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EDITION 4 MAY 2018

## NPRC HOLDS NATIONAL CONVERGENCE

Find out what went well ...  
... and what went wrong!

**FULL CRITIQUE INSIDE**



**NPRC FINDINGS SILENT ON  
MURAMBATSVINA AND GENDER**



**CIVIL SOCIETY SLAMS  
GOVERNMENT FOR STARVING  
THE NPRC**



**NPRC ACT:  
THE UNFINISHED BUSINESS**



NATIONAL  
TRANSITIONAL JUSTICE  
WORKING GROUP  
ZIMBABWE

# NPRCWATCH

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Published by  
The National Transitional Justice Working Group, Zimbabwe  
Suite 4, Number 1 Raleigh Street  
P. O. Box. 9077, Harare, Zimbabwe

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ISBN

E-Edition: 978-0-7974-9372-8

Print Edition: 978-0-7974-9371-1

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# WELCOME

## Introduction

Welcome to the 4th Issue of the NPRC Watch.

A lot has happened since the last issue of the NPRC Watch. The long awaited NPRC is now in operation. The Commission has started. Consultation meetings have been held around the country. A National Convergence and Validation Conference has been held in Harare.

And we have been on track, every step of the way.

From all these developments, there is a strong theme that comes to the fore: participation. That is the theme that we pursue in this issue as we evaluate the process' compliance with the basic principles of public participation. You will remember that this was a big issue with the public hearings held by Parliament. When is public participation authentic, and when is it just a fraud? We share in this issue some insights.



1

How is the process going so far?



2

Now we have the Act, What's next?



3

What gaps exist in the NPRC Act and what can we do about it?

As has become customary, we now invite you in this issue to a conversation where we want to seek answers to five questions.

The following are the questions we seek to tackle in this issue; How is the process going so far? We give you our blow to blow update starting off from where we left. Now we have the Act, What's Next? We here share with you in our Briefing Reports the issues raised by stakeholders at the NPRC What's Next Conference held on 7 February 2018. What gaps exist in the NPRC Act and what can we do about it? We analyse the NPRC Act and share some observations. What is the NPRC's state of preparedness? We identify four pillars that define the NPRC's state of preparedness for the task ahead. And finally, we talk about the NPRC's National Convergence – what went wrong, what went well?

We encourage you to continue the conversation with us online. Feel free to write to us and follow us on social network. Details are at the back of this publication. Tell us your thoughts on [info@ntjwg.org.zw](mailto:info@ntjwg.org.zw)



4

**What is the NPRC's state of preparedness?**



5

**NPRC's National Convergence - what went wrong, what went well?**



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**Join the conversation on [www.ntjwg.org.zw](http://www.ntjwg.org.zw)**



## Zimbabwe's Legacy of Unspoken Truths On the International Day of Truth

*"There is no way of dealing with the past without telling the truth." Commissioner Chekenyere, NTJWG-NPRC Briefing, 15 March, 2018.*

The National Transitional Justice Working Group (NTJWG) joins the rest of the world in commemorating the International Day for the Right to the Truth concerning gross human rights violations and the dignity of victims.

On 21 December, 2010, the United Nations General Assembly proclaimed 24 March as the *International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims*. This is a tribute to the legacy and memory of Archbishop Oscar Romero who was assassinated on March 24, 1980. Archbishop Romero was assassinated for speaking out against the increasingly savage nature of government repression of marginalized peasants in El Salvador and called upon the state to end the violence against the voiceless and vulnerable in the society. The day has also been set aside to honour the memory of victims of gross and systematic human rights violations and promote the importance of the right to truth and justice and to pay tribute to those who have devoted their lives to and lost their lives in, their struggle to promote and protect human rights for all.

The Day of Truth comes at a time when Zimbabwe has just enacted the National Peace and Reconciliation Commission (NPRC) Act operationalising the NPRC. Among the 10 functions of the NPRC listed in section 252 of the Constitution of Zimbabwe, subsection (c) mandates the NPRC

*"to bring about national reconciliation by encouraging people to tell the truth about the past and facilitating the making of amends and the provision of justice."*

This function captures comprehensively the truth-seeking mandate of the NPRC, which inevitably goes hand-in-glove with justice, reparations and rehabilitation of survivors. These are the ingredients of an authentic reconciliation process.

The NTJWG welcomes the national peace and reconciliation process with great hope and seeks to engage the various actors with the desire to make Zimbabwe's reconciliation journey a success. On the occasion of the *International Day for the Right to the Truth*, NTJWG acknowledges that Zimbabwe is haunted by a legacy of unspoken and unacknowledged truths



**NATIONAL  
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of past gross violation of human rights. These are questions of violations committed during the liberation war, atrocities committed by the state during Gukurahundi, the truth about Operation *Murambatsvina*, politically motivated assassinations and abductions – the list is endless. Unless we search and unpack these unacknowledged truths, our reconciliation process is a fallacy.

NTJWG acknowledges the frustrations with past processes and even some aspects of the current process. It is however our firm belief that the only way forward is to insist on dialogue – to engage the process, no matter how imperfect. We further take this opportunity to reiterate the call by the people of Zimbabwe at the NPRC 'Whats Next Conference' convened on 07 February, 2018, for the Government of Zimbabwe to show its sincerity with the current process by releasing the reports of past commissions including the *Dumbutshena Commission* and the *Chihambakwe Commission*. The victims and survivors of atrocities of the past and their families as well as the nation at large have the right to know the contents of those reports. Truth-telling is an important step towards healing.

We encourage the people of Zimbabwe to commit to the search for truth as part of the drive for reconciliation. We do this in honour of those who have fought this struggle without giving up like Itai Dzamara, Paul Chizuze, among others whose fate remains unknown. Their families and society as a whole, have the inalienable right to know the truth regarding their disappearance. In particular, victims have the right to know the identity of the perpetrators, the causes and facts of such violations and the circumstances under which these violations were committed. This is what this day is about and this is what our reconciliation process must be about.

***Zimbabwe's Legacy of  
Unspoken Truths On  
the International  
Day of Truth***



**On 03 October 2017**

The National Peace and Reconciliation Bill was passed in Parliament and adopted as an Act. The Senate dealt with all stages of this Bill without making any amendments.

**On 05 January 2018**

The Government of Zimbabwe gazetted the NPRC Act fully operationalising the National Peace and Reconciliation Commission.

**On 17 February 2018**

The NPRC released a Press Statement notifying the public that it will commencing its nationwide Consultative meetings.

**On 19 February 2018**

The NPRC embarked on the nationwide Consultative meetings which ended on 03 March, 2018.

**On 01 March 2018**

Justice S.M. Nare was appointed and sworn in as the Chairperson of the NPRC.

**On 15 March 2018**

The NPRC had a meeting with the NTJWG wherein the latter also briefed the Commission.

**On 09 May 2018**

NPRC Convenes the National Convergence and Validation Conference in Harare.

**14 - 17 May 2018**

NPRC holds its strategic retreat

**NPRC TIMELINE**



# 02

## PROGRESS UPDATE

- NPRC Law is Enacted
- Press Conference
- The NPRC Consultative Meetings
- Issues raised by the People during the NPRC Consultative Meetings
- Appointment of the NPRC Chairperson
- The Next Step
- Gaps in the NPRC Act

# THE PROCESS SO FAR

## The National Peace and Reconciliation Commission Law is Enacted

On Tuesday 03 October, 2017 the Senate dealt with all stages of the National Peace and Reconciliation Commission Bill without making any amendments. On 11 October, 2017 it was announced that the Bill had passed Parliament. The Bill was approved by both houses and the Bill was sent to the President for his assent and subsequent publication as an Act in the Government Gazette. It was finally gazetted on 5 January 2018. This Bill was the successor to the National Peace and Reconciliation Bill H.B 13, 2015 which was gazetted on 18 December, 2015 but withdrawn from Parliament in May, 2016 due to the negative reviews by stakeholders, the public as well as the Parliamentary Legal Committee.

