Query: Please identify recent literature on transitional justice and reconciliation in relation to Zimbabwe.

Enquirer: DFID Zimbabwe

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1. Overview

Introduction

1. On the 15th of September 2008, ZANU-PF and the two MDC formations signed the Global Political Agreement (GPA), intended to break the deadlock following the March 2008 elections. The agreement is silent on transitional justice, although it does include the provision to “give consideration to the setting up of a mechanism to properly advise on what measures might be necessary and practicable to achieve national healing, cohesion and unity in respect of victims of pre- and post-independence political conflicts”. This resulted in the establishment in February 2009 of an Organ of National Healing, Reconciliation and Integration involving ministers from ZANU-PF and the two MDCs.

2. There are doubts, however, as to the impact that this Organ will have given its location within the office of the President, its limited budget and the caution with which it approaches its work (Iliff, 2010). Nonetheless, the implementation of the GPA has opened up the space to begin a dialogue on recent and past violence; and to begin to think about what a transitional justice and reconciliation strategy for Zimbabwe might entail.

3. This Helpdesk research report reviews current literature on transitional justice and reconciliation in relation to Zimbabwe and highlights some of the key debates, challenges and options in these areas. It also profiles the results of recent surveys conducted to assess the concerns, needs and wants of the Zimbabwean population.

Thematic transitional justice issues

Time period(s) to cover

4. There is considerable debate concerning the starting point for transitional justice mechanisms. The post-March 2008 electoral violence was the latest of several periods of violence. The others include, but are not limited to: resistance to colonial intrusion, the
liberation war, the Gukurahundi massacres, the land invasions of 2000 onwards, and Operation Murambatsvina (ICTJ et al., 2008). While it would be practical to focus on political repression since 2000, there are concerns about leaving earlier periods out. These earlier periods are considered important in order to develop historical understandings of processes of state and community violence, and because it is believed that a culture of impunity developed from these earlier periods (Eppel and Raftopoulos, 2009; Zimbabwe Human Rights NGO Forum, 2009).

5. The specific choice of dates and periods for national healing generally seemed to be motivated by individual and group experiences (Zimbabwe Human Rights NGO Forum, 2009). In situations where ethnicity is an issue in the choice of time coverage (e.g. Shona advocating for the most recent period and Ndebele concerned with the 1980s), it is important to give consideration to the different periods in order to prevent a divisive dialogue (ICTJ et al, 2008; RAU, 2009b). Ultimately, the question of who decides what to ‘remember’ and what to ‘forget’ can be very political (de Plessis and Ford, 2009).

Socioeconomic issues

6. Given the dire current economic situation of the country, transitional justice measures cannot neglect social reform and structural constraints. A recent survey conducted in Matabeleland found that respondent’s most urgent needs were food and water. In such a context, reconciliation processes will also be undermined if attention is not paid to issues of unemployment, poor access to food and water and poor service delivery (Eppel and Raftopoulos, 2009).

7. Further, in societies where repressive political arrangements institutionalize inequalities, as in the case of Zimbabwe, transitions need to be reconceptualised. They need to focus not only on political and civil rights, but also social and economic rights. A new government has to take responsibility for dismantling the marginalizing structures that it inherits (Muvingi, 2009).

Victim-centric approach and attention to women and children

8. The active engagement by the state of victim groups and other civil society organisations in transitional justice and reconciliation processes is essential. Processes should be victim-centred and should take into consideration the poverty, lack of education, and ill health that affect many victims of political violence. It is also important to acknowledge that there are divergences among victims, communities and NGOs. Victims, for example, do not share a single perspective on reconciliation (Colvin, 2007).

9. It is essential to consider the perspectives and needs of women and children. They often suffer disproportionately from human rights violations, yet their needs are neglected or not well understand (Colvin, 2007). Women need to be engaged at every stage of the transitional process and gender sensitive analysis should be conducted when designing transitional justice policies and mechanisms. When dealing with crimes against women, particularly sexual violence, it is important to be aware that such violence also involves psychological, emotional and spiritual pain. This is exacerbated by the fear of contracting HIV/AIDS and the associated stigma (RAU, 2009).

Education on transitional justice

10. There is a lack of in-depth knowledge among populations in Zimbabwe of various transitional justice tools and how they can serve the Zimbabwean context. There is a need to inform and educate both organised civil society and, more generally, citizens and victims of transitional justice processes. In the absence of such informational outreach, transitional justice efforts will be limited in its ability to transform the country (ICTJ et al, 2008; RAU, 2009b).

11. Transitional justice mechanisms need to take into consideration the fact that legal literacy is low in Zimbabwe, particularly among women, and establish legal education
programmes. Information should be easily accessible, easily digestible, and affordable (RAU, 2009).

**Transitional justice mechanisms**

**Trials**

12. Consultations done by the Zimbabwe Human Rights NGO Forum found that there was a general consensus among participants of the need to have prosecutions (2009). The International Centre for Transitional Justice in its assessment mission to Zimbabwe found that truth-telling processes are unlikely to satisfy victims, as many already know what has happened. Prosecutions of named perpetrators are sought instead (ICTJ et al, 2008).

13. Much of the literature reviewed states, however, that it would be difficult at this stage to pursue accountability through criminal prosecutions so long as security and justice institutions are considered partisan and corrupt, and President Mugabe remains in control of security institutions (Eppel, 2009b, Zimbabwe Human Rights NGO Forum, 2009).

14. Issues of period(s) of coverage are also critical in the formulation of a prosecutorial strategy. It is difficult to gather convincing criminal evidence from more than 30 years ago as many of the victims and perpetrators are now very old or dead (Zimbabwe Human Rights NGO Forum, 2009). In such cases, prosecutions may only be symbolic (Bamu, 2008). Given the advanced age of Mugabe and others, there may also be arguments that they are unable to stand trial (Crane, De Silva and Zwart, 2008).

15. Alternatives to criminal prosecutions of senior government officials have been suggested. It may be possible, for example, to promote accountability through the court system and at the community level. In the context of the most recent political violence, many perpetrators have been named by victims, as those involved were often neighbours and even family members, resulting in arrests and prosecutions. Such continued developments could contribute to perceptions of justice (Eppel and Raftopoulos, 2009).

16. In addition, civil procedures short of criminal prosecutions have been relied upon in the past and NGOs have been able to obtain civil redress. However, compensation from such proceedings is usually of symbolic value only as payments are usually delayed and thus eroded by inflation (Bamu, 2008; ICTJ, 2008).

