

What transitional justice in Zimbabwe? Women of Zimbabwe Arise (WOZA) prepares for popular participation

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Zimbabwe has been a nation on the brink, but its current inclusive government provides a potential for the 'situation' to be resolved without open conflict. Whatever the future, there remain millions of Zimbabweans who are crying for justice, for the truth and for punishment of perpetrators of massive human rights violations. The causes of Zimbabwe's current catastrophe are quite clear: the abuse of power and raw unadulterated greed, fuelled by the complete absence of accountability. Perhaps it would have been different if concepts of transitional justice had been more developed when Zimbabwe gained independence almost thirty years ago. If that is the case, then we must ensure that the inevitable next transition is accompanied by some form of justice.

It is important that people affected by the violence in Zimbabwe become knowledgeable about the possibilities of transitional justice – its strengths and weaknesses – before they formulate their views. One group which is embarking on this process is the Women of Zimbabwe Arise (WOZA). WOZA is a social justice movement which has been in existence since 2003 and currently has

over 70 000 members. The organisation encourages women to stand up for their rights, and to exercise their severely circumscribed freedom of expression to demand accountability from the government. As a result of their practice of civil disobedience, embracing a policy of strategic non-violence, they have been frequently subject to abuse by the police, including being beaten, arrested, incarcerated, tortured and insulted. As women of the grassroots, they are also victims of the economic effects of misrule, the destruction of homes and livelihoods, the collapsed economy, and the lack of food and social services. Most members of the organisation are struggling to survive, and as women, they bear the brunt of the daily search for food to feed children, for medicines, for school fees.

WOZA members are already engaged in a process to discuss what type of transitional justice they would want to see. Meeting in small groups, many have been inspired to think about what can be done in Zimbabwe to deal with the atrocities, while preparing for the future. It opens a window to begin serious debate. But if victims of the vicious and partisan mismanagement of Zimbabwe's economy, as well as victims of organised violence and torture, are to be in a position to contribute to a public debate on a transitional justice programme, they must gain more knowledge and understanding of its purposes and the possible mechanisms which can be used.

Context

Zimbabwe's brutal colonial rule has been well documented as has the path to independence. After a brutal race war between Ian Smith's intransigent 'settler' government and two liberation movements – the Zimbabwe African People's Union (ZAPU), and the Zimbabwe African National Union (ZANU) – the British government in 1979 brokered the terms of independence. During the independence struggle all sides were responsible for atrocities including torture, war crimes, mass rape and crimes against humanity. However, this was overlooked during the negotiation of the agreement in the interest of achieving 'peace' and 'reconciliation' in the new Zimbabwe. Some liberation army fighters submitted themselves to traditional 'cleansing' rituals to appease the ancestors

for the spilling of blood but that seemed to be the extent of healing initiatives at the time. The 1979 Lancaster House settlement, which ushered in independence, ensured the privileged maintained their positions and amnesties were granted to all. Opposing armies were integrated and many fighters were demobilised on two-year stipends and returned to civilian life. Some non-governmental organisations operated programmes of reintegration, but they catered for a minority. Justice, both retributive and restorative, was sacrificed in order to obtain the peace which everyone so badly desired.

Thus, a culture of impunity was entrenched and has been maintained during three decades of state-sponsored violence. After each episode of state-sponsored violence, perpetrators have been given legal amnesties for all but the most serious crimes such as murder and rape, and *de facto* amnesties for everything, as no perpetrators have been successfully pursued by the prosecuting authorities. Other countries emerging from conflicts have devised processes of accountability but Zimbabwe's government relentlessly insisted that 'old wounds' must not be 're-opened'. Over time, known perpetrators of the most horrendous abuses were granted promotions, political appointments, and economic favours and benefits.

Transitional Justice Options

It is little wonder, then, that in the current situation, albeit an uncertain transition, attention is turned to the need for accountability. There are many examples to learn from: truth commissions, criminal tribunals, the International Criminal Court, and the various mechanisms to achieve reconciliation, compensate victims and punish criminals, while ensuring that new institutions return broken nations to the rule of law and accountability. Many attempts at transitional justice provide examples of what not to do, of good plans gone sour, and disappointment following heightened expectations. Others offer the stark choice of peace versus justice, accepting the surrender of abusers in exchange for a promise of no prosecutions.

Generally, such compromises have been agreed by negotiators from the warring parties, taking critical decisions about the fate of their nations themselves, ignoring the desires of the people they claim to represent and fight for. However

it has increasingly been recognised that it is critical for the general population, as well as targeted victims, not only to participate in any truth-seeking processes, but to be consulted before decisions over what shape these processes should take. This is especially necessary to ensure that both women and men help to determine the processes to be used.

While every nation's situation is unique, Zimbabwe is distinct due to its lack of defined 'warring parties'. With the exception of some disturbances over the integration of armies in the early 1980s, there has not been armed resistance to the government since independence. We have experienced an on-going situation in which an all-powerful government has repeatedly quelled unarmed political opposition, or even non-political protest, with campaigns of violence and gross human rights violations. It happened in Matabeleland and Midlands provinces between 1983 and 1985, when an estimated 20 000 people died, many others were tortured, abducted, and assaulted, and had their property destroyed. Violence has surrounded virtually every election since then, reaching a crescendo in June 2008. The police, army and other state actors have also been used to commit atrocities, during food riots in 1998, during large scale farm invasions from 2000 onwards, and during the destruction of homes and livelihoods of the urban poor in 2005. State-sponsored violence which erupted in the wake of the elections in March 2008 is ongoing.

