



NATIONAL
TRANSITIONAL JUSTICE
WORKING GROUP
ZIMBABWE

INTERVIEWS FOR NPRC COMMISSIONERS AT A GLANCE

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Introduction

The first term of the commissioners of the National Peace and Reconciliation Commission (NPRC) ended on 24 February 2021, after five years of national service. The NPRC commissioners except for the Chairperson were sworn in during 2016 for a five-year term which has now ended. The NPRC currently has eight vacancies because of the resignation of one commissioner in February 2020 and the ending of the first term of office for the other seven commissioners. In anticipation of these vacancies arising within the NPRC, the Committee on Standing Rules and Orders (CSRO) of the Parliament of Zimbabwe called for public nominations of persons to serve as NPRC commissioners in November 2020. The nominations were closed on 4 December 2020 and the CSRO has now shortlisted thirty candidates for interviews to fill the eight vacancies.

Commissioners have a significant impact on the work of the NPRC and its ability to effectively deliver on its mandate which is of great national importance. The functions of the NPRC include the following:

- 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, 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 regarding the complaints as the Commission 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.

NPRC commissioners as those entrusted to lead the NPRC play a pivotal role in facilitating the effective discharge of the NPRC's mandate. It is therefore crucial that the people appointed as NPRC commissioners be people that can build citizens' trust in the Commission and give validity to its work. In this analysis, the National Transitional Justice Working Group (NTJWG) gives a detailed outline of the appointment process and the requisite characteristics of commissioners. An understanding of the appointment process and who must be appointed is key to building an effective NPRC that will make headway in bringing much-needed national healing, reconciliation, sustainable peace, and guarantees of non-recurrence of gross human rights violations.

Re-appointment of Former NPRC Commissioners

The Constitution of Zimbabwe Amendment (No. 20) Act, 2013 (the Constitution) stipulates in section 320(1) that, *"Except as otherwise provided in this Constitution, every member of a Commission is appointed for a term of five years which is renewable for one additional term only."*

This means that NPRC commissioners may after serving their first five-year term of office be reappointed to serve for a second five-year term after which they will no longer be eligible for reappointment. When the term of office of the eight commissioners who were appointed in 2016 came to an end in 2021, one commissioner had resigned in 2020 leaving seven commissioners eligible to seek reappointment. Of these seven, only six have been shortlisted for the interviews.

There are Ms Lilian Chigwedere, Dr Leslie Ncube, Ms Choice Ngoro, Dr Golden Chekenyere, Ms Patience Chiradza, and Dr Geoffrey Chada. Reverend Charles Masunungure has not been shortlisted and no statement has been issued as to whether he sought reappointment and was not shortlisted or is no longer interested.

While the reappointment of former NPRC commissioners may be good for continuity, any appointments must be made based on individual merit. To this end, there is a need to assess the achievements and failures of the NPRC during the first term of office of the NPRC commissioners who are seeking reappointment and determine how they contributed to the work of the Commission in their first term. Such an assessment will be instructive in assessing the value their reappointment would add to the Commission. The assessment must also interrogate in what ways the Commission has failed so far, to what extent those failures may be attributable to the commissioners, and how the commissioners seeking reappointment propose to remedy the failures. Therefore, any reappointments of NPRC commissioners must be made after careful consideration. In this vein, thorough scrutiny of new candidates must be conducted to assess their suitability to serve as commissioners of the National Peace and Reconciliation Commission.

