

TRANSITIONAL JUSTICE AND POLITICAL REFORMS IN ZIMBABWE

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Abstract

This paper analyses the enduring challenge of political violence and conflict in Zimbabwe, despite ongoing efforts toward national reconciliation, peacebuilding, and nation-building since 1980. The success of post-conflict reconstruction fundamentally relies on developing specific, localized capacities to manage future violence. The study examines the role of the National Peace and Reconciliation Commission (NPRC) as the nation's primary institutional attempt to address past violent conflicts and build local capacity for a peaceful future. While acknowledging that conflicts manifest across various interconnected societal layers—from household disputes to broader land conflicts—the core argument posits that the majority of Zimbabwean conflicts remain deeply rooted in disputes over national power (politics) and pervasive socio-economic hardships. The paper argues that effective peacebuilding requires a holistic strategy that moves beyond superficial reconciliation to address these fundamental structural drivers of instability.

Keywords: *Peacebuilding, Political Violence, National Peace and Reconciliation Commission (NPRC), Post-Conflict Reconstruction, Reconciliation, Socio-Economic Hardship*

INTRODUCTION

Zimbabwe has a complex history of political violence and conflict despite reconciliation, peace building and nation-building attempts

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being made since 1980. Prospects for successful peacebuilding and post-conflict reconstruction in any society hinge on the development of a specific set of skills to attend to the various challenges and opportunities presented by conflict and violence. In Zimbabwe, the National Peace and Reconciliation Commission (NPRC) represents a first major attempt in this regard. The NPRC is an attempt to resolve past violent conflicts while building local capacities to guarantee a peaceful and harmonious future for all. While conflicts in Zimbabwe find expression in different interconnected layers, ranging from a household level to broader social-level land conflicts, the majority of conflicts remain deeply rooted in disputes over national power (politics) and socio-economic hardships.

HISTORY OF CONFLICT IN ZIMBABWE

According to Benyera (2014), the history of present-day Zimbabwe has been characterised by recurring cycles of violence and human rights abuses, often on a very large scale. Zimbabwe has a profile of violence which pre-dates the colonial times (*ibid.*). Episodes of violence encompass the 1893 War of Dispossession in Matabeleland, the 1st and 2nd *Chimurenga*, and the *Gukurahundi*¹ atrocities in the Midlands and Matabeleland in the early 1980s (Raftopolous, 2009). Violence in Zimbabwe has steadily been increasing since 2000 and several regions of the country, especially the rural areas, have been turned into theatres of political violence. In 2000, 2002, 2005 and 2008, political violence erupted as a result of the highly charged and contested nature of elections. The 2000 land invasions which were heralded by the invasions of the Svosve people and *Operation Murambatsvina* (2005), are also violent cases in point (Makumbe, 2009). Nonetheless, the June

¹ *Gukurahundi* ("rains that wash the chaff before the early spring rains") is a Shona name given to the massacres that occurred in Matabeleland and parts of Midlands provinces between 1982 and 1987. In 2010, Genocide Watch classified the massacres as a genocide, putting to rest debates on whether the indiscriminate political killings amounted to genocide or not.

2008 pre-runoff election violence is arguably one of the most brutish episodes of Zimbabwe's electoral violence. The violence witnessed abductions, rape, torture and beating and the most vulnerable group were women (Research and Advocacy Unit, 2009).

Ndlovhu-Gatsheni and Sabelo (2002), have categorised National Healing and Reconciliation into three distinct phases: the transitional period leading to independence in 1980; the Unity Accord of 1987; and the post-2008 period, following an inconclusive vote pitting former president Robert Mugabe and Morgan Tsvangirai, the Zimbabwean Prime Minister from 2009 to 2013, president of the Movement for Democratic Change (MDC) and a key opposition figure to Mugabe (Benyera, 2014). The common thread across all these peace attempts is that they failed to establish the necessary pre-conditions for social cohesion, national healing and reconciliation. No concerted efforts were made to administer justice for the thousands of people whose lives and livelihoods were destroyed as a result of the *Gukurahundi* massacre.

