

Full Length Research Paper

Effectiveness of transitional justice processes in peacebuilding in Zimbabwe: The case of national peace and reconciliation commission

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The purpose of this study was to assess the effectiveness of transitional justice processes in Zimbabwe using a case of the National Peace and Reconciliation Commission (NPRC). The NPRC is the first Commission constitutionally mandated to implement the transitional justice processes in Zimbabwe. The research employed a qualitative research methodology and a case study design of the NPRC was used. Purposive sampling method was used to identify research participants. Data was collected using key informant interviews and documentary analysis. The research participants were drawn from the NPRC and Non-Governmental Organizations (NGOs). The findings of the study showed that the NPRC was far from meeting its mandate as enshrined in the Constitution of Zimbabwe (2013) and the NPRC Act. The key issues of transitional justice include reparations, prosecutions, and truth telling. The major challenges noted included financial, political, and lack of visibility at grassroots levels.

Key words: National peace and reconciliation commission, transitional justice, peace building, national healing, violence, operation restore order, citizens.

INTRODUCTION

Zimbabwe's history has been marred by violent conflicts since the pre-colonial period. Muchemwa (2015) argued that violence in Zimbabwe is endemic. During the pre-colonial period violence was used by powerful states such as the Ndebele state to suppress other weaker states. Violence was used to colonize Zimbabwe and to maintain white hegemony during the colonial period (Madenga, 2017). The post-colonial period also witnessed a lot of violence. These include the Matabeleland and Midlands disturbances known as

the Gukurahundi massacre, the Fast Track Land Reform Programme, Operation Restore Order (Murambatsvina), and electoral violence during every election period (Benyera, 2014). Violence has also persisted post the Mugabe era (2017 to present). The August 01 2018 shootings and the January 2019 violence in towns such as Harare and Chitungwiza are examples. These cases of violence have led to the destruction of many relations at both micro and macro levels. Citizen-state relations, Ndebele-Shona relations, and Zimbabwe's relations with

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the West and the United States of America (USA) have all been disturbed due to violence.

There have been a lot of debates in terms of how to deal with post-conflict violence in Zimbabwe. The Government of Zimbabwe has been accused by local, regional, and international organizations of its failure to address violations of human rights. Transitional Justice is a prerequisite for building peaceful relations in post-conflict societies. The effectiveness of the NPRC in transitional justice has come under criticism from different scholars (Benyera, 2014; Madenga, 2017; and Murambadoro, 2017). Therefore, this study seeks to explore the effectiveness of the transitional justice processes in Zimbabwe with specific reference to the NPRC.

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

This section focuses on the literature review and the theoretical framework. It highlights the conceptual framework of transitional justice, its evolution, and its mechanisms. The section further reviews the relevant literature on the link between transitional justice and peace-building initiatives. The role of none state actors in transitional justice, state efforts in implementing transitional justice in Zimbabwe, and the work of the Organ on National Healing, Reconciliation (ONHRI) the predecessor to the NRPC are also explored.

Conflict transformation theory

This research is premised on the Conflict Transformation theory. Conflict Transformation is discussed among contemporary scholars as a theory designed to reframe the way in which peace-building initiatives are discussed.

Scholars who have researched the Conflict transformation theory include (Lederach, 1995, 2003; Galtung, 1995; Väyrynen, 1991). There is no agreed definition of conflict transformation. According to Lederach (2003), conflict transformation is to envision and respond to the ebb and flow of social conflict as life-giving opportunities for creating constructive change processes that reduce violence, increase justice in direct social interaction and social structures, and respond to real-life problems in human relationships. Lederach's definition has been widely used by scholars in preference to other definitions. In simplicity, the definition provided by Lederach (2003) implies that conflict transformation views conflict as a normal part of human society and as constructive if addressed in a nice way. This definition was further reinforced by Berghof (2012) who defined conflict transformation as a complex process of constructively changing

relationships, attitudes, behaviors, and interests that embeds in conflict-prone settings. Conflict transformation as a theory thus goes beyond traditional theories of peace building such as conflict resolution and conflict management which views conflicts as destructive and seeks to end violence (Boege, 2006). According to Miall (2004), conflict transformation goes beyond conflict resolution because it is aimed at changing vital relationships, social structures, and external conditions that give rise to conflicts. Its main emphasis is on building relationships and social structures through radical respect for human rights.

The theory is relevant to this study since its goal is to transform relationships affected by conflicts in a society. This relates to some of the constitutional duties of the NPRC and the end goal of transitional justice. Makwerere (2017) noted that relationships are key elements of conflict transformation theory. Conflict transformation theory is able to transform relationships because it addresses a culture of violence by striving to replace it with a culture of peace by promoting tolerance, forgiveness, and reconciliation (Berghof, 2012). As a theory, it illustrates that conflicts are continuously present in human relationships and should not be addressed in a way that hinders societal relationships. This is notable in the history of Zimbabwe as a country that has experienced violent conflicts for a very long time. As noted by Makwerere (2017) the conflicts in Zimbabwe have created serious social challenges that have seen societies failing to maintain cordial relationships. Thus Conflict transformation largely resonates with the study because healing broken relationships are one of the goals of transitional justice. Conflict transformation also emphasizes the importance of transforming the conflict itself. This refers to the content and the root causes of the conflict. Conflict transformation theory in this context is concerned with addressing the underlying structures, cultures, and institutions that give rise to conflicts (Botes, 2003). Lederach (2003) as one of the pioneers of conflict transformation pointed out four important aspects that should be transformed to build sustainable peace. These are:

- (a) Personal changes: These are aimed at reducing the violent ramifications of social conflict by focusing on interpersonal and intrapersonal changes. This change influences the emotional, perceptual, and spiritual aspects of the conflict.
- (b) Relational changes: This relates to efforts meant to reduce poor communication and amplify understanding through enhancing interaction.
- (c) Structural changes: This is aimed at understanding and redressing the perceived root causes of conflicts. Structural change promotes non-violent ways of addressing the underlying causes and social conditions that create and foster violent conflicts.