## The NPRC holds a Press conference on the mandate of the Commission and National consultative meetings

In its first press conference, the NPRC introduced itself to the nation on 09 January, 2018 and informed the public about its plan to roll-out provincial consultative meetings around the country. The National Peace and Reconciliation Commission, which was made operational by the recently gazetted NPRC Act, affirmed its commitment to promote justice, reconciliation and healing as it commences its work. Of all the 5 independent Commissions established under Chapter 12 of the Constitution, the NPRC was the only one which did not have an enabling legislation causing anxiety among stakeholders.



*Commissioner Chigwedere stressing a point during the NPRC Press Conference in Harare*

“The ultimate role of the NPRC is to facilitate the process of healing and reconciliation, post-conflict justice, prevention of conflicts and disputes arising in future and promotion of sustainable peace,” said Commissioner Chigwedere, Deputy Chairperson of the Commission. She noted that the Commission had not been functioning in the public sphere as it was waiting for the enabling law, which is the NPRC Act.

Commissioner Chigwedere sought support from Zimbabweans by saying, “We implore the whole nation to journey with us on this noble cause. Once again allow me to reiterate that this process is a journey that will call for collective effort and commitment. It will require our patience and unwavering support... Everyone is an actor with the goal of achieving peace and reconciliation for our country.”

In the spirit of inclusivity and the desire to ensure ownership of NPRC processes, the Commission announced that it would first convene consultative meetings with citizens and key stakeholders in all the 10 Provinces to gather views on priorities to inform the NPRC's strategic envisioning process.

The meetings were scheduled to start on 9 February 2018. However, the meetings were delayed by an urgent interdict/court application by the Zimbabwe Human Rights NGO Forum preventing the Commission from carrying-out its work without the appointment of the Chairperson. The consultations were rescheduled when the challenge was dismissed by the High Court. The meetings started on 19 February, 2018 in Gwanda and Bindura. The purpose of these

Consultative meetings was not clearly communicated in advance; hence participants attended the meetings with different expectations, demands and objectives.

## The NPRC Consultative Meetings

From the 19th of February 2018 to the 3rd of March, 2018, the NPRC travelled across the 10 Provinces of Zimbabwe to convene the much anticipated consultative meetings on national peace and reconciliation.

The consultative meetings' purpose was to gather views on priorities to inform the NPRC's strategic envisioning process. Pressure groups, Faith Based Organisations (FBOs) and Civil Society Organisations (CSOs) were represented in the meetings. All in all, 10 meetings were done, but not without challenges.

In Gwanda, Bulawayo, Gweru and Lupane all the meetings were adjourned due to disruptions by *iMthwakazi* and *iBhetsulikazulu* pressure groups which protested the composition of Commission. These are the regions where Gukurahundi occurred and this is where the Ndebele people are highly concentrated.

In Marondera, the meeting descended into chaos after Minister of State addressed people and performed a ZANU-PF slogan which incensed participants. Participants who spoke to NPRC Watch said they were unhappy that members of the executive were allowed to address the NPRC meetings.

## Issues raised by the people during the NPRC Consultative Meetings



Participants during an NPRC Consultative Meeting in Bulawayo.  
Picture courtesy of the ZBC News-Online

- Pressure groups such as *Mthwakazi* and *iBhetshulikazulu* questioned the tribal composition of the Commissioners which they said was not in the interest of the region and is not reflective of the national outlook. In the Matebeleland regions, it was noted that the Commission did not reflect the diversity of the country. However, in the Shona speaking regions, it was commendable that the Commission spoke the language of the communities;
- In the Midlands areas, participants from rural areas felt marginalisation as they could not attend the meetings because of the long distance between the venue and the areas where they stay;
- In Mashonaland Central and East, stakeholders complained that Members of Parliament (MPs) and members of the Executive ended up addressing the meeting, an issue that goes to the heart of the independence of the Commission. In Mashonaland East, it was reported that 'violence' erupted. Honourable Minister of State for Mashonaland East David Musabayana allegedly told the meeting... "We are all ZANU-PF members and we feed from the same breast which is ZANU-PF." In Bindura, Mashonaland Central, Hon. M. Bimha in Bindura politicised the meetings in his address.
- It was reported that in other areas, some political parties boycotted the meetings and branded the Commission to be a tool of another political party;
- It was commendable that the media was allowed into the meetings and regrettable that there was no subsequent coverage by the media;

- It was reported that officers from ZRP's PISI usually suspected by victims to be CIO members were taking pictures at meetings and this caused a lot of discomfort;
- At the meetings that turned ugly, participants reported that the Commissioners seemed to have little control of the proceedings and politicians seemed to have free reign;
- In Gweru, it was reported that after the NPRC meeting, ZANU-PF activists approached some of the participants and harassed them for participating in the meeting. We have one case of a person who attended the meeting at Chaplin High School who has since fled to Harare;
- In Midlands, victim groups complained that from the rural areas, only Chiefs and ZANU-PF leaders attended the meeting because they could afford;
- In Matebeleland regions, it was noted that there was poor turn-out of women and youths and
- Participants called for an international organisation or the Church to deal with disturbances of the past due to the lack of trust and confidence in the NPRC.

***In the spirit of inclusivity and the desire to ensure ownership of NPRC processes, the Commission announced that it would first convene consultative meetings with citizens and key stakeholders in all the 10 Provinces to gather views on priorities to inform the NPRC's strategic envisioning process.***

## Appointment of the NPRC Chairperson

On 01 March, 2018 Justice S.M Nare was appointed by President Emmerson Mnangagwa. The appointment fulfils the requirements of the Constitution and to fullness the complement of the Commission.



*Justice S.M Nare*

## The Next Steps

The next steps now are for the NPRC to finalise its regulations and establish the Secretariat. Somewhere in this issue we feature feedback from the NPRC on the next steps.

# Gaps in the NPRC Act

**1**

**Lack of victim centredness**

**2**

**Excessive interference by the executive**

**3**

**Silence on information access and archival**

**4**

**Questions on the granting of amnesty**

# 03

## THE NPRC NATIONAL CONVERGENCE

- What went wrong ..., what went well ...
- A convergence that never was
- Validating a Missing Report
- The Missing Truth
- Stakeholders taking the government to task
- What Some Delegates Said About the National Convergence and Validation Conference
- Can our NPRC Process Learn Something from International Standards?



# THE NPRC NATIONAL CONVERGENCE

## *What went wrong...*

## *...what went well*

The phrase 'national convergence' is not new to Zimbabweans.

Decades of suffering caused many to wonder, 'How do we get ourselves out of this mess?' After years of contested electoral outcomes, hope in the current crop of political leadership in both ruling party and opposition started to diminish. Talk started, 'Who can bring us together again.'

It was around this time that the Church was inundated with calls to save the fast dying nation by creating a point of national convergence where all can come together and find a solution to restore the nation. In 2015, the National Convergence Platform (NCP) led by Anglican Bishop Bakare emerged touted by many as the answer to the people's yearning for national renewal. Owing to the same problems of polarisation in our society, the NCP dies a natural death, even before its formal birth.

In January 2018, at its first public meeting, the NPRC announced that it would hold public meetings, to be followed by a national convergence. This sounded familiar and indeed it whetted the people's appetite for a real convergence. The convergence of the people of Zimbabwe from all walks of life. Behold, 9 May 2018, at the Rainbow Towers, the NPRC held what it called the National Convergence and

Validation Conference. The much talked about 'national convergence' hardly brought the nation to a stand still. Attended mainly by selected civil society actors from Harare, the half day meeting lacked any resemblance of a national event.

