Pathways to Peace and Reconciliation: Literature Lessons For Zimbabwe
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Zimbabwe enacted an enabling legislation to operationalize the National Peace and Reconciliation Commission (NPRC) on 5 January 2017, which was long overdue, since 2013. The NPRC is set to address a pile-up of Zimbabwe’s violent legacies experienced before and after the country’s independence in 1980. However, the citizenry has been party to protracted debates and uncertainty regarding the feasibility of sustainable peace and reconciliation process. Drawing from both domestic and international experiences, this review provides pointers into the options for Zimbabwe’s national healing, reconciliation and peacebuilding. This paper reviews Zimbabwe’s healing reconciliation discourse and how the process could be prosecuted. This review is also a precursor to Heal Zimbabwe’s nation-wide baseline study conducted to solicit communities’ perceptions of what constitutes healing, peace and reconciliation. The baseline study establishes options for the NPRC progress indicators design and processes upon which the Commission and Civic Society Organisations (CSOs) will track achievements.

1. Zimbabwe’s Conflict Legacy and Implications for Transitional Justice

Zimbabwe’s gross human rights record spans a long history which encompasses the pre-colonial, colonial and post-colonial experiences. Sensitivity about human rights violations in Zimbabwe must be informed by an appreciation of the background and context in which they arose and of the evolving relationships within and between the diverse players involved. Human rights denial has also been linked to the asymmetrical power regimes, polarised ideologies and legitimization of narratives associated with the ruling class and the opposing voices. While the pre-independence brutalities were largely Rhodesian-led and anti-black, there were lots of black against black atrocities, maiming and betrayal in the post-independence era. The liberation movements equally suffered, but more vulnerable were the civilians. Except for the powerfully illustrated 1987 report by the Catholic Commission for Justice and Peace (CCJP), little documentation has been done of the liberation and post-independence war crimes since there were no judicial proceedings instituted to address the crimes. Therefore, with the adoption of the new constitution in 2013, that recognises the need for national peace and reconciliation, justifies the essence of developing a baseline upon which the NPRC will draw for operational effectiveness and buy in.

According to Aret (in Joint CSO Johannesburg Conference on Zimbabwe, 2003) the underpinnings for impunity were laid during the independence negotiations at Lancaster House, where a policy of ‘forgiving and forgetting’ under the guise of ‘national reconciliation’ was adopted and pursued, albeit grudgingly. The Lancaster House negotiated settlement failed to identify perpetrators and hold them to account, and failed to identify, acknowledge and address the needs of victims. It also failed both to undertake the necessary institutional transformation required to address issues and to install the necessary safeguards for the young democracy (Machakanja and Mungure 2013). It should be noted that in the 1970s and 1980s impunity was the norm and accountability largely the exception.

During Gukurahundi (1982-87), it is estimated that twenty thousands of people were killed and many more tortured and terrorised before a peace deal was brokered between ZANU-PF and PF-ZAPU (Patriotic Front - Zimbabwe African People’s Union), which led to the creation of an amalgamated ZANU-PF and a de facto one-party state under President Robert Mugabe (CCJP, 1997). It is also important to note that the notion of ‘not knowing’ remains part of the legacy of avoidance and denial that has characterised the Zimbabwean State’s response to dealing with the violations. It is therefore, imperative that an understanding of the histories of the two liberation movements, ZAPU and ZANU, be undertaken to fully appreciate what transpired in Matabeleland during this terrible time. Concerns relating to injustices and impunity and allegations of state complicity in human rights violations have gone unattended for years. Since Independence, judicial-executive relations have been systematically eroded and torture has been co-opted as an alternative to law, ironically by state security. Reconciliation should therefore be seen to be interrogating these artificial representations of the ‘peace versus justice’ that promote these approaches.

The damage caused by the Gukurahundi in Matabeleland continues to reverberate as carry-forward injustice. To date, the findings of the government-sponsored Chihambakwe Commission of Inquiry (set in 1985) into the violations have not been made public, nor have any efforts been made to compensate the victims. Many of the alleged perpetrators, including leaders and planners of the violations, continue to hold senior positions in government security and political structures, setting the stage for the recurrence of violence and pile-up of grievances. Starting in 2000 and with the emergence and evolution of political opposition, a qualitative difference in the nature of repression emerged. This included the government’s introduction of increasingly harsh and repressive policies and laws that have effectively suffocated political opposition and pluralist debate. The integrity of the legal system and its downstream institutions has been systematically undermined and manipulated for partisan interests of government against its adversaries.

1Constitution of Zimbabwe (2013) Section 232e and 251-253)
Evidence collected about human rights violations, especially since the February 2000 Constitutional Referendum and subsequent parliamentary elections demonstrate the danger of not dealing with past wrongs.

