

STATE OF TRANSITIONAL JUSTICE IN ZIMBABWE 2020 REPORT



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The National Transitional Justice Working Group of Zimbabwe

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ABOUT THE

NATIONAL TRANSITIONAL JUSTICE WORKING GROUP (NTJWG)

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

NTJWG shares with all transitional justice stakeholders the vision for a peaceful, just, accountable, and democratic society. Its purpose is to facilitate consensus among transitional justice actors on appropriate transitional justice principles and processes for Zimbabwe.

Its mission is to create an 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.

In pursuit of this vision, the NTJWG will be guided by the following values:

INTEGRITY

Professionalism, Commitment, Truth, Transparency, Diligence, Honesty, Confidentiality.

INCLUSIVITY

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

IMPARTIALITY

Non-partisanship, Independence, objectivity.



STATE OF TRANSITIONAL JUSTICE IN ZIMBABWE 2020 REPORT

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ACRONYMS

The following abbreviations and acronyms are used in this report:

AIPPA	Access to Information and Protection of Privacy Act
AUTJP	African Union Transitional Justice Policy
CCCOP	Churches Convergence on Conflict and Peace
CCJP	Catholic Commission for Justice and Peace
CEWER	Conflict Early Warning and Early Response
CIO	Central Intelligence Organisation
CITE	Centre for Innovation and Technology
CPNZ	Catholic Professionals Network of Zimbabwe
DOD	Department of Defence
GBV	Gender-Based Violence
GoZ	Government of Zimbabwe
IMF	International Monetary Fund
IPSTC	International Peace Support Training Centre
KNFP	Kenya National Focal Point on Small Arms and Light Weapons
LPC	Local Peace Committees
MISA	Media Institute of Southern Africa
MOPA	Maintenance of Peace and Order Act
NPRC	National Peace and Reconciliation Commission
NTJWG	National Transitional Justice Working Group
NSPBCM	National Steering Committee on Peace building and Conflict Management
POLAD	Political Actors Dialogue
POSA	Public Order and Security Act
RTL	Radio Télévision Libre des Mille Collines
SSG	Survivor Support Group
SSR	Security Sector Reform
ToL	Tree of Life
UNSC	United Nations Security Council
ZACC	Zimbabwe Anti-Corruption Commission
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZAPU	Zimbabwe African People's Union
ZCA	Zimbabwe Christian Alliance
ZCBC	Zimbabwe Catholic Bishops Conference
ZDD	Zimbabwe Divine Destiny
ZDF	Zimbabwe Defence Forces
ZHRC	Zimbabwe Human Rights Commission
ZimRights	Zimbabwe Human Rights Association
ZPS	Zimbabwe Prison Service
ZPP	Zimbabwe Peace Project
ZRP	Zimbabwe Republic Police

EXECUTIVE SUMMARY

Welcome to the 2020 edition of the State of Transitional Justice in Zimbabwe report. This report provides an expansive reflection of the progress, challenges, and opportunities within the trajectory of transitional justice in Zimbabwe. The year 2020 was unprecedented following the outbreak of the novel coronavirus (COVID-19) which was declared a global pandemic by the World Health Organisation (WHO).

The COVID-19 pandemic brought monumental health challenges that have impacted heavily on the socio-economic and political contexts globally. In response to the worldwide pandemic, countries adopted emergency measures that placed restrictions on gatherings, free movement, and commerce. These limitations led to the curtailment of fundamental rights and freedoms and culminated in the disproportionate increase of violations by the state under the rubric of containing the spread of the deadly virus. By September 2020, Zimbabwe had witnessed over 920 human rights violations in the form of abductions, torture, extrajudicial killings, assaults on citizens by law enforcement officers, attacks on journalists, and unlawful arrests.

This report highlights the transitional justice work which was done by the National Peace and Reconciliation Commission (NPRC). It accentuates efforts by the Government of Zimbabwe (GoZ) to contribute to the ongoing transitional justice processes, albeit with minimal progress. It further showcases critical work by the National Transitional Justice Working Group (NTJWG) and other civil society organisations in shadowing the official peace and reconciliation processes, engaging with stakeholders building capacities, and amplifying the cause of transitional justice.

The report features the contribution by ecumenical institutions' grassroots-based, bottom-up approach to transitional justice premised on building and enhancing local capacities for peace.



KEY FINDINGS AND RECOMMENDATIONS

Key findings and recommendations constitute an important component of the report annotating what has been achieved in 2020 and benchmarking the work that still needs to be undertaken to further the cause of justice, healing, and reconciliation in Zimbabwe.

In August 2020, the NPRC issued out a call for the establishment of a Conflict Early Warning and Early Response (CEWER) mechanism in furtherance of its mandate in terms of Section 252(g) of the Constitution of Zimbabwe. The proposed CEWER, to be constituted under four clusters, is an integral conflict prevention mechanism useful for early detection of potential conflicts and a corresponding early design of intervention mechanisms to ensure that conflicts do not degenerate into violence.

**ZIMBABWE
WITNESSED OVER 920 HUMAN RIGHTS
VIOLATIONS**

1. Zimbabwe Human Rights NGO Forum, 180 days of What? A Summary of the First 180 of the Covid-19 National Lockdown in Zimbabwe, available at <http://kubatana.net/wp-content/uploads/2020/10/180-Days-of-What-Ir.pdf>

Other important work highlighted in the report include the Commission's media presence in efforts aimed at combatting COVID-19, its contribution to the discourse on the exhumations and reburial of victims of Gukurahundi, conflict mapping baseline survey, and nationwide consultations on private and public hearings.

The role of the government in facilitating transitional justice processes is also highlighted in the report. In August 2020, President Emmerson Mnangagwa continued his interface meetings with civil society in Matabeleland to discuss the Gukurahundi exhumations and reburials as well as the launch of a programme to issue birth and death certificates to survivors of the 1980s massacre. On a positive note, the gazetting of the Independent Complaints Commission Bill in November 2020, remains a major milestone in the fight for institutional reform following decades of brutalities instigated by members of the security services. The gazetting follows a Constitutional Court ruling of 23 September 2020 that gave the GoZ 45 days within which to gazette the Bill. The Bill is aimed at implementing section 210 of the Constitution.

Throughout 2020, the NTJWG continued to spearhead the civil society-led transitional justice processes shadowing the work of the NPRC as well as building strategic alliances with other government institutions. An important component of the work of NTJWG during the period under review was the continuation of initiatives aimed at building the capacity of victims and survivors to engage with national peace and reconciliation mechanisms. These capacity-building overtures were aimed at ensuring communities appreciate the broader transitional justice process and the mandate of the NPRC as a key body mandated to spearhead the initiative. Between February and March, the NTJWG conducted eleven dialogue sessions reaching out to 525 people in communities affected by conflicts such as Bikita, Chinhoyi, Hwange, and Zaka.



The NTJWG also broadened its intervention using digital platforms for instance webinars and radio to discuss important aspects around building tolerance, curbing hate speech, and their implication on social cohesion.

Transitional justice from below took centre stage in 2020 with the coming on board of ecumenical organisations, Ecumenical Church Leaders Forum (ECLF), Catholic Commission for Justice and Peace (CCJP), Zimbabwe Christian Alliance (ZCA) Churches, and Zimbabwe Divine Destiny (ZDD) under the umbrella Churches Convergence on Conflict and Peace (CCCOP). The project is aimed at addressing legacies of violence within communities through building and strengthening Local Peace Committees (LPC) as vehicles for healing and reconciliation. This grassroots-based, bottom-up approach to transitional justice is critical in enhancing local capacities through building peace from below as a sustainable intervention in fostering tolerance and social inclusion. Lessons from Uganda, Sierra Leone, and Rwanda demonstrate the centrality of local communities' understanding of their unique context and dynamics as a key grounding of transitional justice processes.

In December 2018, the Motlanthe Commission recommended the reform of key security sector institutions, including the army, the police, and the central intelligence service following the shootings of 1 August 2018. Two years after the Commission made its recommendations, nothing has been achieved on that front and the Zimbabwe Human Rights Association produced a report detailing the extent to which the GoZ has made efforts to ensure implementation of the recommendations.

Zimbabwe's human rights situation continued to worsen in 2020 with increased cases of abduction, torture, and arbitrary arrests of opposition politicians and pro-democracy activists. Human Rights violations intensified during the year camouflaged as containment measures to curtail the spread of COVID-19. While there has been some progress in transitional justice work in 2020, key gaps remain, among them the lack of a national policy to guide the work on justice, healing, and reconciliation.

A Transitional Justice Policy is an important framework designed to address legacies of the past to promote justice, accountability, reconciliation and sustainable peace. On the international front, 2020 came with increased interest in transitional justice issues by the United Nations Security Council (UNSC). This provides an opportunity for transitional justice stakeholders to work towards ensuring that issues of dealing with the past are prioritised by the UNSC.

A TRANSITIONAL JUSTICE POLICY
*is an important framework designed
to address legacies of the past to promote
justice, accountability, reconciliation,
and sustainable peace.*



01

CHAPTER 1

ABOUT THE 2020 STATE OF TRANSITIONAL JUSTICE REPORT

1.1

ABOUT THIS REPORT

This report focuses on presenting and analysing information regarding the key events that shaped the transitional justice discourse in 2020. The report gives an overview of and insight into official transitional justice initiatives carried out in 2020 by independent commissions and government entities. This report also analyses the efforts made by non-official transitional justice stakeholders such as civil society organisations to further the transitional justice agenda. It also details regional and international developments that shaped the transitional justice sphere in 2020 paying particular attention to those developments that could be instrumental in shaping transitional justice processes in Zimbabwe. Transitional justice issues that emerged in 2020 are also discussed in this report with a specific focus on their importance moving forward and the impact they may have on peace and reconciliation processes in Zimbabwe. Finally, this report makes recommendations for the future that will help to make transitional justice processes in Zimbabwe more effective and ensure lasting peace and reconciliation.

1.2

METHODOLOGY

This report was compiled using both qualitative and quantitative research methods and it carries out a survey of the reports from independent commissions and stakeholders on transitional justice processes in Zimbabwe. In compiling this report, the NTJWG used reports it previously compiled including:

- the Guiding Principles on Transitional Justice in Zimbabwe (2015),
- the Minimum Standards for an Effective NPRC (2014),
- the Code of Inclusion (2019),
- the quarterly NPRC Watch Reports,
- the NPRC Executive and Parliamentary Transitional Justice Quarterly Briefings in conjunction with reports from independent commissions, civil society organisations, the government, the media, and inter-governmental organisations.

Legal instruments such as the Constitution, Acts of Parliament, Statutory Instruments, and international law instruments relating to transitional justice were also used in the preparation of this report. Media reports were scanned and analysed, to ensure that all material aspects of transitional justice that took place in 2020 are also captured. This was necessary to generate background information that informed significant parts of the report. The information contained in this report has been corroborated to ensure its accuracy.



One of the most important NPRC activities highlighted in this report

is the presentation of its 2018 and 2019 annual reports to Parliament and their eventual publication.

1.3

OVERVIEW

This report details transitional justice reports from 2020 to give a comprehensive understanding of the transitional justice developments that emanated from the year 2020 and the impact they had on the state of transitional justice in Zimbabwe. The second chapter of this report tackles issues involving the NPRC as the body that is constitutionally mandated to lead national peace and reconciliation processes.

This report gives an overview of the activities carried out by the NPRC in 2020 which fell under its purview such as the training of its PPCs, disseminating information about its activities and making efforts to establish an early warning system for conflict. One of the most important NPRC activities highlighted in this report is the presentation of its 2018 and 2019 annual reports to Parliament and their eventual publication. Chapter two also highlights developments within the NPRC emanating from 2020 such as the resignation of former commissioner Netty Musanhu and the call for public nominations for individuals for appointment as NPRC commissioners in 2021. These are key developments that will shape the direction the NPRC takes, its ability to deliver on its mandate and its credibility. The coverage of the NPRC's activities and developments within the institution in chapter two of this report are aimed at providing an understanding of the work done by the NPRC, its failures, successes and challenges it encountered in the execution of its mandate in 2020.



THIS REPORT DETAILS TRANSITIONAL JUSTICE REPORTS FROM 2020

to give a comprehensive understanding of the transitional justice developments that emanated from the year 2020 and the impact they had on the state of transitional justice in Zimbabwe.

CHAPTER 2 OVERVIEW

Chapter two also analyses the transitional justice interventions made by the government in 2020. These include the engagement of civil society and traditional leaders in the Matabeleland provinces by the President to discuss Gukurahundi, the actions taken by the government to put into effect the recommendations made by the NPRC in its 2018 and 2019 annual reports and the gazetting of the Independent Complaints Commission Bill. These interventions show the contribution made by the GoZ to the transitional justice agenda in Zimbabwe. Chapter two also provides an analysis of the extent to which the interventions by the GoZ have been aided Zimbabwe's transitional journey and the ways in which they have harmed it as well as the lessons that can be drawn from the impact of each intervention.

CHAPTER 3 OVERVIEW

In the third chapter of this report, the NTJWG highlights the non-official transitional justice processes carried out in 2020 by civil society and the church. Some of the activities highlighted in this section are the policy dialogue on reparations, memorialisation activities such as radio programs, documentaries, establishment of a Gukurahundi museum. This section also analyses the contribution made by the church to transitional justice and the collaboration between different church groupings aimed at collectively crafting solutions to bring about sustainable peace in Zimbabwe. This report also details some of the research carried out by transitional justice stakeholders in Zimbabwe such as Heal Zimbabwe Trust who carried out a research on transitional justice in pre-transition societies in order to provide a better understanding of the challenges faced by Zimbabwe in its efforts to address transitional justice issues without a genuine transition.

CHAPTER 4 OVERVIEW

The fourth chapter of this report is essentially a reflection on the second and third chapters, this chapter considers what the key gaps in transitional justice in 2020 were. This is a crucial part of taking stock of the failures of 2020 and identifying areas for improvement as well as which stakeholders must do what to ensure that those gaps are filled.



CHAPTER 7

which is the penultimate chapter of this report sums up the discussion on the state of transitional justice in Zimbabwe in 2020 what can be done in the future to improve it.

One of the major gaps which has remained outstanding since December 2018 is the implementation of the Motlanthe Commission recommendations. These recommendations remained unimplemented by the end of 2020 leaving survivors and the families of victims of the 2018 post-election violence still yearning for justice. This chapter takes a closer look at the recommendations that were made, what has been done to implement them and what remains outstanding. Another gap identified in this report is the lack of a national transitional justice policy and the urgent need for one to provide guidance to transitional justice stakeholders on which direction to take in their interventions. The issue of exhumations which was a topical issue in 2020 is also tackled in this chapter with a focus on how the process must be done, who must lead it, what has been done incorrectly thus far and how it can be corrected going forward. Chapter four also discusses the need for institutional reform in Zimbabwe and the importance of reform of institutions to guarantee non-recurrence of gross human rights violations.

CHAPTER 5 OVERVIEW

In chapter five of this report, the NTJWG gives an overview of transitional justice developments from across the world. This is done to give an appreciation of the experiences of transitional justice stakeholders in other jurisdictions and provide lessons that Zimbabwe may make use of in its efforts to bring national peace and reconciliation. One of the biggest highlights from this chapter is the hosting of an open debate focusing solely on transitional justice by the UN Security Council. This is a welcome development which provides an opportunity for transitional justice stakeholders to engage each other through platforms provide by the UN and engage the UN mechanisms more on transitional justice issues.

CHAPTER 6 OVERVIEW

Chapter six and seven are a culmination of the analysis carried out from chapter two to chapter five. Chapter six provides the key findings on the state of transitional justice in Zimbabwe in 2020. The chapter also details recommendations aimed at providing guidance on how the challenges identified can be addressed and how the opportunities identified may be used.

02

CHAPTER 2

SYNOPSIS OFFICIAL TRANSITIONAL JUSTICE PROCESSES

2.1

DEVELOPMENTS WITHIN THE NPRC

2.1.1

Commissioner Netty Musanhu leaves the NPRC

On 21 February 2020, the NPRC released a press statement noting that Commissioner Netty Musanhu who oversaw the Victim Support, Gender and Diversity Thematic Committee and Resource Mobilisation at the NPRC had resigned. The statement stated that she had left the NPRC because of a long-standing conflict of interest. The statement further 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. Section 236(2) of the Constitution 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."* It however did not state specifically what the outstanding conflict of interest was. 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 were not publicly stated. While 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 transparent manner that does not cause confusion or speculation among stakeholders.

2.1.2

Call for Public Nominations

In November 2020, the Committee on Standing Rules and Orders (CSRO) of the Parliament of Zimbabwe issued a call for public nominations of persons to serve as NPRC commissioners and the deadline for nominations was 4 December 2020. The CSRO is mandated, in terms of sections 237 and 251 of the Constitution mandated to nominate candidates for appointment by President, to serve as commissioners on the NPRC as provided for in Chapter 12, Part 6, of the Constitution. In its call for applications the CSRO highlighted that vacancies would arise in the NPRC on 23 February 2021 upon the expiry of the first five-year term of the NPRC commissioners that were appointed in 2016. The call however omitted to highlight that in addition to the vacancies that would arise in 2021 there had been a vacancy in the NPRC since former Commissioner Musanhu's resignation in February 2020.