This change also looks at the critical ways through which social structures, organizations, and institutions are built.

(d) Cultural changes: It seeks to address societal perceptions of engaging in conflict since according to Burgess and Burgess (1997) society has a tendency of believing that violence works and produces quick results.

Conceptualizing transitional justice

There has been a debate among contemporary scholars on the best ways that can be utilized by countries to respond to a history of violence and gross violations of human rights. Scholars are also interested in finding the best mechanism that is effective in ensuring peaceful coexistence and stability in conflict situations. The concept of transitional justice emerged as a contribution to this debate after the Second World War and the Nuremberg Military Tribunals in Germany where the international community was concerned with addressing the past wars and avoiding similar wars in the future (Simic, 2017). The evolution of transitional justice can thus be traced back to the rise of the human rights movement after the Second World War. Tiel (2005) is acknowledged by different scholars as the first scholar to coin the word transitional justice (Kamau, 2016).

There are three main factors that can be attributed to the rise and popularization of transitional justice. These factors include; the end of the second world war and the rise of the human rights movement, the rise of the USA as the world's superpower and the rise of democratic values which prioritized accountability, and the rise of globalization that popularized the concept (Stewart and Wiebelhaus-Brahm, 2017). When transitional justice evolved it was only concerned with judicial procedures and it only existed in the language of judges, lawyers, journalists, and other members of the academia. It was in the 1990s that transitional justice came to include none judicial mechanisms. Since Second World War the concept has continued to develop taking various forms and various definitions.

A plethora of definitions has been proffered by different scholars, institutions, and governments (Benyera, 2014). International organizations such as the International Center for Transitional Justice define the concept as a set of judicial and none judicial measures that have been implemented by different countries in order to redress the legacies of massive human rights abuses. Founding Scholars of the concept such as Tiel (2005) defined it as the concept of justice associated with periods of political change where legal responses are used to confront the wrongdoings of the repressive predecessor regimes. The United Nations and the International Centre for Transitional Justice

define the concept as the full range of processes associated with a society's attempt to come to terms with a legacy of large-scale past violations of human rights in order to ensure accountability, serve justice and achieve reconciliation (United Nations, 2004).

The United Nations (2004) defined transitional justice as the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses in order to ensure accountability, serve justice and achieve reconciliation both judicial and non-judicial mechanisms, at times with different levels of international involvement and individual prosecutions, reparations, truth-seeking, institutional reform, vetting, and dismissal or a combination there of (United Nations, 2004).

Bell (2009) looks at the concept as broad and constitutes three different notions; transitional justice as an ongoing battle against impunity rooted in human rights discourse, a set of conflict resolution techniques related to constitution-making, and a tool for international state-building in the aftermath of mass atrocities. Local NGOs in Zimbabwe such as the Zimbabwe Human Rights Forum defined transitional justice as a range of approaches that states may use to address past human rights abuses and including both judicial and non-judicial approaches (Zimbabwe Human Rights NGO Forum (ZHRF), 2009).

There are common themes that can be derived from the above definitions (Kamau, 2016). These definitions agree that transitional justice is implemented to deal with human rights abuses faced by different societies. There is also a consensus on the fact that transitional justice processes include both judicial and non-judicial mechanisms although founding scholars of transitional justice neglected non-judicial mechanisms. According to Kamau (2016) there is a general agreement in the literature on the fact that transitional justice is implemented after certain events in society.

Furthermore, transitional justice has different goals and objectives it seeks to achieve. The broader goal of transitional justice is to confront past violations of human rights in a holistic manner so as to prevent the recurrence of conflicts (Bell, 2009). It also seeks to establish the truth about the past, to hold accountable the perpetrators of the violence, to compensate victims for past wrongs, to prevent future violations of human rights, and to promote social healing and reconciliation. Transitional justice, however, doesn't always have noble goals; some politicians have used it as a tool for preventing prosecutions and promoting a culture of impunity. This goal is usually achieved through amnesties and what scholars have termed as victor justice where transitional justice is used by the victors of the conflict to exert their wrath on the vanquished. Thus transitional justice as a tool for dealing with the past is like a double-edged sword that can be used for

both good and bad purposes (Mamdani, 2015).

Transitional justice mechanisms

The definitions discussed above pointed out that transitional justice encompasses a variety of mechanisms which includes both judicial and non-judicial processes ranging from prosecutions and trials, truth commissions, reparations, institutional reforms, and memorialization. This was further reinforced by Kofi Annan in his 2004 report to the United Nations Security Council titled *The Rule of law and Transitional Justice in Conflict and Post-Conflict Situations*. He noted that transitional justice includes both judicial and non-judicial mechanisms with at times different levels of international involvement and individual prosecutions, reparations, truth-seeking, institutional reforms, and memorialization (United Nations, 2004).

