



**Reconciliation and Transitional Justice Processes in
Zimbabwe since 2008: The Role of the National Peace
and Reconciliation Commission (NPRC)**

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May 19, 2021

To Whom It May Concern

RE: CONFIRMATION OF LANGUAGE EDITING

This is to confirm that the PhD Thesis titled **Reconciliation and Transitional Justice Processes in Zimbabwe since 2008: The Role of the National Peace and Reconciliation Commission (NPRC)** by **Knowledge Mwonzora** has been edited for language. Neither the content nor author's intentions were altered in any way during the editing process.

Yours Sincerely

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DECLARATION

I **Knowledge Mwonzora**, hereby declare that: ***Reconciliation and Transitional Justice Processes in Zimbabwe since 2008: The Role of the National Peace and Reconciliation Commission (NPRC)*** is my own work and all sources have been acknowledged, and that I have not previously submitted this thesis to any other university in order to be awarded a degree.

Knowledge Mwonzora June 2021

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Abstract

In recent years, the issue of national reconciliation and transitional justice has become a subject of varying contention and significance especially in countries emerging from deep-seated conflicts punctuated with egregious human rights abuses. This has led to the proliferation of a huge corpus of global and regional literature in response to the establishment of TRCs seeking to offer peace, healing, truth, restorative justice and reconciliation. Drawing on the Zimbabwean case study, the thesis provides an exploration of reconciliation and transitional justice processes following the 2008 election violence. In doing so, the study critically analyses the role of the National Peace and Reconciliation Commission (NPRC) in engendering peace, post-conflict justice, healing and reconciliation in contemporary Zimbabwe. Zimbabwe has joined this long list of countries that have established TRCs. This study examines the role played by non-state actors as well as assessing the agency and efficacy of such in influencing Zimbabwe's transitional justice trajectory post- 2008 election violence. The study utilised a qualitative research methodology consisting of interviews, participant observations, case study approach, review of secondary and primary literature involving grey literature to explore citizen perceptions on the role and effectiveness of the NPRC in spearheading transitional justice and reconciliation.

The major finding of this exploration is that since its promulgation in 2013, the NPRC has not done much to promote post-conflict justice. As such, the study concludes that the NPRC is a peace architecture that will not achieve the much-desired victim-centred justice judging by its record (thus far). In aiding the analysis of empirical findings, the study utilises a triad of theoretical lenses consisting of repressive state apparatuses (Althusser 1971), place of reconciliation (Lederach 1997) and the truth, accountability, reconciliation and reparation (TARR model) by Weitekamp et al. (2006). The study's overarching finding is that the success of the NPRC in Zimbabwe is hamstrung by the prevailing political conditions including lack of political will, resources, lack of autonomy and government rigidity. This relates to how authoritarian and repressive regimes impinge on the functioning of TRCs.

Keywords: Reconciliation, transitional justice processes, post-colonial Zimbabwe, victim centred justice, TRCs, violence, National Peace and Reconciliation Commission, post-conflict justice.

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Dedication

This study is dedicated to my late dad and all the victims who lost their lives during different episodes of violence in Zimbabwe. May their dearly departed souls find solace in the serenity of death.

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List of Abbreviations and Acronyms

AU	African Union
CCJP	Catholic Commission for Justice and Peace
CCMT	Centre for Conflict Management and Transformation
CSOs	Civil Society Organisations
FTLRP	Fast Track Land Reform Programme
GNU	Government of National Unity
GPA	Global Political Agreement
HZT	Heal Zimbabwe Trust
ICC	International Criminal Court
ICTJ	International Centre for Transitional Justice
ICTY	International Criminal Tribunal for the Former Yugoslavia
JOMIC	Joint Monitoring and Implementation Committee
LRA	Lord's Resistance Army
LRFZ	Legal Resources Foundation of Zimbabwe
MDC	Movement for Democratic Change
MDC-T	Movement for Democratic Change-Tsvangirai
MEDRA	Methodist Development Relief Agency
NANGO	National Association of Non-Governmental Organisations
NAYO	National Association of Youth Organization
NGOs	Non-Governmental Organisations
NHRIs	National Human Rights Institutions
NPRC	National Peace and Reconciliation Commission
NPRC BILL	National Peace and Reconciliation Commission Bill
NTJWGZ	National Transitional Justice Working Group Zimbabwe
ONHRI	Organ on National Healing Reconciliation and Integration

PTSD	Post-Traumatic Stress Disorder
RJ	Restorative Justice
SADC	Southern African Development Community
TJ	Transitional Justice
TJRC	Truth, Justice and Reconciliation Commission
TRC	Truth and Reconciliation Commission
UN	United Nations
UNDP	United Nations Development Programme
ZANLA	Zimbabwe African National Liberation Army
ZANU	Zimbabwe African National Union
ZANU-PF	Zimbabwe African National Union - Patriotic Front
ZAPU	Zimbabwe African People's Union
ZHR NGO Forum	Zimbabwe Human Rights' NGO Forum
ZLHR	Zimbabwe Lawyers for Human Rights
ZPP	Zimbabwe Peace Project
ZCBC	Zimbabwe Catholic Bishops' Conference
ZIMCET	Zimbabwe Civic Education Trust
ZIMRIGHTS	The Zimbabwe Human Rights Association

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Chapter One: Introduction

1.1 Orientation

The question of how to develop an inclusive national reconciliation process that can redress historical wrongs, resolve previous gross human rights violations and unearth the historical truth in various post-conflict settings has raised both objective and epistemological questions (Mendeloff, 2004; Fombad, 2008; Ottley and Kleinhaus, 2010). This has been the case in post-conflict societies in Africa in general (Hayner, 2011; Graybill and Lanegran, 2004) and Zimbabwe in particular, which has until recently started to grapple with how to effect transitional justice (TJ) following many decades of failed and 'half-hearted' attempts. In numerous academic works – it is assumed that reconciliation – as opposed to retributive justice, serves to build peace and harmony in polarised and traumatised post-conflict societies. This prioritisation of reconciliation processes has been widely acknowledged in various countries, including Sierra Leone, South Africa, Brazil, Canada, El Salvador, Peru, Nigeria, Timor Leste, Solomon Islands and Guatemala (Yusuf, 2007; Millar 2011; Hayner, 1994; Bakiner, 2014). These all established some form of Truth and Reconciliation Commissions (TRCs) though some used different nomenclature, all with the goal of seeking to build peace and harmony following periods of protracted conflict (Hayner, 2011; González, 2013; Graybill and Lanegran, 2004).

Drawing from the TRC model of South Africa, which facilitated the 'successful' transition from apartheid to democracy, most African countries that had periods of conflict in their past have contemplated how some form of TRC could promote reconciliation, healing as well as uncovering historical truth(s). Zimbabwe is one such example. However, a counter-model is that of Rwanda, where national courts, and especially *Gacaca*,¹ were established to set the historical record straight and to ensure the punishment of perpetrators alongside the goals of reconciliation (see Clark, 2010; Haberstock, 2014; Ingelaere, 2008; Owiredu, 2009).

¹ *Gacaca* refers to traditional form of justice which sought to bring reconciliation and justice at grassroots level in post-genocide Rwanda.

In 1980, the Zimbabwean government initiated a form of national reconciliation, albeit with little success. The reconciliation effort introduced in 1980 was established by the then-new nationalist government, which extended a hand of reconciliation to the former British colonialists living in Zimbabwe at the time (Mashingaidze, 2010; Machakanja, 2010). Such a process was mainly aimed at restoring and uniting fractured relations between the former antagonists – the black Zimbabweans and white minority settler regime in the letter and spirit of nation-building. In Zimbabwe, a new constitution agreed on in 2013 by the inclusive government consisting of a coalition between the two Movement for Democratic Change (MDC) formations and the Zimbabwe African National Union-Patriotic Front (ZANU-PF), included the establishment of a new National Peace and Reconciliation Commission (NPRC). The Constitution of 2013 marks a departure from the Lancaster House constitution (with all its amendments²) in the sense that for the first time, a TRC got a constitutional mandate. Thus, the embedding of a TRC was a novel development in the constitutional history of post-colonial Zimbabwe.

Since the promulgation of the Constitution in May 2013, the ZANU-PF-led government has been dragging its heels in operationalising the NPRC. The reluctance by the now deposed Mugabe regime raises the question of whether TRCs in polarised and violent polities such as Zimbabwe can be effective as a means of realising truth, justice and reconciliation without punishment (Rushton, 2006; Moler, 2010; Hayner, 2011). It was only in 2018 when the new government led by President Emmerson Mnangagwa operationalised the NPRC (at least, without a full commitment to justice and accountability). For the purposes of this study, I operationalise the concept of reconciliation as ‘an overarching approach to conflict resolution that focuses on processes of rebuilding relationships’ (Leiner, 2018:175). My inquiry concurs with this conception of reconciliation. In this regard, the study explores reconciliation efforts and processes initiated by the Mugabe regime and the current Mnangagwa administration spanning from the post-2008 era to today. The study specifically examines reconciliation efforts in the

² It is imperative to note that before the inception of the Inclusive Government in 2009-13, the national constitution (‘hereafter Lancaster House Constitution’) underwent a record number of amendments. It was also due to such practices that the political opposition and the citizenry demanded the crafting of a new people-driven constitution during the era of the I.G.

aftermath of the violence accompanying the June 2008 elections, and within the context of the constitutionalisation of the NPRC in 2013. This occurred against what appeared a lethargic and snail-pace operationalisation since 2013. In 2013, the new constitution provided for the creation of the NPRC, which was a first of its kind in the constitutional history of Zimbabwe. This also entailed that for the first time, Zimbabwe had a constitutionally-backed TRC in the form of the NPRC.

1.2 Background

In recent years, there has been increasing research interest in the role of truth commissions in facilitating national reconciliation in Africa in general and Zimbabwe in particular (see, for example, Wiebelhaus-Brahm, 2010; Bakiner, 2014; De Minck, 2007; Androff, 2009; Hayner, 2011; Fombad, 2008; Du Plessis and Ford, 2009; Ndlovu-Gatsheni and Benyera, 2015). What remains less explored in these scholarly studies is the role of incumbent governments in derailing TRCs and in forestalling processes of truth-telling and reconciliation, with the exception of a few scholarly accounts (see, for example, Slye, 2018). Drawing on the Kenyan case study, Slye (2018) provides an account of how political pressure and obstruction from the ruling elite forestall TRCs' operations. From this perspective, we can draw similarities with the Zimbabwean case study, where for the past decades, the influence of the political class has been heavily evident in obstructing any serious efforts aimed at enhancing genuine TJ processes.

By investigating the lack of real commitment before and during the new government of President Mnangagwa, the study aims to fill in a lacuna within existing research on the potential role of TRCs in ushering reconciliation in the Zimbabwean context. Literature on how Zimbabwean political elites preclude genuine reconciliation is only starting to emerge, although this stream of scholarship is still in dribs and drabs. Hence, the study attends to the unfolding empirical developments (formation of a TRC), which warrants in-depth scholarly attention. The study also responds to the existing gap in the extant scholarly literature on the role of TRCs – or NPRC in ushering in reconciliation and TJ in the context of Zimbabwe.

Although there is plenty of literature on the challenges and limitations faced by TRCs in several African countries (Hayner, 1994:2011; Laakso, 2003; Bosire, 2006), the

Zimbabwean story has not yet featured in this corpus of scholarship. This is because the country had no TRC before, with the formation of the NPRC in 2013 being a novel development in the field of reconciliation and transitional justice (TJ) in Zimbabwe. In joining other single case studies that have looked at the role and efficacy of TRCs in Kenya (see Owiso, 2017; Lanegran, 2015) and Sierra Leone (Ainley, 2015; Shaw, 2005), the study adds some rich and empirical discussion to further our understanding of the challenges and prospects in utilising different transitional justice (TJ) mechanisms within African countries afflicted with deep polarisation and emerging from conflict situations.

On the count, there is limited empirical literature focusing on how the general citizenry voices their concerns and how they perceive TRCs in post-conflict countries (Twose and Mahoney, 2015; Bratton, 2011; Vora and Vora, 2004). This study on Zimbabwe, in some respect, dwells on examining the general citizenry's views regarding the issue of national reconciliation, post-conflict justice and the NPRC. In this way, the study aims to make a significant addition to the corpus of empirical knowledge around TJ and its contribution – if any – to reconciliation, especially in countries with TRCs that struggle to fully discharge their mandates.

Without doubt, there are significant gaps in the extant literature on TRCs. One identifiable gap is that much of the literature on the South African TRC and other TRCs elsewhere in Africa have tended to glorify and overstate the role of such commissions in ushering in sustainable peace and bringing justice, healing, forgiveness and 'truth' (Shea, 2000; Rotberg and Thompson, 2000). This is, however, not to underplay the existence of a more critical strand of scholarship that also find faults with TRCs adopted in most African countries in the previous decades (see, for example, Wilson, 2001; Mamdani, 2002; Chapman and Ball, 2008; Posel and Simpson, 2002; Emmanuel, 2007). These critical scholars rightly so, observe that not every truth commission achieves its goals, including in South Africa (Stanley, 2001; Villa-Vicencio and Verwoerd, 2000). A comprehensive study based on an ethnographic study of provincial public hearings on the TRC of Sierra Leone concluded that truth-telling is context-specific, and in most cases, people do not tell the truth but rather tend to stage-manage acts of repentance and in this way seek forgiveness (Kelsall, 2005:363). Such an assertion was corroborated

in a study by Bosire and Lynch (2014:259), who remind us that the success of TRCs is context-dependent and is also contingent on interactions among various actors' interests, their internal political dynamics. More in-depth and contemporary studies that look at such nuances are, thus, pertinent, especially in countries grappling with operationalising TRCs, namely Zimbabwe.

Although, in the past decades – TRCs have become more or less a standard tool of TJ in the African context, discussion of national reconciliation continues to take the South African model as an example of the successful functioning of TRCs. The South African TRC experience has overshadowed other studies of lesser-known truth commissions such as those in the Democratic Republic of Congo (DRC) (Jones and Oliveira, 2016), Burundi (Ephrem Rugiririza, *JusticeInfo.Net*, 1 November 2018), Togo (Sarkin and Davi, 2017) and Nigeria (Yusuf, 2007), Ghana (Aciru, 2017) and Uganda (Hayner, 1994; Kochanski, 2020). Relatedly, despite a sizeable critical literature on the South African TRC (Emmanuel, 2007; Mamdani, 2002; Wilson, 2001), certain myths have grown around it, and it has tended to be taken as an example to the neglect of less well-known and impactful TRCs in other countries on the continent.

Less well-known are the embryonic TRCs that are starting to take shape, like the Zimbabwean model. In the light of this assertion and just like in the case of Uganda and Kenya, among a few others, the Zimbabwean case opens up the possibility of investigating debates around the significance of truth commissions in spearheading both TJ and reconciliation in a polity where the incumbent government is reluctant to do so. In Kenya and Uganda, the incumbents who were implicated in past violence were very reluctant to roll out a genuine national reconciliation that would unearth past atrocities (Slye, 2018). Du Plessis (2002:11) asserts that '[a]part from establishing a record of truth, a TRC will respond to the needs and interests of Zimbabwean victims of human rights abuses'. Therefore, this study is significant as it adds to the growing literature on TRCs and their contribution to conflict resolution and peacebuilding in Africa and beyond.

The study, as previously mentioned, focuses on the post-27 June 2008 period. This period has been chosen largely because of the intensity of the politically motivated violence that ensued before, during and after the June run-off presidential election.

Although Zimbabwe experienced past episodes of heightened political violence the years 2000 and 2002, the Government of National Unity (GNU) of 2009 through the NPRC specifically provides for post-conflict justice focusing on the 2008 elections. In this period, the state experienced what can be termed as one of the worst episodes of political violence in the history of post-colonial Zimbabwe. Indeed, Zimbabwe's 2008 run-off election ranks among one of the bloodiest elections at the turn of the new millennium, characterised with massive human rights abuses involving abductions and the killing of civilians. Following the violence, the MDC–T party leader, Morgan Tsvangirai, withdrew his candidature in the repeat poll (run-off election) (Masunungure, 2009; Vollan, 2008).

Resultantly, Mugabe ran uncontested, with the outcome of the plebiscite being disputed locally, regionally and beyond. The elections were basically branded as devoid of legitimacy. Following this wide condemnation from different quarters, the Southern African Development Community (SADC) mandated the then South African president, Thabo Mbeki, to mediate between the political parties in Zimbabwe and broker a solution to end the political impasse as well as arresting the economic crisis that had gripped Zimbabwe (Eppel and Raftopoulos, 2008; Hoekman, 2013). Such efforts did manage to bear fruits, as can be evidenced by the establishment of an *ad hoc* transitional model in the form of a power-sharing agreement. It was during the tenure of the power-sharing government that various efforts to usher in peace, reconciliation and national healing were advanced. The study is, thus, situated within this context. Having said the above, this study fits in the conflict-resolution cluster and contributes to the literature dealing with how post-colonial states such as Zimbabwe can resolve deep-seated societal conflicts by implementing TJ mechanisms (see, for example, RAU, 2014; Machakanja, 2010; Ndlovu-Gatsheni and Benyera, 2015).

1.3 Problem Statement

Since 1980, post-colonial Zimbabwe has grappled with recurrent episodes of political violence, but up to now, there has been no meaningful reconciliation processes (Dodo et al., 2012; Chigora and Guzura, 2011). The first reconciliation attempt was introduced by (now-late) President Robert Mugabe of ZANU-PF and was based on establishing

reconciliation between the black and white races, who fought on opposite sides of the liberation struggle.

In the period 1983-1987, in the province of Matabeleland, where the Ndebele ethnic group was dominant, the population experienced the *Gukurahundi*³ massacre, which left thousands dead and others internally displaced (see CCJP and LRF, 1997). ZANU-PF deployed the North Korean-trained Fifth Brigade (mostly of Shona-speaking origin) to root out so-called 'dissidents' who were alleged to be belonging to the Zimbabwe African Peoples' Union (ZAPU). However, there are several theories as to whether the 'dissidents' belonged to ZAPU, or they were a 'creation' by a foreign hand or were a creation by Mugabe to find a legitimate justification to crackdown and obliterate Nkomo's party. The orgy of state sanctioned violence superintended by the Fifth Brigade saw the massacre of over 20 000 Ndebele-speaking people in Matabeleland and Midlands provinces (CCJP and LRF, 1997). The violence only ended when a Unity Accord was signed in 1987 between President Mugabe, the leader of (ZANU), and Joshua Nkomo, the leader of (ZAPU). Since then, state-sponsored violence continued but to manifest now targeting Edgar Tekere of the Zimbabwe Unity Movement (ZUM) of the 1990s (Sithole and Makumbe, 1997), reaching a climax in 2000 when violent land invasions began. This violence also flared following the birth of a strong opposition party, the Movement for Democratic Change (MDC), from the ranks of labour, civil society and student unions in late 1999. Pre-colonial and post-colonial Zimbabwe has a well-documented history of institutionalised violence, and little has been done by the government to reconcile the different racial groups; a policy of divide-and-rule seems instead to be the order of the day (Mashingaidze, 2010; Ndlovu-Gatsheni, 2009; Sachikonye, 2011).

Following the violent elections of 2008, efforts were made by the newly formed Government of National Unity (GNU) to create an NPRC, which was provided for in the new Zimbabwean Constitution of 2013 (NTJWG, 2017). Among other things, the NPRC seeks to reconcile communities that have been fractured through violence that occurred along party-political lines. Despite the coming into effect of the constitution, which was

³*Gukurahundi* is a Shona word referring to early rains that wash away chaff and dirt before the onset of the spring rains.

unanimously voted for on the 16th of March 2013 in a referendum, issues of post-conflict justice, victim-centred justice, national reconciliation and healing have continued to receive little attention, especially at the governmental level. In 2013, Zimbabwe held harmonised elections which marked the end of the coalition government. Noticeably, after the 2013 election, there has been little attention to issues of national healing and reconciliation (Veneranda Langa, *Newsday*, 22 December 2014). It is observable that issues of national healing only surface as newspaper headlines, with serious efforts only seeming to emerge from civil society organisations (CSOs) and non-governmental organisations (NGOs). This is evident in how CSOs have stridently pushed for a genuine local and national reconciliation in their advocacy work.

Consequently, it is correct to note that since 2013 there has been considerable ongoing public and civic discussion of reconciliation in Zimbabwe. Thanks to the work of CSOs and NGOs. But even amidst such commendable efforts, Ndlovu-Gatsheni and Benyera (2015:14) posit that 'there has never been any serious national commitment to finding the truth, establishing justice, and forging durable reconciliation in Zimbabwe'. Existing evidence suggests that the Zimbabwean government lacks a deep commitment to ushering in nationwide reconciliation. Zimbabwe is, however, not an isolated case. It follows from few other case examples. Kenya is a case in point where there is reluctance by the government to implement the recommendations in the Truth, Justice and Reconciliation Commission (TJRC) report (see Ndungú, 2014; Tom Maliti, *justiceinfo.net*, 29 May 2020). Raising doubts whether the report will ever be implemented. But even within such a gloomy context, some regimes have fairly exhibited in seeing their TRCs succeed, which is in stark contrast to the Zimbabwean and Kenyan model highlighted above (Du Plessis and Ford, 2009; Jeffery, 1999; Huyse, 2001).

What has complicated Zimbabwe's variegated and failed attempts at national reconciliation in the past decades is the lack of political will. This has also been punctuated by the cycles of violence and impunity. As a result, society has remained polarised with no genuine discussion and agreement on the national question of reconciliation. The never-ending violent episodes have also brought to the fore the need to break with the past by embarking on a national healing, justice and truth-seeking, and

reconciliation process. In the context of Zimbabwe, numerous hurdles lay ahead of the NPRC as it seeks to dispense its duties and mandate. For over the past decades, the interests, reservations, hesitations and fears of the political class have superseded citizen demands and interests to have a national TRC.

Whether the NPRC, which was constitutionalised in the new constitution in 2013, will be able to deliver on its lofty promises of ushering in post-conflict justice, healing, truth, and reconciliation is a subject of varying contention among the public and scholars alike. As such, the human rights abuses and injustices of the 2008 violence remain unresolved. This is the gist of the research that the current enquiry seeks to unravel. Significant to note is that although the efforts of having a TRC stem mainly post the 2008 election violence, the NPRC has a broad mandate which stretches back in history. In this regard, some argue that it should go back to investigate the violence that characterised the post-colonial Zimbabwean state stemming from the early years of independence from the 1980 decade to the present. This is a subject that has split opinion among scholars and transitional justice (TJ) scholars alike.

It is significant to note from the onset that the NPRC was a concession by MDC to ZANU-PF and framed in the very weak way that it was (or that it is). During the tug-of-war concessions that characterised the negotiations for the Inclusive Government (IG) in 2008 – the MDC formations had to capitulate and agree to an NPRC that was poorly framed. As in previous sections, the NPRC formation rests on the bedrock of the 2013 constitution. However, it will be intellectual dishonest not to mention that the whole 2013 constitution was a product of horse-trading that began with the negotiations for a new constitution contained in the Kariba Draft years before (*The Independent* July 2, 2009). Consequently, in years that followed, ZANU-PF agreed to the formation of the NPRC because it knew that it could both control much of the process and delay it considerably, as is and has been the case.

1.4 Research Questions

The study's main question is: *What role have national reconciliation and transitional justice processes played in Zimbabwe since 2008, with special reference to the National Peace and Reconciliation Commission (NPRC)?*

1.4.1 Specific Research Questions

With the main research question above as background, the following specific research questions can be asked:

- a) How and in what ways did the transitional justice mechanisms that were put in place by non-state actors deal with human rights violations that occurred in the 2008 election violence?
- b) How has the NPRC functioned post-2013 general election in Zimbabwe?
- c) How and with what effect can the current efforts of the NPRC foster a climate of national reconciliation in Zimbabwe since 2013 be determined in the context of a peace and reconciliation framework?
- d) To what extent can a TRC effectively address issues of truth, justice, reconciliation and healing in a deeply polarised and fractured Zimbabwean society?
- e) How and in what ways can authoritarian and repressive regimes impinge on the functioning and operations of TRCs?

1.4.2 Research Objectives

The study's main objective is to analyse TJ processes implemented from 2008 with a specific focus on the role of the NPRC in Zimbabwe. The main aim was to critically analyse the efficacy/lack (thereof) of the TJ and reconciliation processes in fostering peace, establishing truth, justice and reconciliation in Zimbabwe. The specific objectives of the study are as follows:

- a) To determine how the transitional justice mechanisms that were put in place by the non-state actors dealt with human rights violations stemming from the 2008 election violence.
- b) To assess the development and functions of the NPRC in Zimbabwe
- c) To evaluate the efficacy or lack thereof, the NPRC in fostering a climate of national reconciliation in Zimbabwe
- d) To establish the challenges and prospects of the NPRC in ushering truth, justice, reconciliation and healing in deeply polarised and fractured societies like Zimbabwe.

- e) To critically analyse how and why authoritarian and repressive regimes impact on the functioning of TRCs.

1.5 Justification and Motivation of the Study

The research inquiry is relevant considering the few existing Zimbabwean literature on how citizens view TJ processes (Research and Advocacy Unit, 2009; Zimbabwe Human Rights NGO Forum, 2011; Murambadoro, 2015). This flaw is also mimicked in the continental literature, as exemplified in the sparse empirical accounts on citizenry and victim perceptions on TJ in Africa (see, for example, Maregere, 2019; Wachira et al., 2014; Ngari and Kolok, 2019 and Yankson-Mensah, 2020). Most studies in the field of TRCs (see Chapman and Ball, 2001; Hayner, 2011; Fombad, 2008) have mainly focused on evaluating TRCs in general. As such, there seems to be a gap in the scholarship that focuses on citizenry perspectives regarding the role and efficacy of TRCs in ushering in national reconciliation in post-conflict societies in Zimbabwe and beyond.

The study of people's perception on the role and effectiveness of the NPRC in Zimbabwe is, thus, novel since there are few (if any) published empirical studies yet conducted on this subject matter. This shows that there is a paucity of empirical research focusing specifically on the role of the NPRC in ushering justice, truth and reconciliation in Zimbabwe, especially from a citizen perspective. This is generally because the NPRC is a relatively new phenomenon in Zimbabwe and still yet to fully operationalise, let alone fulfilling its mandate. It is the first time that a TRC was constitutionalised in Zimbabwe's constitution. Therefore, there is a need for an empirical study that examines the work of such a commission. Admittedly, few studies on the NPRC are starting to pick ground but adopting diverse empirical and theoretical foci (Heal Zimbabwe Trust, 2018; NTJWG, 2017, 2018, 2019, 2020; Mhandara, 2020). This study is, thus, a timely addition to this embryonic set of literature.

Beyond the empirical and academic rationale for conducting this study, my personal motivation also contributed to a large extent in informing my decision to undertake this particular study. In 2014 whilst undertaking my Masters' studies in the Netherlands at the International Institute of Social Studies (ISS) of Erasmus University Rotterdam, I enrolled for several courses on Peace, Conflict, Securitization, Human

Rights, Social Justice and Conflict analysis. Through such courses, I developed a deep interest in understanding conflict management, international human rights, and humanitarian law. I then developed a keen interest in various debates on TJ, the role of TRCs and international criminal justice in dispensing justice. This interest resonated with my earlier work as an outreach rapporteur in the constitution-making process in Zimbabwe, where I was exposed to the public views on various issues ranging from TJ and the yearning for the establishment of a TRC.

In 2009, I was involved in a constitution-making process in Zimbabwe where I was privileged to traverse across the breadth and length of the country, canvassing for citizenry's views on what they wanted to be incorporated in the new constitution. Through such a platform, I realised how emotive the issue of TJ, community, and national reconciliation was. Such priceless exposure and the academic grounding I got in 2014 as a Masters student further deepened my curiosity to one day research on TRCs. The opportunity availed itself when I enrolled for a PhD study at North-West University in South Africa.

1.6 The Place of Reconciliation

In analysing the empirical findings, the study adopts Lederach's (1997) Place of Reconciliation framework. Using this theoretical framework, the study examines how truth, justice and peace are (re)negotiated, contested and (re)articulated in various post-conflict societies as citizens seek to grapple with how to shape reconciliation.

Using the conceptual framework of the *Place of Reconciliation* deriving from Lederach (1997), the study analyses how the current efforts in driving Zimbabwe's reconciliation process are shaped by the analytical concepts of truth, justice and peace. While these are insightful analytic concepts that can help in shedding some light on how societies struggle to establish a balance between justice, truth and sustainable peace, one can note that systematic theorisation using such concepts is missing in most of the Zimbabwean literature.

The architect of the theory, Lederach, posits that reconciliation 'represents a place, the point of encounter where concerns about both the past and the future can meet' (Lederach, 1997:27). He explains that reconciliation occurs when truth, mercy, justice and

peace meet. The current study also provides a theorisation of reconciliation and the national peace and reconciliation processes in Zimbabwe using the *place of reconciliation* analytic lens borrowed from Lederach. This conceptual lens is novel insofar as it has not been effectively utilised by or within the existing Zimbabwean studies on reconciliation and TJ (see for example, Machakanja, 2010; Murambadaro, 2017; Ndlovu-Gatsheni and Benyera, 2015) among others. In this sense, this present study offers significant theoretical insights into the reconciliation discourse and literature, not only in Zimbabwe but regionally.

1.6.1 Repressive state apparatuses

The study's conceptual framework considers the discursive aspects of power and how it plays out within society, especially in the contestation over reconciliation and TJ issues. In this regard, the study draws upon the concept of repressive state apparatuses (Althusser, 1971) to disentangle how power-holders may or may not stifle discussion and efforts aimed at TJ as well as silence citizens' demands for a national reconciliation process. For Althusser, the Repressive State Apparatus consists of 'the Government, the Administration, the Army, the Police, the Courts, the Prisons...' (Althusser, 1971:142). In this regard, by examining how these actors have stifled any genuine TJ processes, one engages with the Althusserian debates regarding the use of the repressive state apparatuses. This, for instance, entails discussing how the ZANU-PF led government and state security agents have been at the centre of subduing and silencing debates around TJ in Zimbabwean communities.

The prevailing assumption in TRC research is that reconciliation succeeds when political actors are willing participants. But this is not always the case. By following this problematic oversimplification, empirical research often omits an analysis of troubled polities where political actors are unwilling and where cleavages run deep, as is the case in Zimbabwe since 1980. The study utilising Althusser (1971) contends that it is somewhat difficult to push for genuine national reconciliation where the infrastructure of violence is still in situ. This relates also to how the Zimbabwean society has accustomed to the cycle of impunity of gross human rights violations stemming from the 1980s election violence to date, Gukurahundi atrocities, Fast-Track-Land-Reform-Programme (FTLRP) and the

shootings of alluvial diamond miners in Chiadzwa in 2008. Again, such atrocities are underpinned by the repressive state apparatuses such as the army, police, government, courts and prisons (Althusser, 1971).

The analytical heft in adopting Althusser's theoretical lens of repressive state apparatuses is that I am able to examine how the ZANU-PF regime deploys the state machinery such as the intelligence service, police, army and even the judiciary to muzzle dissent and debate on various topical issues in society, including the clamour for a genuine truth and justice-seeking process. In examining the Zimbabwean context, I follow the logic of Althusser who asserts that 'repressive suggests that the State Apparatus in question 'functions by violence' – at least ultimately (since repression, e.g. administrative repression, may take non-physical forms)' (Althusser, 1971:143).

Another utility value in adopting such a theoretical framework is that I am able to analyse how the Zimbabwean state, prior to the ignominious end of Robert Mugabe in November 2017, has been exploiting the state machinery to undermine efforts geared towards grassroots participation and dialogue over the process and implementation of a national TRC in Zimbabwe. There is evidence showing how ZANU-PF supporters have sought to disturb parliamentary public hearings and outreach meant to gather data on how the NPRC should operate in Zimbabwe (Blessed Mhlanga, *Newsday*, 27 April 2016). Again, there is evidence of police disturbing public commemorations and memorialisations of victims of Gukurahundi in Bhalagwe in Matebeleland (Nqobani Ndlovu, *Newsday*, 23 October 2017). Whilst such evidence exist, much of the extant studies on Zimbabwe touch on these aspects implicitly yet the way the repressive apparatus works provides important insights that help us understand the challenges of societies trying to bring about reconciliation under repressive regimes. By utilising Althusser's theoretical lens, I also add to the theorisation of how repressive regimes condition national reconciliation processes as a self-seeking way to elude justice and truth.

1.6.2 TARR-Model

The study also adopted the TARR Model (truth, accountability, reparation and reconciliation) developed by Weitekamp et al. (2006). This model explains how countries

dealing with past human rights abuses can achieve restorative justice (RJ). The model highlights that the four building blocks, 1) truth, 2) accountability, 3) reconciliation and 4) reparation are crucial elements in transitional justice (TJ). The core elements of the model are crucial for this study - specifically on how Zimbabwe can navigate issues of accountability and RJ. Therefore, the study lies at the intersection of three theoretical schemas, the one concerning reconciliation and TJ, and the other, power and politics, as well as the TARR model of truth, accountability, reconciliation, and reparation. The study, thus, combines theoretical schemas, that of (Lederach, 1997; Althusser, 1971; Weitekamp et al., 2006), to come up with an integrated theoretical framework.

1.7 Conceptualisation of Terms

To understand the focus of the research better, the concepts of reconciliation, transitional justice processes and national peace and reconciliation commissions should be analysed in detail.

1.7.1 Reconciliation

Generally, there is no universally agreed definition of what reconciliation entails. Leiner defines reconciliation as 'an overarching approach to conflict resolution that focuses on processes of rebuilding relationships' (Leiner, 2018:175). For Fischer, 'the concept has also been discussed in the context of acknowledgement, contrition, mercy and forgiveness' (Fischer, 2011:415).

I privilege the aforementioned conceptualisation mainly because it covers the most significant elements of acknowledging the wrong done, remorse, forgiveness and social cohesion, which are central in any basic reconciling act among individuals and collectives within a given society. This conception of reconciliation informs this study on how the NPRC could promote post-conflict reconciliation through truth-seeking, forgiveness and justice. These concepts are essential in achieving reconciliation amongst adversaries.

1.7.2 Transitional Justice

The concept of transitional justice (TJ) has gained importance over the years, and one of the significant current discussions in post-conflict societies is how to secure TJ. The International Center for Transitional Justice (2009) defines the concept transitional justice (TJ) as

a response to systematic or widespread violations of human rights. It seeks recognition for victims and promotion of possibilities for peace, reconciliation and democracy. Transitional justice is not a special form of justice but justice adapted to societies transforming themselves after a period of pervasive human rights abuse (ICTJ, 2009).

TJ comprises of a number of approaches which includes criminal prosecution, reparation, Truth commissions, truth-telling and memorialisation efforts.

1.7.3 National Truth (Peace) and Reconciliation Commissions

There is no doubt that TRCs are gaining prominence in facilitating national healing, peace and justice in many post-colonial conflict situations in Africa. To this end, some scholars view TRCs as the *desideratum* (pre-requisites) for peacebuilding and national healing in societies emerging from past violence (Hayner, 2011:20; Shaw, 2005:1).

According to Hayner (1994), TRCs are bodies set up to investigate past human rights violations perpetrated either by government, military or opposition forces. Similarly, Bakiner (2016:24) defines a truth commission as ‘a temporary body established with an official mandate to investigate past human rights violations, identify the patterns and causes of violence, and publish a final report through a politically autonomous procedure’. The aim of these TRCs is to promote national reconciliation, healing and peaceful co-existence in societies deeply divided by violence or war (Hayner, 2011). Other scholars, such as Chapman and Ball (2001: 3), explain that ‘the purpose of truth commissions is to provide an authoritative account of a specific period or regime, determine the causes of the violence, and make recommendations about measures to undertake so as to avoid a repetition in the future’. This insight points to the need for longer-term outcomes rather than short-term goals.

Numerous scholars aver that the relative success of the South African Truth and Reconciliation Commission [TRC] has encouraged the emergence of similar Commissions in many other African countries and beyond (Sesay, 2007; Gibson, 2005; Hayner, 2011). In this regard, the creation of a TRC in South Africa in the 1990s led to an explosion of literature on TRCs internationally. Real events, thus, led to the scholarly literature on and models of truth and reconciliation commissions. For the first time in

Zimbabwean history, truth and reconciliation were institutionalised in a constitution in the form of the NPRC. In Zimbabwe, such a commission was established in 2013 and it was called the National Peace and Reconciliation Commission. The constitution of Zimbabwe (section 252) stipulates that the Commission's functions are:

- to ensure post-conflict justice, healing and reconciliation;
- to develop and implement programmes to promote national healing, unity and cohesion and to strive for peaceful resolution of disputes;
- to encourage people to tell the truth about the past and to facilitate the making of amends and the provision of justice;
- to develop procedures and institutions to facilitate dialogue between political parties, communities and other groups; and
- to ensure that appropriate action is taken against perpetrators.

The philosophy on which the national peace and reconciliation commission in Zimbabwe was built thus rest on the following principles:

Ensuring that post-conflict justice, healing and reconciliation takes place so that healing, unity and cohesion and the peaceful resolution of disputes can be secured (RAU, 2014: 3).

In the next section, I examine the philosophical underpinning of my study.

1.8 Philosophical Underpinning of the Study

The study is anchored in a constructivist epistemology in the sense that it seeks to understand how people interpret and construct different or similar reality and how they envisage truth, justice and reconciliation in Zimbabwe in the wake of a TRC. This is done through tapping from their lived experiences and world views on various failed attempts, experiences with state violence and cycles of impunity over the past years. In doing so, the enquiry attends to issues of both ontology and epistemology. Ontology refers to 'the study of what exists, and how things that exist are understood and categorised' (O'Leary, 2014:5). As for epistemology, it is 'how we come to have legitimate knowledge of the world...'(O'Leary, 2014:5). For Guba and Lincoln (1994:108), epistemology asks, 'what is the nature of the relationship between the knower or would-be knower and what can be

known?' In this study, the researcher conducted empirical research by speaking face-to-face with respondents.

Through one-on-one interaction, the researcher managed to access multiple realities (knowledge) with regard to the efficacy of TJ mechanisms in addressing human rights abuses stemming from the June 2008 violence in Zimbabwe. The following section will elaborate on the research design and research methods relevant to this study. The two concepts, research design and research methodology, need to be clarified in order to clear the confusion that is often associated with their usage.

1.9 Research Design

According to Kothari, research design refers to 'the conceptual structure within which research is conducted; it constitutes the blueprint for the collection, measurement and analysis of data' (Kothari, 2004:31). This study follows a qualitative research design, hence, it will proceed by uncovering the deeper meaning of a phenomenon in the real world (Creswell, 2003:13). Reconciliation, TJ and national peace and reconciliation commissions are three such phenomena. Creswell (2009:4) further defines a qualitative research design as a means for exploring and understanding occurrences in the real world (the field of peace and conflict resolution).

For the purposes of this study, I utilised the qualitative approach as I was more concerned with exploring the world views of citizens regarding the NPRC and was not interested in a quantitative study that would be generalisable beyond the response group. Denzin and Lincoln (2000:2) state that a qualitative approach to research consists of a set of interpretive mechanisms that make the world visible to the researcher and which will help him or her to interpret an occurrence in the real world better and make more sense of it. A qualitative approach to research, thus, turns the indefinite world into reality through the utilisation of specific data-collecting techniques, such as the analysis of scholarly literature (Denzin and Lincoln, 2000:2).

De Vos explain that a qualitative research design or approach entails the following:

- The research design is used to answer questions about the complex nature of a phenomena, with the purpose of describing and understanding the phenomena from the participants' point of view.
- The qualitative researcher seeks a better understanding of complex situations.
- Their work is often exploratory (qualitative) in nature and not conclusive (quantitative) in nature.
- The research starts with a general research question rather than a specific hypothesis.
- The researcher collects data through various qualitative data-collecting instruments, such as interviews, questionnaires, focus groups, observations, and scholarly literature analysis.
- The researcher primarily makes use of inductive reasoning (that is, reasoning from the particular to the general) (De Vos, 2011:305).

The research methodology is an important aspect of a study as it explains how the objectives of the study are reached.

1.10 Research Methodology

Any qualitative or quantitative study is premised on a research methodology. Bak (2004:25) explains that the purpose of a research methodology section in a study is to give the reader a clear indication of the way in which the researcher hopes to achieve the research objectives. This is the same purpose that my methods and methodology section serve to achieve. As for Kothari (2004:8) 'research methodology is a way to systematically solve the research problem'. In this regard, the methodology should explain the method and procedures to be undertaken in the research and also focus on the data-collection techniques implemented to obtain information on the questions under investigation (Bak, 2004:25). The data collection methods that were utilised in this study are explained in detail in the following section.

1.11 Data-Collection Techniques

This study utilises both primary and secondary data-collection methods. The study draws on an analysis of scholarly literature, key informant interviews, case study analysis, attendance of public consultation workshops on preparations for public hearings conducted by the NPRC, and review of CSO reports. In addition to the interviews carried out, I participated in two group discussions with members of peace committees from

Mashonaland East Province and Mashonaland Central Province. These are the two provinces that were heavily affected by the 2008 electoral violence. All these data gathering techniques were privileged as they enabled me to generate primary data on the work of CSOs and the NPRC in Zimbabwe.

Fieldwork for this study was done in two phases. I did the initial phase in August 2019 to December 2019. The second phase which was supposed to commence in March 2020, was affected by the emergence of the COVID-19 global health pandemic and only resumed in October to December 2020 when the lockdown was lifted. I did the research in two phases since the study is an ongoing phenomenon. The NPRC formally commenced its operations in 2018, and it is expected to end its first tenure in 2023.

1.12 Sampling Strategy

Due to the study's sensitivity, the researcher utilised a snowball sampling method to identify respondents, especially victims of electoral violence. O'Leary (2010:170) explains that snowballing sampling '[i]nvolves building a sample through referrals'. Employing such an approach enabled easy identification of respondents with knowledge of the subject matter. The researcher used this technique in his Masters research focusing on the Government of National Unity (GNU) efforts to reduce electoral violence in Zimbabwe, and it enabled him to approach some senior figures in politics, civil society and academia. Without this technique, it would have been difficult to approach such prominent people personally, hence minimising the chances of acquiring the anticipated data.

In conducting this study, I managed to hold interviews with members of CSOs dealing directly with peacebuilding issues and TJ in fragile communities across the country. Given their knowledge and experience of the phenomena under investigation, they referred me to potential participants, including victims and other stakeholders. In a context where the state is wary about the research on TJ, it was necessary to use referrals in order to build trust with respondents from different organisations. However, by utilising snowball sampling, I ended up getting similar views from the referent person. Faced with such a situation, I then opted for an alternative sampling method, that is – purposive sampling approach.

Teddlie and Yu (2007: 77) holds that purposive sampling refers to 'selecting units (e.g., individuals, groups of individuals, institutions) based on specific purposes associated with answering a research study's questions'. This sampling technique was privileged as it helped the researcher 'to obtain expert knowledge' on the role of the NPRC and non-state actors in promoting TJ, healing and reconciliation in post-2008 period. Key informants were selected through purposive sampling method basing on their rich knowledge, background and experience on TJ of CSO actors. I also purposely selected the NPRC staff and commissioners located in Harare to get an insider perspective on the development and role of the commission since 2013. They were chosen since they are privy and knowledgeable about the consummation of the Commission and its current work. Given the fact that when I conducted the research the Commission was still in the process of decentralising its operations, it was only but necessary that I focus my inquiry on the national office. However, focusing on insiders (NPRC officials) had a downside in that some of the responses could lack objectiveness and thus subject to bias. To remedy this shortcoming, I thus triangulated my data through utilising other sources to yield a more balanced and credible picture. In total, I conducted 32 in-depth interviews. The study strived to capture a number that is broad enough yet manageable at the same time.

1.13 Sample Population

I draw upon the response group from a segment of the Zimbabwean population comprising of civil society actors, intellectuals, commissioners and ordinary citizens. These range from different age groups and gender including youth (female and male), middle and older aged groups. Numerous factors guided my choice of selection of these particular response groups. I did strive to capture the views of both respondents in different spatial locations. Hence, my spread to various areas as shown in the section on study location. These are both rural and urban settings. My choice for targeting the interviewed academics was informed by their extensive research work on TJ in Zimbabwe. In this regard, I managed to interview academics from state universities in Zimbabwe, namely, Bindura University of Science and Technology (BUSE) and the Midlands State University (MSU). The decision to interview NPRC commissioners was predicated on the assumption that they wielded considerable depth and knowledge on

the research subject as they are the 'drivers' of such a process. This assumption proved to be a correct one.

My choice to target specific individuals in rural communities such as victims and survivors rest on the desire to probe on their lived realities, experiences with election violence. This also enabled me to decipher their views on the unfolding TJ process in Zimbabwe. Like numerous other studies focusing on sensitive and 'hard issues' in Zimbabwe, the study suffered from high non-response rate from female respondents. This may presumably be due to the fear factor of participating in research that implicates the incumbent ZANU-PF part, fears which are, however, not limited but more expressed in the female folk. I would have wanted to get more voices from women who are also victims of political violence in Zimbabwe. Due to the risk associated with researching human rights violations, I failed to interview the alleged perpetrators for personal safety. Besides personal safety, it was also going to be very difficult – if not impossible to locate such a population. This is considering that most perpetrators of violence always stay in fear of arrests, reprisals and victimisation, hence would not be forthcoming to partake in any research work examining their role in unleashing violence.

1.14 Key Informant In-depth Interviews

In collecting data for the study, I used semi-structured interviews to gather data on TJ mechanisms and their implications for reconciling societies from NGOs, victims of electoral violence. Rubin and Rubin (2005:88) states that semi-structured interviews 'allow depth to be achieved by providing the opportunity on the part of the interviewer to probe and expand the interviewee's responses'. In this study, semi-structured questions permitted respondents to explicitly express themselves on the subject under discussion.

As mentioned, semi-structured interviews were conducted with key informants. O' Leary (2010:169) stresses that in working with key informants 'you believe the answers to your research questions lie with select individuals who have specialised knowledge and know what's going on'. In this particular study, the selected individuals were interviewed about their knowledge, beliefs, feelings, perspectives, and what they think should be done with regards to comprehensive national reconciliation in Zimbabwe. I carried out key informant interviews with members from the NTJWG and Zimbabwe

Human rights NGO Forum since they are championing the need for genuine TJ processes in Zimbabwe. Hence, they are knowledgeable about the research area. I therefore, managed to generate a lot of data on the trajectory of TJ in post-colonial Zimbabwe and the struggle by CSOs which was very useful in shaping my arguments.

I also held key informant interviews with the NPRC commissioners and staff members like the general managers of various departments. This enabled me to get information on how the NPRC has developed, functioned and whether the commission will fulfil what it is mandated to do. Semi-structured key informant interviews were privileged as they enabled me to probe further on how the NPRC will achieve its mandate. In-depth interviews with CSO actors permitted me to get their perceptions of how the TRC functions and how it should function. In-depth key informant interviews were also conducted with the following categories of persons and organisations: members of the Catholic Commission for Justice Peace in Zimbabwe, which have conducted extensive research on the *Gukurahundi* massacre, members of the Heal Zimbabwe Trust, Zimbabwe Human rights NGO Forum, members of political parties groupings like ZANU-PF and MDC-Alliance , members of churches of different denominations, the academia, youths, victims and survivors, members from the NPRC Provincial Peace committees, NGOs working in peace, research and human rights domain as well as members from the NPRC.

These interviews were captured through the use of an audio recorder. The respondents were comfortable being audio recorded because they already work and advocate for TJ issues in Zimbabwe. However, due to the sensitivity of the topic I did not audio record the victims of 2008 electoral violence. This data collection method enabled me to get varied and situated first hand experiences of victims of 2008 violence. This also enabled me to probe further on their desire and the kind of justice they sought. I conducted most of my interviews in English language considering that much of the respondents were elites from NGOs, academics and commissioners who are well-versed in the language of use. But I also conducted some few interviews in Shona, one of the vernacular languages in Zimbabwe. Such interviews were held with direct victims of election/political violence – those in the rural communities whose grasp of English is limited. Not only that I also

prioritised the use of Shona language so as for the victims to express themselves with ease and clarity (see Appendix 3). I did translate these views to English language. Much of the interviews lasted from 30 minutes up to one hour. Some interviews took longer because most of the respondents had much detail about the subject under discussion.

1.15 Case Study Approach

This study adopted a case study approach to fully understand the real situations- (processes and context) (Yin, 2014) on the work and role of the NPRC in promoting post-conflict justice since its establishment. According to Simons, a 'case study is an in-depth exploration from multiple perspectives of the complexity and uniqueness of a particular project, policy, institution, program or system in a 'real life' context' (Simons, 2009: 21). For Yin, a case study is 'an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident' (Yin, 2009:18). The empirical inquiry is necessary to get in-depth information about the phenomenon under study. In this context, the study utilises a two-case study approach—one at the country level – case study of Zimbabwe, then a case study of the actual NPRC. The case study design also enables researchers to find answers to 'how and why questions' for the topic being investigated (Yin, 2014).

Through a case study approach, I closely followed proceedings from the NPRC bill, debates by Parliament, and the work of the NPRC itself for a period spanning eight years before I even commenced this study. The case study method enabled the researcher to get a more in-depth understanding of how the NPRC operates and explore its efficacy in dealing with past human rights abuses and reconciling societies in Zimbabwe.

1.16 Grey Literature (Material)

As to date, there is a voluminous corpus of grey material generated by the NPRC, CSOs/NGOs and by the government regarding the NPRC. Though the literature is still wide, I did manage to do a critical review of such literature to get a sense of the subject. This literature also exists in the form of CSOs reports and NPRC reports. Much of the data from civil society organisations is advocacy oriented and prescriptive. On the part of

the NPRC much of their data is uncritical of the government involvement in impeding the work of the Commission. In most cases it is carefully framed with a watered-down tone. Though the data can be treated with some pinch of salt due to focus and audience, it nonetheless provided a rich source of academic data for this study.

1.17 Triangulation

To get a balanced and objective assessment of the work of the NPRC and CSO efforts, I did adopt a three-tier triangulation process. This entails methodological triangulation, data triangulation and theoretical triangulation. According to Farmer et al. methodological triangulation entails the use of more than one research or data-collection method; in the same vein, data triangulation involves the use of multiple data sources and respondent groups, while theoretical triangulation involves the use of alternative disciplinary or substantive theoretical lenses to analyse research findings (Farmer et al., 2006:379).

1.18 Reliability and Validity

Reliability and validity issues are important in any research study. Scholars define reliability as 'consistency of the results over time, independent of researcher and instruments' (Poortman and Schildkamp, 2012:1733). For others, reliability is 'concerned with internal consistency, i.e. whether data/results collected, measured, or generated are the same under repeated trials' (O'Leary, 2014:62). This relates to the consistency of the research instruments utilised in the data collection for this study. I opine that if I am to repeat a similar-if not-the same study using the same methods, I yield the same results.

Validity is 'concerned with the truth value, i.e. whether conclusions are 'correct'. Also considers whether methods, approaches, and techniques actually relate to what is being explored' (O'Leary, 2014:62). To ensure validity of my findings, I collected data through multiple sources (triangulation) like interviews with different people who are knowledgeable about TJ and reconciliation. To complement these multiple data gathering techniques, I also employed the case study analysis of the NPRC, including a critical review of the institution's annual reports to ensure that the data obtained was reliable. I also posed the same questions throughout the fieldwork to ensure the reliability of the data collected. The questions were the same to different groups of interviewees church, politicians, academia, civil society actors and victims.

1.19 Data Analysis

In analysing the data, I utilised a thematic and content analysis technique. Braun and Clarke define thematic analysis as ‘a method for identifying, analysing, and reporting patterns (themes) within data’ (Braun and Clarke, 2006:6). I purposefully classified data from the fieldwork in specific themes. This for instance, involved classifying data on particular research themes along the clusters of CSOs actors, NPRC commissioners, victims and academics. After this, I then analysed the data along specific research themes. The main themes that were analysed include experiences of victims, citizen-centric views on reconciliation, views on the role of the NPRC and CSOs, and the challenges of the NPRC.

The qualitative data analysis process requires researchers ‘to organise their raw data, enter and code that data, search for meaning through thematic analysis, interpret meaning and draw conclusions’ (O’Leary, 2014:300). I transcribed and saved all the fieldwork data in thematic folders before commencing the data analysis process. I also stored data in flash disk, external hard drives and in field notebooks.

1.20 Ethical Considerations

The study abides to ethical considerations expected of any social science research. O’Leary views ethics as a ‘professional “code of practice” designed to protect the researched from an unethical process ... Key ethical considerations include informed consent, causing no harm and a right to privacy’ (O’Leary, 2014: 349). In this regard, the study first sought prior informed consent from research participants before enlisting them in the study. The study also adheres to the principles of anonymity and confidentiality, given the sensitivity of the topic. Thus, the study tries not to identify the respondents, especially on sensitive issues and where interviewees requested anonymity.

Further, the study observes the concept of duty of care – whereby the interviewer made sure not to bring harm to the study participants. Since the topic is of a sensitive nature, I tried by all means not to ask questions that bring back memories of past incidents, especially among victims of past political violence, gender and sexual abuse, including victims of rape. Rather, I mainly focused on their views, desires and perceptions with regards to the NPRC’s current efforts in offering post-conflict justice. Throughout the

interview process, I strived to create a rapport with the respondents by stressing and assuring them of their right to freely withdraw from the interview anytime (if they so wish). Stressing to them that they were not obliged to participate and that they were free to discontinue the interview is part of responsible research practices.

The researcher also made use of the Letter provided by the academic supervisor at North-West University to get access and entry into the world of the respondents. Not only that, but the letter also helped in building rapport with the study participants, especially to some who were wary of the study given the security fears in the country. Zimbabwe is one country that is highly securitised to the extent that the generality of the population is distrustful of any research study that probes on topics deemed of a sensitive nature. The assurance that my study was purely of an academic nature, thus, helped in boosting confidence to the respondents to participate in the research study.

Throughout the data collection process, I first sought consent before recording the interviews. Two interviewees preferred not to be tape-recorded. Unexpectedly, one survivor of 2008 violence did not request anonymity. But in conformity with the duty of care, I was obliged by research ethics not to record interviews held with victims of 2008 electoral violence. In conformity with social science research ethics, I anonymised some respondents, especially those who expressed the need to guarantee their anonymity. In sync with the required ethical obligations in conducting social science research, the proposal was subjected and subsequently approved by the North-West University Faculty of Humanities Ethics Committee.

1.21 Study Location

The study was conducted in Harare – capital city of Zimbabwe, and in other smaller cities and towns, namely – Bulawayo, Bindura, Masvingo, Norton, Zvishavane and in some rural areas namely –Nyanga, Mutoko, Watsomba, Murehwa and Buhera (as shown in the map below). However, much of the data collection was done in Harare, where the NPRC and most non-state actors are housed. The spatial spread was prioritised so as not to confine the findings from one location, mainly the capital city, which tends to be the main trend with much of the existing academic research. Another factor is that it is the citizens in the city outskirts who were more affected by political violence; hence it was only logical

to reach them in their locality to understand their perspectives regarding TJ. However, this is not to deny the existence of pockets of political violence in cities unleashed by the vigilant groups, *Chipangano* in Mbare and *Al shabaab* in Kwekwe and Kadoma (Munyarari, 2018). The map below shows some of the cities, towns and rural areas of Zimbabwe where the fieldwork was conducted.