By the close of 2020, the steps to be taken after issuing the call for nominations ensuing steps to facilitate the appointment of new commissioners as outlined in section 237(1) of the Constitution remain outstanding. Delays in filling of vacancies in the NPRC are concerning and must be addressed post-haste as the Constitution stipulates in section 324 that "*All constitutional obligations must be performed diligently and without delay.*"

Given that the NPRC only became operational in 2018 two years after the commissioners were appointed and that the NPRC has a limited lifespan the Parliament of Zimbabwe working together with the President must endeavour to ensure that vacancies within the Commission are filled as soon as practicable after they arise to ensure that the NPRC is always properly constituted.

2.2

NATIONAL PEACE AND RECONCILIATION COMMISSION (NPRC) IN ACTION

2.2.1

NPRC Website Gets a Facelift

On 22 February 2020, the NPRC's new website went live. This website can be accessed by visiting <http://nprc.org.zw> 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. The revamping of the NPRC's website is a good initiative that must be followed up with active engagement by the NPRC with transitional justice stakeholders. The website must be kept up to date to make information on the NPRC's activities to ensure that information about the work being done by the NPRC is easily accessible to all stakeholders.

2.2.2

Training of Provincial Peace Committees

From February to March 2020, the NPRC convened trainings for its provincial peace committees (PPCs) which were set up and given the mandate of solve conflicts in their areas because a '*one-size-fits-all*' approach had proved impractical. The trainings were aimed at equipping members with skills in conflict analysis, approaches to conflict resolution, indigenous solutions to conflicts, and peace education. The trainings emphasised the importance of a critical understanding of the actors, content, context, positions, interests, options, objectives, and relationship building in preventing, managing, resolving, and transforming conflict. The members of the PPCs also went through an exercise during which



Mashonaland Central Provincial Peace Committee members attending training



Matabeleland North Provincial Peace Committee members attending training

its strengths, weaknesses, threats, and opportunities were discussed as part of the training program. During its training, the Harare PPC identified political conflicts, boundary disputes, polarisation, and resource conflicts, social and economic conflicts as the major conflicts affecting Harare Metropolitan Province.

Speaking at the Bulawayo Metropolitan PPC training the Chairperson of the NPRC, Retired Justice Sello Nare emphasized that peace committee structures around the country shall be the focal point for all the NPRC driven programs. He added that the PPCs need to be adequately capacitated so that they understand their responsibilities towards uniting all Zimbabweans and part of that capacitation was giving them skills that will enable them to interview victims among other things. The initiative taken by the NPRC to set up the PPCs and train the members of each PPC on how they should carry out their mandate is key to increasing the NPRC's visibility in their provinces. To that end, the NTJWG urges the NPRC to impress upon

the members of the PPCs the importance of inclusivity in transitional justice processes to ensure long-lasting peace and reconciliation. For more information on issues of inclusivity as perceived by the NTJWG, please visit:

 <https://www.ntjwg.org.zw/introducing-the-code-of-inclusion/and-read-the-NTJWG-Code-of-Inclusion>.



THE TRAININGS WERE AIMED

at equipping members with skills in conflict analysis, approaches to conflict resolution, indigenous solutions to conflicts, and peace education.

2.2.3

NPRC Undergoes Counselling Course

On 2 March 2020, the NPRC Victim Support, Gender and Diversity Department underwent a counselling course facilitated by Connect-Zimbabwe Institute of



NPRC Victim Support, Gender and Diversity Department members attending training

Systemic Therapy. This was done to build the NPRC's capacity to handle victims and people who access the NPRC for various reasons. In fulfilling its mandate, the NPRC through its Victim Support, Gender and Diversity Department will interact with many survivors of past human rights violations and as survivors open up about their experiences and the trauma they have experienced they will need counselling from trained professionals. It is therefore crucial for the NPRC department responsible for victim support to receive training on counselling so that their interactions with victims do not cause more harm to survivors.

2.2.4

NPRC Undertakes Conflict Mapping Baseline Survey

In March 2020, the NPRC announced that it was planning to undertake a conflict mapping baseline survey in Harare, Manicaland, Mashonaland West, Central, and East. The main objectives of the study were said to be as follows:

- To outline the nature, scope, causes, consequences, actors, and impact of conflicts in identified areas in Zimbabwe's ten provinces; and

- To identify community approaches in resolving alternative dispute resolution mechanisms.

THE SUB-OBJECTIVES OF THE STUDY

were as follows:

To identify types of conflicts whose consequences communities still feel;

To suggest an alternative dispute resolution mechanism;

To identify sexual crimes committed against women and girls during conflict periods;

To identify the level of social cohesion in the country;

To gauge visibility, awareness, and impact of the NPRC.

In anticipation of undertaking this very important study, from 13 to 14 March 2020, the NPRC through its Knowledge Management Thematic Department conducted a training workshop for enumerators who were to carry out the survey. The training was aimed at equipping the enumerators with basic skills for collecting data for the baseline study. The workshop focused on the following topics;

Attributes of a good researcher

Background to the survey

Expected outcomes of the study

Sexual crimes

Social Cohesion and Reconciliation Index

Conflict Early Warning Early Response

Regrettably because of the emergence of the COVID-19 pandemic and the subsequent national lockdown measures that were put in place, the NPRC could not proceed with its plans. The unpredictability of the current context calls upon the NPRC to strategise and find alternative ways to carry out programs such as this, to this end the NPRC needs to build alliances with civil society organisations that may be able to support the NPRC as it undertakes this initiative through the provision of reliable data.

2.2.5

Consensus Building

On 19 March 2020, the NPRC held a consensus-building workshop between NPRC and Provincial heads of government departments in Mashonaland Central Province. Speaking at the workshop Commissioner Rev. Charles Masunungure pointed out that the purpose of NPRC's Complaints Handling and Investigations Department is to establish the truth to facilitate healing and reconciliation to those affected by conflicts. He also indicated that the Commission will request assistance from Zimbabwe Republic Police to conduct investigations. At the same workshop, NPRC Commissioner Choice Ngoro presented the National Peace and Reconciliation Commission Strategic Plan.

While the NPRC is an independent commission it needs to build good working relationships with government departments particularly those departments that may be helpful in fulfilment of the NPRC's mandate. The NPRC must help members of these departments to understand its mandate and identify how they can support the Commission in its work.

2.2.6

The Impact of COVID-19 on Transitional Justice

The outbreak and subsequent spread of COVID-19 have had a debilitating effect on, not only the country's public health but also the socio-economic and cultural context. In compliance with the World Health Organization (WHO) protocols aimed at combatting the virus, the GoZ introduced public health regulations that were intended to contain the spread of COVID-19. These regulations included restricting the free movement of people, social distancing, and the closure of virtually all institutions, the shutting down of vast sectors of the economy, restricted movement of all public transportation, restrictions on social and public gatherings (including places of worship), and the deployment of security forces. The lockdowns ushered in an increase in human rights abuses and members of the public "struggled" to comply with the regulations given their precarious economic situations. The implementation of the emergency measures has affected people's access to basic services, water, healthcare, and food.

COVID-19 has also had a huge impact on the ongoing work by the NPRC and other key stakeholders like

NTJWG and the broader civil society. Outreach programmes aimed at victim and survivor support had to be postponed indefinitely to comply with the limitations on movement. Victims of gender-based violence have had their situation compounded by continuous sharing of space with their abusers and their failure to access justice.

2.2.7

Statement on COVID-19 Virus

In response to the COVID-19 pandemic the NPRC released a statement on 30 March 2020. In the statement, the NPRC commended the Government of Zimbabwe for putting in place measures aimed at prevention and containment of the spread of the virus. The NPRC acknowledged that these measures will impose restrictions on citizens but said that these restrictions are necessary to curtail any potential spread of the virus. The NPRC also urged the public to adhere to the restrictions and guidelines set by the government for the twenty-one-day lockdown period to maintain peace, public safety, and order. Finally, the NPRC said that it was ready, in terms of its mandate, to support any efforts to build peace and dissipate conflicts should this become necessary during the lockdown period.



Zimbabwe Republic Police manning a roadblock and barring motorists from travelling if they did not provide proof that they were part of the essential services providers.

2.2.8

NPRC Mid-Term Statement on COVID-19

On 15 April 2020, the NPRC issued its Mid-Term review statement congratulating His Excellency President E.D. Mnangagwa and the GoZ for the country's response to the Covid-19 pandemic. The statement was issued following the initial lockdown that ran from 30 March to 21 April 2020. In its statement, the NPRC commended the high levels of compliance by the citizenry notwithstanding a few cases of defiance. The Commission also commended the security services for standing firm in enforcing the lockdown although it also condemned rogue elements within the forces that had abused members of the public. The NPRC further commended the media for its role in providing detailed reports on the Covid-19 statistics, government response, and the related challenges around the global pandemic. However, the Commission also encouraged the media to desist from sensational reportage to avoid raising unnecessary anxieties and conflict.

The NPRC also raised concern over the increased cases of Gender-Based Violence (GBV) and beseeched families to use the lockdown to “*build sound relationships, mend broken ones, appreciate one another and live-in peaceful coexistence*”. The Commission implored the law enforcement agencies to provide protection to victims of GBV and to prosecute those cases without fear or favour. Given that the lockdown had led to the loss of income for all sectors including the informal, leading to rising levels of vulnerability, the NPRC welcomed the initiative by the GoZ to provide social safety nets to alleviate the rising poverty levels. The Commission, therefore, urged for greater transparency, fairness, and non-partisanship in the registration of beneficiaries and the distribution of resources.



2.2.9

Establishment of Conflict Early Warning and Early Response (CEWER) Mechanisms

Section 252(g) of the Constitution encapsulates one of the key mandates of the NPRC geared towards conflict prevention. This section enjoins the Commission to develop mechanisms for early detection of areas of potential conflicts and disputes and to take appropriate preventive measures to dispose of the conflicts. In fulfilment of this provision as enunciated in the Commission's five-year strategy (2018-2022), the NPRC published a call for interested individuals and institutions to submit expressions of interest detailing their capacities and experiences to work with the Commission in the establishment of Conflict Early Warning and Early Response (CEWER) system. The CEWER system proposed by the NPRC will be set up to meet the following objectives:



To detect areas or hotspots of potential conflicts and mobilize for timely response before the occurrence of the conflicts.



To empower individuals and communities threatened by peace and security threats to act in sufficient time and an appropriate manner to reduce the possibility of violence.



To promote a shared assessment of conflict risks and stimulate timely relevant and coherent response to prevent the emergence, re-emergence, or escalation of violence.



To enhance collaboration and coordination proceedings between authorities and the population to share information and align response capability at the time of receiving an early warning.

In broadening the CEWER system the NPRC intends to build clusters to enhance efficacy and efficiency among them are the following:

- Elections
- Socio-Economic
- Sexual and Gender-Based Violence
- Natural resources
- Media.

The development of this system must be informed by lessons from other comparative jurisdictions within the continent, particularly from Kenya. The Kenyan system is coordinated by the National Steering Committee on Peacebuilding and Conflict Management (NSPBCM). The NSPBCM includes key government ministries for instance the:

- Ministry of Interior and Coordination of National Government;
- Ministry of Foreign Affairs;
- Ministry of Agriculture, Livestock and Fisheries;
- Ministry of Culture, Sports and Arts;
- Ministry of Labour, Social Security, and Services;
- Ministry of Education;
- Ministry of Information, Communication and Technology; and Ministry of Defence – Department of Defence (DOD).

Other important institutions that make up the NSPBCM are the:

- Kenya National Focal Point on Small Arms and Light Weapons (KNFP);
- Kenya Police, Administration Police and National Operations Centre;
- International Peace Support Training Centre (IPSTC);
- National Security Intelligence Service and the Attorney General's Chamber (National Crime Research Centre).

2. National Steering Committee on Peacebuilding and Conflict Management (2014) Report on Engendering Conflict Early Warning and Early Response Mechanism in Kenya.

The Kenyan model also includes members of civil society organisations that work in the arena of peacebuilding. It is a model that the NPRC should carefully study, draw lessons and see how the CEWER can be broad-based and all-encompassing. While this is a noble innovation by the NPRC, the Commission must be cognizant of the fact that there is usually a disconnect between early warning and early response which requires careful coordination.

An effective conflict early warning and early response system must:

- Be as broad-based as possible including key sectors working in the arena of conflict, peace, and security among them government, security apparatus, civil society, and local communities.
- Ensure participation and ownership by local actors to guarantee timely, sensitive, and adequate responses to build trust and confidence among actors at different levels.
- Create mechanisms for obtaining accurate, consistent, and timely information to enable the CEWER to monitor rapidly changing conflict dynamics and security challenges.
- Monitor the impact of responses to conflicts to inform decision-making and strategies.
- Develop a better understanding of the value-added nature of CEWER among institutions, the proximity, and quality of the interface between early warning and response mechanisms.
- Design evidence-based response instruments to adequately respond to warning situations.

As the nature of conflict in Zimbabwe is ever evolving, with new security threats and the use of increasingly sophisticated technologies, the proposed CEWER will need to adapt to stay relevant to address current and ongoing security challenges.

2.2.10

Suspect Detained Over Looting Government Subsidised Mealie-Meal

On 18 April 2020, the NPRC announced that following a complaint by Transparency International Zimbabwe in connection with looting and hoarding of government subsidised mealie-meal in Kuwadzana 5, Harare, it had engaged the Zimbabwe Republic Police (ZRP). The NPRC's engagement with the police resulted in a suspect being detained at ZRP Kuwadzana under CR 148/4/20 pending a court appearance.

This collaboration between the civil society, the NPRC, and the ZRP that culminated in the detention of a suspect in this matter is commendable. This was a good first step in ensuring transparency and accountability around government subsidies and food aid in communities which remains an issue that has since plagued Zimbabwe causing tensions and conflict in communities. Regrettably, the NPRC did not give further updates on the developments in this case. Accountability and transparency inspire public confidence and the NPRC must endeavour to account to the public as much as possible on cases of public interest such as this.



Commissioner P.Z. Charadza speaking the Conflict Early Warning & Early Response Capacity Building Workshop

2.2.11

Engaging Victims of Police Brutality

On 7 May 2020, Commissioner Leslie Ncube led an NPRC delegation that visited sisters Nokuthula and Ntombizodwa Mpfu who were assaulted by police officers in the Cowdry Park suburb of 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 police officers responsible are brought to book. 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 NPRC must take an active interest in it to ensure that justice is served, and the perpetrators are held accountable. This will go a long way in ensuring that law enforcement officers know that they will be held accountable if they violate human rights.

2.2.12

Information Dissemination by the NPRC

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. Commissioner Reverend Masunungure kicked off the series on 18 May in an episode where he discussed the mandate of the NPRC Complaints Handling and Investigations Thematic Committee. The next episode was headed by Commissioner Patience Chiradza on 19 May 2020 and the episode focused on a discussion of the mandate of the NPRC Conflict Prevention, Management, Resolution and Transformation Thematic Committee. The third episode was headed by Commissioner Choice Ngoro on 25 May 2020. She unpacked the mandate of the NPRC Research and Knowledge Management Thematic Committee. Commissioner Leslie Ncube oversaw the fourth session on 28 May 2020, and he focused on the mandate of the NPRC Healing, Reconciliation and Rehabilitation Thematic Committee. The initiative by the NPRC to use radio to disseminate information about its work to the public was welcome particularly because it was responsive



Nokuthula and Ntombizodwa Mpfu during the visit of the NPRC delegation and interview by CITE

to the context where the COVID-19 pandemic had resulted in public gatherings being discouraged. To listen to the first episode of the series, you may visit

 <https://www.pscp.tv/w/1YqxoQAmELvGv>

As part of the NPRC's efforts to disseminate information on its work and mandate in October 2020 officials from the NPRC's Complaints Handling and Investigations Department was in Mbare and Epworth in Harare and Chitungwiza. During these visits, the NPRC collaborated with the Centre for Conflict, Management, and Transformation and convened meetings in which the NPRC officials explained to members of the public the investigative functions of the Commission. In particular, the NPRC highlighted how complaints may be lodged with the NPRC and who may lodge complaints. The NTJWG welcomes the NPRC's efforts to increase its visibility and encourages the NPRC to carry out similar engagements in different parts of the country for wider information dissemination. Furthermore, the NTJWG commends the collaboration between the NPRC and the Centre for Conflict, Management, and Transformation. Such collaborations between official and non-official transitional justice actors are key to the adoption of a comprehensive national approach to transitional justice that will facilitate national healing and sustainable peace. To know more about the NPRC's protocol for complaints handling and investigation visit this:

 <http://www.nprc.org.zw/complaints-handling-and-investigations-protocol-2/>

2.2.13

The NPRC Complies with its Reporting Obligations

On 27 July 2020, the NPRC met with the Parliamentary Portfolio Committee on Justice, Legal and Parliamentary Affairs and the Thematic Committee on Human Rights to reflect on its programs in 2019. Among some of the issues that arose during the meeting was the outstanding submission of the 2018 and 2019 NPRC Annual

Reports. Such meetings between Parliament and the NPRC are crucial for accountability purposes as they enable the NPRC to report to Parliament on its activities beyond just presenting the Annual Report as required by the Constitution. While such engagements are necessary civil society organisations that work with the NPRC and its communities must also be invited to such meetings. Such inclusive meetings are critical for objective assessment of the NPRC's programs and the identification of areas of improvement.