PRE- COLONIAL ERA

Zimbabwe has a patriarchal and often violent pre-colonial history (pre-1890), where political cultures and practices were influenced and permeated by ideologies of heredity and kinship rather than modern-day competitive politics (*ibid.*). It also had a violent colonial project (1890-1980), which imposed an undemocratic system based on white supremacy, patriarchy and violent authoritarianism (*ibid.*). This system of governance was racist and patriarchal, as it excluded blacks and women from participating in the country's political processes. Ndlovu-Gatsheni (2002) argues that violence forms a significant component of Zimbabwe's past and contemporary history. He contends that Zimbabwe's transition from a colony to a sovereign nation and from a promising post-independent state into unprecedented crises and chaos post-2000 is largely the result of violence, its memory and impunity.

He locates what he calls a “culture of violence” within three undemocratic episodes and historical processes that produced Zimbabwe. However, the rise of African nationalism (approximately 1960-1979) inspired violent and armed military resistance across Southern Africa. Ndlovu-Gatsheni (*ibid.*) argues that like its predecessor, this period was characterised by authoritarianism, commandism and the suppression of dissent that privileged violent problem-solving over dialogue and national consensus.

Machakanja (2010) alludes to Ndlovu-Gatsheni’s (2002) sentiments and notes that since the violent invasion of precolonial kingdoms by Cecil John Rhodes’ British South Africa Company (BSAC) in the late 19th century and the subsequent colonisation of Southern Rhodesia by Britain, the history of Zimbabwe has remained steeped in violent and intractable conflict. Benyera (2014) goes further to describe Zimbabwe as a “chronically violent state” before colonialism, during colonialism and after independence. Heads that Zimbabwe has routinely experienced brief spells of progress and then longer and often intractable cycles of challenges that could easily be interpreted as its dominant narrative.

TRADITIONAL LEADERSHIP AND TRANSITIONAL JUSTICE IN ZIMBABWE

Traditional leadership and, indeed, traditional mechanisms of conflict resolution, are as time-honoured as the pre-colonial state formation in Zimbabwe. The colonial and post-colonial epochs have had a bearing on determining the position of traditional leadership to date. During colonialism, the colonial government used indirect rule as a system of colonial administration in Zimbabwe and according to Mazarire cited in Moyo (2012), colonial governments were forced by financial and manpower costs to employ chiefs in the administration of African affairs. It is against such a backdrop that traditional leadership occupied a difficult position as the highest-ranking representatives of their people in the traditional system and the lowest ranking

representatives of the colonial administration system. Makumbe (2010) argue that chiefs were used to denounce liberation fighters and he cited one Minister of Information, P.K. van de Byl, as having remarked that, "Chiefs were necessary for preventing the rural black people from stepping out of line and getting subversive."

However, at the attainment of independence in 1980, under the Chiefs and Headmen Act and the Community Courts Act, chieftainship was retained as a symbol of traditional values, but the chiefs were stripped of all their administrative and judicial functions. The District Council assumed the administrative functions previously performed by traditional rulers while Community Courts took over the judicial functions. In 1998, the state enacted the Traditional Leaders Act (Chapter 29:17) which restored some of chiefs' powers. In spite of the vacillation on the part of the post-colonial state as regards to its treatment of traditional institutions, traditional leaders have been able to weather these highs and lows and continue to be relevant and still command profound respect from their subjects. The consultations and subsequent engagement of traditional institutions for a cleansing ceremony following the National Sports Stadium stampede where 15 people died during a football match between South Africa and Zimbabwe is a noteworthy case in point.