The violations are almost all on the side of the government, and each time, except for 2008, violators have been legally amnestied, exposing the fact that atrocities were not the aberrations of individuals but had the sanction of government.

Thus, in Zimbabwe we have violations consisting of attacks on individuals and communities resulting in death, maiming, and destruction of property. These are commonly described as 'organised violence and torture' or OVT. But we also have another category of mass human rights abuse which is not as easy to pinpoint. We have government policy which deliberately mismanages the banking system, agricultural production, industry and mining, and even retailing, in order to please beneficiaries from the political and military elite. The resulting distortion and inflation in effect steals the incomes and savings of all Zimbabweans who have no access to patronage. They cannot pay school fees

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for their children, and cannot access money to pay medical costs, buy drugs and food, or bury their dead. The civil service cannot function as their salaries are worthless, and necessary services are becoming unavailable.

This approach by government must also be classified as a crime against humanity, as tens if not hundreds of thousands have died as a result, and millions have been forced to flee the country to look for food. When food is denied to starving people for political gain, or is purchased by politicians at give-away prices and sold by the same individuals to make massive fortunes, we have a crime the nature and scale of which cannot easily be described.

Already there are signs of revenge being taken, in hundreds of rural communities, as the victimised turn on the local ZANU PF supporters wherever they find they can do so with impunity. This may be what the majority of victims want to do, but it is hardly the best way to carry ourselves into a democratic future which respects the rule of law. In order to avoid this turning into an uncontrolled spiral of revenge, programmes of transitional justice need to be planned as quickly as possible, to show Zimbabweans that something more constructive than personal revenge is required – something that can take us forward to establish the rule of law even as we try to deal with the past. Something can be done even as the transition is stalled, and even while the perpetrators retain their power.

But what form of justice can correct this catastrophe? Punishment is on everyone's lips, and that is surely what the perpetrators fear the most and what most victims want. They would like to see those in the decision-making and implementation roles tried, imprisoned, or hanged, or at the very least stripped of their positions and their wealth. But the examples from other nations who have embarked on prosecutions are not very encouraging – it is an expensive and slow process, and often does not produce the desired results, whether conducted locally or internationally. Would it not be better to embark on a Truth-telling process, as did the South Africans? This would at least enable people to find out what had happened to the disappeared, and to locate and bury their bodies; it could identify the guilty, especially those giving the commands, and pressure them to confess and apologise. Maybe they could trade disclosure and confession for amnesty or lighter sentences, as has occurred in Colombia

and Rwanda. Would this help to heal the wounds? Would it satisfy the demand for justice? What about the livelihoods destroyed, the life opportunities missed, the scale of impoverishment that has resulted from the abuses? Victims would certainly need to receive some financial compensation to help them rebuild their lives. But how is that possible when whole communities, even the whole nation, are affected – how does one compensate for the destruction of the economy resulting from the patronage and corruption of the ZANU PF government? Does prosecuting criminals assist the millions of Zimbabweans whose families have been broken apart, whose breadwinners have died of AIDS due to neglect of the health system, whose children have been denied education? Will there be any true justice if there is no connection between the punishment of individuals and improved lives for their millions of victims?

We must devise a form of transitional justice which will not only look backward – punishing, remembering, discovering the truth, telling the stories – but will also look forward, restoring the rule of law, and creating new institutions and new attitudes which can protect us from such abuses of power and impunity in the future. And this must be connected with social and economic restoration, with rebuilding the basis of decent lives.

These are the issues that many Zimbabweans are mulling over. The decisions surrounding transitional justice must not be made only by politicians, legal experts, and psychologists in their offices and their meeting rooms. The decisions must involve the population as a whole, those who have been victims of political violence and those who are victims of an economy hijacked for the personal benefit of rulers.

Thus WOZA is embarking on a programme to educate its members about transitional justice. They need to be aware of the possible means of punishment – to know that the process of mass prosecutions is inevitably slow, and expensive, and often does not produce the desired outcome. They need to be clear as to what can and cannot be achieved by truth recovery mechanisms such as truth commissions, on what types of truth they need to recover, and for what purpose. They need to be challenged to think about what can be done

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within communities to deal with atrocities committed by some members against others. Is punishment sufficient, or do we not need a healing process as well?

Zimbabweans also need to consider what can be done with those who have not committed crimes of violence, but who have just as effectively killed and maimed people by their greed to twist the economy in order to enrich themselves. We need to consider the future – how to prevent recurrences of the kinds of abuse we have suffered. We must begin to prioritise for ourselves which form of justice is more urgent – retributive or restorative – and imagine how we could achieve either or both.

WOZA's programme will begin with systematic education of members. Materials will be developed to explain the concepts and possible mechanisms of transitional justice, and leaders will be trained to discuss these with members in their community groups. Members will be asked to debate the issues on their own, based on their understanding of transitional justice possibilities, so that they can formulate educated views on what should be done. We believe that simply holding these discussions will begin a healing process, but we will also record the views of the members and contribute them to the public debate which must eventually be held. Through these discussions among members we hope that some community-based approaches to transitional justice may emerge, which members themselves can implement even before any national programme is devised.

WOZA's programme hopes to contribute to the development of a transitional justice programme which is owned by the people in their communities, as well as taking place at a national level. We believe that the process of educating ourselves about transitional justice possibilities and contributing to a national debate is itself a means of developing the tools, skills and attitudes necessary to build a peaceful democratic future based on the rule of law. We must start to build the future now.