By the end of the year 2020, the NPRC was in full compliance in respect to its reporting obligations. The NPRC's 2018 and 2019 Annual Reports were presented to Parliament on 3 and 8 September 2020 and subsequently published in October 2020. This remedied the NPRC's breach of its reporting obligations in respect of the 2018 report which has remained outstanding since March 2019 and the 2019 Annual Report which has been outstanding since March 2020. While both reports were long overdue, stakeholders welcomed them as their presentation and publication provided an opportunity for Parliament and other transitional justice stakeholders to engage with the work being done by the NPRC and identify ways in which they can complement and support the NPRC.

There was a delay in the publication of the NPRC's Annual Reports leading to an undesirable situation in the reports are leaked and stakeholders must resort to making use of reports whose authenticity had not been verified by the NPRC. Formal publication of the NPRC's reports is necessary for transitional justice stakeholders to have access to authentic reports and this must be addressed as a matter of urgency. Access to these reports will enable transitional justice stakeholders to design interventions that complement the work of the NPRC and work towards peacebuilding in our country. This is to read the 2018  report please visit <http://www.nprc.org.zw/nprc-2018-annual-report/> and for the 2019 report visit <http://www.nprc.org.zw/nprc-2019-annual-report/>

SOME OF THE RECOMMENDATIONS MADE BY THE NPRC IN ITS REPORTS ARE AS FOLLOWS:

a) To Increase Support for the Commission

The NPRC's 2018 and 2019 reports show that while the NPRC made efforts have carried out several activities in fulfilment of its mandate in 2018 and 2019, the funding challenges it faced continued to cripple the Commission. The NPRC reported that by the end of 2019 it had a staff complement of thirty-four of a desired one hundred and four. This is not even half of the required staff complement. The NPRC has a very expansive mandate which it must fulfil within a very limited period. The NPRC's mandate is of great national importance and the value of its work should be reflected in the resources allocated to it.

b) To develop a national policy on Exhumations and Reburials of Victims of Past Conflicts

Despite our country's long history of violence and conflict, the question of the disappeared in Zimbabwe remains unanswered. Key to the question of the disappeared in Zimbabwe is the issue of exhumations and reburials of the remains of victims of violence. As there is currently no legislative or policy framework guiding how reburials and exhumations in Zimbabwe should be done the NPRC recommended that such a policy and/or law should be put in place to deal with exhumations and reburials of victims of past conflicts as well as secure documentation for victims' families as part of its recommendations in the 2019 annual report. This is a progressive recommendation by the NPRC that is indicative of the recognition that issues such as exhumations are sensitive as such, they should be done according to set agreed-upon procedures. Exhumations and reburials require experience and technical expertise as they are a difficult area to explore but are critical for transitional justice purposes especially in our country where an estimated twenty thousand people were killed in the Gukurahundi atrocities alone.

c). To Enact of Victim and Witness Protection Laws

The NPRC also recommended the enactment of laws to protect victims and witnesses and ensure their access to services that guarantee their safety and protection as well as ensure they receive rehabilitative support. This recommendation is indicative of the NPRC's engagements with communities where victims and witnesses of violence and conflict are still living in fear. Victims and witnesses of violence in Zimbabwe are living in fear of victimisation if they speak out about the violence they have been subjected to or have witnessed. This fear is often caused by the fact that the perpetrators are either State agents, people of influence in the country, or people they are living with in their communities. The fear among victims and witnesses has resulted in very few of them being willing to engage with official processes such as the NPRC.



It therefore necessary for there to be safeguards put in place for their protection as these safeguards will go a long way in encouraging victims and witnesses to speak out. An environment in which victims and witnesses can testify freely without fear of victimisation is key to the delivery of justice and holding perpetrators of human rights abusers accountable.

d) To Enact Legislation against the Use of Hate Speech

In carrying out its work between 2018 and 2019, the NPRC observed that the use of hate speech is one of the sources of violent conflict in Zimbabwe. The NPRC thus recommended that there be legislation prohibiting the use of such language by political and other related actors. The use of hate speech is a common trend and very disturbing trend in Zimbabwe and it often underpins responses by State officials and politicians to divergent views. This trend undermines principles of democracy and is an abuse of the fundamental right to freedom of expression which according to section 61 of the Constitution excludes advocacy of hatred or hate speech. Although the use of hate speech is an issue that must be addressed this issue can be addressed through the implementation of the current legislative framework if it is applied to all without favour. The enactment of more laws to address this issue may result in the right to freedom of expression being eroded and the law weaponised to stifle dissenting voices.



e) To Enact Legislation for Registration and Regulation of Conduct of Political Parties

Another recommendation made by the NPRC is for the enactment of a law for the registration and regulation of the conduct of political parties in Zimbabwe. The NPRC justified this recommendation using the experiences in other countries where such laws exist. Politically motivated violence has and continues to be a problem in Zimbabwe particularly because the current legislative framework is such that only individual perpetrators may be held to account but not their political parties. This has led to an undesirable situation in which supporters of political parties unleash violence in their communities to further their party's interests and are then often protected from facing the law by leaders of their parties. This recommendation by the NPRC would result in political parties being compelled to ensure that their supporters adhere to the conducted that is expected of them failing which the party will be held accountable. This is a progressive recommendation. However, it must be implemented cautiously so that it does not result in the closing of political space with the law being used to disallow some citizens to form their political parties and realise their political aspirations.

f) To Promote Development in Marginalised Communities

Marginalisation of certain communities and people in society often causes conflict. Noting the link between marginalisation and conflict the NPRC recommended the promotion of development in marginalised communities as a peacebuilding, healing,

and reconciliation mechanism. The NPRC noted that marginalised communities need to be developed in all areas including infrastructure, access to media, and freedom of political participation, and choice of political leaders to prevent violence. The rural-urban divide is a cause for conflict and division in Zimbabwe that requires attention and development is key to promoting unity.

g) To Formulate a Policy on Non-Partisan

Distribution of Agricultural Inputs and Food

Partisan distribution of agricultural inputs and food aid has historically been and continues to be a big problem in Zimbabwe. This problem is especially prevalent and evident in rural areas where traditional leaders and politicians have in some cases denied certain members of the community aid because they are known opposition party supporters. The NPRC pointed this problem out in its reports and recommended that there needs to be a policy that will govern the distribution of agricultural inputs and food aid. This recommendation is indicative of the NPRC's awareness of the problems that plague Zimbabwean communities and threaten peace. The policy recommended by the NPRC will guide community leaders in the fair and equitable allocation of resources. Further, the policy should put in place punitive measures that can be taken against community leaders who distribute agricultural inputs and food aid in a partisan manner. Such measures should be implemented without favour and serve as a deterrent for all community leaders. The trend of partisan distribution of agricultural inputs and food aid continues to plague the country because they lack punitive measures that are fully implemented as such implementation is key to ending this divisive trend.



h) Recommendation for the Zimbabwe Republic Police

The NPRC made several recommendations that relate to the relationship between the Zimbabwe Republic Police (ZRP) and the communities it works in. Among these recommendations was the recommendation that; there is a need for protection of communities ZRP against violent elements within their communities especially in mining areas such as machete-wielding persons. The Ministry of Home Affairs and Cultural Heritage must be held accountable for the ZRP's slow response in addressing human rights violations and the Minister must be compelled to ensure that cases of violence are investigated, and the perpetrators are held accountable without favour. In some cases, the ZRP is slow to respond to reports made to it because its officers are implicated. This is often the case in cases of human rights violations perpetrated against citizens and the establishment of the Independent Complaints Mechanism is vital to address this problem.

2.2.14

Public Consultations on the Preparations for Private and Public Hearings

The NPRC's Healing, Reconciliation, and Rehabilitation Department conducted countrywide public consultations between 30 November – 11 December 2020. The purpose of the consultations was to solicit input from members of the public on the roll-out of the Private and Public Hearings scheduled for 2021. The key objectives of the consultations were twofold as follows:

- To identify potential issues that are likely to be brought before the Public Hearings by the NPRC's various structures including, but not limited to, Provincial Peace Committee members.
- To design generate ideas on a possible framework and roadmap for the Public Hearings to steer the process.

While the consultations by the NPRC can be commended as a first step in involving the public in shaping the nature and form of the Public Hearings, the whirlwind nature of that process is a serious cause for concern. Public Hearings are the centrepiece for truth recovery and potentially very contentious given the nature of the “transition” in Zimbabwe. Given the historical injustices that have been endured and the ongoing human rights violations, there is a greater likelihood that the truth will be heavily contested. Regimes of truths, lies, and myths about conflicts and violations will be at the centre of the Public Hearing and need to be dealt with. In contexts like Zimbabwe, dealing with denial is likely going to dominate these hearings. As observed by Yasmin Sooka in the South African Truth and Reconciliation process *“It is not that the truth of what happened is not known, but rather that those who benefit from the abuse and the privilege often refuse to acknowledge the truth”*. Therefore the nature, form, content, and structure of Public Hearings must be carefully considered. In this endeavor, the NPRC needs widespread public support which includes victims, the broader public, local communities, political parties, political elites, civil society, and other interest groups to achieve success. Public support is very crucial for the truth-telling and truth recovery phase and must never be underestimated.



3. Sooka, Y. (2006), “Dealing with the past and transitional justice: building peace through accountability”. *International Review of the Red Cross*. 88(862), 1-15

2.3

GOVERNMENT PROCESSES IN ENHANCING TRANSITIONAL JUSTICE

2.3.1

President Mnangagwa's interface with civil society in Matabeleland

In 2020, President Mnangagwa met with civil society leaders under the banner of the Matabeleland Collective in Bulawayo. The inaugural engagement meeting with the Matabeleland Collective took place in March 2019 at the Bulawayo State House but the coalition developed some cracks after some of the members felt uneasy being viewed as aligned to the ZANU-PF-led government. A second meeting was held in February 2020 at the same venue, where the Matabeleland Collective lobbied President Mnangagwa to apologise for the Gukurahundi atrocities and facilitate a documentation process for the survivors and victims of the massacres.

A third meeting was convened in August 2020 to further discuss plans to carry out exhumations and reburials of the remains of victims of Gukurahundi and to plan for a national launch of a programme to issue birth and death certificates to survivors of the 1980s massacre. Issues of youth empowerment, establishing a women's quota in District Councils, and the Matabeleland Zambezi Water Project were reportedly discussed. Although these meetings were largely exclusive with only a handful of civil society stakeholders participating in them, they have provided an opportunity for discussion of the need to address the historical and violent legacies of the



President Mnangagwa arriving at the Bulawayo State House ahead of the meeting on 21 August 2020

4. ZimEye (2020) Matabeleland collective splits due to Mnangagwa's divide and rule influence. Available online <https://www.zimeye.net/2020/02/08/matabeleland-collective-splits-due-to-mnangagwas-divide-and-rule-influence/>

Gukurahundi massacres. For victims of the Gukurahundi disturbances, such engagements if made more inclusive could be the dawn of a new era to find closure provided the government is sincere in tackling this painful past.

Another Matabeleland-based coalition made up of seventeen civil society organisations under the name Matabeleland Forum emerged in 2020. The Matabeleland Forum is made up of the following civil society organisations; Bulawayo Progressive Residents Association, Centre for Innovation and Technology (CITE), Christian Legal Society, Community Youth Development Trust, Dumiso Dabengwa Foundation, Emthonjeni Women's Forum, and Habakkuk Trust, Ibhethu LikaZulu, Masakhaneni Trust, National Youth Development Trust, South Western Region Gender Network, Tree of Life, Ukuthula Trust, Victory/Siyanqoba Trust, Women's Institute for leadership Development, Women's Media for Development Foundation and Zimbabwe Christian Alliance. The Matabeleland Forum dismissed the meeting between President Mnangagwa and the Matabeleland Collective in its statement issued on 27 August 2020, the Matabeleland Forum noted that *"efforts that seek to promote reconciliation with regards to Gukurahundi genocide should avoid tokenism and must place the affected individuals and survivors at the forefront. Truth-telling must be conducted ahead of any compensation or assistance to the victims or survivors"*. The Matabeleland Forum further argued that any exhumation of the remains of deceased persons during the Gukurahundi genocide should be guided by a policy framework in accordance with the Constitution and international norms. Finally, the Matabeleland Forum noted that non-state actors should be allowed to present evidence-based reports on the political, social, and economic impact of the Gukurahundi genocide before the relevant parliamentary portfolio committees.

2.3.2

President Mnangagwa Engages Traditional Leaders on Exhumations

On 24 October 2020 the GoZ led by President Mnangagwa convened a meeting that was exclusive to government officials and traditional leaders. According to media reports the meeting resolved that traditional leaders would take over the exhumation and reburial of victims of Gukurahundi in Matabeleland and Midlands, while the government will fund the process as part of initiatives to bring closure and promote national healing. The NPRC was notably not in attendance at the meeting despite having the primary mandate to facilitate post-conflict justice, national healing and reconciliation. There can be no doubt that traditional leaders have a pivotal role to play in the exhumations process and this role should not be negated by the existence of the NPRC. However, the Constitution gives the NPRC the primary mandate to facilitate peace and reconciliation and carrying out exhumations and reburials is part of the NPRC's mandate. In that vein any role that may be assigned to traditional leaders in respect of exhumations must be ancillary to the role played by the NPRC.

There is therefore need for the NPRC to engaged traditional leaders on this so that both the NPRC and traditional leaders have a uniform understanding of the role that the NPRC must play in exhumations and the role of traditional leaders. Such understanding is key to preventing usurping of the NPRC's constitutionally enshrined mandate by traditional leaders. Further national peace and reconciliation programs in which both the NPRC and traditional leaders play their respective roles in light with expectations by stakeholders are likely to be more effective and lead to sustainable peace.

5. Centre for Innovation and Technology. (2020, February 7). Matabeleland Collective Collapses, New Coalition Formed. Kubatana. <http://kubatana.net/2020/02/07/matabeleland-collective-collapses-new-coalition-formed/>
6. https://www.marketwatch.com/press-release/matabeleland-forum-rubbishes-eds-gukurahundi-talk-show-meetings-2020-08-27?mod=mw_more_headlines&tesla=y



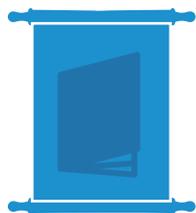
Members of the Chiefs Council during the meeting

2.3.3

Government Gazettes the Independent Complaints Commission Bill

On 24 November 2020, the government gazetted the Zimbabwe Independent Complaints Commission, Bill. This followed a Constitutional Court ruling of 23 September 2020 where the government was ordered to produce a bill within 45 days of the order. The objective of the Bill is to provide for the establishment and outlining the functions of the Commission in line with Section 210 of the Constitution. It will enable complaints from members of the public against members of security forces to be investigated. Given the country's checkered past as punctuated by the state-sponsored politically-motivated violence of 2007-8, the 1 August 2018 shootings, and the 14 – 16 January 2019 repression following mass protests, this Commission will play a critical role in ensuring that members of the security services abide by the dictates of the Constitution.

Independent complaints mechanisms, by their very nature, are central in curtailing the excesses of the security services and ensures that there must be internal and external limits to these agencies of government. In short security services are obliged to account for their services when interfacing with members of the public and provides an avenue for redress to individuals who claim to have been adversely affected by the powers of security and intelligence agencies. Most significantly the complaints mechanisms are also essential in supporting the individual's right to be heard, to privacy, to equal protection and benefit of the law, and effective remedies. Complaints may also help to lead to improved performance by the agencies by highlighting administrative failings.



THE OBJECTIVE OF THE BILL

is to provide for the establishment and outlining the functions of the Commission in line with Section 210 of the Constitution.

7. AllAfrica.Com Zimbabwe: Cabinet approves Independent Complaints Commission Bill, Available at <https://allafrica.com/stories/202011040366.html>, See also: <http://www.ca-lr.org/cabinet-approves-zimbabwe-independent-complaints-commission-bill-2020/>



A soldier firing shots towards demonstrators on 1 August 2018. Photograph: Zinyange Auntony/AFP/Getty Images

In the wake of the 1 August 2018 killings, a Commission of Inquiry led by former South African President Kgalema Motlanthe recommended the prosecution of members of the security forces and compensation for victims. By August 2020, two years after the Motlanthe Commission made its recommendations, an analysis carried out by the Zimbabwe Human Rights Association showed that of the steps taken by the government to implement the recommendations of the Commission there was still substantial non-compliance with no steps taken to ensure justice for the victims, and perpetrators remaining at large. This continues to be the case despite the false claims made by the Permanent Secretary of Justice, Legal and Parliamentary Affairs Permanent Secretary Mrs. Virginia Mabhiza that the commission's recommendations had been implemented. Human Rights groups like the Zimbabwe Peace Project (ZPP) argue that violations of human rights abuses by security forces have worsened since March 2020 when President Emmerson Mnangagwa declared a promulgated emergency measures to curb the spread of the COVID-19 pandemic.