These mechanisms are often referred to as the key pillars of transitional justice. Fielder and Mross (2019) also noted similar mechanisms but grouped them into four excluding institutional reforms. These pillars are discussed below.

Truth seeking and fact finding

After a period of gross violations, identifying and establishing the truth about the events that took place is a key activity of transitional justice. According to Fiedler (2019), truth aims to uncover what atrocities have been committed during the conflict and by whom? The idea of truth-seeking emanated from the Human rights movement where it was asserted that the victims or survivors of conflicts have a right to know the truth about the events that led to the violations of human rights. Different strategies can be employed to facilitate this activity and this includes the creation of truth commissions or commissions of inquiry, the creation of museums, and archival work.

One of the core mandates of the NPRC is to establish and document the truth about the violence that took place in Zimbabwe. Truth commissions as official bodies sanctioned by the state have been widely used to investigate facts about past violations (Thompson, 2000). Truth is important because it helps the survivors to heal and to prevent the recurrence of the violence. It also helps to restore the personal dignity of the victims and facilitates a process of reconciliation. However, truth-seeking activities have been blamed for promoting what Mamdani (2015) termed victor justice. This means that sometimes the reports and findings are biased towards the victors and they are sometimes heavily politicized rendering the initiative ineffective.

Prosecutions and trials

Prosecutions are an important component of transitional justice. Stewart and Wiebelhaus-Brahm (2017) noted that the aim of prosecutions is to ensure that the people responsible for committing violations of human rights are tried and prosecuted and where necessary punished. Prosecutions are often overshadowed by amnesties that limit the power of this kind of mechanism. In many cases, transitional justice has promoted a culture of impunity through the granting of amnesties. In countries such as Zimbabwe perpetrators of violence have always used amnesty as an escape route from trials and prosecutions (Mungwini, 2013). However, amnesties have been justified in situations where the local courts lack the capacity to prosecute a larger number of criminals. Trials and prosecutions remain important as far as achieving justice after the conflict is concerned.

Reparations

Victims of transitional justice have a right to remedy and to reparations. This is an important mechanism of transitional justice. As noted by the United Nations UN (2004) transitional justice through reparations seeks to redress systematic violations of human rights by providing a range of material and symbolic benefits to the victims. The benefits can be grouped into three. These are restitution, compensation, and symbolic measures. Restitution involves the return of property or other measures to establish the situation of the victim before the violations. Compensation includes economical aspects such as financial payments. Symbolic measures may also include state efforts such as apologies, memorials, and others (Loyle and Appel, 2017). The aim of this activity is to restore the dignity of the victim. Reparations help the government to gain the trust of the citizens because they act as a picture that shows victims the commitment of the state to address the root causes of the violations of human rights. However, reparations as transitional justice mechanisms also have shortcomings. Sometimes it is difficult to restore harms caused by violations such as sexual abuse, torture, disappearances as well as physical loss of lives. Moreover, states may be limited in terms of resources to compensate the large number of victims.

Institutional reforms

Transitional justice mechanisms also include institutional reforms because prolonged violence has a tendency of destroying institutions of a country such as the judicial system leading to corruption, and illegitimate and dysfunctional institutions (Benyera, 2014). To

prevent a recurrence of the violations of human rights there is a need to reform vital institutions such as the justice system, the military, and other institutions. This may include the removal of the perpetrators of violence from public positions and the training of the remaining officials on the importance of human rights.

Memorialization

Memorialization is another instrument of transitional justice (Fiedler and Mross, 2019). It is implemented to honor the victims of transitional justice by commemorating the struggles and suffering of victims. The process is important because it leads to the healing of victims as well as prevents the recurrence of the conflict by ensuring that history never repeats itself. Different countries have established this by creating monuments and museums, national days of remembrance, and history in the education curriculum.

None-state actors and transitional justice

Since its evolution, transitional justice has been associated only with states and governments. Very few scholars have explored the role of non-state actors (Gready and Robins, 2017). A non-state actor by definition is any individual or organization that has crucial political influence but is not allied to a particular state or government (Gready and Robins, 2017).

This may include humanitarian organizations, victim and survivor associations, development NGOs, lawyers, academia, mental health and medical associations, religious groups, and others. Non-state actors play a significant role in the transitional justice process. According to Gready and Robins (2017) civil societies have played a significant role in every country that has experienced a successful transition. Five major roles of none state actors have been identified by some scholars (Batanda and Torit, 2009). These include; lobbying and advocacy, support and mobilization, capacity building, and psychological support, and they can even implement transitional justice on their own. Each role will be explained in detail in the following sections.

Lobbying and advocacy

Non-state actors such as NGOs have the ability to influence transitional justice processes either directly or indirectly. Advocacy entails organized efforts of like-minded groups or individuals for systematic peaceful change to government policy (Botes, 2003). Advocacy and Lobbying are all concerned with influencing change through activities such as awareness campaigns, information workshops, protests, petition writing, and

presentations to parliament and others.