According to Jackson and Marquette (2005), traditional leaders are seen to represent the "indigenous", truly African values and authority and this accounts for the position of respect that they are accorded by some governments. Religious functionaries play a role in ceremonies such as rain-making ceremonies *Mukwerera* and cleansing ceremonies (Mukanya, 1998). The role of the spirit mediums in the history of Zimbabwe pre-date state formation and played a pivotal role in both the first and second *Chimurenga*. Spirit mediums played an equally vital role in cleansing ceremonies across the country at independence in 1980 (Mararike, 2003). One can infer that the cleansing ceremonies

were part of the transition from warfare to peace and were a mechanism of transitional justice. Oral histories record that the spirit mediums insisted on such ceremonies on the grounds that a lot of blood had been shed during the liberation war. According to the spirits, it was, therefore, critical to appease the spirits of the dead so as to bring about sustainable peace. How credible it was is one issue, but what is relevant is that many people subscribed to it and that it went a long way to bring some form of closure to the war hostilities and mark a transition to peace. What is imperative to observe that it appears that transitional justice goes beyond healing and reconciling the victim and perpetrator, to healing the ancestral spirits and cleansing the land. The recent case of appeasing the avenging spirit of Moses Chokuda, a political activist slain in March 2009, also highlights the place of traditional mechanisms. Dube, (*The Standard*, 30 October 2011) reported that Jason Machaya (ZANU PF Midlands Chairperson) compensated the Chokuda family with 35 cattle and US\$15 000 for his murder by Machaya's son and his accomplices. This, therefore, places traditional mechanisms in an enormously potential position in the delivery of justice.

LEGISLATIVE INSTRUMENTS OF TRADITIONAL LEADERSHIP AND THEIR ROLE IN TRANSITIONAL JUSTICE

CHIEFS AND HEADMEN ACT (1982, No. 29)

Section III of the Chiefs and Headmen Act states that chiefs are appointed by the President, who also has the power to remove them from office. In appointing a chief in terms of sub-section 1 of the Act, the President gives consideration to the customary principles of succession, if any, applicable to the community over which such a chief is to preside. According to the same Act, chiefs are the custodians of customary law and practice. The Act also stipulates that appointed chiefs are entitled to be paid an allowance or a salary by the state, decided through an Act of Parliament.

TRADITIONAL LEADERS ACT (CHAPTER 29:17)

Today there are 265 traditional chiefs in Zimbabwe who all have different customs and, likewise, the Traditional Leaders Act 29:17 of 1998 regulates the activities of these traditional leaders. Prior to the promulgation of the Traditional Leaders Act, traditional leaders were not recognised by the state in the formal local government structure. The Act empowers the traditional leaders to deal with problems of land, natural resources conservation and management in their areas, preserve and maintain rural family life, punish offenders of such crimes as the misuse of resources and stock theft. According to the Act, chiefs are appointed by the President who gives due consideration to the prevailing customary principles of succession applicable to the community over which the chief is to preside (Mararike, 2003). Participation by chiefs at this legislative level of governance offers them a rare opportunity to raise their voice on political violence and push to be engaged in transitional justice initiatives such as those prescribed by Article VII of the Global Political Agreement. Under the Traditional Leaders Act, traditional leaders can participate in politics as candidates of political parties and, if they engage, they cease to be non-partisan.

CUSTOMARY AND LOCAL COURTS ACT (NO. 2 OF 1990)

Under the Community and Local Court Act, a chief can summon any individual if there are grounds to believe that local traditions have been violated. Prominent people of note to have been summoned to traditional courts are Prime Minister Morgan Tsvangirai and Jeffryson Chitando who were summoned by Chiefs Negomo and Murinye, respectively, with the former being accused of marrying in the sacred month of November and the latter of abusing a Constituency Development Fund (Moyo, 2012). Though many have criticised the traditional leaders in question, what, however, suffices from these cases is the extent of the reach of traditional leaders' powers which, if used well, can be very instrumental in transitional justice.