A total of 920 violations of human rights and 4 extrajudicial killings were recorded by the Zimbabwe Human Rights NGO Forum between March and September 2020. Security forces are also accused of abducting and torturing President Mnangagwa's political rivals while suppressing dissent, although the government denies these damning allegations. The reports of continued human rights violations perpetrated by members of the security forces show that there is an urgent need for an independent body such as that envisaged in section 210 that is mandated to deal with reports of human rights violations perpetrated by state security forces. This is key to ensuring that justice for victims is served and perpetrators are held accountable.

920 HUMAN RIGHTS VIOLATIONS AND 4 EXTRAJUDICIAL KILLINGS were recorded by the Zimbabwe Human Rights NGO Forum between March and September 2020.

8. Zimbabwe Human Rights Association. (2020). The Motlanthe Report What's Next for Victims and the Nation: An Analysis of the Recommendations of the Motlanthe Report two years later. <https://www.zimrights.org.zw/the-motlanthe-report/>

9. Motlanthe Commission recommendations met. (2020, June 28). The Sunday News. <https://www.sundaynews.co.zw/motlanthe-commission-recommendations-met/>

10. OCHA <https://reliefweb.int/report/zimbabwe/zpp-monthly-monitoring-report-june-2020>

2.3.4

NPRC Recommendations Used to Close Civic and Democratic Space

On 27 October 2020, the Minister of Information, Publicity, and Broadcasting Services Monica Mutsvangwa announced that Cabinet had approved of the proposed amendments to Criminal Law (Codification and Reform) Act [Chapter 9:23]. According to Minister Mutsvangwa, the proposed amendments seek to criminalise the conduct of isolated citizens or groups who, for self-gain, cooperate, or connive with hostile foreign governments to inflict suffering on Zimbabwean citizens and cause damage to national interests. This announcement came after several media reports and statements by the Ministry of Information, Publicity, and Broadcasting Services indicating that the GoZ intended to enact a new law to be known as the Patriot Act. However, by the end of the year it appeared the plan to enact a new law had been abandoned with Cabinet opting to amend the existing criminal law. Furthermore, the proposed amendments included the criminalisation of the making of unsubstantiated claims of torture and abductions that are perceived as having been concocted to tarnish the image of the government.

Zimbabwe has a record of human rights violations which are most often perpetrated by members of the security sector and denied by the GoZ. In several documented cases citizens have been assaulted and tortured by masked soldiers and police officers who dumped citizens in different parts of the country after torturing them. In some instances, the citizens were dumped having been drugged with no recollection of how they got to where they are found. This has been done to ensure that besides the wounds on their bodies the victims of human rights violations are left with no evidence besides their word to prove that they were tortured or abducted.

In the past, citizens and civil society using the right to freedom of expression which is enshrined in section 86 of the Constitution have often shed light on human rights violations in the country and drew the attention of the international community to the violations. The proposed amendments however seek to take that power away and deter citizens and civil society from speaking out about human rights violations and their experiences. The GoZ has often publicly made pronouncements that are indicative of its hostility towards civil society.

During his 22 October 2020, State of the Nation Address, President Emmerson Mnangagwa said that the conduct of some Non-Governmental Organisations and Private Voluntary Organisations that operate outside their mandates and out of sync with the GoZ's humanitarian priority programmes remain a cause for concern. According to the President, to deal with this concern Parliament would soon consider the Private Voluntary Organisations Amendment Bill which would be aimed at revamping the administration of NGOs and PVOs and correcting the current anomalies. The GoZ appears to understand the work of civil society as being limited to humanitarian work, this is an erroneous position. The work of civil society is broad and includes playing a watchdog role and holding the government accountable for not fulfilling its national, regional, and international obligations in any field including respect, promotion, protection, and fulfillment of human rights. It is therefore well within the mandate of civil society to document human rights violations in Zimbabwe and carry out international advocacy and lobby initiatives to ensure that the GoZ complies with its obligations.

11. Zimbabwe Human Rights NGO Forum, 180 days of What? A Summary of the First 180 of the Covid-19 National Lockdown in Zimbabwe, Available at <http://kubatana.net/wp-content/uploads/2020/10/180-Days-of-What-Ir.pdf>

Civil society organisations and individuals should act in good faith when engaging international organisations and foreign governments about the human rights situation in Zimbabwe. However, it is also important for the international community to have information that comes from more than one source on this issue so a true reflection of the human rights situation may be known. This will help the international community to play its role in engaging and assisting the GoZ to comply with its international obligations.

Disturbingly, the GoZ has repeatedly asserted that some of the proposed amendments particularly the amendment that will result in the criminalisation of what has been termed “*campaigning against the country*” through engagement with foreign governments is predicated upon the recommendations of the NPRC made in its 2018 and 2019 reports. However, neither of the NPRC’s 2018 or 2019 Annual Report refers to such a recommendation. These claims by the GoZ are detrimental to the work of the NPRC as they are likely to create the perception that the NPRC is complicit in the GoZ’s efforts to stifle freedom of expression. Such a perception is likely to make survivors of human rights violations reluctant to engage the NPRC thus crippling the NPRC and making it very difficult for the NPRC to deliver on its mandate.



03

CHAPTER 3

NON-OFFICIAL TRANSITIONAL JUSTICE PROCESSES

3.1

POLICY DIALOGUE ON REPARATIONS

On 6 February 2020, the NTJWG convened a policy dialogue on reparations and rehabilitation in Harare. The purpose of the dialogue was to create a platform for stakeholders to make recommendations and adopt steps towards the adoption of model reparations and rehabilitation policy for Zimbabwe. This policy dialogue was co-facilitated by Ms. Paula Gaviria, an international expert on reparations and rehabilitation and the former Director of the Special Administrative Unit for the Comprehensive Reparation of Victims in Colombia, and Dr. Frances Lovemore, a local expert on reparations and rehabilitation and the Executive Director of the Counselling Services Unit. Ms. Gaviria and Dr. Lovemore were specifically selected because of their vast expertise in dealing with survivors of past human rights violations, particularly in respect of issues around reparations and rehabilitation.

Each of the two experts presented a research paper on their recommendations for a national reparations and rehabilitation policy framework for Zimbabwe before NTJWG stakeholders and members, Parliamentarians, Commissioners of the NPRC, government officials from the Attorney General's office and the Ministry of Justice, Legal and Parliamentary Affairs, the media, survivors of past human rights violations, and members of the public. The policy dialogue provided a platform for informative discussions on reparations and rehabilitation among stakeholders in Zimbabwe and the NTJWG hopes that this policy dialogue sparked interest in reparations and rehabilitation in the public and will usher in greater discourse around this very important issue by the public which will be followed by more engagement with the policymakers and implementers in respect of issues to do with reparations and rehabilitation.

The dialogue can be accessed on:

 <https://www.facebook.com/263Chat/videos/2624230131030430>

3.2

BUILDING TOLERANCE AND CURBING THE USE OF HATE SPEECH IN ZIMBABWE

On 14 August 2020, the Zimbabwe Catholic Bishops Conference (ZCBC) issues a pastoral letter entitled *The March is Not Ended*. The letter highlighted major challenges confronting the country among them corruption, human rights abuses, extreme poverty, and a crackdown on dissent and calling for a National Converge Platform (NCP) to build converge aimed at solving the contemporary crises. Following the issuance of this letter, the Minister of Information and Publicity castigated the Bishops and likened them to instigating violence and sowing seeds of internecine strife and *“leading the Zimbabwe catholic congregation into the dungeons of the Rwanda-type genocide”*. The Minister also reprimanded the head of the church



Participants during the Policy Dialogue on Reparations and Rehabilitation

12. Zimbabwe Catholic Bishops Conference. (2020, August 14). *The March is not ended*. Kubatana. <https://kubatana.net/2020/08/14/the-march-is-not-ended-pastoral-letter-of-the-zimbabwe-catholic-bishops-conference-on-the-current-situation-in-zimbabwe/>

13. Zimbabwe Broadcasting Corporation, government condemns utterances by Zimbabwe Catholic Bishops Conference, Available at <https://www.zbcnews.co.zw/government-condemns-utterances-by-zimbabwe-catholic-bishops-conference/>



Archbishop Robert Ndlovu flanked by Bishops Rudolf Nyandoro and Paul Horan. The three signed the Pastoral Letter with four others.

Archbishop Robert Ndlovu for fanning tribal and ethnic emotions premised on the Gukuruhundi massacres. Several civil society organisations including the NTJWG, the Catholic Professionals Network of Zimbabwe), the Platform for Concerned Citizens, Media Institute of Southern Africa, Zimbabwe Lawyers for Human Rights, and the Zimbabwe Human Rights Association condemned the vilification of the Bishops by the government which they said was outright fanning of the use of hate speech. The Evangelical Fellowship of Zimbabwe also weighed in with support for the Bishops. These organisations implored the government to withdraw its intemperate and inflammatory statement and urged it to embrace constructive criticism and the principles of good governance. While there is sufficient legal protection, both in the Constitution and in the criminal law, against hate speech, enforcement of the provisions has not been consistent.

Since the turn of the millennium, Zimbabwe has witnessed a rise in intolerance, toxicity, and heightened polarity among political protagonists ZANU-PF and MDC. Hate speech, replete on online platforms, has been the key feature of the bigotry, in most cases, fanning politically-motivated violence. As noted by Mugari (2020) social media platforms have been used to instigate violent protests, issue subversive statements, and spread fake news, causing fear and despondency amongst citizens. Hate speech has also been omnipresent in the cyber-contestation particularly in the run-up to 2018 harmonised elections between MDC Alliance followers nicknamed “*Nerorists*” and ZANU-PF followers nicknamed “*Varakashi*”. Fake news and mudslinging became defining elements during these digital propaganda battles. If unchecked, hate speech has the potential of inciting violent conflict as the case of the Radio Télévision Libre des Mille Collines and its role in inciting the 1994 genocide in Rwanda can attest to.

14. Vatican News, Zimbabwe's Evangelicals defend Catholics from Government attacks, Available at <https://www.vaticannews.va/en/africa/news/2020-08/zimbabwe-s-evangelicals-defend-catholic-bishops-from-government.html>

15. Mugari, I., Cheng, K. (2020), The dark side of social media in Zimbabwe: Unpacking the legal framework conundrum, Available at <https://www.tandfonline.com/doi/full/10.1080/23311886.2020.1825058?scroll=top&needAccess=true>

16. Chibuwe, A. (2020) 'Social Media and Elections in Zimbabwe: Twitter War between Pro-ZANU-PF and Pro-MDC-A Netizens', Communication, DOI: 10.1080/02500167.2020.1723663

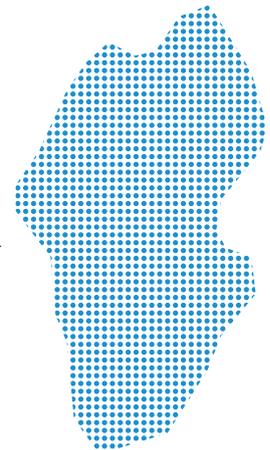
For instance, in the run-up to the 2008 run-off elections following the inconclusive 29 March harmonised elections, ZANU-PF unleashed a systematic and brutal campaign of violence against the main opposition Movement of Democratic Change (MDC) supporters. The campaign, “*Operation Makavhoterapapi?*” (Operation Where Did You Put Your Vote?), was characterised by abductions, systematic torture, physical assaults as well as looting and burning of huts and other property. In the Mutoko and Murehwa areas, a key feature of that notorious campaign was the amputation of arms reminiscent of the similar campaign orchestrated by the Revolutionary United Front (RUF), the most notorious rebel movement that terrorised people in the Sierra Leonean civil war between 1991–2002. Operation Makavhoterapapi was allegedly a brainchild of the Joint Operations Command (JOC), a security apparatus made up of heads of Zimbabwe’s security forces: the Zimbabwe Defence Forces (ZDF), Zimbabwe Republic Police (ZRP), Zimbabwe’s Central Intelligence Organization (CIO) and the Zimbabwe Prisons and Correctional Services (ZPCS).

Hate speech was also a prominent feature of the 1994 genocide in Rwanda where about a million people were killed in ninety days. Two Hutu extremists Ferdinand Nahimana, a history professor at the National University of Rwanda, and Jean-Bosco Barayagwiza, a lawyer and Director of Political Affairs in the Ministry of Foreign Affairs, established Radio Télévision Libre des Milles Collines (RTLM) on 8 April 1993, bankrolled by businessman Félicien Kabuga - one year before the Rwandan genocide. It is important to consider the RTLM’s propaganda tactics to understand how thousands of people could be convinced to take up arms against the Tutsi.

By spreading lies, personal attacks, and prophecies of impending Tutsi attacks, the RTLM created an atmosphere of fear among the Hutu that prompted them to take action. One propaganda tactic included the media’s constant reference to “*the truth*,” which it pretended to know and conveyed as one message.

In reality, the media manipulated the truth and made its audience believe that its word was reality. The RTLM frequently claimed that its information came from political authorities, intellectuals, and university professors, which impressed some Rwandans and made them accept the cruel jokes against the Tutsi and their misrepresentations as reality. Cynical and hypocritical broadcasts added to the genocidal environment. The RTLM encouraged its listeners by stating that they would never be held accountable for their acts if they won against the Tutsi. Since the RTLM was linked to the Rwandan government, its broadcasts were implicitly endorsed by the administration.

The case of the RTLM and its involvement in the Rwandan genocide aptly demonstrates that the media possess power beyond the word transmitted. The RTLM’s broadcasts ensured that the public opinion was sufficiently poisoned to the extent that genocidal acts became possible. The RTLM was used as the instrument to convince and create a state of mind where killings were accepted as ordinary and necessary actions.



17. Sierra Leone Truth and Reconciliation Commission Report, Available at http://www.sierraleonetr.com/index.php/view-report-text-vol-3a/item/volume-three-a-chapter-four?category_id

18. Human Rights Watch (2008) “Bullets for Each of You”: State Sponsored Violence since Zimbabwe’s March 29 Elections.

19. La Mort, J. (2009) “The Soundtrack to Genocide: Using Incitement to Genocide in the Bikindi Trial to Protect Free Speech and Uphold the Promise of Never Again”, *Interdisciplinary Journal of Human Rights Law*, 43(51).

20. Ibid

3.3

BUILDING A COMPREHENSIVE NATIONAL MEMORY OF THE PAST

3.3.1

Launch of Gukurahundi Documentary and Memorial Library

The Centre for Innovation and Technology (CITE) launched a Gukurahundi documentary and memorial library in Bulawayo on 30 October 2020. The launch was the culmination of CITE's inaugural virtual Asakhe Film Festival on healing and reconciliation which ran from 9 to 30 October 2020. The documentary is titled: *"I want my virginity back"* and captures the experiences of women from the Matabeleland region who were raped, tortured, and killed during Gukurahundi. The library on the other hand which can be accessed partially physically and largely online has a collection of books, papers, and artefacts that depict the Gukurahundi massacres in which at least 20 000 civilians were massacred by the North Korean-trained fifth brigade deployed by the GoZ to the Matabeleland and Midlands provinces.



To watch the documentary visit:

https://www.youtube.com/watch?v=NaoGDBI_wyY&t=10s

The documentary and the memorial library are important for the memorialisation of the past as they help build a comprehensive national memory of the past and give a clear picture of what transpired in the past. Memorialisation is the process by which societies affected by violence reflect on and preserve memories of their past. Public sites are often developed to help this take place, at monuments, museums, and in community meeting areas. It often forms part of broader ways of helping people come to terms with and comprehend what has happened.



National Democratic Institute (NDI) Country Director, Arnold Tsunga who was the guest of honour speaking at the launch

As a transitional justice theme memorialisation is often sidelined and regarded as being of little significance and much less urgency. Zimbabwe has a history of violence and conflict which make memorialisation an urgent and pertinent issue to national peacebuilding initiatives in the country. Despite Zimbabwe's history with conflict, little has been done to build a comprehensive national memory of the past that adequately captures the stories of all people that either took part in or were affected by the different epochs of conflict in the country.

It is therefore key for transitional justice stakeholders in Zimbabwe to come together to contribute to the building of the library by making whatever information they have on Gukurahundi available for inclusion in the library to ensure that it has a wide range of information.

