



HUMAN RIGHTS, TRUTH & JUSTICE

Presentation and Group Discussion

PRESENTATION

The presentation for this group was prepared by Janah Ncube¹⁵. The presentation emphasised the inter-relatedness of different aspects of the crisis. In addition the escalation of the crisis to the present was established.

Since the year 2000, human rights standards in Zimbabwe have steadily declined. This was attributed primarily to political intolerance, which has resulted in an undeclared state of war existing in Zimbabwe. Abductions, kidnapping, assault, murder, “disappearances” displacement, rape, torture, detention and arrests are just some of the examples of politically motivated violence Zimbabweans currently experience.



Ms Janah Ncube (right)

Beyond the human rights violations, the Zimbabwean climate has been further marred by hunger and starvation, soaring HIV rates, the absence of the rule of law, shortages of basic commodities (including local currency), repressive legislation and widespread fear. The arms of government had colluded with the ruling party to the extent that even the national media has become a propaganda machine. Further, in instances when government-sponsored actors are perpetrating abuse on the people, the law is blind.

It is difficult to describe the current situation in Zimbabwe when the human rights abuses are so widespread and when the current political, economic and social disasters facing the country are so inter-related. The state of the economy in particular (including lack of currency, rising unemployment, soaring inflation, shortages and the development of the parallel market) has affected Zimbabwean’s basic human rights.

In addition, there is a trend of sharp increases in human rights violations during the election periods and at times of mass action. This has worrying implications on the public’s ability to organise freely and for political debate to take place openly.

The paper described types and extent of human rights abuses, and discussed the physical and psycho-social damage to the victims who have been murdered, crippled, dismembered, raped scarred and abused. Loss of dignity, and the damage to family and community structures also occur when individuals lose their jobs, are victims of arson, have their properties destroyed or their families divided.

In conclusion, the paper called for politicians and civil society actors alike to stop bickering while the country suffers, and instead urged them to sit and talk across a table. Dialogue was cited as only the beginning of a process that will take time, truth and justice to bring about that new Zimbabwe which is possible.

“Politicians and civil society actors should stop bickering while the country suffers.”

15 See Appendix 10 for a copy of the submission from Janah Ncube.

GROUP DISCUSSION

The group defined Transitional Justice as an immediate and expedient process of blending societies legally, philosophically and morally, taking into consideration the cultural, legal and social perspectives of the society¹⁶.

Following the presentation, participants discussed issues relating to human rights, truth and justice in relation to the potential for transition in Zimbabwe. The group attempted to answer them by allowing for broader discussion which primarily included examining the rights that have been violated before coming up with mechanisms of how to deal with them and bring perpetrators to justice.

The discussion was given the theme “Rebuilding and re-envisioning Zimbabwe from the perspective of Human Rights, Truth and Justice.”

Violations prominently noted included the abuse of the following:

- Right to equality before the law
- Freedom of association, assembly and expression
- Right to dignity and security of person
- Right to food (especially through inaccessibility and politicisation), this inherently impacts on the right to life.
- Right to information: freedom to disseminate and receive information; restriction of access to information through monopolisation of broadcasting space by a partisan public broadcaster.
- Right to education
- Freedom from discrimination and equal opportunity
- Right to plurality, people/ citizen participation
- Right to health - inadequate provision of medical facilities and services, access to health facilities; accentuated with regards to people living with HIV/AIDS

Detentions, torture, assaults, murder, abuse have become more systematic. The institutions which are supposed to protect, promote and enforce people's rights (e.g. police, army, national broadcaster) have become the chief conspirators in abusing people's rights.

The group then proceeded to answer the discussion questions as follows:

1. How does Zimbabwe want to deal with past human rights abuses and atrocities? How does it deal with both recent and older grievances? How do we deal with perpetrators and ensure that justice prevails without being vindictive? How do we address questions of truth telling, forgiveness, revenge, justice, healing, reconciliation and reparations.

Past wounds left unhealed have festered and aided the present crisis.

There must be acknowledgement of past and present injustices. Healing can only follow such admission of responsibility. An important lesson has already been learned locally of the consequences of lack or rehabilitation of both victim and perpetrator in the form of liberation war veterans, detainees and collaborators whose unhealed wounds made them very responsive to a violent campaign for land acquisition.