Non-state actors such as NGOs have used their advocacy skills to facilitate a transition from a culture of violence to peace. Some NGOs have also engaged in raising awareness of government-led initiatives on transitional justice at societal levels. As stated by Batanda and Torit (2009) the importance of CSOs in transitional justice relates to their ability to influence leaders and public opinion.

Support and mobilization

One of the roles of non-state actors is to complement government efforts through different initiatives. In the context of transitional justice, non-state actors support government efforts by mobilizing participants and providing some of the resources needed by the government to achieve the goal of transitional justice. Non-state actors offer support to the existing transitional justice processes. Duthie (2009) stated that non-state actors offer technical, logistical, and financial support to the transitional justice institutions set by the government. In this case, non-state actors act as a complement to government efforts on transitional justice.

Capacity building

Non-state actors empower different communities through capacity building so that they can engage with the transitional justice processes. Sometimes transitional justice is not popular at grassroots levels. The concept of transitional justice is sometimes difficult to be grasped by local citizens and non-state actors' work is often centered on this.

Psychological support

Non-state actors also offer psychological support to the victims of gross violations of human rights. Sometimes victims of violence often experience post-traumatic stress disorder after violent conflicts, and if not addressed, the trauma may lead to the recurrence of violence. Psychological support such as counseling is very important because they facilitate the healing process. Without healing of the victims, forgiveness cannot be achieved, and without forgiveness, there is no future for communities. Non-state actors who do humanitarian work, mental health associations, and medical associations play a pivotal role in psychological support during a transition from violence to peace.

Substitutionary role

Non-state actors can also substitute the work of the state. This often takes place when the state fails to

implement transitional justice. This means that non-state actors often implement transitional justice mechanisms on their own. This was the case of the Catholic Commission for Peace and Justice which carried out research on the Matabeleland disturbances (Gukurahundi) between 1982 and 1987 to discover the truth behind the violence and also to provide a report leading to the discovery of some truth and facts related to the conflict which is a key pillar of transitional justice.

State efforts towards transitional justice in Zimbabwe

Zimbabwe as a nation has always tried to address the history of violence through government-led initiatives. According to Benyera (2014), state efforts towards transitional justice in Zimbabwe during the past decades can be best summarized as amnesia, commissions of inquiry, the National Organ on Healing, Reconciliation, and Integration, and the NPRC. Amnesties were used since the Lancaster agreements and other events where violence was experienced in Zimbabwe. Murambadoro (2017) also noted that in Zimbabwe the government established various mechanisms to respond to the past violation of human rights in the form of commissions namely Chihambakwe and Dambutshena commissions of inquiry established in 1983 and 1984 to deal with the Gukurahundi disturbances. In 2018, the Motlhande Commission was established to inquire about the August 1 2018 shootings.

Organ on national healing, reconciliation and integration

The ONHRI was established following the 2008 violence that took place in Zimbabwe as a product of the Government of National Unity (GNU). In order to resolve election disputes during the 2008 harmonized elections, SADC and AU mediated for a transitional inclusive government for Zimbabwe. Thabo Mbeki the former President of South Africa initiated the Global Political Agreement (GPA) on 13 September 2008. The GPA was to act as a panacea to conflict in Zimbabwe and to transform it into a peaceful state. According to Chipaike (2013) cited by Makwerere (2017) many people, including international diplomats hailed the GPA as a conflict transformation tool for Zimbabwe. The GPA had an obligation to draft strategies to acknowledge past violations and also to establish mechanisms that would advise on measures to be taken to peacefully achieve national unity and healing. The ONHRI was considered the best method and the non-violence assurance. The setting up of the ONHRI was considered as the GNU acknowledgment of past violence. ONHRI was therefore established in 2009 and

comprised three ministers from three political parties in the GPA. The main focus of the ONHRI was to identify the sources of conflicts, identify a reliable national healing framework, and restorative of Zimbabwe (Benyera, 2014). The ONHRI has been considered by contemporary scholars as a great failure in the history of transitional justice in Zimbabwe. According to Madenga (2017), it was transitional justice without transition. Shumba and Masunungure (2014) also echoed the same views on the ONHRI. It failed to deliver justice to the victims of the violence which had occurred. It also failed as an initiative to compensate the victims of the violations of human rights.

Reasons for failure of the ONHRI

According to Makwerere (2017), the ONHRI lacked political will and a well-defined strategy to resolve relationship challenges across the country. No initiative can succeed without a clearly outlined strategy for implementation. The ONHRI did not have a well-outlined peace-building model to deal with the victims as well as the perpetrators of the violence; therefore, it was bound to fail. Moreover, one of the factors that led to its failure included its top-down approach as opposed to the bottom-up approach advocated by Lederach (Makwerere, 2017). Lederach (1995) in the conflict transformation theory discussed above noted that for peace-building initiatives to be successful, there is a need to use the unpopular way of dealing with conflicts which involves consulting the grassroots level. The ONHRI did not use this bottom-up approach. This weakened its mandate. Victims of the conflict were not identified and approached.

The ONHRI was seriously hamstrung by its failure to have a clear time frame and adequate funding to implement transitional justice in Zimbabwe. Transitional justice mechanisms require funding for them to be implemented in a country. Sometimes countries emerging from conflicts are not able to implement transitional justice processes due to the lack of funds and this explains why NGOs have chipped in to support governments to implement transitional justice processes. The ONHRI was no exception due to the lack of political will to achieve justice in Zimbabwe. The organ did not receive enough funding and neither did it have an adequate budget.

