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CIVIL SOCIETY NARRATIVES OF VIOLENCE AND THE SHAPING OF THE TRANSITIONAL JUSTICE AGENDA IN ZIMBABWE: 2000-2013

By

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Dedicated to the people of Zimbabwe who continue to long for their stories and experiences of violence and coercion to be told and for justice to be done.

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DECLARATION

I, Chenai Gillian Munyaka, declare that this thesis is my own unaided work, both in conception and execution. It is being submitted for the degree of Doctor of Philosophy in the Department of Political Sciences at the University of Pretoria, South Africa. It has not been submitted before for any degree or examination at this or any other university.

Chenai Gillian Munyaka

Pretoria, April 2020

Abstract

How we respond to legacies of past violence cannot be separated from the narratives we hold about that violence. When the state fails, for whatever reason, to take the lead in dealing with past violence and the development of a public narrative about conflict, various groups may seek to fill that space based on different agendas. The way individuals and organisations outside the state interpret and engage with processes of dealing with the past is influenced by the narratives they hold and are exposed to, and this can have positive or negative implications for long-term peace. This thesis seeks to interrogate how civil society narratives of electoral violence have shaped the transitional justice agenda in Zimbabwe, as drawn from the way they report and depict understandings of this violence, through written texts as well as the way they speak about violence in various public forums. This investigation is done through a qualitative interpretivist approach to understand the kinds of narratives of violence espoused by four civil society organisations through a categorical content analysis of their reports and in-depth interviews with four key stakeholders. The thesis concludes that while the understandings of violence are key to how we deal with the violence, these understandings have to be drawn genuinely from the experiences of those that have lived the violence, and not from agendas that seek certain ends, whether political or economic.

Key terms: transitional justice, civil society, narratives, agenda, violence, state, Zimbabwe.

LIST OF ACRONYMS

ACHPR- African Charter on Human and Peoples' Rights

AI- Amnesty International

AI-Z- Amnesty International-Zimbabwe

AU- African Union

CCJPR- Catholic Commission for Justice and Peace in Rhodesia

CCJPZ- Catholic Commission for Justice and Peace Zimbabwe

CRR- Committee for Reparations and Rehabilitation

CIO- Central Intelligence Organisation

ESAP- Economic Structural Adjustment Programme

GNU- Government of National Unity

GPA- Global Political Agreement

ICC- International Criminal Court

ICCPR- International Covenant on Civil and Political Rights

ICESCR- International Covenant on Economic, Social and Cultural Rights

ICJ- International Court of Justice

ICRC- International Committee of the Red Cross

ICTR- International Criminal Tribunal for Rwanda

ICTY- International Criminal Tribunal for the Former Yugoslavia

IRCT- International Rehabilitation Council for Torture Victims

JOC- Joint Operating Command

LRF- Legal Resources Foundation

MDC- Movement for Democratic Change

MDC-T- Movement for Democratic Change-Tsvangirai

NCA- National Constitutional Assembly

NGO- Non-Governmental Organisation

NPRC- National Peace and Reconciliation Commission

NTJWG- National Transitional Justice Working Group

ONHRI- Organ on National Healing Reconciliation and Integration

POSA- Public Order and Security Act

SADC- Southern African Development Community

TRC- Truth and Reconciliation Commission

UN- United Nations

ZNA- Zimbabwe National Army

ZANLA- Zimbabwe African National Liberation Army

ZANU- Zimbabwe African National Union

ZANU-PF- Zimbabwe African National Union-Patriotic Front

ZAPU- Zimbabwe African People's Union

ZCTU- Zimbabwe Congress of Trade Unions

ZIPRA- Zimbabwe People's Revolutionary Army

ZIMRIGHTS- Zimbabwe Human Rights Association

ZHRNGOF- Zimbabwe Human Rights Non -Governmental Organisation Forum

ZLHR- Zimbabwe Lawyers for Human Rights

ZPP-Zimbabwe Peace Project

ZRP-Zimbabwe Republic Police

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Chapter One

1.1. Introduction

When the state fails, for whatever reason, to take the lead in dealing with past violence and the development of a public narrative about conflict, various groups may seek to fill that space based on different agendas. The way individuals and organisations within or outside the state interpret and engage with processes of dealing with the past can be influenced by the narratives they hold and are exposed to, and this can have positive or negative implications for long-term peace. In conflict settings, narratives have the potential to quell or exacerbate tensions. That is why it is crucial to critically examine the narratives that are generated by various individuals and groups, which have the potential to influence attitudes, perceptions, and therefore actions. These narratives are developed by these different groups not only due to the narrative nature of the world and human existence in general, but in order to tell stories in which these groups present themselves (as heroes or victims), to teach lessons and bridge the gap between the past, present and future (McCabe et al 1991). Civil society is one such group whose role in society requires constant and thoughtful examination.