3.3.2

Memorialisation Radio Program

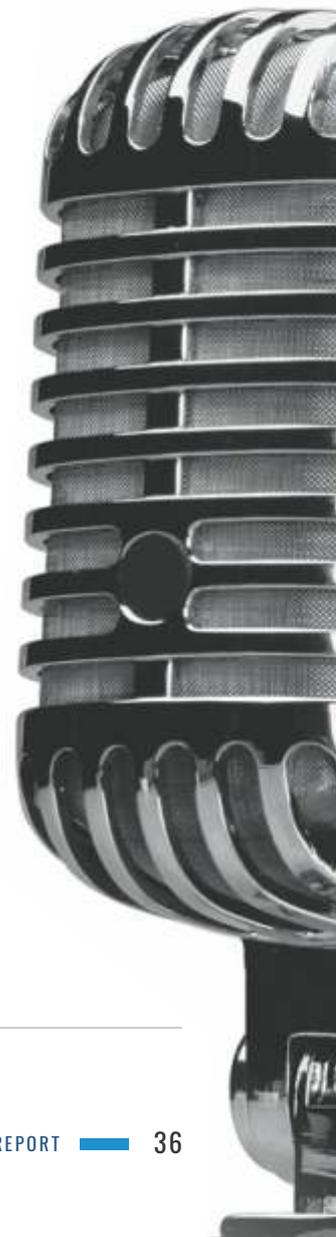
On 18 September 2020, the NTJWG hosted a radio program on Skyz Metro FM titled *"Building a Comprehensive National Memory of the Past"*. Three panellists, among them Dr. Rev Motsi the NTJWG Thematic Leader on Memorialisation, Mr. Mbuso Fuzwayo the Secretary-General of Ibhetshu Likazulu, and Mr. Sobusa Gula-Ndebele the former Attorney-General of Zimbabwe. The panellists emphasised the need for policy or law to guide memorialisation efforts in Zimbabwe to enable victims of mass atrocities to have agency. In transitional justice processes, victims must be allowed to narrate their stories based on their memory of the offence. The program also discussed challenges associated with the destruction of memorial sites at Bhalagwe which, to a certain extent, has led to the re-traumatization particularly for victims of previous violence.



The destroyed memorial site that housed the Gukurahundi Plaque at Bhalagwe

The program noted the positive impetus that the current President E.D. Mnangagwa had taken in encouraging stakeholders to openly discuss the challenges associated with the Gukurahundi genocide, the voices of the victims needed to be prioritised. It was also imperative victims be allowed to erect memorial sites without interference, both public and private. The program also noted that since truth-telling is at the cornerstone of national healing, it was cardinal that reports of such inquiries as the Chihambakwe and Dumbutshena Commissions be made public. Some of the key issues discussed during the radio program are as follows:

- Victims of past atrocities must be allowed to tell their stories freely and voluntarily. As the process of dealing with a legacy of past human rights violations, transitional justice in Zimbabwe must place at its core the value of storytelling. Storytelling is central in establishing the truth, giving victims a voice, restoring their dignity, healing, and the reconstruction of “the self”. Allowing victims to tell their stories has the added advantage of emphasizing the significance of narrative plasticity which gives victims more control over their stories.
- While storytelling is beneficial in transitional justice, it can be a psychologically challenging process. It can also create ‘*labyrinths of disappointment*’ when people who have experienced highly traumatic events, such as displacement, sexual violence, or witnessing a massacre, are required to recount their stories multiple times, often without seeing any concrete benefits. Both official and non-official processes must be coordinated to ensure that victims do not get fatigued with recounting their stories.
- Both official and unofficial transitional justice processes must pay particular attention to the relationship between silence, gender, and agency in societies transitioning from violent conflict. In doing so, it must resonate with the following areas of inquiry: (a) How do the daily gendered negotiations around silence and speech play out? (b) How do they link to larger processes of social remembering and forgetting? These broad questions are important in enriching the discourse on silence and voice into conversation with peace and transitional justice. They may also help the NPRC and civil society to avoid epistemological blind spots concerning silence in transitional justice processes because there is a generalised assumption that the knitting together of the social fabric after violent conflicts is impossible without talking.
- The radio program also discussed the role of memory, preservation of sites and monuments as well as the non-privatisation of national and provincial liberation that have unfortunately become the exclusive domain of ZANU-PF. Memorialisation refers to a range of processes and forms of collective remembrance. Memorials, museums, monuments and sites of torture, mass graves represent important spaces where the past can be confronted. Communities such as those affected by legacies of violations in the history of



21. Porter, E. (2012) “Gendered Narratives: Stories and Silences in Transitional Justice”. *Human Rights Review* 17, 35-50

22. Ibid

Zimbabwe must be accorded an opportunity to construct, re-configure sites that help them resonate, redress/reflect on past abuses, and remember the departed. These sites also serve as platforms for education and social learning – providing information about what victims went through as well as helping victims and those that lost loved ones to have a space to reflect and grieve.

- One of the key challenges of memorialisation is determining how to address the narrative of past atrocity, which can be highly contested. Memorial sites can be used to force a specific ideology onto society, becoming more about glorification than memorialisation. This is the biggest challenge with the sites earmarked to remember the liberation war. They can also be used to lay blame on one group over another, which can exacerbate tensions as reminiscent of the destruction of the sites at Bhalagwe. While there has been a veneer of support by the President to discuss the Gukurahundi massacres, the destruction of memorial sites in areas where it happened shows that there is still resistance to addressing this issue. Destruction of memorial sites in these areas could be indicative of a contested narrative where perpetrators of human rights violations attempt to erase memories of the past wrongs which can result in re-traumatization of relatives of the victims of survivors living in such communities. The panellists recommended the development of a national policy on memorialisation as well as an investment in building national memorial sites and preserving those that are already in existence.

3.4

THE ROLE OF TRADITIONAL LEADERS IN TRANSITIONAL JUSTICE IN ZIMBABWE

The role that traditional mechanisms, norms, and cultures play in the transitional justice process cannot be overemphasised. The use of the traditional processes in Mozambique, Rwanda, Uganda, and Sierra Leone provide comparative lessons in the acknowledgement of the contribution of positive traditional practices that are useful, complement formal transitional justice processes and promote peace, justice, healing, and reconciliation (Masiko-Mpaka 2020:3).

The African Union Transitional Justice Policy which was adopted in 2019, acknowledges the centrality of customary norms and traditional justice mechanisms in addressing legacies of violence on the African continent.



AUTJP

ADVOCATES FOR INSTITUTIONAL AND LEGAL REFORMS THAT EMBRACE
 alternative and indigenous conflict resolution
 practices that foster accountability,
 integration and reconciliation.

23. Hamber, B., Ševcenko, L., & Naidu, E. (2010) "Utopian dreams or practical possibilities? The challenges of evaluating the impact of memorialisation in societies in transition". *International Journal of Transitional Justice*, 4(3), 397–420.

24. Masiko-Mpaka, N (2020) *Traditional Transitional Justice Mechanisms – Lessons from Africa*, Centre for the Study of Violence and Reconciliation (CSV), 1-12

It is on these premises that the NTJWG hosted a radio program on Zi-FM Stereo on the role of traditional leaders in the transitional justice process on 29 October 2020. The program was also motivated by the announcement by President Mnangagwa in Bulawayo after meeting with the Chief, that traditional leaders were going to play an important role in the exhumation and reburial of Gukurahundi victims. The panellists were Dr. Musa Kika from the Zimbabwe Human Rights NGO Forum, Ms. Jestina Mukoko from the Zimbabwe Peace Project, and Chief Nembire a traditional leader.

The radio program was also focused on advocating for traditional leaders to take a lead in peace and reconciliation work in their areas of jurisdiction in a non-partisan way.

The program also intended to provide an opportunity for victims to annotate their expectations of how traditional leaders could play a critical role in the transitional justice process. One of the contentious issues raised at the discussion was the partisan distribution of food by traditional leaders which was vehemently denied and dismissed by Chief Nembire as a “*figment of the imagination of the media*”. The dismissal of the partisanship of the traditional leaders was heavily rebuffed by the listeners to the program who accused the chiefs of actively participating in politics in violation of Section 281 of the Constitution which has immensely contributed to polarisation and toxicity. The listeners also implored the traditional leaders to create platforms for dialogue in their communities where people can speak freely about their experiences without fear.

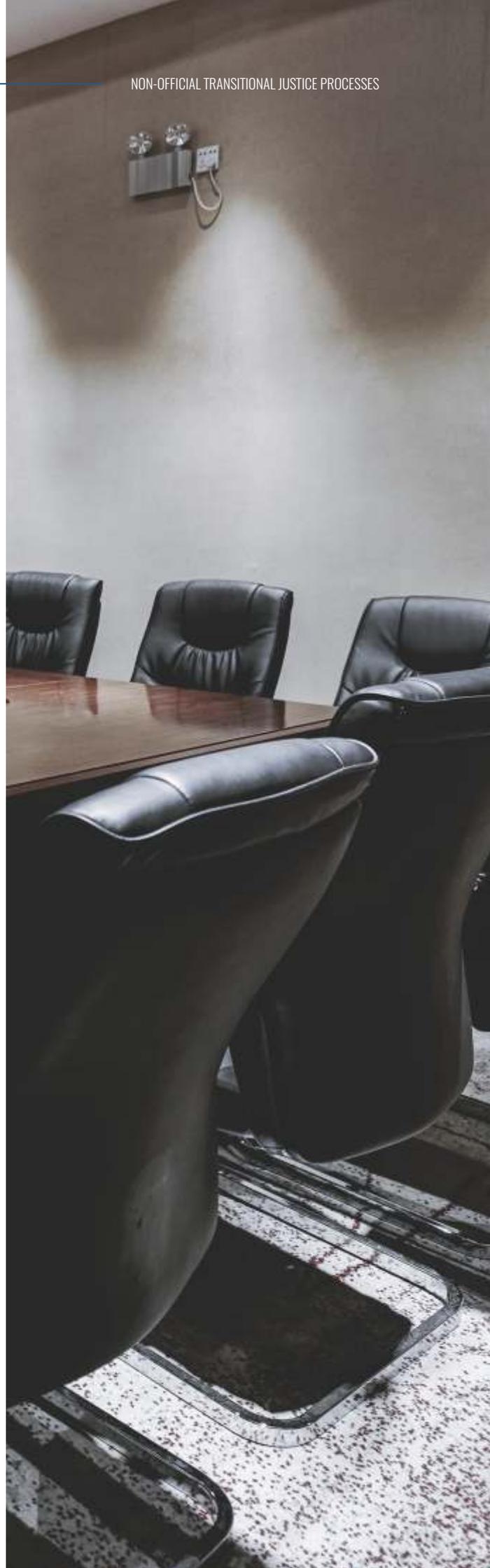


3.5

THE NTJWG-PARLIAMENTARY MEETING

On 29 September 2020, the NTJWG convened an interface meeting with the Parliamentary Portfolio Committee on Justice, Legal, and Parliamentary Affairs. A total of 30 people (12 females, 18 males) attended the virtual meeting, chaired by the NTJWG Thematic Leader on Memorialisation, Dr. Rev. Motsi. The purpose of the meeting was to enhance strategic alliances with Parliament to enable the NTJWG to influence future policy formulation and implementation on transitional justice in Zimbabwe. The platform was also created to provide feedback on the NTJWG 2019 State of Transitional Justice Report as well as define some of the outstanding issues that required consideration. One of the emerging issues that were discussed was the failure by the NPRC to file their Annual Reports as required by the Constitution. To ameliorate this problem, the Portfolio Committee suggested that the NTJWG convenes a meeting between the NPRC, the Parliamentary Portfolio Committee on Budget and Finance, and the Parliamentary Portfolio Committee on Justice, Legal and Parliamentary Affairs aimed at establishing both the challenges and the solutions to the issues which the NPRC is dealing with and identify areas of possible collaboration. These will include legal and policy issues concerning peace and reconciliation processes and funding for the NPRC.

The Portfolio Committee further committed to working in collaboration with the NTJWG in monitoring the progress being made by the NPRC and encouraged the NTJWG to lobby for the extension of the tenure of the Commission within the framework of the contemporary consultations on constitutional amendments. The Parliamentary Portfolio Committee on Justice, Legal, and Parliamentary Affairs also encouraged the NTJWG to push for a formal relationship with it through a Memorandum of Understanding to facilitate future engagement. This engagement presents an opportunity for future engagement and collaboration as the Committee showed interest in enhancing its transitional justice knowledge and implored the NTJWG to share information on its work and the work of its stakeholders.



3.6

NTJWG SURVIVOR SUPPORT GROUP MEETING

Following the first Survivor Support Group meeting convened in August 2019, which laid the groundwork for increased interface with survivors, the NTJWG held its second SSG meeting on 29 October 2020. A total of eight people attended the meeting chaired by the thematic leader on Reparations and Rehabilitation, Dr. Frances Lovemore. The meeting brought together representatives of survivors and representatives of the organisations that make up the SSG which include but are not limited to Counselling Services Unit, Grace to Heal, Tree of Life, Zimbabwe Association of Doctors for Human Rights, Ukuthula Trust, and Heal Zimbabwe Trust.

At the core of the stakeholder engagement held virtually, was re-imaging transitional justice in the context of the Covid-19 global pandemic as well as re-thinking or re-framing the monitoring framework of the official processes undertaken by the NPRC. The meeting also:

- provided an opportunity for a review of the operating environment ravaged by the global health crisis, locating new avenues as well as challenges for engaging official transitional justice processes;
- an appraisal of the NTJWG monitoring framework;
- progress made by the secretariat in undertaking a mapping of the survivors and designing an action plan for the remainder of 2020.

The meeting discussed the escalating human rights violations and the curtailment of fundamental freedoms under the guise of enforcement of Covid-19 lockdown regulations. The meeting also discussed the complex issue of exhumations, the role of traditional leaders, and the importance of ensuring that the process remains community-led and victim-centered. The SSG members also beseeched the NTJWG to take a leading role in developing a policy framework to guide stakeholders on exhumations.

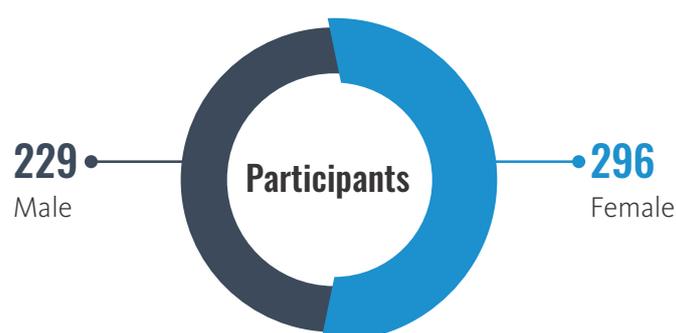
3.7

COMMUNITY DIALOGUES ON THE MANDATE OF THE NPRC

An integral component of the transitional justice process in Zimbabwe is building communities' capacity to understand the mandate of the NPRC as a constitutional body bestowed with the responsibility to steer the official TJ process. As a build-up to the process that was initiated in 2019, the NTJWG conducted eleven dialogue sessions between 12 February to 19 March 2020 reaching out to 525 people in communities affected by conflict as depicted in the table on the next page.

Table of community dialogues conducted

Location	Date	Males	Females	Total Number of Participants	Facilitators
Nkayi, Ward 5	12/02/20	11	23	34	2
Chinhoyi, Gunhill, Ward 13	14/02/20	28	31	59	1
Hwange, Ward 20	17/02/20	15	33	48	2
Zaka, Ward 24	11/03/20	27	25	52	2
Manama, Ward 17	11/03/20	13	19	32	3
Chinhoyi, Ward 14	12/03/20	19	23	42	1
Nyanga, Ward 6	13/03/20	30	13	43	1
Bikita, Tambara Village, Ward 15	17/03/20	29	29	58	2
Chinhoyi, Shackleton, Ward 15	18/03/20	19	26	45	1
Chinhoyi, Ward 8	19/03/20	19	32	51	1
Bikita, Tadziripa Village, Ward 19	19/03/20	23	42	65	2
TOTAL	-	229	296	525	18



THE COMMUNITY DIALOGUES

WERE ATTENDED BY COUNCILORS, TRADITIONAL LEADERS,
YOUTHS, AND WOMEN LED TO THE FOLLOWING KEY OBSERVATIONS:



There has been an increase in the participation of young women in community dialogues. However, the NTJWG discovered that in those meetings where both women and men attend, there is a tendency for women not to actively participate. This may be caused by the patriarchal nature of some communities. To alleviate this challenge, it may be of strategic value to create platforms exclusive for women so that they open to tell their unique experiences. While the attention to gender dynamics in transitional justice has increased globally, the field remains largely gender blind. Most contemporary transitional justice mechanisms including that of the NPRC and civil society-led processes, fail to reflect a coherent integration of these gender-justice concerns in transitional justice initiatives, albeit these mechanisms can uncover gendered patterns of abuse and their root causes. Thus, the exclusion or insufficient inclusion of women in transitional justice means that not only does women's potential to contribute to the transitional

justice processes remain unutilised, but also that their painful experiences during the conflict, which take a variety of forms, are not recognized. As the transitional justice official process moves into public and private hearings, lessons must be learnt from other jurisdictions where Commissions were criticized for advancing partial that tended to overlook the significance of gender sensitivity during truth-seeking processes. In most societies of a highly patriarchal nature like Zimbabwe, cultural norms and stigma, for example, may hinder women from testifying publicly as victims of sexual violence, and witnesses are concerned with their safety, physical and psychological well-being, privacy, and dignity. For instance, high-ranking women in society who may have been victims of sexual violence including rape may be concerned by how they will be perceived if they reveal their stories due to privacy and dignity concerns.