We share with you some of our observations which makes us question the national character of the meeting.

### **A convergence that never was**

By calling this meeting a 'national convergence', the NPRC whetted the people's appetite for a real national convergence, bringing in people from all walks of life to tackle the critical issues that have bedevilled our nation. As days passed on, it began to look like no convergence was going to happen. All of a sudden, the Commission started sending out invitations to selected persons and organisations. The event was to take place in less than 5 days and it was not clear what criterion had been used to choose who was to attend. From that point, it became clear that this was going to be another elite gathering that excludes the people who matter – the survivors of our ugly past. And indeed, it became – just another conference, not a convergence.

## Validating a Missing Report

After the 'convergence' many stakeholders could not believe what had happened. The commission had gathered together very important people from government, the United Nations, independent commissions and civil society leaders. Other delegates had been flown in from Bulawayo. Renowned clergyman Dr. Shana facilitated the meeting. Good food was served. The purpose of all this investment was to accord stakeholders an opportunity to validate a report of the findings of the NPRC's consultative meeting. And the report was not there. But people were asked to validate it. Something was clearly missing – yes – the report was missing. In other places, people call this a fraud – and the NPRC just got away with one.

## The Missing Truth

Despite the missing report which stakeholders were called to validate, the NPRC presented some findings on key epochs of conflict. When stakeholders took time to reflect, they noted a number of issues that were missing. Among them... you won't be able to guess this... Operation Murambatsvina! Yes, 700 000 people displaced by the operation and 1,2million affected. Also missing was the issue of gender. The findings said nothing about gender. Just two among many of the missing truths from the NPRC's findings. Stakeholders recommended that this be corrected.

## What about other provinces

We were not privileged with knowledge of who were all the people

present. But it was clear that some, infact, many of us were missing from the meeting. An outspoken gender activist said she had pleaded with the commission to come and hold a similar meeting in her province.

## Not all so bad

But not everything was a thumps down. The proceedings of the convergence were well organised. The facilitation by Dr. Shana and Ms. Kambarami was world class, with a touch of humour. Presentations by the NPRC Commissioners were top drawer, showcasing the level of depth of the knowledge issues, way ahead of some of the commissioners who treat stakeholders as enemies of the process. Not to be taken for granted, UNDP put together a great team that facilitated the group discussions allowing stakeholders to dissect the report which was there just as if it was there. As stakeholder presented, it indeed became another consultation and new findings were made.

## Stakeholders taking the government to task

Heal Zimbabwe director took the government to task for starving the NPRC of resources. Presenting the findings of his group, Mr. Mahiya noted that it was difficult for the NPRC to achieve its goals without money, without offices, without secretariat. He begged the government to walk the talk and capacitate the NPRC to carry out this important work. Permanent Secretary in the Office of Vice President Kembo Mohadi had earlier on addressed the gathering where he emphasised government

commitment to national healing. He said the establishment of VP Mohadi's portfolio together with the appointment of accomplished peace builder Professor Clever Nyathi as the Special Advisor to the President on National Healing was evidence of the government's sincerity.

### **All in all...**

All in all, the conference provided a platform for the peace building community to fellowship again. Despite the challenges experienced, it does look like there is sincerity on behalf of the NPRC and doubts still remain on regarding government's willingness to provide adequate support. Some where in this report we talk about the commission's state of preparedness which in any case is directly linked to resources.



*Delegates attending the NPRC What's Next Conference called for the NPRC to investigate Operation Restore Legacy. There were reports of human rights violations during the operation*

# What Some Delegates Said About the National Convergence and Validation Conference

Rev Dr Kenneth Mutata from the Zimbabwe Council of Churches, declared the validation meeting a success.

"The validation has been a huge success because in the beginning there was a lot of suspicion around the NPRC as regards its legitimacy, independence, objectives and whether it had the right people not tainted by political issues.

"But now people have a feeling that the NPRC is in the right direction. And as the ZCC we feel the NPRC is inclusive, we have submitted to them the "Principles for Analysis of Gukurahundi" and now we are working on a document on the problem that the NPRC is trying to address," said Dr Rev Mutata.

Dr Lamiel Phiri, who is the Chairperson of the Zimbabwe National Council for the Welfare of Children (ZNCWC) said that the validation meeting was a breakthrough for national healing in Zimbabwe.

"The validation conference is a breakthrough, the nation had been waiting for a long time to see what would come of the outreach meetings.

"But today the NPRC was able to attract many key stakeholders, and their report captured the major areas of conflict," said Dr Phiri.

He however expressed concern over the omission of children's issues by the NPRC. "There is nothing specifically for children. Most of the time children's issues are bunched together with women's and youth rights. You talk of the liberation struggle as a source of conflict. Because a parent died during the war, that means there is no death certificate. This spawns generations of children without identity documents, stateless children who cannot be formally employed, who cannot open bank accounts or acquire drivers' licences," said Dr Phiri.

Bekezela Maduma Fuzwayo, who is secretary-general of the Gwanda Residents Association said that the NPRC's recording of people's genuine views was important for confidence-building.

"It's important that it has been held, otherwise the NPRC would have proceeded unchecked without validation of contributions made by people during the provincial consultative meetings.

"This gives people confidence, that you say something and it is captured, and going forward, people will be more willing to participate," said Fuzwayo.

NPRC now needs to be on the ground, in the communities, holding hearings under trees. We need to start with truth telling so that we all understand what happened," said Fuzwayo.

Musah Zondo from the Evangelical Lutheran Church of Zimbabwe (ELCZ) expressed mixed feelings.

"The NPRC has given people hope of national healing, but I feel the voice of the church is excluded," she said.

## INCLUSIVITY & PARTICIPATION

“ INCLUSIVITY AND PARTICIPATION MUST NOT BE A TOKEN BUT A MAJOR PRIORITY, ALLOWING NPRC ENGAGEMENTS TO TAKE A GENUINELY NATIONAL CHARACTER”



NATIONAL  
TRANSITIONAL JUSTICE  
WORKING GROUP  
ZIMBABWE

*Minimum Standards for an  
Effective National Peace and  
Reconciliation Commission in  
Zimbabwe*

# Can our NPRC Process learn something from International Standards?

## United Nations On Participation

### On Consultations

“National consultations are a critical element of the human rights-based approach to transitional justice, founded on the principle that successful transitional justice programmes necessitate meaningful public participation, including the different voices of men and women. Public participation reveals the needs of communities affected by conflict or repressive rule, allowing States to craft an appropriate context-specific transitional justice programme. Moreover, the consultative process helps victims and other members of civil society to develop local ownership of the resulting programme. Although national consultations can shape the design of an overarching transitional justice strategy, they can also take place within the context of a specific mechanism, such as during the planning stages of a truth commission or reparations programme.”

*GUIDANCE NOTE OF THE SECRETARY-GENERAL,  
United Nations Approach to Transitional Justice, 2010*

### Participation of Victims

“Special attention to key victim populations Where specific populations have been particularly affected by the violence, and especially where this violence is thought to be under reported or misunderstood, it is useful to direct the commission to pay particular attention to these victims or types of abuses. For example, some commissions have been directed to give special attention to abuses against women and children, or to victims of sexual abuse. The commission may need to establish special procedures for such populations, such as assuring children a greater degree of confidentiality - be they children who were victims or perpetrators of abuse - or setting up specific procedures for survivors of sexual abuse to take part in hearings. It is best for the terms of reference to guide the commission to give special attention to these or other special populations, but to let the commission itself take the specific operational decisions.”