One perspective is that for a decade, the reconciliation policy seemed to work remarkably well, at least between black and white people. Another perspective is that the policy worked less between white and black people, as there was a mass exodus of whites from Zimbabwe and in some respects, did not work at all among black people themselves who thought the policy was a betrayal of the liberation agenda. Ironically, however, this gesture of open-handedness from the new government was the first gross violation of human rights, as the histories of colonisation and the war were simply not addressed and the notion of reconciliation located these issues into oblivion. Couched under the guise of the Lancaster House Agreement negotiated the policy of reconciliation became distorted in both content meaning and interpretation as there was no acknowledgement of either the victims or the perpetrators, or of the many atrocities committed during the war on both sides. As a result the approach to reconciliation averted any examination of violations perpetrated during the war of liberation by the contending parties, thereby failing to bring psychological closure to the traumas of the past. More ominously, however, the integration of the Rhodesian and the Zimbabwe security forces brought the institutionalised technology of torture from Rhodesia into Zimbabwe.

After the Gukurahundi atrocities which claimed approximately 20,000 lives, the 1987 Unity Accord allowed for the Amnesty to several political detainees and since then opposition parties had to suffer the repression and selective application of the law by the ZANU F-Led government. The Unity Accord itself did not lay a firm ground for reconciliation or justice. The signing of the Global Political Agreement (GPA) in 2008 after protracted electoral violence in 2008 and a SADC-facilitated mediation marked a shift in the transitional justice debates. The human rights violations and deaths prior to the Government of National Unity (GNU), with over 200 fatalities, were profoundly woven in the electoral violence, historical and socio-economic repression of the marginalised and the poor in Zimbabwe. The involvement of civil society, labour unions, the displaced white farmers under the chaotic Fast Track Land Reform Programme and the Operation Murambatsvina of 2005 which displaced homeless citizens in the urban centres and the role of churches and political parties in Zimbabwe accounted for a new era of gross human rights violations that call for peace, reconciliation and national healing. The new thrust for national healing and reconciliation was constitutionally expressed through the Global Political Agreement’s Articles VII, XVIII and several other interrelated articles. Machakanja (2010) critiques Article VII, highlighting how the issues of equality, national healing, unity and cohesion are expressed in general terms thereby masking the so important details relevant for transitional justice.

It is Article VII, however, that saw the establishment of the Organ on National Healing, Reconciliation and Integration (ONHRI). In its draft report, NANGO (2009) through the Churches and Civil Society Forum (CCSF), ruled out the idea of allowing politicians to lead the processes of national healing, proposing instead that the ONHRI proceeds in a facilitatory, logistical and policy capacity. The ONHRI later produced a position paper on its proposed strategies and mechanisms for transitional justice in Zimbabwe, but it continued to undertake consultative meetings countrywide. The document suggested that the transitional justice process in Zimbabwe be led by an independent commission. The establishment of the ONHRI was marooned in serious legitimacy debates especially the absence of statutory powers.

2. Rationale for National Healing, Reconciliation and Nation Building

The ‘reconciliation’ scholarship gained credence both as a field of research and an adhesive for nation building in the 20th century. In his argument, Allason (2012) points out that reconciliation endeavours to improve relations among parties formerly at odds with one another. The nature and degree of improvement required are debatable so too are the mechanism of determining whether reconciliation is genuine. In some accounts, reconciliation is judged to be satisfactory if parties’ relations are improved and deal with the emotional, epistemic, and/or material legacy of the past. While the outcome of reconciliation is oriented towards future peaceful and just relations, the processes of reconciliation may perpetuate bad feelings, suspicions, or harms that were created by the conflicts and injustices of the past. The moral and political value of reconciliation grew in the 1990s in response to its invocation during South Africa’s transition to democracy (National Unity and Reconciliation Act, No. 34 of 1995; South African Truth and Reconciliation Commission Final Report 1998). The South African case, the post-genocide Rwanda and the former Yugoslavia experiences, led politicians and legal thinkers to redefine transitional justice.

The question of transitional justice is: how can post-conflict societies justify the transition to stable and democratic government given the reality of past wrongs and harms? (Minow 1998, Teitel 2002). Establishing the “Never Again” conditions is what stakeholders and post-conflict institutions grapple with especially where incumbent leaders were involved. In

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3A Hammer, B Raftopolous and S Jensen, Zimbabwe’s Unfinished Business: Rethinking Land, State and Nation in the Context of Crisis 2003
South Africa in the 1990s, ‘reconciliation’ seemed to be of crucial importance to a just transition but the post-reconciliation circumstances have defaulted to protect the interest of the previously advantaged groups. The Truth and Reconciliation Commission (TRC) offered amnesty from prosecution to those guilty of politically motivated human rights abuses in return for their full and truthful testimony. Theorists and political analysts debate the extent to which the TRC contributed to reconciliation in South Africa (Tutu 1999, Rotberg and Thompson 2000, Gibson 2004, Hamber 2009, Allais 2012).

The value of reconciliation has also appealed to those in criminal law, who are interested in investigating alternative sentencing procedures and sanctions. However, restorative justice advocates see crime as a problem in the relationship among the offender, the victim, and the local community, and look to measures such as restitution payments and face-to-face dialogue in order to restore that relationship (Braithwaite 2000, van Ness & Strong 2002). Whether civil law, too, is amenable to interpretations that emphasize broken and repaired relationships is an open question (Radzik 2014). Reconciliation has emerged as a topic among moral theorists who discuss the ethical issues within everyday forms of wrongdoing, such as transgressions within friendships or family relationships (Walker 2006, Griswold 2007, Radzik 2009). It is at this level that forgiveness is imperative. Theorists ask whether one may reconcile with a wrongdoer without also forgiving him, or forgive a person without reconciling.

