

Towards a framework for resolving the justice and reconciliation question in Zimbabwe

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Abstract

Zimbabwe has never had meaningful and comprehensive programmes to provide justice in the many issues that cascade from conflict and violence in the nation. What has been done, amounts to armistices rather than transitional justice mechanisms. Consequently, Zimbabwe has not seriously dealt with the primary sources of conflict and violence that date back to colonial times. The rhetoric of unity premised on amnesia has been privileged over effective practical healing and reconciliation mechanisms that address the root causes of recurrent human rights violations. Indemnities, amnesties and presidential pardons have been used to protect perpetrators of conflict and violence. This article attempts to explore key issues and challenges around the healing and reconciliation question by exposing the contending perspectives and issues provoked by the adoption of the new constitution in Zimbabwe and the setting up of the National Peace and Reconciliation Commission (NPRC). Theoretically, the article posits that the very logic that informs the construction of ‘the political’ (as a domain of political values and incubator of political practices), which privileges notions of ‘the will to power’ and the ‘paradigm of war’, makes conflict and violence to be accepted as normal. Practically, the article advances ideas

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of 'survivor's justice' as opposed to the traditional 'criminal justice' that fragments a society emerging from a catalogue of conflicts and violence into simplistic 'perpetrator' and 'victim' binaries. Survivor's justice privileges political reform as a long-lasting solution involving reconstitution of 'the political' itself.

Keywords: healing and reconciliation, Zimbabwe, 'the political', human rights abuses, National Peace and Reconciliation Commission.

1. Introduction

The new interest in the resolution of conflict issues and the norming of national healing as a paradigm for government action emerges within a context in which Zimbabwe adopted a new constitution in 2013 which mandates the government to set up a National Peace and Reconciliation Commission (NPRC). This new constitution and commission are taking place in a country where the very constitution of 'the political' has been underpinned by a perennial 'paradigm of war' that is articulated in terms of a series of *Zvimurenga* (First *Chimurenga*, Second *Chimurenga*, and Third *Chimurenga*) and is therefore refusing to die. This paradigm of war has inscribed conflicts and violence. It has created unending cycles for perpetrators and victims in which victims become perpetrators in one episode of violence and perpetrators become victims in the next. Under these circumstances, peace, justice and reconciliation inevitably remain elusive and the work of the National Peace and Reconciliation Commission is bound to be a daunting task. Under these circumstances, ordinary Zimbabweans continue to cry out for a new paradigm of peace, justice and reconciliation.

This article proposes the reconstitution of 'the political' in Zimbabwe as a turning point towards a pursuit of healing and reconciliation mainly because a 'paradigm of war' exists as central Leitmotif of political practice. Chantal Mouffe (2005:8) defined 'the political' as the domain of values, norms and 'ontological' issues, which lie at the very base of the constitution of society.

She understood 'politics' as made up of the empirical practices of power and visible 'institutions through which an order is created, organizing human coexistence in the context of conflictuality provided by the political' (Mouffe 2005: 9). The article posits that these unhelpful values are etched at the very centre of 'the political', then to break out of them, there is need to take advantage of the adoption of the new constitution and get follow-up work by the NRPC to predicate their work on the principles of what Mahmood Mamdani (2015) terms 'survivor's justice'. Survivor's justice gestures towards reconstitution of 'the political' (political reform), rather than the traditional post-1945 Nuremberg-criminal justice with its propensity to fragment a people emerging from mass violence into 'perpetrators' and 'victims'. In survivor's justice, people emerging from conflict are collectively understood as survivors who are crying out for a new society, underpinned by a new 'political' capable of producing a new humanity.

What must be backgrounded is that cross pre-colonial, colonial and post-colonial historical interludes, Zimbabwe has experienced recurrent conflicts on a protracted basis (Benyera 2014a:3). These violent episodes were given various names, such as: inter-communal raiding in the pre-colonial era, pacification of primitive and barbarous tribes during the colonial encounters and *Chimurenga* during the nationalist liberation struggle. The arrival of the Ndebele-speaking people in 1838 is often blamed for bringing *Mfecane*-like violence into the space between the Zambezi and Limpopo rivers. But this type of argument ignores the fact that those people whom the Ndebele found in Zimbabwe also raided each other. The Ndebele-speaking people seem to have used a mode of fighting which made their raiding more successful than that of other pre-colonial people.

