwe must not rush in to exhume the mass graves in Matabeleland, as the mass graves are literally and technically crime scenes that must be preserved or attended to in a manner that is investigative and seeks to find out more information. Any haphazard digging and excavation would taint the crime scenes and bury the evidence needed to prosecute or find justice for the survivors of the Gukurahundi massacres.

NTJWG RECOMMENDATIONS FOR THE NPRC

- To continue to carry out solid investigations into the human rights violations reports presented to the NPRC by victims, survivors and human rights organizations;
- To keep the nation updated on the NPRC's successes and challenges in the implementation of its mandate;
- To be impartial in the investigation of alleged human rights violations by the

police, CIO and the Zimbabwe National Army;

- To carry out proper research on the needs of victims and survivor's *vis a vis* issues such as rehabilitation, medical attention, compensation, restoration of livelihoods and the management of post-traumatic stress disorders;
- To devote more time and focus to economic rights violations especially for pensioners and those who have lost their hard-earned funds in banks that have since collapsed.

BRIEF SURVEY OF OTHER TRANSITIONAL JUSTICE INITIATIVES – OFFICIAL AND NON-OFFICIAL

9 July 2019: Ukuthula Trust hosted a workshop in Bulawayo for civil society organizations working with Gukurahundi victims to unpack ethics of handling Gukurahundi trauma survivors with the objective of coming up with interventions on how we can deal with past injustices without causing further harm.

11 July 2019: The Masakhaneni Trust hosted an advocacy awareness conference on promoting safe education spaces for the rural girl child in light of the vulnerability of young schoolgirls in Matabeleland.

29 August 2019: The NTJWG hosted its Annual Stakeholders' Conference at Cresta Lodge, Harare to discuss its strategy, vacant positions, and representation of survivors in the NTJWG.

30 August 2019: The NTJWG undertook a capacity-building workshop for twenty-four survivors selected from the ten provinces in Zimbabwe. Survivors were trained in sensitization and awareness-raising around the work of the NPRC which they are now expected to disseminate at community levels.

24 September 2019 to 5 December 2019: The NTJWG convened eight community dialogues to educate survivors on the mandate of the NPRC in order to capacitate them to effectively engage with the NPRC. The community dialogues were carried out in Nyanga, Tsholotsho, Zvishavane, Marange, Bikita, Murehwa, and Gwanda and brought together a total of 364 survivors.

1 October-15 November 2019: The NTJWG carried out regional process monitoring meetings in Harare, Bulawayo, Mutare and Gweru for the NTJWG's stakeholders. These are meetings between the NTJWG and its stakeholders during which the NTJWG updates the stakeholders on its activities and topical transitional justice issues are discussed. During the meetings, participants expressed concern over the rapidly shrinking civil space in Zimbabwe and the apparent fear in communities that are sparked by talk of past violations. They, however, pointed out that there seems to be scope for working with the NPRC whenever its programs are in line with their programming.

28 October 2019: The NTJWG Archival Reference Group had a meeting in Harare to discuss the progress made on the NTJWG archival project which is meant to create a repository of information on past human rights violations in Zimbabwe so that these will not be forgotten as part of Zimbabwe's history.

30 September 2019: In March 2019, Zimbabwe Lawyers for Human Rights were granted an order by the High Court of Zimbabwe on the interpretation of the constitutional provision limiting the NPRC's lifespan. The judgment was set to see the lifespan of the NPRC lapsing in January 2028 and not August 2023 as it was initially supposed to. This landmark judgment marked a massive feat for transitional justice in Zimbabwe. This decision was, however, appealed by the government of Zimbabwe and the appeal was heard in the Supreme Court on 30 September 2019. Judgment is pending from the Supreme Court.

Conclusion

In the second half of the year 2019, the NPRC continued to grow its programs reaching out to more people and more places across the country. This is important and welcome. What remains to be seen is the real impact of the NPRC on ordinary citizens through its interventions. The NTJWG is keen to see the NPRC implement its activities with clear goals on the production of evidence-based reports so that stakeholders and the rest of Zimbabwe can appreciate its work. The NTJWG continues to carry out its work through local and international advocacy efforts by spreading information on transitional justice, reconciliation, and healing.