This thesis is situated in the growing discussion on the role of civil society in post-conflict contexts, particularly on the African continent, where the role, nature and existence of civil society have been contentious. Scholars such as Makumbe (1998) have even questioned the existence of civil society in Africa, while others such as Marchetti and Tocci (2009) challenge the one-size-fits-all conceptualisation of civil society that does not consider its operating context. While this thesis does not seek to delve into these debates, it will, among others, highlight some of the conceptual problems around what civil society organisations are, their shape, their nature and character as well as their responses to conflict and violence.

Concurring with Lessa (2013), this thesis is grounded in the understanding that narratives of past violence cannot be separated from the decision about what mechanisms are put in place to deal with the past. This thesis focuses on the narratives of violence presented by civil society organisations in Zimbabwe on the country's electoral processes between 2000 and 2013. These narratives of violence feed into the transitional justice agenda that has been espoused by civil society organisations as they advocate for redress for victims of political violence, including

state-sponsored violence. However, these narratives have largely been contested, particularly by the state, as has been the case with other periods of violence experienced in the country, including the Matebeleland violence in the mid-1980s (Alexander 2006). These contested narratives have led to tensions between the state and civil society, leading in some instances to violent confrontations (Sisulu et al. 2009). This study speaks to two possible dangers in relation to narratives of violence: the danger of a single state-led narrative that is imposed from the top down (for example the post-independence narrative of the liberation struggle in Zimbabwe), and the danger of multiple competing narratives that potentially undermine transitional justice or other peacebuilding processes.

Through the various narratives of electoral violence that these civil society organisations have presented, particular understandings and interpretations have been offered that have gone on to shape the transitional justice debate. The driving questions of this research are about what the implications of these narratives have been on the shaping of an official transitional justice agenda for Zimbabwe, as well as on the achievement of the broader goals of transitional justice, which are broadly described in the literature (see for example Grødum 2012) as centring on dealing with the past in order to secure a peaceful future.

The role and impact of civil society in the field of transitional justice have been written about from a mostly theoretical perspective that has captured how civil society has aided official state-sanctioned processes of transitional justice (see for example Backer 2003; Crocker 1998). This thesis seeks to add to the growing empirical studies illuminating civil society interactions with the transitional justice space and implications for attaining the goals of transitional justice. By using the Zimbabwean case, the study also reviews the contextual use of the term and concept of transitional justice. This will add to the discussion on the thinking and understandings of the field and practice of transitional justice.

1.2. Background and context

Violence has been a consistent part of the electoral landscape of post-independence Zimbabwe. This research will use the definition of violence by Žižek (2008), who classifies it according to three categories, namely, " the *subjective*, the *symbolic*, and the *systemic*". *Symbolic* violence refers to the "violence embodied in language and its forms", while *systemic* violence refers to

"the often-catastrophic consequences of the smooth functioning of our economic and political systems" and *subjective* violence is "violence performed by a clearly identifiable agent" (Žižek 2008:1, Ruez 2011). Zimbabwe's electoral violence is characteristic of all three conceptions of violence as will be illustrated in the thesis in which structures of violence are imbedded in the state not only in the coercive apparatus of violence but it its policies and failure to protect the rights of citizens. Political violence in Zimbabwe has also been characterised by what Sachikonye (2011:17) describes as "typical inter-party violence", while some of it has been "sophisticated state-sponsored violence". The second type of violence has been dominant in the period between 2000 and 2013 on which this thesis focuses. This period also saw an increase in authoritarian rule, "hyperinflation, deindustrialisation, collapsing services and mass impoverishment" (Alexander and McGregor 2013:749). These dynamics have contributed to the strained relations between the state and its citizens. For this reason, electoral violence in Zimbabwe has to be understood as part of a broader epidemic of violence that has affected the country both pre- and post-independence and has unfortunately become rooted in the country's political culture (Sachikonye 2011).