The advent of colonialism exacerbated conflicts and violence. Colonial encroachment and rule provoked not only the Anglo-Ndebele War of 1893, the Ndebele-Shona Uprising (1896–1897, otherwise known as the First *Chimurenga*/Primary Resistance), but also the Second *Chimurenga* (War of Independence, 1960–1980). The nationalist struggle was also a theatre

of violence as settler colonial intransigence and brutality provoked African nationalist counter-violence – with far-reaching implications for human rights issues. At the centre of the conflict was not only the racial question, but also the ethnic question which was subordinated to the nationalist rhetoric. The nationalist liberation was seriously affected by what Masipula Sithole (1979:vii) termed ‘struggles within the struggle’. In the process of liberating the country, the liberation struggle succeeded in politicising identities while failing to create a common national patriotism, a challenge which continues to haunt Zimbabwe to date.

The negotiations at Lancaster House in London in 1979 became an armistice for 30 years (Ndlovu-Gatsheni 2013a). In the first place, the land question, which was among the cardinal anti-colonial historic grievances that caused the nationalist liberation struggle, was not resolved at Lancaster (Bakare 1993). The negotiations were dominated by debates over the future of the white minority settlers and their economic privileges. White economic privileges were to be guaranteed in exchange for majority rule. Ethnic questions were not raised as the Zimbabwe African Patriotic Union (ZAPU) and the Zimbabwe African Nation Union (ZANU) pretended to be a united Patriotic Front (PF), only to fragment prior to the elections of 1980 into hostile and contending political formations.

Zimbabwe came into being as a product of a protracted armed liberation struggle that spanned over 15 years. Zimbabwe’s history has a complicated pre-colonial genealogy and a complex experience of colonial brutality, leaving memories of repressive and violent cultures (Mlambo 2009:105). White settler colonialism was introduced through violence and was maintained through domination, repression and exploitation. Taken together, these processes and experiences bequeathed to Zimbabwe huge tasks of justice and reconciliation. It is therefore logical to take into account where Zimbabwe is coming from as we think about the prospects of a justice and reconciliation framework.

Consequently, Zimbabwe was born in 1980 with a very bad birth mark and subject to serious suspicions cascading from the liberation with far-reaching

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consequences for security thinking, nation-building, state-making, inter-ethnic relations and most importantly, healing and reconciliation. The piecemeal policies of national reconciliation and national unity, which were nowhere put into writing, did not succeed in extinguishing the potential post-colonial conflicts. Whereas racial identities had provoked the liberation struggle itself, ethnic identities provoked the post-colonial conflict that mainly affected Matebeleland and Midlands regions (CCJP and LRF 1997).

Thus, incomplete decolonisation provoked the *Hondo Yeminda/Third Chimurenga/Jambanja* (violent Fast Track Land Reform Programme that commenced in 2000). Ethnicity and inter-nationalist power-struggles provoked Operation *Gukurahundi* (1983–1987) that targeted Ndebele-speaking people of Matebeleland and Midlands of Zimbabwe (Catholic Commission for Justice and Peace and Legal Resources Foundation Report, CCJP and LRF 1997). Post-2000, power-struggles pitting the ruling Zimbabwe African National Union – Patriotic Front (ZANU-PF) against the opposition Movement for Democratic Change (MDC) formations provoked election-related violence, code-named Operation *Mavhoterapapi* (Where did you place your vote?) of 2008 (Sadomba 2011:229).

Like all post-colonial polities, Zimbabwe is still in a stage of ‘becoming’ a nation-state (Ndlovu-Gatsheni 2009, Raftopoulos and Mlambo 2009) and this conjectural phase is often fraught with conflicts. Election times have rarely been peaceful in Zimbabwe since 1980. Belonging to different political formations provokes hatred and violence in a country where the question of equitable distribution of national resources and indigenisation of the national economy is still in the process of being fully resolved. This is worsened by the persistence of historical questions of colonialism and coloniality which continue to hang over the minds of people like a nightmare (Sachikonye 1996, Ndlovu-Gatsheni 2013a, 2013b). As a result of these realities, conflict and violence have continued to be a major challenge in Zimbabwe (Mashingaidze 2010).

Ironically, there has never been any serious national commitment to finding the truth, establishing justice, and forging durable reconciliation in Zimbabwe. It is not surprising that after 35 years of existence as a sovereign post-colonial nation, Zimbabwe is still desperately crying out for a well-thought-out truth, justice and reconciliation mechanism. A paradigm of war refuses to disappear in Zimbabwe and *Chimurenga* emerges as the prime and most preferred solution to most national questions. Zimbabwe has just emerged from a violent Third *Chimurenga* that was used to resolve the land question. Closely tied to the ideology of *Chimurenga* is the practice of governance through military operations. This has resulted in a society that is permeated institutionally by militarism and violence. This creates more healing and reconciliation challenges while leaving previous ones unresolved.