**Truth commissions and truth recovery**

17. Support for a truth commission in Zimbabwe has been prominent among local civil society activists and lawyers. Since at least August 2003, when over 70 civil society organisations met in Johannesburg for a ‘Symposium on Civil Society and Justice in Zimbabwe’, the preference has been for what the symposium titled a ‘Truth, Justice and Reconciliation Commission’. The presumption is that such a commission would be valuable in addressing past human rights violations and injustice and contributing to a sustainable peace (du Plessis and Ford, 2009).

18. Given that most truth commissions are established by presidential decree, it is unlikely that one will be created under Mugabe. Although the national legislature could also create a truth commission, as in South Africa, ZANU-PF still have overall legislative power to hinder such a development. As such, an official truth commission process will likely have to be postponed. Pushing one forward in this political context could result in a commission with a weak mandate and an environment in which victims are not guaranteed security. In the interim, however, civil society and the opposition can begin debating the parameters and mandate of a future truth commission (Eppel and Raftopoulos, 2009).

19. Operational independence from the government is important to the legitimacy of the commission. Consultations indicate that the preference is for a commission that is controlled by the people and that had representation from civil society, judiciary, faith-
based organisations and ordinary people. Gender activists also stressed the need to have female representation (Zimbabwe Human Rights NGO Forum, 2009). While processes are important, the final report and its recommendations are also significant. In order to maximize impact, it should be readily available to the public and in public digestible form (de Plessis and Ford, 2009). Prior attempts at official commissions of inquiry into human rights abuses since independence in 1980 have failed. They have been controlled by government and secretive, with findings suppressed by the state (Bamu, 2008; Eppel and Raftopoulos, 2009).

20. Much of the literature highlights the greater ability of a truth commission to capture a more comprehensive narrative than trials: it can better capture the complexities of blurring roles of perpetrators and victims (whereby perpetrators in one period may have been victims of the colonial past); and of allocations of blame (whereby people labeled as perpetrators genuinely believed they were justified in their actions). This can allow more nuanced histories of decades of structured violence and understandings of people’s lived realities; and can counter generalizations about collective responsibility (Bamu, 2008; Eppel, 2009; Zimbabwe Human Rights NGO Forum, 2009).

21. It is important to recognize and draw on existing efforts at truth recovery and to engage in continued community level truth-telling processes. These could be informal at first and pave the way for formal transitional justice mechanisms (ICTJ et al., 2008). Civil society in Zimbabwe has already over the years sought to document human rights violations. For example, ‘Breaking the Silence, Building True Peace: a Report on the Disturbances in Matabeleland and the Midlands 1980 to 1988’, produced by the Catholic Commission for Justice and Peace, emulated many aspects of a formal truth commission. It included more than 1,000 victim testimonies, archival evidence and provided recommendations for healing the region (Eppel, S. and Raftopoulos, B., 2009).

22. ‘Truth for amnesty’ was not well received by participants of consultations by the Zimbabwe Human Rights NGO Forum. They felt that only victims, not the state, can give amnesty or forgiveness to the perpetrator. In addition, participants felt that general pardons would preclude a dialogue between victim and perpetrator, which could have a healing effect, in particular if it resulted in acknowledgment and forgiveness (Zimbabwe Human Rights NGO Forum, 2009). An alternative is the truth commission model adopted in Timor-Leste, whereby amnesty was provided solely for less serious offences and was dependent on the performance of a visible act or remorse that would benefit people affected by the original offence (e.g. community service, reparation, public apology) (de Plessis and Ford, 2009).

Reparations

23. While the desire for compensation is high among victims in Zimbabwe, the immense scale of violence in certain parts of the country means that almost every family in these areas would have a legitimate claim to compensation. It would be challenging to engage in such a process and to investigate each claim (Eppel and Raftopoulos, 2009).

24. In many cases, perpetrators of violence would be unable to pay material reparations. Under such circumstances, the government should have an obligation to pay; however, the government would have to raise such resources through taxation, which would result in a situation in which victims compensated themselves (Zimbabwe Human Rights NGO Forum, 2009).

25. Suggestions have been made in the literature for some form of community reparation (e.g. perpetrators helping to rebuild and restock the homes that they destroyed; skills training; improved access to health and education; state housing) (Eppel and Raftopoulos, 2009). Victims who suffered secondary victimization as patients of HIV/AIDS contracted as a result of rape or having to look after children born from rape, expressed the need for instruments that would minimize incidences of secondary victimization as healing (e.g. a scholarship fund to meet the education expenses of the children of rape) (Zimbabwe Human Rights NGO Forum, 2009).
26. Redistribution of land based on equity and need and compensation for loss of property have also been suggested as possible forms of reparation that would also contribute to systemic change (Muvingi, 2009). This, however, is unlikely to be an appropriate remedy for women, who tend to be under-represented among land and property owners (RAU, 2009).

Community-based reconciliation processes

27. Community-based solutions to healing are necessary to address high levels of fear and anger in villages. A range of civic, church, traditional, business and community bodies have taken advantage of the slight easing of the security and political environment to begin reconciliation processes.

28. Community memorial processes and/or exhumations have the potential to be tremendously healing. Exhumations and memorials can serve not only to satisfy the spirits but also to bring together families and communities - and to break the silence over painful past events (Eppel, 2007; Colvin, 2007).

29. Community initiatives have also focused on dialogue in divided communities and have sought to engage perpetrators and victims, recognizing that these roles may not be easily distinguishable. They also focus on re-empowering victims in workshops in which they can share their experiences. Such activities already in place could provide a solid foundation from which the country can explore and develop its own transitional justice processes (Iliff, 2010; ICTJ et al, 2008; Eppel and Raftopoulos, 2009)

2. Conceptual debates and key issues

http://www.idasa.org.za/gbOutputFiles.asp?WriteContent=Y&RID=2541

The political agreement between Zanu PF and the two MDC formations, signed in September 2008, is silent on transitional justice. Given that Zanu PF is considered the key perpetrator of human rights violations in the post-colonial period, it was unlikely to support such a process. In addition, the MDC, with its own history of intra-party violence, was not likely to push for inclusion; nor did it have sufficient negotiating clout. The one relevant section in the agreement is to “give consideration to the setting up of a mechanism to properly advise on what measures might be necessary and practicable to achieve national healing, cohesion and unity in respect of victims of pre- and post-independence political conflicts”. Given this political agreement and the balance of political power in the country, in which ZANU-PF retains control of key security and justice institutions, the authors argue that a holistic approach to transitional justice is significantly constrained. Such a holistic approach has been formulated in civil society meetings (‘Civil Society and Justice in Zimbabwe’ symposium, 2003; Zimbabwe Human Rights Forum, 2008). The Forum emphasized the following principles: “Victim-centred; comprehensive; inclusive; consultative participation of all stakeholders particularly the victims; the establishment of truth; acknowledgement; justice, compensation and reparations; national healing and reconciliation; non-repetition; gender sensitivity; transparency and accountability; and nation-building and re-integration” (see p. 4). It also outlined a series of ‘non-negotiable’ minimum demands for transitional justice processes, which included:

