



***Transitional Justice in
Zimbabwe: A pilot
survey of the views of
activists & victims***

**A Report prepared by the Research and Advocacy
Unit.**

January 2009

EXECUTIVE SUMMARY

Transitional justice has become an increasing concern for Zimbabweans over the past three decades, and even more so in the past nine years. There have been small attempts to discuss this issue in the past, beginning with the publication of the CCJP/LRF report on the gross human rights violations of the 1980s.

A more substantive consideration of the transitional justice options took place in Johannesburg in 2003, which recommended the setting up of a Truth, Justice and Reconciliation Commission to cover the violations from 1960 to 2003. One of the recommendations of the 2003 Symposium was for wide consultation with the victims, but mostly this did not take place, with some very minor exceptions.

The present study was a small pilot study of the views of ordinary Zimbabweans, who were selected for the likelihood that they had been victims of the political violence and gross human rights violations since 2000.

A simple questionnaire was designed that would cover the major areas involved in any transitional justice process in a future Zimbabwe. The questionnaire was translated into Shona and Ndebele, and the interviewers were given a one-day training workshop on the issues behind the design and manner of administering the questionnaire. 25 interviewers were then sent out into the community with the task of interviewing as many activists each as they could.

The final sample was composed of 514 persons, of whom 57% were male and 43% were female. The average age of the sample was 36 years [sdev. 12.9 years], which is very similar to that reported in other human rights reports in Zimbabwe. The sample was rural in the majority: 72% came from the rural areas and 28% from an urban setting. The sample was generally well-educated, with over 70% having secondary school education or more.

Although this small study cannot claim to represent a national profile, it does provide an interesting perspective on the views of activists, many of whom [47%] were victims themselves. The findings do suggest that there is a need for a much wider consultation about transitional justice in Zimbabwe. There were a number of interesting findings from this survey nonetheless.

Firstly, a substantial percentage of the sample felt that amnesty should be given, with a higher percentage feeling that this should be given if it was necessary to produce a political settlement,

but much of this effect was produced by those that only had Primary school education. However, these might well be views that change after a political settlement is reached and time has passed, as was the case for the victims of the Gukurahundi.

Secondly, and contradicting this first point, only small numbers felt that that serious crimes should be excused, and again this was an effect where those with Primary school education were significantly more in favour of amnesty.

Thirdly, although most were not in favour of a TRC as an alternative to prosecutions, most were in favour of a TRC if prosecutions were not possible, and most were not in favour of exemptions for truthful testimony, with an apparent trend towards punishing command responsibility.

Fourthly, very few felt that there was need to investigate violations prior to 1980, and this was a general trend. The Ndebele and the Shona samples had strongly different preferences for the period that they saw as important, and this was probably not surprising.

Fifthly, it was apparent that there many differences within the sample in terms of ethnicity – Shona versus Ndebele – and level of education. Whilst the ethnicity factor is important, it does not appear to indicate a potential for ethnic conflict; rather the differences are due to the effects of the violations experienced by the two groups. The Ndebele are rightly concerned about the 1980s where very little has been done to redress the wrongs committed during that period, whilst the Shona are clearly very preoccupied – as are a substantial number of the Ndebele – with the current violations. These differences are unlikely to lead to ethnic conflict so long as the two time periods are given equal attention in any transitional justice process in the future.

The differences due to educational level are a matter for more concern, and they raise the need for widespread teaching and information about transitional justice. If level of education, and probable concomitant poverty, result in citizens being uninformed about the options for transitional justice, this could result in a process that does not have the validity for transforming the country. It seems evident that there will a serious need for a widespread educational process to take place amongst grass roots organizations before any decision is made about the structure and process of any future transitional justice system.

