



NATIONAL
TRANSITIONAL JUSTICE
WORKING GROUP
ZIMBABWE

EXECUTIVE BRIEFING

January - March 2019

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ABOUT THIS BRIEFING

This briefing seeks to draw the Executive's attention to the important developments in our country as they relate to transitional justice, healing and reconciliation.

The NTJWG is a network of 100 stakeholder organisations, survivor groups and individuals concerned with the national peace and reconciliation process in Zimbabwe.

The NTJWG has collated feedback from stakeholders and incorporated it into this report. Furthermore, NTJWG has scanned the media and environmental taking note of the comments and intervention by the Government of Zimbabwe relevant to all national peace and reconciliation processes.

In this brief, the NTJWG raises issues of concern to Zimbabwe's transitional justice journey. NTJWG believes this brief will inform the NPRC's implementation of their five year strategy, in improving the NPRC's programming and delivering on its mandate.

Increased Involvement of the Security Services in Civilian Affairs

Following the 1 August, 2018 shooting of civilians which led to the death of at least 6 civilians and the violence that characterised the aftermath of the #shutdown protests which also led to the death of at least 17 civilians and left hundreds more injured, the NTJWG notes with concern the increased involvement of the security forces in civilian affairs.

Under the provisions of section 208 (d) of the Constitution among many other things, 'neither the security forces nor any of their members may, in the exercise of their functions, violate the fundamental rights or freedoms of any person.'

This comes at a time when Zimbabwe is trying to re-engage the international community and one of the reforms that has been set as a pre-condition for re-engagement is the respect, promotion and protection of fundamental human rights which as a country we have not shown.

Furthermore, we note that the deployment of the military in January 2019 did not follow the required Constitutional process for such deployment. As laid down in section 214 (Political accountability for deployment of Defence Forces), and noting Section 213 (Deployment of Defence Forces), we are concerned that parliament was not *promptly and in appropriate detail*, and that this does not create an impression of a desire by the government to adhere strongly to constitutionalism.



Implementation of the Recommendations of the Montlanthe Commission

As a country, Zimbabwe should be seen making efforts to curb impunity and break the cycle of a legacy of violence.

The NTJWG also calls on the government to fully implement the recommendations of the Commission of Inquiry report and also hold to account the people who murdered civilians on August, 2018 in Harare. The NTJWG implores the government to ensure that the security forces, but in particular the army, to remain in the barracks and allow the police to exercise their duties as provided for in the Constitution. This way, there will not be a recurrence of incidences such as the ones that occurred on 1 August, 2018 and in the aftermath of the #shutdown protests. The Government is encouraged to initiate the process of security sector reform to ensure that the security services operate within the confines of the law according to the principles outlined in the Constitution with greater attention to the respect for human rights.

The Government should quickly establish a National Reparations Fund specifically for victims of human rights violations as a permanent Fund to cater for the victims of August 1 shootings and all the other victims whom the Government has refused to compensate over the years. Even though on 13 April, 2019 the Sunday Mail reported that 'compensation for August 1 victims commences,' the process must be

transparent and should go beyond resolving immediate issues such as reimbursement for the money victims spent for medical assistance and the damage to property business incurred during the mayhem. According to the NTJWG Guiding Principles for Transitional Justice Policy and Practice in Zimbabwe (2015) ‘reparations should be proportional to the gravity of the violations and the harm suffered. It must also uphold and promote accepted religious, individual, community and traditional transitional justice mechanisms.’

Following the release of the Commission of Inquiry’s report, the NTJWG urges the Government of Zimbabwe, to respect the mandate of the NPRC to seriously consider the report and findings and to implement the recommendations by the Commission of Inquiry in their entirety. The Government must investigate in an open and transparent manner the actual perpetrators of the shootings. Furthermore, this must be done transparently and the process must be victim-centred. The Government is encouraged not to choose to implement some of the recommendations and leave others.