- “No amnesty for crimes against humanity, torture, rape and other sexual offences, and economic crimes such as corruption;
- No extinguishing of civil claims against the perpetrators or the state;
- Comprehensive reparations for victims of human rights violations;
- No guarantee of job security for those found responsible for gross human rights violations and corruption;
A credible and independent truth-seeking inquiry into conflicts of the past, which holds perpetrators to account and provides victims the opportunity to tell their stories with a view to promoting national healing;

Independent monitoring and reform of operations and structures of the police, army, paramilitary, security coordination, administration of justice, food distribution and other organs of state involved in the implementation of the transition;

Development of interim or transitional rules to guarantee the rule of law and upholding of all basic rights during the transition, including the right to engage in political activities. These rules must be enforceable. They must be encapsulated in amendments to the Constitution or an interim constitution. Such rules must remain in place until free and fair elections are held and until a final Constitution, endorsed by the people, is in place;

Gender equity in official bodies and for transitional justice initiatives to pay particular attention to marginalised communities in Zimbabwe” (p. 4).

The paper emphasizes, however, the importance of addressing longer term structural injustices, which are not highlighted in the Forum demands. Drawing attention to such injustices have allowed for continued anti-colonial discourse and the entrenchment of ZANU-PF’s authoritarian nationalism. Further, given the dire current economic situation of the country, transitional justice measures cannot afford to neglect structural constraints. The paper seeks to present a more realistic assessment of the prospects of transitional justice processes in the current political and economic context.

Commissioning a commission: Given that most truth commissions are established by presidential decree, it is unlikely that one will be created under Mugabe. Although the national legislature could also create a truth commission, as in South Africa, Zanu PF still have overall legislative power to hinder such a development. As such, an official truth commission process will likely have to be postponed. Pushing one forward in this political context could result in a commission with a weak mandate and an environment in which victims are not guaranteed security. Prior attempts at official commissions of inquiry into human rights abuses since independence in 1980 have failed, with findings suppressed by the state. In the interim, however, civil society and the opposition can begin debating the parameters and mandate of a future truth commission. This could coincide with the forthcoming, officially mandate debate concerning a new constitution. In addition, transitional justice can still be pursued through other mechanisms.

Accountability: While prosecution of senior government officials is unlikely, it may be possible to promote accountability through the court system and at the community level. In the context of the most recent political violence (April-June 2008), many perpetrators have been named by victims, as those involved were often neighbours and even family members. As such, there have been arrests and prosecutions of individuals who stole cattle or who assaulted neighbours. Such continued developments could contribute greatly to perceptions of justice.

Truth recovery: Civil society in Zimbabwe has over the years sought to document human rights violations. For example, ‘Breaking the Silence, Building True Peace: a Report on the Disturbances in Matabeleland and the Midlands 1980 to 1988’, produced by the Catholic Commission for Justice and Peace, emulated many aspects of a formal truth commission. It included more than 1,000 victim testimonies, archival evidence and provided recommendations for healing the region. Experiences from other countries (e.g. Guatemala, Brazil, Nigeria, Turkey and Morocco) also indicate that informal processes that resemble truth commissions can contribute to truth-telling, victim empowerment and acknowledgment of suffering in the national memory. Informal consultations will also prepare local populations throughout the country for the prospect of a formal truth commission. The paper advises that in addition to documenting violations, it is important to develop historical understandings of processes of state and community violence. This should go beyond the post-independence period to cover abuses of the colonial period.

Reconciliation: The concept of ‘reconciliation’ remains contested. It broadly incorporates aspects of individual healing, victim empowerment, repair of community relationships and peacebuilding. Attention to economic development, social reform and material changes in
power relations is also essential, as reconciliation is likely to be undermined by a context of high unemployment, poor access to food and water and poor service delivery. Food and water were identified as community priorities in a recent pilot survey in Matabeleland. Fostering a new culture of leadership is also important (e.g. through leadership training and conflict resolution programmes). In addition, community-based solutions to healing are necessary to address high levels of fear and anger in villages; local leaders for example could order reparations in the form of rebuilding destroyed homes and compensation for livestock and furniture. The exhumation of mass graves in Matabeleland also needs attention along with the recent disappearances in Mashonaland.

**Institutional reform:** Reform of security and justice institutions will require state cooperation. There is a need to target corruption, build capacity and promote professionalism.

**Reparations:** In addition to the desire for justice, the desire for compensation is high among victims in Zimbabwe. There has been minimal individual compensation in the country, however. Given the scale of violence in Matabeleland in the 1980s and in certain parts of Mashonaland in 2008, compensation may not be a viable option as almost every family would have a legitimate claim to compensation. In addition, it could result in fraudulent claims and the need for vast resources to verify each claim. The paper suggests instead the possibility of community reparation (e.g. perpetrators helping to rebuild and restock the homes that they destroyed; skills training; improved access to health and education; state housing). Extensive consultation with victims around any process of reparation is necessary.


This paper discusses the shortcomings of approaches that emphasise forensic evidence, disaggregate the collective nature of violence and draw lines between victims and perpetrators. Such approaches, often adopted by human rights reports and truth commissions, can bypass complexities over time (e.g. victims in one period of violence becoming perpetrators in another period); or over allocations of blame (e.g. people labeled as perpetrators who genuinely believed they were justified in their actions). They can result in generalisations about entire political groups and perceptions of collective responsibility, such that all ZANU-PF or all MDC supporters are held responsible depending on where a person’s allegiance lies. The paper urges for more nuanced histories of decades of structured violence; and understandings of people’s lived realities and personal experiences of politics and violence. Such histories and understandings will influence the form of and perceptions of any future violence. They are also important in developing ways in which to work with communities struggling with the legacy of communal violence.