RURAL DISTRICT COUNCIL ACT (CHAPTER 29:13)

The Rural District Council (RDC) Act establishes the regulatory framework for RDCs, mandating that each be governed by an elected, part-time body led by a Chairperson. Furthermore, the Act requires the council to maintain a minimum of five compulsory committees, including those focused on finance, roads, development, and natural resource management. According to the RDC Act, the lowest structure in the local governance system is the Village Development Committee (VIDCO) chaired by the headmen (Village head). According to the Zimbabwe Institute Report (2005), the rural district structure was created to ensure control of life in the rural areas by central government, and not necessarily to be a development vehicle. Above the VIDCO, is the Ward Development Committee (WADCO), led by the councillor. These grassroots structures provided by the RDC Act were, from the official position, meant to facilitate decentralised planning through community participation. One can, therefore, note that there are structures that can be utilised by transitional justice practitioners to build peace from below. A Zimbabwe and Broadcasting Corporation Television (ZBCTV) news report on 15 February 2012 reported that the Association of Rural District Councils embraced the concept of national healing in its operation to augment the efforts of the Organ for National Healing, Reconciliation and Integration. The argument of the Association of RDCs is that its involvement would ensure that national healing cascades to the grassroots as they work with the grassroots. What one may wait to see is if such an initiative would engage traditional mechanisms constructively.

According to the Zimbabwe Institute Report (2005), traditional mechanisms can effectively complement conventional judicial systems and present a real potential for promotion of justice, reconciliation and a culture of democracy. Even in communities that may demand retributive justice against offenders, traditional mechanisms may still

offer a way of restoring a sense of accountability. The demerit is that traditional mechanisms have been greatly altered in form and substance by the impact of colonisation and modernisation and hence this may compromise their discharge of service of transitional justice (Johnson and Marquette, 2010). However, where traditional leadership is nonpartisan and has grassroots legitimacy and traditional leadership has a colossal potential of championing transitional justice agenda.

LIBERATION STRUGGLE AND INDEPENDENCE IN 1980

The independence euphoria in 1980 was interrupted by large-scale political violence. Zimbabwe's first attempt at reconciling and healing a deeply divided and hurting society was through a national reconciliation policy announced by Mugabe immediately after the attainment of political independence in 1980, in his capacity as the country's first black Prime Minister. The policy involved the formation of a Government of National Unity (GNU) comprising liberation struggle rivalries – the Patriotic Front (PF) on one hand, and Ian Smith's Rhodesian Front (RF) on the other (Benyera and Sabelo 2014). A new national army, christened the Zimbabwe National Army (ZNA), was born out of this arrangement.

The first decade of Zimbabwe's independence witnessed gross human rights violations followed by consistent failure by the authorities to hold perpetrators to account. According to Auret (in Joint CSO Johannesburg conference on Zimbabwe 2003) the underpinnings for impunity were laid during the independence negotiations at Lancaster House¹, where a policy of 'forgiving and forgetting' under the guise of

¹ The Lancaster House Agreement was reached at a constitutional conference held in December 1979, to set the parameters for Zimbabwe's independence from British authority. The agreement established a transitional framework for the Independence Constitution, ceasefire and pre-independence arrangements.

‘national reconciliation’ was adopted and pursued, albeit grudgingly. In essence, this meant the negotiated transition failed to identify perpetrators and hold them to account, and failed to deliver justice to the victims. Lancaster also failed to undertake the necessary institutional transformation required to address both prevailing issues and to install the necessary safeguards for the young democracy.

GUKURAHUNDI 1982-1987

Politicised in Matabeleland and parts of the Midlands, the *Gukurahundi* genocide, lasted five years (1982-1987) and eventually ended with the signing of the Unity Accord in 1987 (Machakanja, 2010). Machakanja (*ibid. goes*) on to state that no concerted efforts were made to administer justice for the thousands of people whose lives and livelihoods were destroyed as a result of the *Gukurahundi* massacre. The second attempt at reconciliation was the signing of the Unity Accord between ZANU-PF and PF-ZAPU¹ in December 1987, following the *Gukurahundi* ethnic cleansing in predominantly Ndebele-speaking communities. According to Machakanja (*ibid.*), the genocide was perpetrated by Mugabe’s Korean-trained Fifth Brigade, resulting in thousands of deaths, multiple cases of human rights abuses and large-scale population displacement and no determined efforts were made to seek justice for the thousands of people whose lives and livelihoods were destroyed as a result of the violence. Instead, perpetrators were granted amnesty by Mugabe, in the process trivialising the suffering of victims and survivors. Mugabe would later describe the political killings as constituting a “moment of madness” (Ndlovhu-Gatsheni and Sabelo, 2002).