Additionally, ONHRI failed because it lacked legal support such as an Act of Parliament. The lack of legislative support weakened the powers and authority of the ONHRI. The ONHRI only had the GPA that defined its objectives and focus.

It failed because it did not use traditional mechanisms of transitional justice. As discussed in this study, transitional justice includes both judicial and non-judicial means of dealing with the past. According to Benyera (2014), Zimbabwe is blessed with many exogenous

ways of dealing with a gruesome past of violence. The ONHRI only acknowledged the presence of some of the traditional mechanisms but failed to utilize them. Traditional mechanisms of transitional justice are important because they are cheap and are largely recognized by the local people compared to endogenous mechanisms. The ONHRI also failed because it did not incorporate gender analysis into conflicts in Zimbabwe. The international community recognizes that the voice of women in addressing past violence is important because they are the most affected by violence. The ONHRI didn't recognize both traditional ways of transitional justice and the importance of women.

RESEARCH METHODOLOGY

The study relied on qualitative methodology. This refers to an approach to exploring and understanding the meaning individuals or groups attach to a social or human problem (Creswell, 2007). The study used the qualitative method because it allowed the gathering of in-depth opinions related to the study and also to generate new ideas. A case study research of the NPRC was used. A research design determines the nexus between the research problem and actual research. As stated by Saunders (2013) a case study is an in-depth investigation of a problem in a real-life situation over an extended period of time. The research used a case study because of its ability to discover a plethora of social, cultural, economic, and political factors potentially related to the study on transitional justice and the role of the NPRC.

Additionally, a case study was used because of its strength over other methods such as its ability to use multilevel analysis and multiple participants. Through the case study, the researchers managed to have in-depth understanding of the research problem. The other rationale for using the case study involves its ability to allow the researchers to use several data collection techniques during the data collection process.

The study population consisted of key informants from NGOs that work with the NPRC in implementing transitional justice. This was done so to generate a wide array of perceptions on the effectiveness of transitional justice processes in Zimbabwe and the role of the NPRC. The sample for the study consisted of 25 participants drawn from NGOs from the NPRC, NGOs that were working and monitoring the work of the NPRC. This was important because these NGOs provided independent responses on the effectiveness of transitional justice processes in Zimbabwe. The study employed purposive methods. Saunders (2013) stated that purposive sampling means selecting participants for their ability to provide rich information. This allows the researcher to carefully select cases that can typify or shed light on the subject of study. Hence, it is also based on participants with experience and knowledge about transitional justice and the role of the NPRC. The rationale for using the purposive sampling method was to generate focused and reliable data since experts tend to be more familiar with the subject matter than non-experts. Experts, in this case, included Commissioners from the NPRC and NGOs dealing in peace-building. Data was collected using key informant interviews and documentary searches. Documentary sources included journals, government documents, newspapers and research previously conducted by other researchers. The research also resorted to the use of document analysis because it is inexpensive and readily available in the public domain. It was also used because it allowed the

research to corroborate arguments and information related to other sources. The study used the constitution of Zimbabwe as the basis for assessing the work of the commission. The study also used annual reports published by the NPRC on its work in implementing transitional justice. It also referred to articles and reports published by different NGOs such as Zimbabwe Human Rights NGO Forum and research published by different scholars relating to transitional justice in Zimbabwe.

DISCUSSION

This section discusses the findings of the study. An evaluation of the effectiveness of legal frameworks governing the NPRC and also of the progress the NPRC has made in the implementation of transitional justice was also analyzed and presented in this chapter using international standards on transitional justice and best practices. Challenges being faced by the NPRC in implementing transitional justice were also analyzed and presented. The analysis and presentation of data in this chapter are done using responses gained from key informants from the NPRC and NGOs which included Heal Zimbabwe Trust, Human Rights Watch, Zimbabwe Human Rights NGO Forum, and Zimbabwe Transitional Justice Working Group.

Understanding of the concept of transitional justice

The research sought to understand the concept of transitional justice in the Zimbabwe from the view of the participants. Various definitions of transitional justice were given. A Research participant from the Zimbabwe Human Rights NGO Forum stated that:

Transitional justice refers to efforts meant to address past violations of human rights and this is applicable after a transition from war situations and authoritarian system to ensure accountability.

Another participant from the Human Rights Watch also echoed similar sentiments and defined transitional justice as:

A country's response to widespread violations of human rights and is concerned with making the perpetrators to be accountable to their actions.

A Commissioner from the NPRC understood the concept in the lenses of Pan Africanism where he argued that transitional justice has a western origin and influence therefore African countries do not fully embrace its motives and all the mechanisms. He argued that:

Most African countries do not fully embrace the motives of transitional justice because it has a

western origin and they oppose the view that transitional justice is the root for modernity.

A research participant from the Heal Zimbabwe Trust held a similar view and articulated that:

Western writings claim that transitional justice became popular after cold war because of the human rights movement to ensure accountability to past human rights abuses whereas its mechanisms has always been used to solve conflicts in African societies even before the term was even coined.