Figure 1. Map of Zimbabwe



Source: (World Map, 2021) [see: <https://www.worldmap1.com/zimbabwe-map.asp>]

1.22 Limitations and Challenges

One of the main challenges faced in undertaking this study is that it is always difficult researching an ongoing phenomenon. Researching the work and role of NPRC in Zimbabwe was also beset with such a challenge as it involved some periods of inactivity – some of little (or no) activity and several twists and turns. For example, there were

prolonged months when the NPRC seemed to be in a lull with no tangible activities or programmes being conducted. Unlike other studies that do an evaluative analysis of TRCs after their completion, this study explored the NPRC through its lifecycle, a brave endeavour that came with its own fair share of challenges. One being that it is somewhat difficult to pass a definitive judgment on the efficacy of the NPRC a position which is only easier to do as and when the body completes its work.

The other limitation is that the topic on reconciliation is regarded as sensitive in Zimbabwe. Some respondents, especially victims and civil society members, were skeptical about the research and were reluctant to be interviewed. Some victims feared further victimisation and also dreaded the process of re-traumatisation through re-narrating the horrendous past. Another challenge was identifying and accessing civil society respondents. I made many follow-ups to civil society actors and politicians who always feigned busy schedules. Though I wanted to interview more members from ZANU-PF and legislators, I faced a challenge in accessing such a response group. I only managed to interview one supporter of ZANU-PF through referrals and one senator from MDC-Alliance from my personal contact.

Apart from the challenge of non-response from some of the targeted response group, another constraint was trying to interview the employees from the NPRC. It was hard to get respondents from the NPRC because they were always busy and could not respond to emails. Again, the situation was not helped by the fact that there is a lot of gatekeeping of information in Zimbabwean institutions, which made it hard for the researcher to interview the lower level NPRC staff. I was hoping to get a balanced view with regards to the work of the NPRC from the staff members. I maintain that it could have been enriching if this study was conducted after public hearings by the NPRC. Perhaps, this was going to assist me to document the side of the perpetrators (assuming they were going to participate in the proceedings). Another methodological limitation of the study is that the findings are not generalisable beyond the interviewed response group. Though the sample might be indicative of the views of the generality of Zimbabweans, it is not broad to warrant a generalisable picture and sentiments of how Zimbabweans view the NPRC.

1.23 Thesis Outline

The thesis is comprised of seven Chapters. The first chapter puts the study on reconciliation and TJ mechanisms into context. This is achieved by also providing the orientation, what the research is set out to achieve, the objectives, research questions, as well as outlining the methodological choices and ethical considerations of the study.

Chapter Two explores the theoretical and conceptual constructions underpinning this study on TJ and reconciliation. The chapter provides a conceptual analysis of various interconnected concepts of TJ evolution, reconciliation, peace, RJ, retributive justice, violence, conflict resolution and forgiveness that will be used throughout the study. It also explores the peace theories that are relevant to this study.

Chapter Three reviews global literature of TRCs as well as how TRCs functions. The chapter also traces why the TRCs are formed in post-conflict contexts. The second part of the chapter reviews literature on Zimbabwe, specifically the reasons behind the establishment of a TRC. To contextualise the study, the chapter briefly traces the dynamics (causes and nature) of violence and conflict in post-independent Zimbabwe. The chapter traces the historical overview of different forms of direct violence to contextualise why a TRC is necessary in Zimbabwe victim centred justice, peace and reconciliation is indispensable in post-colonial Zimbabwe. It chronicles how violence has been recurring, engineered, perpetuated and sponsored by the government and its agents.

Chapter Four examines the development and functioning of the NPRC in Zimbabwe. In general, the chapter describes the coming into being of NPRC in Zimbabwe. The first part of the chapter discusses the politics of reconciliation in Zimbabwe to understand the reasons behind the adoption and development of a TRC after the 2008 electoral violence. It briefly examines the interplay between politics, power and the law to establish why past reconciliation efforts have failed to bring victim-centred justice and reconciliation in post-colonial Zimbabwe. The second part of the chapter discusses the functions, mandate, structure, power, composition and autonomy of the NPRC in Zimbabwe.

Chapter Five examines the role of non-state actors (religious organisations and CSOs and human rights organisations) in influencing and shaping Zimbabwe's TJ trajectory

from 2008 to the present. It also specifically looks at their role in advocacy, peacebuilding processes to victims and survivors, spearheading healing and reconciliation in societies that have been affected by the 2008 electoral violence.

Chapter Six presents citizens' perception of the role of the NPRC regarding peace, justice, and reconciliation. It specifically looks at how the NPRC functions after its promulgation in the constitution that was adopted in 2013. As such, it makes an empirical analysis on the challenges and prospects of the NPRC in fostering peace and bringing the much-desired victim-centric justice.

Chapter Seven provides the overall summary and conclusion of the study. It ties together various theoretical strands, empirical arguments and objectives. It also recommends further studies on the emotive issue of reconciliation in Zimbabwe and the efficacy of the NPRC in resolving the gross human rights violations committed in various episodes. In the next chapter, I present the theoretical framework underpinning the study.

Chapter Two: An Exploration of Theories of Peace, Justice and Conflict Resolution Studies

2.1 Introduction

This chapter explores the theoretical foundations underpinning this study. The chapter further offers conceptual clarification of distinct but interlinked concepts such as peace, justice, truth, TJ, forgiveness, restorative justice (RJ), retributive justice reconciliation and its nexus to conflict resolution studies in post-conflict contexts. Theoretical explorations of the aforementioned concepts are crucial in the review of the literature and in informing our better understanding of the etymology of TJ. That is, the evolution of the interdisciplinary field of TJ, particularly how its discourse has evolved in both theory and practice in post-conflict situations. These theoretical constructs inform this study insofar as they help in analysing the phenomena under investigation. I utilise the theoretical lens to examine the NPRC's role, impact, challenges and prospects in seeking to create a climate of national reconciliation in contemporary Zimbabwe.

In this regard, this chapter endeavours to present an eclectic approach to theoretical aspects and analytical frameworks adopted to critically understand the research problem. As the chapter shows, the study's analytical framework draws on the *repressive state apparatuses* by Althusser (1971) and *place of reconciliation theoretical lens* borrowing from Lederach (1997). The utility of such frameworks is underscored by their potency in framing and exploring the peace, violence, justice and reconciliation dilemma in contested settings of Zimbabwe. In so doing, the chapter further evaluates the theories of peace, justice, philosophical foundations and conflict resolution, which provides guidelines that are relevant to this study. The chapter also review theories of influential peace by scholars such as Johan Galtung and John Paul Lederach to inform the commission's work on promoting sustainable peace, non-violence, justice and national reconciliation. Overall, this chapter attempts to answer the research question: *What are the theoretical foundations of peace, justice and conflict-resolution studies?* The chapter will, first of all, explore extant literature on interrelated concepts that feature in the theoretical frameworks like reconciliation, RJ peace, TJ, conflict resolution and justice.

2.2 Conceptualising Peace

Although there has been substantial scholarship on the conception of peace, there is a lack of consensus amongst scholars on its definition. A review of extant literature shows that many theorists, philosophers and scholars in the peace and conflict realm have provided various theoretical bases of peace in an attempt to conceptualise it (see, for example, Porter, 2015; Galtung, 1964, 1969; Lederach, 1997). In general, the concept of peace is often referred to as harmony, tranquillity and non-violence. In the words of Martin Luther King Jr (1956:208), 'peace is not merely the absence of this tension, but the presence of justice'. Grewal (2003:1) opined that 'the word peace conjures images of harmony and bliss in psychological, social and political sense'. The father of peace studies, Johan Galtung, gave a broader definition of peace in 1964. According to him, negative peace 'is the absence of violence, absence of war' whereas positive peace 'is the integration of human society' (Galtung, 1964:2). Conceptually, 'negative peace' signifies the absence of physical violence and other forms of direct violence, whereas positive peace includes restoration of human relationships. Despite the difference in the conceptualisation of peace by scholars such as Martin Luther King, Galtung and Grewal, there is consensus that peace entails harmony and absence of violence.

Galtung's theoretical aspects are relevant to this study as Zimbabwe has always grappled with attempts, albeit half-hearted at times, in seeking to transcend from violence to sustainable peace by the adoption of various conflict resolution mechanisms. The influence of Galtung's peace framework enables countries emerging from violence to achieve negative peace through implementation of various peacebuilding and conflict resolution mechanisms. This is provided they stick to the core tenets, and again, this is also dependent on the political and contextual factors. However, Galtung's conception of peace denotes that the presence of negative peace in society is simply not enough. To explain this conception, Galtung (1964) further asserted that positive peace is achieved by implementing social justice measures and dismantling all structural violence. This notion is guided by the premise that peace is always threatened by violence. As such, Galtung, in his work *'Peace by Peaceful Means'* came up with what he termed 'diagnosis-prognosis-therapy' triangle.

Through this trilateral model, Galtung proposed that 'peace studies are so similar to health studies that the triangle diagnosis-prognosis-therapy can be applied' (Galtung, 1996:1). He further posited that health studies diagnose the causes and nature of the illness. In comparison to the health diagnosis, Galtung argues that 'the peace researcher must look for causes, conditions, and contexts in various spaces'(Galtung,1996:1). Borrowing from Galtung's 'diagnosis-prognosis-therapy' triangle, empirical peace studies are needed to diagnose the causes of violent conflict to come up with feasible peacebuilding and conflict resolution mechanisms or solutions to cure the ills that pose a challenge to the realisation of sustainable peace. On this basis, Galtung's model lends insights to the theorisation of peacebuilding not only in the context of Zimbabwe but in other jurisdictions grappling with conflicts of different shades and stripes.

2.3 Unpacking the Concept of Peacebuilding

Peacebuilding is one of the topical concepts widely used in post-conflict situations with an overarching aim of consolidating peace and preventing future conflicts. In the words of Owiredu (2009:7), peacebuilding as a concept 'serve as the umbrella for transitional justice and reconciliation'. As such, it is important to understand what it entails for the purposes of this study. Lederach, one of the leading scholars of peace studies, defined peacebuilding as 'a comprehensive concept that encompasses, generates, and sustains the full array of processes, approaches, and stages needed to transform conflict toward more sustainable, peaceful relationships' (Lederach, 1997:20). It is largely believed in the academic and policy literature that if implemented well, peacebuilding programs are a *sine qua non* for breaking the cycle of violence in countries that are troubled with political instability and civil strife.

For purposes of this study, I also engage extensively with the notion of peacebuilding to understand how and why the Zimbabwean government has adopted the NPRC as a model to usher in long -term peace following decades and years of protracted conflicts. In this study, I adopt Kerlinger's conception of theory to understand the various models that I draw upon in examining the Zimbabwean case study. A theory is defined as 'a set of interrelated constructs (concepts), definitions, and propositions that present a systematic view of phenomena [...] (Kerlinger, 1986:9).The theoretical perspectives

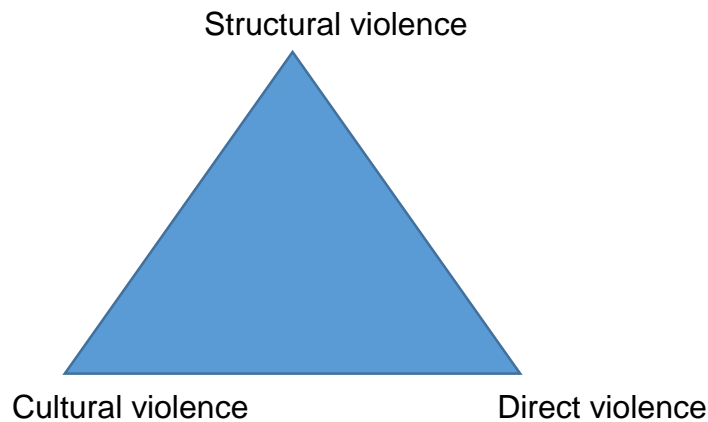
guides us in evaluating the role of the NPRC since its proclamation in 2013 and how national reconciliation could be achieved in the Zimbabwean political context.

2.4 Understanding Violence

Undoubtedly, violence is a global social problem that damages human relationships. In this regard, we have seen a rise in scholarship that speaks to violence and how we can best contain and normalise societal relations during and post-conflict situations. This interest on this subject is evident in the earlier scholarly work by eminent theorists in the mould of Johan Galtung, among a range of others. Galtung's work entitled '*Violence, Peace, and Peace Research*' written in 1969 provided a foundation and theoretical basis of how the realm of peace and conflict studies can be understood from that time to the present. Then and presumably now – Galtung strongly opines that 'violence is present when human beings are being influenced so that their actual somatic and mental realisations are below their potential realisations' (Galtung, 1969:168).

However, his conceptualisation of violence does not suffice. His philosophical definition lacks a clear picture of what violence means. In general terms, violence is defined as the use of force that can inflict pain and injure other human beings. Galtung's work is remarkable in the sense that it provided the dimensions, typology, nuances of violence and peace that is inescapable in the history of humanity. The crucial dimensions of violence include psychological and physical violence, intended and unintended violence, direct (personal) and structural violence (see Galtung 1969:169-173). In his latter theorisation of violence, Galtung (1969,1990) distinguishes what he terms direct, structural and cultural violence. Cultural violence is defined 'as any aspect of a culture that can be used to legitimize violence in its direct or structural form (Galtung,1990:291). He illustrated these dimensions of violence through a three-pronged triangle below,

Figure 2. Galtung's Triangle of violence



Source: (Galtung, 1969).

Direct violence generally refers to overt behaviour that may threaten human life. This form of violence usually involves physical (visible) violence, which arouses emotional and physiological feelings. Such forms of violence have the potential to cause harm, inflict pain and end human life. These include murder, killings, rape and torture. Understanding the concept of violence and its theoretical basis offers us a brief contextual backdrop of why peace, justice and national reconciliation is indispensable in Zimbabwe, especially in the aftermath of the 2008 elections. The direct and indirect forms of violence have created deep societal cleavages in many communities in Zimbabwe. These varied forms of violence will be discussed in detail in the following chapter.

For the purposes of this thesis, I will mainly focus on the direct violence, which has become a perennial menace in the history of Zimbabwe, particularly during election cycles. This is because direct violence is the far more pressing issue right now. But this does not take away the fact that citizens have also suffered from other dimensions of violence at the hands of the ZANU-PF government. As envisaged by Galtung (1969), there are other structural violence issues such as economic injustice, social injustices and poor health care systems that have manifested into direct violence. Structural violence occurs when 'the power to decide over the distribution of resources is unevenly distributed' (Galtung, 1969:171). Looking at the asymmetrical developments within Zimbabwe's regions, one can also safely state that some regions such as Matabeleland

have suffered from structural violence. This entails a systematic deprivation of basic amenities and a sustained and co-ordinated development planning and policies that perpetuate underdevelopment of some areas at the expense of others.

But more specifically, and for the purposes of this study, I focus on direct violence. As will be argued in chapter 4, the ZANU-PF led government has deployed overt violence to its citizens on several occasions by the use of state apparatus such as the army, youth groups, and the police. This is consistent with Althusser who posit that the 'repressive State Apparatus functions 'by violence"' (Althusser, 1971:145). This has been referred to as institutional violence by Sachikonye, (2011). To this end, the ruling ZANU-PF government is always the perpetrator of violence on its citizens. The following section discusses the evolving concept of TJ, which is important in the analysis of Zimbabwe's post-conflict reconciliation trajectory.

2.5 Understanding Transitional Justice Theory and Practice

Transitional justice (TJ) is one of the key concepts utilised throughout this study. Therefore, it is important to understand how scholars and TJ practitioners have attempted to conceptualise it and what it constitutes. The conceptual understanding of this term is important to this study as CSOs, and the Zimbabwean government post-2008 violence have embraced various TJ measures in an attempt to address the past gross human rights injustices. There are a large number of published studies (Fischer, 2011; Aciru, 2017; Lambourne, 2014; Mutua, 2015; Brankovic, 2018; Wielenga, 2015) that describe how the concept of TJ has gained scholarly importance over the years, both in theory and in practice. To buttress this point, Buckley-Zistel et al., (2014:1) affirm that TJ has gained global acceptance as an umbrella term to address past injustices.

One of the significant universal agenda and current discussions in post-conflict societies is how to deal with past human rights abuses with the use of diverse TJ mechanisms (United Nations, 2010; ICTJ, 2021). The replete definitions of TJ show that it is a broad concept that encompasses many aspects. According to a report by the UN Secretary-General (2004: 4), the concept of TJ refers to 'the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve

reconciliation'. This broad definition is apt for this study as it encompasses various stakeholders in TJ. Again, it is a definition that is not parsimonious insofar as it conceives TJ as a process, not a means to an end. Viewed from this perspective, TJ is a means to achieve the end.

Likewise, the International Centre for Transitional Justice (ICTJ) mentioned that transitional justice 'refers to the ways countries emerging from periods of conflict and repression address large-scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response' (ICTJ, 2021). These abstract definitions are very comprehensive and provide broad measures that are applied by many countries to deal with protracted conflicts and the associated injustices. The necessary range of concepts like accountability and, justice contained in these prevailing definitions should be prioritised to ultimately promote reconciliation in post-conflict transitions. In the words of Parent, the concept of TJ 'refers to a number of peacebuilding measures that are internationally, nationally, and/or locally rooted, such as international tribunals, amnesties, truth commissions, criminal trials, reparation programs, and memorials' (Parent, 2010:277).

Another prominent scholar in the conflict resolution realm Ruti Teitel defined TJ as 'the conception of justice associated with periods of political change, characterised by legal responses to confront the wrongdoings of repressive predecessor regimes' (Teitel, 2003:69). Teitel was one of the proponents who traced the genealogy of this concept in her study entitled '*Transitional Justice Genealogy*' published in 2003. Teitel contends that the first phase of TJ research started after the Cold war in 1945. For Bell et al., the study and implementation of TJ measures 'can be traced to the post-Second World War Nuremberg and Tokyo tribunals' (Bell et al., 2007:82). Other scholars assert that comparative scholarship and normative assumptions on TJ began during the 'third wave' era of democratisation (Huntington, 1993; Leebaw, 2008).

Similarly, Bell et al. affirm that TJ reinvigorated in the 1990s when repressive states in Eastern Europe and Latin America implemented some measures to transition from authoritarianism to democracy and as a response to human rights abuses that emanated from intrastate conflicts (Bell et al., 2007:82). In his book, Neil Kritz (1995), *Transitional*

Justice: How Emerging Democracies Reckon with Former Regimes, offers legal and political perspectives on how to achieve reconciliation and justice, drawing from experiences of over 20 countries that have been in transition. A prominent legal scholar, Diane Orentlicher, has also published extensively on the field of TJ. Her work has focused mainly on criminal law. Taken together, the work of Diane Orentlicher, Ruti Teitel and Neil Kritz have played a substantial role in shaping the TJ discourse. The scholarly work of the scholars mentioned above have continued to ignite academic interest and debates on this contested and evolving concept of TJ. My current study builds on insightful theoretical reflections from this extant literature.

Despite the burgeoning literature in the academic circles and practitioners' discourse, scholars contend that the concept 'transitional justice' is under-theorised (Buckley-Zistel et al., 2013:2; Clark and Palmer, 2012; Fletcher and Weinstein, 2015; De Greiff, 2012:32; Gready and Robins, 2017:956; Krotoszyński, 2017:9; Pietrzak, 2018:54). Furthermore, other scholars argue that TJ is a contested and 'complex concept' (Binder, 2013:1; Álvarez Berastegi, 2017:543). Buckley-Zistel et al. (2014:2) argue that 'there have been so few attempts both to theorise the concept transitional justice itself as well as the range of concepts at the core of the debate, such as justice, truth or reconciliation'. Their argument finds an echo in an article entitled '*Transitional Justice Models and Analytic Philosophy: Towards Theory*' by Krotoszyński (2017). The scholar argues that there are very few studies that offer a theoretical perspective of TJ (Krotoszyński, 2017). Among other scholars, the works of Elster (2004); Krotoszyński (2017:10); Buckley-Zistel et al., (2014), and Murphy (2017) attempt to develop TJ paradigms to fill the theoretical gap.

Given the lack of detailed theoretical insights on TJ, Buckley-Zistel et al., (2013) argue that scholars should develop theories that explain TJ and do further research on this concept. Lambourne (2009) has gone on to advocate for the re-conceptualisation of TJ to what she termed 'transformative justice'. In this view, the proposed transformative justice model should comprise of 'four key elements or aspects of justice: accountability, or legal justice; 'truth,' or knowledge and acknowledgement; socioeconomic justice; and political justice' (Lambourne, 2009:37). She argues that successful transformation occurs by designing a syncretic TJ approach that includes restorative and retributive elements

(Lambourne, 2009:33). One is tempted to go with this reasoning as any effective TJ mechanism should incorporate or balance the restorative and retributive measures. It is never an either-or, though it might seem impracticable for the two to go hand in glove.

Over the past few years, TJ has become a much-discussed concept in academic debates and in contemporary peacebuilding and conflict resolution initiatives in various communities across the globe (ICTJ, 2021; United Nations, 2010). Further to that, there has been a rise in the establishment of TJ institutions and units in the United Nations, African Union (AU) and other advocacy NGOs in different nations globally. The evidence of the rise in the establishment of such peacebuilding architecture can be gleaned from entities such as the Institute for Justice and Reconciliation (IJR) founded in 2000 and is located in Cape town, South Africa, the Transitional Justice Institute established in 2003 and located in Belfast, United Kingdom and the International Centre for Transitional Justice (ICTJ) founded in 2001 and is located in New York, United States of America (USA) amongst others. The surge in literature and discourse in the field of TJ has also resulted in the creation of the Transitional Justice Journal.

The spike in the prodigious scholarship on TJ, be it in Africa and elsewhere, has also been mirrored in the Zimbabwean context where the corpus on this subject has grown in leaps and bounds. The heightened interest in TJ in this context is partly due to the quest for accountability on committed atrocities after episodes of violent elections in 2008. For instance, scholars such as Machakanja (2010); Bratton (2011); Thomson and Jazdowska (2012); Du Plessis and Ford (2009); Benyera (2014a); Tarusarira (2019) have written extensively on the evolution of violence and TJ in Zimbabwe and its significance in dealing with past systematic human rights abuses. While such literature provides a variegated lens in understanding TJ, it certainly needs to be updated. A current inquiry that comes to grips with the recent political developments and political transition post the Mugabe era is, thus, not only pertinent but timely.

Though there seems to be a broad and deep appreciation of TJ in Zimbabwe, there is no concerted effort to engage extensively with the issues of judicial prosecutions, lustrations, and amnesty. There might be a reason for such a trend. This might be as a result of political conditioning which curtails any empirically based inquiry that touches on

these areas, which are largely deemed as 'sensitive' to the regime. This is despite the marginal attention given to the subject. Reeler et al noted that the country's TJ trajectory has been characterised by judicial prosecutions, amnesty, pardons and customary justice to deal with perpetrators of human rights violations (Reeler et al., 2016:3).

TJ comprises non-judicial and judicial approaches. The four main TJ strategies are Trials and prosecution, victim reparation, truth-seeking and Institutional reform (ICTJ, 2009; Boraine, 2006). These TJ measures also include lustration, reburial of victims, public apology, reparations, public memorials, truth commissions and prosecutions, amongst others (Andrieu, 2010; African Union, 2019). As the literature on TJ asserts, these are important elements in the pursuit of post-conflict justice and reconciliation. In his conceptualisation of TJ, Moore (2017:6) posit that TJ has three strands- (1) the historical-reconciliative, (2) social-redistributive and (3) the criminal-retributive. According to Moore, criminal justice/retributive entails punishment and trials for offenders of rights violations. Social justice 'promotes structural reforms to alleviate the material inequalities that generate conflict' (Moore,2017:6).The scholar further explained that reconciliative/historical justice 'entails truth-telling endeavours at the national and local levels to help survivors collectively reckon with the past and build a deeper capacity for co-existence' (Moore,2017:7). It is pertinent to emphasise that the latter (reconciliative/historical justice) is the most preferred as compared to the criminal-retributive in post-conflict setups.

The foregoing normative approaches have become standard tools that are usually combined with a definitive aim of resolving past injustices and creating a just society in countries emerging from violent conflicts. Ingiyimbere asserts that TJ 'has become a quasi-normative process for every country that has experienced conflicts' (Ingiyimbere, 2019:710). To buttress this point, Gidley (2019:18) mentions that TJ measures are institutionalised by the government at the national level, by the courts of law or unofficially conducted by other non-state actors. Nevertheless, truth-seeking sought through TRCs has been the most favoured and widely applied TJ mechanism in countries transitioning from conflict to peace. This is in opposite with international criminal justice systems where tribunals and courts had been set up. Clear examples include Rwanda (ICTR), that was

set up in 1994 and is based in Arusha, Tanzania and Yugoslavia (ICTY), which was established in 1993 in the Hague (Bell et al., 2007). In its endeavour to implement TJ measures, the Zimbabwean government adopted the NPRC in 2013 with an overarching aim of promoting post-conflict justice. In the next section, I discuss the concept of reconciliation which is one of the key terms in TJ.

2.6 Conceptualising Reconciliation

This section discusses the conceptual meaning of reconciliation, what it entails and how it informs this current study. The concept has become common within the academic circles on peace studies, international NGOs and in post-conflict countries in all parts of the world (Brounéus, 2003; Fischer, 2011). Conflicts are a common phenomenon in societies, and they occur at different levels: between nations, religious groups, political parties, be it at personal, community or international level. As such, there is need for societies to understand how to confront and address them. This will help in avoiding escalation or an all-out situation where others will lose life and limb. In this regard, conflict, violence, and the concomitant broken human relations can only be addressed by implementing genuine reconciliation processes. As such, reconciliation on a very basic level can be described as the act of getting two phenomena, such as conflict and peace, to be compatible with one another (Barakat, 2018:131). From a theoretical point of view, it is where an enemy reconciles (make peace) with a former enemy. In light of this, Brounéus (2003:20) postulates that 'reconciliation mainly focuses on remembering, changing, and continuing with life in peace'. In the same line of argument, I posit that the main goals of reconciliation are twofold: the restoration of relationships, unity, and long-term peace.

Within the large swathe of the global academic and policy literature on reconciliation, there exists, divergent views on how to conceptualise the polysemic phenomenon of reconciliation. As such, there is no universally agreed definition on reconciliation and how to achieve it (Bloomfield, 2006:4; Bloomfield et al., 2003; Doxtader, 2003; Hamber and Kelly, 2005; Kriesberg, 2007:2; Parent, 2010; Little, 2011; Skaar, 2013; Tom, 2020:2; Krondorfer, 2018:4; Zambakari, 2018:374). To substantiate the above claim, Bloomfield explains that 'reconciliation's basic problem is that no-one agrees how

to define it or do it' (Bloomfield, 2006:4). His assertion has been buttressed by Krondorfer, who noted that 'as a concept and phenomenon, reconciliation is polysemic: it cannot be contained in or reduced to a single meaning' (Krondorfer, 2018:4). Just like TJ, literature around the concept of reconciliation is on the rise, so is the literature on the recognition of its importance in regeneration of relationships in post-conflict set ups (Fischer, 2011: 415). However, writing in 2009, Verdeja argued that extant literature mainly focused on TJ whilst eschewing the theoretical study of the concept of reconciliation (Verdeja, 2009:4). Hitherto, the concept is still contested, and scholarly works on how to theorise reconciliation are still emerging. Galtung conceptualises reconciliation as 'a theme with deep psychological, sociological, theological, philosophical, and profoundly human roots – and nobody really knows how to successfully achieve it' (Galtung, 2001:4).

Contemporary studies and scholarship in the past few years generally agree that reconciliation is an ambiguous, nebulous and rhetorical concept (see, for example, Mobekk, 2005; Fischer, 2011; Eppel and Raftopoulos, 2008; Bloomfield et al., 2003; Brounéus, 2003; Doxtader, 2003:269; Schaap, 2008:1; Seils, 2017:1; Zambakari, 2018). As such, many philosophers and scholars of conflict and peace studies have attempted to offer conceptual clarity on reconciliation, albeit with no consensus of what it entails (Pankhurst, 1999; Bloomfield et al., 2003; Kriesberg, 2007; Fischer, 2011; Lambourne, 2002; Schaap, 2008; Lederach, 2001). Parent (2010) mentions that reconciliation is a difficult social process that goes beyond material reparation.

In these prevailing conceptions of reconciliation, the need for considering psychological aspects is also foregrounded. Parent, for example, enunciates that for reconciliation to be effective, 'it must also include a significant psychological healing dimension that requires transforming the psychological orientation of antagonistic groups and individuals toward each other'(Parent, 2010:279). Her understanding of reconciliation shows the interconnectedness of reconciliation with forgiveness and justice. Eminent peace scholars such as Lederach (2001:842) posit that reconciliation is 'dynamic, adaptive processes aimed at building and healing'. When talking about reconciliation, other scholars, for example, Machakanja (2010:10), stress that reconciliation should be people-centred, inasmuch as it should involve diverse actors in shaping both the process

and outcome. She enunciates that 'people hold different assumptions, perceptions and viewpoints about what reconciliation entails, who should be involved and how' (Machakanja, 2010:10). In this regard, one can conclude that there is divergence on how reconciliation is viewed.

In spite of these variations, what is beyond doubt is that reconciliation is a complex process and defining it entails different meanings to different people. According to Bloomfield (2006:10), the confusion on the conceptualisation of reconciliation is due to 'contextual variance' of people in post-conflict situations. This simply means that the competing meanings and nature of reconciliation is contingent on the level of reconciliation being sought, for example, interpersonal, national or international or intra-group/communal (Sasaki, 2009:33-36; Bloomfield, 2006:10). Again, contextual factors also play a role in conditioning the model and type of reconciliation. In this regard, different contexts in terms of religion and cultural backgrounds can result in varying conceptions of reconciliation.

As aptly stressed by Oliva (2011), the complexity of defining reconciliation stems from its interdisciplinary nature. The scholar holds that 'one may study reconciliation from so many fields of study and theoretical approaches: socio-psychology, economics, international relations, political science, peace studies or even from an anthropological perspective' (Oliva, 2011:20). Scholars frame reconciliation differently and transpose the meaning to suit the varied TJ mechanisms implemented in different transitions, for instance, in peace settlements after violent war or after politically motivated violence. To summarise this, Bloomfield et al contends that the complexity in conceptualising the term stems from the fact that 'reconciliation is both a *goal* - something to achieve - and a *process* - a means to achieve that goal' (Bloomfield et al., 2003:12).

Seils (2017:1) likewise observes that reconciliation is presumed to be the end goal of TJ. Despite the varied conceptualisation of the concept, scholars generally concur that reconciliation entails rebuilding human relations, healing and dealing with the past (Lederach, 1997; Brounéus, 2003; Hayner, 2001; Fischer, 2011; Bloomfield et al., 2003). However, in practice, reconciliation processes do not offer a 'magic bullet' to reconcile

people at odds with each other but rather, it serves as a catalyst for rebuilding relationships and long-term peace.

Broadly defined, reconciliation is referred to as:

An over-arching process which includes the search for truth, justice, forgiveness, healing and so on. At its simplest, it means finding a way to live alongside former enemies – not necessarily to love them, or forgive them, or forget the past in any way, but to coexist with them, to develop the degree of cooperation necessary to share our society with them, so that we all have better lives together than we have had separately (Bloomfield et al, 2003:12).

Bloomfield et al.'s conceptualisation of reconciliation is affirmed by Fischer who mentions that 'the concept has also been discussed in the context of acknowledgement, contrition, mercy and forgiveness (Fischer, 2011:415). This conception of reconciliation informs this study on how the NPRC could promote post-conflict reconciliation through truth-seeking, forgiveness and justice. These concepts are essential in achieving reconciliation amongst adversaries.

One prolific scholar of conflict resolution and TRCs, Hayner, provided a working definition for reconciliation. In her words, reconciliation implies 'building or rebuilding relationships today that are not haunted by the conflicts and hatreds of yesterday' (Hayner, 2001:61). While such a definition is succinct and loaded, Krondorfer (2018:3) gives a comprehensive definition of reconciliation stemming from a psychological, political, philosophical, religious and judicial perspectives. In this regard, it is envisaged that:

The concept of reconciliation can be approached politically, as an issue of coexistence and interdependence; psychologically, as an issue of social affect within interpersonal relations and intersubjectivity; judicially, as an issue of restorative justice and rehabilitation; philosophically, as an issue of resentment and forgiveness; and religiously, as an issue of healing, mercy, and atonement (Krondorfer, 2018:3).

Several scholars generally concur that reconciliation has a religious connotation (Dwyer, 1999:83; Brounéus, 2003:13; Anderson, 2008:163; Auerbach, 2005:478; Krondorfer,

2018:2). Writing from a theological standpoint, Brounéus asserts that 'reconciliation is used in the Christian tradition to describe the broken relationship between God and mankind due to sin, with Jesus re-establishing conciliation between them through the sacrifice of his life' (Brounéus, 2003:13). As stated elsewhere in this chapter, Lederach's conception resonates with biblical texts. In specific reference, Psalm 85:10 reads: '*truth and mercy have met together; peace and justice have kissed*'. In his work *Building Peace: Sustainable Reconciliation in Divided Societies*, Lederach (1997) argues that the four concepts in Psalm 85:10 are important to achieve reconciliation. From a biblical perspective, Anderson points out that 'reconciliation is the removal of the enmity that exists between two people. It requires forgiveness and repentance' (Anderson, 2008:163). The limitation with much of the existing literature that pays special attention to the nexus between religion and reconciliation (is in my view) the overemphasis on Christian perspectives. Today, we know relatively little about how reconciliation is also viewed from other religious perspectives, such as Buddhism, Islam, Hinduism, Confucianism, and Taoism.

Religion played a crucial role in the South African context, where truth and forgiveness were embedded in the reconciliation process (see van der Merwe, 2003). The same can be noted in the context of Chile, where the Catholic church was instrumental in investigating abuses under Pinochet's dictatorship (Philpott, 2007). However, in the South African context, over-reliance on Christian principles in the TRC process has been criticised for focusing on restorative justice over 'traditional African notions of justice' (Shore, 2008; Wilson 2000). One could not be far off the mark to argue that, in the spirit of forgiveness, some religions, particularly Christianity favour a particular type of reconciliation without justice. It could be that victims, TJ practitioners and scholars find fault in the preoccupation with forgiveness at the expense of truth, historical accountability, public acknowledgement, contrition, remorse and justice (Shore and Kline, 2006; Wilson 2000; Shore, 2008).

Even though the global literature and empirical studies on reconciliation have been on the rise since the dawn of the new millennium there seems to be a lacuna between the theory and practice of reconciliation (*praxis*). It is to this end that one peace and

conflict scholar Brounéus (2008:11) holds that 'claims made of the beneficial relationship between truth, justice, healing, reconciliation and peace are yet to be studied empirically.' In this regard, it is imperative to state that avoiding the recurrence of violence in countries in post-conflict situations, scholars should carry out empirical research that links with pragmatic scenarios. Arguably, studies by scholars such as Machakanja (2010) focusing on post-colonial Zimbabwe helps in illuminating the prospects, pitfalls and efficacy of reconciliation efforts within countries in transitional periods. This study, thus, builds on these extant works.

It is vital to note that notwithstanding the emphasis in the existing literature on a bottom-up rather than top-down driven reconciliation process, Zimbabwe is one country in Africa still struggling to offer a clear-cut reconciliation policy and process that provide a national dialogue stemming from the grassroots level. The next section briefly discusses the various levels of reconciliation to understand the current efforts by NPRC, government and CSOs.

2.7 Levels of Reconciliation

Scholars are generally agreed that there are different approaches and levels of reconciliation (Seils, 2017; Kriesberg, 2007; Keyes, 2019). These levels are communal, national and individual. There is also vertical reconciliation where the state and the citizens re-establish trust after gross human rights violations. Horizontal reconciliation refers to rebuilding relationships between communities and individuals through forgiveness and reparation (Keyes, 2019:5; Kelly, 2020:1). As such, Kriesberg (2007:2) notes, societies have different units that must reconcile. In this regard, reconciliation is envisaged as occurring at different levels, for example, from persons to nations and at interpersonal grassroots levels. Thus, any realistic reconciliation process should be chiselled around different and yet particular approaches to suit the varied contexts. In the Zimbabwean context, efforts are being made by various stakeholders especially by CSOs to promote bottom-up reconciliation processes. The following section discusses the concept of forgiveness which is one of the key dynamics of reconciliation.

2.8 The Meaning of Forgiveness

In general parlance, forgiveness begins with understanding and acknowledgement of social injustices committed by a fellow human being to the other (Auerbach, 2004; Doorn, 2008). However, forgiveness has deep religious and moral roots. It does seem all wide-ranging religions place primacy on acts of forgiveness. In this regard, the notion of forgiveness has found vogue in TJ, especially in communities emerging from protracted conflicts. Writing in 1998, Enright et al. defined forgiveness as the 'willingness to abandon one's right to resentment, negative judgment and indifferent behaviour toward one who unjustly hurt us, while fostering the undeserved qualities of compassion, generosity, and even love toward him or her' (Enright et al., 1998:46-47). In the same perspective, Doorn notes that 'forgiveness refers to the identity transforming process within the victim, reconciliation involves the coming together of two (or more) people' (Doorn, 2008:4). It is pertinent to note that forgiveness is an enigmatic concept that has been defined in both religious and psychological terms. As such, scholars and other psychologists have developed an interest in conceptualising what forgiveness means and its connection with reconciliation (Hook, 2007; Hamber, 2007; Tarusarira, 2019). The reasoning behind forgiveness has led to the usual reference of letting bygones be bygones.

There is a symbiotic relationship between forgiveness and reconciliation. Doorn has affirmed this claim in her study '*Forgiveness and Reconciliation in Transitional Justice Practices*'. She states that 'forgiveness is the means to reach reconciliation' (Doorn, 2008:5). It is only after forgiving each other that the process of reconciliation can start. This is why Tutu, who was the chairman of the South African TRC emphasised the need for forgiveness to achieve genuine reconciliation (see Tutu, 1999,2003). In his speech '*No Future Without Forgiveness*', Tutu argues that 'forgiveness is not pretending that things are other than they really are - forgiveness can be confrontational telling it as it is, looking the beast in the eye. Forgiveness is letting go of your right to retaliation' (Tutu, 2003:8). His theological viewpoint about interpersonal repentance and forgiveness are indeed necessary for perpetrators and victims to rebuild relationships. From this point of view, forgiveness offers a therapeutic effect necessary for reconciling individuals who are in an incompatible situation. Reconciliation through forgiveness articulated by Tutu was largely laced with a religious tinge. This relates to the earlier point that religion has always

played a significant role in shaping narratives of forgiveness, even in cases where it seemed difficult to do so.

2.9 Understanding Conflict Resolution

In common parlance, conflict resolution is described as reaching or finding peaceful solutions amongst disputing parties. Prominent scholars like, Ramsbotham et al., Edward Azar and John Burton remain the leading proponents of conflict resolution studies. Edward Azar's *Protracted Social Conflict; Theory*' contributed much to the contemporary theorisation of conflict resolution. In the words of Ramsbotham et al. 'conflict resolution is a more comprehensive term which implies that the deep-rooted sources of conflict are addressed, and resolved. This implies that behaviour is no longer violent, attitudes are no longer hostile, and the structure of the conflict has been changed' (Ramsbotham et al., 2011:24). One scholar, Miall, provided a definition of conflict resolution that is widely cited. Miall asserts that 'conflict resolution is about how parties can move from zero-sum, destructive patterns of conflict to positive-sum constructive outcomes' (Miall, 2004:3).

For Bar-Tal conflict resolution refers to a political process where parties in disharmony eliminate the incompatibility and establish new relationships (Bar-Tal, 2000:354). However, one scholar Auerbach (2005:478), argues that conflict resolution is pertinent but not sufficient to bring lasting peace amongst warring parties. As such, Auerbach concurs with Rothstein (1999: 237) that reconciliation is necessary to provide durable and lasting peace amongst incompatible parties. Proceeding from this premise, conflict resolution is valorised as a necessary tool to transform human relationships. In the next section, I discuss the meaning of restorative justice (RJ), the varied theoretical nuances and how it relates to the various conceptualisation of post-conflict 'justice'.

2.10 Restorative Justice Theory

The scholarly literature on restorative justice (RJ) is expansive and insightful. Scholars like Porter (2015) and Bloomfield et al. (2003) have attempted to unpack it in a more elaborate way, but this has not solved the conceptual conundrum enveloping around the notion of RJ. It is, thus, unsurprising that a long string of literature exists offering variegated lens and nuances to the understanding of the nebulous concept of RJ (Llewellyn and Howse, 1999; Hunsberger, 2013; Zehr, 2002; Zehr and Gohar, 2003;

Gavrielides, 2007; McCold and Wachtel, 2003). Before analysing the varied conceptualisation and theorisation of the concept of RJ, it is important to provide a brief background of the notion. RJ emerged as a contrast to the normative criminal justice, which has been a common phenomenon since time immemorial.

However, restorativists argue against the criminal justice system and advocate for truth-telling, dialogue and reparation as the most plausible paradigm to restore relationships (see McCold and Wachtel, 2003; Ame and Alidu, 2010; Van Ness and Strong, 2014). It then comes as no surprise that there has been a spirited onslaught and de-campaigning of international criminal justice system as represented in the work of the International Criminal Court (ICC). While some of the criticisms against this system are plausible, some of these attacks are for self-serving interests and ends. Strictly speaking, some of the prevailing critiques against the ICC and other bodies are not unfounded, these bodies have rarely succeeded (if they did at all) in reconciling fractured communities. In this regard, one can see sense in the critiques raised by the restorativists.

Extant scholarship on the concept of RJ shows that it was first coined in the mid-twentieth century, although it started to feature in written form in 1834 (Gade, 2013:10). In its further development, Gavrielides (2007:20) points out that RJ 'was first introduced in the contemporary criminal justice literature and practice in the 1970s'. The concept's genesis and evolution are, however, attributed to Zehr, who is lauded and regarded as one of the founding fathers of RJ. Several seminal studies of Zehr, which received international acclaim, include *Retributive Justice, Restorative Justice 1985; Changing Lenses: A New Focus for Crime and Justice (1990) and The Little Book of Restorative Justice (2002)*. In many ways, this scholarship has substantively and stridently shaped contemporary RJ paradigms.

The term became popular in 1990 after Zehr's publication entitled *Changing Lenses: A New Focus for Crime and Justice*. In this pioneering work, Zehr stated that 'crime is a violation of people and relationships. It creates obligations to make things right. Justice involves the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance' (Zehr, 1990:181). As espoused by Gabbay, Zehr's paradigms provide 'the basic principles of the restorative justice theory'

(Gabbay, 2005:357). This, however, does not mean that Zehr's works have been received in the academic community uncritically. Several critiques have emerged challenging how Zehr conceptualised the notion of RJ. For example, Levad (2011) argued that Zehr's definition of RJ is more related to criminal justice than repairing relationships.

As Zehr and Gohar point out, there are three pillars of restorative justice, namely (1) harms and needs, (2) obligations (to put right) and (3) engagement (of stakeholders) (Zehr and Gohar, 2002:21). In their review of the origins of RJ, Llewellyn and Howse argue that 'restorative justice theory owes much to recent movements aimed at addressing the failures of the existing justice system and developing new ways of "doing justice" (Llewellyn and Howse, 1999:13). In tracing the development and history of the concept, RJ Gade notes that 'in the 2000s, the term began to appear in United Nations and European Union documents, illustrating that restorative justice had become an internationally recognised approach to justice' (Gade, 2018:27). This at least shows the development of the field of RJ stemming from its embryonic stages to its maturation.

Many advocates of RJ argue that implementing RJ measures play a crucial role in the promotion of post-conflict reconciliation as compared to retributive justice (Clark, 2008:345; Tutu, 1999: 51; Boraine, 2000:426). Simply put, RJ generally focuses on reaching an agreement on the needs of the victims, repairing the harm caused by the offenders and healing conflictive relations (Zehr, 1990: 181; Garkawe, 1999:40; Harris, 2014:2; Trenczek, 2015:454; Wilson et al., 2018:2; Brounéus, 2003:29). To underscore this claim, Strang argued that 'victims have the opportunity for a say in how the offence will be resolved, while offenders are required to understand the consequences of their actions and the harm they have caused' (Strang, 2001:2). In view of Strang's definition, RJ takes a victim-oriented approach to rebuild social relationships with the offenders. We have already seen these efforts at restoring societal relations in fractured communities, for example, in Northern Uganda. But whether they have been successful is a matter of varying contention. Tutu (1999) and Gade (2013) proclaims that the term 'RJ' is congruent with the African justice systems and it is deeply rooted in the spirit of *Ubuntu*. To illustrate this, Desmond Tutu argued that:

I contend that there is another kind of justice, restorative justice, which was characteristic of traditional African jurisprudence. Here the central concern is not retribution or punishment but, in the spirit of ubuntu, the healing of breaches, the redressing of imbalances, the restoration of broken relationships. This kind of justice seeks to rehabilitate both the victim and the perpetrator [...] (Tutu, 1999: 51).

Tutu's claim above neatly encapsulates the core elements that can nurture a sustainable RJ approach to aggrieved communities. Although there are many definitions on the concept RJ, Marshall provided a practicable conceptualisation that is important to this study. In the Marshallian view, 'restorative justice is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future' (Marshall, 1998:1). Building on this definition, Bloomfield et al posits that '*restorative justice*, of course, is one: where the focus falls more on the victim and the hurt, than on the offender and the crime; where ways to "restore," or compensate for, the hurt are sought; where, crucially, priority is given to the subsequent restoring of relationships between victim and offender communities' (Bloomfield et al., 2003:21). This definition is affirmed by Gilbert and Settles, who note that 'restorative justice strives to promote healing through structured communication processes among victims, offenders, community representatives and government officials' (Gilbert and Settles, 2007:7). The study also leans towards the definition provided by Bloomfield et al since it captures the essential elements of restoring relations between the offender and the victim.

Restorative justice remains crucial in re-establishing societal relationships, fostering peace and justice. In view of this claim, Wilson et al. argue that 'the restorative justice theoretical framework views crime as a violation of people and relationships. These violations in turn create an obligation to make things right' (Wilson et al., 2018:4). They further asserted that RJ involves the offender, victims and the community in decision making to re-establish and balance relationships. For Van Ness and Strong 'restorative justice is a theory of justice that emphasises repairing the harm caused or revealed by criminal behaviour. It is best accomplished through cooperative processes that include all

stakeholders' (Van Ness and Strong, 2014:43). These general precepts of RJ resonate with Lederach's reconciliation framework that comprises of peace, mercy, truth and justice.

In scholarly literature, we are also told that RJ is a type of justice that goes beyond the conventional system of criminal justice. Wenzel et al. buttress this point by noting that RJ emerged 'as an alternative model to Western, court-based criminal justice' (Wenzel et al., 2008:375). The claim above also finds an echo in scholars like Trenczek, who posit that 'by definition, restorative justice is not a process that aims for punishment'(Trenczek, 2015:457). It does seem there is a groundswell of academic consensus on what RJ is and is not. Lending credence to the above claims, Hoole holds that proponents of RJ 'identify it as the antithesis of the traditional 'retributive' criminal justice process' (Hoole, 2019:11). These scholars, thus, place salience in offenders publicly apologising and asking for forgiveness from the victims and survivors. In a way, RJ approach can be viewed as a TJ approach aimed at reintegrating offenders into the society. All such nuanced views on the intersection between RJ and building social cohesion lie at the heart of understanding TJ in societies emerging from the jaws of protracted conflicts, as the case in Zimbabwe.

Restorative justice measures have been widely used in post-conflict situations, particularly through the adoption of TRCs in Latin America and Africa, to promote peace and reconciliation. Writing in 2000, Drumbl argues that 'in the end, true reconciliation after a period of sustained political violence may best emerge from policy responses that *blend* restorative reparative and transformative justice initiatives' (Drumbl, 2000:296). The scholar further opines that RJ should be simultaneously complimented by punitive justice in some cases. Likewise, Zimbabwe has adopted the RJ model by establishing the NPRC to promote post-conflict justice, peace, and reconciliation. This has been the case elsewhere in South Africa and Ghana, where they had TRCs. The only variance is in the nomenclature, mandate, scope, terms of reference and contextual features. But it does seem the goal is the same – to heal hurting societies.

In the literature of RJ, concerns have also been raised on whether this mechanism can facilitate reparations (Wright, 1996; Walker, 2006). If so, how and whether there is an adequate amount of reparations. Questions emerge, is there a sufficient amount of

reparation and whether this will be in the form of material or non-material terms. For instance, though necessary, there is no amount of money – whatever the figure – that can buy lost lives. The above resonate with one of the early proponents for RJ, Wright, who argues that in RJ 'offenders make up for what they have done. This also means that offenders make reparation to the people they have wronged, not to the state [...] (Wright, 1996:11). In his book *Justice for Victims and Offenders: A Restorative Response to Crime (1996)*, Wright further advocated for compensation and participatory justice, which involves victims and the offenders. It is such kinds of arguments that are also important for the current study. In what follows, I engage with the retributive justice theory as well as reflect on its applicability in understanding current efforts geared at promoting justice and reconciling the Zimbabwean society.

2.11 Retributive Justice Theory

The retributive justice approach is the opposite of restorative justice as it mainly focuses on the perpetrators of crimes and human rights abuses rather than the victim. Some would like to view restorative and retributive justice as Siamese twins. Whereas others view them as mutually exclusive. In this justice system, retributivists advocate for criminal accountability to regulate deviant behaviour. Hoogenboom and Vieille mention that 'retributive justice is based on the notion that punishment is needed to correct the moral imbalance of a society, conveying to aggressors that their behaviour is unacceptable' (Hoogenboom and Vieille, 2010:195). However, the question remains whether this is an effective way of reconciling societies or it nurtures the cycle of hate, resentment, vengeance and pain.

Another scholar Kriesberg (2007: 4), notes that retributive justice refers to punishing the perpetrators of crimes and injustices. In practice, this model has been widely used to prosecute offenders in post-conflict situations and everyday life through the use of conventional courts. For example, the UN established the International Criminal Tribunal for Rwanda (UNICTR/ICTR) in 1994 after the genocide to prosecute offenders of crimes against humanity and war crimes (Schimmel, 2012:161). But even on the count, very few have been prosecuted, which also renders such institutions ineffective in ushering in TJ. Similarly, in TJ contexts, an International Criminal Tribunal for the Former

Yugoslavia (ICTY) was established in 1993 for criminal accountability (Bell et al., 2007). Other exemplars that seek to enforce retributive justice include; the International Criminal Court (ICC) that has been used to provide international justice for perpetrators of crimes against humanity. Hybrid courts have also been established, such as the Special Court for Sierra Leone, War Crimes Chamber in Bosnia and Herzegovina (BiH) and Special Tribunal for Lebanon (STL) for criminal justice purposes (see Naughton, 2018:6).

Retributive justice has got some perceptible limitations. This has been noted by Gilbert and Settles, who argue that 'the goal of traditional justice is punishment of those who violate the law, and the legal status of victims and witnesses is reduced to serving as material witnesses. The conflict is not between the offender and victim but between the offender's lawyer and the prosecutor, with the judge as referee' (Gilbert and Settles, 2007:7). In this view, Harris argues that in retributive justice, the victims of human rights violations are not included in the process, and there is a supposition that the imprisoned perpetrators will reform (Harris, 2014:2). But the question whether the incarceration of the offenders will bring closure to the victims is not apparent. In most cases, prominent politicians brought before the ICC have, at some point after acquittal or serving their sentence returned to the political ring. Cases of the opposition leader Jean-Pierre Bemba of DRC (see Taffo, 2018) and Laurent Gbagbo, the former president of Cote d'Ivoire (see Batros, 2019) are clear examples. Whether such acts bring re-traumatisation is a subject that has escaped academic attention.

Handayani et al argue that 'unlike theories that are primarily concerned with preventing future offenses, such as deterrence, rehabilitation, and incapacitation, retributivist theories are only concerned with punishing crimes that have already been committed' (Handayani et al., 2018:6). It is submitted that the success of these forms of TJ, whether restorative or retributive, is contingent on whether truth, justice, reconciliation, mercy, and meet. I will discuss these in detail in the below theoretical constructs.

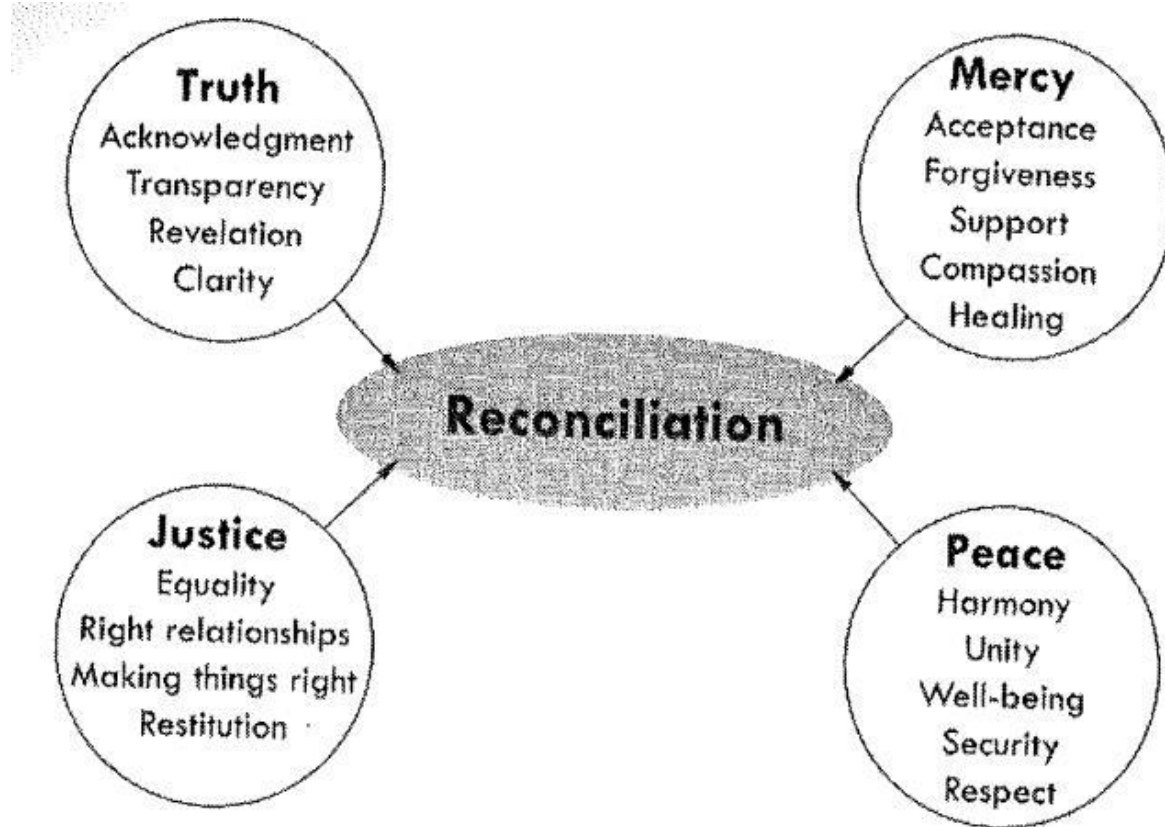
2.12 Lederach's Place of Reconciliation Conceptual Framework

This study utilises the conceptual framework *Place of Reconciliation* deriving from Lederach (1997). This theoretical framework helps us to analyse how the current efforts in driving Zimbabwe's reconciliation process are shaped by the analytical concepts of

truth, justice and peace. While these are insightful analytic concepts that can help in shedding some light on how societies struggle to establish a balance between justice, truth and sustainable peace, one can note that systematic theorisation using such concepts is missing in most of the Zimbabwean literature. At a continental level, there is one study of the Rwandan genocide and its aftermath that provides an excellent theorisation that uses these concepts to explain how TJ and reconciliation can or cannot be effected in societies emerging from deep conflicts (see Owiredu, 2009). In this study, Owiredu, like Lederach, elaborates the concept of place, arguing rightly that reconciliation is shaped by its spatial and temporal aspects.