Traditional leaders remain a critical sector in reconfiguring the peace infrastructure given their roles in the communities occasioned by violence. In the community dialogues facilitated by the NTJWG in Tambara village in March 2020, about fourteen traditional leaders actively participated in the meetings. Besides, the participation of traditional leaders in community dialogues will motivate and encourage community members to start opening-up and talk about their experiences and seek justice without fear of retribution. The ZANU-PF Ward 15 councillor together with the losing MDC candidate both attended the community dialogue implemented in Shackleton, Chinhoyi, on 18 March 2020 which created a platform for inter-party debate and

to show the community that political competitors should not be a nemesis, but partners in the post-electoral period.

In strengthening local capacities for justice, the transitional justice process, both formal and informal draws on existing traditions of community-based justice which must be modified to meet the current context. This mechanism is very useful in communities where violence was widespread wherein where the line between victims and perpetrators is blurry. Unlike official processes that are usually top-down, state-centric, and prescriptive community justice models are largely quicker to implement and are more accessible to the local population culturally and physically. These traditional

25. Campbell, K. (2007) "The Gender of Transitional Justice: Law, Sexual Violence and the International Criminal Tribunal for the Former Yugoslavia". *International Journal of Transitional Justice*, 1(3), 411-432

mechanisms are a reach resource for reparative sentences against perpetrators. For instance, perpetrators may be tasked to rebuild houses, schools, or structures in areas affected by the conflict, rather than serving prison sentences for crimes committed during the conflict.

However, one key area of concern is how these mechanisms address gender-based violence. In the

case of the Gacaca in post-genocide Rwanda, while women played important roles in the proceedings, the Gacaca nevertheless remained biased against women because of its inadequacy in fully addressing sexual crimes. Therefore victims of gender-based human rights abuse, aside from rape, did not obtain justice for their loss and suffering, sustaining the assertion that the TJ field remains blind to gendered perspectives.

The community dialogue sessions provided an opportunity for victims to share the memories of the offence freely without fear of reprisals.

Community dialogue processes in pursuit of truth and justice provide a unique potential for supporting the advancement of reconciliation and building consensus in post-conflict societies. Dialogue processes acquire various dimensions during political transitions, which offer a historic opportunity to address vexing justice issues that communities face in the aftermath of violent conflict. While these community dialogues create formal opportunities for engagement and interface where perpetrators and victims share “geographies of peace”, forging an all-inclusive vision may be difficult to achieve amid the polarity and toxicity currently obtaining in Zimbabwe.

As Murambadoro (2020) advises transitional justice is a contested sociopolitical concept that poses a lot of challenges for violence-stricken communities. To that end, victims of mass atrocities hold varying meanings of what would count for justice to be served. Therefore, a one-size-fits-all approach to transitional justice in Zimbabwe will not be adequate. An enabling environment that accommodates various views of justice is required. Convening community dialogues as a model around the country smack homogeneity both in terms of the magnitude and/or the experiences of violence suffered and the strategies for building peace.

Concurrently, dialogues must be informed by evidence to enhance their ability to influence the policy direction for peacebuilding. For instance, perception surveys are a good methodology to generate evidence useful for informing the community dialogues as they unfold. This is to ensure that stakeholders consider unique community perspectives based on empirical evidence. Surveys can also serve to monitor perceptions of key stakeholders in society, including potential spoilers, to assess the impact of community dialogue processes. For a community to find closure and reconcile reconciliation to be sustainable, dialogues must be locally owned and are backed by a multilayered dialogue strategy. That strategy will ensure that dialogues are held at local levels with multiple stakeholder groups when the moment is right for progress toward sustainable peace.

It is also critical that structured community dialogues are incorporated into the NPRC plans and sequenced in such a way that their findings inform the Commission’s policies on transitional justice. Civil society’s efforts to lead dialogues need to be premised on technically sound and politically feasible designs and to be implemented as broad and inclusive processes. Citizens should have the opportunity not only to inform official NPRC discussions on dealing with the past with past grievances. Civil society has an important role to play in such circumstances, to keep pressuring the NPRC to adopt inclusive, victim-centred processes.

26. Huyse, L. and Salter, M. (2008) *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences*. Stockholm: IDEA

27. Murambadoro R. (2020) *Discourses on Transitional Justice: A National Dialogue*. In: *Transitional Justice in Africa. Development, Justice and Citizenship*.

3.8

CHURCHES CONVERGE ON CONFLICT AND PEACE (CCCOP)

The Churches Convergence on Conflict and Peace (CCCOP) is implementing a peacebuilding project focused on promoting peaceful co-existence in twenty-five districts across the country. CCCOP is a consortium of faith-based institutions namely the:

- Catholic Commission for Justice and Peace (CCJP),
- Ecumenical Church Leaders Forum (ECLF),
- Zimbabwe Christian Alliance (ZCA),
- and the Zimbabwe Divine Destiny (ZDD).

The project is premised on building the capacities of the Church to work with and strengthen Local Peace Committees (LPC) as vehicles for building peace within communities. This initiative further builds the capacity of the local peace communities in such areas as dialogue, negotiation, mediation, advocacy as well as critical skills in fostering tolerance and social inclusion.

Using these grassroots-based, bottom-up approaches peace is only sustainable when it is driven and led locally, that is, by the people and institutions within the communities affected by conflict. It is incontrovertible that peace is only likely to be sustained when local people take the lead in building it. Local people know their context well enough to judge what measures might work and have the knowledge, relationships, and motivation needed to ensure they do work, especially over the longer term.

The stability created by outsiders, however welcome in the short term, lacks both the mettle and resilience of a peace forged in the crucible of local dynamics and compromises.

In October 2020, the Catholic Commission for Justice and Peace (CCJP) in Masvingo conducted project inception meetings, stakeholder mapping, and analysis; as well as district coordination meetings in Gutu and Mapanzure districts to map the conflict issues and building strategies for peace. This intervention seeks to enhance the functionality of existing conflict transformation structures to ensure effective participation in peace-building interventions by duty bearers and communities in selected violence hotspot areas in the province. In most transitional justice processes, the role of local communities, the unsung peace agents, and grassroots civil society is often overlooked. Yet these are the context-sensitive, socially inclusive transitional justice processes that must be complemented by the official NPRC and national civil society processes. The central role for traditional justice mechanisms in transitional justice also invokes some principled arguments: the authentic, 'homegrown' character of these institutions enhances their legitimacy; these mechanisms contribute more to reconciliation, and thus they deliver a better type of justice.

The Ecumenical Leaders Forum (ECLF) undertook projections inception and local peace community capacity building sessions in Tsholotho, Zaka, Bikita, and Uzumba Maramba Pfungwe, while the Zimbabwe Divine Destiny held similar activities in Shamva, Hatcliffe and Dzivarasekwa. During that period, the Zimbabwe Christian Alliance (ZCA) set up Peace Committees in Bulawayo, Midlands, Matabeleland North and South provinces to deal with community conflicts and land disputes.

3.9

RESEARCH STUDY REPORT LAUNCH - HEAL ZIMBABWE TRUST

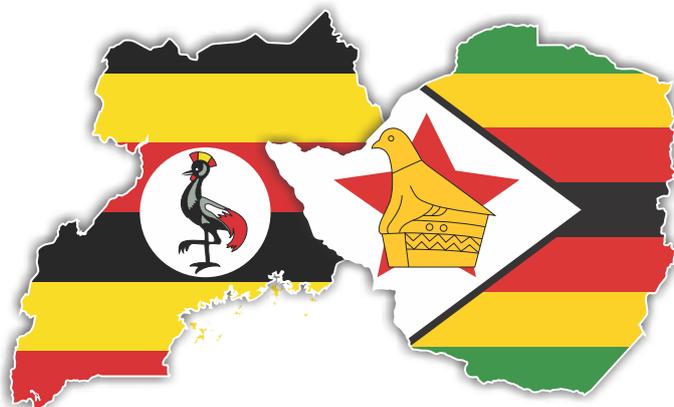


On 11 September 2020, Heal Zimbabwe Trust hosted a virtual dialogue meeting aimed at disseminating research findings of a comparative study under the topic Transitional Justice in Pre-Transitional Societies: The Case of Uganda and Zimbabwe. The purpose of the dialogue was to allow for practical and intellectual conversations on the possibilities of transitional justice in societies where genuine transitions are failing. The launch was also aimed at influencing both civic and state policy and practices on transitional justice, healing and reconciliation processes. The webinar was part of Heal Zimbabwe's Peace and Social Cohesion Building Dialogue Series, a social lab for peacebuilding knowledge management, in-depth conflict research explorations, and social cohesion building investigations.

Before the report launch, HZT had carried out a research study on the dynamics, complications, and complexities of transitional justice in pre-transitional societies focusing on Uganda and Zimbabwe as case studies. These two countries were chosen because of the peculiarities associated with states that are attempting to undertake transitional justice within the context of continuing state repression and human rights violation.

More so both countries have not undergone genuine power transfer and thus do not have a clean break from the past. Uganda and Zimbabwe were also chosen because they are implementing transitional justice initiatives, yet they exhibit pre-transitional characteristics. The countries' current governance systems are characterized by recurrent human rights violations, suppression of opposition movements, constrained media freedoms, and militarized governance structures. Key questions that emerge from these unique settings relate to whether genuine transitional justice can be achieved within pre and ongoing transitional contexts.

A major finding of the study is that transitional justice in non-transitional societies remains a possibility. However, the transitional justice interventions will move away from global, top-down approaches premised on truth-telling, prosecutorial justice, reparations, reconciliation, and memorialization. As an alternative, the focus will be placed on either preparing for transitional justice in case of a transition or mooting community level or ground-up interventions.



UGANDA AND ZIMBABWE WERE CHOSEN

because of the peculiarities associated with states that are attempting to undertake transitional justice within the context of continuing state repression and human rights violation.

28. Heal Zimbabwe Trust. (2020, August). Transitional Justice in Pre-Transitional Societies: The Case of Uganda and Zimbabwe. <https://www.kpsrl.org/sites/default/files/HZT%20-%20Transitional%20Justice%20in%20Pre-Transitional%20Societies%20r.pdf>

CONSIDERING THE FOREGOING, THE REPORT PROFFERS THREE KEY RECOMMENDATIONS THAT TRANSITIONAL JUSTICE CAN TAKE:

Transformative advocacy

Transitional justice can take a transformative approach where interventions are focused on building the capacities of institutions mandated to prevent the violation of human rights. Changing the values, attitudes, and behaviours within the government, legislative bodies security services, human rights institutions, and civil society is central to effective human rights protection and policing.

Working with the grain

The approach considers the existing as perfect enough to begin some transitional justice activities. This means accepting that there will never be a perfect environment to fight for healing, peace, and reconciliation, hence the need to make preparatory actions and pushing the boundaries for democracy. Nonviolent actions and lobbying and advocacy become essential actions including government institutions and international actors.

Building a critical mass

This approach entails the building of a critical mass (people and institutions) aimed at advocating for the prioritization of transitional justice issues by the government. This means there is a need to building consensus and synergies to demand evolutionary and or revolutionary changes towards a more democratic society that believes in healing the wounds of the past. If anything, communities will have to be mobilised along with the few windows of opportunity to address transitional justice. In cases where the state consent to transitional justice without creating a conducive environment for the process to become effective, which is the case in Zimbabwe and Uganda, it is largely ideal to consider negotiations to build trust and make concessions as steps towards transformative engagements.

04

CHAPTER 4

KEY GAPS IN TRANSITIONAL JUSTICE IN ZIMBABWE IN 2020

4.1

NON-IMPLEMENTATION OF THE MOTLANTHE COMMISSION RECOMMENDATIONS

Following the 1 August 2018 post-election violence that left six people dead allegedly shot by members of the security forces, President Emmerson Mnangagwa appointed a Commission to inquire into the shootings in terms of Section 2(1) of the Commission of Inquiry Act, Chapter 10:07 on 12 September 2018. The Commission was chaired by former South African President Kgalema Petrus Motlanthe. On 18 December 2018, the Commission produced its report that made four broad recommendations which included compensation of the victims' families, electoral reforms, political co-existence, and security sector reforms. According to the Permanent Secretary of Justice, Legal and Parliamentary Affairs Permanent Secretary Mrs. Virginia Mabhiza a high-level Inter-Ministerial Committee on Political and Electoral reforms to facilitate the implementation of the recommendations was set thereafter.

29. Supra 15
30. Supra 15



Former South African President Kgalema Motlanthe chairing the seven-member commission of inquiry established by Zimbabwe into the killing of six people following military intervention in Harare on 1 August 2018. (Picture By Violet Gonda)

On 28 June 2020, the Permanent Secretary in the Ministry of Justice, Legal and Parliamentary Affairs, Mrs. Virginia Mabhiza alleged that the government has, to a very large extent, complied with the recommendations. She, however, noted that some of the recommendations remain work in progress. She cited the establishment of the Political Actors Dialogue (POLAD) as an important milestone towards political co-existence. Mrs. Mabhiza also cited the repeal of two pieces of legislation deemed the most obnoxious and undemocratic laws – the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA). Regrettably, the Maintenance of Peace and Order Act (MOPA), that replaced POSA violates Sections 58, 59, and 60 of the Constitution – the right to freedom of association and assembly and the right to demonstrate and petition as well as the freedom of conscience respectively. Although Section 86 of the Constitution permits the limitation of rights, such limitation must be “fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality, and freedom”.

In terms of compensation of victims, Mrs. Mabhiza noted that the Ministry of Justice had contacted victims’ families to approach the Department of Social Welfare to access school fees support for minor children and medical bills. She further noted that some of the businesses that were damaged had received financial support from the GoZ. Regrettably, a committee to assess the amount of compensation for those affected has not been set up. In a report titled *The Motlanthe Report: What’s Next for Victims and the Nation* published in August 2020, the Zimbabwe Human Rights Association noted that all the victims including those who were represented by the Zimbabwe Lawyers for Human Rights have not been compensated. Neither has the government established a committee to assess the amount of compensation and a fund to assist those affected.

31. Supra 14

Justice for victims of human rights violations is the hallmark of transitional justice. Victims of the 1 August 2018, as well as the 14 to 16 January 2019 violence, are entitled to obtain adequate and effective compensation proportionate to the harm ensured. It is the only sure way to achieving a lasting solution for those that were at bore the brunt of the violations. This is based on the premise that durable peace, justice, and reconciliation can only be achieved if victims are morally and materially repaired. There is a growing need to design transitional justice initiatives and programmes that include reparation to victims as a prominent feature and to implement programmes with the participation of the victims themselves. Both the NPRC with support from the GoZ and civil society must ensure that the transitional justice process in Zimbabwe must ensure such a robust reparations scheme is implemented.

There is also an urgent need for security sector reform in Zimbabwe. Security sector reform refers to “*reform interventions undertaken within the security sector to address policy, legislation, structural and behavioural matters within the context of democratic ideals, rule of law and respect for human rights*”. In other words, it concerns the alignment of policies, legislation, structures, and behaviours towards a human rights-respecting culture; to the adherence of the principles of accountability, transparency, participation, good governance; and the primacy of the rule of law.

Studies on security sector reform in Zimbabwe have largely taken the radical view that more often than not, the military has acted undemocratically through uttering and overseeing an array of operations meant to stifle democracy. It can also be argued that reforming the police is imperative in ensuring the safety and security of the citizens who have increasingly fallen victim to police unprofessionalism and corruption in the past two decades. Quite significantly, any insightful discussion on security sector reform in Zimbabwe must locate, at its axis, the role police have played in covertly bolstering up ZANU-PF since independence. Notwithstanding the toxic political environment that is currently obtaining, arguably the police have always been central to the survival of ZANU-PF. This is manifested in the systematic execution of violence against the opposition, in ignoring cases of political violence brought to them or even the ones they witnessed, or by carrying out politically-motivated arrests of members of the MDC Alliance and other opposition leaders.

It is, therefore, significant for Zimbabwe to speed up efforts to train and equip the police force with the requisite skills and weaponry so that they execute their duties as provided in Section 219 of the Constitution.



JUSTICE FOR VICTIMS
of human rights violations is the
hallmark of transitional justice.

32. Hendricks, C. and Hutton, L. (2009) “Security Sector Reform in Zimbabwe: What, Why and How?” Institute for Security Studies Policy Brief No.1, 1-4
33. Mutanda, D. (2019) “Security Sector Reform in Zimbabwe: Scrutinizing the rationale for police reform” African Security Review, 28(2), 139-156.

An important component in reforming the security sector to ensure that the violence of 1 August 2018 does not recur is providing necessary support to systems and processes for accountability, most particularly to Parliament, Zimbabwe Human Rights Commission (ZHRC), Zimbabwe Anti-Corruption Commission (ZACC), and the Auditor-General.

It is also fundamental to note that participatory governance is broadened through the engagement of civil society, media, and other critical sectors to ensure that the reform process gets political resonance.

It is further cardinal to ensure that behavioural change and the institutionalisation of accountability, transparency, and participation, though long term, is based on the political commitment necessary to implement such reforms. Until then, the foundation can be laid for future reform through politically palatable, largely technocratic, interventions.