The findings illustrate the contrasting views and understanding of transitional justice. Chitimira et al. (2019) argued that transitional justice has failed in the African context to achieve its set objectives. Participants from the NGO sector mainly prioritized a few mechanisms of transitional justice such as prosecutions and reparations whilst others did not prioritize prosecutions. Although there were some differences generally, the participants' perceptions were confluent and convergent as they highlighted that transitional justice is implemented after gross violations of human rights.

Legal frameworks which informs the work of the NPRC in transitional justice

Research participants were asked on their knowledge of the legal frameworks guiding the work of the NPRC in implementing transitional justice in Zimbabwe. Being asked on the legal frameworks a participant from the NPRC articulated that:

The constitution of Zimbabwe defines the composition of the Commission as it stipulates that the Commission shall consist of a chairperson and eight other members appointed by the President.

A research participant from the Zimbabwe Transitional Working Group mentioned that:

The constitution defines the longevity of the Commission by outlining that the Commission has a lifespan of ten years. It can be clearly seen that the constitution is the modus operandi of the work done by the NPRC as it lays out ten functions of the Commission in section 252.

Almost every participant asked highlighted the NPRC Act and the Constitution of Zimbabwe amendment (No.20) Act 2013. Participants concurred that the Constitution of Zimbabwe Amendment (No.20) Act 2013 section 251 establishes the NPRC. The research thus discovered that only two important instruments were cited by the research participants as legal frameworks guiding the work of the NPRC.

Effectiveness of legal frameworks

Research participants were asked on their perceptions on the effectiveness of legal frameworks on transitional justice in Zimbabwe. A research participant from Heal Zimbabwe Trust indicated that:

One of the weaknesses of the NPRC ACT includes the idea that it does not define who a victim is but rather mentions only that the NPRC has an obligation to serve the victims. This is a major challenge since the term victim plays a prominent role in transitional justice especially when talking about the mechanisms related to truth telling and reparations.

A participant from the Zimbabwe Transitional Justice Working Group argued that:

Without victims there is no transitional justice to talk about hence there is a gap in the frameworks concerning a comprehensive definition of who a victim is.

A commissioner from the NPRC stated that:

The duties of the NPRC show that the Commission handles both past, present and future conflicts without limitations in timeframe. This is a challenge to the Commission because the Commission does not have the resources and capacity to handle all those conflicts, the legal frameworks should have given a specific timeframe just as other Commissions in Africa did. There is a continued debate regarding the longevity of the NPRC mandate especially after the government challenged high court ruling which indicated that the clock of life for the NPRC started ticking when the NPRC was operationalized in 2018. We as the Commission we have always detailed this challenge in our annual reports but it seems to be the failure of the legal frameworks because they are conflicting on this issue.

A participant from the Heal Zimbabwe Trust also argued that:

The current legal frameworks do not specify whether the Commission is a truth Commission or not and whether the Commission is obliged to implement transitional justice or not. The constitution and the NPRC Act show that the Commission is a national peace and reconciliation institution not a truth and reconciliation Commission. This has caused a lot of confusion among citizens as they take the Commission to be a TRC and this is a challenge as different things

are expected from the Commission such as fulfillment of the whole transitional justice mechanisms.

Another participant from the Zimbabwe Human Rights NGO Forum stated that:

The legal frameworks do not prevent the board from being overcrowded with people from the same tribe. There is a lack of representation of people who were mostly affected by conflicts in Zimbabwe such as those from Matabeleland and they is no commissioner from such Province.

The research findings also reflect that the NPRC Act and the Constitution of Zimbabwe do not grant enough legal power to the NPRC to address violations of human rights, especially in terms of prosecutions and investigations. Heal Zimbabwe Trust (2018) also identified this gap in their published statement on the NPRC Act where they argued that there is less reference to transitional justice and its mechanisms in the NPRC Act and the Constitution of Zimbabwe.

They argued that the NPRC does not reflect a comprehensive framework for transitional justice. The research findings showed that the NPRC Act and the Constitution do not specify the timeframe or the period of the conflicts under investigation. The research findings also highlighted that the legal frameworks are not clear on the longevity of the NPRC. The NPRC Act came years later after the adoption of the amended Constitution so many people interviewed are confused about when to start counting the ten-year period the NPRC is supposed to operate. Others are of the opinion that the ten years began in 2013 with the adoption of the Constitution, whereas others are of the opinion that the ten-year period started to count when the NPRC was operationalized by the NPRC Act. The research findings raised a lot of concerns the effectiveness of transitional justice legal frameworks in Zimbabwe especially when being compared to other Commissions in Africa.

For example, other Commissions had a specific timeframe for the conflicts under investigation but the NPRC does not. According to Kamau (2016), the Kenyan TRC was mandated to investigate violence and conflicts which took place between 1963 and 2018. DRC's TRC was also mandated to look into conflicts that took place from 20 June 1960 up to the time of the transition. Moreover, the South African TRC also had a timeframe for the subject under investigation. When compared to other Commissions the research found that the NPRC is the only Commission that has no timeframe regarding its subject matter. Having a timeframe is important since it helps the Commission to focus on specific aspects.

Effectiveness of the NPRC in implementing transitional justice

Research participants were asked about the effectiveness of the NPRC in implementing transitional justice and its progress. Effectiveness was measured using aspects of transitional justice mechanisms such as truth and fact findings, prosecutions, institutional reforms, and reparations of victims of violence. Each facet was ranked to adequately measure effectiveness. Participants were asked about the progress they felt the NPRC had made in facilitating transitional justice in relation to the mechanism of prosecutions and trials. The majority of participants interviewed expressed that the NPRC is not effective in implementing prosecutions and trials as a mechanism of transitional justice.