2. Towards the reconstitution of the political in Zimbabwe

The quest for national healing and reconciliation is in fact a quest for the reconstitution of ‘the political’ and the practising of politics and statecraft. The political speaks to such ontological issues as values and norms that inform and underpin political practice (Mouffe 2005:8). Therefore, the central proposition of this article is that there is everything wrong with the conception, constitution and configuration of ‘the political’ (as a concept and embodiment of normative political principles) and the concomitant practice of politics (as an activity) in Zimbabwe. This wrong conception, constitution, and configuration of ‘the political’ are currently confusing the definition of the national question which is the guiding vehicle for healing and reconciliation endeavours in Zimbabwe. The national question is understood by the liberation forces at least in a skewed partisan perspective and at most as a regime-survival tactic.

The Zimbabwean problem of conflict and violence emanates from the fact that ‘the political’ is still understood from a Hobbesian (1894) notion of a *leviathan* whose life is ‘short, nasty and brutish’; a Nietzschean (1968) idea of politics as a ‘will to power’; and a Machiavellian (1910) perspective

of a leader as 'the prince' who enjoys absolute power. The reduction of the purpose of 'the political' to that of the 'will to power', in particular, constitutes the original corruption of 'the political' as a totality, involving the distortion of its noble vocation of politics itself (Dussel 2003:8).

To Enrique Dussel, the original and noble vocation of politics was founded on the 'will to live' and not the 'will to power' (2003: 4). In this original conception, 'Politics is above all that action that aspires towards the advancement of the life of the community, of the people, of humanity' (Dussel 2003:61). For Dussel (2003:78), as a result of the corruption of 'the political,' the 'will to live' is 'negated by the will-to-power of the powerful'. But 'politics, as consensual and feasible will-to-live', should attempt by all means to allow all 'members to live, to live well, and to increase the quality of their lives' (Dussel 2003:85).

The corruption of 'the political' takes the following format of distortion if not destruction of the ethical, positive, progressive, emancipatory/liberatory, and humanist vocation of politics. Dussel (2003:3) termed the process of corruption of the 'the political' 'the fetishism of power' in which a political leader becomes 'the centre or source of political power' rather than the political community defined as the people/citizens. He elaborated on corruption of power:

This corruption, moreover, is double: it corrupts the governors who believe themselves to be the sovereign centre of power, and it corrupts the political community that allows itself (consents) to become servile rather than be an actor in the construction of the political (actions, institutions, principles) (Dussel 2003:4).

Under a corrupted 'political', power is simply exercised as *domination*. The consequence is that under these circumstances, people are *surviving* rather than *living*, and each day is about avoiding and postponing death. Citizens become subjects who live in a perpetual survival, self-preservation mode as issues of justice and reconciliation become trivialised at the government level. This situation arises when 'power *qua* service' (exercise of power in the service of the political community) has been allowed to die

(Dussel 2003:130). For Dussel (2003:131), when ‘the political’ is corrupted, power is understood as a ‘thing, an object at hand, or a well-bound package’ that has to be conquered, taken and then retained by all means necessary. In this conception of ‘the political’ and this practice of politics, the state exists to preserve itself by conquering and retaining power and not to heal and reconcile a fractured nation. This explains the Zimbabwean state’s lackadaisical approach to issues of healing and reconciliation.

There is therefore a need for a reconstituted political in which the central aspect of political practice is predicated on a ‘will to live’ rather than the ‘will to power’. In this reconstituted political there is need for a radical departure from the ‘paradigm of war’ to a ‘paradigm of peace’. There is also need to shift drastically from traditional criminal justice in which there is a perpetrator and a victim to what Mamdani (2015:61–65) terms ‘survivor’s justice’ that is amenable to reconciliation and national healing. Survivor’s justice leans towards political justice that speaks to political transformation of a society emerging from mass violence. Otherwise, how do you achieve healing and reconciliation in a situation of a corrupted political, where the state is accused of benefitting from human rights abuse? The answer to this question is that what is needed is a programme for the resolution of justice issues that is predicated on the very reconstitution of ‘the political’ itself.

Zimbabweans have, since the 1990s, been calling for a fundamental reconstitution of the political. This call has taken the form of a demand for a people-driven constitution. It has taken over ten years for Zimbabwe to have a new constitution, albeit not really a people-driven one, as the political gladiators hijacked the process. At least the new constitution that became operational in 2013 incorporates a National Peace and Reconciliation Commission (NPRC). Our intervention is therefore that the NPRC has to initiate a comprehensive process of reconstituting ‘the political’ that is predicated on a paradigm of war cascading from colonial and nationalist traditions. We also posit that the NPRC has to pursue justice in a manner that seeks to attain the five objectives outlined by Boraine (2006): accountability, truth recovery, reconciliation, institutional reform, and reparations. These are efficacious in both guiding the work of

the NPRC and also judging its performance. Suffice to state that the global record of such commissions has been less than satisfactory (Eppel and Raftopoulos 2008:12). In choosing the means through which the NPRC will be operationalised, it must be noted that the end must determine the means instead of the means determining the end.