In the literature on reconciliation in political and legal contexts, there are strong objections to forgiving the wrongdoers (who may, after all, remain unrepentant for committing atrocities) or to placing other people under pressure to forgive them. For some, a conception of reconciliation that does not require forgiveness offers a positive way forward in these difficult cases (Eisikovits 2009, Verdeja 2009, Murphy 2010).

Discussions on the value of reconciliation, especially in political contexts, often have a skeptical orientation. Well-placed perpetrators pay lip-service to the value of reconciliation while aggression continues. Such experiences reinforce skepticism about the value of reconciliation especially where the movers are themselves beneficiaries of past atrocities. Reconciliation is claimed to put unjustifiable demands on victims of wrongdoing and to sacrifice justice for ‘peace’ (negative peace) (Rotberg and Thompson 2000). Other critics charge that the language of reconciliation lends itself to misuse because it has no clear normative standards and almost anyone can claim to be pursuing reconciliation (Schaap 2008). On the other hand defenders of reconciliation believe that it is amenable to further articulation.

This review treats the significance of reconciliation across moral (viz. interpersonal and private), legal and political contexts. Many of the issues and debates that arise in the literature on reconciliation are relevant to each of these contexts. Particular conceptions of reconciliation vary across a number of dimensions. The kind of relationships in a specific context affects the type of improvement in relations that might be necessary in order to qualify as reconciliation. Reconciliation is widely taken to be a scalar concept. For Zimbabwe the scales are both temporal and spatial. Debates already exist as to the legacies that should be considered under the mandate of a peace and reconciliation architecture and the span of its sights. The spectrum of intensity of past conflict comes with varying degrees of inertia and resistance, with state level issues increasingly being impenetrable and rigid. Theorists often disagree about the point along this spectrum that is morally or politically most significant. Reconciliation processes are often controversial; those praised by some commentators as appropriate and constructive responses to past conflict are dismissed by others as undermining the moral or political conditions for just and peaceful relations. Further, theorists argue whether emphasis should be given to reconciliation or justice. While some see these values as compatible and mutually supporting, others choose between reconciliation and justice. For purposes of political and administrative feasibility some context analysis is therefore required.

There is a long history of reconciliation efforts in the world to provide social learning for peace and reconciliation in Zimbabwe. Avruch and Vejamano (2002) provide a comprehensive historical analysis of reconciliation efforts globally from Yugoslavia, El Salvador, Apartheid in South Africa, Guatemala and Sierra Leone. By 1973 more than 20 “truth commissions” had been established with 15 created between 1974 and 1994. Some were created by international organizations like the United Nations (UN), a few by nongovernmental organizations (NGOs), and the majority by the national governments of the countries in question (Avruch and Vejamano, 2002 p. 43).

and Vejamano (2002 p. 37) cite the several scholars who have looked at the modalities and experiences of these reconciliation efforts (Hayner 1994, 2001; Kritz 1995; Popkin 2000; Roht-Arriaza 1995; Van der Merwe and Dewhirst, 1999).

3. Processes of Reconciliation

Once social relationships and physical infrastructure are disturbed by war, fighting and deaths, in the African belief systems cleansing, healing and reconciliation processes are invoked to detoxify the spaces. Therefore, processes aimed at facilitating healing, cleansing and reconciliation are designed to contribute to the improvement of relationships damaged as a result of wrongdoing. A wide range of such processes is examined in the literature. One that is brought up is forgetting (Hughes 2001, Bhargava 2012). Since the past cannot be changed, wrongdoing cannot be undone. Therefore, one might argue, the only way to overcome a painful past is to suppress the memory of it. In Cambodia policies of forgetting in the name of reconciliation were pursued, with the prime minister advising citizens “to dig a hole and bury the past,” in 1999 while granting amnesty from prosecution to Khmer Rouge leaders (Chandler 2003: 310). The tone for reconciliation in Zimbabwe took shape on the eve of independence through the proclamation of the then Prime Minister Robert Mugabe, but true reconciliation remains an outstanding agenda because several violations that followed the post-independence era.

However, those theorists who defend the political and moral value of reconciliation more often reject the claim that reconciliation requires forgetting. Instead, these defenders generally claim that knowledge and acknowledgement of wrongdoing, as well as recognition of the victims, are crucial to successful reconciliation. In political contexts, knowledge of basic facts is critical because often victims and the broader political community do not know who was responsible for the wrong suffered, nor the extent of violations committed. Acknowledgement which is the official, public recognition of what happened is often needed to counter official denial of wrongdoing or responsibility for wrongdoing (Weschler 1998). The fears are that often unspoken and suppressed traumas (even for perpetrators) will inevitably reemerge in destructive ways. The more explicit arguments are that the acknowledgement of wrongs and of victims helps heal psychic wounds (van Ness and Strong 2002), enable trust (Gibson 2004), reestablish normative standards for behavior (Walker 2006), and reassert victims as members of the moral or political community (Llewellyn and Howe 1999, du Toit 2000).