Despite holding regular elections since independence in 1980, political contestation in Zimbabwe has been marred by violence and intimidation, albeit at varying intensity. The 1980 elections that led to the transition from colonial rule that was provided for under the 1979 Lancaster House Agreement were held amid reports of violence and intimidation of the electorate by Zimbabwe African National Union-Patriotic Front (ZANU-PF), which sought not only to win the election but to dominate the political system, as seen in its one-party drive in later years (Kriger 2005). Although the 1980 elections were widely endorsed by groups such as the Commonwealth Observer Group (COG), others, such as the British Observer Group (BOG) reported brutal coercive measures by the military wing of ZANU-PF, including murder, to exemplify what would happen to those who did not vote for the party (Kriger 2006:4). Despite these reports, these elections were widely endorsed, putting Robert Mugabe and ZANU-PF at the helm of power in the newly independent state. Since these elections, former late president Robert Mugabe had won all but the first round of the 2008 harmonised elections[1], in which he lost to Morgan Tsvangirai of the Movement for Democratic Change-Tsvangirai

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[1]Harmonised Elections declared under the Zimbabwe Electoral Act combines Local Government, House of Assembly and general elections in Zimbabwe to take place simultaneously .

(MDC-T) before reclaiming power in a run-off election in which he was the sole candidate (Matyszak 2009).

After the 1980 elections, later elections, including those in 1985 and 1990, also saw the use of violence and intimidation to crush the opposition as the ZANU-PF government consolidated its control over the state apparatus. The 1985 elections, which took place at the height of the *Gukurahundi*[2] genocide, saw wide-spread repression of Joshua Nkomo's Zimbabwe African Patriotic Union (ZAPU), which was however later incorporated into ZANU-PF following the signing of the 1987 Unity Accord (Laakso 1999; Sachikonye 1990). In the run-up to the 1985 elections, ZANU-PF politicians in Matebeleland and Midlands often made statements at rallies encouraging violence against ZAPU supporters, and the police were instructed not to act against the violence, with disappearances of the ZAPU supporters and former members of its liberation war military wing being rampant (Kriger 2006). This was a technique that was also used in later elections, including in 2008, to eliminate and intimidate members of the opposition. The 1990 and 1995 elections, although contested under a united ZANU-PF following the Unity Accord, were not free of violence and intimidation. A newly emerged opposition Zimbabwe Unity Movement (ZUM) formed by expelled ZANU-PF member Edgar Tekere posed a challenge to ZANU-PF (Sachikonye 1990; Kriger 2006). ZANU-PF's reception of ZUM was equally violent, with clashes between ZANU-PF youth groups and members of the opposition, particularly in urban areas, where ZUM had most of its following (Sachikonye 1990; 2011).

The elections held in Zimbabwe from the year 2000 have been more highly contested and polarised, with the intensity of violence and intimidation escalating as compared to the 1990s (Sachikonye 2011). This has been due to the emergence of the Movement for Democratic Change (MDC) in the late 1990s, a party that has produced arguably the most significant challenge to ZANU-PF rule since independence (Makumbe 2002). The rise of the MDC was against the backdrop of the country's economic downfall, controversial land reform programme and a significant defeat for ZANU-PF at the polls in the 2000 constitutional referendum (Ndlela 2009; Makumbe 2002). The repression and clampdown that characterised the elections in which the MDC challenged ZANU-PF included the abduction, disappearance,

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[2] *Gukurahundi* is a Shona term that refers to the first rain of summer that washes away the chaff from the previous season (Nyarota 2009).

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murder and destruction of the property of opposition members as well as those suspected of supporting the opposition (Makumbe 2002; Raftopoulos 2002). This was supported by legislative measures, including the Public Order and Security Act (POSA)[3], which made it difficult for the opposition to carry out its campaign activities.