¹ The Zimbabwe African People’s Union (ZAPU) is a political party in Zimbabwe. It was established in 1961 as a militant organisation that fought for Zimbabwe’s independence, alongside the Zimbabwe African National Union (ZANU).

Critics argue that an understanding of the histories of the two liberation movements and their dealings with one another is required to fully appreciate what transpired in Matabeleland during *Gukurahundi*. Understanding the nature of abuse in Zimbabwe requires an appreciation of the evolving and inter-related divergences and power struggles that have characterised the colonial and post-colonial dispensations. While the dynamics of the conflicts have developed and changed over time, there are remarkable continuities in the methods used to escape justice and accountability (*ibid.*). Concerns relating to injustices and impunity and allegations of state complicity in human rights violations have gone unattended for years.

Other scholars argue that holding perpetrators to account would be an impediment to peace and reconciliation. Machakanja (2010) opines that since independence, judicial-executive relations have been systematically eroded and torture has been co-opted as an alternative to law, ironically by state security. The damage caused by *Gukurahundi* in Matabeleland continues to reverberate as a carry-forward injustice nonetheless pardonable. To date, the findings of the government-sponsored Chihambakwe Commission of Inquiry of 1986 into the violations, have not been made public, nor have any efforts been made to compensate the victims. Several other commissions set to cleanse the government of malpractices have since been adopted with no accountability to the citizens.

While a trajectory toward comprehensive transitional justice was proposed for Zimbabwe, the new ZANU-PF government ultimately rejected or remained unconvinced by its necessity. This political inaction has intensified the demand for a model of transitional justice characterized by state accountability and a commitment to truth-telling, enabling citizens to achieve full closure and genuine healing. Devoid of political transition in Zimbabwe, genuine transitional justice will remain a pipe dream, and a dark cloud will continue to hang over

the country with the accumulated anger and hatred bequeathed from generation to generation. Generally, transitional justice is denied as a set of mechanisms, policies and instruments used to seek historical accountability for gross human rights abuses (Benyera, 2014).

FAST TRACK LAND REFORM PROGRAMME

The history of conflict over land in modern Zimbabwe commences with the colonisation in 1890 of the land between the Zambezi and Limpopo rivers by Great Britain. This raises critical questions, too – what, for example, is meant by ‘the past’? How does one define ‘the past’? In other words, at what point does one say ‘the past’ starts from one point up to another in order to identify the wrongs that must be addressed as part of the transitional justice debate? (*ibid.*). These are difficult questions but they matter a great deal if transitional justice is to achieve a more agreeable outcome, particularly in relation to the land question, in which case the weight of history is too heavy to overlook. In respect of land, the past and present are inseparable (Cheweshe and Manashe, 2016). Sir Shridath Ramphal, in an interview with Gugulethu Moyo and Mark Ashhurst (2007, p. 160), remarked on the historical background of the British South Africa Company (BSAC), noting that the company, led by Cecil John Rhodes, was established via a Royal Charter in 1889. This Charter explicitly empowered the BSAC to "discharge and bear all the responsibility of government" in the territories it acquired (Ramphal, as cited in Moyo & Ashhurst, 2007). Between 1894 and 1895, ‘native reserves’ for Africans were created, showing the beginning of segregation and forced removals of Africans from their ancestral lands. Upon realisation of the consequences of white settlement in their land, the local African population instigated and participated in military uprisings in 1893 (Matebele Uprising) and in 1896-7 (First Chimurenga) against the new order (*ibid.*). According to Cheweshe and Manashe (*ibid.*) the locals were defeated by the military might of the new settlers. From then on, the history of expropriation of land from Africans intensified. The law

played an important role in this process. During the course of colonialism, various legal instruments were enacted, giving legal control of the land to the new settlers.