Background

Transitional justice has been an increasing concern for Zimbabwean citizens since the publication of the report on the violations of the 1980s. With the publication of the CCJP/LRF report on the so-called Gukurahundi, there has been mounting interest in the resolution of past human rights violations.¹ Over the past decade or so, there have been a number of initiatives concerned with transitional justice, and this has not excluded the violations of the 1970s.² However, the major concern has developed with the epidemic violence that has taken place since 2000.³

This most recent period in Zimbabwe's history has produced a number of serious considerations about the role of transitional justice, and the most formal of these, the resolutions of the 2003 Johannesburg Symposium, made strong recommendations for the establishment of a Truth, Justice, and Reconciliation Commission.⁴ Subsequent developments have stressed the need for serious research and consolidation of existing reports, as well as the need for future research,⁵ but, of the main recommendations of the 2003 Symposium, that for the need to consult the victims themselves, little has been done. One small study with the victims indicated general approval of the 2003 Symposium, and the need for a strong emphasis upon justice in any transitional justice process.⁶

With the likelihood of political transition looming large, the need to consult the victims becomes victims. This paper is a small step in this direction.

1. Methodology

This was a small pilot study of the views of survivors.⁷ A small study was chosen as there was no previous empirical information on the attitudes of Zimbabweans to transitional justice, and this

¹ See CCJP & LRF (1997), *Breaking the Silence-Building True Peace: A Report on the Disturbances in Matabeleland and Midlands 1980 to 1988*, HARARE: CATHOLIC COMMISSION FOR JUSTICE AND PEACE IN ZIMBABWE & LEGAL RESOURCES FOUNDATION.

² See Reeler, A.P (1998), *Compensation for Gross Human Rights Violations: Torture and the War Victims Compensation Act*, LEGAL FORUM, 10, 6-21; Reeler, A.P (2000), *Can you have a reparations policy without justice?* LEGAL FORUM, 12, 202-209.

³ For example, the Zimbabwe Human Rights NGO Forum reports that there have been nearly 40,000 violations reported to itself or its members since July 2001 [source: the Monthly Political Violence Reports of the Human Rights Forum].

⁴ See Themba Lesizwe (2004), *Civil Society and Justice in Zimbabwe, Proceedings of a symposium held in Johannesburg, 11-13 August 2003*, PRETORIA: THEMBA LESIZWE.

⁵ See Zimbabwe Human Rights NGO Forum (2006), *Exploring Transitional Justice Options in Contemporary Zimbabwe*. January 2006, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

⁶ See Reeler, A.P., & Chitsike, K.C (2004), *The youth are the hope of the future, but which future? A case study with Zimbabwean township youth*. IDASA: DIALOGUE UNIT.

⁷ There are much more comprehensive ways in which such surveys can be conducted. See, for example, Vinck, P., Pham, P., Baldo, S., & Shigekane, R (2008), *LIVING WITH FEAR. A POPULATION -BASED SURVEY ON ATTITUDES ABOUT PEACE, JUSTICE, AND SOCIAL RECONSTRUCTION IN EASTERN DEMOCRATIC REPUBLIC OF CONGO*. August 2008. NEW YORK: INTERNATIONAL CENTRE FOR TRANSITIONAL JUSTICE

would allow a feel for whether the issue was salient at all before embarking on more extensive studies such as the one footnoted above.

A simple questionnaire was designed that would cover the major areas involved in any transitional justice process in a future Zimbabwe. The questionnaire was translated into Shona and Ndebele, and the interviewers were given a one-day training workshop on the issues behind the design and manner of administering the questionnaire. 25 interviewers were then sent out into the community with the task of interviewing as many activists each as they could.

The choice of activists was deliberate. Those that have become activists have a higher probability of having been affected by the organized violence and torture of the past 9 years,⁸ and hence the sample will probably reflect those that have a very high interest in transitional justice. The sample was not meant to reflect the attitudes of the general population, but rather a population that may be presumed to have strong personal interest in accountability and redress for the violations that they may have experienced.

The questionnaires were given as interviews rather than self-administered questionnaires. The data was compiled onto an electronic data base, and then analysed. Only statistically significant results are reported.

2. Results

The final sample was composed of 514 persons, of whom 57% were male and 43% were female. The average age of the sample was 36 years [sdev. 12.9 years], which is very similar to that reported in other human rights reports in Zimbabwe.

The sample was rural in the majority: 72% came from the rural areas and 28% from an urban setting. As can be seen from the table below, the sample was generally well-educated, with over 70% having secondary school education or more.