This research focuses on electoral violence between 2000 and 2013 specifically, as these periods have recorded some of the highest number of violations in Zimbabwe's electoral history (Zimbabwe Human Rights NGO Forum (ZHRNGOF) 2012; Sachikonye 2011). Elections and electioneering have also been the battleground or epicentre for political engagement and discourse in Zimbabwe, in which violence has been used a tool to sway political allegiance not only at the ballot box but further into non-electoral periods. The violations committed during election periods, as will be highlighted further in this thesis, have left opponents of the state under no illusion about what the state can do in the event of reprisals against it, hence electoral violence has remained one of strongest modes of state coercion in Zimbabwe. Electoral violence has left Zimbabwean society scared and traumatised (Sachikonye 2011) while left to ponder what went wrong and how to move on.

In this period, Zimbabwe's civil society has grown into a large, diverse body with organisations representing different interests, including calling the state out for its excesses of violence and economic predation (Zhou 2014). The number of civil society organisations in the field of human rights and democracy also increased in this period, putting civil society at odds with the state for highlighting the violations and publicising them, as well as calling for a reformed state (Kagoro and Okello 2012; Sisulu et al. 2009). In light of the increase in state violence, vibrant debate on the prospects and options for post-conflict justice in Zimbabwe in academic literature, political commentaries as well as in civil society have emerged in the period under study. Such work includes the symposium on "Civil Society and Justice in Zimbabwe", which was held in Johannesburg, South Africa from 11 to 13 August 2003, and an initiative by Zimbabwean civil society organisations to develop their own positions on how to provide redress for the human rights abuses of the past (Morrell 2003). These discussions have been necessitated by the cycles of violence and impunity that have characterised political

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[3] POSA was signed into force in 2002 just before the 2002 elections and was used to curb political gatherings by requiring police clearance for such gatherings. This permission was usually denied to members of the opposition. For full version of Act see Chapter 11:17. Public Order and Security Act. Acts 1/2002, 6/2005 (s. 18)1, 23/2004

contestation in the country prior to and after its independence in 1980. As argued by Chabvuta (2006), these discussions assumed that a political transition would take place in Zimbabwe that would allow another political party to take over from the ZANU-PF, thereby paving the way for past human rights violations to be addressed. This was based on the understandings of violence that put the state and the ruling party at the centre of the violent scourge that has characterised the country's politics.

Through this monitoring and documentation by civil society, the issue of the country's legacy of violence came into consideration during key periods, such as at the Southern African Development Community (SADC)-brokered negotiations[4] that resulted in the signing of the Global Political Agreement (GPA) in 2009, and further led to the formation of the Organ on National Healing Reconciliation and Integration (ONHRI) under the Government of National Unity (GNU) and later the National Peace and Reconciliation Commission (NPRC) in 2015. Civil society has, therefore, become one of the key stakeholders in the transitional justice discussion in Zimbabwe, with much of the work on dealing with past violence being advocated for by civil society organisations. This documentation and advocacy by civil society have come with a specific agenda and goals, thereby creating a particular understanding of the root causes of the violence and therefore the solutions to deal with it. These narratives, together with the responses of the state to the narratives presented by civil society, have contributed to the shaping of a national transitional justice agenda in Zimbabwe, and this is what this thesis seeks to explore.

The thesis also adopts the idea of transitional justice 'moments' (including 'critical junctures' and 'focusing events') that have been proposed in the scholarly literature as ways to understand consequence, causation, and correlation as societies come to terms with historic and ongoing injustices in order to unpack how these moments have shaped the transitional justice agenda in Zimbabwe.

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[4] This mediation process was a Southern African Development Community (SADC) intervention through a mediation initiative led by former South African President Thabo Mbeki, and led to the brokering of the GPA on 15 September 2008. The GPA was entered into by ZANU-PF, MDC-Tsvangirai (MDC-T) and a splinter. It led to the creation of an interim GNU and among its primary objectives the GNU was to oversee the writing of a new constitution within its first 18 months and enable free and fair elections to take place thereafter (Guzura 2016).

1.3. Justification and Rationale

Civil society has been argued in the literature (see, for example, Hayner 1994) to be an important role player in a country's transitional justice process. In the absence of decisive state leadership in dealing with issues of transitional justice following periods of conflict and violence, civil society often becomes the unofficial driver of such processes. Brankovic and Van der Merwe (2018:v) contend that "In Africa the loudest voices for transitional justice have come from the nongovernmental sector. The 'eye of the people' – as civil society is known – became the guardian of transitional justice". This has been the case in the Zimbabwean context, where civil society organisations have increasingly become an important actor in the governance and human rights space, particularly in the period between 2000 and 2013. This period is significant in the development and transformation of civil society in the country, as it is characterised by crucial political, economic and social changes in the country's history.