While there is already a sense of agreement and common knowledge of the wrongs of the past in Zimbabwe, the approaches and modalities of acknowledgement are yet to be agreed on. Theorists debate precisely how acknowledgements must be communicated for them to be sufficiently credible and effective. There are always debates in the political realm regarding which wrongs must be acknowledged and redressed. Violations of economic and political rights have historically been the focus of both theory and practice, but increasingly scholars argue for the importance of also addressing violations of economic and cultural rights (Mamdani 2000; Sharp 2015; Arbour 2007). Besides acknowledgement what else must be achieved in order for reconciliation to be warranted? Must material forms of harm be redressed? Must retributive justice be achieved? Must the parties forgive? More contentious is the debate about who should decide which process of reconciliation in a given context (McEvoy 2007).

a) Apologies

Apologizing is perhaps the most explicit way in which wrongdoing can be acknowledged. A well-formed apology requires at least acknowledgement of both the fact of wrongdoing and responsibility by the wrongdoer, as well as an expression of regret or remorse (Tavuchis 1991). Ideally, the wrongdoer directly addresses the victim. This is not possible in all cases, of course, as when victims may have passed away or the tensions may be revived. Apologies made to indirect victims e.g., families of survivors and broader, communities are well established in practice. Lately official apologies made by state entities have become more common, raising questions about the validity and significance of apologetic statements made by representatives on behalf of groups (Harvey 1995, Gibney et al 2008), especially when the events in question lie in the distant past (Pettigrove 2003).

Apologies are not merely acknowledgements of past wrongdoing and gestures of respect to victims, but also provide evidence of positive change in the wrongdoer(s). Parties who have come to take responsibility for and repudiate past wrongful actions are better candidates for renewed relationships of cooperation and trust (de Greiff 2008). This potential is undermined where apologies are vague, incomplete, or appear insincere. One may reasonably question whether mere admissions that “mistakes were made” (without owning up to responsibility or specifying the mistakes made) or that the speaker “regrets if anyone took offense” (which leaves open the question of whether the action was really wrong) qualify as apologies at all (Smith 2008). The importance of being sensitive to the gendered aspects of apology has also been highlighted (MacLachlan 2013). While apologies are considered to contribute significantly to reconciliation (Brooks 2004, M. Murphy 2011), others worry that they may be used as a substitute for more substantive forms of redress (Corntassel and Holder 2008). Official state apologies for systematic or historic injustices often result only after protracted and heated debate, leaving little political will to move on to other forms of redress which victimized groups
Zimbabwe attempted apologies as a means to foster national healing, reconciliation and nation building but the citizenry is divided on the efficacy of these apologies based on two divergent views. On the extreme hand some segment of the society view statements such as “let the bygones be bygones” and description of gukurahundi as “moment of madness” as good enough for ensuring peace, reconciliation and national healing. On the other, citizens have also claimed that apologies made at local community levels have been more genuine. Such divergences require deeper investigation to find out what the citizens for call for apologies that will create national healing, reconciliation and integration.

b) Memorials

Memorials take a number of different forms, such as monuments, preserved sites of events, museums, archives, ceremonies or educational activities (Barsalou and Baxter 2007, Zembylas 2011). They may be officially or privately sponsored but shared their focus on memory. Scholars argue that memorials of past wrongdoing have the potential to play a number of different roles in the process of reconciliation. (1.) They help preserve the memory of the past event, which counters those who would deny or forget. (2.) They consolidate shared emotions (grief or remorse) and communal understanding of history. (3.) They reshape a sense of collective identity (Harjes 2005) which Zimbabwe could build on to rally its nationhood (4.) Groups responsible for wrongdoing may demonstrate a willingness to acknowledge responsibility for such wrongs, respect for the victims, and commitment never to repeat such misdeeds (Barsalou and Baxter 2007, Blustein 2014). And(5.) They encourage self-respect, show fidelity to the dead, and help preserve their sense of identity for victims (Blustein 2014).

Zimbabwe embarked on a series of memorialisation processes that draw heavily from the liberation struggle. Therefore, the country confronted nation building using national monuments, the national shrines such as the national heroes acre, Nyadzonia and Chimoio and the use galas for the purpose of remembrance of the fallen heroes of the liberation struggle (Machakanja, 2009). Those who perished in the post-independence skirmishes have however not received state memorial accreditation. In addition, the Independence Day has served as a medium of nation building however, there are contestations around the history of the liberation struggle. Such contestations do shift the reconciliation and nation building terrain and hence scoping into citizens’ perceptions and interpretation of these symbols of memory through a baseline study is vital.