*RULE-OF-LAW TOOLS FOR POST-CONFLICT STATES  
Truth commissions*

# 04

## VIEWS FROM NTJWG

- The National Convergence and Validation Conference
- Non-Availability of the Report Compromised Public Participation
- The Missing Issues in the Presentation
- General Recommendations
- Conclusion

# STATEMENT AT THE CONCLUSION OF THE NPRC'S NATIONAL CONVERGENCE

## The National Convergence and Validation Conference

On 9 May 2018, the National Peace and Reconciliation Commission (NPRC) convened a *National Convergence and Validation Conference* at the Rainbow Towers in Harare under the theme, 'Promoting Citizen Participation in Peace Processes.'

The objectives of the conference were; to provide space for validation of findings of the provisional consultation; to facilitate a tighter, well defined peace and reconciliation agenda that is strategic and consistent with the context; and to facilitate the national legitimization, consensus and validation to the process and agenda of the NPRC.

The conference was attended by stakeholders from a cross section of the Zimbabwean society. These included government officials from the office of the Vice President Kembo Mohadi, Parliamentarians from relevant portfolio committees, commissioners from other independent commissions, church leaders, civil society leaders and other interest groups representatives.

It is our view that the conference was largely a success. We wish to congratulate the NPRC for pulling off this milestone against a myriad of challenges which we know they are

facing and which stakeholders alluded to during the conference.

In this statement, we note a few issues of concern noted by stakeholders which we believe the NPRC needs to be alert to as the process moves ahead.

## Non-Availability of the Report Compromised Public Participation

The National Convergence and Validation Conference was the third encounter of the NPRC with the public since its operationalisation in January 2018. These encounters speak to the issues of inclusiveness, public information and participation in the process which we have raised in our Minimum Standards for an Effective NPRC (2014). In Standard 5, we have stated that the NPRC must strive to promote an inclusive national truth-seeking and healing process with greater public participation and transparency. "Inclusivity and participation must not be a token but a major priority allowing the NPRC engagements to take a genuinely national character." (NTJWG, 2014).

NTJWG states in the same Standard that meaningful and effective participation requires that information be made available in time and in the form accessible and understandable by stakeholders. This helps to ensure



participation is not meant to be simply a token but is designed to influence the process.

We note that the information regarding the conference was not made available in time to stakeholders hence limiting participation of many who may otherwise have desired to be part of the process. Stakeholders from outside Harare were greatly disadvantaged and this compromises the national character of the conference. Even as the conference kicked off, the report of the findings that the participants were asked to validate was not made available. This compromised the substance of participation as stakeholders had to be content with bullet points of summaries that were projected during the conference. Many stakeholders attend such proceedings in representative capacity. As such it is critical that such an important report ought to have been made available ahead of the conference to allow stakeholders to consult with their constituencies, analyse the findings and make a determination. The idea that the report which the stakeholders were asked to validate was never shared with stakeholders even at the conference makes such a validation process a matter of ticking the boxes.

### **Proposed Remedy**

To remedy this matter, we invite the NPRC to urgently release the report and call for further input based on the actual contents of the report, not speculation of what the report may otherwise contain.

### **The Missing Issues in the Presentation**

NTJWG carefully followed the public

consultation process and noted the issues raised by stakeholders. Some of the issues were omitted from the findings presented by the NPRC at the conference. The critical aspects that were missing include issues of violations committed during the liberation war, the 2005 Operation Murambatsvina, displacements of over 1,2 million people in farming communities between 2000 and 2007, the 2000 and 2002 electoral violence, violations in the Chiadzwa area, displacements at Tokwe Mukosi, displacements around the Kariba Dam among others. These are issues that the findings cannot afford to ignore, even in summary. The findings cannot afford to be silent on gender as the NPRC Act obliges the NPRC to have a specific focus on that area and a specific chapter in any report that follows.

### **Proposed Remedy**

The NPRC has to include these, and many other issues omitted in its findings. It is our hope that when the full report is produced, it will also be produced together with the record of proceedings to allow stakeholders to track the issues from the public meetings and have an appreciation of what informed the findings.

### **General Recommendations**

- NTJWG acknowledges that the shortcomings of this process could have been prevented if the NPRC was adequately resourced. We now urge the government to live up to its commitment and constitutional obligations and provide the NPRC with adequate resources to enable the NPRC to carry out its work.
- The integrity of the peace and reconciliation process rests heavily on the integrity of the information

management process. The information that the NPRC collects is very vital for it to reach to certain findings. Without a robust information management infrastructure, the NPRC will be severely incapacitated in how it communicates with its stakeholders. This touches both on the integrity and adequacy of the information that is used to reach certain conclusions, as well as the infrastructure for communicating with stakeholders about processes and findings. NTJWG notes that it is possible that the shortfalls noted in this statement, may as well be remedied through an investment in a functional information management infrastructure.

## Conclusion

We do not believe that the shortcomings noted here are fatal so as to stop the process, but they are still very important and must be remedied in order to rescue the integrity of the process. The remedies proposed here are reasonable enough to provide what is lacking in the process. NTJWG, working with over 96 stakeholder organisations, remains committed to this process and believes that with adequate commitment, the process will be successful.

### ***The objectives of the conference were;***

***to provide space for validation of findings of the provisional consultation;***

***to facilitate a tighter, well defined peace and reconciliation agenda that is strategic and consistent with the context;***

***and to facilitate the national legitimization, consensus and validation to the process and agenda of the NPRC.***

## INCLUSIVITY & PARTICIPATION

“THE NPRC MUST ENSURE THAT EXPEDIENCY DOES NOT COME AT THE EXPENSE OF MEANINGFUL PARTICIPATION OF ALL INTERESTED PARTIES.”



NATIONAL  
TRANSITIONAL JUSTICE  
WORKING GROUP  
ZIMBABWE

*Minimum Standards for an  
Effective National Peace and  
Reconciliation Commission in  
Zimbabwe*

# 05

## EXECUTIVE BRIEF

- **About this Brief**
- **Setting the tone for the Healing Agenda in Zimbabwe**
- **The Role of Traditional Leaders in National Healing**
- **Operational Independence of the NPRC**
- **NPRC Chairperson**
- **NPRC Capacity Issues**
- **Dealing with Past Issues**
- **Conclusion**



## ABOUT THIS BRIEFING

### The Issues

From a number of issues raised by stakeholders, the following issues require the attention of the Office of the President as it related to the healing process in Zimbabwe.

### Setting the tone for the Healing Agenda in Zimbabwe

The NTJWG notes the current administration has shown commitment to transitional justice. This is evident in enactment of the NPRC Act, the creation of the Office of the Special Advisor to the President on National Healing and Reconciliation and the continuation of the practice of delegating one of the Vice Presidents to that agenda. The President further made comments in Davos, Switzerland highlighting his commitment to ensuring that the past is addressed. These are commendable.

NTJWG further encourages the Presidency, through these structures to start thinking of a more comprehensive reconciliation policy that is beyond a single commission. This will enable all other departments of the start to design strategies that fit into the national reconciliation agenda.

While many Stakeholders expected the President to address the reconciliation issue at

This briefing was presented to the Special Advisor to the President on National Peace and Reconciliation. The briefing draws from the monitoring work done by NTJWG and the views obtained by NTJWG from Stakeholders who are concerned with the national peace and reconciliation process in Zimbabwe. Of great significance is the Stakeholders' Conference held on 07 February, 2018 where stakeholders deliberated on the process and made a number of recommendations regarding the process.

his inauguration or at his State of the Nation Address, these two addresses did not give any policy direction. The President only made strong pronouncements in Davos after being pressed by foreign media. Reconciliation should not be an attachment to an investment policy but rather, must be a separate issue requiring the full attention of the executive.