This article argues that the treatment by transitional justice initiatives of social and economic inequalities as secondary to civil and political injustices compromises transitions and peacebuilding efforts. Relying on a case study of Zimbabwe, it argues that instability will persist in the absence of redistributive policies: “In societies emerging from repressive pasts, redistributive justice is as emotive and explosive as retributive justice. Such was the reality in Rhodesia (as in apartheid South Africa and elsewhere), where political, social and economic oppression were inextricably intertwined” (p. 165). Entrenched stratifications do not disappear with political transition (e.g. independence), but persist and are exacerbated by globalization processes. The economic benefits of independence in Zimbabwe have been largely monopolized by the ZANU-PF, with few benefits accruing to the masses. Where repressive political arrangements institutionalize inequalities, transitions need to be reconceptualised: a new government has to take responsibility for dismantling the marginalizing structures that it inherits. This was attempted to some extent in South Africa. The bill of rights there makes
clear provisions for socioeconomic rights, which have become justiciable. In addition, attention needs to shift from pressure on victims to forgive, or on prosecution of a few select leaders, to addressing privileged communities. In Zimbabwe, the policy after independence of ‘reconciliation’ effectively translated into leaving the privileged white class intact. In later periods, there have been calls for forgiveness of ZANU-PF for their crimes, with little attention to economic inequalities and the importance of addressing them during the current transition. While individual reparations can be an important mechanism of transitional justice, the paper argues that they are inadequate in situations of systematic marginalization and may even hinder systemic change by ‘surrogating’ redistribution. Only the state would be able to effect significant redistribution (e.g. land redistribution based on equity and need, housing and provision of services) and compensation for loss of property during the Gukurahundi massacres and Operation Murambatsvina.

RAU, 2009, ‘Putting it Right: Addressing Human Rights Violations against Zimbabwean Women’, Research and Advocacy Unit, Harare
http://www.idasa.org.za/gbOutputFiles.asp?WriteContent=Y&RID=2554

This report highlights the different ways in which women experience and suffer from violent conflict. In the context of Zimbabwe, it finds that there has been minimal documentation in human rights reporting of experiences of rape and sexual torture. This is possibly due to the stigma associated with such crimes and the fact that many of the victims are generally marginalized in Zimbabwean society (female, young, rural, generally less well-educated) and less likely to file a public complaint. The report stresses that when dealing with crimes against women, particularly sexual violence, it is important to be aware that such violence also involves psychological, emotional and spiritual pain. This is exacerbated by the fear of contracting HIV/AIDS and the associated stigma. Counselling centres should be set up to help women who have been victims of violence alongside remedies and compensation programmes. Transitional justice mechanisms need to take into consideration the fact that legal literacy is low in Zimbabwe, particularly among women, and establish legal education programmes. Information should be easily accessible, easily digestible, and affordable.

The report notes that reparations policies in different countries have faced similar problems of neglect of women’s issues and needs as they are often excluded in the formulation of transitional justice mechanisms. It is important to engage women at every stage of the transitional process and to engage in gender sensitive analysis when designing transitional justice policies and mechanisms. Key aspects to consider in the case of reparations include:

- Too much emphasis on compensation or restitution for loss of land or property could result insufficient remedy for women, who tend to be under-represented among land and property owners.
- It is problematic to link reparations of female victims to participating in truth telling mechanisms as this will deprive many women, who do not wish to speak out due to stigma, shame or other reasons, of the possibility of reparation.
- It is important to understand that reparations alone will not restore a victim, and should be provided in combination with other measures. Any transitional justice mechanism needs to be complemented by other programmes, e.g. education, legal literacy and socio economic concerns in order that victims especially women and girls be able to rebuild their lives.

http://www.csls.ox.ac.uk/documents/Muvingi_Final.pdf

This brief essay argues that it is premature to discuss transitional justice in Zimbabwe before genuine political transition. The pursuit of accountability through criminal prosecutions is currently not viable as security and justice institutions are still considered partisan and corrupt, and there is little political will to engage in serious institutional reform. In addition, the current political climate is still not secure for people to come forward and speak freely against the ZANU-PF in trials or formal truth-recovery mechanisms. Further, the public itself may not
be ready to engage in transitional justice and reconciliation processes as wounds are still fresh – and moreover, violence is ongoing. The essay also raises the question of whether given the poor financial position of the state and the humanitarian disaster within the country, resources should currently be spent on engaging in transitional mechanisms. The author recommends that addressing the humanitarian crisis and the political transition are the priorities and efforts at transitional justice should be deferred.


Although a political transition in Zimbabwe is not imminent, this brief paper considers the form that transitional justice might take if ZANU-PF were to lose political power. A key consideration is determining the time periods that transitional mechanisms should cover. If violations covered are to include events from more than 30 years ago, then prosecutions may only be symbolic as perpetrators may either be too old or dead. It would also be challenging to gather convincing criminal evidence from events from these older time periods. Truth commissions in conjunction with economic compensation to victims may thus be more expedient. Such commissions would also have a greater ability of addressing a greater breadth of violations and those involved and affected; in contrast, prosecutions that focus primarily on Mugabe and his regime would be insufficient in dealing with the abundant number of perpetrators and deep divisions in Zimbabwean society. Commissions may also be better placed to capture the complexities of blurring roles of perpetrators and victims, whereby perpetrators in one period may have been victims of the colonial past. The paper notes that the most likely mechanisms to arise in Zimbabwe are some form of commissions of inquiry short of truth commissions and civil procedures short of criminal prosecutions. Both these mechanisms have been relied upon in the past and in the case of civil procedures, supported by NGOs. Compensation from such proceedings, however, would be minimal as payments are usually delayed and thus eroded by inflation. Commissions of inquiry in the past have not made reports public and it is unlikely that any new commissions established in the current political climate would be public either nor provide any meaningful redress for victims or contribute to positive reforms.


The brief paper discusses decentralized, grassroots transitional justice in Zimbabwe. It stresses that the often singular focus on international crimes and international and national accountability in discussions on transitional justice can obscure the importance of modest, community level work on reconciliation, dialogue and accountability. Such local efforts should be supported, especially where international criminal accountability remains unviable. In Zimbabwe, the Organ of National Healing, Reconciliation and Integration has been undertaking consultations with traditional and civic leaders. However, the prospects of the Organ becoming a powerful advocate of transitional justice are constrained by its location within the office of the President, its limited budget and the caution with which it approaches its work. The author warns that “if Zimbabweans invest their hopes for justice in a body that remains co-opted by ZANU-PF, they may become frustrated and disenchanted with the entire transitional justice project” (p. 2).

Outside of government, a range of civic, church, traditional, business and community bodies have taken advantage of the slight easing of the security and political environment to begin reconciliation processes. They focus on dialogue in divided communities, instead of reparation or punishment. Importantly, they engage perpetrators and victims, recognizing that these roles may not be easily distinguishable. For example, militia members may have been beaten and intimidated into attacking others, and ZANU-PF supporters may have been victims of revenge crimes. The paper profiles the work of the Tree of Life (ToL) organization to demonstrate the potential for innovative community-based reconciliation processes in Zimbabwe. ToL conducts workshops over two to three days for participants, who are usually
selected by community bodies and may comprise both perpetrators and survivors. Participants share meals and accommodation. Workshops are run by survivors of political violence and seek to facilitate discussion and the sharing of traumas. Although the effectiveness of such workshops requires greater study, some initial research indicates that they have contributed to a reduction in self-reported levels of trauma and the renewal of community ties and trust.