A research participant from the Zimbabwe Human Rights NGO Forum indicated that,

In respect of prosecutions and trials, if one were to use both the international and domestic prosecutions as a standard to measure the success or failure, then the NPRC and transitional justice process are failing to deliver justice to the victim.

The research discovered that the NPRC has made little progress in facilitating prosecutions and trials as mechanisms of transitional justice. According to Hayner (2011) most Commissions in Africa lag in this aspect of transitional justice with some Commissions going to the extent of granting amnesty. This agrees with the literature on the South African TRC where the Commission was accused of being quick to grant amnesty but being slow to grant justice as few perpetrators of violence were prosecuted (Hayner, 2011).

Research participants were also asked about the progress the Commission has made concerning the discovery of facts and truths of violent experiences in the past. The majority of participants agreed that the NPRC was not being effective in its attempts to uncover truths related to past violence. A Commissioner from the NPRC highlighted that:

To uncover truth and facts on different conflicts experienced in Zimbabwe the Commission has done a desk review of conflicts in an effort to facilitate the discovery of the causes, extent and nature of conflicts in Zimbabwe.

One participant from Heal Zimbabwe Trust was aware of the structured conversations the NPRC had done with the people in Matabeleland provinces to understand the Gukurahundi conflict which did not yield expected results. He argued that;

Besides the Matabeleland visit no other hearings have been conducted to hear out truths of what

transpired during the conflicts in Zimbabwe. I was convinced an institution so pivotal in achieving transitional justice such as the NPRC, would allow everyone's 'truth' to be put out there; to be challenged and either accepted or discarded. I believed such an arena would give everyone with something to say about issues that plagued our nation an opportunity to speak their 'truth'; be heard; and be challenged. But sadly that is not happening or has never happened on the transitional justice front in Zimbabwe

The research learned that truth and fact findings are important aspects of transitional justice, and the NPRC is still lagging behind on this aspect since a lot of aspects about conflicts that took place in Zimbabwe are yet to be known. These include the perpetrators and number of victims and survivors and the truth of what really transpired. The findings thus echo the arguments provided by Mazambani and Tapfumaneyi (2021) that there is suppression of truth regarding the most recognizable conflicts in Zimbabwe. Also, Ndlovu-Gatsheni (2009) argued that there has never been any serious commitment by the government to finding the truth.

Participants were asked about the progress of the NPRC in recommending institutional reforms in Zimbabwe for the purpose of preventing future violations of human rights and violent conflicts. The majority of participants highlighted that the NPRC was being effective in recommending institutional reforms. A research participant from Heal Zimbabwe Trust noted that the:

The NPRC's work may not have been meaningful or have a substantial impact as the findings review that the Commission has recommended only few reforms to the parliament through its annual reports. For example, the Commission recommended that there is a need to change the education system in Zimbabwe so that they can be compulsory peace education from early childhood.

A Commissioner from the NPRC also highlighted that the NPRC held a capacity-building workshop to educate the Zimbabwe Republic Police on conflict management and resolution skills. The research thus discovered that the majority of participants argued that the NPRC was being effective in facilitating institutional reforms. However, the research also discovered that most participants were not aware of the impact of such efforts on the prevention of violence in Zimbabwe. The participants were also asked whether the NPRC has made some progress in facilitating reparations to the victims of past violence. The Commission has the mandate to support victims of violence in respect of the constitution and the NPRC Act. Regrettably, the findings indicate that participants were not aware of any

progress that has been achieved with regard to this mechanism of transitional justice. One participant from the Zimbabwe Human Rights NGO Forum argued that:

There is lack of strategy on how to identify and compensate the victims of violence in Zimbabwe.

A participant from the NPRC highlighted that:

It is not clear who is supposed to compensate who and for which conflicts and this makes it difficult for to the Commission to recommend reparations.

The research learned that most views from the people interviewed suggest that to date no efforts have been made by the government to compensate victims of violence. This is different from the South African Model where the TRC recommended several reparations to be made by the government. Effectiveness was also determined using international standards and best practices. The research used the guideline provided by the International Centre for Transitional Justice (2008) (ICTJ) and the United Nations Office of the Human Rights Commissioner (OHCHR) (2008) to determine effectiveness. According to the ICTJ (2008), it is recommendable to set up certain structures and procedures to be utilized by the Truth Commission that will ensure it carries out its work independently. The ICTJ (2008) further pointed out the issue of the Commission being deemed independent for it to carry out its mandate well. Moreover, the ICTJ also stresses that the truth Commission must be given certain powers that will enable it to carry out its work effectively, and these powers include, among others, the power to subpoena, search and seize information necessary for its investigations. The OHCHR's tool kit for setting up the truth Commission was also used, and it's exactly like that of the ICTJ. The OHCHR tool kit contends that the truth Commission should also be given the power to offer witness protection to those who appear before it. Moreover, to ensure compliance, the Commission ought also to be given the power to impose penalties and fines on persons. The findings review a large gap when analyzed using the OHCHR's tool kit and ICTJ.

Challenges faced by the NPRC in implementing transitional justice.