However, memorials are frequently surrounded by controversy, as parties disagree over the version of history put forward or the manner in which it is displayed (Minow 1998). Attempts to clean past horrors may be offensive to some viewers (Young 2008). Memorials may cynically divert attention from ongoing problems (Blustein 2014) or serve as a rallying point for those who would like to renew the conflict (Barsalou and Baxter 2007). Furthermore, the meanings of memorials change over time, as they are continually reinterpreted by later audiences inhabiting different political circumstances. There is thus no guarantee that a memorial that contributes to reconciliation at one point in time will continue to do so (Blustein 2014).

c) Truth Telling

Both apologies and memorials combine an acknowledgment of a troublesome past with the suggestion of an emotional reaction to that past, such as remorse, regret or grief. Even without emotional, the communication of the facts of the past can contribute to reconciliation. Individual victims and survivors often find themselves unable to move on when they are uncertain about crucial facts of the past. They ask, what precisely happened to their loved ones? Who exactly committed the violent act? Who gave the order? Where were their remains buried? etc. In political contexts, wrongdoing is often officially denied through refusal to acknowledge wrongs and naming the agents of the state responsible for violations. The possibility for truth telling in Zimbabwe is compromised by the state’s involvement in the past violence.

Some scholars claim that truth telling can end ongoing suffering of victims and survivors (Zalaquett 1995). Truth and reconciliation commissions, unlike trials are the institutional modelled to promote reconciliation in a fractured society and are usually set up for this express purpose. Nevertheless, criminal trials may offer a significant sense of healing and satisfaction to victims but these should be supported by the political will of the government of the day. In fact, reconciliation may in fact be the antithesis of prosecution (Gentilucci, 2005). It can counter and prevent certain forms of denial (Zalaquett 1995, Dyzenhaus 2000). Truth telling may also serve as a form of reparation for those not actually implicated in crimes.

Opponents argue that truth-telling, rather than providing healing, may reopen old wounds and divisions in society. Certainly, in circumstances where a state is not yet fully stable, where peace has been miraculously achieved by means of a settlement or otherwise, then truth-telling would appear to present more dangers than benefits (e.g. with the promotion of collective ‘amnesia’ in post-Franco Spain and Mozambique). The examples of the South African, East Timor point to the opposite. Another major drawback in truth telling commissions is deterrence. Deterrence is a kind of pre-emption, a strong statement directed at potential future perpetrators so that the crimes described in the report are never committed again. No fewer than four Latin American truth commission reports have employed
the title ‘Nunca Mas’ (‘no more’ in Spanish), (Sarkin & Dly, 2004) whilst the Timor-Leste’s Commission for Reception, Truth and Reconciliation, has adopted the title ‘Chega’ (‘enough’ in Portuguese) (Powell, 2006). Moreover, former Argentinean President Raul Alfonsin stated that his national commission’s aim ‘was to prevent rather than to punish’ (Sarkin & Daly, 2004).

Truth commissions are temporary official institutions established to examine patterns of specified human rights abuses over a given time period (Hayner 2010). Dozens of truth commissions have been established in communities around the globe over the past thirty years. Commission reports provide a summary of such findings and typically issue recommendations on how to prevent such abuses in the future. These reports vary in the degree to which the proceedings and findings are made public. Some name individual perpetrators and some do not. The South African Truth and Reconciliation Commission, which was marked by a high degree of openness, televised the testimony of many victims and perpetrators.

In the literature, a variety of claims are advanced regarding how truth commissions can contribute to reconciliation, both among individual perpetrators and victims as well as within national communities. At the individual level, talking through the past is often represented as a form of catharsis, wherein the trauma of the past can be re-experienced, dealt with, and let go. The South African TRC appeared to offer several examples of such a process, including spontaneous requests for forgiveness by perpetrators and offers of forgiveness by victims (Tutu 1999, South African Truth and Reconciliation Commission Final Report 1998). In terms of societal reconciliation, it is claimed that TRCs reintegrate victims in a number of ways. The fact that victims state publicly what happened contributes to re-establishing their civic and political dignity (Kiss 2000). Officially recording the wrongs done to victims, officially denied in the past, reinforces the equal moral standing of victims (du Toit, 2000). The report produced cultivates collective reconciliation through communal self-understanding. A narrative must be produced of how a community could at once have a past full of abuses as well as a present and ideal future in which those abuses are rejected (Dwyer 1999). TRCs challenge stereotypes that dehumanized many of the criticisms on TRCs do not question the value of establishing the truth itself, but the means used to encourage perpetrators to testify, such as amnesty from prosecution. Others object to the ways in which truth commissions (sometimes subtly) pressure victims toward a forgiveness or reconciliation they may want to resist (Dyzenhaus 2000, Gutmann and Thompson 2000, C. Murphy 2010), or question the psychological benefits of giving testimony for victims (Hamber 2009). Finally, there are doubts about the reconciliatory effects of commissions that uncover the truth, but fail to take action against those implicated in wrongs (Hamber 2009).

d) Amnesties

Grant legal protection from civil and/or criminal liability, is a controversial reconciliation process. Amnesty can be granted to individuals or groups. It can be granted unconditionally or conditionally. If conditional, the granting of amnesty occurs only if certain provisions are met. For example, in South Africa, perpetrators had to make a complete disclosure of the rights violations for which they were responsible and demonstrate that such violations were committed for political reasons (Dyzenhaus 2000). Amnesties may also be conditional on non-recidivism (Freeman 2011).