More specifically, Hayner, in Eppel and Raftopoulos (2008), contextualised the factors which contributed to the failure of commissions such as the NPRC since their formation. She noted that the most significant contributory factors are lack of consultation, inadequate preparations, setting high expectations, and the lack of institutional follow up to support the processes of the commission. The more than two dozen truth commissions set up to date suffered these shortcomings in one form or the other and the NPRC needs to be mindful of them. Such fears are exacerbated by the poor performance records of Zimbabwe's past commissions (Benyera 2014a:114). Given such a poor track record, it is necessary to unpack some of the key issues and challenges facing the justice and reconciliation question in Zimbabwe.

3. The key issues and challenges around justice and reconciliation in Zimbabwe

Zimbabwe is haunted by a plethora of injustices cascading from the past. These can be categorised into political, social and economic categories. A host of historical issues are central to justice and healing considerations for Zimbabwe. Specifically, these are: historical legacies of abuse and violence dating from pre-colonial times; challenges arising from incomplete decolonisation; the interpretation of nationalism and liberation; issues of inclusion and exclusion; the national question which comprises nation-building and state-building; inter-and intra-party tensions and contestations; issues of race, ethnicity and citizenship; and finally the role of external interference, otherwise known as 'coloniality' (Quijano 2000). Coloniality captures a situation of continuation of colonial-like practices of governance in a post-colonial state.

With all these burdens still unresolved Zimbabwe inevitably became a politically volatile country. Political differences continued to be settled through the use of violence or the threat of its use, and political intolerance has remained the cornerstone of Zimbabwe's political contests. Whatever mechanisms and methodologies employed to achieve justice and reconciliation must therefore be capable of engaging with the historical legacies of conflict and violence, such as those pitting the Ndebele against the Shona in the pre-colonial era. This is pertinent because Zimbabwean national history remains shot through by a xenophobic narrative in which the descendants of pre-colonial Shona-speaking people continue to harbour a grievance against the descendants of the pre-colonial Ndebele-speaking people. Ndebele raids continue to be counted as the result of a historic grievance. Even the Fifth Brigade atrocities were justified in some quarters as vengeance for what the Ndebele did in the 19th century. But such an approach to conflict resolution creates unending cycles of perpetrators and victims, and possesses the potential to seriously hinder every effort at nation-building.

The initiative towards national healing, justice and reconciliation is not only facing complex and multi-layered political issues but equally complex economic and social justice challenges that include dealing with the land question, ownership and indigenisation of the economy, compensation and reparations, social cohesion and unity, and resolving economic and social inequalities, perceptions and realities of marginalisation of minorities, patriarchy and gender. These are intersected and combined in a paradoxical manner with past legacies of conflict and violence. This then means that if the NPRC has to deal effectively and honestly with these issues, it has to take into account colonial realities of brutality, dispossession and exploitation that go as far back as the 1890s. As a conflict resolution mechanism the Lancaster House Settlement was not honest and suffered the lack of honest brokers (Novak 2009:149–174). For example, Lord Carrington acted as a third party negotiator who steered unborn Zimbabwe into a neo-colony rather than a sovereign post-colonial nation-state.

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Consequently, incomplete decolonisation has continued to haunt Zimbabwe – as in the case of the land question that has once again put the Zimbabwe question on the global map. The brokers of peace who supported maintenance of unequal ownership of land set Zimbabwe on a course for another conflict. It can for instance be argued that the unresolved land ownership also originated from the manner in which the Lancaster House negotiations were conducted by Carrington – ‘with a fast-paced tempo, hard deadlines, and strict ultimatums’ (Novak 2009:151). In that way Carrington managed to deal with the three contentious issues of securing a ceasefire, setting a transitional administration to see the country through the ceasefire period and the all-race elections, and a new constitution for independent Zimbabwe in such a way that the land question was postponed as a problem to be resolved by the administration of Zimbabwe.

The legacy of nationalism and liberation struggle has not been positive for Zimbabwe. Notions of monolithic unity enforced from above were bequeathed on post-colonial Zimbabwe, and so was intolerance of dissent and adherence to a personality cult (Ndlovu-Gatsheni 2003:99–134). The dominant political cultures during this nationalist period were ‘authoritarianism, commandism, regimentalism and intolerance’ (Ndlovu-Gatsheni 2012:3). These violent liberation cultures continue to haunt the country and were aptly captured by the historian Terence Ranger (2003:1–2) who postulated that:

Perhaps post-independence authoritarianism was the result of liberation wars themselves, when disagreements could mean death. It was difficult to escape the legacy of such a war. Maybe it sprang from the adoption by so many nationalists and especially liberation movements, of Marxist-Leninist ideologies. These implied ‘democratic centralism,’ the domination of civil society by the state and top-down modernising ‘development.’ But perhaps there was something inherent in nationalism itself, even before the wars and adoption of socialism, which gave rise to authoritarianism. Maybe nationalism’s emphasis on unity at all costs—its subordination of trade unions and churches and all other African organisations to its imperatives—gave rise to

an intolerance of pluralism. Maybe nationalism's glorification of the leader gave rise to postcolonial personality cults. Maybe nationalism's commitment to modernisation, whether sociality or not, inevitably implied a 'commandist' state.