LAW, FORCE AND VIOLENCE: THE CASE OF THE TANGWENA PEOPLE

According to the International Commission of Jurists (ICJ) Report (1976) the people of the Tangwena sub-group of the Shona people in Manicaland resisted attempts to move them from their ancestral lands in the area known as Gairezi. The land had been sold in 1905 by the BSAC to the Anglo-French Matabeleland Company which had later ceded it to a farmer known as Mr Hanmer. When the Rhodesia Front (RF) government took over power in 1962, they sought to strictly enforce the segregation laws and it became imperative for Mr Hanmer to remove the Tangwena people who were now regarded as 'squatters'. They resisted and attempts at criminal prosecution of Chief Tangwena failed, but the government went on to make a proclamation in terms of Section 86 of the Land Apportionment Act, ordering the Tangwena people to leave the land. They resisted and, according to the ICJ Report, just before dawn on September 18 1969, the police arrived to evict the people and when they resisted, nine police Land Rovers and a bulldozer moved in and flatten their huts, crops and fruit trees. They rebuilt their huts and planted new crops but in November, they were destroyed again. After that, they fled to the mountains and lived in hiding. Chief Tangwena was quoted as having lamented: "The government has raped me of my land. They have taken away my heritage. They have guns and I don't. I see no point in talking to this" (ICJ Report, 1976).

In February 2000, a peaceful referendum for a new constitution was held in Zimbabwe with the government supporting the adoption of the proposed constitution, while the opposition campaigned against it. The government lost – the first electoral loss for ZANU-PF since independence in 1980. This forced ZANU-PF into panic mode,

realising the real possibility of losing political power and worse, to the MDC, a party supported by white commercial farmers. After the referendum defeat, war veterans led farm occupations, forcefully and violently evicting white farmers. The land occupations drew international criticism over the demise of the rule of law and violation of property rights. Just before parliamentary elections, the government introduced the Constitutional Amendment (No. 16) Act which sought to legitimise extra-legal occupations already taking place and to expedite the land reform process. One clause in the Act, placed responsibility of compensating evicted farmers on Britain, as the former colonial power, absolving the Zimbabwe government of obligation. The amendment also held that there would be no requirement for fair or adequate compensation – further watering down the government’s obligations already undermined by the 1990 amendment. Here, the progressive erosion of the right to compensation, from the robust protections of the 1980 Constitution inherited from Lancaster House to the weak provisions of the 2000 version, one can be seen, guaranteeing neither fair nor adequate compensation (Chiweshe and Manashe (2016).

Having amended the Constitution, the new government hastily changed the Land Acquisition Act 1992, stating that in the absence of a fund set up by Britain, the Government of Zimbabwe would pay for improvements on the land only, and not for the land itself. As under previous provisions, no challenge would be allowed as to the ‘fairness’ of the compensation as determined by the Compensation Committee. The amendments also removed the process of designation, which, according to Coldham (2002), effectively removed what were considered land reform process bottlenecks. Coldham (*ibid.*) notes, “Controversial though they may be, these amendments to the law undoubtedly make it much easier for the government to acquire land for resettlement purposes.”

2000 ELECTIONS

The parliamentary elections held in June 2000 were marred by violence and allegations of vote rigging. ZANU-PF managed a narrow victory. Zanu-PF and Zapu-PF were supported largely by the ethnic constituencies of Shonas and Ndebele's, respectively. The Shona constitute 70% of the population of Zimbabwe. The biggest story in this election concerned pre-election political violence and intimidation. Over 30 persons were killed and many more reportedly harassed, beaten and forced to engage in partisan activities (some 5 000 according to human rights organisations) (Tshuma, 2018). He further notes that the opposition party, MDC, expressed concern that with over 20 murders since the February referendum, police had not yet made a single arrest (*ibid.*). The 'land invasions' in which liberation war veterans occupied commercial farms demanding land ownership were marked by charges of weak or complicit responses by the police and the destruction of property. Throughout the land invasions, Zanu-PF maintained that its party officials, supporters and landless peasants were merely assisting the spontaneous, legitimate, and popular demand for the redistribution of land.