This brief essay discusses the challenges of healing community divides in Zimbabwe in the context of economic and social collapse, with aid dependency, high unemployment rates, and poor education and health care. A recent survey conducted in Matabeleland found that respondent’s most urgent needs were food and water. However, the essay notes that if attempts are not made to heal divides, development initiatives will likely be derailed. There will also be a greater risk of new and worsening cycles of violence and retribution. Another key challenge is poor leadership. The survey found that most participants described their local leadership as ‘poor’ or ‘very poor’, as well as inter-community relationships. The survey also noted a missing generation of young people – lost to AIDS and who have become part of the diaspora, which does not bode well for future leadership. In order to improve leadership in the country, ordinary citizens need to be empowered to hold their leadership accountable; and institutions of traditional leadership and local councils need to be reformed.

Although civil society groups have been calling for prosecutions and a formal truth commission, the author states that such options, in particular calls for the arrest of senior ZANU-PF officials, may not be realistic at this time. There is room, however, for other transitional justice related processes. Civil society groups have for decades been documenting human rights abuses and presenting them in reports. These findings now need to be revalidated and rewritten as more considered histories that acknowledge more comprehensively the broad structural and social nature and impact of state violence in Zimbabwe. Some offences could also find redress through traditional compensation processes, for example with mediation between victims and perpetrators by traditional leaders or church leadership. There is a need to document these local processes carefully in order to learn from good and bad practice.


http://www.informaworld.com/smpp/content~db=all?content=10.1080/09614520701336717

This article presents some of the key findings of the Southern African Reconciliation Project (SARP), a collaborative research project that involved five NGOs in Malawi, Mozambique, Namibia, South Africa, and Zimbabwe. It examined how the concept of reconciliation was understood in political and community contexts in Southern Africa; and looked at reconciliation initiatives in each of the countries in the areas of trauma counseling, victim-support services, demobilization, memorialization, and reparations. Findings concerning Zimbabwe include:

- **Trauma counseling**: Most Southern African states have failed to support this aspect of reconciliation. Although, the majority of those interviewed felt that work on emotions alone would not achieve lasting reconciliation, there was consensus that insufficient attention to emotional dimensions of suffering would undermine prospects of reconciliation.
- **Victim-support services**: These include advocacy groups, legal-advice centres, skills training and economic empowerment, social-work services, mental and physical health providers and conflict-resolution organisations. In Zimbabwe, as in Namibia and Mozambique, local NGOs and church groups have had to fill service delivery gaps left by the state.
- **Demobilisation and reintegration programmes**: Ex-combatants have received far more attention than trauma counseling and other forms of victim support. In Zimbabwe, a
demobilisation directorate in 1981 (lasting 2 years) offered a small pension and skills-training package to former combatants.

- **Memorialisation**: After demobilisation, memorialisation has been the second most common form of state-sponsored reconciliation work in Southern Africa. Most memorialisation efforts have been elite driven, however. In the case of Zimbabwe and Namibia, the creation of memorials for individuals aligned to the ruling party demonstrate the centralisation and established hierarchy of memory. Even in the case of larger memorials, communities have often dismissed them as ‘political manipulations of tragedy’ (p. 329) as they lacked any genuine participation and ownership on the part of the wider public. It is important for memorials to resonate with local populations. Families and communities have engaged in their own forms of memorialisation at the local level, for example through traditional rituals of communication with ancestors.

- **Reparations**: Reparations require commitment and funding of the state. Reparation programmes have either been non-existent or considered unsatisfactory to victims. Zimbabwe’s War Victims Compensation Act has been criticized for being under-funded, corrupt, and inefficient, with little public awareness of the programme.

The SARP also sought to identify factors that challenged and enabled reconciliation work. These include:

- **Socio-economic status of victims**: civilians living in rural and urban poverty have been most affected by violence during the past 30 years; yet, they usually have little power in transition and post-conflict decision-making. The active engagement by the state of victim groups and other civil society organisations can be important in contributing to reconciliation among those with the least socio-economic power. Reconciliation processes should be victim-centred and should take into consideration the poverty, lack of education, and ill health that affect many victims of political violence. 

- **Political and legal contexts during and after transition**: political transitions in Southern Africa have been characterised by negotiated settlements between two or more conflicting parties, often facilitated by foreign governments, international government organisations (IGOs), and church groups. They have often entailed a range of social and legal compromises, especially in relation to reconciliation.

- **Divergence among victims, communities and NGOs**: it is important to recognize that although these three groups often join forces to pressurize governments, interests often diverge among the groups, and also within each group. Victims, for example, do not share a single perspective on reconciliation.

- **Holistic and integrated approaches**: it is broadly agreed that reconciliation initiatives should integrate a range of reparative and restorative measures in different areas and on different levels (individual, community and national; formal, state-driven and informal, non-state driven).

- **Cultural models of reconciliation**: it is also important to consider and integrate local cultural contexts and traditions in national and NGO-driven reconciliation processes. Many such cultural and traditional practices are termed ‘restorative justice’. Respect for such practices, however, should not preclude other equally important traditions in African communities that employ punitive and retributive forms of justice.

- **Women and children**: women and children often suffer disproportionately from human rights violations; yet, their needs are commonly ignored. It is essential that women and children are prioritised in the aftermath of conflict.

- **Reconciliation as process and practice**: although reconciliation is frequently perceived as an end state to work toward, it should be seen as a process that involves many actors and proceeds for a long time. A related perspective sees reconciliation as a practice, entailing changes in action and new forms of interaction. This is considered just as important as changes in thoughts or attitudes. Opportunities for new forms of interaction (e.g. working on projects together, living and eating in the space etc.) may enable people to understand in a small way what reconciliation might feel like.

### 3. Surveys and assessments
http://www.kubatana.net/docs/hr/idasa_transitional_justice_in_zim_0901.pdf

This report presents the findings from a small pilot study of the views of Zimbabweans on transitional justice in Zimbabwe. A simple questionnaire was designed and activists were selected for interviews (514 in total), with the presumption that they were more likely to have been victims of the political violence and gross human rights violations since 2000 and would thus have an interest in transitional justice. While the study does not purport to represent a national profile, it provides findings based on the views of activists, many of whom (47%) were also victims (pp. 2-3):