While the role being played by civil society organisations in filling the gap left by the state in dealing with issues of transitional justice is extremely important, it is imperative to interrogate in what way these processes of civil society actually contribute to or take away from any specific or broader goals of transitional justice. This is in light of the argument put forward by Posner (2004:237), who argues that civil society "… can be filled with groups that foster cooperation and improve people's lives or with groups that sow distrust and foment violence". This is often the consequence of an absence of a publicly communicated and legitimised account of the past (Grødum 2012). Although aware of the danger of a single, state-led, top-down narrative of violence, it is imperative to be aware of the danger of competing narratives of violence that have the potential to compromise peace.

While Zimbabwean civil society organisations' use of the term transitional justice is contested by the state, as will be discussed in chapters six and seven of this thesis, it is important to note that issues and concerns of transitional justice do not only exist where there has been a change of regime or shift in political power, as previously assumed in earlier writing on transitional justice (see, for example, Teitel 2003). Civil society organisations have challenged state impunity and adapted, reinterpreted and applied norms and processes originally developed for state-led democratic transitions, fusing them with those that have been applied in local and communal contexts in order to achieve the goals of transitional justice (Quinn 2005; Rubin 2014). While these organisations may not necessarily have the legitimacy to carry out such

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processes, they influence and shape how society interprets and interacts with the past. They have the capacity to shape what is deemed the truth about past violence and shape memories about what happened.

1.4. Research problem and question

As highlighted earlier in this chapter, the thinking behind this study is based on the assertion that narratives of violence cannot be separated from how we deal with this violence, as proposed by Lessa (2013). If this is so, it is therefore important to interrogate the narratives around violence, how they are shaped, by whom and with what agenda. These are the questions that this thesis grapples within the context of Zimbabwean civil society. The thesis seeks to interrogate how civil society in Zimbabwe has shaped the narrative of electoral violence through the way they report and draw understandings of this violence, through written texts as well as the way they speak about violence in various public forums.

The perceptions of these groups of people form an important part of interrogating the implications of civil society involvement in conflict contexts, largely because many of these organisations claim to represent the interests of the victims and ordinary people. To understand these concerns, the following core question is asked:

How have civil society narratives of electoral violence in Zimbabwe shaped the transitional justice agenda in the country?

To answer this core question, the following sub-questions are asked:

a) What are the narratives of electoral violence that have been espoused by civil society between 2000 and 2013?

b) How and why have these narratives developed ?

c) What have been the implications of these narratives for shaping the transitional justice agenda?

By asking these questions, this thesis seeks to provide an empirically rooted understanding of the implications of civil society narratives of violence on the direction that transitional justice discussions and programmes take. Civil society is an important actor in the transitional justice

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space. This will allow for a more comprehensive approach to dealing with the aftermath of violence and conflict.

1.5. Methodology and Research Design

This research uses a qualitative interpretivist approach to understand the kinds of narratives of electoral violence espoused by four civil society organisations in the field of transitional justice, as well as the kinds of demands they make on transitional justice policy. Through this approach, the research aims to understand how narratives of violence can influence or shape responses to the violence, as well as the impact on the goals of transitional justice, including securing the truth about what happened and bringing perpetrators to account.

Hennink et al. (2010:8) assert that qualitative research is "An umbrella term that covers a wide range of techniques and philosophies… it is an approach that allows you to examine people's experiences in detail, by using a specific set of research methods…" Qualitative research makes use of the "interpretive naturalistic" approach, which seeks to study phenomena in their natural settings and aims at understanding phenomena based on the meanings people bring to them (Hennink et al. 2011). This research seeks to understand the grounding of the conceptions of electoral violence that the four civil society organisations reviewed in the study espouse, in line with the solutions they proffer for redress. The research also seeks to show how the interpretations of these narratives by the state have impacted on the setting of the national transitional justice agenda. The research therefore seeks to illuminate the relationship between narratives of violence, responses to violence and implications for the achievement of genuine transitional justice.