Lederach (1997: 27) posits that reconciliation 'represents a place, the point of encounter where concerns about both the past and the future can meet'. He explains that reconciliation occurs when truth, mercy, justice and peace meet. The Lederachian proposition is that reconciliation can be achieved when these four cognate concepts conflate. The below framework illustrates this:

Figure 3. 'The meeting place of Reconciliation'



Source: (Lederach, 1997:30).

The four key elements listed in Lederach's reconciliation framework are inevitable in any polity that seeks to pursue national reconciliation and long-term peace. In expanding on the constitutive fundamentals of reconciliation, Lederach postulates that,

Truth is the longing for acknowledgement of wrong and the validation of painful loss and experience, but it is coupled with Mercy, which articulates the need for acceptance, letting go, and a new beginning. Justice represents the search for individual and group rights, for social restructuring, and for restitution, but is linked with peace, which underscores the need for interdependence, well-being and security (Lederach, 1997:29).

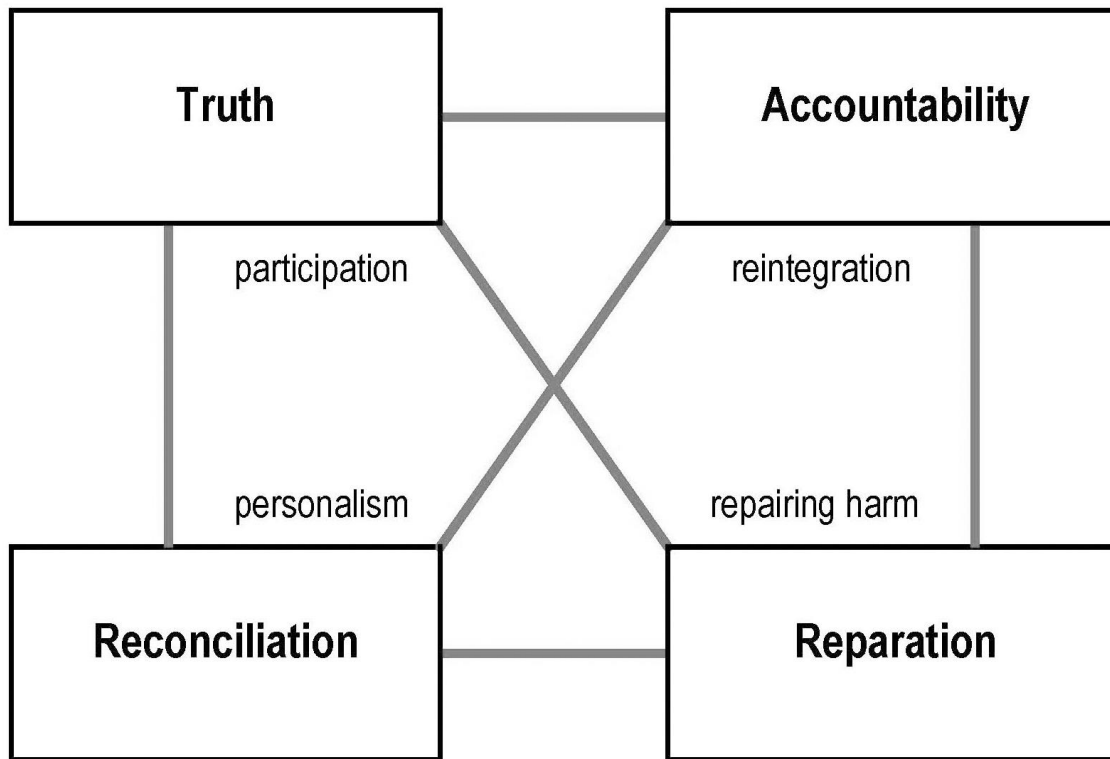
As such, the study borrows from Lederach's place of reconciliation framework to inform Zimbabwe's TJ mechanisms and the national peace and reconciliation processes. This conceptual lens is novel insofar as, it has not been effectively utilised by the NPRC and within the existing Zimbabwean studies on reconciliation and TJ. As such, Lederach's

work profoundly offers significant theoretical insights into the reconciliation discourse, practice and literature in Zimbabwe and possibly beyond.

2.13 The TARR Model

In addition to the above model promulgated by Lederach, there also exists a TARR model, which has increasingly gained scholarly and policy attention in conflict resolution. The TARR Model deriving from Wietekamp et al., (2006) provides a useful account of how RJ can be achieved in a post-conflict setup. The TARR model comprises four crucial building blocks that are necessary to achieve both TJ and RJ. These are (1) truth, (2) accountability, (3) reconciliation and (4) reparation (see Wietekamp et al., 2006:3). The TARR model is similar to Lederach's place of reconciliation framework in view of the recurrent themes in the reconciliation discourse. Wietekamp et al., (2006) further listed sub-elements of the model, which consists of (1) Participation, (2) reintegration, (3) personalism and (4) repairing harm. The below TARR model speaks of the core-elements and sub-elements as espoused by Wietekamp et al., (2006).

Figure 4. The TARR-model in relation to restorative justice principles.



Source: Wietekamp et al. (2006:14).

The above model shows the building blocks for post-conflict justice as well as the RJ principles. The model emphasise that post-conflict justice can be achieved by matching the building blocks and the RJ principles. In summarising Wietekamp et al.'s TARR model's building blocks, Jakobsson had this to say, 'these elements in combination generate values of wanting to produce truth about the past, ensure accountability and address the issue of impunity, to repair relationships and reconcile former enemies, along with providing means for reparation' (Jakobsson, 2018:6). Jakobsson's argument holds water since RJ can only be achieved by combining measures like truth-telling, accountability, reparation and reconciliation.

The TARR model speaks of the conflation of building blocks and their sub-elements. As such, the model is useful to direct the work of the NPRC in Zimbabwe to achieve victim-centric justice and reconciliation. At the heart of the TARR model is the idea that post-conflict justice can be achieved by the interplay between the four key building blocks and the sub-elements (Wietekamp et al., 2006:5).

The interdependence has been summarised by Jakobsson who notes that:

Participation contributes to truth-seeking, through empowerment; reintegration is an essential aspect in the process of accountability; personalism or perception of crime as violation of relationships is necessary for the process of reconciliation and reparation of harms caused by the conflict will foster reparation in general (Jakobsson, 2018:8).

In explaining reconciliation and personalism, Wietekamp et al. posited that 'the restorative justice principle of personalism refers to the social dimension of "emotional involvement" that enables the conflicting parties to restore the broken relationships' (Wietekamp et al.,2006:16). The TARR model explains the interconnectedness between core elements and sub-elements, and this serves as critical in analysing the work of the NPRC. The next section discusses how power and politics affect TJ and the operation of NPRC in Zimbabwe.

2.14 Repressive State Apparatuses

The study's conceptual framework also integrates discursive aspects of power and how it plays out within society, especially concerning the contestation over issues of reconciliation and TJ. It is in this perspective that the study draws upon the concept of *ideological and repressive state apparatuses* (Althusser, 1971) to disentangle how power holders may or (may not) stifle and silence the discussions and efforts aimed towards TJ as well as citizens' demands for truth, justice as well as national reconciliation processes. This framework helps us understand why some TJ and reconciliation efforts succeed whilst others fail to fulfil the intended objectives and mandates. In explaining repressive state apparatus and ideological state apparatus Althusser posit that:

(Repressive) State Apparatus functions massively and predominantly by repression (including physical repression), while functioning secondarily by ideology... For example, the Army and the Police also function by ideology both to ensure their own cohesion and reproduction...Ideological State Apparatuses function massively and predominantly by ideology, but they also function secondarily by repression... (Althusser,1971:145).

In his work, Althusser notes that the state apparatus is controlled by the ruling class since they own the state power. He further posits that the 'RSA' comprises multiple apparatuses, which includes state institutions (Althusser, 1971). I utilised Althusser's work to analyse how the Zimbabwean government has been avoiding meaningful TJ processes. Such abuse of state power will be discussed below and in the empirical chapters.

In most studies on TRCs, it is generally assumed that reconciliation succeeds because the political actors will be willing to do so. As such, there is wilful neglect of the analysis of troubled polities where the incumbent president or regime will be unwilling and where cleavages will run deep, as is the case in Zimbabwe. To lend credence to this claim, it is significant to quote one eminent scholar on reconciliation who opines that 'the question of what reconciliation processes could look like in societies marked by huge power asymmetries has not been substantially investigated' (Fischer, 2011:421). To this end, much scholarly analysis only gives a part of, and not the complete picture of challenges faced by societies seeking to roll out national reconciliation processes in contexts that are not amenable to a transition.

These regimes are the ones aptly described by Tilly as 'coercion-wielding organisations' (Tilly, 1992:1). To this end, the study adopts the use of the concept of repressive state apparatus as developed by Althusser (1971) to unpack how the power holders can delay, frustrate, deny justice, influence and condition reconciliation processes. Such a concept speaks to how the government uses state machinery such as the intelligence, police, army and even the judiciary to suffocate and muzzle dissent and debates on various topical issues in society. The state apparatus such as the police have also been complicit in muzzling demands of victims of electoral and politically motivated violence. In many cases, the victims are required to provide evidence and bringing the perpetrators, which makes the justice system complicated. Furthermore, the police seldom investigate cases of politically motivated violence. To illustrate this point, a police officer in Chegutu in 2008 is reportedly to have said, 'our hands are tied. We cannot do anything where ZANU-PF is involved. However, if your case was not political we could have helped you—all political violence matters are off limits for the police' (Human Rights

Watch, 2008b:1). This then feeds into the cycle of impunity as perpetrators of massive human rights abuses are left scot-free. By deciphering the character of the state (as shown by the above evidence), the study will shed some light on the challenges and prospects of seeking genuine TJ in highly authoritarian and competitive authoritarian regimes in sub-Saharan Africa and elsewhere.

The study utilises this framework to facilitate an analysis of how the Zimbabwean state deploys state machinery to undermine efforts geared towards grassroots participation and dialogue over the process and implementation of a national TRC in Zimbabwe. There is already evidence showing how ZANU-PF supporters disturbed parliamentary public hearings and outreach meant to gather data on how the NPRC should operate in Zimbabwe (see Blessed Mhlanga and Nunurai Jena *Newsday*, April 18, 2016). Such examples meet the apt description of the present-day model of politics, which according to the eminent Slovenian theorist Slavoj Žižek is 'politics of fear' (Žižek, 2008). In this regard, the RSAs has a utility value in unpacking the current stalemate over demands for genuine TJ mechanisms in Zimbabwe.

Most extant studies on Zimbabwe only touch on these aspects implicitly. Yet, how the repressive apparatus works provides important insights on how we can understand the challenges of societies trying to establish reconciliation in repressive regimes. In other words, there is a paucity of evidence in the Zimbabwean literature explicitly detailing how repressive regimes can or ought to block national reconciliation processes as a self-seeking way to elude justice and truth. What also merits attention is the head of state's role in the implementation of TJ and reconciliation processes.

In this light, Althusser's concept of repressive state apparatuses is useful in conceptualising this study. His work is important as it relates to the current pitfalls that the NPRC is facing in its operations as well as the lack of independence due to state capture. The study, thus, integrates several theoretical schemas, that of Lederach (1997), Wietekamp et al., (2006) and that of Althusser (1971), to come up with an integrated theoretical framework. The study will, therefore, lie at the intersection of a rich theoretical lens. Lederach and Wietekamp et al. frameworks broadly fall under the rubric of reconciliation and TJ, while Althusser focuses on power and politics.

The study by Vinjamuri and Snyder's (2015) on the tension between law and politics in TJ also resonates with the Zimbabwean case. Their study looked at how politics shape the implementation of accountability processes in post-authoritarian justice and post-conflict situations. As such, the study on Zimbabwe's TJ trajectory also brings us to the debate of the interplay between law and politics. Despite the existence of legal frameworks discussed in detail in chapter 3, the political players seem to be conditioning the operations of the NPRC. The net effect being that all well-meaning efforts and genuine desires by the citizens to have a credible TJ process will be hamstrung.

In my analysis, I foreground the arguments around state-citizen interactions, power dynamics, and interests within state and non-state actors to the TJ phenomenon. I do grapple with questions on for instance: How citizens can (or fail to) exercise their citizenship rights within a context of a highly authoritarian regime bent on maintaining its stranglehold to state power? This evokes questions on whether the NPRC can achieve victim-centred justice before the end of its tenure in 2023. In this light, I show in the empirical chapters (4, 5 and 6) why it is difficult to achieve a national, grassroots-driven and victim-centred reconciliation process in deeply divided and repressive states, as the case of Zimbabwe illustrates. I contend that it is somewhat difficult to push for a holistic, inclusive and genuine national reconciliation process within such a context where power holders are implicated in past human rights atrocities. This then underscores the relevance and rationale of utilising the *repressive state apparatuses* in examining the pitfalls facing the current NPRC in Zimbabwe.

2.15 Conclusion

The chapter explored various theoretical perspectives on peace, justice and reconciliation. This chapter commenced by conceptualising key concepts like peace, peacebuilding, violence, transitional justice, reconciliation, forgiveness, conflict resolution, RJ and retributive justice that were utilised throughout this thesis. It also looked at the different dimensions of violence to provide a theoretical basis for understanding the recurrence of violence and why justice is important in Zimbabwe. It discussed at length the various theoretical frameworks, of Wietekamp et al., (2006), Galtung (1964, 1969,1996), Lederach (place of reconciliation) and Althusser's (repressive state

apparatuses) and their value and applicability in the study. This theoretical framework will be deployed throughout the study to analyse the empirical findings. The TARR model and Lederach's theoretical lens will help in informing how the NPRC can achieve post-conflict justice and reconciliation. In this regard, in later chapters, I utilise the TARR model's building blocks: truth, accountability, reconciliation and reparation in analysing how the NPRC can navigate the emotive issues of victim-centred justice and restorative justice in Zimbabwe.

I adopt the Place of Reconciliation (Lederach 1997) to examine whether peace, justice, mercy and truth can meet to achieve reconciliation in the Zimbabwean context in chapter 4, 5 and 6. I show the limitations of the current version of reconciliation, which appear to be a hollowed-out version insofar as it falls short in addressing issues of justice in a substantive way. By so doing, I find analytical utility in examining respondents' views on their desires of reconciliation juxtaposed with the Lederachean view. In the same vein, by utilising the repressive state apparatus by Althusser (1971), I show in the empirical chapters how politics and power in authoritarian regimes intersect and how this hinders the effective and efficient operations of TRCs. Finally, by adopting an expansive theoretical framing, I aim to discuss the research findings critically. In what follows, in Chapter 3, I present the literature review underpinning the study.

Chapter Three: The Fundamentals and Functions of National Peace (Truth) and Reconciliation Commissions

A Truth and Reconciliation Commission shall be established to address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, get a clear picture of the past in order to facilitate genuine healing and reconciliation (Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front, Article VI [2], 1999).⁴

3.1 Introduction

This chapter examines the rudiments and functions of TRCs in pursuing justice and promoting reconciliation in post-conflict settings. To achieve this, the chapter specifically makes a synoptic overview of TRCs within the context of interrelated concepts of reconciliation, justice, peace and conflict resolution. Such a review is necessary to understand the importance of applying such TJ measures to repair broken societal relationships after violent ethnic conflicts, election-related violence, war and authoritarianism. In so doing, the chapter seeks to understand the fundamentals and functions of national peace and reconciliation commissions within the context of peace, justice and conflict-resolution studies. The chapter critically analyses the functions of TRCs from a global, regional and local perspective. It will make contributions and build upon the existing debates and emerging literature on the functions of TRCs globally in examining their efficacy in establishing 'truth', restoring 'peace', securing 'justice' and reconciliation in transitional periods.

This chapter is three-fold. In the first section, I discuss the function(s) of TRCs before examining the varied literature of TRCs across the globe in the second section. In examining the debates in the literature and drawing on various contexts, I seek to position the debate on the varied reasons as to why TRCs are formed and why they succeed (or fail) in some context and not in others. In the third section, I examine the reasons behind the need for a TRC in Zimbabwe, drawing on the historical evidence (context) and informed by the existing Zimbabwean literature.

⁴ (See Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front, Article VI (2), 1999).

3.2 The Literature on Truth and Reconciliation Commissions (TRCs)

This section presents and examines literature related to TRCs established in countries emerging from post-conflict situations from a global and regional perspective. The section further develops by reviewing contending perspectives on (TJ), specifically on how Zimbabwe is trying to come to terms with the past human rights violations. In doing so, I provide a critical review of literature on truth gathering projects borrowing from countries that experienced some gruesome past, such as Liberia, Uganda, Peru, Sierra Leone, to mention but a few. From the onset, it is essential to underscore that the literature on TRCs and reconciliation is so expansive to the extent that there has been a burgeoning corpus of scholarship on this subject. In examining the extant literature, I, therefore, do not attempt a broad review, but instead I do a selective analysis. Before delving into the literature on TRCs, it is necessary to conceptualise what TRCs are and are not. TRCs are essentially official, non-judicial *ad hoc institutions* that are established by a state to investigate and document cases of systematic human rights abuses of a country over a certain period (see Wiebelhaus-Brahm, 2010; Hayner, 2011; González and Varney, 2013:9).

Although different countries have adopted TRCs, what is noticeable in the voluminous corpus of research is that there is little engagement with the notion of 'truth'. It may be that truth means different things to different people within the same or different contexts. This is mainly because there are various forms of truth, especially concerning transitional justice (TJ). As observed by Villa-Vicencio and Verwoerd (2000), these truths range from: forensic truth, social or dialogue truth, historical truth, personal or narrative truth, moral truth, healing and restorative truth. Drawing on the case study of the South African TRC Villa – Vicencio and Verwoed (2000) conclude that there are different 'genres of truth'. The argument does not end here. For Weir (2008), there exist 'different regimes of truth' in society. It may be that when dealing with truth in their mandate and terms of references, TRCs should, thus, grapple with the normative and conceptual debates on what kind of truth that the commissions will seek to uncover. The lack of such clarification is one major shortcoming in most TRCs, which is also mirrored in the analyses by researchers.

Several empirical developments in post-conflict situations have stimulated the emergence of scholarship on TRCs. With the establishment of numerous TRCs to deal with the past human rights atrocities so has emerged a considerable amount of literature in different continents. Over the past decades, an expanding scholarship has been published on Truth and Reconciliation Commissions (TRCs), including not only in South Africa but in other countries as well, ranging from Sierra Leone, Solomon Islands, Ghana, Guatemala, El Salvador, Liberia, Bolivia, Peru, Timor-Leste and Chile, amongst others (see for example Hayner, 1994, 2011; Bakiner, 2014; Ensalaco, 1994; Popkin, 2000; Stanley, 2001; Gobodo-Madikizela, 2003; De Minck, 2007; Wachira et al., 2014; Zvobgo, 2019; Fombad, 2008). Significantly, the existing literature on TRCs tends to recognise the critical role played by TRCs in dealing with impunity and past human rights violations in South Africa, Guatemala, Haiti, East Timor and Sierra Leone, to mention but a few (see, for example, Laakso, 2003; Chapman and Ball, 2001; Dolan, 2005; Sesay, 2007). However, in much of this literature, there have been few detailed investigations of these bodies' inner workings and challenges, except for the South African model.

In the vast array of existing literature, it is widely acknowledged that reconciliation processes vary from country to country due to different country socio-political contexts and dynamics (Huyse, 2003:25; Sarkin, 1999:802; Hayner, 1996:175; Bosire and Lynch, 2014:259). Scholars further posit that reconciliation and peace-building go beyond the mere establishment of TRCs, considering that these are not a guarantee of reconciliation (see, for example, Sesay, 2007:28; Rushton, 2006:125). In a 2007 comprehensive study by Sesay entitled *Does One Size Fit All?*, it was established that TRCs in the case of Sierra Leone and South Africa provided guidelines or 'first aid' kits rather than quick solutions to reconciliation and peace-building (Sesay, 2007:13). Again, such claims serve to underscore that, by themselves TRCs are not magical bullets or a perfect antidote that usher in sustainable reconciliation. Whilst, this is true, there is a lacuna in the literature as evident in how much of the existing literature tend to present TRCs as the panacea to human rights protection when they combine trials and amnesties (Olsen et al., 2010). Yet, this is not always the case.

In giving nuance to this ongoing debate on the efficacy of TRCs, various scholars opine that TRCs need to be supported or anchored by political will and buy-in from the grassroots (Machakanja, 2010; Ndlovu-Gatsheni and Benyera, 2015). This relates to the embeddedness of TRCs in the socio-political context of the country. In reading through the TRC literature, one can notice a glaring lack of detailed investigations on incumbent governments' role in resisting reconciliation and TJ efforts. The Zimbabwean model presents a typical case example, where the ZANU-PF party-state seems to be reluctant in effecting a genuine national reconciliation process despite pressure from civil society and pro-democracy forces such as opposition parties and the general citizenry (*Financial Gazette*, 27 November 2014; Blessed Mhlanga and Nunurai Jena *Newsday*, 18 April 2016). This omission in terms of research foci is curious, given that most of the literature seems to depict TRCs as occurring without any resistance and challenge from antagonistic forces (Bosire and Lynch, 2014; De Minck, 2007). This is one major shortcoming in the literature that any current and future studies on TRCs should remedy.

Again, notwithstanding the treatment of TRCs as essential elements in post-conflict situations, there is a paucity of scholarship on how incumbent governments can obstruct reconciliation projects in Africa. In other words, the subject has not been closely examined. The bulk of the existing literature on the efficacy of TRCs by eminent scholars such as (Gibson, 2006: 409; Minev, 2008:6; Emmanuel, 2007:2) have seemingly omitted how political players can influence or condition the success or failure of these commissions. For example, in very few scholarly accounts, (Vinjamuri and Snyder, 2015; Slye, 2018) have investigated the role of political conditions in shaping TJ processes and outcomes.

Methodological limitations also abound in the TRC scholarship at both the global and regional level. Previous studies on TRCs at a global level have used varied methodological approaches in examining the functioning and flaws of TRCs. Simultaneously, others have applied cross-national and longitudinal studies resulting in mixed findings (Pathak, 2017; Ainley, 2015; Parker, 2017). Hayner's (1994) seminal study, entitled *Fifteen Truth Commissions – 1974 to 1994: A Comparative Study*, is one such study, offering insight into how individual TRCs managed to (or failed to) shape TJ

and reconciliation processes in conflict-ridden societies ranging from Latin America and Asia to sub-Saharan Africa during the late 70s till mid-90s. In this comprehensive study, she found evidence suggesting that most TRCs were a success story in societies that adopted such a pathway in transitional periods. However, one major shortcoming of such a study is that some of the individual case studies' contradictions and failures are not sufficiently explored. This lack of nuance may be attributed to the study's spatial and temporal focus. However, this lacuna is evident not only in Hayner's study but in numerous texts on TRCs that tend to give salience to the role and contribution of TRCs in human rights protection. For example, and as mentioned earlier on, Olsen et al. found evidence to the effect that 'truth commissions play a positive role in improving human rights when they are accompanied by trials and amnesties' (Olsen et al., 2010: 465).

The tendency of vaunting TRCs has been one major flaw of some strand of the existing literature on reconciliation (Hirsch et al., 2012; Olsen et al., 2010). This analytical weakness is, however, not only mirrored in global literature but in the Africa-centric literature as well (see, for example, Gibson, 2006). However, as Godobo-Madikizela's (2003) study on the South African TRC reveals – at times, reconciliation is an individual journey that does not just happen because there is an established commission. Instead, as she contends, reconciliation is indeed a long process that involves emotions, feelings, fear, remorse, vengeance, acts of contrition and attitude. It is a process that should be embedded in our everyday living and interactions within community members involving victims, bystanders and perpetrators. Seeming to underscore or confirm findings by Godobo-Madikizela, in an ethnographic study dwelling on local experiences of the TRC in Sierra Leone – Millar (2011) and Kelsall (2005) found evidence on how local conditions and dynamics indeed shape the success or lack thereof of national reconciliation. Such evidence also resonates with much of the existing continental literature on TRCs (see, for example, a study on TRCs in Kenya (Bosire and Lynch, 2014:256).

Despite the recurrence of TRCs in most post-conflict societies, academic scholarship is still split on these bodies' efficacy. In a critical analysis of the impact of the Sierra Leone TRC, Ainley argues that 'there is little agreement on what counts as success and how it should be measured or judged' (Ainley, 2015:242). Given this puzzle, there is

no consensus on what constitutes a 'successful TRC'. As such, many scholars have tended to question the efficacy of TRCs in ushering justice in countries that have implemented these extra-judicial measures (Brahm, 2007; Hirsch et al., 2012; Gibson, 2006: 409; Emmanuel, 2007:2; Ayee, 2016:24; Hayner, 2011; Wachira et al., 2014). It is, however, not fully understood as to how and why some TRCs achieve their mandate, whereas others falter.

This analysis is pertinent considering the literature's critical assumptions that TRCs promotes democracy and facilitates reconciliation (Ame and Alidu, 2010; Ayee, 2016; Androff, 2012; Brahm, 2007). In this regard and notwithstanding debates on the inherent shortcomings of TRCs, there is growing consensus among scholars that such restorative approaches are essential in ushering in post-conflict reconciliation (Anderlini et al., 2004:2; Aiken, 2008; Kohen, 2009:400; Wiebelhaus-Brahm, 2010:3; Du Plessis and Ford, 2009:77). As such, some scholars privilege a realist TJ framework in the form of a TRC due to their potentiality in rebuilding and promoting societal relationships that would have been torn apart during violent conflict (see Kohen, 2009; Ayee, 2016).

A significant portion of literature seeks to critically analyse whether TRCs work or whether those initiated in post-conflict situations have successfully achieved their mandate (Jardine, 2008; Wiebelhaus-Brahm, 2010; Wachira et al., 2014; Hirsch et al., 2012; Ainley, 2015). In deepening this debate some scholars, argue that 'more nuanced, ethical, and impartial mechanisms of assessment must continue to be developed in order to better understand the impacts of TRCs' (Hirsch et al., 2012:400). Whilst there is a heavy emphasis on the South African Truth and Reconciliation Commission, several scholars acknowledge that TRCs are indeed imperfect, *ad hoc* TJ mechanisms that may or may not bring sustainable peace (Alexander et al., 2005; Hayner, 2011; Stone, 2009). Some strands of literature focusing on South Africa's model even highlight the process' defects and shortcomings (Jeffery, 1999; Wilson, 2000). This is not by anyway to discredit the role and contribution of TRCs in ushering in peace and reconciliation. Such observations only portray the limitations and challenges facing TRCs as they seek to initiate historical dialogue and converse with legacies of the past.

Drawing from the literature, one can see that the varied challenges confronting TRCs are not only limited to the South African model but seem to be a pervasive trend with most TRCs in and outside sub-Saharan Africa (see, for example, Bosire, 2006; Hayner, 2011). Recently, a considerable amount of literature has also started to highlight how some TRCs established in deeply divided societies witnessed constraints including political and resource constraints, misinformation, disinformation and public denial of access to final reports (see Hayner, 2011:76). Related studies uncovered significant successes and varying levels of challenges faced by TRCs, drawing upon case studies from other continents, including, Asia for example, in East Timor (Laakso, 2003) and numerous other African countries (see Wachira et al., 2014).

Likewise, in another wide-ranging study that sets out to determine the efficacy of TRCs, Hayner (2011) contributes to shaping and informing the academic scholarship regarding the history of truth commissions not only in Africa but across the world. Her work is valuable and insightful to any study on TRCs as it manages to inform the nature, strengths and weaknesses of truth commissions in different countries. In particular, Hayner's (2011) study, read together with the previous edition (see Hayner, 1994), managed to directly feed into the growing literature on reconciliation by analysing TRC models from various places and periods.

One major strength of Hayner's (2011) detailed study, which sets it apart from other existing accounts, is that it offers 'thick descriptions' of TRCs, departing from studies limited to analysing TJ through a legalistic lens (Tejan-Cole, 2003; Sirleaf, 2009). The latter studies focus, for example, on analysing TJ through international criminal justice systems as well as tribunals (for instance, the one for Rwanda, Yugoslavia, Lebanon and Sierra Leone). It appears such literature is limited in how it conceives reconciliation, truth and justice. As evident in the extant literature, one can see that criminal justice systems cannot usher in societal transformation and sustainable reconciliation as reconciliation and 'truth' are twin concepts that are often sacrificed at the altar of 'justice'. Again, a study by Godobo-Madikizela (2003) drawing on the South African TRC, entitled *A Human Being Died That Night*, cogently illustrates this point. This puzzle is discussed in the review of the literature on RJ and criminal justice below.

3.3 Decoupling Retributive Justice from Restorative Justice

This section reviews the intersection between RJ and retributive justice. The burgeoning literature on TJ presents debates on how countries transitioning from violent past can search and if possible 'realise' justice. The conundrum of whether countries in post-conflict situations should implement international criminal justice (retributive justice) or truth commissions (restorative justice) or a pluralistic approach is still a subject of major concern in the academic literature and among TJ scholars and practitioners (Allais, 2011; Naughton, 2018; Armstrong, 2014; Hermann, 2017; Jakobsson, 2018; Nagy, 2008). This is cognisant of the fact that the growth of the TJ field has triggered the proliferation of TRCs around the world coupled with the need to pursue the right to truth', 'duty to prosecute' and 'right to reparations' under international law (Kochanski, 2020; Nagy, 2008; Roht-Arriaza, 2006). Despite this renewed interest by scholars and practitioners to analyse the role of international criminal justice in ushering in reconciliation and justice, much uncertainty remains on the efficacy of such (Aiken, 2008; Benyera, 2014a).

Scholars of TJ have long argued that retributive justice mechanisms, in many ways, often fail to reconcile and foster meaningful justice to the aggrieved communities. As Aiken (2008:11) notes, many scholars suggest that retributive justice (prosecutions) employed by national courts and criminal tribunals usually fail to address the deeply embedded psycho-social divisions that trigger communal violence. This accords with findings from previous studies, basing on a study on East Timor, Thakur (2004) critiques '*judicial romanticism*', which relates to adopting a purely judicial approach to TJ. In this regard, Thakur (2004) again cautions over placing much faith and confidence in judicial mechanisms as the antidote to all problems relating to past atrocities. Kingston's study on East Timor also lays bare the challenges of bringing justice in polarised and hurting societies. In most cases, most societies reap what is termed as 'disappointing Justice' mainly out of the challenges associated with balancing justice and reconciliation (Kingston, 2006).

Africanist scholars also raise concern regarding this legalistic approach to TJ. In the writings of Benyera, he provides a more critical perspective on the efficacy of what he terms 'imported idealist TJ' in the form of International Criminal Court (ICC) Trials (retributive form) and TRCs (restorative form), which were utilised in Sierra Leone,

Democratic Republic of Congo (DRC) and Uganda in the aftermath of varied forms of conflicts (Benyera, 2014a:3). He further contends that restorative models are essential as they place victims at the centre of TJ rather than the idealist model which tends to focus on the offender in the search for justice (see Benyera, 2014a:130).

Given the shortcomings of retributive justice, there is an ever-present critique that criminal retribution tends to focus on victor's justice, and in the process alienates the offenders of human rights abuses from the society, thereby affecting the 'truth' recovery process (Andrieu, 2010; Aiken, 2008; Wenzel et al., 2008; Hayner, 2011). This rings true in the case of Northern Uganda, where it has been difficult for victims to forgive and reintegrate members of the Lord Resistance Army (LRA) after their indictment by the International Criminal Court also following the granting of amnesty by the Ugandan government through the Amnesty Act of 2000 (Rose and Ssekandi, 2007:101; Rose, 2008:346). The preceding argument treats realist TJ measures as the most rational and preferred option. If implemented correctly, the central underlying assumption is that TRCs can have a long-term positive impact on societies by repairing societal bonds that could have been torn apart during conflict times.

As discussed above, scholars like Benyera favour locally-driven TJ measures over the retributive system. These realist TJ measures entail a 'set of bottom-up, non-legal, victim centred broad-based, continuous redress mechanisms that heal and reconcile communities fragmented by gross violations of human rights' (Benyera, 2014b:335). On the extreme end, retributive justice focuses on prosecutions as a way to 'restore' justice (Tshuma, 2018). Other scholars like Olsen et al. argue that 'truth commissions have a positive impact; however, when used in combination with trials and amnesties' (Olsen et al., 2010:457). While arguably, both methods are essential in dispensing justice, they have trade-offs. In many respects, RJ helps to maintain societal relations through perpetrators' confession, through nurturing forgiveness and by encouraging material reparation. However, Zambakari notes that critics of RJ measures argue that in some cases, 'truth-telling can lead to more division, acrimony, bitterness, and in some cases vengeance' (Zambakari, 2018:377).

Building on Zambakari's critical analysis, Aiken (2008:21) suggests that TRCs typically lack legal powers to guarantee compliance with their intended goals, thereby limiting their ability to account for the past human rights abuses fully. While RJ is perceived as the most effective way of reconciliation, there is growing legal consensus that perpetrators of human rights violations should be held accountable through subjection to the criminal justice system (see Aiken, 2008; Nkansah, 2011). Nevertheless, there are also limitations in pursuing this legalistic approach to reconciliation and in seeking justice. As shown in the case of the genocide that occurred at the instigation of Pol Pot – Khmer Rouge in Cambodia during (1975-1979), perpetrators often escape from justice (Chea, 2003). Even after the United Nations established a Tribunal to investigate one of the most heinous atrocities that occurred in the 20th century, Pol Pot died without facing justice for his atrocious crimes, so was the case with most of his former henchmen, except for only a few who were subjected to the wheels of justice (*BBC News*, 16 November 2018). In the previous sections, I discussed the varied literature debates on TRCs and it is pertinent that I now discuss the role and functions of these bodies drawing from a global and regional perspective.

3.4 Functions of Truth and Reconciliation Commissions

This section makes a general review of how TRCs function and how those recently institutionalised should function. The work of TRCs is generally twofold. First and foremost, TRCs should engage in 'truth-seeking' measures to establish the truth about egregious human rights injustices. The second function of a TRC is to promote reconciliation through processes like reparation, contrition and public apology (see Stahn, 2001:964; Freeman and Hayner, 2003:126). The past two decades have witnessed the proliferation of TRCs in virtually all parts of the world from Africa, Asia and Latin America with the central aim of facilitating restorative justice (RJ). To date, over fifty TRCs have been established throughout the world. As a result of their perceived cathartic effect, TRCs have been adopted by many transitional governments to create peaceful co-existence, unearth the historical 'truth', address the systemic past human rights violations, foster political and psychological healing to victims and as a way of providing redress over previous atrocities (Ayee, 2016; Freeman and Hayner, 2003; Wiebelhaus-Brahm, 2010; Bakiner, 2014; Hayner, 2011).

Scholars are correct to posit that TRCs 'are not created in a vacuum' (Dumbuya, 2003:17). This simply means that these truth-seeking bodies are typically employed in countries that have endured a pattern of violence and gross human rights abuses to promote post-conflict reconciliation and justice. These human rights violations range from rape, torture, disappearances, extrajudicial killings, genocide which may have been committed by past regimes to the civilians or during armed and civil conflict within a specific country (Crocker, 2000:1). One of the reasons advanced for the establishment of TRCs as asserted by, Aiken (2008) and the Public International Law and Policy Group (2013:1) is that these non-judicial bodies are mainly established to determine accountability for past human rights violations, reveal the 'truth' and preventing recurrence of human rights atrocities in the future. This seems to be the pattern in most – if not all – countries that have adopted TRCs.

The prevailing global and regional literature on TRCs contend that the role of TRCs is to bridge the past and serve as essential institutions that facilitate forms of RJ (Ayee, 2016; Ame and Alidu, 2010; Llewellyn, 2008). However, we often see that this is not the case in most contexts. Evidence from some cases like Zimbabwe (NPRC) has shown how commissions concentrate on fostering peace and reconciliation without justice. To this end, much of these TRCs have been ineffective insofar as they fail to usher in the much-touted healing and forgiveness, truth, and much-desired justice. Whilst it is crucial to critique TRCs on these grounds, the process of ushering in forgiveness, truth and justice is not as easy as many would anticipate. It involves going back and forth and confronting several power interests and hurdles that will be uncomfortable in fostering historical accountability and in facilitating public acknowledgement and in seeking official apology (on the latter see, Verdeja, 2010).

Often TRCs employ a substantial number of activities to achieve their mandate, intended goals and objectives (Hayner, 2011; González and Varney, 2013; Pathak, 2017). Overall, commissions engage in these definitive activities to address the past human rights abuses and deconstruct the systemic violence as specified in their terms of reference. It is crucial to highlight that despite their variations in the structure, naming and scope, TRCs are institutionalised to serve the same purpose of dealing with post-conflict

peace-building, fostering psychological healing, justice and nurturing national reconciliation. To achieve these challenging restrictive mandates, TRCs employ different activities that guide commissioners in performing their work. González and Varney note that TRCs have numerous vital functions that are outlined in their mandates as follows:

Gathering information; Preparing a report that establishes an accurate and impartial historical record of human rights violations; Conducting educational outreach activities; Offering policy proposals to ensure violations are not repeated; Supporting the work of the justice system and promoting communal or national reconciliation (González and Varney, 2013:23).

These crucial functions will, in turn, be discussed in detail below.

Past examples of TRCs in diverse countries such as South Africa, Sierra Leone, Kenya, Ghana, El Salvador, and Guatemala (see Hayner, 2011) have employed the aforementioned activities and functions in pursuit of post-conflict justice, 'truth' and reconciliation. Fundamentally, the primary functions of the TRCs, as mentioned earlier, were to investigate, gather information and corroborate evidence on the alleged human rights abuses through conducting public hearings and gathering testimonies. As such, evidence-based research and investigations are the ultimate objectives of TRCs. For example, the South African Truth and Reconciliation Commission managed to gather information from over 21 000 victims and witnesses of apartheid who gave testimonies to the commission (Hayner, 2011:23; Andrews, 2003:46).

Similarly, scholars tell us that Peru's Truth and Reconciliation Commission investigated and gathered 17 000 testimonies of human rights abuses committed by insurgent groups and state forces of the Peruvian Communist Party-Shining Path from 1980 to 2000, and 1984 to 1997 by the Túpac Amaru Revolutionary Movement (Heilman, 2018:1). These two TRCs have garnered considerable attention and admiration due to their capacity to conduct public hearings and how they 'shared truth' in the presence of perpetrators, bystanders and victims (Hayner, 2011:36).

A notable difference in the functions of TRCs is that other countries failed to include public hearings in their terms of reference. For example, in Argentina the commission did not hold any public hearings. The National Commission on the Disappeared (1983–1984)

only gathered 7 000 statements from the victims and documented the disappearance of 8 960 persons (Hayner, 2011:46; Pathak, 2017:204). The main point is that there are mixed results on the work and successes of TRCs as established in disparate scholarly accounts and in varied contexts. In Liberia, some witnesses and victims were reluctant to attend public hearings and testify before the commission due to lack of proper witness protection mechanisms (Sirleaf, 2013: 2296).

The other key function of a TRC is to produce a detailed document that reports on pertinent issues such as the nature, causes, circumstances and the extent of human rights violations (see González and Varney, 2013:23). For example, the South African Truth and Reconciliation Commission released its final report to the public in October 1998 with a well-documented account of human rights violations that occurred during the apartheid era (Hayner, 2011:31). Also, the Guatemala Commission for Historical Clarification, produced its first hard-hitting report in 1999 documenting the massacres attributable to the civil war that led to forced disappearances and loss of lives of 20 000 civilians (see Hayner, 2011:32).

Overall, publishing the final reports to members of the public exposes the 'truth' about the historical account of past human rights violations. However, some countries like Bolivia and Uganda have failed to produce their final reports after documenting human rights violations, thereby concealing the 'truth' about the past abuses (Hayner, 2011). Besides, the terms of references of commissions established in Chile, Morocco, Canada, and Solomon Islands, the terms restricted them from naming perpetrators in the reports (Hayner, 2011:93-122). This differs from commissions established in Honduras and El Salvador, which named the perpetrators in their final reports (Lerche III, 2000; Brahm, 2007). Naming 'names' of high-level perpetrators is a necessary process in truth-seeking and in pursuit of justice. However, TRCs established in highly repressive states cannot provide perpetrators' names for fear of revenge by victims and vigilante attacks (Hayner, 2011; Brahm, 2007:31).

In summation, TRCs implement numerous activities that help to promote healing, tolerance and reconciliation in fragile communities (González and Varney, 2013:24; Hirsch et al., 2012). This is typically achieved by encouraging public participation in

hearings and outreach programs that promote social co-existence. Basic features of TRCs are that they provide recommendations to the government that encourages reforms, redress, deter recurrence of violence, reconciliation and sometimes reparations (Wiebelhaus-Brahm, 2010; Hayner, 2011). Some examples include the Ghana National Reconciliation Commission in 2005, whose final report made recommendations to the effect that government initiate a comprehensive reparation plan for around 3 000 victims of human rights abuses under Rawlings' rule (United States Institute of Peace, 2019). The report also recommended security sector reforms in the army, police and prison.

Similarly, TRCs in Liberia and South Africa provided recommendations to rehabilitate and compensate victims in their final reports (see Public International Law Group, 2013:26-30). What is, however, important is that producing excellent reconciliation reports does not guarantee the implementation of recommendations contained therein. Most countries have been found lagging insofar as the implementation of the recommendations is concerned. Without a straightforward implementation, enforcement, monitoring, and evaluation, the TRC programme's objectives will only remain but hot air or hollow aspirations.

This revelation shows ordinary citizens' antipathy to a top-down and elite centred reconciliation that does not pay much focus to the concerns, pain and desires of victims, either material, psychological or spiritual needs. Having analysed the general functions of TRCs from a global and regional perspective, the next section discusses the indispensability of TRCs in post-conflict settings. This will help us interrogate why TRCs have proliferated throughout the world and whether they effectively achieve post-conflict justice.

3.5 Grappling with the Past: Proliferation of TRCs – Is there not a Need?

This section seeks to understand why the extra-judicial institutions (TRCs) are indispensable in all countries transitioning from violent conflict to peace (positive peace). In this study, I posit that we cannot fully understand TRCs without analysing underlying circumstances and events leading to their establishment in post-conflict and post-authoritarian rule. A classic example is the establishment of the NPRC in Zimbabwe at the denouement of the power-sharing government in 2013, which are discussed in detail

later in this chapter. In most cases, the push for the establishment of TRCs is also driven by citizens' deep angst of the atrocities committed by either the previous or current regimes by the citizens. Hence, the need for closure and justice through some form of TJ.

In pursuit of closure, citizens and pro-democracy movements then push for TJ mechanisms that can grapple with the past, however, painful, unpleasant and unpalatable – it might be. This analysis is all-too-relevant and pertinent in examining whether TRCs are viable tools to conflict resolution, 'truth-telling', justice, post-conflict reconciliation and political stability. Following the Tokyo and Nuremberg trials after the end of the Second World War, there have been persistent efforts to attain justice for various human rights abuses (African Union, 2013:10). However, the failure of international criminal justice to bring victim-centred justice resulted in the need for RJ measures in the form of TRCs.

In the literature, we are told that much of these TRCs in Africa and Latin America were established immediately after political transitions (Ayee, 2016:151) to facilitate post-conflict justice and engendering democracy. However, as will be discussed below, TRCs differs in many ways. The commissions are formed with different mandates, names, powers, legal mandate, peace agreement or executive decree (González and Varney, 2013; Kochanski, 2020). It is, therefore, important to discuss the reasons behind the surge in the establishment of TRCs throughout the world.

Issue of violent conflict features prominently as a trigger for the formation of TRCs (Hayner, 2011). In the past two decades, many countries emerging from violent conflict have sought to institutionalise TJ through the adoption of TRCs and other commissions of inquiry as part of a commitment to truce making, peace-building, assuage the victims of past human rights violations, and as a way of fostering national reconciliation. This has been evident in all countries that have established TRCs, (see Ghana, Peru, Uganda, Guatemala, Solomon Islands). This claim finds resonance in scholars like (Kochanski, 2020:114; Bleeker, 2010:34; Hayner, 1994:607), who posits that TRCs are formed after episodes of prolonged violent conflict and autocratic rule. Many such TRCs that have been established in the past and those recently formed are mandated to excavate the past, address why the violence erupted in the first place and promote peace, truth, justice and reconciliation. A sustained review of scholarship on a historical precursor such as the

Sierra Leone TRCs indicates that the *ad hoc* institutions are invariably established after gross human rights violations (Hayner, 2011). In Sierra Leone, an estimated 50 000 civilians lost their lives during the civil war (Kieh Jr, 2016:213). The killings were perpetrated by Taylor's military and the warlord militias.

What is also noticeable through reading the global literature is that violence and conflicts differ in scope, intensity and proportion (Hayner, 2011). Hence, the magnitude of the violence also informs whether a nation can institute a TRC or not. Some countries, for example, Uganda, had a long – drawn out conflict that raged on for years in Northern Uganda, prompting the government to institute a TRC (Rose and Ssekandi, 2007). So was the case in the Democratic Republic of Congo, where a TRC was established from (2003–2007) to deal with abuses committed in the Congolese conflict (Jones and Oliveira, 2016). In this regard, it can be posited that some nations establish TRCs as post-conflict justice-seeking mechanisms.

Building on this literature, we discern that TRCs are non-judicial bodies that are institutionalised to address the causality of human rights abuses ranging from Genocide, atrocities such as electoral violence, and extra-judicial killings to armed and civil conflicts. The underlying factor is that these TRCs emerge to break with a violent past and ensure non-recurrence of past atrocities. In most cases, they are a pre-condition for ending a tumultuous war and ethnic conflict, for example, those established in Burundi in 2014 (see Ephrem Rugiririza, *JusticeInfo.Net*, 1 November 2018), in Sierra Leone in 2002 (DeMinck, 2007) and Liberia in 2005 (Long, 2008). In some cases, they are designed primarily to re-establish a collective future after violent elections or as part of a constitution-building process, as was the case with the Kenyan TJRC and Zimbabwe's NPRC.

Specific interests to address the preceding wide-ranging human rights injustices have prompted the establishment of TRCs in many countries emerging from different forms of violent conflict. Therefore, given their popularity, TRCs have become central vehicles in transitional periods to deal with a country's horrendous past. In Latin America, TRCs have been primarily instituted to document the past human rights abuses committed by the military and authoritarian regimes (Grandin, 2005; Deminck, 2007; Hayner, 2011). For example, the massacres of peasants in El Salvador and Chile's

General Pinochet human rights abuses in the South (see Gairdner, 1999; Vasallo, 2002). In the African context, TRCs have been constituted to address the human rights abuses mostly emanating from religious and civil wars (DeMinck, 2007:3). Such evidence in the literature underscore why different countries at different historical periods choose to establish TRCs. Such kind of an argument has a resonance with the inquiry of this study focusing on Zimbabwe.

In South Africa, a TRC was instituted in 1995 to end the apartheid system (see Owiso, 2017:223; Hayner, 2011:27) and investigate the attendant human rights abuses between 1960 and 1994 (Ayee, 2016:2). However, besides their popularity, some TRCs have failed to live up to their intended and mandated objectives. In some cases, they have avoided 'rocking the boat' by not publishing the unpleasant reports on past atrocities for various reasons, including fear from the incumbent. Typical examples of resistance from the government, include Zimbabwe's Chihambakwe Commission 1985, which concealed the enormity of violations in Matabeleland for fear of sparking ethnic related violence (see Hayner, 2011:242; Paul Themba Nyathi, *The Standard* 12 February 2018).

The above is, however, not the only reason as to why TRCs are formed. There are disparate reasons in the literature, with some of these being purely out of the need to get the truth and move forward as a society. This happens in countries that have initiated different types of commissions with an aim to establish the truth about past human rights abuses. In the words of Kochanski, 'it is now rare for any state to undergo a political or post-conflict transition without facing calls for the truth, often prompting a truth commission (TC)' (Kochanski, 2020:114). This trend and necessity also emerge from the fact that states have an obligation to provide the truth of past abuses as provided in various resolutions by the United Nations Commission on Human Rights and in international courts (see Hayner, 2011:23).

The different naming and design of TRCs reflect why countries in post-conflict situations adopt these RJ measures (Kochanski, 2020). Up to now, far little attention has been paid in examining the politics of naming of reconciliation commissions. However, this warrants close examination insofar as this sheds light on the mandate and terms of references of these reconciliation bodies. The different naming of TRCs brings us to the

debate on whether reconciliation can be achieved without justice or truth. This argument is also in accordance with the Zimbabwean context, as I will also show in the politics of naming of the TRC during the era of the constitution making process in 2009-2013. Having noted the above, global and African literature on TRCs is replete with case studies established in Latin America, for example, Chile, Honduras, El Salvador, Peru, and in Africa Ghana, Nigeria, South Africa, Togo, Kenya, which all have included the 'truth' component in the naming of the commissions.

In the pursuit of justice, truth and reconciliation some TRCs incorporated the three aspects in naming the commissions. Cases in point includes the Kenyan body, which was named Truth, Justice and Reconciliation Commission (TJRC) (Lanegran, 2015). The (TJRC) was mandated to establish a historical account of the human rights violations committed between 1963 and 2008 (Owiso, 2017:40). The Togolese Truth, Justice, and Reconciliation Commission was established in 2009 and was mandated to unearth the political violence and the associated human rights abuses committed between 1958 and 2005 (Sarkin and Davi, 2017). The Mali's Truth, Justice and Reconciliation Commission was established in 2014 and was mandated to investigate human rights violations that stretches from 1960 to 2013 (ICTJ, 2016). So, in essence, these commissions were established to unearth truth, promote reconciliation and to bring justice over a range of human rights abuses. While this extant literature is illuminating why TRCs are formed, just like the Zimbabwean context, scholars rarely examine how some TRCs come as part of political settlements. Hence, in most cases, they are not focused much on justice, reconciliation, truth and healing but only serve as by-products of power balancing and elite bargaining.

In addition to the above, there is no short supply of TRCs globally and regionally that have adopted other naming excluding the truth component. This means these TRCs side-stepped the issue of truth in their 'terms of reference' and mandate. A case in point is the NPRC in Zimbabwe, which used the term 'National' and 'Peace' to replace 'Truth'. Further examples also abound in Uganda 1974, Bolivia 1982 and Uruguay 1985, as will be discussed below. Having stated the above, there remains a paucity of evidence whether the naming of reconciliation commissions can affect their mandate or operations.

In some context, the quest to know the truth necessitated establishing truth-seeking commissions that adopted the 'Truth' component. Presumably, this accords with the aphorism, which goes 'necessity is the mother of all invention'. These TRCs range from, for example, Peru: Truth and Reconciliation Commission 2001; Indonesia: Truth and Reconciliation Commission 2004; Commission on the Truth in El Salvador; Ecuador: Truth and Reconciliation Commission 2007 (see Bleeker, 2010:40) and United States of America: The Greensboro Truth and Reconciliation Commission (Androff, 2012).

Studies of TRCs have also incorporated case studies of countries that instituted commissions of inquiry without integrating fundamental aspects of 'truth' and 'justice'. Much of these commissions were established in the 1970s and 1980s. It is reported that the Ugandan *Commission of Inquiry into the Disappearances of People in Uganda*, which was established in 1974 by Idi Amin Dada became the first commission worldwide (Ayee, 2016). The commission was put in place to respond to the state-sponsored human rights injustices and extra-judicial killings perpetrated during Idi Amin and Milton Obote rule (see Ayee, 2016:25 and Hayner, 2011:239). Other commissions include the 1982 Bolivia National Commission of Inquiry for Forced Disappearances, 1985 Uruguay Investigative Commission on the Situation of Disappeared People and Its Causes and the 1982 Commission of Inquiry into Events Surrounding Entumbane that was established in Zimbabwe (see Hayner, 1994; Hayner, 2011). A predominant trend with this strand of existing scholarly literature is the conflation of the two. Yet, the two – TRCs and Commissions of Inquiries – are not synonymous. In this context, though in some countries, there are blurred boundaries, one needs to distinguish the differences and similarities – if any – between the two.

Scholars opine that besides seeking truth, TRCs introduce many other long-term goals that encourage forgiveness and reconciliation amongst people (DeMinck, 2007:3). Therefore, it is noteworthy to highlight that past TRCs for example in Sierra Leone, Ghana, South Africa and Peru (see Aiken, 2008; Hayner, 2011) have remarkably generated positive TJ outcomes. The TRCs provided recommendations for reparations which is crucial in restoration and healing processes. The dominant view, which in my view remains largely reductionist and simplistic, is that bringing perpetrators, victims, and

bystanders together can potentially facilitate the process of reconciliation, forgiveness and fostering a shared vision by former enemies. This is, however, easier said than done.

In most cases and history being the best guide, societies have witnessed how bringing perpetrators and victims together through TRCs, peace agreements or truces do not always bring the healing and cathartic process. This is considering that feelings of vengeance and retribution will always linger in the minds and hearts of the aggrieved. The best example is Bosnia-Herzegovina. Besides the romanticist and much vaunted view of the successes of the Dayton Peace Agreement, polarisation still runs deep among the Bosniaks, Serbs and Croats, stretching from the ethnic-cleansing Genocide that afflicted their country (see Brisson, 2017; Julian Borger *The Guardian*, 10 November 2015). After discussing the global and regional literature and the context of TRCs in both contexts, I now turn to a discussion of the Zimbabwean literature and context regarding TRC formation and why the country needs such a body.

3.6 Getting to Grips with the Zimbabwean literature on TRCs

This section reviews the scholarly perspectives on the need for TRC and TJ in Zimbabwe. So far, very few studies have been done on the NPRC in Zimbabwe (Mhandara, 2020; Nyamanhindi, 2021; NTJWG, 2017;2020). This is, however, understandable considering that the country has not had any TRC since the period of colonial subjugation to the post-colonial era. Before the establishment of the current TRC specifically (NPRC) – Zimbabwe had only established two commissions that had a limited focus Dumbutshena Commission of Inquiry to specifically enquire on the Events Surrounding Entumbane between the former (ZIPRA and ZANLA soldiers in 1981) (Benyera, 2014a:115). The Chihambakwe Commission was established in 1983 with a mandate to investigate the Fifth Brigade activities in the Matabeleland region and the killings of dissidents and civilians during the Gukurahundi pogrom (massacre) (CCJP and LRF Report, 1997:12). The reports of these commissions were never published and they continue to gather dust somewhere in high offices.

As such, there is a paucity of research as well as limited understanding of TRCs in Zimbabwe. It is only now that research on TRCs is starting to pick ground following the establishment of the NPRC, which was constitutionalised in the new constitution voted

for in a national referendum in 2013 (NTJWG, 2020; Mhandara, 2020; Tshuma, 2018; Zambara, 2019; Heal Zimbabwe, 2018). By all accounts, such corpus of literature is still few and dislocated. What remains underexplored is citizen's views on the work of the NPRC so far and the role of the incumbent regime in shaping TJ measures in Zimbabwe. This then warrants a need for emerging empirical research that interrogates the subject of TRC in the Zimbabwean context. This, however, is not to suggest that there has been no literature or research on early attempts geared towards the clamour and need for a TRC in Zimbabwe.

Few strands of the scholarly literature exist but with a focus on the challenges faced by the Zimbabwean nation-state in establishing reconciliation, justice and some form of healing (Mashingaidze, 2010; Murambadoro, 2017; Muchemwa et al., 2013; Machakanja, 2010; Hapanyengwi-Chemhuru, 2013). Indeed, much of this body of research is also punctuated with significant shortfalls in the sense that it focuses on broad issues, including amnesty, historical dimensions of the successive political conflicts in a way underscoring why there is a need for a TRC.