Table 1: Education
primary
secondary
tertiary
none

⁸ See, for example, WOZA (2007), *Defending Women, Defending the Rights of a Nation – preliminary report on political violence*. September 2007. ZIMBABWE: WOMEN OF ZIMBABWE ARISE; WOZA (2008), *The effects of fighting repression with love*. A report by Women of Zimbabwe Arise (WOZA). March 2008. ZIMBABWE: WOMEN OF ZIMBABWE ARISE; WOZA (2008), *The traumatic consequences of gross human rights violations suffered by WOZA women*. August 2008. ZIMBABWE: WOMEN OF ZIMBABWE ARISE.

116
284
87
22

23%
55%
17%
4%

The ethnic breakdown seems to follow the generally accepted divisions reported for Zimbabwe, with Shona citizens in the majority.

Table 2: Ethnic Identity

European
Malawian
Mozambican
Ndebele
Shona
Other

3
3
1
108
342
3

0.6%
0.6%
0.2%
21%
67%
0.6%

47% were alleged victims, whilst 39% described themselves as activists.

There were significant differences due to education in those claiming that they were victims: those with primary education [60%] only and tertiary education [56%] were more likely than

those with secondary education only [39%] to claim that they had been victims of organized violence and torture.

2.1 Results for the whole sample in the survey [n=514]:

For ease of understanding, the findings are reported according to the questions asked.

2.1.1 Do you think there should be an amnesty for people who have committed politically motivated crimes and crimes against humanity in Zimbabwe?

42% stated there should be amnesty, but those with Primary education only were significantly more likely to allow amnesty.

2.1.2 If the only way to achieve a political settlement in Zimbabwe is to give an amnesty to those who have committed politically motivated crimes and crimes against humanity, do you think such an amnesty should be granted?

53% said amnesty should be given if this was the only way to get a political settlement, and, again, those with Primary education only were significantly more likely to allow amnesty in order to get political settlement.

2.1.3 Do you think there should be a partial amnesty for those who committed lesser offences?

55% said should be partial amnesty for lesser offences

2.1.4 Should there be any amnesty for the following:

There were several alternatives for this question as follows below.

2.1.4(a) people who have committed the most serious offences?

Only 18% felt should be amnesty for serious offences, and those with Primary education only were significantly more likely to allow this.

2.1.4(b) people who were in positions of authority in the government, the military or the police who ordered people to commit politically motivated crimes and crimes against humanity or who failed to stop these crimes from happening?

Only 20% felt there should be amnesty for those in authority, with this being more likely with those with Primary education only.

2.1.5 If some people are not to be prosecuted for politically motivated crimes or crimes against humanity do you think that those people should appear before a "Truth Commission" to admit publicly to the crimes that they committed?

Only 20% felt a Truth Commission should be an alternative to prosecution, with Primary education again allowing this more strongly.

2.1.6 Do you think that a Truth Commission should be established and that:

85% felt should be a TRC, but those with Primary education only were significantly less likely to support a TRC.

2.1.6 (a) anyone who has committed a politically motivated crime or crime against humanity but who testifies truthfully to the Commission should not be prosecuted?

45% felt there should be no prosecution for truthful testimony: this was significantly stronger for those with Primary education only.

2.1.6 (b) only people who have committed lesser crimes and who testify truthfully to the Commission should not be prosecuted?

54% felt that there should be exemption for lesser crimes and truthful testimony: again the effect was significantly stronger for those with only Primary education only.

2.1.6 (c) none of the people in positions of authority in government, the military and police who are guilty of politically motivated crimes or crimes against humanity should be allowed to appear before the Commission and escape prosecution?

Table 3: Perpetrators should be prosecuted

Ring leaders
Senior officers
Ordinary perpetrators

385
413
336

75%
80%
65%

In general, the sample felt that most perpetrators should not be allowed to escape prosecution, but this was less pronounced for the ordinary perpetrators, which seems to indicate that the sample felt that command responsibility should be punished.

However, the effects were different for groups with different levels of education. Those with Tertiary education were significantly more likely to argue for the prosecution of Ring Leaders, Senior Officers, and even ordinary perpetrators. A similar effect was found for those with

Secondary Education for Senior Officers and ordinary perpetrators. This would seem to implicate not only education, but also access to information, as it is undoubtedly the case that persons from the rural areas and the poorer members of Zimbabwean society have had less access to the many discussions on transitional justice that have occurred in the public domain since 2000.