From the study the major challenges faced by the NPRC in implementing transitional justice included lack of visibility and influence, financial, lack of political will and, limited timeframe. A Commissioner from the NPRC postulated stated that:

One of the most challenges faced by the NPRC is lack of funds to fulfill its constitutional obligations. Inadequate funding has hampered the full

implementation of the duties of the NPRC.

The participant also further highlighted that the NPRC once appeared before the Parliamentary Portfolio Committee on Justice, Legal and Parliamentary Affairs and the Senate Thematic Committee on Human Rights arguing that the Commission was incapacitated as a result of little funding from the Treasury.

Other participants also criticized the fact that the NPRC received most of its funding from the Treasury as they argued that by so doing the NPRC was not able to challenge the wrongdoings of the government since it received funds from it.

The research discovered that donor funding was also posing some challenges to the work of the Commission because some donors are not able to donate to the work of the Commission because the government suspects that they have hidden agendas suggesting that the Commission even struggles in receiving donor funds. When asked on the challenges faced by the Commission a research participant from Heal Zimbabwe Trust stated that:

It is difficult to expect tangible evidence from the Commission because it does not have enough funds to do campaigns, facilitate truth-telling, and provide reparations of any sought to the victims of violence and even of recruiting more stuff.

A participant from the Commission argued that:

Whenever the Commission would try to revisit the past it always faces challenges of political labeling. The ruling party labels it as regime change agent when it tries to address violence concerned with the ruling party and when it handles violence concerning the opposition it is accused of being partisan and this shows that the work of the Commission is being politicized.

A research participant from Zimbabwe Transitional Justice Working Group commended on the political willingness and argued that:

Most people were expecting transitional justice to be implemented in full force after the removal of former President Robert Mugabe as there was a change of government, but it seems that the hopes of people were shattered when they learned the new message of letting bygones be bygones. The Commission is facing resistance in communities because citizens are not fully aware of its existence and others even confuse it with NGOs.

The research also found that the political environment is not yet ready to fully implement transitional justice in Zimbabwe as participants argued that the NPRC was supposed to be the one to be given the opportunity to

conduct inquiries after the violent elections in 2018 but it was never given such opportunity showing that the government was not willing to give the Commission a platform to exercise its constitutional mandate.

The research further found that the Commission had a limited time frame to fully implement its duties. The ten-year period indicated in the Constitution is not adequate to address the violence that has become so embedded in the history of Zimbabwe. This echoes the views of Benyera (2014) who argued that most of the years on the lifespan of the Commission were spent drafting the NPRC Act which was adopted in 2018 and also the Commission spent almost three years without sworn Commissioners, thus suggesting that the Commission has little time left to implement its duties. On the issue of visibility, the research discovered that NPRC was not visible in the communities. Most of the people in Zimbabwe are not aware that there is the NPRC and some of them identify it as an NGO. This is a great challenge since the Commission is supposed to use a bottom-up approach by listening to the views of the citizens.

Conclusion

The findings of the study showed that the concept of transitional justice was understood in different ways. The civil society in Zimbabwe understands transitional justice within the lenses of accountability where they are more concerned with the prosecutions and trials of the perpetrators of violence while the government and the NPRC which do not work in isolation of the perceptions of Pan Africanism believe that not all the mechanisms of transitional justice are important as some were crafted by the Westerners with a neo-colonial agenda. The study showed that there was no clear understanding of transitional justice in Zimbabwe. This corresponds with Benyera (2014) who argued that transitional justice tends to express divergent views and hence lacks consensus on what constitutes transitional justice, how it should be addressed, which periods to cover, and who is a survivor, among other areas of contention.

The study findings showed that Constitution and the NPRC Act are very crucial in guiding the work of the NPRC. These legal frameworks have several loopholes that may in turn affect the work of the Commission, for example, they do not define who a victim is and do not have a strategy on how to compensate these victims. One can therefore argue that in terms of guaranteeing the rights of victims, which is a major pillar in transitional justice, the legal frameworks are not effective. The legal frameworks do not mandate the NPRC to implement transitional justice since it is not clearly stated that it is a Truth and Reconciliation Commission. Additionally, the legal frameworks are not

clear on the subject under investigation and the timeframe of the conflicts to be addressed.

Findings also suggested that the legal frameworks do not grant enough legal powers to the Commission to conduct investigations. This showed that when compared to best practices and international standards, one can say that the legal frameworks fall short in terms of their effectiveness. According to the ICTJ (2008) and the OHCHR (2008) TRCs should have enough powers to facilitate prosecutions and also to grant amnesty. The findings thus review that the legal frameworks fall short when compared to the International standards because the NPRC Act and the Constitution do not grant enough power to the Commission.

In terms of prosecutions and trials, which are important pillars of transitional justice, the NPRC is yet to recommend the prosecution of perpetrators of past violations in Zimbabwe. Additionally, the findings point to the fact that there are no reparations that are yet to be made to the victims of violence, and there is no framework on how this is supposed to be done. The findings also revealed that the NPRC has done less work to uncover the truth about the violations that took place but rather has only done a desk review which falls short of international standards because the truth is supposed to be heard by the people who were involved in the conflict just like other TRCs discussed in the literature (South African Model) which conducted public hearings (Hayner, 2011).

CONFLICTS OF INTERESTS

The authors have not declared any conflicts of interests.

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