In Zimbabwe, as in other (post-)conflict settings in much of Africa, local civil society, international civil society, policymakers, practitioners and scholars are grappling with the theoretical conundrum and practice of the emerging and ambiguous concept of TJ. Debate continues about the potential TJ strategy(ies) to be pursued in contemporary post-conflict situations. This has elicited several studies in the contemporary post-conflict contexts interested in examining pragmatic locally-driven TJ measures. Zimbabwean scholars have long debated whether to pursue (in)formal TJ processes to rebuild societal relationships (see, for example, Benyera, 2014b; Munyaka, 2015; Murambadoro, 2017). In his study on the exploration of endogenous strategies, Benyera views 'traditional transitional justice mechanisms currently at work in Zimbabwe as viable concomitants in the field of justice, healing and reconciliation' (Benyera, 2014b:335). Existing studies by Munyaka (2015) and Murambadoro (2017) have attempted to examine the importance of CSOs in spearheading informal TJ mechanisms, which include memorialisation by communities and unofficial truth-telling gatherings amongst other traditional processes.

However, the need for a (formal) restorative TJ process generated interest amongst scholars such as Machakanja (2010); Tshuma (2015); Du Plessis and Ford (2008); Madenga (2017); Ndlovu-Gatsheni and Benyera (2015); Bamu (2008); Benyera (2014b) and amongst CSOs including the Zimbabwe Human Rights NGO Forum, Heal Zimbabwe Trust and the Zimbabwe Peace Project during the course of the coalition government. Formal TJ approach refers to non-judicial approaches that encompass TRCs, truth-telling, reparation and RJ. The scholarly work of Machakanja (2010), and Du Plessis and Ford (2008) resonates with critics of mainstream TJ, who views it as a Eurocentric and modernist conception designed to be a one-size-fits-all solution. Zimbabwean scholars and practitioners (Maregere, 2019:34; Benyera, 2014b) argues that there should be localisation of TJ measures. Maregere (2019) postulates that RJ can only be achieved by considering contextual factors such as the socio-psychological, cultural and political dynamics of each country in post-conflict. In sync with this idea, Benyera (2014b:335) advocates for the broadening of transitional realism notions to include customary healing practices, which are bottom-up, victim-centred, and non-legal.

Related to the above, numerous scholars (Raftopoulos and Mlambo, 2009; Murambadoro, 2015; Ndlovu-Gatsheni and Benyera, 2015; Du Plessis and Ford, 2009), generally concur that Zimbabwe needs a comprehensive TRC that can formally account for past human rights violations in order to engender durable peace and justice in Zimbabwe. This idea resonates with Wietekamp et al.'s TARR model (2006), which contain the essential building blocks (Truth, Accountability, Reconciliation and Reparation) to achieve TJ and RJ. Given the above scholarly background, the search for justice and reconciliation through a TRC in Zimbabwe is premised on several plausible claims. The most important issue is that human rights violations have been associated with a pattern of amnesty without proper remedial action (Du Plessis and Ford, 2009). To give credence to this claim, Eppel and Raftopoulos (2008:2) are of the view that 'such abuses have been embraced with various amnesty laws at the end of each period of state-led violence'. As depicted in the Zimbabwean situation – the NPRC – if it manages to fulfil its mandate, will be a vital component to confront the unpalatable past experiences instigated mainly by the state in different episodes.

3.7 Dealing with the Past: Why Embrace a TRC in Zimbabwe

Having analysed the reasons behind the adoption of TRCs inter(nationally) and regionally, this section narrows down to discuss why Zimbabwe decided to establish a peace and reconciliation commission. In Zimbabwe, a peace and reconciliation commission was commissioned in 2018, emerging from the background of past human rights abuses and, in particular, those committed towards, during and after the 2008 June presidential run-off election. It is only fair to argue that calls of a TRC in Zimbabwe by the opposition, human rights organisations, victims and CSOs were borne out of the need to address the past human rights injustices endured by victims owing to – but not limited to – the ineffectual state-centric reconciliation processes since independence.

Over the years, the ZANU-PF government's response to reconciliation and justice demands has exhibited lack of commitment and consistency. The government's aforementioned reluctance to fulfil citizenry's demands for TJ is noted by several Zimbabwean scholars (Eppel and Raftopoulos, 2008; Machakanja, 2010; Ndlovu-Gatsheni and Benyera, 2015; Murambadoro, 2015; Njeru, 2018; Mashingaidze, 2010; Chiweshe, 2016; Murambadoro, 2019; Hapanyengwi-Chemhuru, 2013). This set of literature underscores the fact that the country can never adequately get closure of the past human rights abuses without full acknowledgement of who did what, to whom and why (historical accountability)?. In this case, a TRC should bring closure to the sad chapter of Zimbabwe's history. This is also because past reconciliation efforts were not anchored at the grassroots level but rather focused on political reconciliation at the national level.

There are numerous reasons as to why Zimbabwe has joined the wave of countries institutionalising TRCs around the world as part of efforts to give due attention to human rights accountability. However, Zimbabwe's past commissions, for various reasons failed to unearth the human rights violations and proffer meaningful post-conflict reconciliation, justice and in initiating historical dialogue (Mashingaidze, 2005, 2010; Machakanja, 2010; Ndlovu-Gatsheni and Benyera, 2015). The above-mentioned Zimbabwean scholars concur that that all past reconciliation (failed) attempts and TJ processes were founded on forgiveness and amnesty, which failed to lay a durable foundation for justice in Zimbabwe. In this light, Zimbabwe's primary reasons for constitutionalising a TRC can be

attributed to the failure of past superficial peace agreements – (1980, 1987, 2008 unity pacts) to proffer victim-centred justice and national reconciliation, as discussed in detail in the next chapter. Be that as it may, TRCs are still important in cultivating a culture of peace. As scholars opine in the context of Zimbabwe, a TRC ‘would be a valuable and acceptable ingredient in addressing the violations and injustice and permitting a sustainable national peace’ (Du Plessis and Ford, 2009:77). Furthermore, a TRC will be imperative in the sense that it can potentially provide a cathartic effect on victims of different episodes of violence.

As noted in the empirical studies, mostly NGO literature, it was only after the formation of a power-sharing government in 2008 that unfeigned discussions about institutionalising a TRC began (Heal Zimbabwe Trust, 2016:2018; Zimbabwe Human Rights NGO Forum, 2015). One can also argue that it was part of Mugabe’s ploy to get a breathing space after losing to the opposition MDC-T in the 2008 plebiscite. As such, he acceded to demands for the creation of a TRC begrudgingly only for his political survival. This is so since part of the opposition concession for a political settlement was the need to establish a reconciliation mechanism (of some sort) that could unearth the wrongs of the past. It is, therefore fair to argue that the idea of institutionalising a TRC was circumstantial in the sense that Mugabe had no choice.

It could be that if he had rebuffed opposition demands, the power-sharing arrangement would have crumbled, and this was not an option as ZANU-PF wanted the talks to succeed. For him, a political settlement was a better option to perpetuate his stay in power. It could be one of the reasons as to why he agreed to the demands contained in the political settlement, no matter how unpalatable they were to him and the top brass of his party. The establishment of the coalition government marked a window of opportunity for Zimbabwe to institutionalise a TJ model that could potentially facilitate peace, justice, healing, historical dialogue and national reconciliation.

Another explanation that is also more plausible – at least in the Zimbabwean context is that elites from the incumbent regime may have acceded to a TJ mechanism in the form of a TRC as a way to pacify the opposition and the citizenry. This particularly applies in the context of heavy grassroots lobbying and campaigning and pressure for the

establishment of TJ mechanism by CSOs and human rights organisations before and during the GNU era. A senior researcher of Research and Advocacy Unit (RAU), Mr Tony Reeler notes that:

What emerged is a very weak institution, dependent on government and with a very ambiguous mandate. Justice is hardly mentioned, it loads on peace and reconciliation too strongly. There was no opportunity to get a TRC before, especially after Gukurahundi. This is why civics started the process in 2003 at the first symposium in Johannesburg (Interview 20.09.2019).

Viewed closely, the acquiescence to a TJ mechanism by the regime associated with human rights violations even after Mugabe's ouster was thus borne not out of political will nor goodwill will – neither out of a genuine desire. The regime carefully designed the NPRC to render it ineffective. In an interview, Mr Reeler, argues that 'this is even reflected in the choice of some of the commissioners. Hardly anyone with any background in transitional justice or dealing with organised violence and torture feature in the NPRC' (Interview 2019).

Other Zimbabwean TJ scholars like Benyera stress that the main attraction of forming a TRC was the need 'to balance political expediency and international and local pressure for justice' (Benyera, 2014a:131). Whilst, such a claim holds water, what should also not escape our minds is that the incumbent was amenable to a carefully designed TRC, one that would not open a can of worms. It then came as no surprise that ZANU-PF even went at length to arm-twist the opposition and the drafters of the constitution to eliminate the 'truth' in the commission's naming as discussed in chapter 6.

The political players replaced the word 'truth' with peace in naming the TRC. From this evidence, one gets to see how incumbents always try by all means to dilute and contain the work of TRCs even through deciding their nomenclature and terms of reference. This finding is consistent with the current NPRC in Zimbabwe. In the case of Zimbabwe, contestations around the naming, mandate, and the lexicon to be used by the body tasked to usher in truth and reconciliation featured prominently after the 2008 violence. The section that follows provides a brief overview of the historical phases of deep-seated conflicts and violence in post-colonial Zimbabwe. This is done to provide a

useful lens of understanding the diverse contexts that have prompted and shaped the quest for justice, truth, national healing, forgiveness and reconciliation in Zimbabwe.

3.8 Dynamics of Violence, Conflict, and Impunity in Zimbabwe

This section traces historical annals of violent internal conflicts that emerged after independence to contextualise the reconciliation phenomenon. Zimbabwe has a long history of violence and conflict that has transcended the pre-colonial, colonial era to the present (see Coltart, 2006). The historical background of conflicts and violence is dissected into three phases: the pre-independence era, the post-colonial era (1980-1999) and the post-2000 era (Du Plessis and Ford, 2009, Sachikonye, 2011). These violent episodes include the *Mfecane* wars in the 1820s, wars against the imperialists in 1896 and liberation war in the 1970s (see Eppel, 2008; Sachikonye, 2011; Muzondidya and Ndlovu- Gatsheni, 2007). During the second Chimurenga (1966 to 1979), an estimate of 30 000 people lost their lives (see CCJP and LRF, 1997:13). Similarly, after independence to the contemporary, civilians were subjected to state-sanctioned human rights violations resulting in the loss of lives of thousands of people. The human rights violations were primarily perpetuated by the military, police, war veterans and ZANU-PF youth militia groups.

Zimbabwe is, therefore, haunted by these unresolved historical tragedies. It remains, therefore, a dilemma for the post-colonial government to deal with peace, reconciliation and justice, given the complexities of violence that has shaped its political discourse. Protection of perpetrators of violence by the culpable government has been a trend in Zimbabwe's history. This is the reason why until today, no one has been held accountable for the Gukurahundi atrocities that occurred in the 1980s (Mashingaidze, 2010,2020; Killander and Nyathi, 2015; Ndlovu, 2017). The scourge of impunity remains in situ in Zimbabwe, given the fact that perpetrators of violence have not been subjected to the wheels of justice. Instead, they have been protected by various amnesty laws, as will be discussed in detail in chapter 6.

3.9 History of Gukurahundi Massacre, 1983-1987

In the transition period from Rhodesia to independent Zimbabwe in 1980, and in all successive decades up to the present day, the country has had prevalent occurrences of

planned violence and torture (Reeler, 2012:30). Shortly after attaining independence, post-colonial Zimbabwe experienced one of the worst unprecedented ethnic-based conflicts remembered as the '*Gukurahundi*' (see CCJP and LRF, 1997: 45; Eppel, 2004:3; Selerud, 2009:4). This was similar to the Rwandan Genocide which was triggered by ethnic tensions between the Hutu and Tutsi in the 1990s (see Nikuze, 2014:1095; Haberstock, 2014:13). In this ethnic pogrom, more than one million Tutsi were murdered in 1994 within a period of three months (Nikuze, 2014:1095). Similarly, in the context of Zimbabwe, the *Gukurahundi* emerged from a confluence of factors which includes ethnic tensions and struggle for power between the two liberating parties, namely ZANU and ZAPU. To substantiate this claim, Dzimiri et al (2014:230) confirm that 'the *Gukurahundi* violence was predicated on ethnicity and party-politics'. The ZANU party and its supporters were predominately Shona-speaking while its opponent, ZAPU party and its supporters were of Ndebele speaking origin.

After Mugabe's ascension to power, the government remained threatened by the opposition political party-ZAPU and its supporters (Nehanda Radio, 2017). By and large, such threats precipitated state-sanctioned massacre which was referred to as the *Gukurahundi*. The term code-named '*Gukurahundi*' is a Shona word which refers to '*the rain which washes away the chaff before the spring rains*' (CCJP and LRF, 1997:45). This savage campaign left a trail of destruction and undermined post-colonial peace in the Matabeleland region and Zimbabwe at large. Again, this dark moment or sad chapter in the country's history engendered human insecurity. As such, the ethnic polarity that still exists in Zimbabwean politics and between the Ndebele and Shona people can be linked to this gruesome past (Muzondidya and Ndlovu-Gatsheni, 2007:277). Victims of the *Gukurahundi* have not been appropriately buried; hence there is no closure for the committed atrocities. It is clear that apart from the 2008 electoral violence, the *Gukurahundi* atrocities continue to be the darkest chapter in independent Zimbabwe (Madenga, 2017:128). It is the researcher's contention that for justice to be achieved, *Gukurahundi* atrocities have to be acknowledged first through a victim-centred approach. It is imperative to underscore that in all these episodes of violence, without exception, fundamental human rights have been violated. Similar to the pre-independence era, post-

colonial Zimbabwe witnessed various forms of violence, which included mainly ethnic conflicts commonly referred to as the 1980's atrocities effectuated by the armed forces (see Ndlovu-Gatsheni, 2003:18). In light of this evidence, Sachikonye cogently argues that 'a tendency toward intolerance and the propensity for the use of violence against political opponents became defining features of post-independence politics in Zimbabwe' (Sachikonye, 2017:122). The violence has been steadily increasing in the country in the past few decades.

From the dawn of the new millennium, Zimbabwe witnessed various forms of state-sponsored violence ranging from chaotic land reform (2000-2001) (see Moyo, 2001), 'Operation *Murambatsvina*' (2005) ('Restore Order'/'Clear the Filth' (Tibaijuka, 2005; Bratton and Masunungure, 2007) and Operation codenamed *Mavhotera Papi?* election-related violence, literally meaning *Who did you vote for?* in 2008 (see Sadomba, 2011:229; Chitiyo, 2009:6). The latter ultimately resulted in intermittent systematic violence across the country. Following the aforementioned tragic events, there have been no comprehensive TJ mechanisms to address the human rights abuses and the unresolved questions of national reconciliation and healing in Zimbabwe.

For scholars like Eppel (2004:43), even though state violence has been recurring over the past three decades, Zimbabwe has failed to face the truth of the events of the 1970s and the massacres of the 1980s including the failure to punish perpetrators of various atrocities. Such reluctance by the government makes studying this highly contentious subject of TJ and TRCs noteworthy. This is bearing in mind that government has been incessantly unleashing violence on its citizens shortly after independence and during election periods. All these episodes of violence have bequeathed agonising legacies of fear and trauma to the victims and the general citizenry (Sachikonye, 2011:86). However, this violence was also to intensify during election cycles.

3.10 Political Violence from 2000 to 2008 in Zimbabwe

Various scholarly accounts have engaged at length with the historicity of political violence in Zimbabwe over successive decades (Kriger, 2005; Sachikonye, 2011; Dube and Makwerere, 2012; Bratton and Masunungure, 2008; Moyse, 2009). Though political violence has been a permanent feature of the Zimbabwean society pre, during and post-

colonial era, the year 2000 was a unique turning period in the sense that it was the first time when the state deployed a high concentration of violence on its citizens in many parts of the country during election period and during the land reform era. What we have witnessed in Zimbabwe during this period is what (Galtung, 1996) termed 'direct violence'. The use of state apparatus such as the security forces in perpetuating fear and human rights abuses became a common trend. During this period, the systemic state violence was aptly documented in Lloyd Sachikonye's book '*When a State Turns on its Citizens: 60 Years of Institutionalised Violence in Zimbabwe*' (Sachikonye, 2011).

Sachikonye's (2011) works help us to understand the country's history of violence and the justification of why Zimbabweans need a genuine TRC to spearhead the reconciliation processes. This is considering the upsurge of human rights abuses and severe violations of international human rights law from the year 2000, largely sponsored by the state. This was witnessed through abductions, enforced disappearances, torture, rape, arson, murder and targeted displacements of perceived opposition supporters, members and sympathisers, to mention but a few during election times (see Human Rights Watch, 2008a; Reeler, 2009) an analysis which I now turn to. The below analysis also examines these violations in the wake of the Fast-Track Land Reform Programme (FTLRP) of 2000.

3.11 Violence, Land Reform and the quest for Reconciliation Cumulative effects

In Zimbabwe, land has been a source of conflict long before independence between the black communities and the white settlers (see Human Rights Watch, 2002; Chikwanha, 2009). In the year 2000, the nation experienced another form of violence which had a racial dimension (Dzimiri et al., 2014). Existing research on violence and farm invasions shows the violence that punctuated the Fast-Track Land Reform Programme (FTLRP) (see Du Plessis and Ford, 2009; Mlambo and Raftopoulos, 2010; Sachikonye, 2004). This violence was orchestrated by war veterans who went on a rampage and seized land from the erstwhile white commercial farmers. Du Plessis and Ford (2009:78) note that the government was implicated in these violent invasions inasmuch as it failed to prevent or condemn the violence, displacements, and lawlessness. As a result of this violence, by

June 2000, 26 farm workers were killed whilst more than 3 000 were displaced around the country (Zimbabwe Human Rights NGO Forum, 2010:10).

What prompted the FTLRP was chiefly the British government's failure to honour the Lancaster House Agreement, where the government had initially promised to fund the land reform program. Again, the pressure was also coming from counter-hegemonic civil society such as the Zimbabwe National War Veterans Association (Ncube, 2015). The grievances were that the government should honour liberation war heroes with land which was skewed against the blacks through various pieces of legislation such as the Land Apportionment Act of 1931 (Human Rights Watch, 2002; Moyo and Matondi, 2003). The nascent opposition MDC party had also promised to address these land injustices, which was a pressing need of the black majority. So being faced with these pressures from all angles, violence become inevitable. All these episodes of violence cumulatively stoked concerns over issues of TJ and historical dialogue. As articulated earlier, Zimbabwe has experienced episodes of violence not limited to the land reform and election seasons but also in the extractives sector, specifically following the discovery of diamonds a point to which I will turn below.

3.12 Discovery of Diamonds and Violence in Zimbabwe from 2006 to 2008

The discovery of alluvial diamonds in Chiadzwa in 2006 subsequently led to the massacre of artisanal miners by security forces between October and November 2008 (Human Rights Watch, 2009:30). Due to the 'diamond rush', the government intervened ostensibly as a way to restore sanity and order in the mining fields. However, the intervention turned out to be violent. In the process, the operation saw a violation of a bundle of socio, economic and cultural rights of the Marange community. One of these violations was the forced displacements of the Chiadzwa community from their ancestral lands of kith and kin to Arda Transau farm in the Odzi area (Madebwe et al., 2011:292). In October 2008 – (late) President Mugabe deployed the army through a brutal exercise dubbed *Operation Hakudzokwi* ('*You will not return*') (see Maguwu, 2013) to drive away illegal miners from the Chiadzwa diamond fields. The state's repressive state apparatus was utilised in form of deployment of direct force and coercion by the police and military to suppress illegal

diamond mining activities in Marange diamond fields (see Human Rights Watch, 2009; Katsaura, 2010).

Following the crackdown, there was massive bloodshed as many artisanal miners and the transient community lost their lives during the savage onslaught. It is worrying to note that little is known about the actual figure of people who lost their lives due to the lethal force deployed by the military, police and state security agents. The Human Rights Watch reports that more than 200 people were killed during the military clampdown (Human Rights Watch, 2009:3). Following this violence, an emerging corpus of literature on human rights violations in Chiadzwa has been on the rise (see, Hove et al. 2009; Katsaura, 2010; Maringira and Masiya, 2016; Nyamunda, 2012). It is important to note that academic researches on human rights violations were sparse and few in the early years of the diamond mining in Chiadzwa with only think tanks and research organisations being at the fore. This was partly because of the fear of the state which arrested human rights researchers and defenders for example Farai Maguwu (Amnesty International, 2010). Significant to note is that there was a motive in the use of violence in the Chiadzwa diamond mining area. The Global Witness (2010) reports that the major reason for the violence was to seize control of the diamond fields by the ZANU-PF government and the military elite.

There is no denying that the security forces played an instrumental role in perpetuating fear and violence in the Chiadzwa community by introducing curfews. Furthermore, the Human Rights Watch (2009) reports that the military was involved in many brutal activities such as killing, torture, rape of the illegal diamond miners and members of the surrounding community. However, such grave violations of human rights in the Chiadzwa have received little attention from the state media and the police to the extent that until now, less is known about what actually transpired. To make matters worse, the government has remained silent about the human rights violations committed in Marange diamond fields in 2008. Until now, soldiers and other security agents who killed the innocent civilians in the Chiadzwa atrocities have never been prosecuted or held accountable for the crimes against humanity. It may be that all these episodes all deserve a Commission of Inquiry or can be addressed by a TRC.

Although much has been written about the militarisation of elections in the 2008 and post-2008 era (Alexander and Tendi, 2008; Ndlovu-Gatsheni, 2009; Masunungure, 2011; Sadomba, 2011), the corpora of research on the violations in the diamond mining areas (Maringira and Nyamunda, 2017; Nyamunda and Mukwambo, 2012; Nyamunda et al. 2012; Katsaura, 2010; Maringira and Masiya, 2016; Hove et al. 2014) have not received sustained attention in comparison to the former. (Human Rights Watch, 2009; Global Witness, 2010). Again, these human rights violations in Chiadzwa/Marange area have received marginal attention in the current NPRC discussions, yet they are crucial in any peacebuilding effort considering that several victims and survivors were subjected to state violence, hence are still hurting and searching for post-conflict justice and closure. This section specifically examined the causative effects, nature and forms of violence and how the politically dominant infrastructure of violence has bred the need for justice, healing, accountability and reconciliation through a temporal and spatial frame. The episodes of Chiadzwa also points to the need for a TRC (in this case, NPRC) to look into the atrocities, including identifying victims and perpetrators and looking into how justice can be sought as part of the mandate of the NPRC.

3.13 Conclusion

The aim of the chapter was manifold. The first part reviewed literature related to TJ and TRCs from a global perspective. The discussion touched on the extant global and regional debates on TRCs, explaining their efficacy – lack thereof as well as why they emerge (contextual framing). A discussion of the Zimbabwean context followed. In the latter, I examined the Zimbabwean literature on TRCs, which is strictly speaking an embryonic area of research. In doing so, I also touched at length with the historical quest to establish a TRC based on the early and current scholarly works of Zimbabwean scholars. In the whole, the chapter sets the tone for the entire thesis by situating the current study on Zimbabwe within the global and regional literature on TRCs.

The chapter also looked at the reasons (rationale) for a TRC in Zimbabwe. Drawing on insights from the literature, the chapter argued that Zimbabwe has experienced various episodes – if not cycles of violence thus warranting the need for a TRC that goes at the heart of addressing such in the interest of seeking justice, closure and healing to the

victims and survivors. The chapter looked at particular episodes including the early years following independence (1980) onwards, the mid -1980s – 1990s decade and the 2000 decade. In the later years, I examined the violence associated with elections – political violence, violent land reform programme and the violence that was wrought by the discovery of diamonds in the Chiadzwa diamond fields. All these episodes of violence points to the need to have a genuine NPRC which attends to these episodes. The next chapter examines the development and functions of the NPRC in Zimbabwe post-2008.

Chapter Four: Politics of Reconciliation and the NPRC in Zimbabwe

Each context, like each country or each conflict, is different. In the immediate aftermath of a settlement after violent conflict - during the transition from violence to peace - there is usually a unique set of factors present that together affect the ease with which the necessary but painful issue of reconciliation can be tackled (Bloomfield et al., 2003:40).

4.1 Introduction

This chapter specifically discusses the politics of reconciliation, focusing on the trials, failures, successes, as well as the formation, rationale and inner workings of the NPRC since the inception of the new constitution in 2013. The Zimbabwean case develops from the previous chapter (Chapter 3), which provided an in-depth though certainly non-exhaustive contextual background of the inner functioning and limitations of TRCs in other contexts elsewhere owing to their clear diversity spanning from Africa, Latin, South and Central America and Asia. This current chapter traces the origins, development and functioning of NPRC in Zimbabwe. To answer the research *question, how has the NPRC functioned post-2013 general election in Zimbabwe?* The chapter critically analyses various legal frameworks, namely the NPRC Bill, the NPRC Act and the 2013 Constitution of Zimbabwe.

It also examines the formation, development, composition, structure, and independence of the NPRC. The chapter further analyses the challenges militating against the effective implementation of a national reconciliation process drawing from the research findings. This is the first empirical chapter of the thesis, and by its nature, form and content, it sets the tone for an extended empirical discussion of the NPRC in Zimbabwe. The chapter is arranged as follows: In the first section, I discuss the politics of reconciliation, the consummation of the idea of the NPRC through the inter-party negotiations which birthed the Unity Government in 2009. After that, I map the legislative processes and framework underpinning the formation of the NPRC before engaging in arguments on the role, effectiveness or lack thereof of the commission. The chapter concludes by interrogating whether the NPRC has managed – if so and how – to

effectively set in place an enabling framework for seeking justice, truth, justice, historical accountability and reconciliation in contemporary Zimbabwe.

4.2 Politics of Reconciliation Since 1980: A Historical Context

This section discusses the politics of reconciliation in post-colonial Zimbabwe to contextualise the emergence of the NPRC. The violence that was wrought by colonialism, followed by the tumultuous years of the protracted liberation struggle, which culminated in independence in 1980, left the newly-independent Zimbabwean nation-state fractured. To further complicate matters, the 1980's trajectory of violence presented the country with insurmountable challenges in seeking to chisel a more comprehensive reconciliation model that would restore peace, justice, forgiveness, accountability, reparation, and national healing in line with the Lederachian view of sustainable reconciliation (see Lederach, 1997).

Judging from previous failed attempts at reconciliation and rightly so, a wide range of scholars observe that Zimbabweans have continuously used dialogue as a tool to search for a suitable though elusive TJ model (see Machakanja, 2010; Murambadoro, 2014, 2015, 2017; Hapanyengwi-Chemhuru, 2013). This search and yearning for justice, accountability and reconciliation has been elusive for over three decades now. Whilst this search has been elusive, we are reminded by scholars that a fine balance between truth, accountability, reconciliation and reparation yields in sustainable peace and genuine reconciliation (see TARR model by Weitekamp et al., 2006). This is the case, though the government initiated several reconciliation efforts with varying degrees of commitment and 'success'. Instead, these political transitions were founded on amnesties that failed to lay a robust foundation for an enabling institutional or legal framework for a sustainable and holistic TJ. From this premise, it will be correct to note that earlier attempts at reconciliation were critically flawed.

In post-independence Zimbabwe, the government adopted the 'policy of reconciliation', which was advocated by then Prime Minister – Robert Mugabe (Muzondidya, 2004). In his inaugural speech on the eve of independence in 1980, he urged citizens from across the ethnic, racial and political divide to 'let bygones be bygones' (see Mashingaidze, 2010:22) and to 'draw a line through the past' (see Huyse,

2003:34; Flower, 1987, cited in Carver, 1993:71). This speech was a call for national reconciliation through forgiving and forgetting the past. Such a reconciliatory tone famed for its 'let bygones be bygones' mantra meant that human rights violations committed during the liberation war in the 1970s by warring parties were not to be investigated. Neither was the truth of the atrocities going to be uncovered.

This sweeping of past episodes of violence under the carpet in the spirit of forging unity and avoiding dealing with the unpleasant past meant that the country's TJ process was premised on a wrong footing. This was so since the conception of independence was laden with forgetfulness, the desire to see social cohesion and a promise of a new future which transcended the racial divide. In the same vein, Ncube (2015:19) contends that the reconciliation mantra has been frequently used in post-colonial Zimbabwe to put a lid on the government's human rights abuses. To illustrate the above, Ncube further argues that Mugabe's speech 'laid the foundation for the culture of impunity that bedevils Zimbabwe to this day' (Ncube, 2015:29). This means that the first attempt at reconciliation was premised on forgiveness rather than confronting human rights' transgressors (Eppel, 2004; Mashingaidze, 2010).

Notwithstanding the above, there is much debate on whether Mugabe's reconciliatory tone translated into a reconciliation policy, the argument is neither here nor there. To a generality of critics, such was seen only as a symbolic gesture and not a policy. I, however, contend that the reconciliatory tone went beyond the symbolic realm as attested in how Mugabe incorporated members from the erstwhile colonisers in his first cabinet. In 1980, Mugabe 'appointed ZAPU leaders and whites to his cabinet' (Kriger, 2003:308). Whether this was driven out of the need for genuine reconciliation or whether he wanted these officials to impart the art and knowledge of statecraft to his new cabinet and bureaucracy could also be a possibility. This relates to the inclusion of white cabinet ministers. Whatever the rationale and thinking behind this move, Mugabe depicted a sense and a certain level of magnanimity. This magnanimity then demonstrated the newly independent state's desire and stance towards national reconciliation by working with his political rivals and nemesis.

A prevalent and credible critique of the reconciliation process carved during 1980 in Zimbabwe is its elitist approach. This claim can be evinced by the reconciliation of political adversaries at the national level between the Smith-regime and the new government in 1980, ZANU and ZAPU Unity Accord in 1987. This trend was also reproduced in the later years, as evidenced in the Global Political Agreement of 2009 between ZANU-PF and the two MDC formations (see Du Plessis and Ford, 2009; Murambadoro, 2015). In this regard, reconciliation between the political players represents what Clark (2014:304) terms 'negotiated reconciliation'. For Clark, such a version of reconciliation is the most extensive post-conflict settlement often adopted throughout the world (Clark, 2014:304). Such 'negotiated reconciliation' has been adopted in post-colonial Zimbabwe to mend broken relationships with political antagonists.

It is a truism to state that the elite-imposed reconciliation from 1980 to the 2008 unity government in Zimbabwe had negative implications for the reconciliation project since it has not resolved the much-desired victim-centred justice and accountability of perpetrators. In the latter case, it was a product of a negotiated deal between political parties and institutions formed therein. Ndlovu-Gatsheni (2003:117) adds that the unity pact between ZANU-PF and PF-ZAPU was elite-driven and was devoid of the input of the general citizenry. In the eyes of Murambadoro (2014:37), this amounts to what she terms as the 'politicisation of reconciliation'.

Drawing on the above scholarly perspectives and guided by historical events, one can notice that Zimbabwe's reconciliation projects have been institutionally driven rather than people-driven. Various institutions and commissions formed in post-colonial Zimbabwe attests to the above claim. As Ndlovu-Gatsheni and Benyera (2013) note, between 1979 and 2014, the government used three mechanisms such as amnesia, Commissions of Inquiry and amnesty to address the emotive issue of reconciliation and justice. Notably, for the past four decades, Zimbabwe could not constitutionalise a TRC, let alone initiate programmes that promote national healing in fragile communities. That the government failed or was unwilling to institute such a commission is worrying considering the groundswell of public demands for a national reconciliation process that

would address the nagging issues of impunity, repeated violence, and human rights atrocities committed in the previous years and decades.

As mentioned in the literature review in Chapter 3, the dominant scholarship on reconciliation in Zimbabwe generally agree that the country is confronted with numerous challenges that stall efforts of reconciling the fractured society. This is best described by Raftopoulos (2008: v) as 'Politics of political reconciliation for Zimbabwe'. Similarly, Murambadoro (2014), in an article entitled '*The Politics of Reconciliation in Zimbabwe: Three Times Failure – Will the Fourth Time Count?*' makes a critical analysis and appraisal of the reconciliation efforts since 1980. The study clearly spells scepticism of the reconciliation question given the failure of the first, second and third projects of reconciliation to proffer justice to the victims and survivors and bring historical accountability for crimes committed between 1980 and 2014 when the study was published. It has not helped the situation that the Zimbabwean state has failed to address the recurrent violence that has come to characterise election seasons.

Fast forward to 2017, President Mnangagwa's inaugural speech, which was premised on letting bygones be bygones, was a rendition of an earlier script. Such a tendency or rhetoric which perpetuates a cycle of impunity for perpetrators of human rights violations has a far-reaching history within the country dating back to 1980. It is also evident in post-2008 electoral violence, the post 1 August killings in 2018 and the January 2019 killings. On the latter, members of the military part of the repressive state apparatuses (Althusser, 1971) who killed unarmed civilians were never brought to book. The complicity by a range of actors, from the executive, police, judiciary and the army, also underscores how it has been difficult to demand for justice in the context of a repressive state apparatus to use Althusser (1971)'s view on the state. From the above evidence, we also discern that there has been no aberration but a continuity of impunity to those implicated in perpetrating various forms of violence in post-colonial Zimbabwe.

4.3 Seeding the Idea of Reconciliation in Zimbabwe: Episodes of 2008 Election Violence

The March 2008 harmonised elections held in Zimbabwe were generally described as free and fair by regional and local observers (EISA, 2008; Ploch, 2008) as it passed the

legitimacy test as provided for in electoral laws. Muzondidya (2010:16) observes that the period leading to the March plebiscite witnessed low cases of violence and overt intimidation. The situation, however, differed with the botched June run-off elections, where the regime utilised both the ideological and repressive apparatus (Althusser, 1971) to 'win' the run-off election. This was exemplified in the orgy of violence in the lead up to the polls. Consequently, the poll failed to meet the 'free and fair criterion' as compared to the previous March 2008 elections. It is plausible to argue that the Southern Africa Development Community (SADC)'s intervention and the subsequent reforms in electoral laws necessitated the conduct of relatively free, fair and credible elections in March 2008. SADC pressurised political parties, ZANU-PF in particular, to cede to electoral reforms to eliminate the contestation of electoral outcome as well as electoral violence (see Mwonzora, 2014). As such, the ZANU-PF party specifically avoided overt violence and human rights abuses to avoid a crisis of legitimacy. This is arguably one of the conditions that necessitated the holding of relatively free and peaceful elections in the first round of the harmonised plebiscite.

The intense pressure from SADC and the two MDC factions necessitated the adoption of the '2005 SADC Principles and Guidelines governing democratic elections'⁵ which was agreed in Mauritius in (2004). As such, the March 2008 elections were conducted in strict accordance with the guiding principles of SADC. This substantially created a level playing field a deviation from the previous setting that was tilted or skewed in favour of the incumbent. By and large, the adoption of these reforms enhanced the transparency of the election management body – Zimbabwe Electoral Commission (ZEC)'s management of the electoral process and, subsequently, the credibility of the electoral outcome.

Therefore, the elections of March 2008 became historical considering how the opposition political party-MDC-T garnered more parliamentary seats and presidential votes, defeating the incumbent party-ZANU-PF for the first time since independence (see ZESN, 2008:45). Masunungure (2009:80) rightly observes that the second-round

⁵ See SADC Principles and Guidelines Governing Democratic Elections adopted in Mauritius in 2004

elections were 'marked by several peculiarities'. It was the first time in the history of Zimbabwe to conduct a run-off election since the attainment of independence. The other distinctiveness was that the announcement of the outcome was inexplicably delayed by the Zimbabwe Electoral Commission (Masunungure, 2009:80). The delay is also attributed to how Mugabe and ZANU-PF party effectively controlled all the electoral machinery and state apparatus. In the first round of presidential elections, Tsvangirai failed to garner an absolute majority to win the presidency. Hence, a constitutionally mandated re-run of the elections was unavoidable since Tsvangirai had won 47.9% of the vote, whilst Mugabe obtained 43.2 % (Badza, 2008; ZESN, 2008:51). Tsvangirai's victory was not enough to prevent a run-off since Zimbabwe's electoral laws require a 50 plus one vote (50+) threshold to be declared the winner in any presidential election (Mlambo and Raftopoulos, 2010; Reeler, 2009; ZESN, 2008).

After losing the elections to the opposition, Mugabe's regime deliberately deployed retributive violence and terror to opposition supporters with the operation code-named *Mavhotera Papi* 'Who did you vote for' (Sadomba, 2011:229; Ndlovu-Gatsheni, 2009:24) a well-coordinated and choreographed crackdown on the opposition support base. The targeting was, in a way, a witch hunt to punish those perceived to have voted for the opposition MDC-T in the March 2008 elections. This was evident in the dynamics and unfolding of the violence, which systematically targeted opposition sympathisers and 're-educating' them about the liberation struggle.

A victim of 2008 violence who lost property during the run-off period chronicled the horrendous episodes in the following words:

I was an MDC-T activist in 2008. I was tortured once by ZANU-PF supporters. I then left my home with my family and had to seek refuge at my sister's place in Murehwa. I only came back to Mutoko after the run-off elections. When I arrived home, I was shocked to see that my kitchen, two huts, including a granary and the main house, were burnt. I lost all the property and grains that were inside (Interview with anonymous victim 2 in Mutoko 9.11.2019).

The victim also narrated that some opposition supporters' hands were chopped off in what the perpetrators (ZANU-PF youth militia, war veterans and party structures and officials) termed as 'short and long sleeve' (Interview 2019). He further mentioned that:

The hands were cut from either the elbow or wrist. Some MDC supporters lost their livestock including goats, cattle and chicken during the peak of the 27 June election campaigns. Some were tortured, assaulted and forced to chant ZANU-PF slogans at night bases (Interview 2019).

Significant to note is that in this particular election, traditional hot spots of violence like Mashonaland East province and Mashonaland Central experienced the worst encounters of politically motivated violence. Those who were deemed to have voted for the opposition party were disfigured, and 'some had their limbs cut off' (Hapanyengwi-Chemhuru, 2013:87). Therefore, such nerve-racking experiences necessitated discussions of national healing and reconciliation after the formation of the GNU a theme that I will discuss later.

As such, it appears that the June 2008 electoral violence marked one of the gravest political violence and human rights abuses in the history of elections in Zimbabwe. Following the violence, which left plus or minus 300 opposition supporters dead and 200 000 people displaced, the opposition leader Tsvangirai withdrew from contesting in the flawed election (Badza, 2008; Reeler, 2009). The opposition leader withdrew his candidature on the justifiable grounds that violence against his supporters had reached alarming levels, and this proved that it was nearly impossible to hold credible elections under such a political climate (Eppel, 2013:211). In his own words – now late MDC-T leader said – *'I don't want to walk to State House over the dead bodies of fellow Zimbabweans'* (Alex Magaisa, *Newsday*, 16 February 2018). By such claims, he was against contesting and even winning the presidency at the cost of human life. Whilst, the opposition voiced such reservations, Mugabe went on to ignore SADC's call to postpone the elections and ran the elections uncontested and declared himself a winner with an 'unprecedented 85 % of the vote' (see Badza, 2008:3; Simpson and Hawkins, 2018:204).

This inconclusive 2008 June run-off presidential election, therefore, led to international condemnation stoking a legitimacy deficit on the Mugabe regime. This

subsequently led to negotiations that ushered in a power-sharing government in 2008 a discussion that follows below. Mapping the events which culminated in the formation of the inclusive government is more important in situating the consummation of the NPRC, as we will see in the discussion that follows.

4.4 The 2008 Global Political Agreement (GPA) as a Transitional Mechanism

Zimbabwe's prolonged political crisis led to the negotiations that eventually culminated in a power-sharing agreement between the incumbent government of ZANU-PF and the two MDC factions. Such negotiations were facilitated and mediated by then South African President Thabo Mbeki on behalf of SADC to resolve the political impasse emanating from disputed elections (see Du Plessis and Ford, 2009). The intervention and mediation came as a result of intense pressure from the African Union (AU), SADC and the international community on the need for Zimbabwe to find a solution to the political and economic crisis. The former political nemesis - ZANU-PF and the two MDC factions signed a landmark power-sharing deal on the 15th of September 2008. The coalition agreement was signed by President Robert Mugabe (ZANU-PF), the late Morgan Tsvangirai (MDC-T) and Professor Arthur Mutambara (MDC). This eventual arrangement provided a 'cooling off' period, which also provided hope for the realisation of some level of democracy and TJ in Zimbabwe. In summary, the Government of National Unity (GNU) was expected to immediately salvage the volatile political and economic situation.

Furthermore, it was also regarded by many scholars, TJ practitioners, politicians and human rights activists as a temporal vehicle to attain reconciliation. In actual fact, the GNU presented 'Zimbabwe's third opportunity for national reconciliation' (Madenga, 2017:131). In 2008 and after, the government took positive steps to foster peace, as evidenced by the provision of legal frameworks for reconciliation and the creation of the NPRC. This set the tone for a need for reconciliation. Though existing advocacy efforts by CSOs were already underway for the previous years, the signing of the GPA culminated in the constitution-making process, which I will discuss in some sections of this chapter.

The political stalemate of June 2008 presented an opportune space to foster reconciliation. In pursuant to Article VII of the GPA, the Organ for National Healing and Reconciliation (ONHRI) was established in 2009. Clause 7.1C of the GPA (2008) affirmed the need for national healing, integration, and cohesion. Some studies (Dzinesa, 2012; Machakanja, 2010; Human Rights Watch, 2008a) have critiqued Article VII of the GPA for its deficits or defects. For instance, Machakanja (2010: 5) argued that 'Article VII does not represent an individual-friendly process but rather a politically-orchestrated national healing and reconciliation project'. Chiweshe (2016:22) notes that the political environment's polarised nature made national healing efforts almost impossible since discussions around violence were viewed as political expediency to discredit ZANU-PF. The ONHRI failed to achieve its mandate due to a lack of financial support and an overall lack of political will from the ZANU-PF party (see Mbire, 2011; Dziva et al., 2013).

The Organ for National Healing, Reconciliation, and Integration, which was provided for in the GPA, 'has not included any provisions for justice and accountability' (Human Rights Watch, 2011). This critique is consistent with the scholarly work of Machakanja (2010:4), who holds that fundamental keywords like 'reconciliation' and 'justice' were missing in Article VII of the GPA. One can then submit that ONHRI was inherently flawed from the outset, given that political parties with own selfish interests were tasked to lead a supposedly 'apolitical' and genuine national healing and reconciliation process. One does not need to belabour the point that party-political interests undermined prospects for effective national healing and reconciliation process during this era. It is illustrative to refer to the context. Noticeably during this period, MDC representatives were concerned more with advocating for a retributive justice approach to peace and reconciliation. In contrast, ZANU PF party representatives suggested RJ premised on forgiveness and amnesia. Such a politically engineered TJ project failed to redress the victims' concerns at the grassroots level in fragile communities. The following section discusses the constitution-making process and the demands for TJ in Zimbabwe.

4.5 Constitution Public Outreach Programme and Citizen Views on TJ in Zimbabwe

Article VI of the Global Political Agreement (GPA), which provided for the formation of the Government of National Unity (GNU), acknowledged that political parties should set up the Constitution Parliamentary Select Committee (COPAC) comprising of members of Parliament and representatives from CSOs. A *de jure* institution, COPAC was set up by the coalition government with a mandate to spearhead the process of crafting a new people-driven constitution and replacing the Lancaster House Constitution (Dziva et al., 2013:87). The inter-party committee launched outreach meetings throughout the country in June 2010 to solicit people's views on constitutional reforms (Bratton, 2011).

COPAC, like any other institution formed in the GNU era, had a tripartite nature. As such, three Co-chairpersons spearheaded the constitution-making process. These comprised Edward Mkhosi (MDC), Douglas Mwonzora (MDC-T) and Paul Mangwana (ZANU-PF). The COPAC secretariat comprised a 25-member team from Parliament. The composition was a balance of power from the major political parties. It comprised ten from ZANU-PF, eleven members from MDC-T, three from MDC, and one representative from the traditional leaders (Simpson and Hawkins, 2018: 260). It also had sprinklings from church, trade unions and traditional leadership. Coming from a trade union background, the researcher was privileged to participate as part of the outreach team and is thus privy to the discussions specifically focusing on TJ and past human rights abuses in Zimbabwe as vented by the public.

During the 2009 – 2013 constitution-making process, I was involved in the (COPAC) public outreach programme as a Rapporteur, a position that enabled me to traverse across the length and breadth of the Zimbabwean urban, rural, peri-urban, mining and farming communities. It was through such exposure that I realised how polarised the Zimbabwean community was regarding issues of TJ. This was besides the point that the meetings brought together bystanders, victims and perpetrators, and the Outreach Team (as neutral conveners of the constitution outreach programme). On this basis, though it was not a TRC, the programme was nonetheless a peacebuilding platform as it brought together different shades of the citizens to discuss various issues ranging

from proposals on the TJ mechanisms they desired to a whole range of other issues. On this basis, one can challenge the earlier scholarly view (Kohen, 2009), positing that the contact of victims, perpetrators and bystanders will usher in healing, forgiveness and reconciliation. Certainly, in the case of Zimbabwe at this particular time, this did not work.

As demonstrated in my experiences in the constitutional making process, such contact opened up fresh wounds, re-ignited feelings of vengeance, inasmuch as it brought acrimony. As part of ZANU-PF's obstructionism strategy, Operation *Chimumumu* (Operation Dumbness) was launched during the constitution-making process (see CISOMM, 2010:39). Perceived opposition supporters or more critical citizens, especially in ZANU-PF's strongholds, were instructed to remain silent during COPAC's outreach programmes. Furthermore, ZANU-PF went on a rampage to instruct and coach citizens on their party position, specifically on what they wanted to be included in the constitution (Dziva et al., 2013). All such actions by ZANU-PF accord with the theoretical lens adopted for the study that of repressive state apparatuses (Althusser, 1971) insofar as the incumbent controlled TJ's discourse and reconciliation to its own terms. Despite such repressive tendencies, the outreach programme yielded results when a constitution was overwhelmingly voted for through a national referendum. The above historical accounts are necessary to locate how the NPRC came to light, a discussion that I now turn to.

4.6 New Constitution and moves Towards Operationalisation of the NPRC in Zimbabwe

After intense political bickering during the constitution-making exercise, a people-driven constitution was finally voted for by an overwhelming majority in a referendum in 2013. For the first time in the country's history, the NPRC was constitutionalised with a mandate of ensuring post-conflict justice. To fulfil the demand for justice, reconciliation and peace, Part 6 Section (251) of the Constitution of Zimbabwe promulgated the establishment of the NPRC. The NPRC is provided for in Chapter 12 Section 232(e) of the constitution, which provides for the creation of independent commissions. The establishment of independent commissions resonates with the Paris Principles (United Nations, 2010) that provides for National Human Rights Institutions (NHRIs).

As we have seen in other contexts discussed in the previous chapters, several factors can trigger the formation of TRCs. However, in most cases, TRCs are established following tumultuous periods of conflict and human rights abuses and enforced disappearances, as was the case in Peru, Chad and Ghana, among others. In Zimbabwe, this was similar though not the exact background upon which the NPRC was founded. Though previous episodes of violence inspired the formation, it can also be argued that the NPRC came into life as a by-product or set of conditions of a political settlement package as encapsulated in the negotiations of the Global Political Agreement. This finding is consistent with that of Long (2008) and Ojielo (2010), who found out that TRCs can be incorporated in truce making. Liberia's Truth and Reconciliation Commission was instituted in 2006 pursuant to the Comprehensive Peace Agreement signed to end the 14-year civil war (Long, 2008; Ojielo, 2010). This was also the case in Sierra Leone. A peace agreement popularly known as The Lomé Accord of 1999, which was signed to end the civil war (Bosire, 2006:8), incorporated clauses that paved way for the formation of a TRC. As observed by Zvobgo (2019), TRCs can be formed owing to a dual-party agreement entailing that warring parties can decide to establish a TRC as part of the peacemaking or as conditions contained in an armistice. The same resonates with the conflict between the opposition MDC formations and ZANU-PF and how this resulted in the inclusion of the demands for the establishment of the NPRC during the GNU era. The following sections discuss the development of the NPRC and the varied legal frameworks that form its basis.

4.7 The Development of the NPRC in Zimbabwe since 2013

This section examines the legal framework underpinning the institutionalisation and functioning of the NPRC in Zimbabwe. As noted in the sections above, the new Constitution of Zimbabwe adopted in 2013 embodied a clause relating to post-conflict justice and reconciliation, which subsequently gave birth to the NPRC. Various legal frameworks provided the legal basis for the operationalisation of the NPRC since 2013. The new Constitution Amendment (No. 20) Act 2013 and the NPRC Act Chapter 10:32 of 2018⁶ enacted vital sections defining the commission's function. In accordance with these

⁶ National Peace and Reconciliation Commission Act [CHAPTER 10:32] was gazetted on 5th January 2018

legal provisions, section 251 of the constitution culminated in the creation of the NPRC. It is crucial to mention that the promulgation of the NPRC was a culmination of concerted advocacy efforts by CSOs, the general citizenry and faith-based organisations dating back to as far as 2003.

Crucial to note is that for any TRC to operationalise, there should be a legal basis that outlines the mandate and specifies the commission's functions and objectives. This forms the legal basis for Zimbabwe's own NPRC. It is generally noted that the mandate of a TRC is 'provided for in a piece of legislation, a peace agreement, or an executive decree' (Public International Law and Policy Group, 2013:4). For example, the Chilean TRC was established by President Aylwin in 1990 through a presidential Supreme Decree No. 355 (Minev, 2008:13). In Zimbabwe, the NPRC Bill, first gazetted by the government in 2015 and, finally, in 2018, provided a legal basis for the commission to implement its mandate (Heal Zimbabwe Trust, 2016:2). The NPRC Bill of 2017⁷ was the successor of the NPRC Bill of 2015, which was widely criticised by many pockets of the society for lacking fundamental issues, including but – not limited to – a blurred mandate, deafening silence on gender issues and lack of provisions of victims' support (NTJWG, 2017:5). The NPRC Bill of 2017 was expected to set the tone for truth, reconciliation, justice and national healing in Zimbabwe.

Given this background, in this discussion I evaluate the NPRC Bill, NPRC ACT, and Section 252 of the constitution to ascertain whether such provisions reflect on a comprehensive TJ framework that could uncover the truth, provide accountability mechanisms, realise post-conflict justice and foster national reconciliation in Zimbabwe. As such, the evaluation will uncover the ambiguities and loopholes of the constitutional provisions and how they will affect the functioning of the NPRC and, ultimately, the realisation of post-conflict justice. I am of the view that it is crucial to critically analyse the functions of the NPRC as provided in the enabling laws to measure the prospects or failure of the commission in fulfilling its constitutional mandate.

⁷ The National Peace and Reconciliation Commission Bill, H.B.2, 2017 (hereafter NPRC Bill).

Admittedly, the adoption of the new constitution marked an important phase with regard to the establishment and functioning of the NPRC in Zimbabwe. It gave the legal effect to the embedding of the NPRC in the Zimbabwean legal framework. The 2013 Constitution provided for the establishment of the NPRC 'with an overarching mandate to realise post-conflict justice, peace, healing and reconciliation' (NTJWG, 2018:7). The NPRC is one of the crucial independent commissions that were provided for in the new constitution agreed on in 2013.

Section 251 states that:

(1) For a period of ten years after the effective date, there is a commission to be known as the National Peace and Reconciliation Commission consisting of - (a) a chairperson appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders:

and (b) eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.

Despite the promulgation of the NPRC in the constitution, the ZANU-PF led government took nearly five years to establish an enabling law to operationalise the NPRC (see Murambadoro, 2019). Ms Dorcus Chishumba, a peace practitioner, enunciated that 'the NPRC has been established for more than five years or so, but they have done nothing in terms of what they are really there for. They are not really fulfilling their mandate' (Interview 15.10.2020). Utilising the Place of Reconciliation conceptual lens (Lederach, 1997), it's proving to be clear that the mere establishment of a TRC (or whatever name used) does not necessarily mean that peace, justice, mercy and truth will be realised. To achieve all this according to the Lederachian view, there should be genuine as opposed to cosmetic processes.

In terms of the work of the NPRC, much leaves to be desired. As noted by one CSO, the NPRC did waste much time conducting hearings of the NPRC bill in 2016 and 2017 (see Heal Zimbabwe Trust, 2018). This also means that the commission delayed when it was supposed to do other programmes. It was only in 2018 that the incumbent President Mnangagwa signed the NPRC Bill to give legal effect to the operationalisation

of the NPRC. It will not be far off the mark to suggest that the TJ and reconciliation processes have been moving at a snail's pace. After the enactment of the law in 2018, the NPRC commenced provincial consultative meetings in order to formulate a strategic plan. However, despite such efforts, the NPRC had not yet achieved something tangible at the time of the completion of this study in 2021 with regards to fulfilling the building blocks of TJ like truth-telling, accountability, reconciliation and accountability advocated for in the TARR model by Wietekamp et al (2006). This accords with my earlier observations which showed how some TRCs may fail to fulfil their mandates due to state obstructionism, amongst other reasons.

Strictly speaking, Zimbabwe's quest for justice presents a no end in sight situation because the NPRC cannot be expected to fulfil its mandate with the two years left to wind up its operations as stipulated by the law. This is considering the fact that section 251 of the constitution stipulates that the NPRC should function for ten years. A more critical point, though, is that there is confusion as to when the NPRC should commence its 10-year lifespan. This has been a point of conflict among the generality of citizens, CSOs, analysts and politicians. The Herald's Leroy Dzenga interviewed one of the NPRC commissioner's Dr Geoffrey Chada, in 2018, and he reportedly said:

There is no agreement yet as to when the 10-year period really starts. The questions to be answered are: Did the 10-year period start in 2013 when the constitution was signed into law? Did the 10-year period start when the commissioners were sworn in on February 24, 2016, or did it start on 5 January 2018, the day the NPRC was gazetted? The commissioners are waiting for finalisation on this matter (*The Herald*, 03 February 2018).

The issue of tenure of TRC has been the subject of enquiry among scholars and citizens alike. The subject has also been an issue of concern even within the NPRC itself. This is echoed in the sentiments expressed by Commissioner Reverend Masunungure, who in an interview conceded that:

The question of the commission's tenure is really an issue owing to various interpretations. Since Commissioners are assuming that the effective date of the Commission is the year 2013, that means there are few years left to the end of the

tenure. But assuming that the Supreme Court upholds Justice Mafusire's case of a Masvingo High Court, the NPRC's tenure will end in 2028. However, working in the space that is there the strategic plan of 2018 to 2022. Therefore, we are working as if we are winding up. The strategic plan is the one that guides us. The 5yrs, and within those five years, we are going to ensure that we follow the set parameters, that is why we have been dealing with the past component (interview 10.12.2020).

The Commissioner's remarks is evidence that the NPRC has wasted 5 years without any truth-telling and justice measures.

The work of the NPRC is not without a constitutional basis. Section 252 of the Constitution of Zimbabwe and the NPRC Act broadly spelt out a number of investigative functions and activities that the commission should implement to achieve post-conflict justice. The core functions of the NPRC are summarised as post-conflict justice, truth-telling, dialogue facilitation, reconciliation, social cohesion, healing and conflict prevention as outlined in the constitution. Before analysing the structure of the NPRC, it is crucial to, first of all, make a general review of the NPRC's functions as provided in the constitution. The following section provides the functions of the NPRC as enshrined in the constitution.