It is recommended that the Presidency prepare a Special Address to the nation to highlight the Government's commitment to a comprehensive programme of reconciliation. A plan must be put

in motion to draft a national reconciliation strategy in which all other Government departments must be involved to ensure a holistic approach to reconciliation.

### **The Role of Traditional Leaders in National Healing**

On 16 January 2018, the media reported that Vice-President Kembo Mohadi made remarks that insinuated that the Government would approach traditional leaders to help deal with the *Gukurahundi* issue. It is reported that the Vice-President said that Traditional Leaders would help in spearheading healing. NTJWG Stakeholders do respect traditional leaders and appreciate the role they can play in Zimbabwe. However, at the just ended stakeholders' conference, stakeholders noted that the proper body to lead reconciliation has already been identified in the Constitution and that is the NPRC.

Some Stakeholders noted that some traditional leaders have been implicated in past violations hence they may become subject to investigation. In that regard, the statements by the Vice-President did not sit well with stakeholders. The independence of the NPRC is already in doubt. It is important that the Executive avoids making statements that may seem to suggest that they are now giving direction to the NPRC. The NPRC must be given space to develop its own strategy and execute it without the interference of the Executive.

### **Operational Independence of the NPRC**

Stakeholders have noted with concern matters that may seem to affect the independence of the NPRC. Firstly, it is the matter raised above which relates to Executive statements. Secondly, it is the issue of the continued presence of Executive staff in the activities of the NPRC. At a recent meeting in Bindura on 19 February, 2018, participants who had come to attend an NPRC meeting ended up being addressed by Advocate M. Bimha who is the Minister of State for Mashonaland Central Provinces. Stakeholders raised this issue as part of the Executive's interference which undermines the confidence of the public in the NPRC and its independence.

While the Executive is responsible for administering the NPRC Act, efforts must be put in place to ensure that this Administration is not seen to be interfering with the operational independence of the NPRC.

### **NPRC Chairperson**

NTJWG notes and commends the Executive for the appointment of the NPRC Chair announced on 20 February, 2018. This is a matter that stakeholders had noted and it is a commendable step.



*From left, NTJWG Coordinator D. Bere, NTJWG Chairperson A. Muchadehama and the Special Advisor to the President Prof. Clever Nyathi*

### **NPRC Capacity Issues**

Many of our stakeholders believe that the NPRC is not yet fully capacitated to deal with matters at hand. A major issue raised is the issue of resources. The NPRC currently has no Secretariat, no office and it appears the funds are limited. The Constitution obliges the Government to ensure that the NPRC is funded to perform its tasks. NTJWG encourages the Government to expeditiously ensure that all resources required by the NPRC are made available. While some development agencies are interested in supporting the NPRC, this will not be possible without functional structures. Resource starvation can affect the independence and capacity of the NPRC as the commission has to depend on the benevolence of other actors.

### **Dealing with Past Issues**

The NPRC is one among many not so successful Commissions. The NTJWG notes that for many

stakeholders, the success of the NPRC will depend on the sincerity of the Executive to allow it to work. NTJWG stakeholders have called on the Government to show its sincerity by publishing outstanding reports of past Commissions of Inquiry such as the *Chihambakwe* Commission and acting on the recommendations of other Commissions like the *Chidyausiku* Commission. It is the hope of many stakeholders that this will help in boosting confidence in the NPRC.

## Conclusion

These are some of the issues for the Executive, among a number of other issues. Attached to this briefing is the summary of the conference outcomes which may assist in understanding the issues raised. NTJWG remains committed to ensure the success of Zimbabwe's reconciliation process.

## Response from the Special Advisor to the President Prof. Clever Nyathi

Following the presentation of the concerns above, Prof. Nyathi gave his response and addressed the following points.

- That the President is indeed aware of the public sentiments regarding the process and there are processes ongoing to address the concerns of the public.
- The NPRC has resources currently to enable it to hire its Secretariat and acquire its offices.
- The Commission is currently working on its strategic plan which is a major hold back.
- Key persons will be funded this year to enable the NPRC to do its work.
- The Vice President appreciates that the issue of traditional leaders and appreciates that traditional leader come into the process like any other stakeholders just like churches and other entities.
- A Constitutional body does not work in a vacuum. It leads local knowledge and community wisdom.
- While the NPRC will have its independence guaranteed, operational interdependence is unavoidable. They cannot function without administrative support from the executive or technical support from stakeholders.
- Regulations of the NPRC have been finalised and are now with the VP. There is a lot of work behind closed doors. The government is seized with the task of ensuring that government departments open up to the work of the NPRC.
- We need to guard against the politicisation of this important national process.



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**06**

## **THE NPRC BRIEF**

- **About the Brief**
  - **Congratulatory Message**
  - **Recommendations from the Conference**
  - **The Adequacy of the Legal Framework**
  - **Recommendations with regards the Provincial Reports**
  - **Conclusion**
  - **Responses of The National Peace and Reconciliation Commission (NPRC)**
- 





## ABOUT THIS BRIEFING

### **Congratulatory Message**

Against this background, the NTJWG congratulated the Commission for commencing its work which seeks to promote national healing, reconciliation and integration in the country. The NTJWG also congratulated the Commission on the appointment of Justice S.M Nare as the Chairperson of the Commission. This is a step which stakeholders have called for to ensure that the Commission is adequately capacitated to carry out its work with a full complementation of Commissioners. The NTJWG extended its friendship and noted that it hoped to continue work of supporting the Commission in ensuring that it is effective in dispensing its constitutional mandate.

### **ISSUES PRESENTED**

#### **Recommendations from the Conference:**

From a number of issues raised by Stakeholders, the following recommendations require the attention of the NPRC as it relates to the healing process in Zimbabwe:

- The 'let bygones be bygones' mantra does not reflect a progressive and victim-centred approach to transitional justice and conflict transformation. If any, such statements should not come from government but from the victims

*This briefing was presented to the National Peace and Reconciliation Commission on 15 March, 2018. The briefing draws from the monitoring work done by NTJWG and the views obtained by NTJWG from stakeholders who are concerned with the national peace and reconciliation process in Zimbabwe. Of great significance is the Stakeholders' 'What Next' Conference held on 7 February, 2018 where stakeholders deliberated on the process and made a number of recommendations regarding the process. The Conference further recommended the capacitating of community-based organisations to enable them to monitor the process themselves and give feedback. This is done through a network of Stakeholder organisations with peace monitors across the country. The reports of the monitors have been received and incorporated into this report. Furthermore, NTJWG has been doing media and environmental scanning, taking note of all matter relevant to the Commission. We believe these reports will assist you in improving the programme and delivering on your mandate.*

and survivors. This has been raised with the authors of such statements. The NPRC is encouraged to distance itself from the 'let bygones be bygones' mantra.

- On periodisation, it was noted that the most preferred approach is an approach that does not leave any victims out of the process (leave no one behind). NTJWG notes that the Commission has already made pronouncements on this matter and this is welcome.

- The Stakeholders encouraged greater publicity about the Commission and its mandate. We note that the majority of the people who attended the consultative meetings were unaware of the Commission's mandate leading to some misunderstandings. NTJWG has done some work in this area and remains committed to do more. We however encourage that it is better for the Commission to take a lead role as the Constitutional body in charge of the process.

- The Conference noted with concern the state of preparedness for the Commission before the outreach meetings. There is only one chance to make a good first impression. The Commission is in an attempt to win the confidence of the people. Rushing into processes without adequate preparation can only make things worse. Four points that summarise what would otherwise be areas of concern regarding preparedness.

- **Composition of the Commission:** The Commission needed to be fully composed in a manner that satisfies the demands of section 251 (1) (a). By now we appreciate that this matter has been resolved but not without consequences.