President Mugabe called for restraint and spoke against the political violence, much of which it blamed on the MDC (*Journal of African Elections*, 2001). By contrast, media and human rights monitors argued that under such conditions, free and fair political activity was impossible. In its final election observation report, the domestic monitoring organisation, the Zimbabwe Election Support Network (ZESN), concluded that the 'violence created an atmosphere of fear and anxiety, which had a serious psychological effect on the electorate', and that it was not possible to declare the election free and fair'.

For the future, many administrative and legal issues are as yet to be settled. The delineation of roles between the Electoral Supervisory

Commission (ESC) and the Registrar-General is unclear and lack of resources for the ESC makes it a very weak electoral institution. Tshuma (2018) states that the debacle around the accreditation of observers reinforced the very real power of elements in the bureaucracy loyal to Zanu-PF. Hence, the absence of public consultation and accountability in all aspects of the electoral process, from the constitutional review to delimitation to voter registration through to candidate nomination, builds little confidence in the willingness of the Zimbabwean government to reform its electoral practices (*ibid.*). The fact is that voter turnout continues to decline, even in the face of a viable opposition party.

2002 ELECTIONS

The 2002 presidential election was bedevilled by serious anomalies. First, there were major flaws relating to the voter registration process. For instance, the transparency of the electoral process was compromised by the Registrar-General's refusal to make public a consolidated voters' roll. This made it impossible for the public and political parties to inspect the roll and register any objections (ZESN, 2002). This rendered the election process open to exploitation since it was impossible to identify voters or rectify the register. Indeed, there was a secret registration of voters beyond the official deadline of 27 January 2002, and a subsequent retrospective extension of the deadline to 3 March 2002 (*ibid.*). Second, the production of ballot papers was not open to verification by political parties, monitors and independent observers. It was observed that extra ballot papers were printed and that election authorities refused to provide any definitive figure for the number of ballots printed (*ibid.*). In addition, legislative amendments were made in the run-up to the election to further compromise the limited independence of the ESC, by demanding that the institution recruit its election staff, including monitors, only from the civil service. Third, the Registrar-General and the ESC failed to provide clear and adequate public information on all aspects of the electoral process,

particularly the location of polling stations (*ibid.*). The public was not given sufficient notice to be able to identify polling stations nearest to their homes, and the opposition MDC was deprived of its right to deploy its election agents in the field in good time (*ibid.*). Finally, invitations to domestic and international observer groups were selective and arbitrary. In many instances, local observers were denied access to polling stations on the grounds that they had not been accredited; indeed, most such observers deployed by ZESN were harassed by beatings, arrest and detention (*ibid.*). Violence and intimidation were widespread during the election campaign and immediately afterwards, with 54 lives lost between January and April 2002. These were some of the factors that led the MDC to challenge the poll in the High Court – the hearing was still pending in March 2003. The case pits President Robert Mugabe, who claimed to have won by 1,68 million votes, against MDC leader Morgan Tsvangirai, who received approximately 1,25 million votes.

OPERATION MURAMBATSVINA 2005

Contextualising *Operation Murambatsvina* on 19 May 2005, with little if any warning at all, the Zimbabwean government embarked on the operation it called *Operation Murambatsvina* (Chari 2008; IDMC 2008; Mhiripiri 2008; Nyamanhindi 2008). It is claimed that, the operation was officially announced as having ended on 25 June 2005 (Chari 2008), exactly 37 days after its official commencement, yet the negative effects of the operation are arguably still felt and experienced today. The then Vice President of Zimbabwe, Joyce Mujuru, is also said to have announced that *Operation Murambatsvina* ‘was now complete’ on 28 July 2005 (COIS, 2006). This exposes the uncertainty that surrounded *Operation Murambatsvina*. The legality of this operation is a contentious issue.