A short-term necessity in security sector reform is the rebuilding of public trust in these institutions as well as ending perceived impunity and partisanship. This can be done through a revamped and outcome-focused training on human rights promotion and protection and international humanitarian law with particular attention to gender-based violence. In addition, attention must be paid to strengthening complaints and grievance mechanisms within these institutions. These interventions would go a long way to reduce the abuse of power and would act as confidence-building measures.

4.2

CALL FOR THE DEVELOPMENT OF A NATIONAL TRANSITIONAL JUSTICE POLICY

A Transitional Justice Policy is an essential structure or framework designed by the governments in various jurisdictions to address issues of past human rights violations to promote justice, accountability, reconciliation, and sustainable peace. Such a policy is normally designed to provide holistic interventions to achieve lasting peace particularly like Zimbabwe which continues to struggle to confront its past and ongoing violations. The policy also establishes various justice mechanisms that are proposed to address the needs and interests of victims of past and present human rights violations.

The need for a national Transitional Justice Policy in Zimbabwe is borne out of the growing clamour for justice, accountability, restoration of the rule of law, healing, and reconciliation to facilitate conditions for the post-conflict rebuilding of our society. However, there has been very little traction in the development and adoption of such a policy in Zimbabwe. In advocating for the development of a transitional justice policy that is comprehensive and all-encompassing, civil society should work closely with the NPRC to ensure broad and inclusive national consultations. Most significantly consultations must place at its core victims, who must be accorded an opportunity to freely express their views so that transitional justice processes consider their unique experiences and identify their needs and entitlements.

Victim consultations coupled with community and stakeholder participation are critical for ownership and sustainability of the transitional justice process. As amplified by the late United Nations Secretary-General, Koffi Annan, “*the most successful transitional justice experiences owe a large part of their success to the quality and quantity of public and victim consultation carried out.*” In many post-conflict societies, victims’ stories are “re-told” by international organisations and their experts, civil society organisations, and local elites in what Razack (2007) refers to as “*stealing the pain of others*”. This is the challenge that most transitional societies face, and Zimbabwean civil society must desist from. The field of transitional justice has produced entrepreneurs who specialize in “speaking for and on behalf of victims” under the guise of representation. As Madlingozi further warns, this approach is often detrimental to the empowerment of victims as it produces a lack of agency (the notion that ‘victims’ or oppressed people cannot wage the struggle by and for themselves) and trusteeship (the idea that others must ‘represent’ or take up the cause on behalf of ‘victims’).

In designing and developing the national transitional justice policy, the NPRC and civil society must take into account the considerations highlighted above. Furthermore, the African Union Transitional Justice Policy provides guidance on regional standards that Zimbabwe can adopt and incorporate in its national transitional justice policy.

4.3 EXHUMATIONS

Exhumations and subsequent reburials of the victims of Gukurahundi victims have been a very contentious issue for over four decades. During the administration of the late former President Robert Mugabe, Gukurahundi remained an issue that was never officially discussed. Following the resignation of former President Robert Mugabe in November 2017 President Mnangagwa opened up the discourse on the widespread human rights violations perpetrated during the Gukurahundi with a group of civil society organisations under the banner of the Matabeleland Collective.

One of the key issues under constant discussion is the exhumation and reburial of the victims to address the legacy of past violations and enable the relatives can find closure. Shari Eppel emphasises that “*exhuming gravesites that were once indicative of horrific murders now signify wrongs that were put right, allowing the community to ‘go there.*” The potential of reburials to address the rights of the living needs to be more widely addressed in transitional justice policies.

On October 2020, Bulawayo High Court Judge Justice Martin Makonese dismissed a High Court application in which Gukurahundi victim Charles Thomas, ZAPU and Ibhethu LikaZulu trust sought to interdict the government and the Matabeleland Collective from conducting Gukurahundi exhumations and reburials.

34. Razack, S.H. (2007), “Stealing the Pain of Others: Reflections on Canadian Humanitarian Responses”. *Review of Education, Pedagogy, and Cultural Studies*, 29 (4): 375–394.

35. Madlingozi, T. (2010), “On Transitional Justice Entrepreneurs and the Production of Victims”. *Journal of Human Rights Practice*, 1-22

36. Ibid

37. Matabeleland Collective is a grouping of non-governmental organisations, faith-based organisations, community-based organisations, trusts, savings clubs and social movements from Bulawayo, Matabeleland North and Matabeleland South.

38. Eppel, S. (2014) “Bones in the Forest” in *Matabeleland: Exhumation as a Tool for Transformation*, *International Journal of Transitional Justice*, 8(3), 404-425

The court application under Case No 1454/20 was filed at the Bulawayo High Court, by Charles Thomas (first applicant), Ibhetshu LikaZulu Trust (second applicant), Mbuso Fuzwayo (an activist), and ZAPU (fourth applicant). President Emmerson Mnangagwa was cited as the first respondent while the Minister of Home Affairs and Cultural Heritage, Honourable Kazembe Kazembe was the second respondent. The other respondents were Matabeleland Collective (third respondent), Jenni Williams (leader of the Matabeleland Collective), Retired Judge Sello Nare (Chairman of the National Peace and Reconciliation Commission), and the National Peace and Reconciliation Commission (NPRC).

The application was motivated by the fact that President Mnangagwa had met the leadership of the Matabeleland Collective in August and had, inter alia, discussed the exhumations and reburial of the victims of Gukurahundi. In their averments, the applicants were of the apprehension that since the government had announced that it was considering conducting reburial of the Gukurahundi victims, it would go ahead without having regard to the views and aspirations of the relatives of the victims. The applicants also averred that Gukurahundi is a sensitive issue that should be handled carefully using all channels provided for in the Constitution while exhumation of Gukurahundi victims without consulting various stakeholders is a violation of the Constitution and the Inquest Act.

Justice Makonese dismissed the application on the basis that it was presumptuous and premature. He accepted the defendants' contention that they had no intention to act outside the law. Further the judge found that the NPRC is constitutionally mandated to lead the process of exhumations and reburials and it was necessary for the applicants to approach the NPRC to intervene if they feared that the process would be carried out unlawfully. This case is of great significance and it confirms the position of the NTJWG and other civil society organisations that the NPRC should be leading the process of exhumations and coordinating engagement with stakeholders on this important national issue. It is key for the NPRC to lead this process as it is an independent and impartial body thus its involvement in the process will allay fears by stakeholders particularly survivors that the process will be mishandled. The importance of the NPRC's involvement in this process cannot be overemphasised and such involvement should not be merely limited to participation in the process but the NPRC must lead the process and coordinate all activities that are related to exhumations and reburials throughout the country. Despite the ruling given by Justice Makonese in this case, by the end of the year 2020, the NPRC had not publicly taken leadership of the consultations on exhumations nor had it made any public pronouncements against the usurping of its mandate by the GoZ. It is imperative that the NPRC plays a leadership role in engagements relating to exhumations to guard against partisan and

exclusive engagements which will only divide the people of Zimbabwe and not bring national healing.

The issue of a public apology remained unaddressed in the engagements about Gukurahundi that were led by the President in 2020. Public apologies of past human rights violations akin to the Gukurahundi massacres are an integral component of transitional justice processes. Public apologies are defined as statements of remorse or regret related to the wrongful act or acts or omission, that are delivered with due respect, dignity, and sensitivity to the victims. Victims of Gukurahundi have never been accorded an acknowledgement of the wrongs deliberately or negligently inflicted upon them by the government. Regrettably, both the Robert Mugabe and the Emmerson Mnangagwa administrations have shied away from offering a genuine and remorseful apology to the victims of the dreadful massacres.

A victim-centric approach to apologies must place victims of Gukurahundi's rights, agency, and perspectives into context. This entails the non-interference with their rights to truth, justice, and reparations as well as by enabling them to exercise their agency in the preparation and delivery of apologies. Integrating a gendered perspective entails the recognition of the unique experiences that women suffered during the Gukurahundi massacres and other human rights violations, perpetual exclusion in key transitional justice processes, encouraging unfettered participation so that gender-specific needs are addressed.

Research has aptly demonstrated that violations of a gendered nature such as rape, sexual assault, and other violations are prone to be obscured if they are brought under the rubric of human rights violations. Therefore, gender-specific harms must be unambiguously addressed in public apologies to ensure that women are intimately involved in any consultation regarding the nature, extent, and contents of the delivery of apologies for such harms.

The backward-looking elements include the government taking of responsibility for their role in the past human rights violations, the honest acknowledgement of what transpired, and specifying the wrongness of the Gukurahundi massacres. The forward-looking components address the image of a "redeemed individual or nation", the beginning of a new era and a break from past legacies of violence, but also signal the social and political transformation required to ensure that such atrocities will never be repeated. In transitional justice parlance, this is often referred to as "the norm affirming function of apologies".



Mass grave bearing the names of six victims of the gukurahundi, the mass grave is located near the now abandoned Sitezi Military Camp. AP Photo/ Jerome Delay.

39. McEvoy, K., Bryson, A., & Placzek, C. (2019). *Apologies, Abuses and Dealing With The Past: How To Say Sorry*. Belfast: Queens University Belfast. See also UN General Assembly Resolution 60/147, December 2005.

40. MacKinnon, C.A. (2006) *Are Women Human? And Other International Dialogues*. Massachusetts: Harvard University Press.

41. Tavuchis, N. (1991) *Mea Culpa: A Sociology of Apology and Reconciliation*. Stanford: Stanford University Press,

42. Teitel, R.G. (2000) *Transitional Justice*. Oxford: Oxford University Press.

4.4

DEARTH OF INSTITUTIONAL REFORM

The democratic reform of state institutions involved in human rights abuses can be an important transitional justice measure that promotes accountability and helps prevent the recurrence of violations. While institutional reform is a key component of a comprehensive approach to transitional justice, it remains one of the difficult processes to undertake. Two years since the Motlanthe Commission recommended the reform of the repressive apparatus of the state, including the army, the police, and the central intelligence service, nothing has been achieved on that front. Zimbabwe's human rights situation continued to worsen in 2020 with increased cases of abduction, torture, and arbitrary arrests of opposition politicians and the pro-democracy movement.

There has also been a flagrant violation of fundamental rights and freedoms under the guise of combatting the spread of Covid-19. Human rights abuses have only grown more intense as social restrictions engendered by the Covid-19 crisis took hold in 2020. In April 2020 two women from the Cowdry Park suburb of Bulawayo suffered under heavy-handed enforcement by the state security apparatus. The two women were arrested and brutally abused for violating lockdown regulations. They were labelled 'prostitutes' and tribally insulted by police officers based at the Cowdry Park police in a case that smacks of a failed reform of the police force.

On 13 May 2020, three Movement for Democratic Change (MDC) Alliance officials, Member of Parliament for Harare West Constituency, Ms. Joanna Mamombe, and two other activists Ms. Netsai Marova and Ms. Cecilia Chimbiri were initially arrested by the police for leading a protest in Warren Park. They were later abducted from the police and went missing for more than 48 hours until they were found near Muchapondwa business centre on the morning of Friday 15 May 2020, about 60 miles away from Harare. The trio was badly injured and traumatised as a result of torture and sexual violations during the abduction.

In June, the three MDC Alliance activists were arrested on allegations of falsifying their abduction and torture by alleged state security agents. The three were later admitted to the hospital with various injuries and the alleged police had subjected them to inhuman and degrading treatment including serious sexual violence. The brutal violation of their rights at the hands of the state security agents attracted the attention of nine United Nations special rapporteurs who noted that "targeting peaceful dissidents, including youth leaders, in direct retaliation for the exercise of their freedom of association, peaceful assembly and freedom of expression, is a serious violation of human rights law".

43. Zimbabwe Human Rights NGO Forum, 180 days of What? A Summary of the First 180 of the Covid-19 National Lockdown in Zimbabwe. <http://kubatana.net/wp-content/uploads/2020/10/180-Days-of-What-Ir.pdf>

44. United Nations Human Rights Office of the High Commissioner, Zimbabwe: UN experts demand an immediate end to abductions and torture. Available at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25944&LangID=E>



The MDC trio arrives at the Harare Magistrates Court

In July 2020, the Zimbabwe Congress of Trade Unions (ZCTU), called for nationwide anti-government demonstrations against the increasingly deteriorating socio-economic situation in the country. The leader of Transform Zimbabwe, Mr. Jacob Ngarivhume, political activist and journalist Mr. Hopewell Chin'ono, and MDC Alliance Deputy Chairperson Mr. Job Sikhala weighed in with support for the demonstrations adding an end to rampant corruption and resignation of President Emmerson Mnangagwa as part of the demands. The government responded by banning the demonstrations citing restrictions on mass gatherings due to the ongoing Covid-19 pandemic. In enforcing the ban, the government heightened security presence, sealing off the cities and ordering people to stay at home.

Following the “failed” anti-government protests against rising corruption, hunger, and poverty on 31 July, state security agents embarked on a repressive campaign that witnessed the deliberate targeting, harassing, and arbitrary arrests. Award-winning Journalist Hopewell Chin'ono and opposition leaders Mr. Jacob Ngaruvhume and Mr. Job Sikhala were arrested and detained for more than 40 days charged with inciting violence ahead of the march.

45. Mutsaka, F. Scores of Zimbabwe protesters arrested, military in streets. Available at https://www.washingtonpost.com/world/africa/empty-streets-in-zimbabwe-as-security-forces-thwart-protest/2020/07/31/cda13416-d309-11ea-826b-cc394d824e35_story.html



Novelist and activist Tsitsi Dangarembga and a colleague Julie Barnes arrested in Harare on 31 July.
Photographer: Zinyange Auntony/AFP via Getty Images.



In responding to the rising cases of repression, seven Western diplomats wrote to President Mnangagwa urging him to respect human rights. In their statement, the diplomats implored the government to stop using COVID-19 as an excuse to restrict citizens' fundamental freedoms.

They noted that freedom of the press, opinion, expression, and assembly are all universally recognised human rights and are guaranteed by the Zimbabwean Constitution. The diplomats urged the government to also has a responsibility to investigate and prosecute those responsible for violating human rights.

46. Dzirutwe, M. Western Diplomats express deep concern over Zimbabwe crisis. Available at <https://www.reuters.com/article/us-zimbabwe-politics-idUSKBN25O25P>

05

CHAPTER 5

TRANSITIONAL JUSTICE NEWS FROM ACROSS THE GLOBE

5.1

THE UNITED NATIONS SECURITY COUNCIL DISCUSSES TRANSITIONAL JUSTICE

On 13 February, the UN Security Council held a six-hour-long open debate focusing solely on transitional justice in Belgium. This debate was the first of its kind and indicates increased interest by the UN Security Council in transitional justice. The debate was in Belgium and was held under the peacebuilding and sustaining peace agenda item. It aimed to provide an opportunity to reflect on national transitional justice processes, to exchange best practices and lessons learned, and to examine the support of the Security Council and UN Peacekeeping operations. The high turnout of member states was positively surprising, as more than 60 speakers signed up to present their official statements. Most of the interventions recognised the importance of gender mainstreaming in transitional justice initiatives and processes to ensure the meaningful inclusion and participation of women. It was also encouraging to observe that more countries now include the meaningful participation of youth as a key factor for successful transitional justice processes.

The delegates also called for the Security Council to take decisive approaches to conflicts in concert with other United Nations bodies. They also said that transitional justice mechanisms that are locally owned and focused on the needs of victims have repeatedly helped to address grievances and pave the way for more peaceful societies to take root.

Overall, a consensus emerged that there should not be a “one-size-fits-all” approach to transitional justice across the world, instead all processes must be tailored to the context, and local ownership is another vital element of success. The United Nations Security Council’s increased interest in transitional justice globally is a welcome development that gives the plight of human rights violations importance which is critical in achieving justice for survivors, victims, and their families. To read more about this debate visit:

<https://www.un.org/press/en/2020/sc14109.doc.htm>



6 HOUR LONG OPEN DEBATE

On 13 February, the UN Security Council held a six-hour-long open debate focusing solely on transitional justice in Belgium.



The Chair of the Colombian Truth and Reconciliation Commission, Francisco de Roux, briefing the Security Council meeting on Peacebuilding and Sustaining Peace: Transitional Justice in Conflict and Post-Conflict Situations on February 13, 2020.

5.2

BURUNDI TRUTH AND RECONCILIATION COMMISSION DISCOVERS OVER 6000 MASS GRAVES

The Burundi Truth and Reconciliation Commission is a government-run institution that was set up in 2014 to investigate atrocities from 1885, when the Belgian colonisers arrived in Burundi, until 2008 when a peace deal to end the civil war was fully implemented. Its mandate does not cover most of the rule of the current president, Pierre Nkurunziza, whose time in office has been marred with reports of human rights violations since he took office in 2005. In February 2020, the commission's chairman Pierre Claver Ndayicariye told journalists that the remains of 6,032 victims, as well as thousands of bullets, were recovered in the Karusi Province. Clothes, glasses, and rosaries were used to identify some of the victims. The remains were mostly of victims of a 1972 massacre that reportedly targeted the Hutu ethnic group. Burundi's population is divided between the Tutsi and Hutu ethnic groups and the country's civil war that ended in 2005 had ethnic overtones and resulted in the killing of 300,000 people.