Such an analysis beckons us to reflect on the sources of disdain for constitutionalism, failure to strictly adhere to the principles of separation of powers, and intolerance of freedom of expression. This is clear evidence that there is need for investment in understanding the very constitution of 'the political' as well as the complex legacies of the past and how they impinge on the current realities of healing and reconciliation in Zimbabwe. Without such an understanding, any efforts in dealing with the current problems of governance, injustice, violence and impunity might be focused on symptoms rather than substantive causalities. So far, the mechanisms adopted towards resolution of conflict in Zimbabwe have not only been minimal, but they also lack the active backing of the state which instituted them.

4. Contending perspectives on justice and reconciliation

Three mechanisms were used by the state between 1979 and 2014 to address the justice and reconciliation question in Zimbabwe. These three were: amnesties and pardons, amnesia, and commissions of inquiry.

Amnesties and pardons

Just before the dawn of independence in 1979, the colonial state embarked on a legal project predominantly aimed at protecting its forces from post-political independence prosecution. This was in the form of the General Amnesty Ordinance 3 of 1979, which heralded the beginning of amnesties and pardons that were to characterise the end of each epoch of state-sponsored violence in Zimbabwe. Stated simply, these amnesties and ordinances gave unfettered immunity from prosecution and accountability to all those accused of gross violation of human rights, such as the genocide of 1983–1987 known as Operation *Gukurahundi*. Other pardons and amnesties include: Amnesty (General Pardon) Ordinance 12 of 1980, Clemency Order No. 1 of 18 April 1988 (General Notice 257A of 1988),

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Clemency Order Number 1 of 2000 (General Notice 457A), Clemency Order No. 1 of 2008, (General Notice 85A of 2008) and Clemency Order Number 1 of 2002.

These amnesties gave blanket immunity thereby stifling the processes of truth telling, truth recovery, healing and reconciliation. The capacity of the NPRC to remedy these historical shortcomings remains to be seen. However, based on its current trajectory, the Commission will operate as an instrument to hide the truth and obstruct accountability. This observation is based on the state's track record at healing and reconciliation which, besides being littered with amnesties and pardons, is heavily punctuated with an amnesia that has become its official position regarding past human rights abuses. The National Reconciliation Policy of 1980 and the Unity Accord of 1987 are the cornerstones of this amnesia policy (Mungwini 2013).

Amnesia

Amnesia is a policy which entails a conscious decision by the government not to investigate past atrocities on the grounds that such investigations will jeopardise precarious peacebuilding efforts (Tendi 2010:2018). Amnesia informed Zimbabwe's first reconciliation policy as espoused by Mugabe in his independence acceptance speech as the country's first Prime Minister. In the speech Mugabe implored Zimbabweans to 'let bygones be bygones' (Nyarota 2006:145). This speech, it can be argued, was the event which marked the death of statist justice and reconciliation mechanisms in Zimbabwe.

Commissions of Inquiry

Commissions of Inquiry also featured prominently in Zimbabwe's justice and healing landscape. Two commissions of inquiry, namely the Dumbutshena Commission of Inquiry of 1982 and the Chihambakwe Commission of Inquiry of 1983, had led to high hopes, but the state refused to make public their findings. This amounted to secondary victimisation, especially to the victims and perpetrators who had given their testimonies to the two commissions.

The latest in this series of commissions was the Zimbabwe Human Rights Commission of 2009. The Commission was simply a still birth as it never even had offices or staff. Then came the short-lived Organ on National Healing, Reconciliation and Integration (the Organ) of 2008 which was part of the two-year Government of National Unity (GNU). The Organ never achieved much given the toxic political environment in which it operated. Machakanja (2010:5) concurs and noted how continued impunity during the tenure of the GNU undermined the concept of an inclusive power sharing founded on the principles of social cohesion, national healing and unity. The Organ is the predecessor of the NPRC which is being headed by Vice-President Phelekezela Mphoko. These initiatives were not without their challenges, some of which will be briefly discussed in the following section.