- A substantial percentage of the sample felt that amnesty should be given, with a higher percentage feeling that this should be given if it was necessary to produce a political settlement. Much of this latter effect was produced by those that only had Primary school education.
- Contradicting this first point, only small numbers felt that that serious crimes should be excused, and again this was an effect where those with Primary school education were significantly more in favour of amnesty.
- Although most were not in favour of a truth and reconciliation (TRC) as an alternative to prosecutions, most were in favour of a TRC if prosecutions were not possible. Most were not in favour of exemptions for truthful testimony, with an apparent trend towards punishing command responsibility.
- Very few felt that there was need to investigate violations prior to 1980.
- There many differences within the sample in terms of ethnicity (Shona versus Ndebele). Whilst the ethnicity factor is important, it does not appear to indicate a potential for ethnic conflict; rather the differences are due to the effects of the violations experienced by the two groups (the Ndebele are concerned about the 1980s, whilst the Shona are preoccupied – as are a substantial number of the Ndebele – with the current violations). These differences are unlikely to lead to ethnic conflict so long as the two time periods are given equal attention in any transitional justice process in the future.

http://www.idasa.org.za/gbOutputFiles.asp?WriteContent=Y&RiD=2509

The Regional Assessment Mission to Zimbabwe took place in August 2008, as part of a broader enquiry into transitional justice issues in Southern Africa. The missions sought to explore the current status of transitional justice initiatives; transitional justice priorities; and the role that civil society organisations (both coalitions or networks and mass-based organisations) saw for themselves in shaping or supporting future transitional justice initiatives. In Zimbabwe, the only state response or approach to past violence was a stated policy of ‘reconciliation’, advocated by Mugabe in his speech at independence. However, no institutions were put in place to implement the policy, and the establishment of a ‘War Victim’s Compensation Fund’ resulted in looting by the politically connected. Key findings of the mission in Zimbabwe include:

Historical challenges and issues of coverage: There are considerable debates concerning the starting point for transitional justice mechanisms. The post-March 2008 electoral violence was the latest of several crisis points at which issues of transitional justice can be located in Zimbabwe’s violent past. The others include, but are not limited to: resistance to colonial intrusion, the liberation war, the Gukurahundi massacres, the land invasions of 2000 onwards,

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and Operation Murambatsvina. Most believe that the start of the current crisis, in 2000, is an appropriate beginning. In Matabeleland, the appropriate starting point is held to include the Gukurahundi period. A symposium on transitional justice, attended by a large number of Zimbabwean NGOs, in Johannesburg in 2003, concluded that the period under consideration should begin in 1960 (p. 1). The differences of opinion over starting point can be attributed to generational differences and also the varying impacts of different events on the ethnic groups, the Shona and Ndebele. These concerns need to be handled carefully in order to prevent a divisive dialogue.

An emphasis on ending the culture of impunity: Despite differences over focal starting points, there is a strong desire to end the culture of impunity and organisations and groups have focused on this most. Justice was often twinned with redress, however – particularly in the case of organisations that worked directly with victims.

Insufficient knowledge of transitional justice and desires for revenge: There was a lack of in-depth knowledge of various transitional justice tools and how they could serve the Zimbabwean context. There is a need to inform and educate both organised civil society and, more generally, citizens and victims of transitional justice processes. This is particularly pressing, given the prospect of acts of revenge.

The need for comprehensive narratives: Most Zimbabweans are aware only of stories from their own community or local area, due to the dearth of independent media and minimal access to external media. A campaign to tell the full story, incorporating information dissemination and dialogue, is necessary and requires changes in the media environment in the country.

Community-level processes: Given that much of the recent violence in Zimbabwe comprised intra-community violence, community-level truth-telling processes are necessary to tell the full story. These could be informal at first and pave the way for formal transitional justice processes. Psychosocial and livelihood support will be necessary to provide the space for dialogue about atrocities, and can be facilitated by civil society. Other conditions necessary for a dialogue to begin are citizen security, and possibly the promotion of traditional Zimbabwean forms of conflict resolution.

Justice through prosecutions and compensation: Truth-telling processes are unlikely to satisfy victims, as many already know what has happened. Prosecutions of named perpetrators are sought instead. Justice is seen partly as retributive through prosecutions and restorative through individual compensation. For some crimes, in particular sensitive crimes such as rape, compensation is deemed insufficient. This points to the possible need for specialized courts for women and children.

Institutional reform: There are concerns that so long as President Mugabe remains in control of the National Security Council, security sector reform will be minimal. There was more hope for reform of the judicial sector; some felt that the politicization of the judiciary was primarily due to the political environment and that in a period of transition, individual judges and magistrates may be willing to adhere to principles of independence.

Civil society activities as a foundation: Many civil society organisations in Zimbabwe have been engaged in activities related to documentation of evidence for prosecutions. There is a need for such efforts to be coordinated in order to prevent duplication and to map out a more comprehensive national story. Some NGOs have also been able to obtain civil redress through the existing court structures; however hyperinflation has rendered this of symbolic value only. A small group of organisations have focused on facilitating community dialogue, bringing together victims and perpetrators, and re-empowering victims in workshops in which they can share their experiences. Such activities already in place could provide a solid foundation from which the country can explore and develop its own transitional justice processes.

Healing and timing for transitional justice: There is a climate of anger currently, given the widespread and extremely violent nature of state repression between the March and June
elections in 2008, and the fact that perpetrators and victims continue to exist in close proximity. Many are not willing to discuss the prospect of reconciliatory processes at this stage. It may be more appropriate to let the intensity dissipate and to allow some economic stabilization to first materialize before discussing options that go beyond prosecutions. During this period, community healing processes should be instigated. Healing programmes such as the Tree of Life are seen as beneficial and should be expanded to cover a larger area and portion of the population.

In summary, the mission stressed the following needs and recommendations:

- To investigate appropriate methodologies by which to establish a process of healing as a first and urgent priority;
- To research models of transitional justice and their suitability in relation to the Zimbabwean context, and to disseminate them in a form easy to assimilate;
- To gather the views of victims on these models, utilising a questionnaire format and NGOs with nationwide constituencies, in order to determine an appropriate model for Zimbabwe.

http://www.hrforumzim.com/special_hrru/outreach-report-08-09.pdf

This preliminary report is based on initial consultations in 2008 by the Human Rights NGO Forum ("the Forum") in order to determine the needs and wishes of a range of victims and Zimbabweans (442 people, 47.1% women and 52.9% men) concerning transitional justice and to educate citizens on the transitional justice and the various forms of redress. This will help shape and inform the Forum’s engagement with local authorities. Initial consultations involved visits to four provinces; visits to all other provinces are to take place subsequently. The September 2008 Global Political Agreement between the two MDC formations and ZANU-PF provided the space to discuss transition, democratisation processes and issues of transitional justice. The Forum held a meeting in September 2008, which was a follow-up meeting to the Johannesburg Symposium aimed at determining how to achieve justice in the country. It was stressed that discussions on and processes of transitional justice must be victim-centric and be driven by Zimbabweans, resulting in this series of consultations. Participants stressed the need for a formal and comprehensive process of national healing, reconciliation and national healing in Zimbabwe. Key findings and issues raised include:

Truth seeking and the prospect of a truth commission: A truth commission was favoured by participants for its potential to:

- establish the truth about the past;
- comprehensively address the issue of dual victim/perpetrator identities whereby most post-independence perpetrators are themselves victims of the colonial past, such that transitional justice would not be alienating;
- provide some form of individual accountability by revealing the identities of individual perpetrators;
- profile the psychological and physical impact on victims and their loved ones of rights abuses and the threat of such abuses; and
- provide a public platform for victims in which they could have a voice and a sense of dignity; and perhaps receive acknowledgment by the perpetrators and that state for harm suffered.