2.1.7 The investigation of crimes against humanity in Zimbabwe should cover:

- a) *the period from 1960 to 2008*
- b) *the period from 1980 to 2008 only*
- c) *the period from 2000 to 2008 only*
- d) *acts committed against Zimbabwe or Zimbabweans by South Africa's apartheid government*

As can be seen from the table below, there is a general trend to be uninterested in human rights violations prior to Independence in 1980. This could well have been an artefact of the age of the sample, as many would have little recall of events prior to 1980 or have been old enough to have had direct experience of the violations that took place during the Liberation War. The effect of age was checked and found not to be relevant here: the difference in mean ages of the groups supporting investigations for violations before 1980 and that of those with no interest in this period was not significant on testing.

However, this is not the case for the period between 1980 and 1987, and a significant percentage is concerned with the violations that occurred during this time. There were some small differences in the sample.

Table 4: Periods for which there should be accountability

1960-1980
1980-1987
2000-2008
1960-2008

30
121
307
87

6%
24%
60%
17%

Those with Secondary education were more likely to support investigations for 1960-1980 and 1960-2008, whilst those with Primary education were more likely to support investigations from 1980-1987, as were those with Tertiary education. Since there is an obvious possibility that Ndebele citizens might be more concerned with 1980 to 1987, this was examined separately below.

2.1.8 Do you think that people who are victims of politically motivated crimes or crimes against humanity should receive compensation?

87% felt there should be compensation. Secondary and Tertiary educated people were more likely to demand compensation than those with Primary education only.

2.1.9 If you think people who are victims of politically motivated crimes or crimes against humanity should receive compensation, do you think this should be provided:

- (a) by the government?
- (b) by the people who committed the crimes against humanity?
- (c) by people who were engaged in acts of corruption and benefited from the politically motivated crimes or crimes against humanity?
- (d) All of the above

Table 5: Who should provide reparations?

Government
Perpetrators
Beneficiaries
All of the above

260
54
61
124

51%
11%
12%
24%

There were a number of differences due to educational level here. Primary education respondents were more likely to demand compensation from the government. Secondary education respondents were significantly more likely to demand compensation from all groups, as well as those who benefited. Tertiary education respondents demanded compensation from the government, as well as all groups mentioned.

2.1.10 Do you think women have been affected differently to men by politically motivated crimes or crimes against humanity?

64% felt women have been affected differently.

2.1.11 Do you think that women victims of politically motivated crimes or crimes against humanity need to be compensated differently to men?

53% felt that women should be compensated differently to men. Tertiary education were more likely than Secondary education to see women as needing to be treated differently.

4. Rural versus Urban differences:

A contrast was done between the rural and urban respondents, as this might have been a contaminant of the differences seen due to education. A number of demographic differences were observed here.

The Urban sample was more Shona than Ndebele, and levels of education were as would be expected: higher levels of education in the urban sample than in the rural.

Table 6: Levels of education

	Primary	Secondary	Tertiary
Urban	20[14%]	71[50%]	47[33%]**
Rural	96[26%]*	213[57%]	40[11%]

**p=0.01; **p=0.001*

Only other differences observed where that the urban sample was more in favour of amnesty for lesser crimes, and in the periods for which investigations should take place. Here the following was found:

Table 7: Differences in periods for which investigations should take place

1980-1987
2000-2008

Urban
 21[15%]
 95[67%]*

Rural
 100[27%]**
 212[57%]

**p=0.05; **p=0.01*

The Rural sample felt that there should be amnesty for lesser crimes in the period 1980 to 1987, but the Urban sample felt this for the period 2000 to 2008.

5. Shona versus Ndebele:

As noted earlier, there seemed to be the possibility that some of the differences might be due to ethnic or geographical origin. The violence in the period 1980 to 1987 was largely confined to the southern half of the country – Matabeleland North and South, and the Midlands – whilst the violence since 2000, whilst widespread, has been significantly higher in the northern half of the country, and especially in the three Mashonaland Provinces.