5. Shortcomings of reconciliation and healing mechanisms used in Zimbabwe

The biggest challenge which faced statist justice and healing initiatives from Zimbabwe since 1980 was premised upon what Jonathan Moyo referred to as *implementesis*.¹ This is the lack of political will to implement government decisions. As a political disease, *implementesis* paralyzes state departments, rendering them incapable of following clearly articulated government policies – such as the operationalisation of the Zimbabwe Human Rights Commission. Wyn Reilly (1987:27) calls it the ‘hombe thesis’ which is the ability of the bureaucracy to effectively mismanage state projects and policies so that they benefit from the mismanagement.

Perennial polarisation of the political climate in Zimbabwe only aided the failure of statist healing and reconciliation initiatives. A political environment in which partisanship overrides national interest is not conducive for healing and reconciliation, especially when the country is

1 Jonathan Moyo coined the term *implementesis* in his public lecture delivered at the Department of Political Sciences, the University of Zimbabwe, in October 2008. In the lecture, Moyo identified the failure by the bureaucracy as one of the seven contributing factors to the failure of public administration in Zimbabwe.

characterised by selectivity in the application of domestic and international law. Probably one of the biggest challenges which faced statist healing and justice mechanisms in Zimbabwe was the conundrum of using the state organs to prosecute the state, which is itself believed to be a perpetrator of gross violations of human rights. This explains the state's perennial proclivity towards amnesia, which, when 'reconstituting the political', will make it essential to have an all-stakeholder concerted effort to achieve healing and reconciliation in Zimbabwe.

6. The roles of the various domestic actors

Now that the NPRC is constitutionally provided for, certain stakeholders are expected to play a major role in its functions. The government has the biggest role to play, which is largely to create an enabling environment for justice and reconciliation. Specifically, the government of Zimbabwe must consider:

- 1) Speeding up the setting up of the NPRC.
- 2) Enacting legislation enabling the NPRC to commence its mandate.
- 3) Providing the necessary budgetary and policy support needed by the NPRC.
- 4) Publishing the reports by the various former commissions of inquiry and where applicable, implementing recommendations made in those reports.
- 5) Initiating and promoting state institution reform as a means of enhancing the public's confidence and trust in such state institutions. This will simultaneously enhance their capacity to deliver and to promote political dialogue, national healing and reconciliation.
- 6) Ensuring a true and consistent national narrative on healing and reconciliation.

An impartial judiciary is an integral part of any justice process. In order to fulfil that mandate effectively, the executive needs to improve its respect

for the judiciary. This will in turn enhance the credibility of the judiciary which has been perceived as a perpetual soft target for the executive. The Zimbabwe Lawyers for Human Rights concurred and were quoted by Goredema (2010:99) arguing that

in Zimbabwe we have had the executive refusing to enforce certain court orders that are seen to be unfavourable to the state or the ruling ZANU PF party. The executive has also attacked the judiciary openly, quite unprofessionally and unfairly in a number of cases. The government of Zimbabwe however has a history of attacking the judiciary or members of the legal profession each time the executive is unhappy at certain judiciary decisions.

At a lower level there is need for the judiciary to ensure that the rulings of traditional courts, especially village heads, are given credence. This will ensure that justice is literally brought to the doorsteps of the people, particularly those in rural areas. Political parties have the great responsibility of mobilising their members away from violence, revenge, hatred – and towards reconciliation. A great step in this direction would be to have a clause in each of the political parties' manifestos that deals with peacebuilding and reconciliation. A key lesson coming from South Africa is the need for political will in the implementation of any justice and reconciliation mechanism. In demonstrating political will and leadership, Nelson Mandela, as leader of the African National Congress (ANC), accepted collective responsibility for all human rights violations committed by ANC members in their attempt to end apartheid (Castel 2009). This made it easy for lower level political party members to deal with their past heinous activities. This can be contrasted to ZANU-PF's position in 1980, when its leader Robert Mugabe announced a policy of blanket reconciliation (Benyera 2014a:39)

Women should do more than just bring out their testimonies. They need to be actively involved in whatever reconciliation and healing initiatives are instituted so as to ensure that the perennial issues of patriarchy and gender are not ignored. Women bring to the fore gender-based violence

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and abuses that cannot be ignored in any sustainable framework of justice and reconciliation, bearing in mind that women are often the most abused population in any form of conflict (Human Rights Watch 1996, Turshen 2001:55–68).

The role of civil society is to complement the efforts of the state. This could take various forms, such as raising awareness, disseminating information, establishing education programmes around the work of the Commission, producing and distributing publicity materials, funding debates and outreach campaigns, translating key materials such as constitutions and Commission mandates, and funding radio and television programmes and advertisements that focus on publicising the work of the Commission.