Appointment Process

In terms of sections 237 and 251 of the Constitution, the Committee on Standing Rules and Orders (CSRO) of the Parliament of Zimbabwe is mandated to nominate candidates for the appointment by the President to serve as Commissioners on the National Peace and Reconciliation Commission. Section 251 provides for the appointment of eight NPRC commissioners and a Chairperson to lead the Commission. The appointment process for the chairperson and the other eight commissioners is different, however, as the chairperson is still serving his first five-year term this analysis will focus more on the appointment process of the other eight commissioners. For the appointment of the other eight commissioners, the Parliament of Zimbabwe, through the CSRO, publishes a call for members of the public to make nominations of individuals who may serve as NPRC commissioners. In this case, the call was published in November 2020 and closed in December 2020. In the call for public nominations, the CSRO highlighted the procedure for submission of nominations which included submission of a completed nomination form must be accompanied by the nominee's comprehensive

curriculum vitae, showing gender and date of birth, and a typewritten justification of the suitability of the nominee to the Clerk of Parliament.

Once nominations are received, the CSRO must shortlist candidates who will be interviewed publicly. The interviews are conducted publicly to ensure transparency and to allow the public to have access to the interview process. The need for transparency remains despite the current restrictive measures hence the commitment made by Parliament to livestream the interviews on its social media platforms and to broadcast them on television is welcome. However, Parliament must also make efforts to enable other transitional justice stakeholders with the capacity to do so to attend the interviews and livestream them to increase the publicity around the interviews. From the public interviews, the CSRO must select and submit to the President, not less than twelve nominees from which the President must appoint eight commissioners.

Gender Considerations in Appointment of NPRC Commissioners

Section 17 of the Constitution binds the State and all state institutions and agencies of government to ensure gender balance. It requires that at least half of the members of all commissions must be women. It follows that the composition of the NPRC must have at least half or more of the members being women, in this case at least four of the eight commissioners to be appointed must be women. However, it does not suffice just to have women for the sake of satisfying this requirement instead women must be appointed on the merit of their work which speaks to the work of the NPRC. This is key to ensuring that efforts to realise gender equality are informed by sincerity and not tokenism to the detriment of the Commission and its work. According to section 320(4) of the Constitution, the Chairperson and the Vice-Chairperson must not belong to the same gender. The current Chairperson of the NPRC is male thus the Vice-Chairperson who will be appointed following the interviews must be female.

Gender considerations in peace and reconciliation mechanisms and processes are informed by the recognition that the dynamics and experiences of different genders vary. Women's voices and participation often go unrecognised, yet women suffer the brunt of violent conflict when they are brutalised, victimised, and endure the horrors of conflict before, during, and after conflict. Ensuring that gender considerations are prioritised in making these appointments would

be a positive step towards redressing past gender inequalities and creating an NPRC that can better engage with women survivors seeking justice and acknowledgement.

Personal Specifications

The nature of the NPRC is such that it will derive its power and legitimacy to a large extent from the moral authority and competence of commissioners. Hence the appointed commissioners will be a determining factor of how well the Commission will function. Persons appointed as NPRC commissioners must have both personal and institutional credibility and proven integrity to engage in their work. International norms require that the credibility of such commissioners must be above suspicion or doubt.

Section 236(1) of the Constitution states that members of the independent Commissions must not, in the exercise of their functions act in a partisan manner; further the interests of any political party or cause; prejudice the lawful interests of any political party or cause or violate the fundamental rights or freedoms of any person. It is however possible for a political party member to be appointed to the Commission but section 236(2) of the Constitution requires that they relinquish their membership of the political party within thirty days of their appointment. For example, in the list of the candidates to be interviewed there is Advocate Obert Gutu who recently publicly joined ZANU-PF. If Advocate Gutu is appointed by the President he would have to relinquish his membership within thirty days failing which he would cease to be a commissioner after the expiry of the thirty days. However, given the nature of the work of the NPRC, the appointment of known politicians may jeopardise the Commission's work and make survivors reluctant to engage with it for fear of being re-victimised.