4.8 Section 252 Functions of the National Peace and Reconciliation Commission (NPRC)

The core functions of the NPRC are to facilitate post-conflict justice and peace in Zimbabwe. These functions have been stipulated in the constitution adopted in 2013. It clearly stipulates that The National Peace and Reconciliation Commission has the following functions-

- (a) to ensure post-conflict justice, healing and reconciliation;
- (b) to develop and implement programmes to promote national healing, unity and cohesion in Zimbabwe and the peaceful resolution of disputes;
- (c) to bring about national reconciliation by encouraging people to tell the truth about the past and facilitating the making of amends and the provision of justice;

(d) to develop procedures and institutions at a national level to facilitate dialogue among political parties, communities, organisations and other groups in order to prevent conflicts and disputes arising in the future;

(e) to develop programmes to ensure that persons subjected to persecution, torture and other forms of abuse receive rehabilitative treatment and support;

(f) to receive and consider complaints from the public and to take such action in regard to the complaints as it considers appropriate;

(g) to develop mechanisms for early detection of areas of potential conflicts and disputes, and to take appropriate preventive measures;

(h) to do anything incidental to the prevention of conflict and the promotion of peace;

(i) to conciliate and mediate disputes among communities, organisations, groups and individuals;
and

(j) to recommend legislation to ensure that assistance, including documentation, is rendered to persons affected by conflicts, pandemics or other circumstances.

The NPRC created different departments to make sure that the aforementioned functions and mandate are fulfilled. The following departments were created:

Victim Support, Diversity and Gender; Conflict Prevention, Management, Resolution and Transformation; Research and Knowledge Management; Complaints Handling and Investigations and the Healing, Reconciliation and Rehabilitation department. These departments seem to be functional and necessary for promoting inclusive healing and prevention of conflicts in Zimbabwe. The functions of the aforementioned departments include conducting research on the causes of conflicts and storage of the information, receiving and processing complaints, support and facilitate victims' engagement to create safe spaces, facilitate conducting of public hearings for victims and offenders at various levels (NPRC report, 2019:6-13). Although the various departments have been doing some preparatory work, it appears as though the commission is mainly focused on cascading peace in communities instead of commencing public hearings for truth-telling and victim-centred justice. For example, the department responsible for conducting

hearings in communities has not commenced its work. However, an employee of the NPRC who chose to remain anonymous noted that:

The Commission is going to roll out public hearings soon. We have been engaging with all stakeholders like the government, political parties, parliament, youth and women groups. That is what the Commission has been doing from last year for political will and buy in of stakeholders. It was also necessary for stakeholders to understand the Commission and where they are going, that's what is important before you roll out truth-telling processes (Interview with anonymous NPRC employee 28.10.2020).

The issue of rolling out public hearings has been affirmed by Mr Joseph Mashingaidze, the General Manager, Conflict prevention, Management Resolution and Transformation of the NPRC. Asked whether the NPRC will engage in truth-telling, victim-centred justice and public hearings, he said the following:

We are certainly going to conduct public hearings; we have a lot of lessons to learn from what happened in Sierra Leone and South Africa, but we are not using that as a benchmark to conduct our own hearings. Our hearings will be conducted in the context in which Zimbabweans desire the hearings to be, so what we have done at the moment is that we have just completed rolling out of a nationwide consultation process to gather what stakeholders require in terms of the manner and form in which the hearing process is going to take (Interview 15.12.2020).

For now, it remains to be seen whether the NPRC will fulfil some of these promises and expectations, especially when it winds up its operations in the years to come.

4.9 Debunking the TRC Process in Zimbabwe

This section provides the general precept of the NPRC. Looking at the objectives of the NPRC as spelt out in both the NPRC Bill and the 2013 Zimbabwean constitution, it is discernible that the Commission is futuristic in its programming rather than retrospective insofar as redressing the past human rights injustices and the deeply embedded conflicts which have been recurring in post-colonial Zimbabwe. This is in respect to 252 Sections (d), (e), (f), (h), (i), and (j) of the Constitution of Zimbabwe. Such inherent shortcomings will affect the functioning of the NPRC and, ultimately, the attainment of truth-based

reconciliation and victim-centred justice in Zimbabwe in accordance with the Lederachian view which espouse the meeting of justice, truth, peace and mercy to achieve sustainable reconciliation (see Lederach, 1997). Commenting on whether the NPRC is well capacitated to address the reconciliation conundrum, Dr Maregere observed that:

Most commissions are backwards-looking and then they provide recommendations for the future. But for the NPRC, it seeks to be backward-looking and at the same time dealing with contemporary issues, and it wants to deal with the future (Interview 22.11.2019).

This revelation in itself points to the fact that the NPRC has been a bit over-ambitious in its timing.

In addition, looking at the framing of the objectives of the NPRC (as they appear in the ACT) it is crystal clear that most, if not all, the objectives are merely aspirational and prescriptive as they are not solidified with explanations as to how they are going to be realised. Put somewhat differently, the Act does not clearly lay down the procedures to be taken in seeking to realise these objectives and, in particular, how they will contribute to addressing the fundamental issues of truth and justice. Again, in this regard, it is doubtful whether the current national reconciliation efforts will enable the confluence of justice, peace, mercy and truth in the Lederachian sense (see Lederach, 1997). It is clear that the Act paid no attention to one key component of reconciliation which is 'truth' provided in the 'Joinet / Orentlicher' principles (United Nations, 2005, 2010).

These principles provided four key elements that are crucial in dealing with the past (1) The Right to Know, (2) The Right to Justice (3) The Right to Reparation and (4) The Guarantee of Non-Recurrence (United Nations, 1997). All these principles have an overarching goal of achieving post-conflict justice by the use of TRCs. Judging from the work of the NPRC thus far, some of the Joinet principles appear difficult to achieve. This is also considering that the NPRC is operating in a highly repressive and securitised environment where the regime is also implicated in heinous human rights abuses. In accordance with Althusser's (1971) theoretical lens of the repressive state apparatus, it remains doubtful whether the Zimbabwean regime will at some point abide to the Joinet principles.

To give credence to this assertion, among other things, many respondents bemoaned the lack of preparedness of the NPRC to conduct truth-telling sessions. In an interview Dr Makwerere, a lecturer at Bindura University in the Department of Peace and Governance posited that ‘the NPRC will not deliver justice to the people’. He added that though ‘the NPRC launched an enabling Act and strategic plan in 2018 as of December 2019, no tangible deliverables were achieved, making it doubtful whether the NPRC deliver’ (Interview (14.12.2019)). Whilst, the respondent’s views might be spot on – I offer a caveat, that it is somewhat difficult to research an ongoing phenomenon like a TRC’s work in progress as some of the respondents’ views might be speculative. Hence, passing judgment on some of the programmes’ efficacy will only depend on thorough and objective assessment of the past and current trajectory.

Responding to a question on whether the Commission will achieve the truth-telling mandate, Mr Mandikwaza mentioned that the NPRC does not have a clear plan of action as to how the unspoken truth will be uncovered (Interview 23.08. 2019). A lack of such clear plan feeds into the theoretical and practical arguments raised by Lederach (1997), who viewed reconciliation through his – Place of Reconciliation lens – as a broader process involving not only one element but the considerations of peace, mercy, truth and justice. A cursory analysis of the events at the time of writing the thesis indeed revealed that the NPRC ought to promote peace and healing in communities without the desire to unearth the past and promoting truth-telling. Such an observation finds an echo and is corroborated in previous scholarly work. Writing in 2014, Benyera opined that ‘the NPRC will be used as a means to heal the nation more than to establish the truth’ (Benyera, 2014a:17). This claim by Benyera indicates that truth gathering processes are improbable if past events are to go by.

The apparent lack of specificity and clarity on how to navigate truth-telling and victim centredness either by design or by default leaves the objectives open to varied interpretation(s). Such loopholes make the achievement of post-conflict justice and reconciliation in Zimbabwe to be a contested terrain, especially among political actors who have different motives and interests in the national reconciliation process. Given this backdrop, one can categorically state that the regime is not being truthful in terms of its

commitment to reconciliation. It double speaks – speaking with a forked tongue. This is akin to indicating right and turning left. This then leaves one with no option to conclude that it is somewhat difficult – though not impossible to have a genuine reconciliation process under the new administration. This claim resonates with the apparent lack of contrition and political will to effect a genuine instead of a cosmetic, elite-driven and remote-controlled reconciliation process. Again, such political machinations in controlling the reconciliation narrative and trajectory is attributable to the use of both the ideological and state apparatus (Althusser, 1971) on the part of the Mnangagwa government.

Witness and victim protection remain an important component in the search for truth and justice in any post-conflict context (Zimbabwe Human Rights NGO Forum, 2015:2). One primary concern in the Zimbabwean context is that although investigative powers have been conferred to the NPRC through a legislative framework, there is absolutely no legal framework that protects or guarantees the protection of those who testify before the Commission. Consistent with claims in the literature, TRCs should provide safe spaces for victims and witnesses through witness protection and victim support programs (González and Varney, 2013:25-26). This is to ensure that they are not exposed to any danger like victimisation during and after testifying (Zvobgo, 2019). Among other loopholes like lack of clarity on its TJ trajectory, many respondents and critics of the NPRC have argued that an effective investigative TRC should guarantee the victims' safety to obtain credible information. This accords with the theoretical notion pursued in the TARR model which place salience in truth, accountability, reparation and reconciliation (Wietekamp et al., 2006:3).

Commenting on the first draft, NPRC Bill gazetted in 2015, the Heal Zimbabwe Trust mentions that 'it is of concern that the Bill, does not demonstrate how the NPRC will guarantee safety and protection...' (Heal Zimbabwe Trust, 2016:6). One respondent also shares this view. Mr Njeru, in an interview, stated that the challenge in ushering TJ in Zimbabwe is that there are no witness and victim's protection rights after testifying (Interview 2019). These claims are consistent with the recommendations proffered in the NPRC in its 2019 annual report in Zimbabwe. The Commission recommended the 'enactment of laws to protect victims and witnesses and ensure their access to services

which guarantee their safety and protection as well as ensure they receive rehabilitative support' (NPRC report, 2019: ix). These views are in accordance with and reflect those of Dancy et al. (2010), who suggest that adequate protection mechanisms are crucial for victims and witnesses to reveal all the stories and evidence that is necessary for justice delivery. This has been found to be a standard norm in TRCs elsewhere, including in South Africa, as noted by (Gobodo-Madikizela, 2003). The study of functions of TRCs requires us to look at several issues like nature, scope, mandate, structure and purpose of the commission. Before analysing the structure of the NPRC, it is crucial to look at the mandate of the NPRC in Zimbabwe.

4.10 The Mandate of the National Peace and Reconciliation Commission

It is a widely held view that the mandate of a TRC must outline precisely what it should do (Brahm, 2007: 30) and the means to how the specified goals will be accomplished (Shea, 2000:51). For González and Varney, 'every legal mandate that sets up a truth commission establishes: types of violations to be investigated; the time period to be examined; The parties to be examined and the territory where violations took place' (González and Varney, 2013:25). As such, Ayee (2016:244) notes that a mandate of a TRC is a legal framework or official document that guides the functioning of the commission. In Zimbabwe's case, the mandate of the NPRC is provided for in section 252 of the 2013 constitution and in Chapter 10:32, section 252 of the NPRC Act. These two legal documents guide how the commission should operate.

The mandate of TRCs describes the aim of the commission and the period expected to complete its work. There are a number of factors that are taken into account when determining the mandate of a commission. These factors include the motive behind the creation of a commission, availability of resources, the willingness of the incumbent government and generally political will (Public International Law and Policy Group, 2013:4). All these aspects are crucial in drafting the mandate of a TRC. As mentioned earlier in this chapter, the NPRC was established in the backdrop of unresolved historical injustices, including that of 2008 atrocities.

As a tradition of TRCs, the NPRC in Zimbabwe was tasked to promote reconciliation, healing and post-conflict justice (see Heal Zimbabwe Trust, 2018;

Government of Zimbabwe, 2013). Section 251 of the Zimbabwean constitution stipulates the timeframe that the NPRC should function. The NPRC's mandate is to spearhead post-conflict justice for 'a period of ten years after the effective date' (Government of Zimbabwe, 2013:105). Further to that, the NPRC set up its five-year strategy (2018 – 2022) to ensure sustainable peace, healing and reconciliation in Zimbabwe (NPRC strategic Plan, 2018:6)⁸. As outlined in the NPRC strategic plan, the Commission 'is mandated to ensure post-conflict justice, healing and reconciliation by encouraging truth-telling, the making of amends, the provision of justice and rehabilitative treatment (NPRC strategic Plan, 2018:12). This crucial document was a product of input from citizens from provincial consultations held by the NPRC from February to March 2018 across the country to envision how the commission should function (see NTJWG, 2018:8).

One striking feature to note is the mandate of the NPRC, which is too broad. A TRC should have a specific post-conflict epoch to focus on. Rather section (a) and (c) of the constitution and the NPRC Act stipulates that the Commission will ensure post-conflict justice and encourage people to tell the truth about the past without a clearly specified time period. This is despite the fact that 'a commission's mandate must be clear, concise and achievable in a reasonable time' (Bleeker, 2010: 35). The broad mandate of the NPRC cannot be achieved within the specified time. Further to that, there is a lack of specificity on the periodisation of the conflicts, particularly the vexing question of how far back the NPRC will seek to excavate past injustices. The complex question on periodisation of conflicts to be looked at has been discussed in the empirical chapter 6.

In carrying out its mandate, an enduring question is whether the Commission will be informed by the injustices perpetrated during the colonial era, or those emanating from the Gukurahundi atrocities, or from the 2008 electoral violence. After a historical trace of Zimbabwe's conflicts, one of the NPRC commissioners raised important questions:

We have inherited conflictual strengths that are converging, and they say, if you were the chairman of the Commission where would do you start, Mr Mwonzora when you are out there it's very easy to criticise, they are not doing anything, here is the commission, we are giving you 10 years we want you to ensure post-conflict

⁸ National Peace and Reconciliation Commission '5 Year Strategic Plan 2018 – 2022'

justice healing and reconciliation in Zimbabwe. How far back should we go back, should we start in the 1890s, 12 century should we start in 17th century, 1951, 1961, 1965 when Smith declared UDI, where do we start? I was in Uzumba, after the meeting we were just seating having lunch last year, one woman said Commissioner, I think you are going to look at the issues that happened during the liberation war, she said I suffered a lot of abuse during that time and I want your commission to address those issues...we start from 1980 or so you are saying only the Gukurahundi is an important issue, but we are not a Gukurahundi commission ,how about those people who were deprived in Chiadzwa, deprived of their resources, deprived of land, right now they are probably poverty-stricken, and they are getting nothing from the diamonds from Chiadzwa, and the families of the victims. You see how complicated the whole issues are (Interview with Commissioner Dr Geoffrey T Chada 16.12.2020).

The complex issue of time frame and mandate of the NPRC differs from other TRCs established elsewhere. A case in point is the Liberian TRC which was mandated to look specifically at human rights violations that occurred between (1979-2003) during a civil war (Long, 2008:4). But in a show of the character of the state and its use of the repressive state apparatuses (Althusser, 1971), even at the NPRC level – it does appear issues of Gukurahundi are not foregrounded. This also further raises concern whether, against such a backdrop, the hurting Zimbabwean nation-state will realise and achieve ‘truth, peace, justice and mercy’ as enunciated by Lederach (1997).

Although the functions of the NPRC in Zimbabwe seem appealing on paper, there remains a challenge of how the Commission will achieve its broad mandate. The specified functions show that the NPRC should be both backward-looking and futuristic in executing its mandate of seeking post-conflict justice. On this account, Dr Maregere noted that:

The mandate is so superfluous there are very few commissions; it could be the first one that was backward looking and forward-looking at the same time...., So that to me is a very broad, hazy superfluous mandate which is difficult to achieve. Even if you want to set the timeframe most commissions run for a period say they want to go back and look at, for example the Kenyan Truth, Justice and Reconciliation Commission (TJRC) I think it was from the 60s to the 2007- 2008, ours have no defined period that they want to look at, so you run the risk of trying

to bite a lot and not be able to provide the needs and interests of victims (Interview 22.11.2019).

Taking from the above arguments, a clearly stated mandate and timeframe is important for the success of any TRC.

Judging from the slow pace of operationalising the NPRC, many respondents were convinced that the commission was destined to fail in fulfilling its mandate if it remained on the same trajectory. It is fair to point out that the NPRC faces a significant hurdle in executing its mandate given the seeming lack of political will from the powerholders and general scarcity of financial and human resources, as argued earlier. Responding to whether the NPRC will achieve its mandate and in realising victim-centred justice, Dr Mashingaidze, a prominent historian and peace and conflict scholar had the following to say, 'I think its hands are tied. I think it can operate in as much as the state gives it the leeway or the latitude...The state is a major determinant of how the NPRC operate and achieve its mandate' (Interview 16.11.2020). The lack of political will demonstrates that fulfilment of the NPRC's mandate of ensuring post-conflict justice is tied to the powers that be in Zimbabwe. In comparison to other TRCs globally, Liberia, Chile, Ghana and Sierra Leone, the NPRC should do its work according to the book.

In the foregoing case studies, the commissions generally made commendable strides in fulfilling their mandate largely in part due to the political will of the incumbent government. In Rwanda, the government was willing to resolve the genocide issue by encouraging truth-telling (see Brounéus, 2003). Writing about the Rwandan context Brounéus mentions that 'it is argued by the government that reconciliation cannot take place without justice and thus the gacaca system has been introduced' (Brounéus, 2003:41). In his analysis of the NPRC, Benyera (2014a:131) argues that a cursory look at the mandate of the commission shows little commitment in solving organised international crimes like Gukurahundi due to its focus on small scale abuses.

4.11 Independence, Autonomy and Operations of the NPRC

Without doubt, for any independent commission to effectively accomplish its constitutional mandate, it should enjoy independence from the executive (see González and Varney, 2013:16). But as the Zimbabwean case illustrates, most institutions that are supposed to

work independently rarely do so. This is owing to the capture of the institutions by the state. This is also partly because the ZANU-PF ruling party has infused itself into the state over the past decades, creating a party-state conflation hence there is now a blurred distinction between the party and the state. It is against such a context that the NPRC in Zimbabwe emerges. This clearly illustrates how repressive state apparatuses (Althusser, 1971) control the operations of fundamental institutions. Arguably so, it is also very difficult for an institution that purports to be independent to effectively carry out its constitutional mandate in a context of heavy executive influence. Just as a way of buttressing this point, the state's overbearing influence on the operations of the NPRC in Zimbabwe is quite worrying. Such influence is indicated in section 10 of the NPRC Act and Chapter 10 of the constitution which gives powers to the Minister of National Security that s/he:

[...] at any stage during an investigation by the Commission, issue and lodge with the commission a certificate to the effect that the disclosure of any evidence or documentation or class of evidence or documentation is, in his or her opinion, contrary to the public interest on the grounds that it may prejudice the defence, external relations, internal security or economic interests of the state [...] (see NPRC Act Chapter 10:32, 188-89).

The above legislative provisions clearly confer power to the minister of national security to interfere in investigations by the NPRC. Such use of state apparatus will conceal some evidence that will be necessary to achieve post-conflict justice. In their analysis of the NPRC Bill, Heal Zimbabwe Trust argued that 'the powers of the Minister or his involvement in the activities of the NPRC suggest an unjustifiable defiance of the principle of independence' (Heal Zimbabwe Trust, 2016:3). Looked critically and utilising the theoretical lens adopted for this study, that of Althusser (1971), we see in motion the work of the repressive state apparatus in conditioning the reconciliation process. The fact that the commission is accountable to the executive also has a bearing on its autonomy. This then also raises whether, under such circumstances, the NPRC will be able to yield truth, accountability, reparation and reconciliation as espoused in the TARR model (Wietekamp et al., 2006). However, Mr Ndou the director in the then Vice president Mohadi's office downplayed the fact that the NPRC is under government control. He explained that:

The Office of the Vice President falls under the Cabinet Committee on Peace and Reconciliation. The NPRC then is an independent commission which falls under the Office of the Vice President and that is the reason why we support them during meetings. We are avoiding a situation where people allege that NPRC is a ZANU-PF entity, no, it was formed through the Constitution (*The Herald*, 19 June 2019).

The management oversight by the vice president's office militates against the flexible operations of the NPRC. In a manner that shows government interference the then Vice President Kembo Mohadi also tabled the NPRC's annual reports in Parliament (*The Herald*, 4 September 2020). This raises concerns whether the Commission will be impartial in their conduct of duty. Commissioners' engagement with political parties also demonstrates how the levers of power capture the NPRC. For example, Commissioner Justice Nare convened a workshop with the Political Actors' Dialogue (POLAD), a coalition of small political parties in Nyanga, joining forces in the call for the removal of sanctions imposed on Zimbabwe on the 5th of November 2019. During this gathering, the Commissioner intimated that 'Sanctions are a threat to our way of life, our humanity and collective prosperity' (Takunda Maodza, *The Herald*, 07 November 2019). This has been castigated by the social cohesion officer of ZCC who bemoaned this interface in the following word:

We also see the political element crippling into the whole process, such that some of the processes will be half baked, at the end of the day you will see some compromise happening, for example, right now the chairperson of the NPRC is actually the co-convenor of POLAD. That gives mistrust and lack of confidence in the commission based on what an individual or personality within the commission will be doing (Interview with Dr Gumbo 30.11. 2020).

What is, however, striking and contrary to the above is that the NPRC is one of the crucial independent commissions provided for in Chapter 12 Section 232(e) of the constitution to support democracy (see Government of Zimbabwe, 2013). As shown by the chapter heading, the TRC is expected to be an autonomous body that investigates past abuses without due influence (Maribha, 2017). In light of the provisions and guaranteed in the new constitution, the NPRC should function as an independent commission. Having said

the above, the world over, operations of National Independent commissions draw from the norms and benchmarks set up in the Paris Principles. The six key standards include;

■ Mandate and competence: a broad mandate based on universal human rights standards; ■ Autonomy from Government; ■ Independence guaranteed by statute or constitution; ■ Pluralism, including through membership and/or effective co-operation; ■ Adequate resources; ■ Adequate powers of investigation (United Nations, 2010:31).

The United Nations (2010:30) notes that all National Human Rights Institutions (NHRIs) should conform with the minimum standards set out in the Paris Principles for it to be successful in its functioning. Despite such provisions, the Zimbabwean case presents a different situation. There is evidence of an overbearing influence of the executive on the work of the NPRC. This brings to the fore the question of whether the NPRC is an independent entity and whether it can carry out its mandate independently without fear and favour or a backlash from the state. For example, the NTJWG (2018:25) alleges that then Minister of State for Mashonaland Central Provinces Advocate Martin Dinha ended up addressing participants at a meeting organised by the NPRC on the 19th of February, 2018 in Bindura. This is contrary to the provisions of section (235) of the constitution, which stipulates that:

The independent Commissions-

(a) are independent and are not subject to the direction or control of anyone;

(b) must act in accordance with this constitution; and

(c) must exercise their functions without fear, favour or prejudice; although they are accountable to Parliament for the efficient performance of their functions.

(2) The State and all institutions and agencies of government at every level, through legislative and other measures, must assist the independent Commissions and must protect their independence, impartiality, integrity and effectiveness.

(3) No person may interfere with the functioning of the independent Commissions.

In addition to non-interference, section (236) of the constitution stipulates that members of the Independent Commissions should be apolitical (Government of Zimbabwe, 2013).

The fact that the President appointed the Commissioners raises more questions than answers on the impartiality and independence of the commissioners. Not only that but the appointment of one serving ZANU-PF member, Mr Obert Gutu, as a commissioner is one slap on the independence of the Commission (see Richard Muponde, *Newsday*, 8 May 2021). This happened even against the provisions of the constitution [236] and that he is continuing in this position without publicly relinquishing his position further corroborates Althusser's claims on how the repressive state apparatus work. Under section [236a] and [b], the constitution clearly states that 'If a member of an independent Commission –

- a) Becomes a member of a political party or organisation; or
- b) Having been a member of a political party or organisation on his or her appointment to the commission, fails to relinquish that membership within thirty days of the appointment.
 - He or she ceases immediately to be a member of the Commission concerned (Government of Zimbabwe, 2013).

However, even in light of such constitutional stipulations, in this case, Mr Gutu is still serving as a Commissioner of the NPRC.

Again, in an act that may be telling in terms of the state's lack of political will, the Zimbabwean NPRC is beleaguered with understaffing and inadequate financial resources. This means that the commission is inundated with work. The National Director of CCJP, Mr Muchena lamented that:

The NPRC is understaffed as it has offices only in Harare. One major cause of concern is the critical lack of funding from the government's fiscus, which have been stalling the functioning of the NPRC since 2013. The NPRC has not hit the ground running to engage in what it is expected to do (Interview 7.11.2019).

Mr Muchena's sentiments have also been probed by Mr Richard Mahomva, a ZANU-PF activist/Director Leaders for Africa Network with regards to infrastructural decentralisation. Mr Mahomva took issue with the centralisation of the process. He thus noted the following:

The NPRC is well constituted, and it is a legal entity that is serving that particular purpose. But we have to then question what the budget provisions for its existence

are. Is it a decentralised entity and in its sights of decentralisation what is its manual of operation is it a manual of operation that is enabling? So, we have to look at that is it decentralised? (Interview 19.12.2019).

The arguments stated above stems from the fact that the state has not committed itself to availing sufficient funds for the operationalisation of the NPRC. Nqobani Ndlovu reported that 'the NPRC was allocated \$1,7 million in the 2019 national budget against its \$4,7 million bid, a figure dismissed as grossly inadequate at the time to fund its operations' (Nqobani Ndlovu, *The Standard*, 6 October 2019). This is in sharp contrast with other TRCs elsewhere, for example, in Chile, where the government was fully committed to providing funding for the completion of the task at hand (see Hayner, 1994). This again engenders the argument that the NPRC was designed to, or rather is destined to fail to achieve its mandate.

Generally, TRCs tend to suffer from external control and influence that can either weaken or make them stronger. Until now, the so-called 'new dispensation' in Zimbabwe has been accused by members of CSOs of influencing the affairs of independent institutions such as the NPRC. This tendency of abusing state power will obviously shape the commission's TJ pathway. Other respondents suggested that the NPRC should demand autonomy by engaging the international community. Senator Douglas Mwonzora noted that:

The NPRC needs international buy-in. So that if there is international buy-in, the international community, the relevant actors at a regional level can also begin to apply the pressure on the political leadership to lend political will and support to the work of the NPRC. Without that kind of support, I can assure you that they can continue to collect facts, they can continue to drive official designated vehicles but they will never be given the political will and support to begin to drive the reconciliation agenda (Interview 2019).

Embarking on diplomatic offensives within SADC, UN and African Union is indeed necessary to deal with Zimbabwe's TJ conundrum. It is important to note that engagement with the international community has yielded positive results as evinced by the funding from the United Nations Development Programme (UNDP). Without such donor support,

it seems the Zimbabwean government does not have the capacity to fully fund the operations of the NPRC. Again, this is not peculiar to Zimbabwe. The TRCs established in Guatemala, Uganda, South Africa and El Salvador received some substantial amount of funding from the international community and the donor world such as the UN and the Ford Foundation (Hayner, 1994; McPherson, 2001).

Evidently, since the establishment of the NPRC, political players have been remote controlling the execution of the NPRC. As such, there is need to free the commission from the capture by external powers and actors as argued in Chapter 3. These sentiments were echoed by many respondents who argued that the NPRC has been captured by the executive thereby frustrating its operations. In this regard, the NPRC should be freed from the wings of the executive. This is judging from the half-hearted efforts to fully operationalise the work of the commission to date.

Writing in 2015, the Research and Advocacy Unit noted that the government's commitment seems uncertain given the tardiness in enacting an enabling law and establishing the NPRC (RAU, 2015:9). In an interview, the Director of RAU, Mr Njeru cast doubt on the independence and capacity of the NPRC. He expresses his concerns in the comment below:

We always find that the NPRC is captured by the state. Right deep in the pocket of the state. In the belly of the Leviathan. So, operating from the belly of the leviathan you don't have anything else than to do what the leviathan dictate that you do. The NPRC should keep itself out of the belly of the leviathan and understand that it is an independent commission. But they seem to have forgotten what an independent commission means. So, it is a structural issue per se. Not necessarily anything. So, we need to recast the structures that enable the process of dealing with the past possible. The NPRC has not yet done that. It's not about the money but the structure. First, deal with the structural fundamentals which the NPRC is unable to do (Interview 7.09.2019).

The respondent's critical analysis of the NPRC makes us question the efficacy of a national reconciliation process superintended by an elite that has skeletons in its closet.

The fundamental pillars of reconciliation as set out in the Joinet/Orentlicher' principles seems to be far beyond what we could anticipate from the commission given its slow pace. Of central concern is whether the government will allow citizens to freely participate in the NPRC's public hearings. Even if it does, will the process be near the idealised space of *Place of Reconciliation* (Lederach (1997), where truth, mercy, justice and peace meet, or it will be one of the cosmetic and tokenist approaches.

Again, questions linger, will the current President take a paradigm shift in fully supporting the efforts of the NPRC and promoting national reconciliation, justice and accountability, given the country's history of amnesia, blanket amnesty and state silence. This is worrying considering the all-too-common trend of using both the repressive and ideological state apparatuses (Althusser, 1971) by the regime to curtail any form of genuine TJ processes. This scepticism also comes in the wake of the incumbent President's utterances that 'we should look into the future. The thrust should not be for us, in this new dispensation, to go and engage in the past' (Antony Sguazzin, *Business Daily*, 23 January 2018). In a minimalist view, it can be argued that such utterances were bent on erasing the truth about the past human rights abuses committed after independence and those of 2008.

4.12 Composition and Appointment of the NPRC Commissioners

It is generally well-known, taking a cue from countries that have had TRCs, that the success of any commission principally depends on commissioners' level of professionalism. As such, the commission's success and failure in uncovering the truth, justice and reconciliation hinge on their competence and neutrality. Commenting on what should be done to improve the work of the NPRC, Mr Reeler had the following to say:

The NPRC needs a management change, many of the commissioners are not fit for the job, I think you have to pick people who are independent-minded and who are knowledgeable about what the problem is. Just a simple example if you ask a teacher to be minister of finance do not be terribly surprised if the thing is badly run. They have to provide leadership. Leadership is a problem (Interview 2019).

In the same view, the Public International Law and Policy Group (2013) notes that in order to gain public trust, the TRC should select commissioners who are neutral, professional and well respected.

Section 251 of the constitution and NPRC Act provides for the composition of the commission as outlined below. These legal frameworks provide for the appointment of one chairperson and eight other commissioners (NTJWG, 2017:29). The legal provisions stipulate that the President appoints the Chairperson. Section 251 states that:

(1) For a period of ten years after the effective date, there is a commission to be known as the National Peace and Reconciliation Commission consisting of- (a) a chairperson appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders:

and (b) eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.

(2) The chairperson of the National Peace and Reconciliation Commission must be a person who has been qualified for at least seven years to practice as a legal practitioner in Zimbabwe.

(3) If the appointment of a chairperson to the National Peace and Reconciliation Commission is not consistent with a recommendation of the Judicial Service Commission, the President must cause the Committee on Standing Rules and Orders to be informed as soon as practicable.

(4) Members of the National Peace and Reconciliation Commission must be chosen for their integrity and their knowledge and understanding of, and experience in, mediation, conciliation, conflict prevention and management, post-conflict reconciliation or peace building (Government of Zimbabwe, 2013).

The NPRC is composed of eight Commissioners as stated in the above sections. These commissioners are generally responsible for overseeing the operations of the NPRC with regards to pursuant of post-conflict justice in Zimbabwe. The current commissioners of the NPRC were sworn in by the late President Robert Mugabe in February 2016 (*Bulawayo24News*, 24 February 2016). By then, the chairperson of the NPRC was the now late – Cyril Ndebele. The other commissioners who were appointed in December 2015 included Lilian Chigwedere, Charles Masunungure, Leslie Ncube, Choice Ndoro, Godfrey Chekenyere, Netty Musanhu, Patience Chiradza and Geoffrey Chada (NTJWG,

2020:3). The former President appointed these commissioners thereby raising questions on their impartiality and independence.

The current chairperson of the NPRC, Retired Justice Selo Masole Nare was appointed by President Mnangagwa on the 20th of February 2018 (Takunda Maodza, *The Herald*, 21 February 2018). Given TJ's socially contested nature in Zimbabwe and the appointment of commissioners by the President, it's probable that the commission will not fulfil its mandate effectively. The unilateral appointment of commissioners in Zimbabwe differs with other countries which engaged with the public in the nomination and selection process. For example, countries like Sierra Leone, South Africa and Timor-Leste 'sought to appoint commissioners through a transparent exercise with active civil society involvement' (Valji, 2006:6). The Zimbabwean context raises eyebrows on the impartiality and autonomy of the commissioners in executing their duties.

4.13 The Powers of NPRC

Like any other independent commission in many parts of the globe, the NPRC should have unfettered powers to investigate the past human rights abuses effectively. However, in the context of Zimbabwe, the commissioners have no *locus standi*. This means that they have no power to bring perpetrators of human rights atrocities to the courts of law. Talking about the issue of accountability Commissioner Chada stressed that 'the NPRC is not a prosecuting commission and it only have referral powers' (Interview 2020). This has been discussed in detail in chapter 6. It is crucial to mention that the NPRC must have sufficient investigative and reporting powers so as to fulfil its intended goal of achieving 'post-conflict justice'.

The NPRC Act provides for subpoena powers to bring witnesses, perpetrators and victims before the commission, as has been the case in South Africa and Sierra Leone (Hayner, 2011; Freeman and Hayner, 2003). From this perspective, TRCs with broad investigative powers can establish the 'truth' and fulfil the 'right to know' by summoning persons to public hearings and seizing documents necessary in the investigations. However, it is important to emphasise that the truth can only be established when the rights of those who give evidence before the commission are guaranteed. As such González and Varney argue that truth commissions 'should comply with certain

procedures to protect the rights of victims and witnesses during investigations and hearings, and in its general work' (González and Varney, 2013:25).

Writing in 2014, a leading research organisation in Zimbabwe (RAU, 2014:4) argues that the NPRC should have some powers clearly specified in the legal framework, and as stipulated in the ICTJ monograph. These includes:

- The power to summon persons, including government officials, to appear before the commission and to produce articles or documents;
- The authorisation to conduct inspections in places of interest, such as prison facilities and military barracks, and initiate exhumations in accordance with the law and in coordination with law enforcement;
- The authorisation to obtain official co-operation to ensure the security of proceedings, offices, and persons related to the commission;
- The full co-operation of law enforcement and judicial bodies in the exercise of its mandate (González, 2013:15).

The aforementioned investigative powers specified in the ICTJ, for instance, summoning powerholders, remains essential in the effective functioning of the NPRC. The Research and Advocacy Unit argues that the independent commission will be restricted in performing its activities without the aforementioned powers (Research and Advocacy Unit, 2015:10). The National Director of the CCJP, Mr Muchena, stressed that 'the ruling party's dominant political influence has a bearing on the operations of the NPRC' (Interview 20.10.2019). In the same vein, in their analysis of the NPRC Bill, the NTJWG outlined 'how powers of the Constitution can be made to correspond with its functions' (NTJWG, 2017:8). In their contention the Bill 'gives more powers and less functions to the Commission' (NTJWG, 2017:8).

The powers of the NPRC are stipulated in the NPRC Act as follows,

(2) Subject to the functions set out in section 252 of the constitution and this Act, for the better exercise of its functions the commission shall, in addition, have power-

(a) to conduct investigations into any dispute or conflict within the mandate of the commission as set out in section 52 of the constitution or as provided by any other law; and

(b) to conduct research on-

(i) the nature, scope, extent and causes of disputes and conflict subject to the constitutional mandate of the commission: or permitted to perform by or under this Act or any other enactment (NPRC Act, 2017:185).

Looking at these powers, the prospects of sustainable peace, justice, reconciliation and national healing will be dependent on whether the incumbent government will allow the NPRC to carry out independent investigations on past crimes. In a manner that shows power and autonomy, the South African TRC managed to grant amnesty to individuals who committed political crimes between 1960 and 1994 (see Hayner, 2011:29). The East Timorese TRC is another case in point where amnesty was granted to those who committed less offences during the political conflicts (Du Plessis, 2002:22). The Zimbabwean case presents a different situation since the NPRC has not yet fulfilled any of the powers conferred in the Act or those suggested by research think tanks such as the Research and Advocacy Unit.

4.14 Conclusion

The chapter examined the politics of reconciliation in post-colonial Zimbabwe. Although the ZANU-PF led government has been conversing on national reconciliation since 1980, palpable evidence does show that the antecedent efforts were just rhetorical designed to hoodwink the victims. The several amnesties and pardons were instigated to protect perpetrators of various atrocities hence shelving the festering issues of victim centric justice. The chapter also traced the 2008 violence in seeking to explain why a TRC is necessary for Zimbabwe. The major argument put forward is that the futility of reconciliation efforts and TJ processes can be attributed to – but is not limited to – lack of independence of the commission, political intolerance, lack of political will, impunity and state repression. The chapter also debunked the factors that militate against the effective operation of the NPRC including lack of resources and independence.

The chapter concludes that unless the government supports the NPRC materially, Zimbabwe will not secure the much-desired peace dividend necessary for reconciliation and political stability. What also featured prominently in the preceding discussion is that lack of autonomy of the NPRC has a significant impact on the commission's success and capacity to operate effectively. In reality, a combination of factors, including political interference, are testament that the attainment of truth-based justice will remain insurmountable in Zimbabwe. This is so since the NPRC is hamstrung by a combination of institutional constraints, lack of independence, shortage of financial resources and last but not least expertise. These factors undermine the functioning of the NPRC, affecting its prospects of becoming a bona fide peace architecture and, overall, stalling its efficacy in restoring peace, promoting national reconciliation and ensuring post-conflict justice in Zimbabwe. The next chapter examines the role of non-state actors in influencing Zimbabwe's TJ trajectory since 2008.

Chapter Five: The Role of Non-state Actors in influencing Transitional Justice Processes in Zimbabwe-post 2008

'If there is to be reconciliation, first there must be truth.'

– Timothy B. Tyson (2004)

5.1 Introduction

The previous chapter critically analysed the development and functioning of the NPRC in Zimbabwe. The chapter also briefly analysed the politics around reconciliation and the violence that prompted the need to deal with the past. Building from such a historical analysis, in this chapter I chronicle the TJ mechanisms that were effected by non-state actors in seeking to complement the government's efforts. Civil society participation in TJ was triggered by the need to promote peace, justice, national healing and influencing the reconciliation trajectory, post-2008 presidential elections violence. Therefore, to understand the extent and significance of these variegated measures, the chapter, through a nuanced way, endeavours to explore the critical role of non-state actors in advancing TJ in the aftermath of the June 2008 botched elections. In this regard, the chapter explores the contribution and efficacy of CSO-led TJ initiatives in the post-2008 electoral violence period to date. The chapter answers the following research question: *How and in what ways did the transitional justice mechanisms that were put in place by non-state actors deal with human rights violations that occurred in the 2008 election violence?* This research question is important to establish whether non-state actors influenced Zimbabwe's TJ path before, during and after the GNU in 2008 and if so, how and in what ways?

5.2 A Synopsis of the Transitional Justice trajectory 2008-2013

Over the last three decades, the importance of TJ systems has been recognised and widely accepted as pertinent approaches to address past injustices (Brankovic and der Merwe, 2014). In other words, TJ mechanisms have gained global acceptance and are now considered a norm in polities transitioning from a violent past. Such a trend has also been pre-eminent in Zimbabwe after the June 2008 presidential run-off violence. The field of TJ grew exponentially during the course of the power-sharing government in Zimbabwe.

The period 2008-2013 was characterised by numerous organised CSO activities to address the salient human rights injustices induced by the 2008 electoral violence. However, the demand for justice was not limited to the 2008 injustices alone but rather stretched back to the unresolved Gukurahundi atrocities. The acute need to search for national justice was evoked by the fact that the ruling ZANU-PF government has been rebuffing any calls for justice. This comes at the backdrop of a pile-up of ferocious legacies of the past, which have cost the lives of thousands of civilians in post-colonial Zimbabwe (Heal Zimbabwe Trust, 2018). Further to that, Mugabe's unwillingness to establish a meaningful architecture to address the past injustices for a long period undeniably induced the demand for justice to be served. As one respondent puts it across:

Since 2008, as Catholic Commission for Justice and Peace in Zimbabwe, we have been promoting issues to do with co-existence, issues to do with how to build social cohesion, how to have peaceful national processes such as elections and ultimately, we contributed very well into the being of this very important commission, titled NPRC (Interview with Mr Muchena 2019).

Given such a context and in the absence of state-based processes of justice, non-state actors proliferated with the thrust of pushing the government to take action over the impervious demands for past injustices. The major concerns being the need for the government to acknowledge the historical wrongs and for it to establish a TJ model to look into the legacy of past violence.

The civil society actors and local scholars made emphasis on the necessity of a comprehensive TJ model that prioritises the victims, based on the notion of truth-telling, accountability of past human rights violations and the decriminalisation of *Gukurahundi* dialogue (Zimbabwe Human Rights NGO Forum, 2009, 2010; Dzikamai Bere 2018, *The Standard*, 7 March 2018; Machakanja, 2010; Njeru, 2018) so as to foster durable peace, national reconciliation and healing. This evidence shows that there is general consensus amongst TJ practitioners, academia, and civil society actors that Zimbabwe seriously needs to deal with the legacy of its dark past to attain sustainable peace. This is considering that many TJ advocates contend that there cannot be 'peace without justice' (see Jayakumar, 2015; Kraft, 2017) in post-conflict societies. This explains why the

country's horrible abuses committed in the past should be addressed to bring justice and avoid the emergence of new human rights violations. This claim is consistent with the conceptual lens of Place of Reconciliation (Lederach, 1997) adopted for this study and utilised in examining research findings in the previous chapters. In accordance with Lederach's views, a comprehensive TJ model can potentially foster reconciliation when peace, truth, mercy and justice meet (Lederach, 1997).

In Zimbabwe, demands for open discussions revolving around the past state-sponsored injustices intensified since the formation of the coalition government in 2009. Due to the renewed interest for accountability, justice and national healing, the TJ demands became a full-fledged subject of scholarly inquiry during the GNU era. In the same vein, non-state actors such as the National Transitional Justice Working Group (NTJWG), Human Rights NGO Forum, Heal Zimbabwe Trust, Tree of life, Catholic Commission for Justice and Peace, Grace to Heal and the Zimbabwe Human Rights Association (ZIMRIGHTS) stepped up efforts in an attempt to address human rights violations particularly those associated with the 2008 electoral violence. This is corroborated by empirical evidence gleaned from respondents. As revealed by one respondent:

The other contribution that the Human Rights NGO did was to bring civil society together. Before 2010 and going beyond, there was fear in civil society to talk about TJ, massive fear, no one wanted to talk about it because it would expose you to agents of the state (state security and intelligence). When I was working at NGO Forum, we came together in 2009/10 and after the GNU as civil society and churches and formed what is known as The Church and Civil Society Forum (CCSF), one of the components of CCSFs in which I was actively involved was to deal with issues of TJ. We did a lot of work around TJ and commissioned about three researches on TJ. That broadened TJ's scope, and it also brought about discussions or CCSF under the National Association of Non-Governmental Organisations umbrella it was able to engage with the organ on national healing reconciliation and integration. The organ was interested in dealing with the past, but theirs was a slippery ground in the sense that it was not clear in terms of what they wanted to be done (Interview with Mr Njeru 2019).

Of significance to note is the first International Conference on Transitional Justice that was held by Zimbabwe Human Rights NGO Forum and its member organisations in

October 2012 in Nyanga, a resort town in the Eastern part of Zimbabwe. The Zimbabwe NGO Forum invited prominent speakers from countries that have experienced previous human rights violations, such as Uganda, Kenya, Rwanda, Liberia and the Philippines (see Zimbabwe Human Rights NGO Forum Report, 2012). The experts were drawn from countries that have applied varied TJ measures in the aftermath of different violations with the intention to learn from their diverse experiences and context. The Conference was instrumental in drawing key lessons from other post-conflict countries' experiences to inform Zimbabwe's TJ pathway.

According to the Zimbabwe Human Rights NGO Forum report (2012), stakeholders came up with major recommendations, which they defined as a '*Way Forward for Transitional Justice in Zimbabwe*'. They called upon 1) the establishment of a Transitional Justice National Working Group, 2) Research, documentation and archiving, 3) Advocacy for policy and legislation, 4) National engagement, 5) Rehabilitation of survivors, and 6) Institutional reform Zimbabwe (see Human Rights NGO Forum report, 2012:125). These varied recommendations provided the prospect for TJ and considerable strides to push the government into positive action.

One irrefutable fact is that CSO played a crucial role in shaping and influencing Zimbabwe's TJ during and after the power-sharing government. As a follow-up to the first International Conference held in 2012, sixty-eight CSOs converged for a Second International Conference on Zimbabwe's transitional justice in South Africa in October 2013. The CSOs met five months after the constitutional provision of the NPRC to envision how the commission should look like (Dzikamai Bere, *The Standard*, 7 March 2018). The Conference discussed, amongst other issues, the prospects of creating an effective NPRC in Zimbabwe, which fulfils the expectations of citizens and that also aligns with international best practices and standards (Zimbabwe Human Rights NGO Forum, 2013: ii).

These non-state actors, namely - Heal Zimbabwe Trust and Human Rights NGO Forum, however, have operated in a very hostile environment during Mugabe's autocratic rule before the formation of the unity government. This is in light of the use of repressive state apparatus by the Mugabe regime. Such repressive machinery was responsible for

proscribing any action that was considered anti-government. As such, Munyaka (2015) posits that prior to 2008, non-state actors lacked the power to implement formal and informal TJ mechanisms fully. CSOs were perhaps motivated by the absence of a formal TJ model (TRC) in Zimbabwe in the post-2008 period, as was also the case in South Africa at the end of the apartheid era. Hayner notes that after considerable input from CSOs and international conferences on TJ options, the South African Parliament enacted the Promotion of National Unity and Reconciliation Act in 1995 (Hayner, 2011:27). In the Zimbabwean context, it is also clear that ZANU-PF's unabated disdain for human rights observance, particularly from 2000, also propelled non-state actors' work. However, beyond any doubt, non-state actors' intervention shaped Zimbabwe's TJ policies and prompted the government to initiate open dialogue over the Gukurahundi and 2008 atrocities.

In Zimbabwe's case, the advent of the new political order in the form of a coalition government spurred the activities of non-state actors by opening up spaces for dialogue. This means that the new dispensation created by the GNU slightly eased the political and security environment which enabled CSOs to overtly demand for RJ, truth, acknowledgement of past wrongs, national reconciliation and reparations at various fora. However, Aeby noted that 'the advocacy groups' operative space was to a varying degree constrained by state repression (Aeby, 2016:710). Therefore, in reality, civil society activism has somehow failed to implement proper informal TJ mechanisms since ZANU-PF retained power in all influential sectors of law enforcement and security (Iliff, 2010) making it difficult for them to operate freely due to the continued repressive environment. However, this is not to discount the role played by NGOs and CSOs in pushing for the truth, justice, historical accountability, memorialisation, healing and reconciliation, specifically post-2008 election in Zimbabwe (if not in earlier years). In the words of one respondent:

The National Transitional Justice Working Group mobilises stakeholders to effectively engage the NPRC. The Working Group frequently meet to discuss what needs to be improved, what needs to be done and how it should be done. And that information is conveyed to the NPRC, to the executive because we also have some briefings that we engage with the executive, the Permanent Secretary in the Vice

President's office, which is the one which oversees the national peace and reconciliation processes in the country (Interview with Mr Dzikamai Bere 2019).

The above outlined efforts are necessary to provide checks and balances on the work of the NPRC. It informs how the commission can fulfil its mandate and provide the much-needed justice and healing in Zimbabwe.

In accordance with the TARR model by Wietekamp et al., (2006), we can see that non-state actors, particularly CSOs and NGOs, can play a significant and enabling role in influencing processes that can establish the 1) Truth, 2) Accountability, 3) Reconciliation and 4) Reparation. However, the question is whether this is possible in contexts where the powerholders have skeletons in their closets to hide, mainly in relation to past human rights atrocities. This is the context of Zimbabwe where, through various ideological framings and through the repressive state apparatuses (Althusser, 1971), the ZANU-PF government has and continues to skate around the demands for a genuine national reconciliation process and opts for a sugar-coated process for the regime to appear to be doing something regarding TJ.

Notwithstanding the above, Zimbabwe is yet to undergo a comprehensive TJ process that could address and redress historical injustices. This is because the hegemonic ZANU-PF government has been suppressing any efforts to address the past injustices and any talks regarding the Gukurahundi issue. This is evinced by a plethora of actions, including the silencing of any efforts of remembrance of Gukurahundi (Gukurahundi memorials), a crackdown on civil society actors advocating for justice, enforced disappearances and torture of human rights activists and the precedent of impunity to perpetrators of different forms of human rights violations through various amnesty laws (see Eppel and Raftopoulos, 2008; Njeru, 2018). The aforementioned and, in particular, the various enforced amnesia has been applied by the regime to preclude any inquiry of its involvement in human rights abuses. In light of such a context, the pursuit of justice and reconciliation in Zimbabwe remains chequered since the government has undermined the TJ objectives for a long period.

5.3 Understanding Civil Society Organisations (CSOs)

Since this chapter's empirical foci is to understand CSOs efforts in spearheading TJ post-2008 electoral violence, definitions of what civil society is and is not are in order. Scholars generally contend that the definition of the concept 'civil society' remains elusive, highly contested and value-laden (Nilsson, 2018:136; Van der Merwe and Schkolne, 2017:223). Due to the term's complexity and conceptual ambiguity, some scholars indicate that 'there is no commonly-agreed definition' (Paffenholz and Spurk, 2006:2). The conceptualisation of the term 'civil society' varies due to a plethora of issues that include different roles and functions of these organisations and their composition or morphology. As such, the concept 'civil society' is constituted from a number of actors and is defined as:

All public spheres, separate from the apparatus of the state and the economic market, which serve as locations of political participation and discursive interaction. It is a site of political and social action and contestation, characterised by a diverse range of actors with different, sometimes competing, agendas and repertoires of action (Gready and Robins, 2017:3).

The aforementioned definition is nebulous and cannot be utilised in this study. The World Bank provides a more working definition that is pertinent to this research. According to the World Bank's definition, the concept 'civil society' is best understood as:

The wide array of non-governmental and not-for-profit organisations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organizations (CSOs) therefore refer to a wide of array of organisations: community groups, non-governmental organisations (NGOs), labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and foundations (World Bank, 2018).

What emerges from the above definitions is that CSOs are independent from the state and that they all have different ideologies, interests and objectives. However, it is imperative to emphasise that despite their broad-spectrum, they all work within the confines of the laws of the state. This means that they have to abide by the stated legal

restrictions. The CSOs also form alliances with each other to defend people's rights amongst other national issues.

There are numerous features that characterise CSOs globally. Of significance to note is the fact that 'civil society is separate from the state' (Makwerere, 2017:63). This means that CSOs work independently from the state to influence and tackle various societal problems often neglected by the government. However, in the contemporary world collaborative efforts between CSOs and the government have grown substantially in many countries globally and have proved to be a catalyst in addressing societal problems, including the currently topical issue of TJ. These partnerships are particularly helpful in influencing policies, fostering accountability, leveraging transparency and are also envisaged to complement the government's efforts in various facets. But for Brahm (2007:1), though CSOs play an instrumental role in advocating for TJ processes to address historic injustices, their relationship with the government is often rocky. This is also the case characterising state-civil society relations in contemporary Zimbabwe, where the relationship is akin to that of love-and-hate.

Another key feature that characterises civil society in the contemporary world is 'forging alliances with like-minded organisations' (Makwerere, 2017:64). The trend of forming alliances has become a common feature in Africa in the past decade to counter autocratic rule and the shrinking civic space. On the one hand, African CSOs create robust actions to challenge the status quo. On the other hand, CSOs compel reluctant governments to comply with citizen's interests. In the Zimbabwean context, many CSOs have created alliances to advocate for the respect of human rights and justice, amongst other issues. Prime examples of such alliances include the Zimbabwe Human Rights NGO Forum, National Association of Non-Governmental Organisations (NANGO), National Transitional Justice Working Group, Crisis in Zimbabwe Coalition (CZC), the Evangelical Fellowship of Zimbabwe and the Matabeleland Collective (MC). Much of these networks coalesced to advocate for TJ in Zimbabwe in the post-2008 period to the present. As noted by one respondent, several CSOs played varied roles in seeking TJ post the 2008 epoch:

Most CSOs and NGOs tried to do community dialogues around peacebuilding and why it is good for development. CSOs also capacitate them to understand the

importance of peace. They have tried to engage perpetrators and victims. But you find when it comes to political violence, it is not easy. Some organisations have tried to be subtle about it when they engage communities. Other radical CSOs actors who deal with human rights issues and other sensitive issues often face many consequences (Interview with Mrs Taruwinga the Research and Advocacy Coordinator, the Centre for Conflict Management and Transformation 21.10.2019).

But this work of civil society in Zimbabwe and in the region is not without context. It was only following the end of the Cold War that CSOs as a form of associational life emerged to influence democracy and good governance (Biekart, 1999). The advent of democracy in the 1990s opened up spaces for CSOs globally. During the past few decades, the concept of civil society has gained prominence and has found firm foundation within countries grappling with post-conflict reconstruction, emerging from despotic rule and those emerging from violent conflicts. This prominence of civil society actors comes into being because of the mere fact that they have become the 'most vocal advocates for transitional justice' (Brahm, 2007:1) in post-conflict contexts. Equally so, African CSOs have played a crucial role in shaping the African continent's national TJ processes over the past few decades (Brankovic, 2018:1). This has given rise to debates whether internal actors in confluence with external actors (through external support) can aid in the democratisation and peacebuilding processes or whether such initiatives are purely endogenous. In the same vein, Fischer (2011) and Duthie (2009) hold that the engagement of CSOs in the past two decades or so has become increasingly essential as they play a potentially positive role in influencing TJ processes in countries emerging from violent conflict.

Admittedly, Zimbabwean CSOs, in their various shapes and guises, have played an integral role in addressing past human rights violations by engaging with the state and conducting parallel processes in spaces where the government is less involved (van der Merwe and Schkolne, 2017). It is worthy accentuating that pressure from CSOs has been necessary since the government has seemingly been closing the chapter on past atrocities. However, what is worth noting is that such CSOs have been operating under a very difficult and regulated civic space owing to the deployment of the state repressive state apparatus to use Althusser' (1971) terminology. This has been further complicated

by the fact that the perpetrators of human rights violations who are within the echelons of state power find any truth-seeking initiatives unsettling. Thus, one could be correct to observe that those implicated in past atrocities, just like in any other contexts, are comfortable taking their deeds to their graves, escaping any form of punishment or public acknowledgement. The Mugabe case is one such illustrative example, so are the war veterans and party supporters who used to unleash lethal violence on civilians, specifically during election periods.

Here it is necessary to categorise CSOs involved in TJ. The scholarly literature generally agreed that these CSOs are often divided into two categories; firstly, the ones that advocate for retributive justice anchored on accountability, forgiveness, truth-telling and reparation. Secondly, others are more interested in promoting liberal-legal international human rights norms (see, for example, Boesenecker and Vinjamuri, 2011). Research over the years has also shown that numerous African CSOs challenge conventional thinking by resisting international criminal justice in their pursuit of locally-driven justice, accountability and national healing processes (Bosire and Lynch, 2014; Brankovic, 2018). This trend is not dissimilar to the Zimbabwean context, where efforts, though half-hearted, are geared towards a locally-driven instead of an exogenous reconciliation process.