There were concerns that past commissions set up and controlled by the government were secretive with reports that were never made public (e.g. the Chihambakwe Commission established to determine what happened in the Midlands and Matabeleland Disturbances between 1983-1987). Participants wanted a commission that was controlled by the people and that had representation from civil society, judiciary, faith-based organisations and ordinary people. Gender activists also stressed the need to have female representation. There were also concerns that perpetrators may not own up to past violence and may be
protected by political parties. Many also believed that truth-telling processes had to be combined with prosecutions.

**Truth for amnesty/pardon from the government:** This form of transitional justice was not favoured by participants, who believed that it is only victims, not the state, who can give amnesty or forgiveness to the perpetrator. In addition, participants felt that general pardons would preclude a dialogue between victim and perpetrator, which could have a healing effect, in particular if it resulted in acknowledgment and forgiveness.

**Prosecutions:** There was a general consensus among participants of the need to have prosecutions; however, there was no agreement on the form of prosecutions, who would be prosecuted, for what violates and by which adjudicating body. Various challenges were noted:

- The win-lose outcome of prosecutions was not considered conducive to national healing;
- It is difficult to gather convincing criminal evidence from more than 30 years ago as many of the victims and perpetrators are now very old or dead; and
- The judiciary in the country is under-resourced and politicized. Should large-scale prosecutions take place, participants recommended the decentralization, reform and restructuring of judicial processes.

**Reparations:** Participants stressed that the design of reparations should be determined by victims. It was observed that some perpetrators of violence could not afford to pay material reparations, and that under such circumstances, the government should have an obligation to pay. Under such an approach, however, the government would have to raise such resources through taxation, which would result in a situation in which victims compensated themselves. Some victims stressed that material compensation was insufficient and desired symbolic compensation, such as a demonstration of genuine remorse; and in the case of those murdered, some form of memorialisation. Victims who suffered secondary victimization as patients of HIV/AIDS contracted as a result of rape or having to look after children born from rape, expressed the need for instruments that would minimize incidences of secondary victimization as healing (e.g. a scholarship fund to meet the education expenses of the children of rape). The concept of collective reparations was rejected.

**Mandate for periods of coverage:** Participants and victims identify two phases - the recent past (1998 - 2008), and the distant past (1980s and back into the Rhodesian era). While challenges in handling the Rhodesia violations were acknowledged, including the problem of insufficient memory, there were concerns about leaving the period out. It was believed that a culture of impunity developed from that time, which has contributed to current violence. The specific choice of dates and periods for national healing generally seemed to be motivated by individual experiences.

**Institutional reforms:** Zimbabweans have lost trust in state institutions due to their politicization and militarization. Participants sought reforms in the security sector. It was pointed out that the writing of a new constitution should set the tone for institutional reforms.

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**4. Particular mechanisms**


http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=3802368

This article explores the development of a potential future victim-related truth commission, in the context of Zimbabwe’s post-2008 political settlement process. It assesses such a mechanism within an international legal framework and comparatively, reflecting on the experiences of other countries, such as Argentina, Cambodia, Chile, El Salvador, Guatemala, South Africa, Sierra Leone and Timor-Leste. The article adopts Priscilla Hayner’s definition of a truth commission, connoting an inquisitorial non-judicial body that normally displays the following characteristics (see p. 84):
It focuses on the past;
It investigates or receives information on a pattern of abuses over a determinate period of time;
It is victim-focused;
It is an ad hoc temporary body with a limited mandate, normally producing a report upon completion of its work; and
It is normally a state-sponsored body or emanates from and is authorized by the state.

Truth commissions have generally been supported for a variety of reasons:

- They seek to address a variety of transitional justice aims, such as helping to establish the truth, providing redress for victims, contributing to accountability for perpetrators, identifying and promoting reforms and preventative actions, promoting reconciliation, and creating formal distance with the past;
- Prosecutions may not be possible in the context of a weak and compromised domestic justice system. Even if the justice system allowed for prosecutions, the scale of collective violence in some countries would make it impossible to prosecute all offenders, including those who had been complicit;
- By seeking to establish the ‘truth’ about human right abuses and facilitating understanding of past events, such commissions help to counter denial, encourage acknowledgment of harms, and produce an institutionalized shared memory.
- Commissions may also extend beyond truth-seeking functions to efforts at reparation, which can be monetary or non-monetary – in the form of provisions of services, such as psycho-social counseling, and guarantees of non-repetition.

The paper also outlines some cautionary considerations, which include:

- Peacebuilding efforts should be based on the will of the people – and this may entail a decision not to pursue any formalized process;
- Truth commissions may be adopted solely as a political tool to appease international actors; to facilitate immunity and/or to allocate blame to one side;
- Controversial and contested discussions of the past facilitated by truth commissions could result in renewed conflict;
- Truth commissions can be costly and the use of resources here could detract from addressing other pressing needs.

Support for a truth commission in Zimbabwe has been prominent among local civil society activists and lawyers. Since at least August 2003, when over 70 civil society organisations met in Johannesburg for a ‘Symposium on Civil Society and Justice in Zimbabwe’, the preference has been for what the symposium titled a ‘Truth, Justice and Reconciliation Commission’. The presumption is that such a commission would be valuable in addressing past human rights violations and injustice and contributing to a sustainable peace.

The article outlines and discusses key design and operational features important to Zimbabwe, drawing lessons from other country experiences (see pp. 99-107):

- International support: international support or even pressure for a truth commission will not necessarily harm the commission’s legitimacy. Rather, it could promote the credibility, profile and perceived independence of the commission;
- Civil society participation: the involvement of NGOs in designing and operating the commission will likely improve perceptions of the commission;
- Independence: operational independence from the government is important to the legitimacy of the commission;
- Resources: a commission must be sufficiently resourced in order to undertake investigations and research, to conduct hearings, and perform other key functions. The extent of resources required becomes complicated if the commission is also mandated to distribute monetary reparations to victims;
Staffing: the determination of ‘objective’ truths that resonate with the local population requires commissioners high in stature and reputation. The article supports ‘hybrid’ commissions that include some international members that could contribute skills and promote local confidence. The manner of appointing commissioners is also important to confidence, although it is often influenced by power balance at the time. Transparency and public participation in selection processes have been adopted in prior commission, for example the adoption of public interviews in South Africa.