Section 251(4) of the Constitution states that, "Members of the NPRC 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 peacebuilding." This provision is key to ensuring that NPRC commissioners have a sound technical understanding of national peace and reconciliation processes and issues to inform the strategic direction they give

to the Commission as they lead it. Technical expertise and experience will enable the commissioners to add value to the NPRC's programming and interventions and this will go a long way in making the Commission more effective and able to deliver timely and relevant interventions which are survivor-centric. Among the shortlisted candidates, there are several candidates who have a technical understanding of peace and reconciliation processes who can add value to the Commission's programming. Some of these candidates are Dr Douglas Munemo, Dr Donwell Dube, Dr Obadiah Dodo, Dr Tinashe Rukuni and Mr Ernest Nyamukachi who have authored several publications on issues of peace and reconciliation. There are also other candidates such as Ms Choice Ngoro, Ms Patience Chiradza and Dr Mildred Mushunje who have vast experience working in peacebuilding and reconciliation initiatives.

Section 251(4) also requires that commissioners be chosen for their integrity. Integrity is the quality of being honest and having strong moral principles. This is a major consideration, particularly considering the sensitive issues that will come before the commissioners. Any person that is appointed to be an NPRC commissioner must show that they have integrity before they are appointed as a Commissioner and they must maintain their integrity throughout their stay in the Commission. It follows therefore that each prospective candidate for appointment into the Commission should go through a rigorous process including conducting background checks aimed at determining whether they have integrity before the appointment.

In addition to the criteria set out in the Constitution, other issues must be considered in appointing an NPRC commissioner. The first issue is demonstrable commitment and leadership in the cause of human rights as well as have demonstrated accomplishments in transitional justice thematic areas. NPRC commissioners need to be individuals who have dedicated their lives to the cause of human rights with a focus on peace and reconciliation. Commitment to the cause will ensure that the commissioners view their work not just as a job but commit to the cause of national peace and reconciliation in a manner that boosts public confidence in them. Several candidates will be interviewed who have shown commitment and leadership in the cause of human rights work such as Mr Okay Machisa, Mr Kholwani Ngwenya, Ms Getrude Chimange and Ms Nomaqhawe Gwere.

Another consideration is demonstrable lack of conflict of interest, this entails that persons who are appointed must have no prior membership or support for an organisation whose activity might be the subject of an investigation by the NPRC. It is also critical to ensure that nobody who has ever committed rights violations or presided over institutions that were implicated in human rights violations is appointed. Violence in Zimbabwe has largely been perpetrated through the state apparatus such as the police and the army. Therefore, candidates with prior relationships with these bodies must be scrutinised closely to ensure that only those with no conflict of interest are appointed. Among the currently shortlisted candidates, there is Dr Josephine Shambare, a long-serving member of the Zimbabwe Republic Police (ZRP) who was the Deputy Commissioner-General (Crime) where she was retired in November 2018. In the assessment of Dr Shambare's suitability for the role of an NPRC commissioner, it is important to establish that she does not have a conflict of interest and what impact her previous role would have on the perception that survivors may have of her as a former ZRP member.

Another consideration that must inform the appointment of NPRC commissioners is whether they have ever been involved as a perpetrator in the cases to be dealt with by the NPRC. Someone who has ever been a perpetrator of human rights violations cannot be appointed as an NPRC commissioner. Such an appointment would bring into question the Commission's credibility and hamper its effectiveness.

Conclusion

The appointment of persons to serve as NPRC commissioners is an important process that must not be undertaken lightly. To ensure transparency, the process ought to bear in mind the principles and considerations outlined above. Furthermore, the persons appointed must fit the criteria discussed in this analysis, including possessing the required experience and qualities that will enable them to effectively discharge their mandate. NPRC commissioners serve as the face of the Commission and public perceptions on their suitability to lead the Commission remain key determining factors in the Commission's success. Therefore, it is not sufficient for the appointment process to be done in compliance, but the persons appointed must also be as

envisaged by the Constitution. It is incumbent upon the CSRO in conducting the interviews to take the shortlisted candidates to task and ensure they demonstrate how they are suited for appointment as NPRC commissioners. The ultimate success of the Commission is largely determined by the commissioners leading it thus the ongoing process that will culminate in their appointment is of great significance and must be followed by all Zimbabweans.