A number of moral objections to amnesties are that at least prima facie unjust, specifically, preventing retributive and/or corrective justice from being done (Greenawalt 2000). Granting amnesty is claimed to be inimical to countering historical impunity for political leaders. Aspiring fora “Never Again” dispensation seems intuitively unlikely if future political leaders and actors believe they will not be held accountable for their actions. The danger posed by amnesty policies is that, in failing to hold wrongdoers accountable and undermining the ability of victims to seek legal recourse for their harms, they may (inadvertently) send the message that the abuses of the past were not wrong or that the victims did not deserve better treatment (Pensky 2008). Justified anger against the perpetrators will not be exorcised, and may instead find expression in acts of revenge.

Amnesties continue to be used by states and in fact have increased in frequency (Mallinder 2008). They may be used to encourage perpetrators to give full and truthful testimony to truth commissions as in South Africa or as part of a strategy to forget the past as in Cambodia. Amnesties also may be used to incentivize an end to conflict, as was the case in South Africa (Dyzenhaus 2000). Arguments for the moral permissibility of amnesty challenge the idea that granting amnesty reinforces impunity or undermines stability and justice (Mallinder 2008). Freeman (2011) claims that amnesties can be justified as a measure of last resort, so long as victims are included in the process of deciding to pass an amnesty and amnesties are used for the sake of facilitating an end to conflict or reconciliation.

e) Trials and Punishment

Punishment is the intentional infliction of harm or suffering on a wrongdoer in response to a wrong committed. Although transitional societies are sometimes portrayed as having to choose between reconciliation and punishment, these responses are not necessarily opposed (Bennett 2008, Verdeja 2009).
In interpersonal or criminal cases, the punishment of a wrongdoer (and especially the wrongdoer’s acceptance of that punishment) can be a process by which the wrongs of the past are redressed. The power of punishment to put the past to rest can be explained in a number of different ways such as removing unfair advantage (Morris 1968), satisfying the victim’s anger (Hershovn 1999), or reaffirming the equal moral status of victims ( Hampton 1992). Criminal prosecutions as punishments help victims regain sense of status as rights holder and so enhance dignity (Nino 1998, Bennett 2008).

In transitional environments, some scholars concentrate specifically on the significance of trials in response to collective and politically significant crimes, such as those involving human rights abuses by officials. Criminal trials mark a clear break from the past (Malamud-Goti 1990). Trials symbolise the official disapproval of the actions that may not have been officially condemned before. Criminal trials and punishment are also claimed to make a crucial contribution to societal reconciliation by reaffirming the normative standards that should govern interaction. Punishment can reaffirm a country’s loyalty to the rule of law, as well as the faith institutions upon which the rule of law depends (C. Murphy 2010).

On the other hand, a number of scholars are skeptical about the reconciliatory impact of criminal trials, especially in response to widespread wrongdoing. Shklar (1964) and Arendt (1977) argue trials do little to heal victims wounded by wrongdoing and have little pedagogical role regarding the normative standards that should govern relations. Trials fundamentally are oriented towards the establishment of the guilt of perpetrators, not the pursuit of the truth about the past. To situate trials within acceptable African limits, the indigenous gacaca courts in Rwanda provide relevant approaches to harmonise retributive and restorative justice.

f) Lustration

Lustration refers to legal measures that permit or require the investigation of individuals running for public office to see if they collaborated with the previous repressive regime. Collaboration is established on the basis of past crimes or membership in a political group. Such measures are characteristically adopted in countries transitioning to democracy. In some cases, proven collaborators are barred from holding public office. In others, the past of collaborators is revealed publicly to an electorate, in turn diminishing prospects for election (Kaminski and Nalepa 2008). Lustration is sometimes defended as a means of reestablishing trust in government, by assuring the public that past wrongdoers will no longer be in power. Chiu (2011) argues that lustration policies are compatible with a commitment to ethical individualism and due process. On the other hand, lustration has been criticized as a means of pursuing political reconciliation, both because of the potential for biased application of the policy and because it encourages the continuation of suspicion among former enemies (Govier 2006).

In view of this approach, the central question is, if Zimbabwe pursues this option as part of the reconciliation processes, can it exercise it without bias towards political reconciliation only.

9)

Reparations

The term ‘reparations’ has been used more and less broadly to refer to efforts to repair the harm that results from a wrong. A narrow use of the term refers to a transfer of goods or wealth to directly compensate for goods that were taken, damaged or destroyed. The payment is made either by the party who was responsible for the harm, by the wrongdoers’ descendants or other beneficiaries, or potentially by a third party acting on the wrongdoers’ behalf. This sort of transfer is perhaps better labeled ‘restitution.’ Transfers made in response to losses that are not literally replaceable such as deaths or injuries, are also referred to as restitution or repair. A still broader use of the term includes material transfers that have a more purely symbolic function. These payments are meant to send a conciliatory message of some sort rather than to suggest that the wrong or harm is being paid back. The term ‘reparations’ is also used even more broadly to include acts other than material transfers, such as apologies or instances of truth-telling (Torpey 2003, Walker 2010).