Issues around transitional justice are often complex to interrogate, as they present a wide array of concerns. This is even more so in the current environment in which scholarly debate on the conceptualisation of the field of transitional justice is growing (see for example Bell 2009). Understanding lived experiences and people's perceptions through empirical research becomes an important way to interrogate the field, both in terms of its conceptualisation and implementation. This approach focuses on "exploring the complexity of social phenomena with a view of gaining understanding" (Vosloo 2014:307). Vosloo (2014:307) contends that the purpose of research in interpretivism is "understanding and interpreting everyday happenings

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(events), experiences and social structures as well as the values people attach to these phenomena". This has influenced the choice of research design and tools for this study.

As an approach, qualitative research is characteristically multi-method, and these methods include document/content analysis as well as in-depth interviews (Denzin and Lincoln 2011; Hennink et al. 2010), which will be used in this research. The research makes use of a combination of research tools and sources of data in order to enhance understanding of the phenomena under study. This process of using different data sources as applied in this study is referred to as triangulation. Denzin and Lincoln (2011:5) posit that "Triangulation is not a tool or strategy of validation but an alternative to validation… The combination of multiple methodological practices, empirical materials, perspectives and observers in a single study…[is] a strategy that adds rigor, breadth, complexity, richness, and depth to any enquiry".

The four organisations used in this study were selected from a list of 21 organisations that fall under the umbrella of the Zimbabwe Human Rights NGO Forum (ZHRNGOF)[5] and selected based on:

1. Whether or not these organisations have been in existence for the duration of the period under review (this allowed the researcher to review the narratives by the different organisations in the same context, including political, social and economic environments, as well as for the same electoral periods);

2. Whether these organisations have taken an active part in shaping the narrative of violence through documentation of electoral violence, or by providing reflection, analysis and advocacy through other public forums (this allowed the researcher to pick up key themes in the narratives of each of the organisations, as well as assess how the different issues are expressed by the different organisations).

This purposive sampling was used in order to ensure that organisations that best meet the criteria are selected, thereby providing a better opportunity to study the subject under review. The purposive sampling technique is according to Tongco (2007:147) "the deliberate choice of an informant due to the qualities the informant possesses. It is a non-random technique that does not need underlying theories or a set number of informants… the researcher decides what

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[5] The Zimbabwe Human Rights NGO Forum (ZHRNGOF) is a coalition of more than 21 human rights NGOs in Zimbabwe

needs to be known and sets out to find people who can and are willing to provide the information by virtue of knowledge or experience".

Content analysis

Data collection and analysis was done as follows: Using *categorical content analysis*, this research reviewed the reports, statements and other publications in the public domain on the ZHRNGOF, The Zimbabwe Human Rights Association (ZIMRIGHTS), the Zimbabwe Peace Project (ZPP) and Amnesty International-Zimbabwe (AI-Z) with specific focus on electoral violence. These included monthly reports of violence, ad hoc reports presenting analysis of electoral violence, workshop reports and press statements, among other documented activities. The narratives presented by civil society organisations in their reports and analysis seldom capture entire life stories (as would be of interest in a *holistic analysis*) but primarily contain narrations of a particular violent occurrence. Hence *categorical content analysis*, in which "categories of the studied topic are defined, separate utterances in the text extracted, classified and gathered into these categories" (Lieblich et al., 1998:12), is the approach that is used to study the narratives of electoral violence presented by the civil society organisations for the period under study.

By highlighting the dominant themes and concerns in these narratives, this thesis seeks to capture the dominant narratives on electoral violence presented by civil society, as well as understand the meanings these civil society organisations attach to violence. The research further explores how these meanings have then shaped their advocacy (agenda) around transitional justice in the country. The researcher will select the most relevant themes, depending on their frequency of appearance and contribution to understanding the subject under study. Lieblich et al. (1998:1) argue that "The use of narratives in research can be viewed as an addition to the existing inventory of the experiment, the survey, observation, and other traditional methods or as a preferred alternative to these 'sterile' research tools". Narrative can be used as a method, theory or practice of research (Yiannis 2015:22). This study uses narrative as a method and mode of enquiry into the realm of transitional justice, civil society and electoral violence. Lieblich et al. (1998:12) have advanced a measurement that considers the unit of analysis and hermeneutical approach when developing an appropriate narrative research model. The unit of analysis ranges from extracting a section from a complete text (categorical analysis) to taking the narrative as a whole (holistic analysis).