A Burundian worker from The Truth and Reconciliation Commission extracting the skull of an unidentified person from a mass grave in the Bukirasazi Hill in Karusi Province, Burundi January 27, 2020.

While the Burundi Truth and Reconciliation Commission is making strides in dealing with the past in Burundi, the country is currently faced with human rights violations reportedly perpetrated by the state. In July 2015 when Burundi President Nkurunziza ran for a third disputed term in office, hundreds of Burundians were killed in clashes with security forces that have not been investigated. As a result, justice has not been delivered to victims of human rights violations perpetrated during President Nkurunziza's rule. The current dilemma of Burundi's transitional justice processes is not being able to deal with the past and present concurrently. While making strides in dealing with its past, it is key current human rights violations to be addressed and perpetrators held accountable to ensure non-recurrence of human rights violations. The situation currently mirrors the situation in Zimbabwe where although there are ongoing efforts to address the past human rights violations are continuing unabated. From the examples of Burundi and Zimbabwe, addressing past human rights violations must be complemented by reform in the present as guaranteeing non-recurrence of violations is pivotal to ensuring effective transitional justice processes.

47. Over 6,000 bodies found in Burundi's mass graves. (2020, February 15). Reuters. <https://www.reuters.com/article/us-burundi-graves-idUSKBN2090GP>

5.3

TAIWANESE TRANSITIONAL JUSTICE COMMISSION SETS UP ONLINE DATABASE OF PAST ATROCITIES

On 25 February 2020, the eve of the 73rd anniversary of the country's biggest uprising against corruption Taiwan's Transitional Justice Commission (TJC) launched a searchable online database of curated court files of nearly 10,000 victims of political persecution during the country's martial law period which lasted from 1949 to 1987. The database also contains the names of the military officers involved in the court trials of the victims. According to the TJC, the database contains more than 1,000 photographs and the court records of roughly 9,800 people convicted on political charges during Taiwan's period of martial law, also known as the White Terror era. The spokesperson of the TJC Yeh Hung-ling said that the database provided answers to the basic questions of who the victims were, who the perpetrators responsible for the atrocities were, and why the violations happened.

In practical terms, the data will give the public easier access to the court files, which previously could only be obtained by applying to the National Archives Administration. The TJC carried out the important work of curating a large volume of thick court files and presenting the key facts of each case and the names of the persons involved, in a bid to clarify the historical record. This is an important step in promoting truth-seeking and truth-telling about the violence that Taiwan has experienced taking into and the creation of a database is particularly important in the current digital age. The initiative by the TJC is something that can be emulated by Zimbabwe to preserve a national memory of the past.

5.4

RWANDAN GENOCIDE FUNDER ARRESTED

Félicien Kabuga, who used 28 aliases and relied on powerful connections in both Africa and Europe to evade justice, was arrested on 16 May 2020, near Paris, France after evading international police for almost 26 years. Mr. Kabuga was detained in a dawn raid in Asnières-sur-Seine, where he had been living under a false identity. The French public prosecutor's office and the police said Mr. Kabuga had been living under a false identity in a flat with the complicity of his children. After his arrest, the International Criminal Tribunal for Rwanda charged the 84-year-old with genocide and crimes against humanity. He is alleged to have been the main financier of the ethnic Hutu extremists who slaughtered 800,000 people in 1994. The businessman from the Hutu ethnic group also founded and funded the notorious Radio Télévision Libre des Mille Collines, a Rwandan broadcaster that actively encouraged people to search out and kill anyone who was from the Tutsi ethnic group. The arrest of Félicien Kabuga serves as a stark reminder that those responsible for human rights violations can be brought to account, even 26 years after their crimes.



Félicien Kabuga, 16 May 2020, the day of his arrest near Paris.

48. Yang, S. (2020, February 28). Taiwan Transitional Justice Database launched on eve of 228. Taiwan News. <https://www.taiwannews.com.tw/en/news/3882307>

5.5

PROTESTS AND CONVERSATIONS AROUND THE LEGACY OF RACISM SPARKED BY GEORGE FLOYD DEATH

On 25 May 2020, George Floyd, a 46-year-old African American man was killed in Minneapolis, Minnesota, during an arrest for allegedly using a counterfeit bill. Derek Chauvin, a white police officer knelt on Floyd's neck for almost 8 minutes while Floyd was handcuffed and lying face down, begging for his life and repeatedly saying "*I can't breathe*". Two police officers, J. Alexander Kueng and Thomas Lane assisted Chauvin in restraining Floyd, while another officer, Tou Thao, prevented bystanders from interfering with the arrest and intervening. During the final three minutes, Floyd was motionless and had no pulse while Chauvin ignored onlookers' pleas to remove his knee, which he did not do until medics told him to.

The incident resulted in protesters taking to the streets across the United States of America, demanding justice for the murder of Floyd. Subsequently, the "*Black Lives Matter*" movement took a new twist and engulfed the whole of the United States and several other countries in Europe that benefitted from colonialism and still practice racist policies and tendencies. During the riots and peaceful protests that followed the killing of Floyd several monuments and memorials were destroyed or removed, or commitments to remove them were announced. Protesters noted that the monuments stood as symbols of oppression that celebrated the exploits of slave traders, colonialists, leaders of racist movements, and other such ideas. Most of the monuments in question were in the United States, but others were in the United Kingdom, Belgium, New Zealand, India, and South Africa.

For example, in the United Kingdom the statue of Edward Colston, who made a fortune in the 17th century from trading in West African slaves, was torn down and thrown into Bristol Harbor on 7 June 2020 by a group of demonstrators taking part in a worldwide wave of protests. In Belgium, sculptures of King Leopold II were targeted due to his prominent role in the colonisation of the Congo. In New Zealand, a statue of a British military officer was removed, and in India, another was relocated. In South Africa, a statue of the last president of the Orange Free State was taken down.

Conversations about the legacy of colonialism and racism will have to take place in Zimbabwe as the country continues to deal with its past. Zimbabwe still has the statue of Cecil John Rhodes and his grave in Matopos just outside Bulawayo. There are schools named after Queen Elizabeth, Allan Wilson, Prince Edward, and hundreds of roads named after British colonialists who caused havoc in the lives of black people in Zimbabwe.



People holding signs during a protest over the death of George Floyd, in Chicago, Illinois, May 30, 2020.

5.6

SUDAN PROTESTERS MARK ANNIVERSARY OF 2019 MASSACRE

Sudanese pro-democracy protesters who helped bring down former president Omar al-Bashir returned to the streets on 3 June 2020 to mark the first anniversary of a massacre in front of the army headquarters in Khartoum that left more than 100 protesters gunned down. On the day in question, tents belonging to the protesters who had camped at the government buildings were burned and an untold number of bodies were thrown into the Nile. Many of the soldiers filmed themselves as they marched through the sit-in area, beating protesters with canes, and demanding they chant in favour of the military. Within a few hours, there was nothing left of the sit-in that had lasted almost 2 months.

Painting the surrounding walls, streets, and trees, thousands of protesters chanted slogans demanding justice and freedom and full civilian rule for Sudan. The protesters also called for the perpetrators of the mass killing to be held accountable soon. Demonstrators chanted anti-military slogans and said they held the Rapid Support Forces (RSF), a militia headed by the current deputy chairman of the Sovereign Council, Mohamed Hamdan Dagalo, responsible for the deaths.

While at the same protest event, families of the victims hinted they might seek justice at the African Court on Human and Peoples' Rights if they are not satisfied with the results of the investigation. This comes after reports that the immunity law in Sudan's new constitutional charter seeks to protect members of the state from criminal proceedings, including Mohamed Hamdan Dagalo, also known as "Hemeti", the head of the RSF, which is widely accused of being behind the massacre. Other protesters noted that they wanted the Council of Ministers and the Sovereign Council to announce 3 June as an official holiday in the entire country because they would never forget their people and the martyrs.

Addressing the nation on 3 June 2020, the Prime Minister stressed that Sudan needed to break the "devil cycle of political violence". "The transitional government is waiting for the results of the investigation committee to impose justice and the rule of law. We are committed to disclosing the entire details of the crimes committed on 3 June 2019 and that is the only way forward towards reconciliation and peace in our country," said Prime Minister Abdala Hamdok.

49. Amin, M. (2020, June 3). "Justice is still far away": Sudan protesters mark anniversary of 2019 massacre. Middle East Eye. <https://www.middleeasteye.net/news/sudan-justice-far-away-protesters-mark-anniversary-2019-massacre>

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CHAPTER 6

FINDINGS AND RECOMMENDATIONS

6.1

KEY FINDINGS OF THE REPORT

- COVID-19 had a huge impact on the ongoing work by the NPRC and other key stakeholders like NTJWG and limited the reach of transitional justice programs to areas where internet connectivity is good and to people who have smart phones and can afford internet data.
- By the end of 2020 there was at least one vacancy for an NPRC commissioner.
- The NPRC has made strides towards the establishment of a Conflict Early Warning and Early Response (CEWER).
- The NPRC submitted its 2018 and 2019 Annual Reports for presentation to Parliament and subsequent publication, albeit outside the permissible timelines in terms of the Constitution.
- The issue of exhumations and reburial of the victims of Gukurahundi remains a contentious and emotive issue with the GoZ usurping the NPRC's functions and leading engagements on how to address this issue.
- The NPRC continues excluded from government led engagements with civil society and traditional leaders on exhumations and reburials of the remains of the victims of Gukurahundi.
- The government still has not implemented the recommendations of the Motlanthe Commission.

- Institutional reforms continue to be a challenge as manifested by the continued violation of human rights by state security agents.
- There was an increase in incidence of the use of hate speech by national leaders and politicians.
- Ecumenical institutions have broadened transitional justice work under the Churches Convergence on Conflict and Peace platform.
- The GoZ still has not issued a sincere and public apology for the violations perpetrated in the Matabeleland and Midlands provinces during Gukurahundi despite calls for a public apology by survivors, victims and their families.
- The government gazetted the Zimbabwe Independent Complaints Commission Bill in compliance with a court order.

6.2

RECOMMENDATIONS

- The proposed Conflict Early Warning and Early Response (CEWER) of the NPRC should be broad-based, inclusive, and be able to adapt to the ever-changing conflict dynamic that includes new security threats and the use of increasingly sophisticated technologies. The proposed CEWER will need to adapt to stay relevant and address current and ongoing security challenges.
- Exhumations and reburials of victims of Gukurahundi must be conducted with full consultations and unfettered participation of the relatives of the deceased and in accordance with their cultural practices. The consultations must be spearheaded by the NPRC working with key stakeholders and guided by a national policy framework.
- President Mnangagwa and the GoZ must design and deliver an effective apology to the nation for the enduring legacies of human rights abuses. Such an apology must be both victim-centric and gender-sensitive.
- Gender-specific harms must be unambiguously addressed in public apologies to ensure victims are intimately involved in any consultation regarding the nature, extent, and contents of the delivery of apologies for such harms.
- Reforms in the security sector must be prioritised and must include the rebuilding of trust and confidence between security services and citizens through enhancing accountability, oversight, and grievance handling mechanisms as well as ending perceived impunity and partisanship.
- Both official and unofficial transitional justice processes must pay particular attention to the relationship between silences, gender, and agency in communities that endured violent conflict. In truth recovery, there are always contested narratives on victimhood which leads to the construction of hierarchies of truth. These hierarchies are dominated by certain regimes of truth which invariably silences other victims especially women. In any transitional justice, process efforts must therefore be made to not only listening to those who “speak” but also go to great lengths to uncover those who choose to remain silent.
- The government must develop a national policy on memorialisation that includes building national memorial sites and preserving those that are already in existence.
- Transitional justice interventions within communities must be designed in consultation with affected communities. It may be imperative to ensure that early confidence-building measures must be initiated when the situation is ripe and that communities concur that the methodologies used resonate with their local capacities and needs.
- Community dialogues hosted by the NTJWG must be informed by evidence to enhance their ability to influence the policy direction for transitional justice and peacebuilding.
- It is further recommended that apologies for victims of Gukurahundi be both backward- and forward-looking, acknowledging the legacy of the past violations but also signalling the desired future.

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CHAPTER 7

CONCLUSION

The year 2020 came with unforeseen challenges that affected the world as a whole and Zimbabwe was not spared. The emergence of the COVID-19 pandemic ushered in unprecedented health, social, and economic challenges and in the case of Zimbabwe, it brought to the fore existing inequalities, injustices, repression, corruption, and other problems that have often caused conflict and violence.

AS THE PANDEMIC UNFOLDED,
Zimbabwe went on national lockdown as
did many other countries and had resultantly
had to adopt new and mostly virtual
ways of doing things.

The issue of exhumations remained an issue of concern for transitional justice stakeholders in 2020. As in 2019, President Mnangagwa continued to have a keen interest in exhumations which resulted in him meeting with a minority of transitional justice stakeholders in Matabeleland. While this emotive issue must be addressed to ensure national healing, peace, and reconciliation the leading role assumed by the President in facilitating the discussion of this issue is concerning. It is undeniable that the GoZ and other stakeholders such as traditional leaders and civil society have a pivotal role to play in the exhumations process and that this role should not be negated by the existence of the NPRC. However, the Constitution gives the NPRC the primary mandate to facilitate peace and reconciliation. Carrying out exhumations and reburials is part of the NPRC's mandate and any role that may be assigned to any stakeholders in respect of exhumations must be one that is aimed at providing the necessary support to the NPRC to enable it to effectively lead the process.

Therefore, the current leadership role that the GoZ has taken with regards to exhumations and reburials of the remains of the victims of Gukurahundi is tantamount to usurping the power of the NPRC. To remedy the situation, the GoZ must halt all its consultations on exhumations and reburials of the remains victims of human rights violations. The GoZ must engage the NPRC and provide it with the necessary support to enable it to carry out these consultations and formulate the necessary policy which will inform its interventions moving forward. Exhumations and reburials of the remains victims of human rights violations must be done within the confines of a clear policy framework to ensure that justice is served, the evidence is gathered for holding perpetrators accountable, and to enable the families of victims and the survivors get closure. It is therefore incumbent on the GoZ to show its sincerity in

addressing this issue by ensuring that this issue is dealt with correctly and that the process is led by the NPRC as provided for by the Constitution.

The United Nations Security Council's first open debate on transitional justice which was held in February 2020 presents a great opportunity for transitional justice across the globe. The attendance at the event is indicative of a growing interest in and understanding of transitional justice within the international community. Zimbabwean transitional justice stakeholders must seize this opportunity to identify areas of collaboration with international transitional justice stakeholders and experience sharing and learning opportunities to enrich their transitional justice initiatives as they pursue justice for survivors, victims, and families of victims of past human rights violations.

Before the emergence of the COVID-19 pandemic, the NTJWG engaged with survivors through community dialogues and discussed the mandate of the NPRC. During these discussions, most survivors have indicated that they have little or no knowledge at all about the existence of the NPRC and raised concern over the NPRC's lack of visibility in their communities. This situation did not improve in the face of COVID-19 but worsened as the day-to-day work of the NPRC was disrupted. For most of 2020, the NPRC was unable to carry out its field programming as such its engagement with survivors has been limited. The COVID-19 pandemic made the operating context very unpredictable and there is a need for the NPRC to adopt strategies to enable it to be more visible despite the existing contextual challenges. Furthermore, the NPRC must make efforts to increase its visibility even after the pandemic has ended. As the independent commission mandated to facilitate post-conflict justice, healing and reconciliation it is incumbent on the NPRC to be visible in survivor communities and to lead the discourse on dealing with the past in the country.

One of the major transitional justice gains for Zimbabwe in 2020 is the gazetting of the Independent Complaints Commission Bill although it was gazetted in compliance with a court order. The Bill will set up a commission with sufficient powers to investigate human rights violations by members of the security forces which are too prevalent in Zimbabwe. While the Bill does have its flaws, it is a good starting point, and it is now incumbent on transitional justice stakeholders to intensify their lobby and advocacy initiatives around this Bill to ensure that it adequately addresses all their concerns. Although it is important to ensure that the Bill adequately empowers the Commission to deliver on its mandate, the success of the Commission will also depend on the integrity and qualities of its members and staff. The existence of the commission envisaged by the Bill may deter members of the security services from committing human rights violations and this will go a long way in ensuring non-recurrence of human rights violations.

As Zimbabwe continues to grapple with the realities of the past which are synonymous with conflict, repression, and human rights violations in the hope for a society in which sustainable peace, justice, respect for human rights and democracy are the order of the day, patience and dedicated effort must lead the way. As is evident in this report, the journey to national healing, peace, and reconciliation is filled with setbacks and achievements. Looking back on 2020 and recalling all that happened, sustained effort and working together are key to ensuring justice for survivors, victims, and families of victims of past human rights violations and non-recurrence of human rights violations. The NTJWG, therefore, urges all Zimbabweans to make their contribution to transitional justice and say “Never Again” to human rights violations.

THE EMERGENCE OF THE COVID-19

pandemic ushered in unprecedented health, social, and economic challenges.



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