5.4 Civil Society efforts in Fostering Transitional Justice and Reconciliation

In the Zimbabwean context, in 2008, the Human Rights NGO Forum acting on behalf of victims of 2008 political violence brought a total of 700 court cases. The Public Interest Unit established by the Human rights NGO forum also documented over 1 900 cases of torture and state-sponsored violence (Human Rights NGO Forum, 2019). In some cases, the courts ruled in favour of the victims and perpetrators were made to pay reparations. Though this was commendable, no amount of reparations could bring back the lives of relatives and friends who had been mutilated or killed towards the 2008 June re-run election. Nonetheless, such efforts from CSO need to be applauded as they might have helped in breaking the cycle of impunity and repeated violence in Zimbabwe. The cycle of impunity is indeed a blight on Zimbabwean society, considering how the powerholders through the repressive state machinery (Althusser, 1971) have sanctioned, condoned and superintended over politically motivated violence over successive decades. It can,

therefore, be argued that the combination of punishment and RJ is pertinent to usher justice in societies grappling with their past, as in the case of Zimbabwe. It was through such efforts that have also managed to set the foundation of how the NPRC could navigate the justice and accountability issues. This entwining of justice and accountability have long been considered as an effective way of ushering in sustainable peace as articulated in the TARR model by Weitekamp et al. (2006), explained at length in chapter 2 in this thesis.

5.4.1 Counselling and Treatment

Though the issue of counselling receives scant attention in a post-conflict agenda setting, it remains a crucial cog in the TJ framework. In the Zimbabwean case, few CSOs came to rescue victims by providing counselling and safe houses to rape and victims of violence post-June 2008 run-off election. One such is the Tree of Life Trust and the Counselling Services Unit (CSU). This role played by CSOs lends credence to the claim by scholars who espouse the need and efficacy of counselling and psycho-social support to victims of various forms of organised violence and torture (OVT) and conflict.

In countries that have experienced massive violence, there have been far-reaching after-effects including in contexts where child soldiers had been a prevalent phenomenon, for example, in Northern Uganda and DRC (Pham et al., 2007). In both cases, children have also been forcibly conscripted into insurgency groups and forced to act as sex slaves (see Shabdita and Odiya, 2015). This trend has resulted in post-traumatic stress disorders (PTSDs), not only among child soldiers (Klasen et al., 2010) but even among the women folk who are victims of unfathomable abuses such as rape in war and conflict. Countries such as DRC and Sierra Leone are a case in point. In the case of Zimbabwe, respondents reiterated that the NPRC should prioritise counselling to bring a cathartic process to society.

It is public knowledge that in countries emerging from a violent past, such as in Bosnia-Herzegovina, Sierra Leone and the former Yugoslavia, society has remained traumatised (see Brisson, 2017; Comtesse et al., 2019; Betancourt et al., 2020). Perhaps, taking a leaf from such contexts, Zimbabwean CSOs then saw it fit to provide counselling services and medical care to victims of 2008 electoral violence. The CSU was established in 2003 to provide psychological and medical care to the victims of OVT in Zimbabwe.

One survivor of the 2008 violence noted that ‘the Zimbabwe Political Victims Foundation has been referring victims of rape, torture and those who lost their property to the CSU for counselling, medical and physiological healing’ (Interview with Mr Sekayi Gombe 05.11.2020). The above serves to show the integral part that CSOs can play in healing and assisting victims during and post-conflict. But as argued in the previous chapters, this role is mostly conditioned by the state. This is more difficult in a situation where the state utilises both the repressive and ideological state apparatuses (Althusser, 1971) to stall any well-meaning efforts geared towards realising TJ as was the case during the Mugabe regime and it seems to be the continuation post-Mugabe era. The efforts of Zimbabwean NGOs and CSOs were not limited to counselling victims and survivors of politically motivated violence but to issuing early warning systems on violence outbreaks basing on the monitoring of the volatile political climate.

5.4.2 Early Warning Systems and Education

A substantial number of CSOs such as the Heal Zimbabwe Trust, and CCJP in Zimbabwe and church affiliated organisations such as Methodist Development Relief Agency, Zimbabwe Council of Churches and the Evangelical Fellowship of Zimbabwe have played a crucial role in the prognosis of violence from 2008 to prevent conflicts and come up with pragmatic ways of mitigating it. Heal Zimbabwe Trust has been at the forefront of the early warning systems. For example:

In 2016, the organisation institutionalised a nationwide Early Warning and Early Response (EWER) network which is used to monitor, detect, deter, document, respond and report threats to human security. The organisation houses an Early Warning and Early Response Situation Room; a space for multiple civil society players documenting and responding to a plethora of human rights violations that have been taking place in the country since 2016 (Heal Zimbabwe Trust, 2019:1).

In countries where violence has flared, the norm is that CSOs have set up Early Warning and Early Response systems (EWER) in response to many human insecurity phenomena such as civil war and electoral violence. Before mapping in-depth, varied strategies used by non-state actors in the context of post-election violence in Zimbabwe, it is important to intellectualise what the concept of Early Warning System entails. According to Austin, early warning system refers to 'any initiative that focuses on systematic data collection,

analysis and/or formulation of recommendations, including risk assessment and information sharing, regardless of topic, whether they are quantitative, qualitative or a blend of both' (Austin, 2004: 2).

Another scholar, Hove, posits that early warning systems are prospective in nature in the sense that they 'identify situations with sufficient advance timing that preventive measures can be adopted which will reduce the likelihood or the severity of future events' (Hove, 2013:80). This has been the case in Zimbabwe in the aftermath of political violence in 2008. Faith-based organisations such as the Zimbabwe Council of Churches and Evangelical Fellowship of Zimbabwe advocated for human rights and peace (Munemo and Nciizah, 2014). However, the duo bemoans the little efforts to reconciliation and national healing due to the restrained relationship between the state and non-state actors. It is important to note that, in response to the 2008 human rights violations, CSOs such as Zimbabwe Civic Education Trust and Heal Zimbabwe Trust initiated early warning systems and education programs to political parties, communities and the church to prevent future violence in the 2013 elections (HZT and ZIMCET, 2016). On the basis of such evidence, it is, however, difficult to give a definitive assessment of the efficacy of such efforts in preventing the eruption of conflicts in the Zimbabwean communities.

What is, however, beyond dispute is that a collaborative platform of the church and CSOs - Church and Civil Society Forum (CCSF) has also done tremendous work – to some extent – in preventing relapse of violence in fragile communities by utilising a combination of strategies (Ncube, 2014) which includes the creation of the Conflict Early Warning System (CEWS) (see CCSF, 2012). These include the establishment of peace committees, peace clubs and community-based organisations to foster a culture of peace in communities. Participants from the Mashonaland Central and East provinces PPCs reiterated that all provincial peace committees should engage in early warning systems as a preventive mechanism for potential conflicts. The participants noted that they must detect and capture conflicts as they happen (Group Discussions 1 and 2 with PPCs participants 10 and 11 December 2020). Following from the point above and in a way acknowledging the loopholes in the programming of the NPRC, during the consultative workshops, Mr Mashingaidze noted that the commission was in the formative process of

developing the Conflict Early Warning System (CEWS) and conflict indicators. Zimbabwean CSOs have also targeted traditional leaders, political party leaders and faith-based organisations such as the church in their early warning systems. The various collaborative efforts effected by CSOs during the GNU period were essential in engendering peace and preventing a further resurgence of violence during the 2013 elections.

5.4.3 Research and Documentation

A considerable number of Zimbabwean CSOs like the Zimbabwe Peace Project (ZPP), Research and Advocacy Unit, Heal Zimbabwe Trust, National Transitional Justice Working Group, the Zimbabwe Human Rights NGO Forum and Zimbabwe Human Rights Association amongst others, have been engaged in empirical research and documentation on wide-ranging human rights abuses in Zimbabwe. These include but are not limited to different types of conflicts in post-colonial Zimbabwe, human rights violations during and after the 2008 violence, research on how Zimbabwe can navigate the TJ path, peacebuilding processes, conflict resolution mechanisms and documentation of cases of politically motivated violence. Notably, the Research and Advocacy Unit has remained one of the leading research organisations documenting Zimbabwe's checkered TJ trajectory. However, this research work has not been easy considering the securitisation of the state, a trend that gives expression to the theoretical lens of repressive state apparatus as espoused by (Althusser, 1971). This has also complicated data gathering, especially when it comes to documenting victims of election violence.

In an interview with the RAU director, he noted that his organisation has been conducting research on women and young people and how they are affected by political violence. Research and Advocacy Unit has been engaged in compiling reports on 2008 organised violence and torture (OVT). In explaining their work on women and young people, the director mentioned that:

These are sectors that are badly hit by violations which also demand specific processes that address their specific concerns. Remember, women in the modern conflict are the frontiers where those conflicts are fought with their bodies, where they are raped, where they are sexually abused, where they work and enslaved

during the conflict. Young people are recruited into violence, they also need specific attention because their life is cut short (Interview with Mr Njeru 2019).

Specifically, the Zimbabwe Human Rights NGO Forum, the Zimbabwe Peace Project and the National Transitional Justice Working Group are part of the CSOs that have also played an instrumental role in influencing TJ policies through research and documentation. Their work is discernible in their publications and their everyday programming as well as in their public outreach programmes. This kind of research and documentation has also – in large part – helped in providing a rich and well-informed tapestry on the TJ framework that the country should adopt. One respondent chronicled the work of his NGO in TJ issues, particularly with regards to research in the below quote:

The other process that we had, besides that NGO Forum, introduced the discussion of TJ in the civil society and tried to confront the state, they also had limits in their knowledge production of transitional justice. One of the fundamental limits that we picked or I picked was that TJ, according to the legal lenses on TJ, really have very little respect for other modes of dealing with the past, for example the traditional one. The argument is very clear that there is no consensus in the tradition of how to address the past. Mato Oput, for example that is used in Northern Uganda it may not be the same model that is used in Eastern Uganda, for instance. So, it is only applied within the Acholi Community, it is not applicable among the Bunyoro or Buganda community. So those dynamics are the ones that are put to the sword, the methods that are essentially traditional, but I believe that what is forgotten about that is that the models that are traditional build bridges in communities affected by violent conflict (Interview with Mr Njeru 2019).

It is no wonder that the NPRC is privileged to have emerged under a backdrop of a rich corpus of literature drawing on the work and efforts of non-state actors. Much of the literature has been produced by the NTJWG, Heal Zimbabwe Trust, Zimbabwe Human Rights NGO Forum and the Research and Advocacy unit with a specific focus on how the NPRC should operate. It does seem one of the greatest strengths of CSOs engaged in TJ in Zimbabwe is the research component, as articulated by an eminent researcher and

civil society actor, Tony Reeler. When asked about the role of his former organisation Amani Trust in the TJ work in Zimbabwe, he noted the following, which is worth quoting at length as it is revealing:

Research and Advocacy Unit is a child of Amani Trust, established in 1993. RAU was set up by the AMANI Trust as a parallel body to the Amani Trust. Our job was to produce much better-quality reports on human rights violations and TJ. Our major work was to produce reports for the NGO Forum. In 2006 and before that, we were producing reports on a variety of different issues. For example, we helped with the research that was done on Murambatsvina by ActionAid Zimbabwe and in documenting violations against women, documenting violations against teachers and farm workers (Interview with Mr Reeler 2019).

He further went on to chronicle the achievements of the organisation in terms of research outputs in the following words:

In 2008 RAU did a major evaluation of 2008 elections which was published by Centre for Study on Violence and Reconciliation (CSV) in Johannesburg, South Africa. Prior to that, we had been very involved in the establishment or setting up of the 1st initiative of TJ, which came from the 2003 symposium. There were serious initiatives that went along that. Mr Njeru, who was working with the NGO Forum was the primary researcher on those very large national surveys that were done by the forum on TJ. RAU also did a very small study on the victims' of 2008 violence. The studies were very focused on the victims themselves. The findings were very similar to what the forum found. Since then, one of our major roles has been to be a participant on the National Transitional Justice Working Group (NTJWG). RAU put my name forward as an independent expert. We work closely with the NTWG and producing reports for them (Interview Reeler 2019).

But in a show of the potency of the state and how it deploys the repressive state apparatus (Althusser, 1971) – the Amani Trust was banned by the government after uncovering damning evidence of egregious human rights atrocities committed by the ZANU-PF led regime. All of that having been said, Zimbabwean CSOs have also been engaged in advocacy and community peacebuilding, as we shall see below.

5.4.4 Advocacy and community peacebuilding

CSOs actors are important players in advocating for community-level peacebuilding as shown by the work of several Zimbabwean CSOs. During the period of 2009 to 2013, Zimbabwean CSOs were also actively engaged in advocacy and healing process, and this went parallel but complementary to the efforts of (ONHRI) and Joint Monitoring and Implementation Committee (JOMIC). Organisations involved in such processes include the Human Rights Association, Heal Zimbabwe Trust, the Tree of Life, the Centre for Conflict Management and Transformation (CCMT), Zimbabwe Human Rights NGO Forum, the Zimbabwe Peace Project, the National Transitional Justice Working Group. The foregoing coalitions by Zimbabwean CSOs were crucial in mapping the TJ pathway. These non-state actors have actively clamoured for the establishment of a TRC that could address the historical injustices during the course of the power-sharing government. The advocacy strategies can be credited for being successful, given the promulgation of the NPRC in the Zimbabwean constitution adopted in 2013.

After the promulgation of the Commission, the NTJWG played a crucial role in acting as a watchdog to the operation of the NPRC and to acquaint citizens with knowledge of how the commission functions and how they could participate in the programmes (see NTJWG, 2017:6). This was through the production of a document entitled '*A Guide to understanding the National Peace and Reconciliation Commission in Zimbabwe*' by the NTJWG in 2017. But as pointed above, other organisations have also been responsible for advocacy and connecting the NPRC to different communities. This was revealed in an interview with one respondent who had the following to say:

Other organisations have also been quite in touch with survivors of past atrocities by organising community dialogues, radio programmes, lobby and advocacy initiatives in the country when the country's official peace and reconciliation processes were not functional. That has closed a lot of gaps. So that also prepared the ground for the NPRC. For example, when the NPRC want to go to places in the outskirts of the country, organisations like Ukuthula trust, Masakhaneni Projects Trust in Matabeleland are constantly in contact with the people they mobilise on behalf of NPRC, because we have seen the lack of trust between the people and the NPRC (Interview with anonymous CSO employee 18.11.2020).

Apart from advocacy and coordination, some CSOs have also been actively involved in peacebuilding initiatives on the issues around TJ. One such is the Centre for Conflict Management and Transformation (CCMT). In explaining the work of the CCMT, Mrs Taruwinga mentioned that ‘the organisation engages in research and advocacy on the domain of peacebuilding and conflict, providing a safe space for dialogue and networking with other stakeholders in the field of reconciliation and peacebuilding’ (interview 2019).

Without running the risk of speculation, it is a correct observation that as and when the NPRC rolls out its public outreach programme, it will be entering into communities that are already informed about TJ and reconciliation issues. Thanks to the efforts and decade long work of CSOs such as CCMT. On this account, one can argue that CSOs play an integral role in preparing the groundwork for TRCs, as evident in the work of CSOs in other countries such as Kenya. CSOs like the Kenya Transitional Justice Network (KTJN) played a crucial role in advocating for a TRC and influencing the TJ agenda and preparatory work before the consummation of TRCs there (see Songa, 2018; Bosire and Lynch, 2014). This claim is in accordance with findings established in previous studies.

In other contexts, scholars have elaborated on how CSO has taken centre stage to promote community cohesion and healing and spearheading advocacy campaigns in post-conflict. For example, Batanda gave an account of the role of CSOs such as The Beyond Juba Project, the Coalition of Organisations for Reconciliation in Uganda (CORU) in 2006 and The Refugee Law Project in advocating for TJ in Northern Uganda after violent conflict (see Batanda, 2007). From Uganda, Kenya to Zimbabwe, we find a pattern on how CSOs are actively involved in TJ issues during and in post-conflict settings. However, the work of CSOs in these contexts is not received uncritically by the state. In authoritarian settings, as exemplified in the Zimbabwean context, CSOs have paid a heavy price. This is evident in the abductions and torture of human rights activists and researchers. A clear example is Jestina Mukoko – director of the Zimbabwe Peace Project (ZPP), who was abducted in December 2008 and held *incommunicado* by suspected state security agents (see Human Rights Watch, 2008c). Such a typical example demonstrates the personal security challenges of civil society actors working

around TJ and human rights advocacy. In no doubt, such actions reveal how authoritarian regimes rely on the deployment of the repressive apparatuses (Althusser, 1971) to muzzle the civic space.

Writing in 2014, Bosire and Lynch also documented the eminent role played by CSOs in Kenya in the search for justice and truth. This important role played by these CSOs, should, however, be contextualised in the vibrancy of the Kenyan civil society sector which has for long been famed for its vibrancy and density. Bosire and Lynch's study gave an account of how the CSOs in Kenya influenced the establishment of the Truth, Justice and Reconciliation Commission (TJRC) in 2003 and after the post-election crisis of 2007-2008 (Bosire and Lynch, 2014). Similarly, Colvin (2007:322) provided findings of a research conducted by the Southern African Reconciliation Project (SARP), which investigated how CSOs have opened up or impeded TJ opportunities and reconciliation in countries like Zimbabwe, Malawi, Namibia and South Africa. This clearly illustrates how important CSOs are in the success of TRCs and TJ in post-conflict countries.

5.5 Transitional Justice Debate in Zimbabwe: Is there not a cause?

As a way to contribute to the intrinsic issues of TJ, a Symposium on Civil Society and Justice in Zimbabwe was convened in Johannesburg in 2003 by over 70 leaders of various non-state actors from Zimbabwe, including the Zimbabwe Human Rights NGO Forum, Zimbabwe Human Rights Association and Legal Resources Foundation to mention but a few. The Symposium provided substantive options and conceded on a number of resolutions that were pertinent in shaping the countries' TJ path. This was through the provision of a detailed framework that recommended the Zimbabwean government to set up a Truth, Justice and Reconciliation Commission that could unearth past injustices from the pre-independence era to that time (Lesizwe, 2004; Zimbabwe Human Rights NGO Forum, 2012). Such convergence by different CSOs marked the earliest efforts in discussions around Zimbabwe' TJ trajectory.

The stakeholders underscored the need for a victim-centred approach and the need for perpetrators of violence to acknowledge their wrongdoing (Lesizwe, 2004). This

is just one prime example of the role played by CSOs in disseminating information and ideas regarding the vexing, polemic and thorny issue of TJ in post-independence Zimbabwe. The CSOs present at this Symposium also committed themselves to deepen the debate and discussion on TJ within their constituencies. Such efforts by non-state actors failed to influence the government as it remained adamant about setting up a TRC during that period. However, in many respects, it remains a fact that non-state actors have played a central role by invigorating and reinforcing discussions on RJ after the 2008 June violence.

The Human Rights NGO Forum – a leading civic organisation focusing on TJ in Zimbabwe noted almost three years after the Johannesburg symposium that 'ZANU-PF never demonstrated a willingness to address issues of accountability for human rights violations—principally, it is suggested because it was (and remains) one of the primary perpetrators' (Human Rights NGO Forum, 2006: 9). This trend did not start and end in the 2003-2006 period discussed above, it spawned to the current period. As previously discussed in chapter one and four, for some reason best known to the Mugabe regime, the government was reluctant to operationalise the NPRC, which was already provided for in the new constitution voted into force through a referendum in 2013 at the denouement of the power-sharing government.

Observably, it was only after 2013 when the GNU ended that the ZANU-PF led government operationalised the commission. Even though the NPRC has been operationalised, it remains dysfunctional and understaffed. There is a good reason to believe that the Mugabe administration operationalised the NPRC begrudgingly mainly as a result of the pressure from non-state actors. Not only that, but also because it had no option. Legally speaking, the new constitution obliged the government to do so. Section 251 of the supreme law provided for the establishment of the NPRC in 2013⁹ although the first Bill to operationalise it was gazetted almost two years later in 2015 (see Section 251 of the Constitution of Zimbabwe Amendment (No.20) Act)¹⁰.

⁹ Section 251 of the Constitution of Zimbabwe Amendment (No.20) Act.

¹⁰ The National Peace and Reconciliation Commission Bill HB 13, 2015.

5.6 Civil society Actors and Transitional Justice Post -2008 violence

This section maps the role of key CSOs and non-state actors TJ work from 2000 to the post-2008 violence. Although Zimbabwean CSOs gained prominence in challenging ZANU-PF regime and constitutional reform at the end of the 1990s (see Aeby, 2016:706) and early 2000, they became more visible and vibrant in the aftermath of 2008 electoral violence. This trend was of course, in tandem with the international institutions such as the United Nations, which had put the TJ agenda at the core of development and the means to achieve sustainable peace in the 21st century. Similarly, Brahm (2007:7) argues that 'it is less likely that any form of transitional justice will exist without pressure from local and global civil society'. In the Zimbabwean context, the past human rights injustices accentuated the expansion of CSOs aimed at (re)building broken relations, peacebuilding, justice, healing, truth-telling and reconciliation in the aftermath of 2008 electoral violence. As asserted earlier, it appears that locally-based CSOs largely influenced Zimbabwe's TJ path. In one interview, a respondent from the Zimbabwe Human Rights NGO Forum explained in an erudite way how and why CSOs were formed in response to the abuses and excesses of the state in the below quote:

So early in the 2000s, when the CSOs were gaining momentum, the NGO Forum was formed in 1998 in response to the suffering of people. Its formation was informed by the food riots which occurred in 1998 in response to the austerity measures that had been imposed. But going beyond what people were experiencing on a day-to-day basis, the NGO forum convened and discussed issues related to organised violence. Eventually, there was an agreement that the state was at the centre of violence that was rolled out to its citizens. But issues that were also pivotal at that time which also needed attention were issues related to TJ. The NGO forum also started discussions around TJ –NPRC bearing in mind other TRCs that happened in South Africa and Uganda following the human rights violations that occurred, and no accountability was taken (Interview with Mr Tendaishe Tlou, Transitional Justice Advocacy Specialist 2019).

Given that the government has been reluctant for a long period to execute a holistic TJ model, there is a need to respond to the legacies of violence committed in 2008 and even prior (2000 era), as noted by the respondent above. Although the trajectories of TJ in

Zimbabwe dates back mainly to early 2000, the post-2008 period presented a peak for CSOs seeking to restore a culture of peace, rebuilt broken relationships, social cohesion and socialisation in fragile communities (see Ncube, 2014).

There has been shared commitment amongst faith-based organisations, NGOs, TJ practitioners and human rights organisations to foster peace, address the recurrence of human rights violations and preventing relapse of violent conflict before, during and after the GNU era. In response to the need, civil society actors' clout peaked after the formation of the inclusive government to fill in the gap and the obtaining policy void. The vibrant CSOs intensified efforts to offer prospective TJ options imperative for Zimbabwe to confront the country's ugly past during and post-GNU era. It is imperative to underscore that the role that various non-state actors played was germane to complement the government's TJ measures. The efforts are still useful in shaping Zimbabwe's TJ path until the present. The next section maps the key non-state actors involved in TJ in the post-2008 era. This also entails the varied ways in which CSOs have used number of tactics to accelerate TJ mechanisms in Zimbabwe.

5.7 Court Driven Prosecutions

In Zimbabwe, many CSOs have played a crucial role in balancing and advancing demands for justice, truth-telling, and accountability for human rights violations committed during the 2008 electoral violence. Of significance are CSOs such as the Human Rights NGO Forum, which were engaged in bringing alleged perpetrators of 2008 violence to justice by bringing them under the criminal justice system. In the words of one respondent, the NGO Forum has played an instrumental role in advocating for retributive justice. The quote below encapsulates this claim:

As an organisation, we have been litigating against individuals who are alleged perpetrators of past human rights abuses and holding them to account. We have had organisations coalescing, discussing institutional reform issues and addressing the gap that we have had in the systems, such as those related to justice and accountability (Interview with Mr Tendaishe Tlou 2019).

Though some CSOs and the general citizenry did not favour this punitive approach, some victims were in full support of this retributive approach. One respondent had the following to say:

We do get survivors who want to get a legal route. We then refer them to Zimbabwe Lawyers for Human Rights (ZLHR), and we support them through the process. We do work very closely with ZLHR and organisations that are more at the forefront of seeking retribution, legal justice, and compensation (Interview with Lynn Walker 2020).

The revelation above resonates with arguments made in the TJ literature. TJ scholars contend that some victims and survivors opt for punishment as part of TJ, as compared to just 'letting sleeping dogs lie' (see Machakanja, 2010; Bosire and Lynch, 2014). In this regard, they prioritise RJ over retributive justice. This sentiment was echoed by some of the survivors and victims of the June 2008 election violence in Zimbabwe.

Others have also prioritised a blended approach. Sierra Leone is a classic example where a TRC was initiated running concurrently with the Special Court for Sierra Leone (see Shaw, 2007; Nkansah, 2011). It is important to emphasise that the Special court was vital since it succeeded in offering justice to civilians who were recruited by the armed forces and those who were affected by the 11-year civil conflict. For example, the Special Court held a landmark ruling on the 31st of May 2004 when it ruled that the recruitment of child soldiers under the age of 15 years was a crime under international law (Tommy, 2012:3). This approach also helped to prosecute high-level perpetrators like the former President of Liberia, Charles Taylor, who stood accused of committing war crimes and crimes against humanity during the conflict (see Lanegran, 2007).

Just like in Sierra Leone, in a complicated case, one of its own kind – Dominic Ongwen, who was recruited as a child soldier by the Lord Resistance Army in Northern Uganda, turned from being a victim into a perpetrator. To underscore the role and efficacy of the international criminal justice system, Ongwen was found guilty by the Hague-based International Criminal Court (ICC) of individual crimes of a record of 61 crimes against humanity and war crimes involving violence, murder, torture, gender and sexualised violence he committed as Commander in LRA (International Criminal Court, 2021). The question, however, is whether such tribunals can usher in justice, especially to the victims

in remote and local communities who would have suffered at the hands of the tormentors in the ilk of Dominic Ongwen and Joseph Kony. Whatever the misgivings on the shortfalls of international tribunals, some still look up to them as institutions that can promote justice, especially with regards to war crimes and crimes against humanity. But the success of such tribunals is worrying if one is to judge by the Tribunal on the Rwandan Genocide based in Arusha, Tanzania. The Arusha Tribunal has very little to show in terms of success stories despite its long years of existence. This makes one reach the conclusion that not all – if at all Tribunals are effective in ushering post-conflict justice. In the section that follows, the discussion now turns to gaze into the church's role in promoting reconciliation in Zimbabwe post-2008 era.

5.8 The Church and Reconciliation post-2008 period

Undoubtedly, the church and religious affiliations have played a crucial role in preaching peace, encouraging reconciliation and healing in communities before and after the 2008 electoral violence in Zimbabwe. Much work was done during the GNU to encourage political tolerance and to shun violence between the major rival parties MDC and ZANU-PF. Various church denominations from Protestant, Catholic and Pentecostal denominations who have been actively engaged in peacebuilding programmes include the Renewal Fellowship of Zimbabwe (RFZ), Methodist Development Relief Agency (MEDRA), Evangelical Fellowship of Zimbabwe (EFZ), Zimbabwe Council of Churches (ZCC), and the Catholic Bishops' Conference (ZCBC) amongst others. In the aftermath of the 2008 electoral violence, the aforementioned church bodies intensified their efforts to implement the contents of a document that they had produced in 2006 entitled *The Zimbabwe we want: Towards a national vision for Zimbabwe*. The main theme of the document was to foster peace, reconciliation and ensuring social justice amongst the diverse political, cultural, ethnic groups in Zimbabwe.

Generally, research participants from the church and church bodies acknowledged that Zimbabweans do not have a shared vision regarding how to approach the emotive issue of reconciliation. By making such claims, they underscored the vital role that should be played by the church or faith-based organisations in steering the peacebuilding and reconciliation processes in deeply polarised communities. One is tempted to concur with

such kind of claims considering the polarity and fragmentation that has characterised the Zimbabwean society over the past decades. This emanates from – but is not limited to – past hate, structural violence emanating from mismanagement of distribution of resources, political identities carved out of disparate party belonging and deepening economic crisis. Further to that, there are divisive issues, for instance, recurring electoral violence, ethnic divisions between the Ndebele and the Shona.

All these factors have influenced the church to encourage dialogue, reconciliation and praying for peace before the formation of the GNU in 2007 to the present. This claim finds echo in the works of Togarasei and Chitando (2011:210), who noted that the coalition government provided a window of opportunity for religious denominations to spearhead reconciliation and healing in Zimbabwe. For example, in a pastoral letter entitled '*God can heal the wounds of the afflicted*', the Zimbabwe Catholic Bishops' Conference (ZCBC) (2009:8) underscored the need for healing in its appeal for reconciliation as demonstrated in an extract below:

We appeal to those among us who can afford to contribute towards the expenses of addressing the injustices of the pre-colonial, colonial and post-colonial eras to join us in this great task. We appeal to the perpetrators of these atrocities, accomplices, and instigators of violence to acknowledge the evil deeds and in conscience to own up and make restitution as Zacchaeus did (Luke 19,8). You need to be justified before God to find peace.

Taking a firm position on reconciliation and in a way tackling emotive and politically sensitive issues, the pastors chose to climb down from the pulpit to talk the language of TJ with fellow citizens. The pastoral letter by the ZCBC, which was produced above in excerpts, laid the strong foundation for showing the church's agency and voice in advocating for national healing and reconciliation in Zimbabwe. It was such a tone that had been ominously missing in the Zimbabwean body politic, making many to view the church as an accomplice in the violation of human rights specifically for choosing not to speak and seeming to turn a blind eye. But there is a basis in this silence from the church. The Mugabe regime was always brutal, even to church leaders who chose to speak against the state's excesses. This accords with the notion of repressive state apparatuses

(Althusser, 1971). In the same way, the regime also utilised the ideological state apparatuses, including the church, to pacify the citizens, yet human rights abuses raged on. This rivals the trend in other contexts. In the DRC conflict and during the authoritarian regime of Mobutu (see Eneflo, 2019) and in the Philippines, the Catholic Church famed itself for playing a role in the democratisation process, speaking truth to power and for calling for peace (see Cartagena, 2010).

The above claim is not to suggest that the church is not an important actor in fostering reconciliation. In the Zimbabwean context, the role of the church has been somewhat progressive and retrogressive. In some cases, where it was expected to speak out especially in cases of politically motivated, it has chosen to be silent or quiet. This goes against the lofty expectations of the church as a sanctuary for peace, truth and social justice. Commenting on the role of the church in TJ, one of the respondents said:

The church is the centre where people of different tribes come to worship together. Some of these people come with problems they will be seeking solace. The church has a very big role in peacebuilding, it is the role of the church to make sure that there is peace in the country. As MEDRA, we believe that if there is no peace, there is no development. We engage in water, sanitation and hygiene, livelihoods and social justice programs (Interview with Mr Tabaziba the Director of the Methodist Development Relief Agency (MEDRA) 2019).

The above claim reveals the active role that church organisations can and are supposed to play in fostering peace in societies emerging from conflicts. Whether the church will live up to what it is expected of is 'a wait and see situation' given the past fear to speak out on political issues.

Just to reiterate the role played by church-based organisations in fostering reconciliation, one needs to look no further than the Zimbabwe Council of Churches. It is one organisation that has been at the front and centre of peacebuilding, social cohesion and reconciliation in Zimbabwe. In an interview, Dr Gumbo, the social cohesion officer of the ZCC noted that 'they have established local peace committees and local peace councils which engage with other churches and non-church actors' police, traditional leaders, political parties, war veterans and vendors to spread peace and prevent conflicts in different communities from 2008' (Interview 2020). The ZCC has been facilitating dialogue among political players and at community levels to ensure healing and cohesion.

One respondent, Dr Gumbo chronicled how and why previous political dialogues failed in providing sustainable solutions to Zimbabwe's problems. Talking about this issue, he said:

We realised that this is not the first time the country is going for a national dialogue. In 1979, the country dialogued and a new Zimbabwe came and peace was achieved. Development was achieved, but it was short lived and not sustainable... As the church we are advocating for active urgency and activism at the local level so that everyone is involved in finding solutions to these challenges (Interview 2020).

Although the church has played a crucial role in preaching peace and speaking out against political violence after the 2008 violations, it appears as though it has failed to facilitate a sustainable national dialogue amongst the major political parties in Zimbabwe. To this end, the church has failed to reconcile people and call for justice due to a number of reasons that will be discussed in the following section.

5.9 The Church as Enabler(s) of Impunity

The enmeshing of religion and politics has also been a major drawback to the reconciliation processes in Zimbabwe. Some church leaders have been actively involved in partisan politics in Zimbabwe. For example, Bishop Kunonga of the Anglican Church of the Province of Zimbabwe is reportedly to have been a supporter of the former and late president Mugabe. Other church leaders like Bishop Manhanga of the Pentecostal Assemblies of Zimbabwe (PAOZ), Reverend Msindo of The Destiny for Africa Network, Andrew Wutaunashe of the Family of God Church (FOG) and Paul Mwazha of the African Apostolic Church sect have openly associated with ZANU-PF (see Manyonganise, 2016:168). Although there is freedom of association as stated in Chapter 4 part 2 section (58) of the Constitution (Government of Zimbabwe, 2013) it obviously comes with a set of problems. The church becomes conflicted to the extent that it becomes difficult to challenge ZANU-PF when it 'strays', specifically when it engages in politically-motivated violence.

This conflict of interest is demonstrated in how some of the church leaders pontificate over ZANU-PF functions but ironically pay a deaf ear to rights violations that occur under its watch in the country. In so doing, they preside over partisan political functions, and, in the process, they become complicit in human rights violations by their stance of failing to call a spade a spade with regards to government excesses. It will be a correct observation that the church has become complicit in covering up for the regime's rights transgressions. Again, for the past decades, these church leaders have failed to condemn the brutality of the ZANU-PF government and its agents. In this regard, the church bears the fault of failing to speak truth to power as ascribed by the biblical teachings and tenets that espouse the need to 'speak the truth and shame the 'devil'. By utilising the theoretical notion of the Place of Reconciliation adopted for this study, we can see that the church in Zimbabwe is failing to play its role in fostering the 'meeting of truth, peace, mercy and justice' as way of realising TJ and national reconciliation (see Lederach, 1997).

Even in cases where one would have expected the church to take a stance and speak out against state atrocities such as August 1 shootings in 2018 when the military killed six civilians, most famous churches decided to take a back seat. Yet, it is the role of the church not only to preach forgiveness but to speak the truth and reprimand state leaders when they violate citizens' rights. The above are just few examples of church inaction in the wake of rights violations by the state. Noticeably, whereas the church is important in facilitating reconciliation and forgiveness amongst antagonists it has oftentimes decided not to speak out. This then dents its credibility as a neutral arbiter that can usher in peace, healing, truth, and forgiveness to aggrieved victims of human rights abuses within a state. Such a role is important, considering that truth-telling is one tenet that forms the bedrock of TJ (see Hayner, 2011; Boraine, 2006; Mendeloff, 2004; Chitsike, 2012). The above scholarly claim is consistent with the views of one respondent who alluded to the notion that:

[t]here are gaps that we are not filling. The Church in Zimbabwe has for a long time abandoned its role, by that, I mean the church in Zimbabwe is supposed to bring to book anybody who is exhibiting a violent tendency, a control tendency over another group. A case in point is when the Gukurahundi occurred besides the

CCJP which went out to do numbers investigating whatever, there was no commitment to follow up on the findings. It costs us the trust from the Ndebele people, when we had one of the gravest political violence in 2008. It costs the church the trust even of the opposition political parties because everybody was asking where is the church. It is now difficult to earn this trust given the history of inaction by the church (Interview with Pastor Masenda of the Renewal Fellowship of Zimbabwe 10.11. 2019).

The above assertion clearly spells out how the church has often failed to influence Zimbabwe's accountability issues. Although some churches did not make public announcements, church leaders like Apostle Chiwenga of the Jesus Revelation Ministries were so vocal in condemning the regime (Nqobani Ndlovu, *Zimbabwe Situation*, 24 October 2021). It was not only church-based organisations that have been involved in TJ processes in Zimbabwe; several actors include eminent gatekeepers in society such as traditional leaders also play an active role as discussed below.

5.10 Traditional Leaders' Role in TJ post-2008 period

Traditional leaders also play a key role in facilitating traditional justice systems within their jurisdiction, as shown in Mozambique, East Timor, and Uganda. In Uganda's context, traditional leaders among the Acholi people preside over the *Mato Oput* traditional justice processes (see Afako, 2002; Tom, 2006). In East Timor, the reconciliation hearings involved a local traditional leader who could follow the community's traditional systems, which gave credibility to the process of healing (Brounéus, 2003:47). These traditional systems are exceptionally key in terms of supporting TJ, forgiveness, reconciliation and mediating conflicts that exist within local communities and dealing with perpetrators of different crimes. They can do other traditional processes of reparations and help people come to terms with those traditional cases. One CSO official confirmed the collaboration which exists between traditional leaders to resolve conflicts in communities. In explaining this synergy, he said the following:

We have used the model for Dare raMambo, which is more like the *Gacaca* approach, by facilitating dialogues led by community-level leaders' mainly traditional leaders, to dialogue and deliberate on conflict issues that are affecting or that has been affecting their communities. For us, this model is assisting TJ

processes in different communities that have been affected by violence (Interview with Mr Mandikwaza 2019).

However, despite their significant role in traditional justice systems, some traditional leaders have been accused of being pro-ZANU-PF. As such, this has then affected the manner in which they resolve issues, especially when dispensing justice to perceived opposition supporters. This situation obtains as a result of the capture of the institution of local government by the incumbent regime. Such a trend has been ongoing throughout the past decades. In the section that follows my analysis turns to introspection and scrutiny of a few selected CSOs in pushing for TJ in Zimbabwe. In seeking to bring lasting peace and reduce future outbursts of violence, Zimbabwean CSOs waded into the area of peacebuilding, advocacy, dialogue and community engagement, research and early warning systems. The analysis starts with the Heal Zimbabwe Trust.

5.11 Heal Zimbabwe Trust and Transitional Justice processes

Heal Zimbabwe Trust is a peacebuilding organisation formally established in 2009 to transform conflicts in the country (HZT, 2016). The organisation has been implementing projects that seek to bring peace, healing and reconciling communities that have been affected by the violence that emerged from 2008 to the present. The programme includes sports for peace to create tolerance among the youths, peace clubs and peace concerts to promote peace. These programmes have been elaborately discussed by Mr Mandikwaza, the research officer for HZT:

Generally, we provide peacebuilding support to communities that have been affected by political violence and various other forms of conflict. Heal Zimbabwe Trust started working at the height of political violence in 2008. That is the time when we intervened to help evacuate people who were affected by violence. We also provided livelihoods support systems. In other words, we wanted to restore their dignity and livelihoods by providing income-generating projects. This ensured that they are in safe spaces where they are not haunted or where trauma does not continue to regenerate in the way that would affect their mental health and livelihood support systems. We established architectures for peace, community peacebuilding structures for example, we have got peace clubs. These are structures that are established in communities composed of people who are

interested in promoting peace in the society. We also have women safe spaces for reconciliation... Women who are interested in promoting reconciliation come together and discuss how to mediate conflicts in communities.

The respondent further said:

We appreciate that we have helped communities to rebury their beloved ones, so we have provided memorialisation support to rebury their beloved ones in a more dignified way. In that case, they feel healed because they will now have buried the deceased relative where they actually wanted. We also do not end by working at the local community level. We also seek to bridge the gap between the communities and the government through policy advocacy. So, we do research on national healing and reconciliation processes. Our anchor is that the research is supported by bottom-up policy development principles, that is, the communities that lead and decide what they want the government to do and how to do it (Interview 2019).

Although Zimbabwean CSOs are closely working on reburials and memorialisation – alone, they cannot do much – hence the need to push for the NPRC to consider such activities in their programming. Significant to note is that the issue of reburials and memorialisation is not only peculiar in countries like Zimbabwe, they have been done elsewhere in contexts that have experienced violent conflicts. In Bosnia-Herzegovina, the Srebrenica’s women and pressure groups played a major role in pushing for the memorialisation of victims of the genocide, as exemplified in the Srebrenica Memorialisation Project (Chuck, 2010). Thus, the NPRC can also take a cue from such contexts. Of concern to note in the Zimbabwean context is the case where Gukurahundi memorial plaques erected by Ibhetshu Likazulu (pressure group for victims) were allegedly ‘stolen’ and destroyed in Kezi in acts that are reprehensible (Nizbert Moyo, *Newsday*, 27 May 2021; (NTJWG, 2021). More concerning is the silence of the NPRC in failing to publicly speak out and chastise such behaviour in acts that undermine efforts at memorialisation.

Returning to an analysis of the work being done by Heal Zimbabwe Trust, the organisation has done quite some commendable work in selected areas like Mashonaland East, Midlands, Masvingo, Mashonaland Central, Matabeleland North and Manicaland to prevent future violence. What is striking to note is that HZT has become

innovative by revitalising the African traditional mechanisms like *Nhimbe* (community working groups). The approach builds on traditional practices but adding a peacebuilding perspective. Such a traditional practice brings together perpetrators and victims to work together in the fields or gardens. The Heal Zimbabwe Trust and Zimbabwe Civic Education Trust notes that:

In terms of process, *Nhimbe*/ulima relies on a middleman or a family friend known in local parlance as *sahwira*. The *Sahwira* knowing fully well what has transpired with regards to the violations be it stock theft, destruction of homes and crops will initiate talks between aggrieved families to hold a *nhimbe* in the victim's field. The whole community is informed of the day of the *nhimbe* and they will congregate at the victims' homestead to assist in ploughing...(The HZT and ZIMCET, 2016:12).

The facilitative role played by the HZT has been instrumental in providing a non-hostile platform for truth-telling, forgiveness and rebuilding relationships. However, it is important to note that there are some complicated issues that they cannot discuss, such as *Ngozi* issue (*appeasing avenging spirits of a dead person in the Shona custom*). The difficult questions about who killed one's relative and how to appease the avenging spirits can never be said through the platforms created by civil society. In light of the foregoing assertion, one interviewee stated that, 'traditional methods used by CSOs can provide victims with temporal relief and promote social cohesion, but they will never be able to influence truth-telling and closure of the more critical issues' (Interview with Dr Makwerere 2019). Such an analysis depicts how complicated the issue of reconciliation is and the difficulties faced by CSOs in promoting TJ processes, especially through locally-driven indigenous mechanisms.

5.12 Role of the Zimbabwe Human Rights NGO Forum in TJ

The Zimbabwe Human Rights NGO Forum is a forum of twenty-two NGOs that was formed in 1998. The Forum's formation was informed by the food riots, which occurred in 1998 in response to the austerity measures that were implemented by the Mugabe regime. It then emerged to deal with the organised violence and the human rights abuses that were committed by the state in quelling the protests. Since then, the NGO Forum has influenced Zimbabwe's TJ trajectory in many ways that include litigation, production of

reports, research, and the documentation of human rights abuses. A TJ expert for the Forum, Mr Tlou, noted that the organisation has produced several reports such as *Exploring Transitional Justice Options in Contemporary Zimbabwe (2006)*, *Taking Transitional Justice to the People Outreach Report Volume 1*, *Taking Transitional Justice to the People Outreach Report Volume 2*. The reports have been instrumental in knowledge production, shaping the TJ processes as well as informing the work of the NPRC.

The NGO Forum also facilitated the process of establishing the National Transitional Justice Working Group. In his explanation of how the NGO forum formed the NTJWG, Mr Tlou had this to say:

The Forum created a platform that would operate under the NGO Forum, and it was agreed that the entity could be called the NTJWG. More meetings were done between 2002 and 2014 until the NTJWG was formed in 2014. There were agreements that were made. We needed to have thematic leaders who will be focusing on specific issues such as gender, institutional reforms, reparations, justice and accountability and the right to truth. The working group is not the NPRC and does not represent the NPRC. But because of the lack of the adoption of the NPRC Act, which would have seen the operationalisation of the NPRC, we later on realised that it was important for the working group to create a platform with a structure familiar to the NPRC [...] the reason being that we also needed some form of shadow process that would also inform national peace and reconciliation processes. Until 2014 when the NTJWG was formed, there were no processes that were informing the national peace and reconciliation processes (Interview 2019).

The efforts by the NGO Forum created an important body that oversees the work of the NPRC. Their constructive criticism and recommendations are essential in shaping how the NPRC conducts its work.

The Forum has four functional units, namely: Transitional Justice Unit, Research and Documentation Unit, Public Interest Unit and the International Liaison office. Although the various units are important in addressing past violations, the TJ unit provides important insights to this study. The forum reports that 'the Transitional Justice (TJ) Unit spearheads the Forum's work to rebuild social trust, repair a fractured justice system, and build a democratic system of governance that addresses past human rights violations

through both judicial and non-judicial approaches' (Zimbabwe Human Rights NGO Forum, 2021). The research and documentation unit conducts research on organised violence and torture (OVT). It produces monthly publications on political violence and regular reports on the status of human rights violations in Zimbabwe. The Public Interest Unit is responsible for litigation that is holding the government accountable for human rights violations and organised violence in the domestic courts (Zimbabwe Human Rights NGO Forum, 2020). It is critical to note that despite such commendable work conducted by these CSOs, the efficacy of their efforts will continue to be hamstrung by the state, which often utilises the repressive state apparatuses (Althusser, 1971) to close the civic space. This is particularly noticeable in emotive and 'sensitive' issues around truth-telling, public acknowledgement, historical accountability, reparation and victim-centric justice.

Just as in earlier patterns (during the era of Amani Trust) which was banned by the government – excellent research work by CSOs was not incorporated by the state in nurturing a new culture of human rights observance. This is, however, not to underplay the important documentation and research work by TJ organisations in the country. It is only that there remains a strong reason for believing that even current efforts by Zimbabwean CSOs, while necessary, they may not facilitate the meeting of peace, truth, mercy and justice as articulated by Lederach (1997). This is if the state continues not to take seriously the advocacy and research work conducted by non-state actors, including CSOs (such as the Zimbabwe Human Rights NGO Forum) and independent commissions – namely the Human Rights Commission and the NPRC.

5.13 Role of the National Transitional Justice Working Group (NTJWG)

The NTJWG was formed in 2014 by various non-state actors that work within the TJ domain. It 'is a platform established by 46 Zimbabwean organisations representing various transitional justice stakeholders to provide the interface between transitional justice stakeholders and the official transitional justice processes in Zimbabwe' (NTJWG, 2019:3). The NTJWG is one of the leading CSO that has been influencing TJ in Zimbabwe since its establishment in 2014. It is important to highlight that the working group 'is a culmination of the efforts of many stakeholders dating back to the symposium on *Civil*

Society and Justice in Zimbabwe which was held in Johannesburg from 11 to 13 August 2003' (Zimbabwe Human Rights NGO Forum, 2014).

The NTJWG consists of various thematic groups, which include Promotion of Truth, Reparations, Justice and Accountability, Memorialization, Gender and Institutional Reform. Since its establishment, the NTJWG has been doing a watchdog role of monitoring the progress of the NPRC. In this light, they have published several editions of the NPRC Watch as well as organising TJ dialogue series. In addition to that, the working group also organise radio dialogue with survivors, victims and traditional leaders to discuss ways of navigating TJ and reconciliation in various communities.

In an interview, the coordinator of the working group Mr Dzikamai Bere noted that:

[O]ur work has mainly focused on coordinating the TJ agenda, coordinating civil society to monitor official processes of TJ and influencing government policy through mobilising for competent, independent commissions like the NPRC and good laws like the NPRC Act (Interview 2019).

Mr Bere further noted that the Human Rights NGO Forum is the secretariat of the NTJWG, which do the day-to-day activities. In summarising the work of the NTJWG, Mr Bere noted that:

We also produce documents such as the NPRC Watch, which basically is a synopsis of what would have happened in a certain period of time, and we publicise these documents. We capture what the working group is doing, documents generated by the working group and so forth. So, in the past few years, we have been producing some very important documentation, such as the Code of Inclusion. We have also been producing the NPRC Watch and the monitoring Framework, which also guides our stakeholders on what to focus on (interview 2019).

The TJ expert of the NGO Forum had this to say:

My understanding is that the working group was quite pivotal in creating platforms where people could freely discuss TJ issues without fear. Not only that there were other background processes that were started or ignited by the working group. For example, the Working Group was actively involved in the appointment of a substantive commission of the NPRC. It also actively engaged with the executive in pushing for the adoption of the NPRC Bill. The Working Group further engaged

with different stakeholders to advocate for the full operationalization of the NPRC. Taken together, these processes prepared the ground for the functioning of the NPRC (Interview 2019).

An anonymous employee of the NGO Forum noted that the Working group has carried out extensive consultative processes with stakeholders and civil society, raising awareness about TJ matters and lobbying and advocacy efforts (Interview 2020). The respondent further highlighted that the working group has attempted to have some kind of relationship with the NPRC (Interview 2020). Such engagement was necessary to prepare the work of the commission.

5.14 The Role of the Tree of Life

The Tree of Life is an organisation that promotes peace, reconciliation, recovery and trauma healing to survivors of organised torture and violence. It was registered in 2010, although it had commenced its work informally in 2003. In an interview, the director of the organisation highlighted that their main focus is survivor support (Interview 2020). She mentioned that they work in the southern region, Bulawayo, Tsholotsho and Lupane. The Tree of Life also works with Ukhutula Trust. In explaining their role in peacebuilding and TJ processes, the respondent said:

[W]e are working with victims and survivors and helping them prepare themselves to give testimonies to the commission... The idea is if the commission start the outreach next year, our team will support those victims during and after the process. We are working with Ukuthula Trust on awareness in the community on what the process should look like and how they can protect themselves, right to protection and safety and so on. So, we are doing that preparatory work at the moment (Interview with Lynn Walker 2020).

The trauma healing workshops and training of community-based survivors by the Tree of Life are crucial to the TJ processes in Zimbabwe. It is indeed relevant to prepare victims to be ready for the NPRC public hearings that the NPRC will roll out.

5.15 Challenges faced by CSOs and non-state actors in TJ processes

Many civil society actors noted that they have been facing a lot of challenges in executing their duties because they are viewed as regime change agents by the past and current

government in Zimbabwe. As such, it follows naturally that the relationship between these CSOs and the government is strained. During my fieldwork, civil society actors mentioned that they are viewed with suspicion because of the source of their funding, and also due to the sensitivity of the matters they engage in. The issues include accountability, justice and criminal prosecution. The research and advocacy coordinator of the Centre for Conflict Management and Transformation pointed out that in the context of Zimbabwe, the peace concept had become a political term laden with negative connotations especially by the ruling establishment (Interview 2019). In this regard, it is considered sensitive to the extent that most CSOs are deliberately shunning the use of the term in their programming. She stressed that many organisations, including the CCMT, now talk of inclusive development, equitable distribution of resources and gender mainstreaming that form the building blocks for building positive peace. She emphasised that;

If you go to the authorities and highlight that you want to do a peacebuilding workshop, they will ask you a lot of questions. But if you go there and you say we want to do a workshop on sustainable development but looking at access to resources and how we can involve everyone... but if its peace they will ask you who is facilitating and resourcing you, there will be a lot of background check (Interview with Mrs Taruwinga 2019).

Research findings established that CSOs play a crucial role in spearheading TJ processes and fostering peaceful co-existence in different communities in Zimbabwe. However, this role would have been more effective if the government and the NPRC were willing to work with them. The basic assumption is that there should be complementary efforts between civil society actors and the political players to achieve TJ goals. It seems the space is quite limited, although there are opportunities for collaboration with the NPRC. The point above was also buttressed by Mr Tlou, a TJ expert from the Human Rights NGO Forum, who argued that:

The environment is not conducive most of our work needs to be victim-centred and survivor-centric. It should be anchored on the participation of the people but if the context in which you are working in starts deteriorating and also starts shrinking it becomes very difficult to implement programmes. We still have issues with the involvement of the army in human rights issues, the banning of meetings, issues

with dealing with gate keepers at community levels. We need to deal with chiefs, councilors, members of parliament (MPs) and district administrators (DAs). This is because some of the issues that we discuss under TJ are more or less related to accountability and justice. So, some of the people that we are still dealing with or the community that we want to go to are still being overseen by people who are allegedly involved in gross human rights violations. So, when we start talking about justice and accountability issues, some people actually think that we want to incriminate them. We want to judge them, we want to take them to the International Criminal Court, and so the environment becomes hostile (Interview 2019).

An anonymous human rights activist and employee of the NGO Forum buttressed Mr Tlou's above assertion by noting the following:

The Forum has been facing a lot of challenges. I think all CSOs in Zimbabwe are facing the same kind of challenges and that government seems to be shrinking the space. There is a whole gamut of laws that they are trying to implement, which will shut down the civic space. There is an amendment to the private voluntary organisations act (PVO Act) that is happening. There are new amendments that they want to make to the criminal law code regarding private correspondence with foreign governments. The government is attempting or want to implement laws that effectively shrink the civic space because we are viewed as enemies of the state (Interview 17.11. 2020).

The above revelations show that the hands of CSOs are tied insofar as advocating for human rights accountability and justice is concerned. The current ZANU-PF government have a lot of security agents dotted around such that CSOs cannot initiate discussions relating to accountability in communities. It is, thus, unsurprising that many human rights NGOs have been labelled as regime change agents during and after the Mugabe era. Faced with such a dilemma, citizens are left with limited options than to look up to the legal system to foster justice and accountability, especially in post-conflict societies.

5.16 Conclusion

The chapter analysed the formal and informal TJ mechanisms implemented by non-state actors after the 2008 electoral skirmishes. The main argument advanced in this chapter is that non-state actors such as CSOs, NGOs, church and traditional leaders have played

an instrumental role in shaping the TJ trajectory of Zimbabwe despite the constrained environment. Drawing from the empirical findings and CSO reports, the study established a spirited attempt by non-state actors to address the TJ gap and deal with the human rights abuses committed in Zimbabwe from 2008 to the present. These tactics include research, counselling and treatment, investigations and documentation of human rights abuses, TJ policy, early warning mechanisms and education, community dialogue healing and rebuilding societal relationships, advocacy and peacebuilding measures in different communities from 2008 to the present. Although non-state actors have been playing an instrumental role in influencing TJ processes since 2008, the environment in which they operate has not been conducive. Government has been shrinking the civic space. The following chapter presents perceptions of citizens on the challenges and prospects of the NPRC in promoting victim centred justice, peace, truth telling and national reconciliation in Zimbabwe.

Chapter Six: The Current Perception on the Role of the NPRC after 2013 elections to Foster a Climate of National Reconciliation

'Peace Begins with Me, Peace Begins with You, Peace Begins with all of Us' (The late vice president John Landa Nkomo).¹¹

6.1 Introduction

This chapter presents an empirical analysis of the role being played by the NPRC to promote post-conflict justice in Zimbabwe. The chapter is specifically aimed at evaluating the envisaged influence of the NPRC in fostering national reconciliation, truth-based justice and the much-desired RJ since the proclamation of the NPRC in the 2013 constitution and the NPRC ACT in 2018. The analysis is pursued by utilising qualitative findings gathered through secondary data, interviews, a review of reports by CSOs, and existing grey literature. The chapter is based on citizen perspectives on the NPRC in Zimbabwe. The chapter is arranged as follows. In the first section, I present citizen's views on reconciliation. In the second section, I address the challenges confronting the NPRC in fulfilling its mandate. Thirdly, I examine the politics hampering reconciliation efforts. After that, I explore the role of NPRC in fostering peace. I conclude by examining the lack of social contract drawing on citizen perspectives on how justice is denied in Zimbabwe.