As Howard McGary (2010) has pointed out, material transfers in response to harm may be understood either within or independently of a process of reconciliation. McGary emphasizes that a backward-looking sense of justice can justify the repayment of a comparable value to victims who have suffered a wrongful loss or harm. Here, the past wrong itself calls out for rectification. To bring in the rhetoric of reconciliation suggests instead that the wrongdoers’ reason for the transfer is to secure better future relations with the victims. McGary argues that this forward-looking goal of reconciliation can insultingly suggest that a concern for justice is an insufficient reason to compensate the victim—that justice for these victims is only worth securing when it is also in the interest of the wrongdoers.

McGary’s critique points to the generally fraught question of how justice is related to reconciliation, which is addressed further in section 4. It also highlights how significant the interpretation of a material transfer is in processes of reconciliation. Commentators who defend the conciliatory power of material reparations frequently interpret such payments as acknowledgements of responsibility, expressions of respect for the moral status of the victims, acts of remorse or caring, evidence of increased trustworthiness or a recommitment to the norms of justice (Thompson 2002, Brooks 2004, Gray 2010, Walker 2010). Yet the meanings of reparations can change, be undermined or repudiated, depending on the manner
and context in which they are offered (Brooks 1999, Barkan 2000, de Greiff 2006). Still, when combined with apologies, truth-telling, and other measures, reparations have the potential to improve relations. Perhaps more importantly, leaving identifiable harms uncompensated may undermine the effectiveness of apologies and other efforts to reconcile.

Reparations for historical injustice are particularly controversial. One ongoing debate concerns the guilt or liability of those who would pay, the claim-rights and connection to the victims of those who would receive payment, and the difficulty in calculating the proper sum of restitution (Waldron 1992, Wheeler 1997, Boxill 2003). Such debates suggest that reparations are being interpreted as restitution, where the legalistic logic of property rights and inheritance are paramount, rather than under the broader project of repairing relationships (Thompson 2002, Brooks 2004). Victims and their descendants sometimes worry that accepting reparation payments may be seen as drawing a line under the past or that all is forgiven (Barkan 2000). They also object to the suggestion that the people and other valuable things lost could be repaid by money or other material goods.

h) Forgiveness

The relationship between forgiveness and reconciliation is equally contentious. Can parties be reconciled if forgiveness is refused? Is forgiveness genuine if victims refuse to restore relationships with the wrongdoers? Similar disagreements over the nature of forgiveness complicate matters even further. In the literature on interpersonal forgiveness, definitions of forgiveness commonly focus on the overcoming or forsaking of resentment that were the result of wrongdoing, and the reestablishment of positive attitudes, such as goodwill, toward the wrongdoer (J. Murphy 2003, Pettigrove 2012). Where such changes in attitude do not occur, but where the parties to the wrong manage to reestablish peaceful coexistence, cooperation or even trust, talk of reconciliation seems reasonable. This would be a case of reconciliation without forgiveness. Similarly, a victim might let go of her resentment of someone who mistreated her and yet take steps to avoid future contact with that person out of concern for her safety. Such a case exhibits forgiveness without reconciliation. Forgiveness and reconciliation, on this account, appear to be distinct and independent phenomena. Still, the attitude-centered account of forgiveness is compatible with the view that forgiving is a powerful means to reconciliation. The sorts of negative attitudes that are overcome by forgiveness are powerful obstacles to good relations. Reconciliation that does not include forgiveness is less complete than one that does include forgiveness. When commentators work with a different conception of forgiveness, the discussion of reconciliation is also different. If one thinks of forgiveness as relinquishing a right to hold a wrong against a wrongdoer, then it seems forgiveness may well be productive of reconciliation. However, depending on how much victims give up in forgiving, this kind of reconciliation may be purchased at the cost of justice (Blustein, 2014). In contrast, those who think of forgiving as the overcoming of resentment often argue that victims can forgive yet also call for punishment, reparations and remembrance of the wrong (J. Murphy 2003).

However, no matter how one defines forgiveness, the claim that victims should forgive in order to bring about valuable reconciliation is likely to be controversial because it asks the very people who were most deeply insulted and wronged by the past conflict to bear the burden of repairing it. Another point of concern is whether the victims are being asked to forgive unconditionally or conditionally (Garrard and McNaughton 2011). Furthermore, whether or not a particular act of forgiveness would be morally appropriate, virtuous, or even prudent for the victim, pressuring a victim to forgive is widely regarded as problematic (Govier and Verwoerd 2002b). Efforts to make forgiveness central to reconciliation also run into questions about who has the standing to forgive. To presume to forgive on behalf of a living victim is morally unacceptable, if not simply impossible (Govier and Verwoerd 2002b). Some theorists also hold that it is impossible to forgive on behalf of deceased victims, from which it follows that wrongs such as murder will be unforgivable (Jankélévitch 2005).