- **Regulations:** The Commission needs to have regulations in place before outreach as the regulations are critical even for laying down the principles for public engagement. They give legal force to the day to day running of the Commission.



- **Secretariat:** Stakeholders really took concern with the realisation that the Commission seemed to be pushed to get into the field without competent Secretariat which is an essential component according to the Minimum Standards. As a result, there seemed to be some make-shift arrangement where other stakeholders would act as Secretariat here and there. This creates legal and logistical challenges, and may worsen the crisis of confidence.

- **Infrastructure:** Stakeholders took note that the Commission does not even have offices and equipment to undertake its work. This is made worse by the fact that there is not transparency about the allocation of finances to the commission by the executive. Some stakeholders approached NTJWG requesting for direction to the offices of the Commission. With all due respect, it was difficult for NTJWG to direct victims to the President's Office to meet the Commission.

- The three outstanding points are critical and need to be addressed to ensure that the Commission is ready for the great task ahead. We know the Commission is not solely responsible for some of these and we have already registered these concerns with the relevant offices.

### The Adequacy of the Legal Framework

- In general, the Conference noted that while there has been some progress in the law, there are many gaps. The NPRC Act must define the transitional justice agenda and explicitly ensure that the process is victim-centred by offering safeguards for the protection and healing of victims. Healing is not only an outcome of the process but part of the process.

- Stakeholders noted they were still unhappy with the law as it is because it still gives the executive a lot of space to interfere with the operational independence of the Commission. We wish to alert you that we will soon commence an advocacy programme to reform some aspects of the Act so that greater independence is given to the Commission.

- Stakeholders noted of the need for a transitional justice policy which goes beyond the NPRC Act and incorporates all Government departments. This will provide an inclusive and far-reaching transitional justice intervention strategy. This is necessary at least to ensure that

your work is supported and that your recommendations are implemented.

### Recommendations with regards the Provincial Reports

From these reports, the following were recommendations presented to the NPRC to address or avoid similar challenges:

**a). Secretariat and Infrastructure are outstanding** - These will resolve most of the issues noted.

**b). The Commission has to take charge** - While support from other actors is important, the NPRC must not be seen to be outsourcing its mandate to these actors. It must be in full control of the process. A competent Secretariat will address the issue of the Commission seemingly outsourcing its mandate. Additionally, Commissioners need to show confidence and be in control of the process. However, use of state apparatus like the police must be avoided as there is a history of the police being perpetrators of violence. Local elders can be a useful resource in maintaining order.

**c). Channels of Communication** - Many people approached NTJWG registering that they were not able to participate in the meetings for security reasons but would want to visit the NPRC and make presentations. It is important that the NPRC opens its lines of communication for such persons.

**d). Political Interference** - The NPRC must make a strong statement against political interference in its work. 'Sloganeering' must not be tolerated and the NPRC must be seen to be independent of political forces bent on disturbing the process. This is not to say that politicians have no access to the Commission, but rather they are equal to everyone.

**e). Distancing the Commission from Government** - The Commission often carries the stigma that they are part of Government. While the Commission is an official process, it must actively distance itself from the Government and assert its impartiality and independence.

**f). Encouraging Participation** - NTJWG Stakeholders have proposed a raft of measures to maximise participation. These are being compiled into the 'Guiding Principles for Public Participation.' We look forward to sharing these with the Commission as we believe these will address some of the challenges being faced.

**g). Support Structures for the NPRC:** The NPRC needs to put in place support structures to assist in enhancing the wellness of Commissioners as a group and as individuals. The Commissioners have the task to carry the unfair burden of the whole country. It is necessary to put in place measure to help the Commissioners. NTJWG Stakeholders are available to convene a reflective session with the trauma healer's actors operating around the country.

### Conclusion

We are truly grateful to have had the opportunity to share this with the Commission. As the NPRC prepares for the national convergence and other processes, we can only wish them the greatest of success and assure them of our support. We are open to dialogue and sharing with the Commission insights that we pick from the process. NTJWG remains committed to ensure the success of Zimbabwe's reconciliation process through consistent engagement with the NPRC.

### RESPONSES OF THE NATIONAL PEACE AND RECONCILIATION COMMISSION (NPRC)

#### General Remarks

The meeting was chaired by the NPRC Chairperson Justice S. M Nare. He was in the company of the Deputy Chairperson Commissioner Lilian Chigwedere, Commissioners Chada, Chekenyere, Ndoro and Ncube. The Commissioners acknowledged the work of the NTJWG during the NPRC's turbulent transition from dormant to an active commission. The main highlight is when NTJWG Chairperson A. Muchadehama participated in a radio interview where the Commission was represented and helped in clarifying some elusive legal issues.



## On Recommendations from the 'What's Next Conference':

- The Commission dissociated itself from the 'let bygones be bygones mantra' and noted that they had communicated that message to the relevant offices and hoped that mantra would not be heard again.
- On periodisation, the Commission emphasised that they will follow the views of the victims. In addition, they had completed a comprehensive conflict mapping exercise stretching as far back as the Mapungubwe era so that the Commission is privy to all the period of violence Zimbabwe has gone through. The Commission buttressed this point by explaining that there are 2 schools of thought which have emerged in terms of how far back institution should go back. First, there are people who think that it is pragmatic that the Commission deal with violence that occurred in post-independent Zimbabwe given the limited time the Commission has before its mandate elapses. The other proposition is that the Commission should go as far back as possible so that no issue is swept under the carpet. The Commission committed to engage the victims so that they determine how far back the Commission should go.
- On publicity, the Commission pointed out that they have drafted a media and communications strategy among other policy documents. As such this was work in progress.

## On the State of Preparedness:

### a). On the Composition

This is water under the bridge. The Commission is now fully composed. The Deputy Chairperson thanked NTJWG for the congratulatory message. The Chairperson thanked the Minister of Religion for their prayers and support as he learns the ropes. However, the Executive Secretary, internal and external committees need to be brought on board also.

### b). Regulations

In terms of the regulations, the Commissioners disclosed that the regulations are ready. They prepared the draft which should be in Parliament any time. The regulations encompass most issues raised by the NTJWG. These address some of the legislative gaps. Beyond the regulations, the

Commission has worked on policies and procedures which are key to the Commission's programmes. The Commission was working on diversity and inclusion, together with the University of Zimbabwe which is assisting with brail material.

### c). Secretariat

In terms of the infrastructure and resources, the Commission was making progress. The Commission gave assurance that they were not going to hire staff from government. With the help of UNDP, they would soon hire the Executive Secretary, followed by other staff.

### d). Infrastructure

Concerning offices, the Commission noted that progress had been made to identify the offices and would soon vacate the temporary office to their new offices in a few days.



## On the Provincial Consultative Meetings:

- The Commissioner went on to clarify that before the Provincial Consultative Meetings, engagements were done. The Commission reached out to Ministers, Traditional Leaders and politicians to commit to the process, but that did not mean they were taking over the process. The Commission said that when Stakeholders see us meeting with different people, they need to appreciate that 'we are trying to unlock something.'
- Commenting on the disruptions, the Commission noted that it is not easy for people to come from a deep seated history of trauma. It will be difficult but it is part of the process.
- The Commission noted that healing is a process. "You don't strike a match and the water boils."

### On Partnership with Stakeholders

- The Commission noted that they value the relationship with Stakeholders as the 10 functions of the NPRC in the Constitution cannot be achieved by only one institution.
- The Commission encouraged stakeholders not only criticise, but to also proffer solutions.
- The Chairperson of the Commission noted that he took with great comfort the prayers and support of Stakeholders.