Timing: experience indicates that the quicker a commission is established and begins working, the better as it is able to take advantage of local and international political momentum. It is important, however, that the design phase is not rushed and that sufficient time is spent on garnering public awareness and legitimacy.

Mandate: commission mandates have often been restricted based on political compromises agreed upon during transition negotiations. It is advised in this article that the terms of reference for any proposed commission in Zimbabwe should be sufficiently broad covering all forms of serious human rights abuses. It would be important to document the range of violations that were paradigmatic of the period(s) covered. The issue of which periods the commission should cover is controversial in Zimbabwe. While it would be practical to focus on political repression since 2000, this would not satisfy those who wish to include the periods 1980-2000, Rhodesia 1965-1979, and even back to European settlement in 1890. The question of who decides what to ‘remember’ and what to ‘forget’ can be very political.

Duration: the article envisages a commission in Zimbabwe that lasts for two years. Recognising, however, that reconciliation and trust-building are long-term processes, it suggests that a more effective strategy may be to have a permanent body that operates with a gradually narrowing mandate that also looks later at broader and historical issues.

Rules and procedures: hearings in prior commissions have been closed (Latin America) or open to the public (South Africa). The article finds that the latter promotes transparency, public appreciation of the commission’s work, and allows for the potential for therapeutic dimensions. In addition, while it may be preferable for any Zimbabwean commission to undertake its own investigations (as in the case of South Africa, Argentina and El Salvador) instead of relying on testimony and reports, this may not be feasible, given political and resource considerations.

The report: while processes are important, the final report and its recommendations are also significant. In order to maximize impact, it should be readily available to the public and in public digestible form, should attempt ‘closure’ while not cutting off debate, and should provide forward-looking recommendations.

Amnesty: past commissions have had the power to grant amnesty (e.g. South Africa and Timor-Leste) to cooperative and forthcoming individuals who make full disclosure of their acts. The article considers the Timorese model to be useful for Zimbabwe. There, amnesty was provided solely for less serious offences and was dependent on the performance of a visible act or remorse that would benefit people affected by the original offence (e.g. community service, reparation, public apology, and/or other acts of contrition). Such a process could be adopted for less serious acts directed against persons and property in respect of land invasions in Zimbabwe.

See also:
http://www.iss.co.za/uploads/PAPER164.PDF


Exhumations for human rights purposes have been increasing in the last three decades in Latin America, Asia and Africa. There has been minimal documentation of the impact of psychosocial support during exhumations. However, in Zimbabwe and other cultural contexts, exhumations have provided not only forensic evidence for prosecution but have also contributed to healing. Beginning in the late 1990s, there was a brief five year space in which political space widened sufficiently to allow Amani Trust, a Zimbabwean NGO to engage in
exhumations in Matabeleland. The sole purpose was to promote healing as the provision of
amnesties had precluded the possibility of prosecutions. The inability to properly honour the
dead in mass graves has had extensive cultural and spiritual repercussions, with the belief by
some that the ancestral spirits remain unappeased. Memorial processes, with or without
exhumations (depending on the preferences of the family) can be tremendously healing.
Exhumations and memorials can serve not only to satisfy the spirits but also to bring families
and communities – and to break the silence over painful past events: “For the entire
community to witness the exposure of the murdered dead, and to see the returning of the
bones, is to restore psychological, emotional and historical truth in the most profound way” (p.
15). Support for families and communities needs to extend beyond psychosocial support in
the lead up to the process of exhumation to periods after the exhumations. There are also
indications that such experiences with exhumations have also triggered requests for help in
dealing with other legacies of violence, including sexual torture and social marginalisation.
Exhumations should thus take place in a context of a series of public discussions, and of
cultural and social support. The overwhelming perception thus far is that exhumations have
appeased spirits and also contributed to the possibility of more complex healing and
reparation processes in communities. It is important to consult extensively with local
communities, and learn from victims themselves in order to better determine how to contribute
to such healing.

5. Additional materials

Failure to Deliver Human Rights Improvements', Human Rights Watch, USA
http://www.hrw.org/sites/default/files/reports/zimbabwe0809webwcover.pdf

This report criticizes the transitional, power-sharing government in Zimbabwe for failing to end
serious human rights violations, restore rule of law and institute fundamental rights reforms.
Section Six discusses lack of accountability for human rights violations. The new government
has established an Organ for National Healing, Reconciliation and Integration and
designated three days in July 2009 for the nation to reflect on reconciliation and integration. It
has also called on the population to renounce violence, particularly political violence.
However, the report argues that the failure of the government to take any steps to investigate
allegations of human rights violations or seek prosecutions has resulted in the persistence of
impunity, which the report considers as a key obstacle to national healing. The report urges
the new government to:

- “Undertake an independently managed program of police and judicial reform with
clear timelines and ensure that Zimbabwean civil society enjoys significant and
meaningful participation in the process.
- Place control of the police under new, non-partisan and professional leadership,
accountable to an independent supervisory board. Ensure that police work is
consistent with the United Nations Code of Conduct for Law Enforcement Officials
and other recognized international principles.
- Ensure full accountability, including prosecutions, for the perpetrators of serious
human rights violations, regardless of position or rank, and press for appropriate
remedies for victims of abuses.
- Urgently repeal or amend all national legislation that is incompatible with international
and regional human rights law and standards
- Ensure that ZANU-PF immediately demobilizes and disarms its youth militia and war
veterans groups who are responsible for abuses, and prosecute those members who
have perpetrated serious human rights abuses.

Take all necessary measures to end impunity. Set up an independent commission of inquiry,
with credible civil society panel members, to investigate serious past human rights violations,
including those committed during the 2008 election period and in the Marange diamond fields”
(p. 17).
This report explores the potential legal options of holding President Mugabe accountable for alleged international crimes. It notes that the decision of accountability will largely be a political one. The possible options would be either a hybrid international war crimes tribunal or an internationalised domestic court, based in Harare. The mandate should cover prosecution of Mugabe alone or along with others who bear the greatest responsibility for the crimes. Given the advanced age of Mugabe and others, however, there may be a need to consider some type of immunity arrangement for those who may not be able to stand trial. The report stresses the importance of involving local, regional and international actors in the process, including the diaspora.

6. Other GSDRC materials

Section on ‘Transitional Justice’ in Topic Guide on Justice
http://www.gsdrc.org/go/topic-guides/justice/transitional-justice-part-1-

Section on ‘Reconciliation, Social Renewal and Inclusiveness’ in Topic Guide on Conflict

7. Additional information

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Selection of websites visited

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