In South Africa, the media was an integral part of the work of the Truth and Reconciliation Commission (TRC), broadcasting the location of future hearing venues and raising public awareness (Shea 2000:4). The media also facilitated the live broadcast of the hearings, thereby helping to bring the work of the TRC to the nation (Cole 2010). This generated public interest, enhanced participation and, it can be argued, played a part in bringing reconciliation to South Africa. Civil society and the international community could assist the NPRC in the production and distribution of its outputs on an on-going basis. These outputs could be monthly or annual reports of the NPRC, the dissemination of which would act as integral components of the peacebuilding process. Given the lack of financial resources of the Zimbabwean state, funding from the international community is essential to ensure the success of this programme.

Non-Governmental Organisations working on healing and reconciliation in Zimbabwe can support the process with the provision of technical support, expertise and even personnel in support areas such as communication, logistics, advertising and data analysis. Their visibility and participation in various ways will have the ability to bring international credibility to the whole process, as was the case in South Africa. The role of business would be expected to be mainly that of partnering with the government in various ways such as, but not limited to, the assistance with resources.

As a case in point, businesses in the Telecommunications sector can assist with publicity and information dissemination.

Faith-based organisations, especially churches, have been an integral part of most truth commissions. They provided truth commissions with the moral ground from which they operated. By authenticating the work of the truth commission, faith-based organisations, in a way, encourage their members to support such institutions. At a more practical level, they can assist with logistical issues such as venues, personnel, counsellors and even financial resources. Their ability to reach large numbers of people on a frequent basis can be used by the NPRC as a publicity platform for their work.

Concepts used in justice and reconciliation such as confession and forgiveness also have their basis in religion and faith. Thus a symbiotic relationship between faith-based organisations and the NPRC becomes a *sine qua non* for the effective delivery of justice and reconciliation in Zimbabwe (Benyera 2014a:4). For strategic buy-in, the NPRC needs to liaise with organisations that represent various faith-based organisations in Zimbabwe such as the Zimbabwe National Traditional Healers Association, Zimbabwe Catholic Bishops Conference, Union for the Development of Apostolic Churches in Zimbabwe and Africa, Zimbabwe Christian Alliance, Zimbabwe Jewish Board of Deputies, Evangelical Fellowship of Zimbabwe and the Zimbabwe Council of Islamic Scholars (Chitando and Manyonganise 2011:78).

On a broader level, faith-based organisations are expected to initiate grassroots-based local justice and reconciliation mechanisms that complement the work of the NPRC. These organisations were involved in the quest for healing and reconciliation as noted by Chitando and Manyonganise (2011:83):

[O]ne would be forgiven for imagining that it was only individuals and groups aligned to Christianity that have sought to empower their members to face the difficult situation. Muslim leaders have been heavily involved in preparing their followers to be relevant to the Zimbabwe crisis.

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By its very nature the NPRC is a temporary mechanism, hence the need for permanent grassroots-based structures such as the church to partner the NPRC in reconciliation. Traditional leaders play a central role in Zimbabwe's customary law (Machakanja 2010:8). Their function will be to create those cultural spaces needed for the facilitation of the victim-perpetrator acknowledgement. For Machakanja, traditional leaders are also efficacious in validating the losses and pain of both the perpetrator and the victims. They also initiate local grassroots mechanisms such as the use of customary courts to prosecute lower level offenders. At a spiritual level, they are expected to lead their various constituencies in performing certain rites, rituals and ceremonies to cleanse the land (Benyera 2014b:53). Their support serves to authenticate the NPRC.

To date, various community-based institutions and organisations have worked on attaining healing and reconciliation in Zimbabwe. While most of these were faith-based (Christianity, Islam, Hinduism, Buddhism, Baha'i and Rastafarianism) (Chitando and Manyonganise 2010:78), some of these organisations such as the Zimbabwe Human Rights NGO Forum and Heal Zimbabwe are purely civic organisations. Some of these organisations have been working on healing and reconciliation, hence the need for the NPRC to tap into their work. These NGO and civic organisations can contribute to the work of the NPRC by:

- 1) Continuing the work of seeking healing and reconciliation at local level
- 2) Considering expanding their operations to other areas
- 3) Sharing their experiences with like-minded organisations
- 4) Identifying and pursuing in courts of law cases where victims are entitled to reparations.

7. Resource constraints

For the NPRC to achieve its aims of reconciliation and establishment of the truth, full funding should be committed and available at the start of its work. Lack of funding was experienced in Uganda, where the first Truth

Commission was established in Africa (Quinn 2004:89). The Ugandan Commission of Inquiry into Violations of Human Rights between 1962 and 1986 suffered from a severe lack of funding and political support, which resulted in irreparable operational difficulties (Freeman 2006:40).