Establishment of the Independent Complaints Mechanism

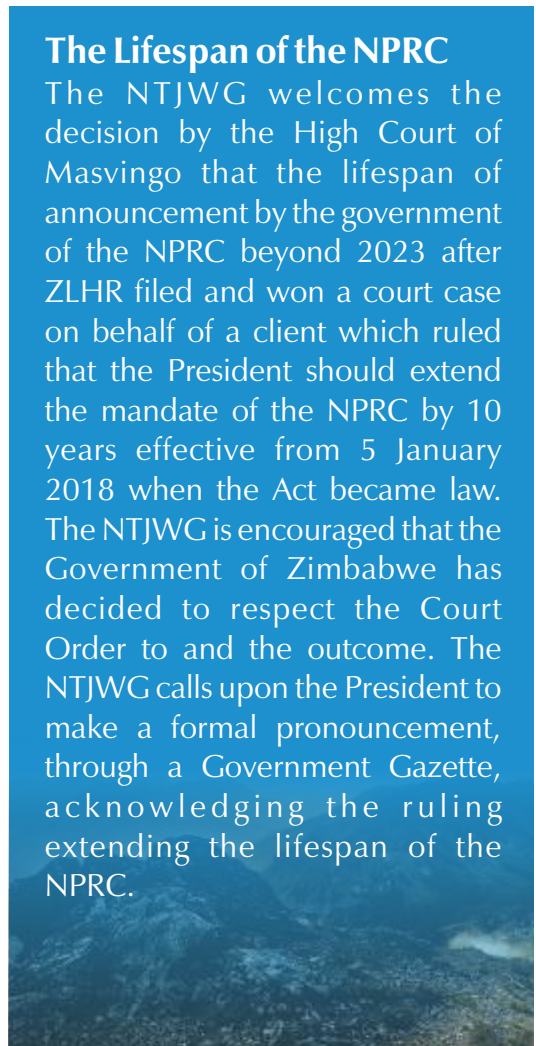
Closely linked to the above, the NTJWG encourages the Government to expeditiously facilitate the establishment of the Independent Complaints Mechanism as provided for under Section 210 of the Constitution which stipulates that, ‘an Act of Parliament must provide an effective and independent mechanism for receiving and investigating complaints from members of the public about misconduct on the part of members of the security services and for remedying any harm caused by such conduct.’ The Working Group feels that this is long overdue. Against the background of the human rights violations that have occurred between 1 August, 2018 and after the #shutdown protests, it is high time that a platform for victims of violence is created on which they can report their experiences which will facilitate truth-telling, truth-seeking and hold perpetrators to account.

Observance of the Mandate of the NPRC

The NTJWG welcomes the government’s efforts to assist victims of the *Gukurahundi massacres* with exhumation, issuance of birth certificates for children of the deceased and the accompanying economic developments in the Matabeleland region. However, the NTJWG implores the Government to ensure that there are clear regulations to guide the process. In addition, the NTJWG urges the NPRC to take lead in the process to ensure there is no interference with the work which the NPRC is constitutionally mandated to do, given that the intervention of the government coincides with the 21 day outreach programme of the NPRC.

The Lifespan of the NPRC

The NTJWG welcomes the decision by the High Court of Masvingo that the lifespan of announcement by the government of the NPRC beyond 2023 after ZLHR filed and won a court case on behalf of a client which ruled that the President should extend the mandate of the NPRC by 10 years effective from 5 January 2018 when the Act became law. The NTJWG is encouraged that the Government of Zimbabwe has decided to respect the Court Order to and the outcome. The NTJWG calls upon the President to make a formal pronouncement, through a Government Gazette, acknowledging the ruling extending the lifespan of the NPRC.





Funding for the NPRC

The NTJWG acknowledges that \$51 million was allocated by government to the 5 Commissions in October, 2018. However, it is concerned by reports that the NPRC did not access its vote from the funds and that this has paralysed its operations. Inadequate funding will drastically affect the impact of the Commission. The NTJWG would like to know how much funding the NPRC has been allocated by Treasury for the year 2019 and if it is adequate for the task lying ahead. This would help in the NTJWG's advocacy initiatives as well as knowing how far the funding would take the Commission. The NTJWG further implores the Government to increase the funding of the NPRC bearing in mind the huge task which the Commission is faced with ahead.

Adoption of the African Union and National Transitional Justice Policy

The NTJWG wants to congratulate the government of Zimbabwe on the adoption of the African Union Transitional Justice Policy by the African Union member states which unanimously adopted the African Union Transitional Justice Policy. The NTJWG would like to offer its expertise in implementing it domestically. The adoption of the A.U T.J policy coincides with the efforts being made by the NTJWG for the adoption of a national transitional justice policy which was conceived out of the NTJWG National Transitional Policy Symposium convened in Bulawayo from 21 to 23 November, 2018. National Human Rights Institutions attended the Symposium. We are happy to share the draft national transitional policy with the government, so it can also influence its intervention strategy. In the introduction of the A.U T.J policy, the African Union Commission Chairperson Mr. Moussa Faki Mahamat stated that:

“The significance of human rights and transitional justice (TJ) cannot be overemphasized. This underscores why aspiration three (3), “An Africa of good governance, democracy, respect for human rights, justice and the rule of law” and aspiration four (4), “A peaceful and secured Africa”, of Agenda 2063 – The Africa We Want – focus on human rights promotion, silencing the guns by 2020, peace, security and development.”

We believe our endeavours here speak to this aspiration of the ‘Africa We Want’ to achieve the ‘Zimbabwe We Want.’ The NTJWG calls on the Government of Zimbabwe to support this important initiative to adopt the national transitional justice policy.

Conclusion

The NTJWG appreciates the opportunity to address to the Office of the Vice President, through the National Peace and Reconciliation Commission on National Peace and Reconciliation and hopes to continue on this path of fruitful engagements with the government. This report will be shared with stakeholders and uploaded onto the NTJWG website, including any comments from the NPRC and Government. The NTJWG remains committed to supporting the work of peace and reconciliation in Zimbabwe and acknowledges the progress being made so far. We wish the Government of Zimbabwe all the best.



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