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The review of these reports and statements was done manually, as they are of a manageable number (approximately 30 short reports) and length. These reports as well as other secondary data were obtained through the University of Pretoria libraries and reports by civil society organisations were obtained from their websites, offices and Kubatana.net. While these reports and other sources of public engagement by the Non-Governmental Organisations (NGOs) provide an important overview of how civil society organisations have shaped the narrative of violence, the researcher is aware that the examination of these written texts is only partial as they operate in the public domain (Christie 2012). For this reason, structured in-depth interviews were also conducted with four experts in the field in their capacity as both activists and academics. This allowed the research to gain insights into the interaction between the theory and practice of transitional justice from the lived experiences of these four experts, as discussed further in chapter four of this thesis.

Analysis of data collected through structured in-depth interviews

The collected interview data for this study was transcribed and data or texts were explored through thematic analysis to identify specific patterns in the data (Braun and Clarke, 2006). According to Braun and Clarke (2006:79), thematic analysis is "a method for identifying, analysing and reporting patterns (themes) within data". This method of qualitative data analysis was selected for this study because it offers the researcher greater potential to produce a detailed account of the data (Braun and Clarke 2006). Participation in this research was done on an entirely voluntary basis, with participants being asked if their names could be used in the thesis. Three out of four of the participants agreed to use their real names in the thesis as they had publicly spoken and written about many of the issues discussed. Anonymity was maintained for the fourth participant.

1.6. Defining Central Concepts

a. Civil society and transitional justice

The term transitional justice is used to refer to theories, mechanisms and practices used by communities affected by conflict and human rights violations to move towards stability. The term and conceptualisation of transitional justice became prominent following the fall of authoritarian regimes in South America in the 1980s (Arthur 2009). Van der Merwe et al. (2009:1) contend that transitional justice denotes "societal responses to severe repression,

societal violence and systematic human rights violations that seek to establish the truth about the past, determine accountability and offer some form of redress, at least symbolic in nature". This definition by Van der Merwe et al. captures the collectiveness of such approaches in dealing with past violations, and also touches on the symbolic aspect of much of this work, as the damage done to society is often irreparable. However, it is important to note that transitional justice work is not always a collective process and is often contentious, particularly where different groups have diverging interests that need to be secured.

Roht-Arriaza (2006:2) defines transitional justice as "… a set of practices, mechanisms and concerns that arise following a period of conflict, civil strife or repression, and that are aimed at confronting and dealing with past violations of human rights and humanitarian law". This definition by Roht-Arriaza (2006) captures the core of transitional justice as not only processes and mechanisms but also apprehensions that may arise following periods of strife. Concerns about how to deal with the perpetrators, the victims and the loss and damage to various aspects of their lives exist in any post-conflict society even before any mechanisms have been set up to deal with these. The goals of transitional justice often become to i) establish the truth about what happened and why ii) acknowledge victims' suffering iii) hold perpetrators accountable iv) compensate for past wrongs v) prevent future abuses and vi) promote social healing (United States Institute of Peace (USIP) 2008). The definition by Roht-Arriaza (2006) will be used in the thesis as a working definition as well as the basis for the conceptualisations of transitional justice in the context under study. This perspective espoused by Roht-Arriaza (2006) draws attention to the shift in the understanding of transitional justice as a field that focuses on understanding institutional processes and mechanisms to one that recognises and seeks to understand the consequences of conflict even in the absence of official processes to do so. Demands for redress in various forms are often a reality following periods of violent conflict, regardless of whether mechanisms or processes have been set up.

As with the term transitional justice, there are various definitions and conceptualisations of the term civil society, with a wide range of organisations and associations being categorised in this space. Sachikonye (2011:131-132) states that "Civil society relates to a non-state sphere comprising a plurality of public spheres that range from productive units and community-based organisations to professional and voluntary associations that are self-organizing". These organisations include community groups, NGOs, labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and foundations (Moyo 1993, Fisher 1997).