4. Reconciliation and Justice

Wrongdoing has implications for multiple moral values, including justice. Justice-based concerns traditionally dominated philosophical discussions of responding to wrongdoing. What is the relationship between justice and reconciliation? This question occurs most explicitly in the political context, especially in debates about the moral justifiability of non-punitive responses to wrongdoing such as TRCs. Whether reconciliation is compatible with justice depends on how one conceives of justice. For many theorists, justice is assumed to be ‘retributive justice’, though this is subject to dispute (Moellendorf 1997, Lenta 2000). The core claim of retributivists is that perpetrators of wrongdoing deserve to suffer a proportional punishment. Justice is a matter of holding wrongdoers accountable by giving them the negative treatment they deserve.

Against this background, one view is that reconciliation and justice are in tension with one another. Whereas justice focuses on delivering a punishment that fits the past crime, reconciliation is concerned with bringing about future good relations. The conflict between justice and reconciliation is visible when individuals or communities choose non-punitive responses in hopes of securing peace. According to one view, insofar as transitional societies do not punish wrongdoers, they promote reconciliation at a significant moral cost: they sacrifice justice. Authors debate whether this sacrifice is morally justified, given the exigencies of transitional

In framing the relationship between justice and reconciliation others see doing justice as contributing to reconciliation (Verdeja 2009; C. Murphy 2010). From their perspective, justice and reconciliation are not fundamentally or necessarily in conflict. Justice may even be a precondition for reconciliation in cases where allowing impunity for serious wrongdoing would fuel resentment and undermine trust in institutions. Even if individual wrongdoers are further alienated by punitive measures, holding them accountable may be productive of a broader reconciliation among victims and other members of the community, as well as among future generations.

Instead of conceptualizing the relationship between justice and reconciliation through the processes that promote each value, a different set of views consider instead the core moral concerns constitutive of each value. According to some scholars, reconciliation and justice are compatible, though distinct, moral values, and a variety of processes can respond to the moral concerns each value takes up (Allen 1999, Allais 2012). That is, responses to wrongdoing can be just and conducive to reconciliation in different degrees. Responses to wrongdoing may promote some aspects of justice (such as demands for recognition of victims and accountability for perpetrators), but not others. For example, this view can accommodate the claim, made during the South African TRC, that wrongdoers are held accountable when they are required to undergo the shaming experience of testifying publically to their crimes (Final Report, 1998, vol. 1, ch. 1, para. 35). Similarly they may foster some dimensions of reconciliation (such as epistemic or attitudinal changes), but not others.

A final view is that reconciliation is (part or all of) justice (Llewellyn and Howse 1999, Philpott 2012). Theorists who adopt this position regard it as a mistake to equate justice with retributive justice. In the view of advocates of restorative justice, justice is fundamentally about repairing damaged relationships. Tutu famously responds to the criticism of the TRC’s decision not to pursue retributive justice by saying, “We believe, however, that there is another kind of justice — a restorative justice which is concerned not so much with punishment as with correcting imbalances, restoring broken relationships – with healing, harmony and reconciliation” (Final Report, Vol. 1, Ch. 1, para. 36). It is difficult to provide a definitive account of restorative justice. However, the emphasis is on achieving a morally appropriate state of relations, where victims’ needs for recognition, security and reparations are giving special emphasis (Kiss 2000, Walker 2006). It may now be appropriate to look into the legacy of violence in Zimbabwe before one looks at the prospects for reconciliation.

5. Prospects for Reconciliation

In view of the foregoing debate, Zimbabwe’s experiences and the retrogressive impact of past wrongs provide enough basis for the reconciliation. In the wake of a new Constitution (2013) whose Chapter 12 (Section 251 – 253) specifically deals with the National Peace and Reconciliation Commission, there is increasing momentum for the operationalization of a feasible framework of operation. The efforts and distance covered by previous initiative such as the 1980 reconciliation call, the Unity Accord and the GPA and their related institutions should all serve as pointers for a new mechanism and institutional landscape to learn from. The country also prides with robust customary and indigenous institutions with legendary histories of dealing with communal violence at a local level. Given our functional institutions, justice with capacitation and good will, the country could be on the path for a successful reconciliation process provided the political environment is detoxified and we plan for reconciliation not for the present, but also for the future generations. Further, the citizenry itself is ready for it and the buy-in for reconciliation is guaranteed. Given the obtaining political and administrative feasibility, Zimbabwe’s reconciliation will definitely take off sooner rather than later. However, a baseline establishing specific progress markers and systems for reconciliation and integration remain important, hence the significance of Heal Zimbabwe’s Peace and Reconciliation baseline survey.
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Heal Zimbabwe Trust (HZT) is a peace building non-profit organisation that was established in 2009 to prevent and transform conflicts in Zimbabwe with a particular focus on social justice and human rights protection. The organisation envisions a peaceful and prosperous Zimbabwe that celebrates diversity in local communities. Since its inception, HZT has contributed towards peace and reconciliation by ensuring that communities are supported to protect themselves from violence and conflict. Central to our work is enhancing peace building policy, practice and processes advocacy both at community and national levels.