While the lack of sufficient funds is a worrying factor for Zimbabwe's healing and reconciliation process, other concerns also exist, such as weak governance systems and structures. According to the International Anti-Corruption Index, as far back as 1999 Zimbabwe had the second weakest governance structures in SADC, after war-torn DRC. These results were consistent with similar ones from Transparency International's Corruption Perceptions Index (Transparency International 2013), and the Heritage Foundation Index on Economic Freedom (Heritage Foundation 2014).

Regarding the funding of reparations, lessons from South Africa indicate a need to empower the Commission to offer urgent, smaller, interim standard payments to victims or their families (South African Truth and Reconciliation Commission 1996: Volume 1, chapters 2 and 6, and Volume 6). However, research by the Catholic Commission for Justice and Peace (CCJP and LRF 1997:29) in Matabeleland revealed that individual compensation was not well supported by victims there or in parts of the Midlands Provinces. A key recommendation from the research was the use of communal reparations, specifically through the formation of *Uxolelwano* (reconciliation) Trusts in lieu of individual financial reparations.

However, such a move needs to be well managed, as similar previous well-meaning endeavours were looted by the politically well connected. Earlier compensatory schemes which offered cash, such as the War Victims Compensation Scheme of 1998, were severely plundered with some beneficiaries falsifying injuries and creating fictitious stories just to receive compensation (Carver 2000). The award of individual financial reparations must therefore be considered both in the light of the distortions that such monetary compensation attracts as well as victim's rights to compensation of their choice.

This being the case, the fact that Zimbabwe was at one point bankrupt should not impede its quest for an NPRC, as there are many examples of Truth Commissions that received external funding. For example, El Salvador's Commission was fully funded (to the tune of \$2.5 million) through voluntary contributions by UN members (Shea 2000:64, Kritz 1995:332, Hayner 2011:217). The South African TRC also received financial support from international donors who supplemented the money provided by the South African government (Hayner 2011:224). However, given that the NPRC will have a 10-year mandate, funds and resources may become a major stumbling block to its operations. This was the case with other well-funded mechanisms such as the ad hoc International Criminal Tribunal for Rwanda (ICTR).

8. Conclusion

The constitution of 'the political' speaks to the values underpinning political practices. In a reconstituted political, the role of the government must be to create an enabling environment for healing and reconciliation to occur. But for Zimbabwe, the challenge to the proposed reconstitution of 'the political' is that the very government which is supposed to champion national reconciliation and healing is accused of benefitting from human rights abuses. This challenge, therefore, gives credence to those voices that clamour for regime change as an essential prerequisite for genuine national healing and reconciliation.

This article highlights the importance of engaging with the past and dealing with the legacies of the past because these seem directly to impinge on the current efforts to re-build the nation through a justice and reconciliation mechanism. This approach does not mean that a simple acknowledgement of wrongs of the past can be the only enabling factor in opening new paradigms predicated on peace, truth, justice and reconciliation. It means that the edifice of 'the political' must be reconstituted in a manner that renders it sensitive to national healing and reconciliation. This is important because there are many wrongs which are crying out for rectification.

The people of Zimbabwe must be involved in defining and articulating the wrongs that haunt their nation and their lives. They must participate in the reconstitution of 'the political'. The article also underscores that while national memorialisation programmes are a valid national rallying point, family and community memorialisation programmes are more effective in bringing healing and closure (Eppel 2013). The article therefore emphasises the imperative of involving communities and families in deciding how they would want to remember their past. The erection of monuments is one popular method used in post-genocide Rwanda and it can be applied to the victims of gross violations of human rights in Zimbabwe such as Operation *Gukurahundi* of the 1980s.

Unfortunately, Zimbabwe's NPRC is a top-down mechanism which is yet to open up for communities and families to participate in the search for national healing and reconciliation. In a country like Zimbabwe, where community input is either disregarded or not solicited at all, the NPRC faces a huge challenge in selling itself to the people so that they come forward with their testimonies. The polarisation of the political environment does not make the task any easier. Traditional authorities and civil society organisations such as faith-based organisations present a more credible mechanism which the state can utilise to get wide community buy in. As for those in the Diaspora, there is a need to come up with inclusive mechanisms for them to also participate in this programme.

Broadly speaking, this article concludes that it is also important to re-think the very political edifice on which Zimbabwe is erected – that privileges *Chimurenga* as a paradigm of war used to resolve complex political questions. It seems impossible in Zimbabwe at the moment to institute Nuremburg-type trials predicated on criminal justice because the state itself is the main culprit that has abused and killed its own citizens. A way out is to adopt a new 'survivor's justice' that privileges the political reform of society (reconstitution of the political). We therefore end by saying that there is no ideal time for a justice and reconciliation mechanism to get underway. Choosing a time is part of the struggle to break a 'paradigm of war', build a 'paradigm of peace' and make a start.

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