*“It will be folly for us as a Commission to think that of all the 10 functions, only the 9 of us can do it.”*

*NPRC Deputy Chairperson Commission,  
Lilian Chigwedere addressing NTJWG members  
on 15 March 2018 at the NTJWG - NPRC Briefing*

### Concluding Remarks from NTJWG Members

- NTJWG assured the Commission that there are enormous resources for the Commission to take advantage of amongst the Stakeholders;
- It is important that attention is given to the wellness of the Commissioners as they get ready to carry a heavy burden and
- The Commission assured NTJWG that their doors will always be open and vice-versa.



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**07**

## **ANALYSIS**

- **The NRC Act: Unfinished business**
  - **Can the NRC overcome a Legacy of failure**
- 

# THE NPRC ACT: UNFINISHED BUSINESS

## Introduction

After the NPRC Act was adopted and gazetted as an Act of Parliament, the NTJWG allocated efforts and time to analyse its content. This was done so as to ascertain if the revised NPRC Bill which was introduced back in Parliament in 2017 was different from the current Act. However, this has been seen by many Zimbabweans as a great improvement as compared to the NPRC Bill of 2015.

## Background to the NPRC Act

On 5 January, 2018, the Government of Zimbabwe gazetted the National Peace and Reconciliation Act [10:32] (the Act) to put the National Peace and Reconciliation Commission (NPRC) into operation and related matters. The NPRC is one of the five independent commissions established by Chapter 12 of the Constitution of Zimbabwe. Section 251 specifically established the NPRC with the mandate to ensure post-conflict justice, healing and reconciliation.

## What are the weaknesses of the NPRC Act?

The Act has four critical weaknesses which threaten the effectiveness of the Commission. These are the lack of victim centeredness, interference by the executive in various ways, and the power given to the Commission to recommend granting pardon without

reference involvement of victims and survivors and the international principles on amnesties. Additionally, the Act fails to acknowledge that the Commission is established to deal with Zimbabwe's legacy of violence and assist society to build a more peaceful and just society.

## On Victim Centeredness

Victim centeredness is a principle rooted in international principles but also in Zimbabwe's own constitution. Section 252 of the Constitution lists the functions of the Commission. The Constitution expects the Commission to ensure healing, justice and reconciliation; making of amends, rehabilitation for victims and reception of complaints. At the centre of these clear functions must be the welfare of victims. Although Section 10 (13) of the NPRC Act provides that the Commission shall provide safety and protection of witnesses, no reference is made to victims and survivors. This is probably the weakest aspect of the NPRC Act as this omission creates a gap which exposes victims and survivors and leaves out critical areas of the Commission's healing mandate as outlined in section 252 of the Constitution.

According to the Minimum Standards for an Effective National Peace and Reconciliation Commission (NTJWG, 2015: 4), it is important that adequate protection mechanisms be put in place for victims and survivors.

Standard 4 emphasises that the NPRC must adopt a victim centred approach and prioritise the needs of the victims. This minimum standard can only be achieved through a deliberate process of creating safeguards within the law for adequate protection of victims and survivors as well as reaching to and encouraging victims to be willing to approach the Commission and feel safe in the process. To take care of these concerns, the Act must have created a Victim/Survivors' Welfare Unit with a specific mandate of ensure that the welfare of the victims is prioritised.

### **Why is there a need for a victim support and rehabilitation?**

Generally the law must, among other principles, oblige the Commission to develop comprehensive regulations to support victims and survivors. These must include:

- Establishing a Victim Support and Rehabilitation Committee;
- Taking appropriate measures to reach out to victims and survivors;
- Offering assistance in the aftermath of victim and torture;
- Facilitating the provision of rehabilitation facilities including medical treatment, counselling services and general accompaniment for victims who interact with the Commission;
- Taking steps aimed at the restoration of the human and civil dignity of victims in line with the mandate given to the Commission in section 252 (e) and (j);
- Taking appropriate measures aimed at safely identifying victims and victim communities, and provide victims an opportunity, in public or

private, to relate their own accounts of the violations or harm they have suffered and to clearly set out their needs and document their experiences as part of a national truth-telling, recovery and acknowledgment process;

- Assessing the needs of victims and victim communities and make recommendations which may include urgent interim measures for reparations and relief measures or any other measures aimed at rehabilitating and restoring the human and civil dignity of individual victims or victim communities and
- Taking appropriate steps to provide protective, legal, psycho-social and logistical support services to victims during the periods in which victims are involved in activities of the Commission.

### **On the Independence of the Commission**

A number of aspects in the Act affect the independence of the NPRC negatively. Firstly, the Ministerial certificate as stated in section 10(7) is in itself an interference with the Commission. The Act's invocation of state security in trying to curtail the work of a Commission that is meant to encourage truth-telling regarding the past is a worrying affront to section 252 (c) of Zimbabwe's Constitution which mandates the Commission to bring about national reconciliation by encouraging people to tell the truth about the past and facilitating the making of amends and the provision of justice. This mandate given to the Commission is a positive step towards the realisation of the right to access of information enshrined in section 62 of the Constitution which states that



every Zimbabwean citizen has the right of access to any information held by the State or by any institution or agency of government at every level, in so far as the information is required in the interests of public accountability.

Section 14 of the Act provides for the establishment of the Secretariat of the Commission 'in consultation' with the Minister and the Minister responsible for Finance. This is in conflict with 234 of the Constitution which gives the NPRC power to recruit and regulate its own staff. It is also in violation of section 235 of the Constitution which upholds the independence of all Chapter 12 Commissions. The NTJWG Minimum Standards state that the NPRC must be allowed to develop its own recruitment policy for its Secretariat.

The Act also creates a Commission with weak financial autonomy. The United Nations Standards require that there be clear operational independence for independent Commissions. All provisions that refer to the need to consult or seek approval of the Minister are not good for the independence of the Commission. The Commission must be empowered to make independent budgetary decisions including seeking funding from non-state actors.

## **The Question of Pardon / Amnesties**

The Act in section 21 (2) (e) gives the Commission power to make regulations that may provide for the procedure and conditions for the granting of pardon. In essence, the Act is opening a way for granting of amnesties (by any other name) for perpetrators without the involvement

of victims and survivors. This is in contradiction to the principle of victim-centeredness. Amnesties are prima facie in violation of international law and promote impunity and recidivism. Zimbabwe's past amnesties have been subject to international condemnation. The African Commission on Human and Peoples' Rights in the case *Zimbabwe Human Rights NGO Forum versus Zimbabwe* (245/2002) noted that amnesties have a tendency of robbing victims of their access to remedy.

## **On Gender**

The Act contains a separate section on gender which is a welcome. Section 9 (1) obliges the Commission to establish a Gender Unit, thus making gender a specific theme as well as a cross cutting issue in all its work. The Gender Unit is responsible for amongst other tasks: development of guidelines and rules on how the Commission will incorporate gender into its work; development of strategies to encourage the participation of women, girls and other marginalised groups into the work of the Commission; facilitate gender equity in the structure of the Commission; ensure the mainstreaming of gender imperatives into every aspect of the Commission's work; taking steps to ensure that all organs of the Commission shall consider and address the gender implications of their activities. See Section 9 of the Act.

## **What else?**

The Act is silent on how the media and the public can access the information

from the Commission, during and after its work. The Act should have contained a provision compelling Government entities to make sure all information in their custody required by the Commission is made readily available in line with section 62 of the Constitution. The Act must also have made provisions for mechanisms for safe archival of the information and material collected by the Commission during its operations and clear mechanism for the speedy implementation of the recommendations of the Commission. There is a window of opportunity to address these anomalies in the regulations.

***“Amnesties are prima facie in violation of international law and promote impunity and recidivism. Zimbabwe's past amnesties have been subject to international condemnation. The African Commission on Human and Peoples' Rights in the case Zimbabwe Human Rights NGO Forum versus Zimbabwe (245/2002) noted that amnesties have a tendency of robbing victims of their access to remedy.”***



## LEGISLATIVE FOUNDATION

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*Minimum Standards for an  
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# CAN THE NPRC OVERCOME A LEGACY OF FAILURE?