The chapter seeks to answer the following research question: *How can the current efforts of the NPRC to foster a climate of national reconciliation in Zimbabwe be determined at the hand of a peace and reconciliation framework?* In answering this question, the study seeks to analyse whether the establishment of the NPRC has aided in the realisation of justice, promotion of peace and reconciliation in Zimbabwe. This chapter is guided by Lederach's Place of reconciliation theory to inform how the NPRC could foster sustained peace and reconciliation.

6.2 Citizen Centric views on Reconciliation and the inevitability of a TRC

This section seeks to understand two pertinent issues. Firstly, it seeks to answer the research question of why we need reconciliation in Zimbabwe and secondly, why a

¹¹ Words of the late Vice President John Nkomo who was responsible for National healing, Peace and reconciliation during the GNU era in Zimbabwe from 2009 to 2013. He used this mantra in public gatherings to promote peace and social cohesion.

genuine TRC is essential. The recent blossoming of TRCs in Africa validates why we should carry out empirical research on their impact in relation to justice, peace, conflict resolution and national reconciliation. It is against this backdrop of injustices committed since the inception of independence, making TRC an indispensable tool for achieving peace, justice, reconciliation, and concomitantly positive peace. There is no doubt that the promulgation of the NPRC in Zimbabwe in 2013 gave a glimmer of hope and high expectations with regards to justice and reconciliation to the general citizenry, scholars, religious leaders, victims, TJ practitioners and the donor community. The debate on whether the NPRC will achieve its mandate of ensuring post-conflict justice, truth and national reconciliation has proffered insightful discernments and mixed perceptions. This was gleaned from narratives amongst various stakeholders through key informant interviews conducted in Zimbabwe. The general assumption that TRCs foster peace and reconciliation lies at the heart of this study. Irrespective of their political ideology, differences and religious affiliations, many respondents concurred that Zimbabwe needs a genuine reconciliation process that can confront the past's exigency.

The promulgation and establishment of the NPRC in the new constitution has markedly turned a new chapter in rethinking Zimbabwe's national reconciliation conundrum. However, despite several legal frameworks, the NPRC is still yet to commence activities related to truth-seeking, justice and accountability. Section 252 of the constitution and the NPRC Act (c) provides that: *to bring about national reconciliation by encouraging people to tell the truth about the past and facilitating the making of amends and the provision of justice*'. Without any doubt, the inclusion of the three fundamental concepts 'reconciliation, truth and justice' in the legal framework of Zimbabwe was a step in the right direction towards (re)building positive peace, societal, political and national reconciliation. However, what remains to be seen is whether the NPRC will live up to its expectations by excavating truth, fostering sustainable and genuine reconciliation as well as justice.

The NPRC has provided legal frameworks that are necessary for the attainment of justice and reconciliation. For instance, the National Peace and Reconciliation Commission Regulations SI 90.2018 was also adopted in accordance with section 21 of

the NPRC Act. This legal framework specified necessary regulations on how the commission should handle victims, PART IV carry out investigations, hearings and PART IX on pardon and justice recommendations (see NPRC regulations SI 90.2018). Legally speaking, besides these attractive constitutional provisions, it is no secret that the NPRC has done too little so far to fulfil the constitutional provisions. The current TJ efforts being spearhead by the NPRC has received much criticism from research participants due to several loopholes that will be discussed in this chapter. The greatest criticism of the NPRC is its failure to adopt the normative framework as guided by the existing laws. A standard view amongst key informants was that the commission has no clear fine-tuned roadmap to pursue victim-centred justice, peace, and national reconciliation simultaneously.

This research's principal findings are that Zimbabwe cannot move forward as a nation without effective TJ mechanisms that proffer justice, peace, truth-telling, national healing, and reconciliation. This resonates with Lederach's model of reconciliation, which is anchored on biblical verse of Psalms 85:10. In Lederach's view, reconciliation is 'a locus, a place where people and things come together' (Lederach, 1997:29). He further posits that sustainable reconciliation is a place - figuratively where truth, justice, peace and mercy meet (Lederach, 1997:29). His works inform this study as the NPRC should bring people together, to tell the truth, find justice, forgive each other and restore relationships. The main reason is the need to get rid of the past nerve-wracking experiences, including but not limited to the liberation war injustices, collective trauma of Gukurahundi, human rights abuses associated with the land reform, and the 2008 electoral violence.

Given such a backdrop, many respondents reiterated that they still expect the NPRC to fulfil its mandate by investigating human rights abuses, identifying perpetrators and encouraging reparation in cases where victims have lost material property. On the contrary, one interviewed victim mentioned that 'narratives that revolve around redress, truth-telling, criminal justice, compensation and accountability often provoke paranoia in the human rights violators' (Interview with anonymous victim 3 in Murehwa 08.11.2019).

Public confession in any TRC is a necessary ingredient in the reconciliation process. Gusha argues that 'there should be a process of confession of the evils of the

past by the perpetrators through an established Truth and Reconciliation Commission' (Gusha, 2019:12). This has happened elsewhere in countries that have held TRCs. Kohen (2009) and Leunissen et al. (2012) posited that perpetrators suffer from spiritual wounds, so they definitely need to apologise so as to facilitate forgiveness and reconciliation processes. However, this forgiveness should be tied to a 'sincere apology which should name the deed, acknowledge wrongdoing, and recognise the pain of the victim, such an apology conveys a sense of regret and deeply felt remorse' (Gobodo-Madikizela, 2003:99). From this perspective, the NPRC in Zimbabwe can take a cue on how to spearhead truth-telling, forgiveness and how to create conducive confession platforms for perpetrators taking from the South African TRC as explained by Gobodo-Madikizela and other scholars. In the words of Martha Minow, apologies help one to 'acknowledge the fact of harms, accept some degree of responsibility, avow sincere regret, and promise not to repeat the offense' (Minow, 1998:112).

However, the obtaining reality is that the NPRC seems to be ignoring its core mandate of promoting truth and victim-centred justice as provided in the enabling laws. This argument stems from the fact that the NPRC is largely predicated on promoting peace at the expense of truth-based justice and reconciliation. This assertion resonates with Mr Mandikwaza's argument that 'the NPRC is more like a peacebuilding architecture rather than TJ architecture'. He further argued that the NPRC might achieve minimal results of the expected healing processes since it is following a peacebuilding approach (Interview 2019). In light of the respondent's views, the NPRC should facilitate truth-telling, confessions of crimes committed and forgiveness. It is only through RJ measures that reconciliation can be achieved in Zimbabwe.

Zimbabwe's violent history calls for a need for national reconciliation and an effective NPRC to search for historical truth and create a climate of sustainable peace, healing, and justice. A survivor and founder of the Zimbabwe Political Victim's Foundation mentioned that:

Zimbabwe is a very divided society. This is as a result of conflicts that have caused hatred and acrimony. The country needs reconciliation to then create a sense of

trust to the state and have a closure of the human rights abuses (Interview with Mr. Sekayi Gombe 2020).

This view was also buttressed by Mr. Manyati the vice chairperson of the Mashonaland East Peace committee who emphasised that:

For the past 20 years, MDC has been complaining that ZANU-PF has been killing members of its party. Anyone who thinks ZANU is good, is an enemy of those who think ZANU-PF is not good. So, our country is divided into political lines, so we are polarised as a country (interview 10.11. 2020).

Such blame game regarding the identity of perpetrators of violence by political parties has further perpetuated animosity, anger, vengeance, and violence among Zimbabwe's major political parties. Often times, the opposition supporters have also retaliated by using direct violence to the ruling party supporters.

The legacy of violence, enduring conflicts and the associated divisions in pre- and post-colonial Zimbabwe explain the need for national reconciliation. It is no secret that pre-, colonial and post-colonial Zimbabwe has undergone a torturous past that has disturbed the nation's social fabric. In an interview, Commissioner Chada chronicled the history of violence dating back to the 12th century, the conflicts associated with the Mapungubwe state formation, Mfecane conflicts, nationalist uprisings in the 1950s, liberation war conflicts and the post-independent conflicts. He further mentioned that,

As a historian and spokesperson of the commission, I gave the commission a very bold statement that we have never had peace in Zimbabwe to this very day...We need reconciliation to get back to the original state of relationships because an unreconciled life is a broken life (Interview with Commissioner Dr Chada 16.12.2020).

Indeed, post-colonial Zimbabwe has inherited violence to the extent that it became part the country's everyday social life. As such Zimbabwe needs TJ measures that build peace and restore relationships among all races and ethnic groupings. Similarly, another respondent gave very insightful perspectives of the violence continuum and the need for reconciliation. Richard Mahomva, a ZANU-PF activist, said the following:

We need reconciliation in Zimbabwe because our country was a product of an armed struggle, and after the armed struggle, we followed the post-colonial state character of violence. So, when we look at the architecture of our political culture it is embedded in pre- and post-colonial violences not violence. But we need to look at the state as an actor in the perpetration of violence against the backdrop of colonial architecture of violence and say how did the state reproduce violence and if you look at that from the lenses of the academia- Paulo Freire in the *Pedagogy of the Oppressed* speaks about the recycling of violence. So, against that backdrop we need to situate the psyche of violence and say what has been the psyche of violence. What has been the history of violence? We should look at rebuilding a society that is immune from violence by deconstructing what the state had inherited from the colonial past (Interview 2019).

Similarly, the Director of the Tree of Life Trust stressed that:

Zimbabwe is a wounded and traumatised nation. There are cycles of trauma, cycles of violence going back throughout Zimbabwe's history, there is trauma at an individual level but there is also collective trauma. Massive traumatic events like Gukurahundi, but there are also traumatic events like the whole liberation struggle which was traumatic for communities, cycles of election violence, cycles of trauma compounding and exacerbating each other. We have relations that have been obliterated. There is no doubt that there is a lot of healing that needs to happen (Interview with Lynn Walker 2020).

All the above sentiments underscore the need to realise truth, accountability, reparation and reconciliation, which is in accordance with the theoretical lens adopted for this study, that of Wietekamp et al. (2006). Again, from the above, it is clear that Zimbabwe genuinely needs national reconciliation that can restore relations amongst diverse communities. Such a process is also important to deal with trauma at an individual level. To contextualise this argument elsewhere in the South African TRC, the commission had to confront the unpleasant past to bring closure and catharsis.

Noteworthy is that reconciliation has proved to be an arduous process in polities where political players who committed heinous crimes are still in control of the levers of state power. Such players do utilise levers of the state apparatuses (Althusser, 1971) to contain

and block any genuine and far-reaching TJ processes that seek to probe into who did what, why, when and how. In the case of Zimbabwe, most respondents blamed the government's track record of deploying force and fomenting violence to its citizens. For this reason, there was consensus among key informants that national reconciliation remains a tenuous process given that the state has been at the centre of reproducing violence hence making it difficult to favour TJ processes.

The most compelling argument made by Mr. Manyati, vice-chairperson of the Mashonaland East provincial peace committee, is the problematic question of how to achieve reconciliation when the perpetrators are still in control of the state apparatus. He mentioned that 'victim-centred justice might be initiated, but truth-telling might be a challenge since those that are still in power are fingered or involved in the atrocities' (Interview 2020). This is different from other contexts, for example, in the South African TRC, some perpetrators acknowledged their wrongdoing. In Zimbabwe, if events of state sanctioned political violence are anything to judge from, public acknowledgement of wrongdoing is not the norm. Hence, it has to be seen whether this will change as and when the NPRC conduct its public hearings.

In the South African context, one perpetrator, former secret police operative Eugene de Kock, 'Prime Evil', acknowledged his involvement in killing three black police officers through a car bomb in Motherwell in Port Elizabeth ('the Motherwell Bombing') during the apartheid era in South Africa. He initially first appeared at the TRC in 1997 but he later testified in private to the victims (widows of the murdered policemen) – Pearl Faku and Doreen Mgoduka in the presence of their lawyers (Gobodo Madikizela, 2003:14). This case is instructive insofar as it shows how guilt can invoke issues around trauma, pain, remorse, contrition and mercy. Asked in an interview and about the episode, Eugene expressed the following sentiments:

'I wish I could do much more than [say] I'm sorry, I wish there was a way of bringing their bodies back alive. I wish I could say, 'here are your husbands'...'but unfortunately...I have to live with it...' (Gobodo Madikizela, 2003:32).

It cannot be refuted that the situation in South Africa and elsewhere where former regimes are out of power somehow enabled the extraction of testimonies and perpetrators'

identification during TRC public outreach. However, in the Zimbabwean case, identifying perpetrators remains an albatross around the commission's neck, as evident in the interview by Mr Manyati above, who noted that the system (incumbent regime) that underpins and support the perpetrators is still in power. Such a perspective underscores the abuse of state security apparatus to suppress and forestall any serious TJ demands within the Zimbabwean milieu.

Tapping from other success stories, one can posit that only genuine reconciliation can be achieved when the power holders are at the forefront of stirring the reconciliation processes. Given Zimbabwe's political status quo, Pastor Masenda of the Renewal Fellowship of Zimbabwe (RFZ) observed that 'if the NPRC wants to be effective, the incumbent head of state should appear in public and apologise to the nation' (Interview 2019). His argument was that the former government (of Mugabe) and current government of Zimbabwe (that of Mnangagwa) (which is actually the same regime) had created a 'national debt' referring to unforgiveness. In his view, victims of all human rights abuses, including those committed in Chiadzwa diamond fields in 2008, the electoral violence of 2008 and one August 2018, are still holding on to the national debt' (Interview 2019). Facilitation of such public acknowledgement, which often dovetails with accountability, is in sync with the theoretical notions articulated in the TARR model by Weitekamp et al. (2006).

The idea of forgiveness was also supported by Mr Tabaziba the Director of the Methodist Development Relief Agency, who in a separate interview had the following to say: 'when the church is talking of reconciliation, the focus is on forgiving each other and that's what Jesus said, we must learn to forgive each other' (Interview 2019). Though the church favours forgiveness, it appears the NPRC is not seized with the mechanics and challenges around the aspect of forgiveness and how it can be implemented in the Zimbabwean context. However, empirical evidence from other TRCs indicates that the issue is far more complicated than often assumed. As revealed by one scholar who served in the South African TRC:

Not all victims who appeared before South Africa's Truth and Reconciliation Commission were willing or able to forgive those who had so deeply violated their

integrity. However, lessons from TRC proceedings approached with an open mind – and mind – and heart – can help us chart a path along which forgiveness may occur, as well as conditions that make it difficult, or even morally inappropriate, to forgive (Gobodo Madikizela, 2003:125).

It can be argued that the absence of an official public apology or acknowledgement from the past and present government with regards to the atrocities has stalled well-meaning efforts towards realising TJ in Zimbabwe. This view was corroborated by an MDC Alliance activist who noted that:

In Zimbabwe, there has been no public apology or owning up to the past. The only statement (not a public apology) and near acknowledgement of past atrocities was from former president Robert Mugabe who characterised the Gukurahundi massacres as moment of madness, the question is how mad was it? (Anonymous Interview 2019).

From the above, it is clear that the absence of public acknowledgement, remorse and official apology has stymied efforts towards propagating truth-telling, historical accountability and TJ in the Zimbabwean polity. Seeming to corroborate this point, during the tenure of the Ninth Parliament Mr Mudenda urged the NPRC to sturdily push for national apology. He noted the following during a capacity building workshop in Bulawayo:

Let us confess that era of the conflict so that we go beyond the acknowledgement of the 'moment of madness'. Confession is a condition precedent to letting bygones be bygones. Once that confession is done the spring of hope, national healing and reconciliation will abundantly germinate without any doubt (*The Herald*, 20 August 2019).

Though a welcome and positive step, the major shortcoming of the above view is treating the TJ process in a teleological, deterministic and mechanistic way. Notably, it does not necessarily follow that public acknowledgement will usher in TJ. This is considering that most perpetrators do not say what they mean. By themselves, words alone will remain meaningless without a change of behaviour and without attendant action of remorse and the desire to redress the past. This is also exemplified in several countries that have initiated TRCs but are still grappling with the challenges of TJ many years later. Uganda

is one such example. This is, however, not to discount others that have had a fair share of success stories and some sort of closure on TJ – Sierra Leone is a perfect example (Ainley, 2015: 242).

Another interviewee, when asked about the work of the NPRC and victim-centred justice, felt that:

NPRC is busy creating peace committees everywhere, whereas violence is now experienced individually. So, peace committees presuppose that violence is experienced homogeneously. And therefore, there is a homogenous response to violence (Interview with Dr Maregere- a transitional justice expert 2019).

This claim by Dr Maregere is indeed a call to action by the NPRC to respond to the changing realities and dynamics of violence and victimisation in Zimbabwean society. In the Zimbabwean context, it is often noted that the TRC alone is not an enough institution to address the deeply embedded psychological trauma. There have been mixed perceptions in the extant scholarship and from respondents whether Zimbabwe should adopt formal or informal TJ mechanisms. Some respondents suggested that there should be both criminal justice and RJ in Zimbabwe. This view is in line with those observed in earlier studies.

Opinions do, however, differ on the best approach to adopt. For instance, in contrast to the above, one respondent underscored the need for traditional justice systems that resonates with victims' interests and how they interpret justice (Interview with Dr Maregere 2019). I find Maregere's view appealing as it resonates with the normative framework specified in the African Union Transitional Justice Policy (AUTJP) adopted by the AU in 2019. The (AU) states that member states can adopt complementary justice mechanism ranging from traditional, judicial and non-judicial to deal with past injustices (African Union, 2019: 4-5). Considering the Zimbabwean context, this might be better though not the best option to pursue. This is also taking into cognizant the limitations of both approaches (traditional and the normative Western legalistic approaches). In this regard, there is also a need for a blended approach to TJ.

6.3 Perceptions, Challenges and Reality on the Effectiveness of the NPRC

This section analyses how the NPRC has fared in the post-2013 period to the present by reflecting on different research participants' perceptions. The research established that many factors could potentially affect the successful discharge of the NPRC's mandate. The social scientific inquiry and the eclectic approach were made to gauge people's perceptions, views, feelings, and attitudes on whether the NPRC will deliver justice and ushering the broader anticipated national reconciliation. Further to that, discussion on the perceptions and challenges helps us examine the social realities with regards to RJ, reconciliation and the importance of TRCs.

The other contentious issue regarding the Zimbabwean NPRC is how to guarantee victim rights, remedies and rehabilitation. Viewed critically, one can notice that Zimbabwe's post-colonial reconciliation efforts have overly adopted a top-down approach which palpably ignores the aspect of victim-centred justice. This has made one analyst to posit in the context of Zimbabwe that:

The mechanism that is being used requires a bit of tinkering. The concept of justice is not, in my respective view, developed from the understanding of the victims of human rights violations. So, victims, in my view, must be involved in the design of the mechanism that seeks to address their plight. So, my biggest problem with the NPRC is that it is top-down. It is state-centric and decontextualised from the lived realities of those that have suffered under Gukurahundi and 2008 electoral violence (Interview with Dr Maregere 2019).

This view by Dr Maregere shows that victims are often sidelined in crucial reconciliation processes. This has been the case in the past reconciliation processes as have been argued in chapter 4. Without victim-centered post-conflict justice, the current efforts by the NPRC and CSOs will not yield the intended results. It may be that a heavy focus on victims will yield genuine reconciliation.

The other challenge characterising the NPRC in Zimbabwe is the couching, framing and overemphasis on the reconciliation and forgiveness narrative. It may be that some victims just need to hear the truth, whereas others might just be interested in justice, public acknowledgement of wrongdoing and show of contrition. In itself, treating

forgiveness as an end-goal that can be 'imposed' and prescribed on society is in itself problematic. As Archbishop Desmond Tutu reminds us in his book entitled *No Future Without Forgiveness* (1999), forgiveness is a journey – not a collective – but an individual one that one has to take before making a final decision consciously. Again, as revealed in the South African TRC model, victims must be given the latitude to decide rather than for society to prescribe how they should feel and act. In the case of the widows whose men were killed in a car bomb by Eugene de Kock discussed in earlier sections, one of them had the following to say after listening to Eugene's testimony:

I was profoundly touched by him...I couldn't control my tears. I could hear him, but I was overwhelmed by emotion, and I was just nodding, as a way of saying yes, I forgive you. I hope that when he sees our tears, he knows that they are not only tears of our husbands, but tears for him as well...I would like to hold him by the hand, and show him that there is a future, and that he can still change (Gobodo Madikizela, 2003:14-15).

The above excerpt underscores my point that the manner and way victims should feel and respond to their pain, anger, hurt and grief should only be an individual process not primarily imposed by any form of coercion by a TRC. To buttress this point, Gobodo Madikizela further stress that there are instances where 'gestures of forgiveness are enacted from a position of weakness rather than one of strength' (Gobodo Madikizela, 2003:100).

Moving away from the need to frame a victim-centred approach in TRCs processes, the Zimbabwean NPRC has, owing to various reasons, failed to kick start its operations on the specified time frame. One issue that came out clearly throughout fieldwork is that the NPRC Act was rejected and amended several times in parliament because it lacked the crucial aspects of victim-centeredness. Due to the unceasing demands for inclusivity government took much time in trying to come up with an enabling law that is acceptable to the victims and the CSOs. As such, from 2013, the NPRC Act was finally gazetted in 2018 after some further consultations with the general citizenry. One respondent pointed out how consultations on what the NPRC should do and the strategic plan often flopped. Mr Muchena stressed that after the flop, the NPRC went back

to the drawing board and crafted the strategic plan without much input from the citizenry (Interview 2019).

The issue of participation and consultation of the citizenry by the NPRC, resonates with the wider conceptual and empirical debates regarding quality and levels of participation. The putative view in the scholarship is that there are different levels of participation borrowing from Hart's ladder of participation (see Hart, 2008) also (see Arnstein, 1969). In this regard, concern can also be raised on whether the people in the grassroots are effectively consulted in the ongoing NPRC programming. Or it is matter of tokenism or decoration. Further concern regards to whether their inputs are integrated and in what ways. In the court of public opinion, even by the time the NPRC conduct the actual hearings it should be seen to be involving the communities, even the harder to reach communities in terms of geographical location. These issues around levels and quality of citizen participation in the public outreach programme will engender public trust, confidence and buy-in the process.

The Zimbabwean trend rivals the situation with TRCs in other contexts, including Sierra Leone and South Africa. There TRCs did not take much time to roll out the public and private hearings. In the Zimbabwean context, one respondent from the NPRC acknowledged that they have been slow in executing what they are expected to do. The interviewee was, however, quick to observe that:

The NPRC is busy preparing what is going to happen in the near future. From the public eye, the NPRC has not done something tangible. But if you are an inside person, you understand what is going on. You will understand that the NPRC is doing a lot. It is only that what we are doing now has not involved the public. The programs that we have done so far are the programs that were to ensure that the public understands the mandate of the commission (Interview with an anonymous employee from the NPRC November 2020).

Whilst the above explanation from an insider in the NPRC might be plausible – TRCs get their confidence from the public. Hence, confidence-building measures are paramount even at the inception stage of any TRC.

Elsewhere we can discern a similar pattern to the Zimbabwean trend where issues of limited funding have remained a hindrance to the effective functioning of TRCs. Commissions such as the Ecuadorian Commission, Ugandan Commission and the Guatemalan Commission's operations were also hamstrung by funding (Hayner, 2011). This state of affairs has not spared the Zimbabwean NPRC. An NPRC official encapsulated the funding challenges as revealed in the quote below:

The NPRC is now trying to roll the baseline line survey, the whole idea is to engage with the communities to find out the conflicts they were facing in the past, what type of conflict resolution mechanisms they were using to resolve those conflicts and the various actors involved. The baseline surveys are starting very soon, but we are just waiting for funding from the UNDP. The baseline survey was supposed to take place around June/July, but the program got delayed because of money. So, it compromises the NPRC's work and delays the expected progress (Interview with anonymous 2020).

It can then be argued in light of the above that governments undertaking TRCs should change their stance on funding commissions. This also goes in sync with the recommendations contained in the Paris Principles. These principles set out that for NHRIs to be successful, there should be adequate resources from the government (United Nations, 2010: 31). The need for funding priority to independent commissions is more relevant in the Zimbabwean context where the evidence points to the fact that if the state continues underfunding the NPRC, its work will progress at snail's pace. This sentiment was also echoed by another respondent Mr Tlou who lamented over the shoestring budget allocated to the NPRC (Interview 2020).

Apart from funding, the success of TRCs is also contingent on institutional and technical capacity to address past violations to break the cycle of recurrence. This seems to be ominously missing in the Zimbabwean context. No one puts it across better than Tony Reeler. When asked about the capacity of the NPRC in ushering historical accountability, he made the below revelation:

My guess is you looked at the TRC in South Africa. The TRC was such a substantial body, well-resourced with excellent commissioners, first-class

research. It comprised of people like Mamdani, as part of the research team, terrific media that has been able to take the story, immense disbursement. There is nothing like that within our commission (Interview 2019).

In relation to the above, another central concern is the fact that the secretariat of the NPRC is thinly spread. To deal with the shortage of human capital, participants from the Mashonaland East and Mashonaland Central peace committees suggested that the commission should decentralise and recruit more staff (Group discussion two 2020).

The issue of technical capacity of the NPRC as exhibited through its human resource personnel continued to reverberate in several interviews. Asked about whether the NPRC will fulfil its mandate of ensuring post-conflict justice Mr Dzikamai Bere, the NTJWG coordinator, had the following to say:

They have a good mandate, so with their mandate, they can succeed, but the question is do they have the capacity as commissioners? That is another story. Their capacity has been affected by lack of resources, then government interference and capacity of the commissioners themselves to play that role (Interview 2019).

Mr Bere further underscored that 'as time progresses, the NPRC deserves to be given a chance and also support, especially from the CSOs, which have been in the field of TJ for quite some time' (Interview 2019).

In his critical evaluation of the NPRC, another respondent Mr Reeler referred to the commission as a curate's egg that is badly boiled. This simply means that the NPRC is good in parts and bad in parts. This view seems to be shared by other respondents. In her critical analysis of the commission, the Director of the Tree of Life Trust, Lynn Walker, mentioned that 'there is a lot of confusion within the NPRC, and it will not be able to achieve lasting solutions to Zimbabwe's past' (Interview 2020). These views surfaced mainly concerning the NPRC's lack of clarity on the distinct period of the human rights abuses that will be investigated and the amount of time wasted so far.

Undeniably, the Zimbabwean NPRC has been somewhat lethargic in executing its mandate. Hence, many have cast doubt on the ability of NPRC to fulfil its constitutional

obligations, considering the time left. However, the High Court's Justice Mafusire ordered the government to extend the NPRC's lifespan to 2028, which is a bit refreshing. If the tenure is extended, the question remains whether the commission will be able to record much progress in this time frame. This is cognizant of the fact that it has proved to be lagging if the past record is anything to go by. The extension did not, however, come easily. It followed an application by a 2008 election violence survivor and opposition MDC legislator, Concilia Chinanzvavana who argued that the NPRC should operate for 10 years (Tatenda Chitagu, *Newsday*, 21 March 2019). The argument stems from the fact that the NPRC commenced its operations in 2018 instead of 2013. It remains to be seen whether the government will extend the time frame as ruled by the High court. The NPRC has got a very limited tenure, just like in any other jurisdictions that have had TRCs.

In the context of the Zimbabwean NPRC, little has been done so far. As far back as 2018, Chairperson of the NPRC, Retired Justice Nare, admitted that the Commission has not done much. By that time, he stated the following;

We are looking forward to the amendment of the NPRC Act, which was gazetted on January 5, 2018, to ensure that its lifespan is extended. After the Act was gazetted, not much has been done in terms of contacting victims and perpetrators of conflicts (Veneranda Langa, *Newsday*, 26 June 2018).

In addition, the NPRC launched its Five-year strategic plan (2018-2022) in October 2018 but very little has been done to implement the contents. The framework specified several goals and expected outcomes which include: Outcome 1: Inclusive healing and reconciliation processes for addressing legacies of violent conflicts (see NPRC strategic plan, 2018:28).

The need for the NPRC to improve its functioning and adhere to the contents of the strategic plan has been shared by many respondents. There is great need for the NPRC to improve on its work as guided by the following shared values: confidentiality; inclusivity; Ubuntu; transparency and victim-centred (see NPRC strategic plan, 2018:24). Respondents also lamented over the sluggish progress of the NPRC, considering that two years had already passed after the launch of the strategic plan yet there are no tangible deliverables to show. Responding to what should be done to improve the work

of the NPRC, many participants stressed that the NPRC should reclaim its mandate as explicitly stated in chapter 12 of the constitution. Ms Diana Harawa from the National Association of Youth Organization (NAYO) expressed that 'the peace committees established by the NPRC seem to be a replica of the violators because they have no functional action' (Interview 16.10.2020). She also mentioned that the secretariat of the NPRC seems to be dealing with soft issues instead of hard issues (Interview 2020).

However, others see progress differently. The then General Manager, Victim Support Gender and Diversity at NPRC Mrs Rotina Musara, noted that the Commission is doing quite a lot of work in accordance with the strategic plan. In answering whether the NPRC will fulfil its mandate, she mentioned that:

There are so many strategies that the NPRC is using to engage with victims. The first of it, is the safe space programme for women where the NPRC is interacting with victims in closed settings to air their views and their experiences of what happened in the past. Another programme is the hearings which will commence in 2020. The hearings will make people understand the commission's work and talk about what happened in the past (Interview 18.12.2019).

These conflicting assessments might reveal two different things. First, it may reveal a lack of an objective assessment of progress. Secondly, it may show the dilemma of what can constitute progress or lack thereof among different people. In this regard, progress can be a term laden with different interpretations basing on one's positionality and world view.

It is not far-fetched to suggest that for any TRC to be effective, there should be accommodation and understanding of the diversity of different communities' local cultural practices. Giving credence to this claim, one respondent said that the NPRC should have functional structures at every level of the society that can engage with the cultural norms of the affected people (Interview with Mr Muchena 2019). In his considered view, the NPRC provincial commissioners should utilise traditional methods of engaging with victims within their localities, as has been the case in the Great Lakes region like Rwanda, Uganda and Burundi.

To reconcile societies, the Zimbabwean NPRC can take a leaf from the traditional *Fambul Tok* system that was utilised in Sierra Leone (see Hoffman, 2008). Though not to

be viewed as the best-case scenario or a magic bullet – at least – this local initiative for forgiveness and reconciliation implemented after the Sierra Leonean Civil War is touted as a major success. The *Fambul Tok* engaged local traditional practices like bonfire ceremonies so that people could engage with each other (Martin, 2020:2). Such locally driven reconciliation programs reflect a shift from elite-driven processes, and they have proved to be useful in post-conflict contexts.

6.4 Anatomy of Political Rhetoric: Muddying the waters of Political Reconciliation

Over the years, it has become apparent in countries riddled with on-going conflicts and polarisation that reconciliation efforts are often muddled through political rhetoric. In such contexts, independent bodies and CSOs face difficult challenges in executing their duties. This is the context upon which the NPRC in Zimbabwe is predicated. Again, in such repressive states, the difficult question will be how to address issues of justice and accountability when the government is reluctant to do so. I, therefore, contend that the success of these important TJ mechanisms is, at least in part, hinged upon the willingness of the important stakeholders, including the powerholders. All past reconciliation efforts in Zimbabwe seem to have failed to deal with the past hurtful issues due to state silence, flouting of the legal frameworks, amnesty, and political rhetoric as discussed in detail in chapter 4.

In the history of Zimbabwe, the former and late president Mugabe deliberately sabotaged TJ discourse by criminalising such talks. This behaviour resonates with the theoretical lens adopted for this study that of repressive state apparatuses (Althusser 1971) and how this can be deployed to contain and frustrate a public-driven demand for truth, justice and reconciliation by the powerholders. Again, in the Zimbabwean case this demonstrates at the very least that there was very little commitment to operationalise any form of TRC that will heal the hurting society. Thanks to the efforts and pressure by various stakeholders who pushed for the establishment of a TRC during the era of the constitution-making process in 2009-13. Notably even through insurmountable pressure, the Mugabe regime managed to water down the demands for a TRC by opting for a particular phraseology. This is evident in the inter-party constitutional negotiations were ZANU-PF vehemently resisted the body's naming as a Truth and Reconciliation

Commission (TRC) as is the norm elsewhere, for instance, in South Africa, Uganda, Ghana, Guatemala (Hayner, 2011; Scanlon and Muddell, 2009). Instead, the ZANU-PF regime favoured naming the body the National Peace and Reconciliation Commission (NPRC).

In an interview with one of the drafters of the new constitution, which saw the constitutionalisation of the NPRC, he said the following:

[W]e had difficulties in trying to name the commission as a truth and reconciliation commission as is the norm in most societies in Africa and beyond, ZANU-PF felt very uncomfortable with the 'truth' aspect (Interview with Movement for Democratic Change- Alliance Senator for Manicaland Mr Douglas Mwonzora 10.11.2019).

This naming is, however, not peculiar to the Zimbabwean case. In other contexts, elsewhere, we have seen incumbents opting for different nomenclature/terminology, thereby willfully leaving out the 'truth' as discussed in detail in chapter 3. Returning to the Zimbabwean case, the politics of naming was not without a basis. In critiquing the commission, one scholar holds that:

The NPRC cannot operate as a Truth and Reconciliation Commission (TRC)-style post-conflict national unity and justice initiative. Instead, on the one hand, it attempts to identify suitable forms of redress for past violence; and on the other, it runs workshops to build violence- prevention strategies into current political processes (Jeater, 2020:1).

It appears by opting for 'National' instead of the 'truth' the regime managed to exclude aspects of 'truth telling' as part of the terms of reference of the body. As intimated earlier, the Zanu PF regime's behavior shows how powerholders can shape and constrain TJ processes within a polity by conditioning and framing the narrative through various ideological state apparatuses, including constitutions (see Althusser, 1971). Things seemed to take a turn with the coming in of the new president, Emmerson Mnangagwa, when he signed the NPRC Bill to operationalise the commission. There was at least some evidence of political commitment. This claim had been supported by a ZANU-PF activist, who pointed out that:

The NPRC comes in as a transitional organ of the second republic so it is a transitional organ of the second republic or the new dispensation. So, in other words, it shows the extent to which the subject of reconciliation is a priority to the administration of President Mnangagwa (Interview with Mr Mahomva 2019).

Whether this is a ruse to hoodwink the nation and particularly the international community is yet to be seen as and when the commission fully operationalise its processes and programmes. If the incumbent is going to follow through his actions and promises in seeing the success of the NPRC, it might be a signal that he wants to act differently from his predecessor insofar as dealing with the issue of TJ is concerned.

The issue of political commitment in enabling the full functioning of TRCs has been a subject of major concern and debate among scholars and respondents. For this research, several research participants concurred that there is no real commitment to the new dispensation to tackle justice and accountability. For example, Mrs Taruwanga from the CCMT argued that ‘unless and until there is real political commitment and political will, Zimbabwe will begin to think of truth-telling processes’ (Interview 2019). These views were also echoed by the Director of the CCJP, who argued that some few elements are bent on protecting the status quo within the NPRC. He further intimated that ‘unless and until those who remain objective and within the NPRC begin to speak out loudly and fearlessly Zimbabwe will not see any progress towards justice’ (Interview 2019). In an interview Dr Mashingaidze, stated the following:

I think the NPRC has been doing good work in engaging communities and outlining or identifying conflict areas. However, of course, maybe the challenge is that there is limited funding. Also, certain cases are possibly beyond them that needs political will to be resolved, for example, issues related to Gukurahundi. I think they are beyond the capacity of the NPRC to resolve. What is required is the political signal or political will that is at the government level to resolve the matter, for example, issues to do with birth and death registrations (Interview 2020).

Similar views on political will have also been shared by a disgruntled commissioner who laid bare his soul in one of the weekly Zimbabwean independent newspapers. It is reported that the commissioner noted the following:

There are some even amongst us in the NPRC who are also clearly sabotaging NPRC programmes, they are a stumbling block to frustrate the NPRC, and one is left questioning whose interests they are representing, the state or the commission (Nqobani Ndlovu, *The Standard*, 6 October 2019).

Cognisant of the above, it is fair to argue that the success of the NPRC in facilitating truth-telling and post-conflict justice issues is predicated on the willingness of the political actors irrespective of their institutional abilities. It is only by doing so that genuine reconciliation can be realised in line with the concept of Place of Reconciliation as argued by Lederach, who opines that reconciliation can occur when truth, peace, mercy and justice meet (see Lederach, 1997). But the reality points to a situation where the commitment of political players in Zimbabwe differs from that of other contexts.

Juxtaposing the Zimbabwean situation with the South Africa case, prominent leaders like Nelson Mandela and Desmond Tutu genuinely supported justice and reconciliation processes (De Klerk, 2003; Gobodo-Madikizela, 2003; Du Toit, 2017). They were regarded as 'icons of reconciliation' (De Klerk, 2003). The other challenge around the Zimbabwean model of reconciliation is the periodisation of the inquiry. Through interactions with several academics and the general public, a well-founded worry is that the commission will not go back in history to look into violations and abuses of the pre-colonial and the early years following independence (the 1980 era) emerged. If this happens, this will be tantamount to freezing some moments or episodes pertinent to charting a new path of healing, recovery, justice, and cohesion. This has made scholars raise concern in what seems to be a selective focus in terms of issues that need to be tackled by the commission.

In an interview, Dr Makwerere speculatively noted that the government might allow truth-telling about what happened from 2000 to the present, leaving out the Gukurahundi issues since their fingerprints are all over the issue (Interview 2019). In sync with the freezing of the Gukurahundi episodes, the ZANU-PF government has also gone a gear up in criminalising Gukurahundi memorials. Nowhere is this more evident than in the below incident outlined by the NTJWG where in 2018:

...villagers consisting of victims, survivors and families of victims of Gukurahundi atrocities were threatened and warned against participating in erecting similar structures. These incidents are indicative of intolerance and a deliberate effort to rewrite history by erasing the lived experiences of victims and survivors (Nqobani Ndlovu and Nizbert Moyo, *Newsday*, 7 June 2021).

The freezing out of some historical periods in the NPRC focus continues to be an issue of concern. The situation is, however, more complicated as there is also a trend to shift-blame for events that happened through historical periods. No one puts it better than one MDC-Alliance Activist who observed that:

There is a funny dimension to events and dynamics since some ZANU-PF top officials were also a part of the system in different episodes of violence. They believe that they can come out clean and heap all the blame on the late former president Mugabe. So, it appears the whole thing is a charade or is stage-managed because we are dealing with a captured commission (Interview 2019).

Without denying the fact that Mugabe was the leader and hence responsible, there seems to be no contrition, remorse, owning up of the past atrocities and crimes against humanity by his fellow henchmen. In any fact, there is a tendency to heap the blame on one or few individuals. This is not surprising at all. In all countries that have gone through some rough patch in history through violence and conflict, only a few will be blamed and held to account though many would have partaken in the atrocities. This has been the case in the 1992-95 conflict in Bosnia-Herzegovina, where a few including – Ratko Mladić were hauled before the International Tribunal for the Former Yugoslavia (ICTY) for orchestrating genocide at Srebrenica (Daniel Boffey and Julian Borger, *The Guardian*, 8 June 2021). So was the case with Slobodan Milosevic in Serbia who was brought before the (ICTY) in the Hague for crimes against humanity in Bosnia, Croatia and Kosovo (United to End Genocide, 2016).

Returning to the Zimbabwean case, this freezing out of some moments in history during the work and lifespan of a TRC is, however, not peculiar. In some contexts, some TRCs were established only to look at specific atrocities that happened in previous years, if not decades. Percipient examples include the TRCs spawning from South Africa, Sri

Lanka, Chile and Uruguay, where they also froze out some historical moments in their terms of reference (Hayner, 2011). In South Africa, the TRC had a limited mandate which only focused on crimes committed between 1960 to 1990 while ignoring nonpolitical abuses that South African citizens were subjected to in the past (Lindahl, 2010:18-21). In its first commission, the Chilean TRC also had a limited mandate as it solely focused on violations that resulted in loss of human life and left out abuses that did not result in death (Hayner, 2011:75). Adopting the Lederachian view, one can argue that in such instances, justice and truth did not meet as articulated in the theoretical lens of Place of Reconciliation. So, strictly speaking, though the TRCs were established, some injustices were left unaddressed and left to haunt society only on the basis that the terms of reference chose to leave out specific historical periods.

Still on the periodisation of the NPRC and how far back it should go in excavating the past, one respondent, Mr Mahomva, a ZANU-PF activist and Director Leaders for Africa Network, stressed that the NPRC should also look at the colonial injustices. He said the following:

The starting phase is we need to look at colonial and post-colonial violence. Because when we speak of these issues, we are quick to mention the *Gukurahundi*, but we do not mention the Rhodesians responsible for the massacres in Chimoio. We only focus on 2008 post violence and forget that other people also lost livestock and relatives in the armed struggle. So, it must be a comprehensive framework that is not limited to populism. Because *Gukurahundi* and 2008 violence are subjects that have taken more of a populist exposition as far as political reach out is concerned, the NPRC should transcend the popular narrative around peace and reconciliation and look at the other ignored aspects of national peace and reconciliation. That way, it can become a viable institution (Interview 2019).

The above views by Mr Mahomva are in accordance with Ndlovu-Gatsheni and Benyera, who argue that the NPRC 'has to take into account colonial realities of brutality, dispossession and exploitation that go as far back as the 1890s' (Ndlovu-Gatsheni and Benyera, 2015:18). Whether this will enable the meeting of peace, justice, mercy and truth as articulated by Lederach (1997) remains a question of concern. This is bearing in

mind that most of the victims have already passed on, and hence justice has eluded them. So is the situation with most of the perpetrators who have also passed on or are old and frail and cannot be subjected to a process of accountability as doing so will be a re-traumatising experience.

The complexity of how far back the NPRC should go into digging into the past seems to be an on-going discussion that the commission should seriously consider. As some respondents revealed to this researcher, national reconciliation is imperative to address the historical fissures that existed between the Karanga, Zezuru and Manyika dialects. These underlying fractures were created by the colonialists' divide and rule approach. As one respondent noted that 'what we realised is that Mugabe's reconciliation speech was not meant for the broader society, but it was a hand that was being stretched to the white people, not necessarily to everyone' (Interview with Mr Njeru 2019). The interviewee also stressed that Zimbabwe as a nation-state is devoid of a national narrative that binds the country together (Interview 2019). Overall, these perspectives suggest that the NPRC should genuinely resolve the past grievances and promote post-conflict reconciliation in Zimbabwe.

There is a groundswell in both literature and practice that TJ processes require disbanding the very structures of power that underpin and perpetuates violence and abuses of human rights. This, however, is not the case in Zimbabwe. Given such a backdrop, it is then difficult to genuinely talk and let alone realise TJ within Zimbabwean communities. No one puts it across better than Mr Manyati, a vice-chairperson of the Mashonaland East Provincial Peace Committee, who disclosed that the biggest challenge in Zimbabwe's TJ trajectory was the fact that the engineers of violence (mainly ZANU-PF elites) are still pretty much in charge of the state apparatus (Interview 2020). This view accords with the theoretical lens adopted for this study that of repressive state apparatuses, which espouse how power holders can constrain any process or narrative for self-seeking interests.

The fact that the infrastructure of violence is still in situ even in the wake of the existence and operations of the NPRC is a matter of public record. In an interview, one

scholar had the following to say regarding the perpetuation of violations in the Zimbabwean polity even in the wake of the existence of the NPRC:

The NPRC is operating in a social, political environment that is dominated by people who were involved in human rights violations, so taking cognisance of that fact, my earlier response applies that the NPRC can only best operate dependent on the space and the latitude that it is given by those in power (Interview with Dr Mashingaidze 2020).

On the basis of the above, it is submitted that it is somewhat difficult to reach or attain the crucial building blocks of RJ: truth, accountability, reconciliation and reparation (the TARR model developed by Wietekamp et al. (2006) if the very pillars of violence are still in force when the nation is clamouring for justice, healing, truth-telling and national reconciliation. To lend credence to the above quotation, another respondent astutely observed that:

The effectiveness of the NPRC is determined by the government in power. There is no way this commission can fully realise issues of acknowledgement, accountability, issues of reparation, truth-telling without implicating these political leaders and from a power perspective, I do not think the current dispensation will give the NPRC the leeway to operate independently. The commissioners are appointed by the president and if the president is implicated in the violence they cannot speak out. Since it was commissioned in 2018 to today, 2 years down the line, there has been no truth-telling processes from the commission. We are not yet in that position whereby we can allow truth-telling (Interview with Mrs Rusare Rotary Peace Fellow and Journalist 20.11. 2020).

The above views which identify with the character of a repressive state, points to the fact that the NPRC will not deliver justice simply because the power holders are implicated in the 2008 violence and the Gukurahundi and are thus not keen to see through a process that will judge and implicate them. Doing so will be tantamount to shooting oneself in the foot. In her book, *A Human Being Died that Night* that looks at the psychological aspects and the world of the victims through the South African TRC, Gobodo-Madikizela also illustrates the same point on how the remnants of apartheid fought hard not to open up on the past atrocities despite the assurances of being granted amnesty (Gobodo

Madikizela, 2003). In what follows, I discuss the NPRC's efforts to promote peace after its promulgation.

6.5 'Walking the Talk': Transition from Violence to Peace

Most conflict and post-conflict societies grapple with striking a fine balance between attaining peace and justice in what can be termed as the 'peace-justice dilemma'. Zimbabwe is a classic example in this regard. Viewed critically, one can be correct to suggest that the NPRC's work is more engrossed in 'sowing seeds of peace' to prevent future violence rather than broadly promoting post-conflict justice as laid down in the reconciliation legal frameworks like the NPRC Act and 2013 constitution. The question then is: does the NPRC able to strike a delicate balance between promoting durable peace and justice? A cursory analysis of the work of the NPRC this far indicates that it is not ready to do things by the book. A victim of the 2008 violence had this to say:

The NPRC will not be able to address the justice issues, as you know they are only in towns whilst the human rights violations and violence occurred in the rural areas. The NPRC is not on the ground. We just hear that there is a commission in Harare, but we have never seen them on the ground (Interview with anonymous victim 1 in Buhera 13.11.2020).

Research findings also confirm the above fears and concerns regarding the practical operation and areas of focus of the NPRC. Several respondents of this study raised concern on the fact that the body is mainly focused on nurturing peace and preventing violence recidivism in communities whilst neglecting the hotly topical issues of historical accountability. On a more positive note, based on citizenry' perception on the work of the NPRC, it appears as though the country could to some extent manage to transition from a 'culture of violence to a culture of peace'. This absence of violence has been described by Galtung (1969) as 'negative peace'.

Contemporary TJ debates assume that there should be a holistic approach to achieving peace and justice in post-conflict contexts (Langer, 2015). However, such approaches are not clear cut and as easy as many would expect or assume. This is considering the various power dynamics and interests that undergird and stall any serious efforts towards achieving peace without sacrificing justice. This view accords with the

notion of repressive state apparatuses (Althusser, 1971) adopted for this study and discussed in greater detail in the theoretical Chapter 2. I contend in the case of the NPRC in Zimbabwe that justice will be difficult to attain if there is no sustainable peace and vice versa. This is because the two concepts are not mutually exclusive. In fact, they produce complementary goals. The above argument also lends credence to the theoretical notion of Place of Reconciliation which as articulated by Lederach (1997) necessitates reconciliation only after peace, mercy, justice and truth converge. In the absence of one, in the Lederachian sense it will not be possible to attain reconciliation. Judging from the early years of the NPRC in Zimbabwe, it does seem discussions on justice are muted in the contemporary conversations, making one doubt the feasibility and possibility of realising reconciliation. However, one can argue that the peace initiatives by the commission are crucial pathways to negative peace, justice and reconciliation.

Since its establishment, the NPRC has been spearheading peacebuilding programmes during election season. Towards the 2018 elections, the NPRC stepped up efforts to build peace by rolling out peacebuilding outreach programs throughout the country. As part of 'Building Blocks for Peace', all political parties that were to contest in the 2018 elections signed a peace pledge on the 26th and 29th of June 2018 in Harare (see NPRC, 2018). The NPRC facilitated the signing of the peace pledge of the 23 presidential aspirants to commit themselves to peaceful campaigns in the run-up to the 2018 elections. The NPRC further launched peace campaigns ahead of the 2018 harmonised elections in all provinces. Tshuma (2019:19) noted that as a result of these efforts 'the campaign period in 2018 was one of the most peaceful in decades.

The Peace caravans and national peace pledges that were spearheaded by the NPRC's Prevention and Non-Recurrence Committee contributed much to the relatively peaceful elections of 2018. Peace pledges by NPRC commissioners, political actors and their representatives were an indication of bias towards preventing election-related deaths, as has been the case in 2008. Although these crucial activities aimed to address and stop the emergence of political violence ahead of 2018 elections, one can argue that they were elitist and stage-managed. Participants of the Mashonaland East and Mashonaland Central provincial peace committees public hearing workshops argued that

peace pledges and peace committees are crucial steps to end violence whilst others castigated the NPRC's foregrounding peace approach at the expense of truth-telling and justice. It is clear that these processes do not fulfil RJ's four building blocks (truth, accountability, reconciliation and reparation) developed by Wietekamp et.al (2006). Such key shortcomings of the NPRC this far, are disconcerting.

Judging from its focus on peace-related programmes, it appears as though the NPRC has no capacity to deal with the legacies of past violence and in delivering justice to those who yearn for it. With reference to the NPRC five-year strategic framework established in 2018, one can argue that the provincial peace committees were merely established to prevent future violence, promote peace, political tolerance, and early warning mechanisms to issues that might threaten peace in communities than on justice. However, in an interview with one Commissioner, Masunungure, he mentioned that 'the commission has been doing a lot of work since its establishment to promote peace and to address concerns of victims of 2008 violence'. He elucidated that:

The NPRC has approached reconciliation, justice and peace from a holistic approach. First of all, we needed to set up a mechanism that ensures the NPRC is visible and known. So, before we even talk about the achievement of justice to victims, we are spreading the knowledge that the NPRC exists. By setting up these peace committees, they are carrying the name of the NPRC around...even through the Covid-19 environment, as far as the victims are concerned, we have opened channels of complains lodging, through all social media platforms our website, our WhatsApp numbers, Twitter handle, Facebook page, even telephone lines. We have opened a regional office in Bulawayo, all this has happened while we are in this Covid 19 era. This year alone we have done all that, we have even lobbied for more resources through the human resources, through the treasury (Interview with Commissioner Charles Masunungure).

Basing on the empirical evidence and on its current trajectory, the notion of 'Building blocks for peace' being championed by the NPRC will make strides in promoting peace, whilst justice and accountability remain a contested issue. Again, the Commissioner's argument that the Commission has managed to reach out because of its availability on

all social media platforms is very elitist as most of these facilities are not widespread in the countryside for one reason or another.

6.6 Justice Delayed and Denied in Zimbabwe post-2013

For decades, Zimbabwe 'has been characterised by extreme polarisation and polemicisation' (Mkandawire, 2020:1). This has been as a result of a volatile political environment and unresolved past transgressions, as has been explained in detail in chapter four. Although there have been unceasing demands for justice by CSO and victims, the research established that NPRC had done nothing so far to identify the culprits or to resolve the injustices. It appears as though the NPRC has adopted the former government's approach of 'letting sleeping dogs lie' with regards to justice and accountability. Unfortunately, this trend has fueled the cycle of impunity. Responding to whether the NPRC should prioritise RJ or retributive justice, Dr Mashingaidze lamented that:

I think the NPRC needs to strike a balance, perpetrators who committed crimes to account for those crimes. They cannot just be let scout free. The major challenge is that we have a number of laws or legal practices that overlook and protect perpetrators of violence, especially this culture of clemency orders, presidential pardons and amnesty ordinances. This is what happened in 1980, 1985, 1990, 1995, and 2008 and also during Gukurahundi sometime in 1988, there was an Amnesty Ordinance that let all the combatants and perpetrators of violence off the hook, that culture of amnesty and presidential pardons has to be corrected, and the best way that it can be corrected is that in Zimbabwe we must have some kind of retributive justice, people need to pay for their sins (Interview 2020).

One can argue that the narrative of punitive measures has made the government and perpetrators to be very nervous about any discussions related to justice. Further to that, there is no clear plan as to how the NPRC will achieve the pillars of TJ as indicated in the Joint Principles. This has been buttressed by Mr Mandikwaza, who pointed out that:

It seems the people leading the commission are also captured because they have not come out strongly in presenting their strategy followed with action. It is a strategy that only exist on paper. The fact that human rights violations continue

shows that there are some challenges and difficulties around the work of the Commission (Interview 2019).

One can, therefore, argue that the NPRC's strategies remain only good on paper, yet poor in implementation. The RAU Director mentioned that 'The NPRC has been doing some bit of work, but the results are not judged by the law that form it, but its outcome results' (Interview 2019). So far, the NPRC has paid very little attention to the legalistic framework on justice but surprisingly emphasise on reconciliation and peace in the state media and on their website. In addition to that, the Zimbabwean case demonstrates that the mere constitutionalisation of the NPRC does not guarantee a framework for successful national reconciliation largely due to 'state capture'.

Although the NPRC has successfully managed to set up provincial peace committees (PPCs) in 10 provinces, it still has to do more work beyond promoting peace. The general maxim in conflict resolution studies is that 'peace' without 'justice' cannot restore broken relationships between victims and perpetrators. According to the Amnesty International (2007:4), TRCs should uphold the rights of victims by assisting them 'to obtain truth, justice and reparation'. In light of this, research participants concurred that there is a nexus between peace, truth, justice and reconciliation. Peace committees by their very conception are structures that are expected to complement efforts of the NPRC in fostering durable peace within designated provinces. Although devolving of PPCs was a noble idea to cascade peace, some critics argued they had done nothing to promote truth-telling and justice. In an interview, a member of the PPC for Manicaland argued that:

I think the NPRC is just more like a ceremonial commission. It is doing nothing. Just imagine we have conducted only one meeting since the constituting of the Manicaland peace committee. And right now, no communication from them. We are just regarded as a provincial peace committee, but we are doing nothing. We are just sitting at home. We are only working through the Zimbabwe NGO Forum and NTJWG doing some radio programmes on the mandate of the NPRC (Interview with Mr Gombe 2020).

In a group discussion with the Mashonaland Central Peace Committee, participants noted that the NPRC secretariat is neglecting the provincial peace committees. They argued

that the NPRC only engage them when they want to conduct meetings at hotels. Members of the Mashonaland East and Mashonaland Central peace committees reiterated the need for decentralisation of offices and identification documents of committee members (Group Discussion One). One of the participants said this:

One cannot just say I am a member of the NPRC to victims and stakeholders. We need identification documents like branded t-shirts, name tags and business cards for visibility in the communities. We also need an NPRC office in Mashonaland Central province (Participant in a workshop on public hearings 10.12.2020).

Commenting on the work of the NPRC and establishment of peace committees, one of the interviewees said: 'I find the NPRC and the peace committees to be what I can call an appendage to the government. It is a cosmetic thing that the government have put for us to feel that they are doing something' (Interview with Ms Dorcus Chishumba 2020). It is important to stress that if put into good use, PPCs are important structures for victims to lodge complaints at subnational levels.

Since the proclamation of the legal basis in 2013 and enactment of the enabling law in 2018, the NPRC has not commenced public hearings to elicit views from perpetrators and victims. This is despite the fact that the NPRC Act and the Zimbabwean constitution, chapter 252, patently stipulated that the commission is obliged to resolve past injustices.