There were many differences between the samples due to ethnic identity. Ndebele [57%] were more likely than the Shona [45%] to report having been a victim, and more likely [57%] to report being an activist than the Shona [34%].

Table 8: Amnesty versus Settlement

	Amnesty Settlement
Shona	160[39%] 204[50%]
Ndebele	62[57%]** 67[62%]*

**p=0.05; **p=0.01*

57% of the Ndebele felt that there should be some form of amnesty, which increased to 62% if amnesty was the only way to get a political settlement [*Table 8*].

More Ndebele [95%] than Shona [82%] felt that there should be a TRC. Again, more Ndebele [60%] than Shona [41%] felt that a TRC should be an alternative to no prosecution.

More Ndebele [69%] than Shona [51%] felt that there should be exemption for truthful testimony, and more Ndebele [50%] than Shona [32%] felt there should be no prosecution for lesser crimes and truthful testimony.

Table 9: Preferences for prosecutions

	Ring leaders	Ordinary perpetrators
Shona	318[78%]*	282[70%]*
Ndebele	67[62%]	54[50%]

**p=0.01*

The Shona sample was more in favour of prosecuting the ring leaders as well as the ordinary perpetrators than the Ndebele, but surprisingly not the senior officials of the state [*Table 9 above*].

Table 10: Preference for period of focus on violations

	1980-1987	2000-2008
Shona	61[15%]	277[68%]*
Ndebele	60[56%]*	

30[28%]

**p=0.001*

No surprises in the periods for which investigations were wanted: the Ndebele sample favoured 1980 to 1987, whilst the Shona were focused on the current period, 2000 to 2008 [*Table 10*].

The Shona sample [12%] were more likely than the Ndebele [5%] to make the perpetrators liable for compensation, as they were for making the beneficiaries [14% versus 6%], but the Ndebele [32%] were more likely to make all liable than the Shona [22%]. Is this because the Shona were more likely to know who the perpetrators were?

The Ndebele sample [81%] were more likely to see women as being treated differently than the Shona [59%], and to see that women needed to be compensated differently [72% versus 48%].

6. Conclusions

Although this small study cannot claim to represent a national profile, it does provide an interesting perspective on the views of activists, many of whom [47%] were victims themselves. The findings do suggest that there is a need for a much wider consultation about transitional justice in Zimbabwe. There were a number of interesting findings from this survey nonetheless.

Firstly, a substantial percentage of the sample felt that amnesty should be given, with a higher percentage feeling that this should be given if it was necessary to produce a political settlement, but much of this effect was produced by those that only had Primary school education. However, these might well be views that change after a political settlement is reached and time has passed, as was the case for the victims of the Gukurahundi.

Secondly, and contradicting this first point, only small numbers felt that that serious crimes should be excused, and again this was an effect where those with Primary school education were significantly more in favour of amnesty.

Thirdly, although most were not in favour of a TRC as an alternative to prosecutions, most were in favour of a TRC if prosecutions were not possible, and most were not in favour of exemptions for truthful testimony, with an apparent trend towards punishing command responsibility.

Fourthly, very few felt that there was need to investigate violations prior to 1980, and this was a general trend. The Ndebele and the Shona samples had strongly different preferences for the period that they saw as important, and this was probably not surprising.

Fifthly, it was apparent that there many differences within the sample in terms of ethnicity – Shona versus Ndebele – and level of education. Whilst the ethnicity factor is important, it does not appear to indicate a potential for ethnic conflict; rather the differences are due to the effects of the violations experienced by the two groups. The Ndebele are rightly concerned about the 1980s where very little has been done to redress the wrongs committed during that period, whilst the Shona are clearly very preoccupied – as are a substantial number of the Ndebele – with the current violations. These differences are unlikely to lead to ethnic conflict so long as the two time periods are given equal attention in any transitional justice process in the future.

The differences due to educational level are a matter for more concern, and they raise the need for widespread teaching and information about transitional justice. If level of education and probable concomitant poverty result in citizens being uninformed about the options for transitional justice, this could result in a process that does not have the validity for transforming the country. It seems evident that there will a serious need for a widespread educational process to take place amongst grass roots organizations before any decision is made about the structure and process of any future transitional justice system.