However, in that regard, the then Chairperson of the government appointed Harare Commission, Ms Sekesai Makwawarara, stated

categorically that Zimbabwe was within the bounds of the law when it instituted and executed the operation (Nyamanhindi 2008, citing *The Herald*, 19 May 2005). Makwavarara further asserted that the Government of Zimbabwe was right in claiming that it was within its sovereign rights to determine its trajectory concerning urban dwelling structures and commerce. As quoted by the United Nations Human Settlements Programme (UN-Habitat 2005) in Chibisa and Sigauke (2008), the Zimbabwean government argued that it was:

“arresting disorderly or chaotic urbanisation, including its health consequences; stopping illegal, parallel market transactions, especially foreign currency dealing and hoarding of consumer commodities in short supply; and reversing damages caused by inappropriate urban agricultural practices”.

If the operation was legally constituted, the manner in which it was executed; especially the brutality of the evictions and the resultant damage to property, cannot be argued to be legal. The ferocity of the *Operation Murambatsvina* left the most vulnerable groups of the Zimbabwean societies, particularly women and children, even more vulnerable. The timing of the operation was also not a coincidence, given that it was executed in the middle of a bitter winter, leaving room for asserting that this was a move meant to inflict maximum damage, loss and suffering on the victims. The execution of *Operation Murambatsvina* was rightly challenged by a number of governments and organisations such as the United Nations Human Settlements Programme (UN-Habitat), the Labour and Economic Development Research Institute of Zimbabwe (LEDRIZ), and the Country-of-Origin Information Service.

Amnesties In Zimbabwe (Mandikwaza, 2016)

Year	Amnesty
1975	The Indemnity and Compensation Act granted amnesty to the police force, civil service and Central Intelligence Organisation (CIO) members for offences committed in the past (in retrospect) and for those anticipated

1979/80	Amnesty Ordinances of 1979 and 1980 were granted by the transitional government at the sealing of the Lancaster House Agreement.
1988	General Notice (GN) 257A/1988 granted amnesty to “dissidents”, collaborators and members of the Zimbabwe African People’s Union (ZAPU). ⁹
1990	General amnesty, repeating GN257A/88 to include the state’s uniformed forces, who had been responsible for <i>Gukurahundi</i> in the Matabeleland and Midlands provinces in Zimbabwe from 1982 to 1987. <i>Gukurahundi</i> was the name given to the bloody military repression of opposition to the government immediately after Zimbabwe’s independence in 1980. This repression led to over 20 000 deaths, affecting mainly the Ndebele tribe in Zimbabwe’s Matabeleland, the Midlands and southern provinces.
1993	GN111C was a general amnesty for people arrested before 31 March 1980 for prisoners serving less than 12 months.
1996	GN362A was a general amnesty for life sentences before 31 January 1981, infanticide offenders and determinate sentences.
2000	GN457A was a general amnesty for politically motivated crimes (liability pardon and remission of sentences). However, the names of those pardoned were never published.
2014	Close to 2 000 inmates were granted pardon – reportedly due to hunger and service delivery pressures in the country’s prisons.

CONCLUSION

It is clear that healing is not just about the past, but about how the past can affect both the present and the future. It is also clear that mechanisms used historically as vehicles for justice and reconciliation – such as amnesties and pardons, clemencies and commissions of inquiry – have failed to resolve Zimbabwe’s complex history of conflict and violence. What is needed are practical healing programmes based on trust, and a genuine desire to resolve past transgressions as a society. The issues raised in this article are not an attempt to discredit the NPRC, but to help broaden its focus and sharpen its programming. Finally, and most importantly, healing and reconciliation cannot be left to the NPRC alone – everyone has to play their part, dutifully and with

sincerity. All Zimbabweans must resolve to bequeath to future generations a peaceful, violent-free and prosperous society.

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