The NPRC has been idle for more than five years. The constitution explicitly stipulates that the NPRC should conduct its work for ten years, from May 2013 when it was adopted. In an interview, Mr Reeler argued that 'the biggest problem for the NPRC from 2013 was the very little enthusiasm for real accountability processes by the government'. This has been evinced by the backward and forward gestures in constituting the commission. Mr Reeler further emphasised that 'there has been a lot of horse-trading amongst the political players, the NPRC and civil society actors regarding what should constitute the NPRC Bill' (Interview 2019).

Buttressing the same point in 2015, the Zimbabwe Human Rights NGO Forum noted that Zachariah James, a victim of political violence, said 'politicians know that they are perpetrators of human rights abuses hence the lack of commitment in setting up the

NPRC'. However, in 2018 as have been mentioned elsewhere, the new government enacted the NPRC Act. The NPRC Act provides for the establishment of the following thematic departments; Research Knowledge and Management, Complaints Handling and Investigations, Healing, Rehabilitation and Reconciliation, Victim Support, Gender and Diversity and Conflict Prevention, Management, Resolution and Transformation. Although these departments have been doing some work, nothing much has been done on the ground to ensure victim-centred justice and victim reparation. In its 2019 annual report, the NPRC indicated that the Healing, Reconciliation and Rehabilitation Department was still preparing necessary processes that could facilitate the commencement of public hearings (NPRC report, 2019:13).

Another hotly contested issue that emerged from the interviews is the need for reburials in Matabeleland to cleanse the spirit of the dead. This TJ measure initiated by the NPRC and the government has been hailed by many citizens as a necessary process for healing the affected families. Since 2019, President Mnangagwa pledged to facilitate reburial of Gukurahundi victims, providing medical assistance as well as issuing identity documents to survivors (NTJWG, 2019:2). Though there is no consensus regarding exhumations and reburials of victims of various episodes of violence in Zimbabwe, there are those who believe it is a noble process or gesture that can bring in closure. In an interview with the Zimbabwe Christian Alliance in Lupane, one survivor expressed concern about whether the NPRC would consider their request for exhumations and reburials of their beloved ones. Talking about this issue, the survivor said, 'we are happy that we have heard the opportunity to discuss with the commission what we want so that we heal from the past hurts. We had hope that our issues will be addressed but the commission is taking too long to do that' (Zimbabwe Christian Alliance, 2020). These and other muted voices of numerous other survivors reveal the pain, anguish, burden and wishes of the living on how the remains of their loved ones should be treated. However, whether such wishes will be honoured by the NPRC is entirely not yet clear.

Despite the above-outlined fears by victims and survivors that their plea will not be heard, some community organisations are already filling the gap where the NPRC is seemingly dragging its feet insofar as taking an active role in exhumations is concerned.

This is evident in the works of community groups in areas such as Tsholotsho in Matabeleland region. Speaking at the exhumation exercise for Thembi Ngwenya who was killed in 1983, Commissioner Nare mentioned that 'we were invited by Ukuthula Trust to witness the exhumation exercise in Sipepa, Tsholotsho. Remains of one person were exhumed and they're set for reburial' (The *Herald*, 30 April 2019). However, despite President Mnangagwa's pledge in 2019 on facilitating reburials, it seems there is no real commitment to these processes of exhumations until now. One critic of the process argued that 'it seems the government has a vested interest in winding the issue of reburials as quickly as possible and ending up with a report that is of no value and that actually adds to the trauma' (Interview with Lynn Walker 2020).

Based on the assertion above there are mixed feelings amongst the generality of Zimbabweans on the subject of exhumations. The civil society actors and traditional leaders in Matabeleland are reportedly against the exhumations prior to following certain steps including the release of Dumbutshena and Chihambakwe reports, medical support for victims and establishment of a special judicial commission on *Gukurahundi* amongst other issues (*Bulawayo* 24,20 November 2020). Further to that, traditional leaders should facilitate such reburial processes to proffer cathartic healing to survivors and victims rather than to just embrace state-initiated initiatives.

Victims of 2008 violence mentioned that truth-telling, confessions, and remorse are important processes to promote justice and reconciliation in divided communities. The lack of justice in Zimbabwe also brings us to the debate of what Olsen et al. (2010) terms 'justice balance'. They assumed that TRCs on their own cannot achieve human rights goals, but they should rather complement with prosecutions to attain a 'justice balance'. These scholars asserted that 'combined with amnesties and trials, by contrast, truth commissions can achieve human rights goals by promoting a balance between stability and accountability' (Olsen et al., 2010: 469). Asked whether the commission will engage in criminal prosecution, Commissioner, Dr Chada concurred with Olsen et al.'s views. Commenting on the subject, he said:

Accountability is going to be defined by how the public hearings are handled. Let's say in a public hearing an individual is identified as the perpetrator (adversely

mentioned person) as the person who killed Mr so....and....so, that becomes a criminal case, it will no longer be a commission's case, and the one that is proved through the evidence of the affected or the victim. Then we take that and give the case to the police, they have to prepare a docket and end up in court. And the judgement will come from the judge. So, there are certain things that we will hand over. We are not a prosecuting commission; we do not have that power; we have referral powers (Interview 2020).

From this perspective, probably Zimbabwe could take TJ lessons from a country like Sierra Leone that has utilised the hybrid system of TRC and trials (see Brounéus, 2003) to create a just society.

The idea of criminal justice has been supported by some respondents who argued that amnesty and forgiveness do not heal psychological wounds. On the contrary, Mr Gombe stated that, 'as the Zimbabwe Political Victim's Foundation, we would opt for RJ. What was taken away from us should be given back. The perpetrators should come up in the open and ask for forgiveness for what they did to us' (Interview 2020). In a sharp contrast, the Director of the Tree of Life Trust mentioned that a number of women victims of rape during 2008 period want to take the legal route. She mentioned that about 60 women whom her organisations work with in various communities are opting for criminal justice to bring the perpetrators of rape to account (Interview 2020). This clearly shows that victims have mixed feelings about the current TJ processes and how the NPRC is operating.

6.7 Social Contract, Peace and Citizens Trust

Emerging literature suggests that to achieve sustainable peace, there is a need to build resilient social contract between the state and its citizens both horizontally and vertically (McCandless et al.,2018; Zahar and McCandless,2020). In light of this, many respondents were of the view that there must be inclusivity in the design and implementation of TJ processes in Zimbabwe. The Zimbabwean case illustrates a socially contested setting where the masses and the government are always in disagreement. More often than not, the regime denied grassroots agency in TJ processes and stifling other democratic forces since the year 2000 when the opposition emerged to challenge its political and electoral hegemony. Since then, political elites in particular the ruling party has persistently offered

a hand to the national TJ processes hence undermining the prospects of sustainable peace within the affected communities.

As stated earlier and drawing from Lederach's work, popular participation is the hallmark of peace, justice and meaningful reconciliation processes. However, Zimbabwe lacks the key drivers of a resilient social contract namely inclusivity in political settlements and the collective resolve of core conflicts, effective institutions, and social cohesion (see McCandless et al., 2018:29). Simply put, there is an absence of a social contract between the citizens and the state which in turn erodes people's faith in the government-driven elite processes of reconciliation. The citizenry has diminished trust with the state due to its governance approach and failure of past reconciliation efforts to bring justice and durable peace. Therefore, citizens view the current efforts as a façade, state-managed and massaged reconciliation process playing out the NPRC, which yields in a hollowed-out version of a genuine organic process of reconciliation.

It seems the Zimbabwean government intends to make a trial and error to create a veneer that something is being done, yet in actual fact, nothing is happening on the ground with regards to victim-centred justice. Some interviewees argued that the NPRC should prioritise addressing the Gukurahundi issue first in order to gain the confidence of the masses. The lack of social contract has been observed by Mr Tlou, who commented that:

The NPRC also suffers from trust deficit. So as a commission that is accountable to the people of Zimbabwe and also which has to engage people, I have noticed that there is no trust between the commission and the people, why? Because some of the issues arise out of concerns around the appointment of the commissioners, it also arises out of suspicion that the commission has been captured by the executive (Interview 2019).

These sentiments were also echoed by one employee of Heal Zimbabwe Trust in his review of Provincial Peace Committees and challenges likely to stifle citizen participation. He argued that 'the inclusion of the Minister of State for the Province and the Officer Commanding Police in the Province may in turn limit trust in the committee by the general citizens, especially victims' (Marimbe, 2019:4). Without trust, broad-based strategies,

public confidence and participation, the NPRC's work will be a travesty of RJ. From this perspective, I argue that a social contract between the state and citizens is the *sine qua non* to the success of the NPRC's work.

6.8 Embracing the Perpetrators: Forgetting the Victims

The government of Zimbabwe has offered amnesty to perpetrators on several occasions since 1980. The question that abounds then is will the NPRC be able to hold to account the perpetrators of past violence from the Gukurahundi era, those who murdered civilians in political violence around the 2000s, and more importantly, during the 2008 election run-off? How will survivors and victims feel and exercise their agency especially in this climate laced with state-sanctioned amnesty? As stated earlier, since independence, the ZANU-PF government has offered various amnesty to perpetrators of violence in different episodes. These include the Clemency Order of 1988 Amnesty (General Pardon) Ordinance 12 of 1980 (see Huyse, 2003; Mashingaidze, 2010; Benyera, 2014a).

With the benefit of hindsight, these amnesties have left a veil over the injustices committed before and after the end of the British colonial rule. Benyera and Ndlovu-Gatsheni argue that 'these amnesties and ordinances gave unfettered immunity from prosecution and accountability to all those accused of gross violation of human rights [...]' (Benyera and Ndlovu- Gatsheni, 2015:20). This is despite that many civilians have been murdered, suffered broken limbs, maimed, raped and left with permanent injuries. The above arguments reverberate with the proverb, which says 'it is the axe that forgets what it has done, but the tree that has been cut does not forget' (Ndlovu-Gatsheni, 2009).

As such, victims of these injustices have been left licking their wounds since perpetrators have never faced any justice system. One wonders whether justice will prevail one day since all the past amnesties have trivialised the victims' concerns. Clause 21 (1) (e) of the NPRC Act has also provided for the granting of pardon. Provision of pardon in the legal frameworks will arguably further inculcate impunity and incentivise perpetrators of human rights atrocities in Zimbabwe. Surprisingly the previous amnesty was granted by the president without truth-telling processes. This contrasts with the South African context where 'truth was traded for formal justice' (Hamber et al., 2000:1). Dr Mashingaidze underscored the need to check and document the cycle of perpetration of

violence in Zimbabwe. He further encouraged the NPRC and CSOs to join hands to lobby the state to do away with certain legal protections that pardons perpetrators of human rights abuses (Interview 2020).

The trend of amnesty and impunity has become a common phenomenon in Zimbabwe from independence to the present. This has then abetted the violation of human rights, and as long as government, the church and the NPRC turn a blind eye on the instigators, there will be no truth, healing and justice, as opined by several respondents. It appears as though the NPRC will also sweep these sensitive issues under the rug. Some interviewees argued that the NPRC seems to be another 'toothless dog' like the ONHRI, which had no 'teeth'. The argument was that the commission will also fail to address the salient issues of justice. The vice-chairperson of the Mashonaland East PPC expressed concern that:

The NPRC is failing to hold the bull by its horns. It is failing to solve the hotly contested issues of accountability and justice. You find that when there are some political issues they are not found on the ground. The Zimbabwe Human Rights Commission is trying to speak truth to power whilst the NPRC is at times failing to hold the government accountable for the human rights abuses that will be happening, for example August 1 killings of 2018 and the current harassment happening in Zimbabwe. The NPRC has been silent about these issues, yet it is the one that must be playing the central role in making sure that it holds any perpetrator to account regardless of political affiliation. Again, there are no efforts to identify the military who shot civilians in cold blood during the 1 August 2018 protest (Interview with Mr Manyati 2020).

Many respondents have condemned the NPRC over its ineptness in investigating and bringing to book the soldiers who shot protesters in Harare. What is also worrying to note is that the government has wholly ignored the recommendations set by the commission of inquiry. The Motlanthe Commission of Inquiry recommended that human rights violators in the police and military should be held accountable (Commissions of Inquiry, 2018:54). It further noted the need to provide necessary compensation to the affected

families in the form of school fees to the children of the victims of the shootings (see Commissions of Inquiry, 2018: 54)¹².

As part of its constitutionally obligated mandate, the NPRC is expected to investigate these unwarranted injustices independently. However, with the repressive nature of the state and its culpability, this seems to be a daunting task to the NPRC. In his cogent analysis of whether the NPRC will be able to deal with the desired victim-centred justice, Mr Muchena was particularly critical of the commission. He felt that there was a lot of politics at play since the commission had not hit the ground running by the time of the research. He further remarked how the church has been advocating for a victim-centred reconciliation process and also expressed concern that the NPRC was not doing much as expected of them (Interview 2019).

There was a sense amongst respondents that victim-centred justice is not given prominence in the NPRC programming. This view, as articulated above, even resonated with the commissioners. Talking about this issue, one commissioner said the following:

One of the most unfortunate things is that until we hold the public hearings, we cannot develop victim-centred programs that would answer people's questions... victims are the *raison d'être* for the creation of the commission, if we cannot address what the victims suffered then we have failed, our mission is to address what the victim suffered, heal what the victims suffered, rehabilitate the victims, and through that there will be reconciliation (Interview with Commissioner Geoffrey Chada 2020).

The theme of RJ and the nexus between truth, forgiveness and justice recurred throughout the interviews. A common view among respondents was that embarking on punitive measures to pursue justice can actually divide the country. There was a sense among the interviewees that RJ processes that bring survivor and perpetrator to dialogue, that grapples with contrition, truth, remorse, and forgiveness is a perfect way to heal a fractured and hurting society like Zimbabwe. In their shared view, such a process will enable survivor and victims to articulate what they want and the type of justice they expect

¹² See Report of the Commission of Inquiry into the 1st of August 2018 Post-Election Violence in Zimbabwe.

from their antagonists. These views surfaced mainly in relation to the cases like *Gukurahundi*, where emphasis was stressed on the need for dignified burials for their dearly departed loved ones. The right to 'truth' and 'justice' provided for in the Joint principles has been negated for a long time by Zimbabwean state institutions and the NPRC since its establishment.

Without painting a gloomy picture, it is writ large that state complicity in aiding recurrence of rights violations over the years will deprive victims of any form of justice. For the record, the state has failed to bring to book most of the perpetrators of past violence by numerous amnesty laws as discussed above. The net effect is that this has nurtured the cycle of impunity in post-colonial Zimbabwe (see Mashingaidze, 2010; Reeler, 2012). A majority of interviewees were particularly concerned about the endurance of the cycle of impunity on the part of the perpetrators of rights violations and why the wheels of justice often fail to grind – that is if they grind at all. Some respondents noted that it was disheartening that perpetrators of different human rights injustices have never been identified or prosecuted.

To make matters worse, they are still living within the same locality with the victims. This is particularly true in the case of the perpetrators of the 2008 election violence who roam communities freely. A victim of rape towards the 2008 run-off elections lamented that:

They used to say come to the base to surrender your MDC membership and publicly declare that you now support ZANU-PF. At first, I never took it seriously. One evening I was taken by the ZANU-PF youths to the base. When we arrived at the base, an armed soldier who even call me by name said, you are very arrogant you wanted to be a councillor for the MDC, can you follow me. I want to show you where the other stubborn women are. I followed him into the bush, and he then raped me. I cannot be able to identify or recognise the face of the soldier who raped me (Interview with an anonymous victim 3 in Murehwa 2019).

These human rights violations by the state security agents have not been investigated up to now. The views by the victim above resonates with findings from scholars such as

Gobodo-Madikizela who basing on her involvement in the South African TRC observes that:

Traumatic experiences ruptures a part of the victim's identity. It violates the boundaries that protect the definition of self, leaving the individual stripped of many of the things that bestow respect, dignity and self-worth (Gobodo-Madikizela, 2003:96-97).

In the context of Zimbabwe, it seems doubtful whether the NPRC will investigate such sexual crimes and abuses, considering that all acts committed during election seasons under the banner of political mobilisation have been swept under the carpet. Overall, it remains to be seen whether the NPRC will have the capacity to effectively embark on truth-telling and justice processes given the political context in which it exists. By and large, the current efforts by the NPRC in Zimbabwe amount to another watered-down attempt at national reconciliation.

6.9 Conclusion

The chapter provided an empirical analysis of the role of the NPRC basing on perceptions from civil society, victims, the NPRC staff, politicians, the academia, the church and the general citizenry. Further to that, the chapter discussed why we need reconciliation and the challenges being faced by the NPRC to promote truth-telling, victim-centred justice, healing and national reconciliation. The chapter has utilised Lederach's theoretical framework (1997); TARR Model deriving from Wietekamp et al. (2006) to support that there should be inclusivity in the pursuit of peace, justice and reconciliation in Zimbabwe. Despite their disparate perceptions of the work of the NPRC, respondents shared the same view that the nation has undergone a dark past that cannot be left unattended. This chapter's principal findings are that Zimbabwe cannot move forward as a nation without effective TJ mechanisms that proffer justice, peace, truth-telling, national healing, and reconciliation.

Research findings further revealed that victims and survivors will continue to suffer from psychological wounds if the NPRC go ahead with a top-down and watered-down reconciliation process. Basing on the available empirical evidence, it can be inferred that national reconciliation and justice will remain an 'unfinished business' in Zimbabwe. This

is simply because the whole process of national reconciliation from 2013 to the present has been muddled with many uncertainties that ultimately compromise justice. A litany of challenges has been identified as the albatross to the functioning and efficacy of the NPRC. These include, but are not limited to: ineptness, resource constraints, limited tenure, lack of government commitment and mistrust. Despite the institutional challenges and government interference, a few participants argued that the NPRC deserves to be given a chance.

Although the NPRC is operating at a snail pace, many respondents alluded to the fact that there is evidence of progress with regards to the promotion of peace by the NPRC. This has been demonstrated by different peace outreach programs, facilitation of political dialogue amongst political parties and the establishment of peace committees in all ten provinces. However, many research participants expressed negative perceptions regarding the capacity of the NPRC to address demands of victims that range from truth-recovery, accountability, justice and compensation. In the next chapter, I summarise the key findings, the methodological choice, as well as provide an overview of the entire chapters. In this chapter, I also reflect on the study's theoretical and empirical contributions to the existing body of knowledge on TJ, reconciliation, conflict resolution, TRCs and post-conflict justice.

Chapter Seven: Conclusion and Recommendations

7.1 Introduction

This last chapter provides key arguments, comprehensive summary and a conclusion of the entire research on the role and effectiveness of the NPRC in pushing for national reconciliation and TJ in Zimbabwe. This study attempted to raise important questions about how the NPRC can achieve post-conflict justice, given the political and economic context in which it exists. The NPRC was established in 2013 to deal with post-conflict justice following decades of different episodes of violence in Zimbabwe. As such, the purpose of this final chapter is to reflect on the work of the NPRC, its challenges and prospects of achieving the much-desired peace, victim-centred justice and reconciliation. The greater part of the conclusion draws from the empirical study conducted with key informants in Zimbabwe.

Overall, the chapter summarises the study's salient findings, synthesises the data and highlights how the main research question was addressed. In essence, this concluding chapter ties together the various empirical and theoretical strands to understand how the research problem was answered. It also integrates explicitly the research questions, objectives, methodological choices and the study's conceptual lens to the major findings of the thesis. In so doing, the chapter reflects on the contribution of this study to the growing literature on TJ, conflict resolution as well as the role of TRCs in ushering justice, peace and reconciliation in countries emerging from violent conflict. Significantly, the study offered a novel analysis of an incumbent government role in blocking or promoting the work of the TRC. The discussion concludes by offering recommendations and the possibility of future academic and policy studies on TJ and, in particular, the role of the NPRC to proffer justice before the lapse of its tenure in 2023. The chapter also offer 'signposts' on how the NPRC can achieve its intended goals, objectives and mandate. The following sections reflect on the study objectives as well as summarising the thesis chapters.

7.2 The Research Objectives

The study's main objective was to analyse TJ processes implemented from 2008 with a specific focus on the role of the NPRC in Zimbabwe. The main aim was to critically

analyse the efficacy of the NPRC or (lack thereof) in fostering durable peace, establishing truth, justice and reconciliation in Zimbabwe.

7.2.1 The Specific Objectives of the Study were:

- a) To assess the development and functions of the NPRC in Zimbabwe
- b) To determine how the transitional justice mechanisms that were put in place by the non-state actors dealt with human rights violations stemming from the 2008 election violence; and
- c) To evaluate the efficacy or lack thereof, the NPRC in fostering a climate of national reconciliation in Zimbabwe
- d) To establish the challenges and prospects of the NPRC in ushering truth, justice, reconciliation and healing in deeply polarised and fractured societies like Zimbabwe.
- e) To critically analyse how and why authoritarian and repressive regimes impacts on the functioning of TRCs.

7.3 Reflection on Research Objectives and overview of Chapters

The study comprises seven chapters. Chapters, two to seven were guided by a research objective and the applicable theoretical lens to understand the research problem. The first chapter offered introductory remarks of the thesis by outlining the orientation, background, problem, justification of the study, research questions, objectives, ethical considerations, methodological choices, and the structure of the thesis.

The second chapter explored the theoretical and conceptual aspects underpinning the study. As such, the chapter analysed and discussed the theoretical foundations of peace, justice and conflict-resolution studies. Chapter two offered a conceptual debate on various concepts like transitional justice (TJ), peace, forgiveness, conflict resolution, violence, restorative justice (RJ), retributive justice and reconciliation that were utilised throughout the study. In this exploration, I paid particular attention to the concept of TJ and how it has evolved both in theory and practice in countries emerging from conflicts. The literature reviewed shows that TJ and reconciliation are contested concepts that are also under-theorised (Clark and Palmer, 2012; Buckley-Zistel et al., 2013; Binder, 2013; Bloomfield et al., 2003; Fischer, 2011). The greater part of the chapter explored in detail

some peace theories: *Place of Reconciliation* deriving from Lederach (1997), *The TARR Model* deriving from Wietekamp et al. (2006) and *the repressive state apparatuses* (Althusser, 1971). These theoretical lenses were essential to this study to elucidate how Zimbabwe is grappling with issues of sustainable peace, justice, truth, accountability, reparations and reconciliation. The chapter sought to gain knowledge of the fundamentals and functions of national peace (truth) and reconciliation commissions within the context of peace, justice and conflict-resolution studies.

Chapter 3 explored global as well as regional literature on TRCs and why such commissions are established in post-conflict settings. Countries grappling with the past in Latin America, Asia and Africa have all utilised TRCs in the search for 'truth'. To fulfil the chapter's objectives, I also reviewed the general functions of TRCs with regards to fostering peace, reconciliation and justice in countries emerging from violent conflicts. The existing scholarship highlights that although TRCs differ in naming, they are all established to deal with gross human rights violations in countries emerging from war, political and electoral violence, ethnic clashes and religious conflicts. In general, the chapter sought to examine whether TRCs effectively deal with the past, secure justice, restore peace, unearth the truth, and foster reconciliation in countries that have utilised this RJ model.

A scholarly debate on the complementarity of adopting international criminal justice/ domestic courts or the use of TRCs in dispensing justice has also been provided in this chapter. The chapter also reviewed the literature on early attempts at forming a TRC in Zimbabwe and the reasons behind the adoption of a commission in the later years. As a way of situating the debate on the need for the establishment of TRC in the Zimbabwean context, I traced the direct forms of violence deployed by the past and present ZANU-PF government to its citizens in different historical epochs. These range from direct violence stemming from the Gukurahundi pogrom (massacre), violent land seizures in 2000, 2005, 2008 electoral violence, violence in the diamond mines in Chiadzwa in 2008 and the 2018 August killings, amongst others. This historical analysis of conflicts and violence contextualise the research and provides a useful lens to examine

and understand why a RJ approach in the form of a genuine TRC is necessary for dealing with Zimbabwe's past.

The study's research findings established that much of the past reconciliation efforts were cosmetic, superficial and elite-driven. It is clear from the findings that the state-initiated TJ and reconciliation mechanisms brought 'negative peace' to the country. However, the study's findings also established that the current efforts by the NPRC and past (failed attempts at reconciliation) have failed short in fulfilling the needs of the victims and survivors of previous human rights abuses.

The chapter's objective sought: *to analyse the development and functions of the NPRC in Zimbabwe*. After the general review of TRCs in chapter 3 – Chapter 4 shifted from the global discussion of TRCs to the local analysis of the gestation, development, functions, composition, mandate and operations of the NPRC in Zimbabwe. The chapter examined the politics around reconciliation in the first section to set the tone on why demands for a genuine TRC emerged over the years. To make such an analysis, the chapter utilised extant literature and empirical evidence from key informant interviews. Using Lederach's Place of Reconciliation framework (1997), TARR model Wietekamp et al. (2006), Althusser's (1971) repressive state apparatuses the research findings demonstrate that the efficacy of TRCs largely depends on political will and the availability of financial resources. In the analysis of the NPRC, respondents emphasised that to function properly and effectively the commission should be independent from political influence.

What also emerges from this chapter is that the efficacy of TRCs largely depends on the neutrality of commissioners. It was underscored that the appointment of commissioners by the president compromises the proper functioning of the NPRC in Zimbabwe. The chapter concludes that the past and current efforts by the NPRC efforts fail short in providing victim-centred approaches to the emotive issues of justice, forgiveness, public acknowledgement and official apology and reconciliation due to the uncondusive political environment.

Chapter Five examined the various ways in which non-state actors engaged in TJ and reconciliation processes post-2008 electoral violence in Zimbabwe. The objective of the

chapter was aimed *at determining how the TJ mechanisms that were put in place by non-state actors dealt with human rights violations stemming from the 2008 election violence*. The chapter's central focus was to offer a nuanced analysis of the non-state actors' role in shaping TJ discourse and in addressing human rights violations after the 2008 violence. The empirical data from the fieldwork conducted in Zimbabwe as well as the critical review of CSOs/NGO documents revealed that non-state actors like CSOs and church-affiliated organisations played a substantial role in influencing Zimbabwe's TJ trajectory since the 2008 era. Empirical evidence from key informant interviews with civil society actors reveals that non-state actors have played a crucial role in filling the TJ gap that has been evident before the GNU.

The research established that during and after the coalition government (2009-2013), CSOs became more vibrant and organised in pushing for an end to political violence, fostering peace, reconciliation and victim-centred justice. However, despite their resilience, CSOs have failed to fully influence some formal and informal TJ processes (such as the Zimbabwe Human Rights NGO Forum) due to state repression during and after the Mugabe era. The study further established that notwithstanding the fact that Zimbabwean CSOs tried to complement the government's efforts in advocating for peace and reconciliation, their quest for victim-centred justice is whittled by severe resistance from the incumbent. It became clear from the study that the ZANU-PF government is unwilling to fully commit to truth-telling and victim-centred justice. The chapter argued that although much of the CSOs have engaged in TJ advocacy, some have engaged in real practical issues of healing and reconciliation with survivors and victims beyond the advocacy campaigns.

Chapter Six analysed the empirical data on citizens perspectives on the role of the NPRC. The chapter presented people's perceptions on reconciliation, justice and peace in Zimbabwe. The chapter objective sought: *to understand how the NPRC has functioned after the 2013 general elections in Zimbabwe to foster a climate of national reconciliation at the hand of a peace and reconciliation framework*. The chapter discussed why reconciliation is necessary for Zimbabwe. The discussion also dwelled on the peace and justice dilemma, and the impunity of perpetrators of different injustices. One of the key

arguments presented in this chapter is that the NPRC has done little to promote justice in Zimbabwe. Research findings revealed that justice is being delayed because the government and the NPRC have been paying lip service to demands for accountability and justice since 2013. However, some respondents argued that the commission had done a bit of some work in promoting peace, especially towards the 2018 harmonised elections.

It came out clearly that the NPRC is focusing more on promoting peace whilst turning a blind eye to post-conflict justice. Empirical findings revealed that the NPRC is bound to fail to deliver on its mandate. The main argument that was put forward is that the commission cannot fulfil its mandate and objectives due to a lack of political will, as discussed at length and in depth in chapter 1, 2, 4 and 5. Other perceptible reasons that were highlighted include lack of financial resources, ineptness, political clout and mistrust. Guided by Lederach's Place of Reconciliation framework (1997), the chapter sought to understand how the NPRC could strike a balance between truth, justice, peace, and mercy to promote national reconciliation in Zimbabwe. In this chapter it was further established that without authentic national reconciliation efforts, vengeance, mistrust, and hatred will remain ingrained in people's hearts.

All the chapters reviewed above feed into addressing the study's main research question: At the onset the study sought to explore the following question: *What role have national reconciliation and transitional justice processes played in Zimbabwe since 2008, with special reference to the National Peace and Reconciliation Commission (NPRC)?*

This research question required an exploration of TJ processes that non-state actors initiated in the aftermath of the 2008 electoral violence. It also required an empirical analysis of the role of the NPRC that was promulgated in 2013 after the adoption of the new constitution. Chapter 5 revealed that CSOs and the church played a very crucial role in spearheading TJ processes from 2008 to date. What was fundamental was the work done by these non-state actors to shape the NPRC functions and national character. Much of the sterling efforts by for example CSOs such as the National Transitional Justice Working Group (NTJWG) helped in amplifying TJ advocacy and acquainting citizens with knowledge on the NPRC's role, among other issues. However, the NPRC that was

provided for in the 2013 constitution took nearly 5 years to commence its operations. In this light, the study concludes that little has been done so far by the NPRC to promote peace, post-conflict justice and reconciliation. What is discernible is the lack of strident efforts by the commission to address issues of accountability, truth-telling and victim-centred justice in line with the TARR model (Wietekamp et al. (2006). This has been addressed in chapter 4,5, 6 and 7.

7.4 Reflections on the Study's Major Findings

- a) The study's main finding is that the success of the NPRC in Zimbabwe is hamstrung by prevailing political conditions, including lack of political will and government rigidity.
- b) The other finding is that whilst the NPRC is very necessary for promoting peace and post-conflict justice, it is undercut by a lack of independence and autonomy from the incumbent government.
- c) The study also established that any genuine national reconciliation should be underpinned by effective TJ mechanisms such as truth-telling, memorialisation, victim-centred justice, reparation, public acknowledgement, official apology, historical accountability and healing processes.

Taken together, these findings have both an empirical and theoretical contribution to the study and understanding of the prospects and challenges faced by TRCs in post-conflict societies including in Zimbabwe.

7.5 Empirical and Theoretical Contributions of the Research

This research provides a timely and necessary study of the role of non-state actors and the NPRC in stirring TJ and reconciliation processes after the 2008 violence. This study is anchored on a constructivist epistemology to understand citizen's perspectives on the role of the NPRC. Constructivist epistemology constructed multiple realities on justice, peace, truth and reconciliation in Zimbabwe. The study examined in length and breadth extant scholarship on key concepts like TJ, reconciliation, peace, justice, forgiveness, violence, RJ and retributive justice. The aforementioned concepts were utilised throughout the study to examine how the NPRC could achieve the much-desired post-conflict justice. The study contributes pertinent insights to the debate on the 'criminal

justice vs RJ and 'peace vs justice' dilemma in the contemporary TJ processes. Although many respondents have favoured RJ, a few argued that RJ and criminal justice should complement each other to attain justice.

The study used an eclectic approach to theoretical frameworks to understand the research problem. This entails utilising the theoretical lens of *repressive state apparatuses* Althusser (1971) to understand the power dynamics and how it silences citizen's demands for justice and reconciliation in Zimbabwe. The RSAs contribute much to the contemporary analysis of why some TRCs fulfil their mandates whilst others fail to do so. This theoretical contribution is pertinent insofar as it sheds light on how authoritarian regimes undermines the credibility and efficacy of TRCs and other TJ processes after periods of violence. The research established that the success of TJ in any polity depends on the political will of the incumbent president and the government. In the context of Zimbabwe, many respondents argued that the past and current government has used the state machinery to block, delay and muzzle issues of TJ and justice in Zimbabwe in line with the Althusserian theoretical lens.

The purpose of this study has been to examine different TJ measures that have been effected in Zimbabwe. The study on the role of CSOs provided a strong empirical confirmation that non-state actors have stirred the TJ agenda and the development of the NPRC in Zimbabwe. The research examined whether the establishment and promulgation of the NPRC in the new constitution has aided in the realisation of post-conflict justice, truth and national reconciliation in Zimbabwe post-2013. To achieve this objective, the study carried out an empirical exploration of people's perceptions on the role of the NPRC in fostering post-conflict justice. The TARR model and the repressive state apparatuses theoretical insights also allowed for a cogent analysis of how the NPRC is failing to fulfil its mandate due to lack of independence, lack of political will, financial resources and obstructionism by ZANU-PF and its agents. The RSAs helped much in the understanding of prospects and challenges of attaining justice and reconciliation in authoritarian and highly militarised regimes such as Zimbabwe. Research findings revealed that the NPRC is captured by the state hence they are focusing on cascading peace at the expense of victim-centred justice. This study is among the first attempts to

thoroughly examine the role of the NPRC this far. The novelty of the study stems from the fact the NPRC is the first national TRC to be established in Zimbabwe with a constitutionally binding mandate of fostering peace and post-conflict justice.

The study also utilised *the Place of Reconciliation* framework, deriving from Lederach (1997), to discuss how post-conflict justice, sustainable peace and reconciliation can be achieved in Zimbabwe. Lederach notes that reconciliation occurs when four salient issues, truth, peace, justice and mercy, meet. Lederach's theory was also complemented by the TARR Model deriving from Wietekamp et al. (2006). Utilising the TARR Model enabled me to analyse how the building blocks of RJ-Truth, Accountability, Reconciliation and Reparation can help attain post-conflict justice. The aforementioned frameworks offered the theoretical basis of this research. On an empirical level, the study offered significant perspectives on the role, challenges and prospects of the NPRC in Zimbabwe. It emerged that the NPRC will not achieve its intended mandate within the stipulated timeframe judging by the current trajectory. Research findings further revealed that there are several loopholes in Zimbabwe's TJ processes. I argue that the NPRC is faced with insurmountable challenges to the extent that it cannot fulfil its mandate with 2 years left to wind up its operations.

The research also established that there is a lot of politics around issues of reconciliation in Zimbabwe. As such, respondents emphasised that the emotive issues of TJ and reconciliation will remain contested as long as the government continues to remote control the NPRC. Since the adoption of the new constitution in 2013, Mugabe's government showed very little commitment to operationalise the NPRC. However, the new dispensation of Emmerson Mnangagwa that came into power in 2018 showed – at least – some 'commitment' by operationalising the NPRC. Such sharp contrast brings us to the debate of how incumbent president and government can derail processes of national reconciliation, justice and truth-telling. However, this is not to say the new administration is fully committed to seeing the success of the NPRC. The findings of this study have shown that the regime is only interested in seeing an NPRC that responds to its bidding and which is controlled by the executive to the extent that the whole process will end up as some form of charade (facade).

Overall, the research has contributed to the scholarship on conflict resolution and the role of TRCs and their impact in shaping post-conflict justice. These research findings contribute in several ways to our understanding of the efficacy and functions of TRCs in Africa and globally. As such, it provides a basis for further research on the role and efficacy of TRCs in authoritarian regimes such as Zimbabwe. The thesis argues that the NPRC has so far failed to fulfil its mandate of promoting post-conflict justice and national reconciliation in Zimbabwe.

7.6 Practical Recommendations

Considering that Zimbabwe is famed for organised violence and torture (OVT), state-sponsored violence, rape, murders, beatings, enforced disappearances and impunity, there is a need for strong practical recommendations by the NPRC so that the country will have a break from this cycle of violence. Proposals for remedial action should, thus, be put on the table by the NPRC in the spirit of 'Never Again' such that society will break with its violent past as well as its current under dealings. Such a recommendation on steps to be taken should also be informed by addressing victims' demands. In this regard, the NPRC should come up with adequate remedies or remedial action to protect victims of state violence. The commission should make sure that rights offenders are brought to book and subjected to the wheels of justice.

In terms of recommendations for practice there is a need for a synergised approach and active participation between the NPRC, traditional leaders, church, human rights organisations and CSOs that work in the TJ field. It needs no emphasis to state that a holistic and genuine national reconciliation process can only be achieved when concerted efforts exist between the aforementioned state and non-state actors. In so doing, the NPRC could achieve a victim-centred and grassroots-driven national reconciliation process. The NPRC should also expedite processes that are anchored on truth recovery and accountability of the human rights violators. In other words, they should commence public hearings where perpetrators will face their victims and victims could find solace.

The NPRC should put safeguards for victim's protection – especially victims of rape and other gender and sexual offences. All this requires the stakeholders to work in good faith with an overall objective of nurturing peace, promoting reconciliation and justice

in communities that have been fractured by violence. The ultimate goal should be to cultivate and restore relationships, heal past wounds, foster forgiveness, material reparation (if need be), public acknowledgement of wrongdoing, contrition and display acts of remorse.

The findings of this thesis raised important political issues that have a bearing on the functions and efficacy of the NPRC. The NPRC should be freed from executive oversight to perform its duties independently in line with the constitution and Paris principles. The NPRC is housed under the vice president's office. It is recommended that the government should maintain a hands-free approach in the operation of the NPRC. This is with the exception of funding the commission. The commission should operate independently to achieve its mandate of promoting post-conflict justice.

Again, in terms of practical recommendations, the Zimbabwean government should adequately fund the commission. External donors should only be seen to be playing a complementary and not a leading role in this regard. Although donors' channel financial resources, the buck stops with the government. As such, the government should adequately fund the NPRC and avoid relying on funding from the donors or the international community.

It is further recommended that the NPRC roll out public hearings. It should take a cue from other countries that successfully held public hearings. Examples abound in Sierra Leone, Peru, East Timor and South Africa. The outreach or hearings should be similar to the constitution-making process that were conducted by the constitution-making body (COPAC) in Zimbabwe during the 2010 period. However, the NPRC should decentralise the public hearings to provincial, district and ward level to ensure effective public participation.

The NPRC will also benefit from consulting experts and practitioners from other countries that established successful 'TRCs'. This will help to inform the commission's areas of programming by tapping from the best minds and best practises. For instance, experts and practitioners can be drawn from Sierra Leone and South Africa, countries deemed as the 'best' models.

The study further recommends that the NPRC establish a Committee to Review the Commission's Terms of Reference – specifically looking into the periodisation (both lifespan of the NPRC) and the periods to be covered/investigated. The NPRC has a broad mandate which should be reviewed and this will help in monitoring and evaluation of the body's progress – or lack thereof. This committee should include parliamentarians, CSOs, women and youth groups, church, academics and traditional leaders. The terms of reference should, thus, engage with various issues, including the salience of reburials and memorialisations. The latter issue is of importance, as we have seen in other contexts that have experienced violent conflicts. In Bosnia-Herzegovina, the Srebrenica's women and pressure groups played a major role in pushing for the memorialisation of victims of the genocide, as exemplified in the Srebrenica memorialisation project (Chuck, 2010). Zimbabwe can thus take a leaf from such case examples.

In what follows, I present recommendations for future research basing on the gaps identified when conducting this research study. Such recommendations, it is hoped, will further deepen and enrich research on TRCs, especially in countries like Zimbabwe that are for the first time establishing such a commission.

7.7 Recommendations for Future Research

Based on the key findings and conclusion of the research, I offer several recommendations that can help attain peace, justice, and reconciliation in post-conflict contexts. There are still many unanswered questions about the efficacy of TRCs to promote truth-telling and victim-centred justice in authoritarian regimes like Zimbabwe. Future studies should address the questions raised by this research on whether citizens will be able to exercise their rights to seek justice in post-conflict contexts. In addition, further studies regarding the incumbent government and president's role in blocking TJ measures would be worthwhile. As such, the possible area of future research would be to investigate why some TRCs manage to achieve their mandate and goals whilst others fail.

Although there is no consensus on how to measure the success of 'TRCs', some commissions elsewhere in Peru and South Africa have managed to identify and name perpetrators. This is indeed a good starting point for truth-seeking, forgiveness and

reconciliation. In light of all these pertinent questions, it is recommended that future research be undertaken to generate a nuanced understanding of the nexus between power, law and politics in highly militarised and authoritarian regimes such as Zimbabwe insofar as how this intersects with TJ. Based on these key issues, scholars and TJ practitioners will be able to frame discourses and recommend context-specific policies. Further studies should also focus enquiry on the following: peace versus justice, negative peace versus positive peace and retributive justice versus RJ in different post-conflict contexts.

Again, there is a need for longitudinal studies to evaluate the evolution of the NPRC, its role to post-conflict justice, efficacy, and implementation of recommendations after winding up its operations. In the same vein, further studies could assess the long-term effects of the current work of the NPRC within the context of repression and political influence. Such research will be pertinent in exploring whether the NPRC will achieve its mandate before the lapse of its tenure in 2023. It will be interesting to research how things unfold from the completion of this study until 2023. A longitudinal study will also manage to research the NPRC throughout its lifecycle from inception to the Final Report's release (as and when it will be done).

If the NPRC will roll out public hearing, empirical research should document victims and perpetrators' views as has been done elsewhere in other TRCs. Independent scholarly works based on empirical findings will enable readers to hear the unfiltered side of events instead of one official account (presented through a TRC report), which will be toned down in most cases. The question, however, is whether researchers will be allowed to participate in such gatherings considering the difficulties in researching sensitive topics in Zimbabwe.

Although numerous studies have been conducted on TRCs the common trend is that most have been done as evaluative studies at the end of the lifespan of TRCs. However, some have been ongoing, including those that followed through public outreach/hearings. It is, thus, recommended that future studies should be generated specifically looking at the entire process including the results of the NPRC. This could not be done in this project, as the inquiry involved researching an ongoing phenomenon, a

task which brought with it varied challenges as outlined in the methodology section. However, such an endeavour also came with opportunities of researching the events and processes in real-time as they unfolded. Hence, the research is among one of the pioneering scholarly works on the NPRC.

7.8 Conclusion

This study set out to examine the role of the NPRC to promote post-conflict justice in Zimbabwe. It also examined the role of non-state actors in influencing Zimbabwe's TJ and reconciliation processes since 2008. Again, the study tapped on citizen perceptions on the work and efficacy of the NPRC in promoting TJ and national reconciliation. The study has argued that dealing with TJ and national reconciliation in divided societies is no easy feat, as established in this enquiry focusing on the role and efficacy of the NPRC in Zimbabwe. This is not a peculiar case which only resonates with the Zimbabwean model. It is a phenomenon that is also mirrored at a regional and global level, as exemplified in countries that have established TRCs.

What, however, makes the Zimbabwean case to stand out is that there has been no regime change with the regime tainted with human rights violations still in power. Questions linger, how do you confront such a situation, how do you bring perpetrators to book? How do you deal with an executive that is in control of the NPRC? Will such a body be independent? Will it be able to investigate the executive? This whole set up complicates the whole scenario. Returning to the question posed at the commencement of the study regarding the efficacy of NPRC, it is now possible to state that several factors impinge on the realisation of genuine national reconciliation, many of which bolder around power interests, safeguards, fears and uncertainties by the incumbent regime.

There is no denying the fact that the political culture in Zimbabwe for many decades has nurtured a culture of impunity and a cycle of human rights abuses to the extent that it has become a normality to live with human rights violations. Any efforts geared towards historical accountability and justice are, thus, spurned by the regime and other non-state actors who are implicated in these atrocities. This has been the trend in most countries that have had a troubled past. But even against such a backdrop, the need for victim-centred justice, truth, accountability, healing, and forgiveness remains a pre-

requisite – if not an antidote – for social cohesion in post-conflict societies like Zimbabwe which is struggling to come to terms with the past in seeking to heal the hurting nation. The study has shown that the yearning and realisation of truth, justice and national reconciliation in Zimbabwe remains important. It is no longer a question of whether it is feasible to attain such but a question of how and when.

Like other countries that have struggled with historical accountability – Zimbabwe will benefit from insights from countries that have had TRCs. Though not to be treated as magic bullets, evidence from this study suggests that (at least) TRCs offer the space for historical dialogue and for society to dialogue on whether it prioritise justice, truth or forgiveness or both. This will help in charting a way forward. It is only in Archbishop Desmond Tutu's words that societies can be able to move forward through forgiveness no matter how complicated the process might be. In the words of Tutu (1999), there is '*No Future Without Forgiveness*'. The question in the offing is whether the act of forgiving (forgiveness) will be traded for justice or whether forgiveness will amount to forgetting and burying the past in the spirit of cultivating national reconciliation.

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Appendices

Appendix I.1: Interview Guide: Scholars, politicians, and the general public

Introduction:

My name is Knowledge Mwonzora. I am a 3rd year PhD student in the Department of Political Studies at North-west University in South Africa. I am conducting a research study entitled 'Reconciliation and Transitional Justice Processes in Zimbabwe since 2008: The Role of the National Peace and Reconciliation Commission'. The study is being conducted in Zimbabwe.

What is your opinion on the NPRC? Is it an adequate and effective measure to address the human rights violations committed during the 2008 electoral violence?

Do you think the NPRC is well-capacitated to address issues of reconciliation and transitional justice in Zimbabwe?

How far back should the NPRC go in addressing issues of justice and reconciliation in Zimbabwe?

How did the transitional justice mechanisms that were put in place by the government deal with human rights violations after the 2008 election violence?

What are your views on the current reconciliation efforts by the NPRC with regards to victim centred justice, truth telling, accountability, restorative justice and national healing? Are you satisfied by the current activities of the Commission?

Which transitional justice mechanisms do you think would be most effective in addressing the unresolved human rights abuses committed in 2008 to present?

Appendix I.2.: Interview Guide for Civil society Actors, Transitional justice experts and Human rights activists

Introduction:

My name is Knowledge Mwonzora. I am a 3rd year PhD student in the Department of Political Studies at North-West University in South Africa. I am conducting a research study entitled 'Reconciliation and Transitional Justice Processes in Zimbabwe since 2008: The Role of the National Peace and Reconciliation Commission'. The study is being conducted in Zimbabwe. The data gathered will be solely used for academic purposes.

Interview Questions:

What role has been played by your organisation to influence Zimbabwe's transitional justice processes since 2008?

Has your organization been involved in any activities towards justice and accountability for the human rights abuses committed in 2008 electoral violence?

What challenges do you face (if any) as an organization in trying to promote reconciliation in both rural and urban communities in Zimbabwe?

Why do we need reconciliation in Zimbabwe? What might this reconciliation entail?

How do you evaluate the work of the NPRC this far?

Judging from its work so far and its mandate do you think it will effectively deal with the much desired 'truth-based reconciliation' and justice over the past human rights violations?

In your view what can be done to improve and enhance the work of the NPRC?

How have other CSOs actors tried to fill the transitional justice gap that has been evident since 1980?

Besides CSOs, are there some other actors involved in reconciliation and transitional justice - if so, which areas are they working on?

Has your organisation been involved in traditional justice systems to complement government's reconciliation efforts?

Appendix I.3: Interview Guide to the Church/ Faith Based Organisations

Introduction:

My name is Knowledge Mwonzora. I am a 3rd year PhD student in the Department of Political Studies at North-West University in South Africa. I am conducting a research study entitled 'Reconciliation and Transitional Justice Processes in Zimbabwe since 2008: The Role of the National Peace and Reconciliation Commission'. The study is being conducted in Zimbabwe. The data gathered will be solely used for academic purposes.

Interview Questions

What is the role of the church in peace building?

Do you work in local communities?

What work has the church been doing in seeking to heal and build cohesion in Zimbabwe?

Are there any limitations that face the church in its work in promoting national healing and reconciliation (if so, what are these limitations)?

Why do we need reconciliation in Zimbabwe?

What is the church's approach to reconciliation - which approach do you use in your work?

In your view what can be done to the realization of truth and reconciliation in Zimbabwe?

Are you satisfied with the national reconciliation efforts that have been implemented this far?

What are your views on the current reconciliation efforts by the NPRC with regards to victim-centred justice, truth-telling, accountability, restorative justice and national healing?

How can the society balance the Christian perspectives to healing and reconciliation against the justice system approach?

What is the position of the church on forgiveness, truth and justice - should this go hand in hand or not?

Appendix I.4: Interview Guide to the NPRC officials

Introduction:

My name is Knowledge Mwonzora. I am a 3rd year PhD student in the Department of Political Studies at North-West University in South Africa. I am conducting a research study entitled 'Reconciliation and Transitional Justice Processes in Zimbabwe since 2008: The Role of the National Peace and Reconciliation Commission'. The study is being conducted in Zimbabwe. The data gathered will be solely used for academic purposes.

Why do we need reconciliation in Zimbabwe? What might this reconciliation entail?

What role is being played by the NPRC to ensure post-conflict justice in Zimbabwe since its establishment in 2018?

Will the NPRC achieve the much-desired truth-based reconciliation and justice given the few years left to wind up its operations?

How will the NPRC deal with the past unresolved human rights abuses?

In your view what impact has the NPRC made to ensure victim centred justice and healing in fragile communities after the 2008 electoral violence?

Appendix 3: Mibvunzo kune vanhu wakambunyikidzwa kodzero dzawo mumhirizhonga yegore ra2008

Zita rangu ndinonzi Knowledge Mwonzora. Ndiri kuita zvidzidzo zve PhD pa North-West University kuSouth Africa. Ndiri kuita tsvakurudzo yekuti vanhu vangayanana sei maringe nekumbunyikidzwa kwekodzero nekurasikirwa neupenyu kwakaitika muZimbabwe nekuda kwemhirizhonga dzaitika munyika kusanganisira muna 2008. Tsvakurudzo yangu iri kuongorora zvakare kuti komisheni ye NPRC irikuita basa rei kuti iyananise vanhu wakatadzirana uye kuunza runyararo munyika. Zvichabuda mutsvakurudzo iyi zvichangoshandiswa muzvidzidzo zvangu uye handiburitsi mazita enyu pachena. Ndinokutendai nekubvuma kupawo pfungwa dzenyu nekupinda mutsvakurudzo yangu.

Mibvunzo

Ndezvipi zvamakasangana nazvo mugore ra2008 pakaitika mhirizhonga yesarudzo dzechipiri dzekusarudza mutungamiri wenyika?

Ndezvipi zvamunotarisa kuti Komisheni yeNPRC iite kuti muziwe chokwadi chezvakaaitika uye kuti pawe nekuyanana nevakakutadzira mugore ra2008.

Munoona sei mashandiro ari kuita komisheni ye NPRC kubva muna 2013 payakaiswa mubumbiro remutemo. Munoona sekuti komisheni iyi ichakwanisa here kuyanana vanhu uye kuti vanhu wadzorerwe pfuma yawo yakaparadzwa panguva yemhirizhonga yemapato ezvematongerwo enyika uye mhirizhonga yakaitika pasarudzo dza 2008?

Komisheni iyi irikukwanisa here kugadzirisa nyaya dzekumbunyikidzwa kwekodzero dzevanhu mumhirizhonga dzakaitika muZimbabwe.

Introduction:

My name is Knowledge Mwonzora. I am a 3rd year PhD student in the Department of Political Studies at North-West University in South Africa. I am conducting a research study entitled 'Reconciliation and Transitional Justice Processes in Zimbabwe since 2008: The Role of the National Peace and Reconciliation Commission'. The study is being conducted in Zimbabwe. The data gathered will be solely used for academic purposes.

Interview questions

What were your experiences during the 2008 electoral violence?

What are your expectations from the NPRC in relation to justice and truth?

What are your views on the work of the NPRC since its establishment?

Is it an adequate and effective measure to address the human rights violations that were conducted before and after the June 27 Run-off elections in 2008?

Appendix II: List of Interviews

Interview with Mr Mandikwaza (research officer for HZT), 23 August 2019, Harare.

Interview with Mr Gombe (survivor of 2008 electoral violence and Founder Zimbabwe Political Victims Foundation), 5 November 2020, Nyanga.

Interview with Mr Richard Mahomva (a ZANU-PF activist/ Director Leaders for Africa Network), 19 December 2019, Harare.

Interview with Diana Harawa (National Association of Youth Organization (NAYO), 16 October 2020, Norton.

Interview with Mr Njeru (Director of Research and Advocacy Unit), 20 September 2019, Harare.

Interview with Mr Reeler (Senior Researcher at Research and Advocacy Unit), 20 September 2019, Harare.

Interview with Mr Muchena (The National Director of Catholic Commission for Justice Peace in Zimbabwe CCJP), 7 November 2019, Harare.

Interview with Pastor Masenda (the Renewal Fellowship of Zimbabwe), 10 November 2019, Harare.

Interview with Mr Tabaziba (the Director of the Methodist Development Relief Agency (MEDRA), 20 November 2019, Harare.

Interview with Mr Dzikamai Bere (coordinator of the National Transitional Justice Working Group), 13 December 2019, Harare.

Interview with Dr Makwerere (Lecturer at Bindura University in the Department of Peace and Governance), 14 December 2019, Bindura.

Interview with Dorcus Chishumba (peace practitioner) ,15 October 2020, Harare.

Interview with Mr Douglas Mwonzora (Movement for Democratic Change- Alliance Senator for Manicaland), 11 November 2019, Harare.

Interview with Mrs Rotina Musara (The then General Manager- Victim Support Gender and Diversity at NPRC) ,18 December 2019, Harare.

Interview with (MDC Alliance activist anonymous) 26 November 2019, (Mutasa District) Watsomba.

Interview with Dr Maregere (Transitional Justice Expert), 22 November 2019), Harare.

Interview with Mr Tendaishe Tlou (Transitional Justice Advocacy Specialist Zimbabwe Human Rights NGO Forum), 23 September 2019, Harare.

Interview with (Anonymous Human rights activist), 17 November 2020, Bulawayo.

Interview with Dr Tinashe Gumbo (the Social Cohesion Officer of the Zimbabwe Council of Churches), 30 November 2020, Masvingo.

Interview with Mrs Alethea Taruwinga (the Research and Advocacy Coordinator the Centre for Conflict Management and Transformation), 21 October 2019, Harare.

Interview with Mr Manyati (a vice-chairperson of the Mashonaland East Provincial Peace), 10 November 2020, Mutoko Centre.

Interview with anonymous victim 1 conducted in Manicaland Province, 13 November 2020, Buhera.

Interview with anonymous victim 2 conducted in Mashonaland East Province, 9 November 2019 Mutoko.

Interview with anonymous victim 3 conducted in Mashonaland East Province, 8 November 2019, Murehwa.

Interview with Patience Rusare (Rotary Peace Fellow and Journalist), 20 November 2020, Harare.

Interview with Dr Mashingaidze (prominent historian and peace and conflict scholar and Dean of Faculty of Arts and Humanities at Midlands State University), 16 November 2020, Zvishavane.

Interview with (Anonymous NPRC employee), 28 October 2020, Harare.

Interview with (Anonymous CSO employee), 18 November 2020, Bulawayo.

Interview with Dr Geoffrey T Chada (Commissioner of the NPRC), 16 December 2020, Harare.

Interview with Reverend Charles Masunungure (Commissioner of the NPRC), 10 December 2020, Harare.

Interview with Mr Joseph Mashingaidze (the General Manager, Conflict prevention, Management Resolution and Transformation of the NPRC), 14 December 2020, Harare.

Interview with Lynn Walker (the Director of the Tree of Life Trust), 5 December 2020, Harare.

Group Discussion One with Members of Mashonaland East province Peace Committees, 10 December 2020, Holiday Inn Hotel, Harare.

Group Discussion Two with Mashonaland Central Province Peace Committee, 11 December 2020, Holiday Inn Hotel, Harare.