By **Paul Themba Nyathi**

Our country has witnessed great deal of violence. The liberation war claimed around 50 000 deaths. During the Gukurahundi atrocities, an estimated 20 000 people were killed. In 2005, *Operation Murambatsvina* displaced over 700 000 people. Political violence has displaced over 1, 2 million people between the years 2000 and 2005. About 4 million Zimbabweans have since fled the country. We are a nation at war with itself. And the question we have to ask ourselves is: can we heal from these deep wounds? It is a question that requires that we further ask: how did we get here?

This is a dialogue which many brave men and women started as early as 1983 when the Zimbabwe Catholic Bishops Conference (ZCBC) published the paper 'Reconciliation is still possible at the height of Gukurahundi.' In 1997, the Legal Resources Foundation (LRF) and the Catholic Commission for Justice and Peace (CCJP) published the Breaking the Silence Report and made several recommendations for building true peace, most them which are still valid and would transform our country if implemented in sincerity. In 1998, some organisations came together to find ways of assisting the victims and formed the Zimbabwe Human Rights NGO Forum.

Twenty years later, we are still grappling with that same legacy of how to break free from political violence. It is within this conversation

that the push for a Truth Commission gathered momentum in 2008 leading to a constitutional reform process. Finally in 2013, through the new Constitution, the National Peace and Reconciliation Commission (NPRC) was established with a ten year mandate to ensure post-conflict justice healing and reconciliation. The euphoria following the operationalisation of the NPRC has been very cautious. We Zimbabweans are famed as a "land of Commissions without commitment." We have had Commissions before, that worked and collected testimonies and collected evidence and yet nothing has been achieved. The *Chihambakwe* Committee of Inquiry was established to look into the Gukurahundi Atrocities. The *Dumbutshena* Commission looked into 1982 clashes in Bulawayo. Neither Committee's report has ever been seen despite many attempts to recover these reports. Following the looting of the War Victims Compensations Fund, the Chidyausiku Commission was established. It heard evidence of massive looting by high ranking politicians. Despite the publicity that goes with it, not a soul was tried for the crimes. In fact many of the persons implicated remain in powerful positions in Zimbabwe.

Many victims of past atrocities are aware that we are a nation that continually slides towards non-accountability. It is because of this legacy that many look at the NPRC and wonder: what's new? What's different? This creates a major stumbling block for the NPRC. How do

they win confidence of a nation that has known nothing but violence and impunity? The land in which the courts are invaded and judges are chased out of their courtrooms like vagrants. The land where 15 billion dollars worth of diamonds disappear like a piece of chicken and the most likely culprits are rewarded with ministerial posts. How can the NPRC, in such a context, convince the nation to believe that they herald a new era when everything else remains unchanged? How can iron promise not to rust in the land where gold is rusting? Many stakeholders have been grappling with these questions.

To overcome this doubt, the NPRC needs much more than a good law. It needs a clear signal from the government that there is now commitment to justice, truth and accountability. Statements made in Davos, Switzerland in seduction of capital do not qualify as that commitment. And statements by Vice-President Kembo Mohadi that traditional leaders will lead healing rather defeat that purpose. The true test of commitment to truth, justice and accountability begins with government publishing and acting on the reports of past commissions. The Chihambakwe Committee of Inquiry, the *Dumbutshena* Commission and the *Chidyausiku* Commission are unfinished business. As long as these reports remain hidden and their recommendations without effect, the nation can be forgiven in their belief that the current process is fraud.

But perhaps the most crucial test of commitment must be seen from the Commission itself. And there is no greater test of commitment to justice and reconciliation by the Commission than opening up more space for the

participation of victims. What hinders the participation of victims in transitional justice processes is lack of acknowledgement and lack of mechanisms for ensuring the safety of victims. It has been acknowledged even by the NPRC that the current NPRC Act does not offer anything for the victims. But as if that is not enough, the NPRC seems determined to perpetuate that offence. In its recent press statement on its public consultations, the NPRC listed the number of groups of people invited to its meetings. True to the fears of many Stakeholders, victims are totally ignored in that list. It matters not if the NPRC at a later stage announces that they are meeting victims. That initial statement is a bold expose of bias and indifference to a matter that should be at the heart of the commission: healing. What manner of healing takes place without the victims?

It is perhaps fair to say that healing never starts until we begin to see victims at the front role of the work of the NPRC. It is fair to say that there is no commitment to truth until the Government publishes reports of past Commissions. Only then will the legacy that works against the NPRC be broken. Until then, it looks like the same fate of past Commissions is upon the NPRC.



*NTJWG Deputy Chairperson Mr. Paul Themba Nyathi addressing the NPRC on what calls for diversity in the Commission mean.*

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## **ACTIVITIES**

- **The Launch of the Report by Heal Zimbabwe Trust**
- **Overcomes of the Peace and Reconciliation Baseline Study**

# ACTIVITIES FROM THE STAKEHOLDERS

## The Launch of the Report by Heal Zimbabwe Trust

The NTJWG was invited to the 'Peace and Reconciliation Process in Zimbabwe' hosted by Heal Zimbabwe Trust at Chengeta Lodge on 15 March, 2018. Participants came from Civil Society Organisations (CSOs), the media, the National Peace and Reconciliation Commission (NPRC), the churches and other Faith Based Organisations (FBOs).

The objectives of the conference to share the Heal Zimbabwe Trust Peace and Reconciliation Baseline Report which was conducted from June 2016 to June 2017; to recommend programme priorities for the NPRC and to recommend success indicators under the banner of the reconciliation barometer.

## Outcomes of the Peace and Reconciliation Baseline Study

In summary, the Baseline Study revealed that the general public view

the need to undo cyclic violence and that events which warrant the NPRC intervention include the 2008 political violence, Gukurahundi and Operation Murambatsvina. The Baseline also demonstrated that past efforts towards peace and reconciliation in Zimbabwe failed to take-off because of selfish political interests and lack of justice and cautioned the NPRC of the possibility of befitting the same fate. The Baseline also recommended:

- The decentralisation of the NPRC in discharging its mandate;
- The need to make use of existing institutions as far as its mandate is concerned;
- The need for gender-based peace and reconciliation;
- The need for institutional reforms and institutionalising competent courts based on international and regional examples such as the Rwandese gacaca courts and
- Synergies and collaborations with State/non-State actors and CSOs.

***The Baseline also demonstrated that past efforts towards peace and reconciliation in Zimbabwe failed to take-off because of selfish political interests and lack of justice and cautioned the NPRC of the possibility of befitting the same fate.***

## About The National Transitional Justice Working Group

The National Transitional Justice Working Group (NTJWG) is a platform established by 46 Zimbabwean organisations representing various transitional justice stakeholders to provide the interface between transitional justice stakeholders and the official transitional justice processes in Zimbabwe.

### Vision

A peaceful, just, accountable and democratic society.

### Mission

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

### Values

Integrity  
Inclusivity  
Impartiality

### Members

Mr. Alec Muchadehama:	Chairperson/Reparations
Mr. Paul Themba Nyathi	Deputy Chairperson
Rev. Dr. Fradereck Chiromba:	Promotion of Truth
Ms. Roselyn Hanzi:	Justice and Accountability
Rev. Dr. Ray Motsi:	Memorialization
Ms. Memory Kachambwa:	Gender
Mr. Anthony Reeler:	Independent Expert / Institutional Reform
Mr. Otto Saki	Independent Expert
Ms. Samukeliso Khumalo	Independent Expert

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