The wounds left unhealed, particularly after the liberation struggle and the *Gukurahundi*, the Matabeleland massacres of 1983-1987 have festered and aided the present crisis. Therefore each phase, (including the liberation war, *Gukurahundi*, land invasions and politically motivated violence) must be revisited in terms of “breaking the silence and building true peace” and healing of memories.

Perpetrators must be made accountable and brought to book, but that there should also be a focus on rehabilitation. In particular, there should be a focus on rehabilitation and reintegration for members of the youth militia. A distinction should be made in terms of the justice meted out on willing versus unwilling perpetrators. That is, those that partook in acts of violence as part of their employment under threat of reprisal for defiance of orders should be treated differently than those who acted willingly/out of their own volition. Instigators of violence must be made accountable, as well as those who actually carried out the acts.

2. What institutions do we want to set up to achieve transitional justice? Does Zimbabwe need a

16 This discussion was minuted by Primrose Matambanadzo of the Human Rights NGO Forum.

TRC process? A tribunal? Something unique? What should this look like?

Zimbabwe needs a process in which perpetrators acknowledge past misdeeds, and through which victims are able to tell their stories in order to arrive at reconciliation. A TRC process or similar was seen as suitable for this.

The provision of justice is the duty of a different body as a TRC was unsuited to this, and perpetrators should be brought to justice.

“There must be justice, if people are to be placed in jail, they must be placed in jail, but it is just not enough to say ‘Oh I tortured you and I am sorry’ and for that to be that.”

Justice, reconciliation and reparation are not mutual processes but must be attended to in distinct manners. A transitional body in Zimbabwe should incorporate the two: a tribunal and a TRC. Various associations and organisation could interplay in the different aspects of this process. For example, issues of justice and reparation could be addressed by legal organisations and associations. Questions of rehabilitation should be tackled by psycho-social organisations, and issues of healing should be taken up by faith based organisations.

The ‘Truth, Justice and Reconciliation’ body should have sub-committees that give specialised attention to specific violations eg. unlawful arrest and detention; rape, torture, etc.

The institutions/ bodies that should be established congruent to this process be as follows:

i) A National Integration Commission, the duties of which would include:

- Building nationhood, specifically to address existing disparities and the conflicts that they have caused.
- Addressing grievances by minority groups.
- Playing a role in reconciliation
- Developing a culture of accountability among citizens through the media and other advocacy tools

ii) Constitutional Commission, which should be independent of any sitting government

3. Constitutional and Legal framework: How do we guard against a repeat of such abuse? What Constitutional guarantees can we put in place for the future?

A new constitution is imperative. It should be the result of wide public consultations and accommodation of an implementation/enforcement body should be included ie. A Human Rights Commission.

There must be an awareness of rights among the people. The rights presently enshrined in the constitution have been violated and many victims have not even been conscious that they had any entitlements to begin with. There should be a nationwide education campaign informing citizens of their rights under the reformed constitution.

RECOMMENDATIONS

Civil society should play its role to help create, develop and support institutions that protect and promote people’s rights. To achieve this, civil society should promote a culture of human rights, peace, truth and justice. It should promote advocacy around citizen’s right to equal protection under the law, and the manner in which the regime has threatened and systematically violated social and economic rights, the rights to information, private property, education, food security, health care and employment resources.

The transition process, and the institutions created in this process must contribute to the acknowledgement, healing and restoration of positions and reparations. For example, lessons should be learned from the South African process, which focussed on the perpetrators, rather than the victims. However, the South African process had its own challenges, which Zimbabwe should critique and learn from so that they do not repeat some of the same mistakes.

The process must be inclusive and definitive. The institutions which are created must be monitored to deliver, and the people must be confident that there is a new dispensation being created. A new, people driven, democratic Constitution should be a sign post in the transition that points to a road to recovery.

Institutions such as a Human Rights Commission and a Truth and Reconciliation Commission should

be created to further enshrine protection of people's rights. Specifically, the process of healing and restoration should include the rehabilitation of those in para-military groups, e.g. The Border Gezi youth training camps. There is a challenge in finding an alternative forum to educate the young people across the country.

Civil society should learn from the United Democratic Front (UDF) process of South Africa, and demand space both in the negotiating process and in regional and African Union (AU) initiatives.