Civil society is recognised in the literature (see for example Hayner 1994 and Crocker 2000) as an important role player in transitional justice. Backer (2003) and Crocker (2000) identify data collection and monitoring, advocacy and representation, collaboration, facilitation as well as consultation as some of the roles civil society can take on in the aftermath of violence. Andrieu (2010:550) argues that "Civil society's role in transitional justice is thus multidimensional. It can act as innovator, facilitator, temporary substitute, educator or critic… [They] often have greater legitimacy in local communities and may therefore be better able to win the cooperation of those who do not trust the government". Crocker (1998) further describes the role of civil society organisations in transitional justice as largely complementary to the activities and mechanisms put in place by states and international agencies. However, scholars such as Fisher (1997), Moyo (1993) as well as Marchetti and Tocci (2009) caution against the perception of civil society as a wholly positive force in the political system.

Literature on civil society and in particular civil society and transitional justice tends to be skewed towards a positive review of its contribution and this is largely from a theoretical rather than empirical perspective (Bratton 1994). Similarly, Fisher (1997:441) observes in particular about NGOs that "this literature as a whole is based more on faith than fact: There are relatively few detailed studies of what is happening in particular places or within specific organisations…". This research seeks to add to the growing empirical research on the role and impact of civil society work in their constituencies and to provide an understanding of how different contexts shape the character and manner of response of these organisations to various conflict situations, particularly in relation to the role they play in shaping narratives of violence.

For the purposes of this thesis, civil society refers largely to local and national civil society organisations and NGOs, as opposed to international organisations (Duthie 2017). These civil society organisations are what Martens (2002:282) defines as "formal (professionalised) independent societal organisations whose primary aim is to promote common goals". This conception of civil society is selected for this thesis, as it largely reflects the character of civil society organisations in Zimbabwe working in the field of human rights and transitional justice to which this study refers.

b. Electoral violence

Fischer (2002:8) defines electoral violence in the following way: "Electoral conflict and violence can be defined as any random or organized act that seeks to determine, delay, or

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otherwise influence an electoral process through threat, verbal intimidation, hate speech, disinformation, physical assault, forced 'protection', blackmail, destruction of property, or assassination". Fisher (2002:8) further notes that the victims of electoral violence can be "people, places, things or data" and need not be nationally spread but can be targeted at a particular ethnic group, gender or community of interest.

Genyi (2015:46) highlights institutional factors and systematic influences as being the root causes of electoral violence, contending that

> "Under institutional factors, an entrenched culture of impunity, weak judicial authority, lack of internal democracy within political parties and the undue attraction of public offices… Systemic influences emanate from identity-based politics, the collapse of public trust in the system, and economic vulnerabilities.".

These factors highlighted by Genyi (2015) are also prevalent in the Zimbabwean context, as will be discussed in chapters two and five of this thesis and is also drawn from the empirical work done for this chapter and presented in chapters six and seven of this thesis.

c. Narratives of violence

The term *narrative* is used to refer to the manner in which we describe, think of, and understand events (Cobley 2001b; Rosenwald and Ochberg 1992). Through narratives "we create order, construct texts in a particular context" (Riessman 1993). Narratives play an important part in shaping political thought and action. They are shaped by the environment in which they are generated and operate (Cobley 2001a, 2001b). Narratives also influence how we understand and interact with the past (Rosenwald and Ochberg 1992; Riessman 1993), how we relate to the present as well as how we envision the future (Grødum 2012). Hence narratives of violence can be understood as the manner in which violence is described, thought of, understood and even expressed.

Following periods of conflict, there are often conflicting narratives of what happened, when and how. The way people perceive such historical events as well as express them through narratives can be constructive or damaging (Rosenwald and Ochberg 1992). Alexander (2006:105) notes: "Efforts to invoke and deal with past violence in public creates arenas of interaction in which historical narratives and political relationships are made and unmade". This is often the dilemma of transitional justice processes in seeking to balance the demands

for redress and securing peace. More often than not, transitional justice processes are a hotbed of contention, with conflicting narratives of the past being pushed by different groups. These conflicting narratives generate conflicting memories about the past and through the retelling of these stories become the narrative of others with similar identities (Riessman, 1993). In this thesis, the term narrative is not used to refer to historical accounts of the past but as the telling of the accounts of violence as part of "a transitional plot" (Grødum 2012:13), both as written texts as well as pronouncements made in various forums. The narratives related to a transitional plot therefore relate the past, present and future (Grødum 2012).

1.7. Chapter Outline

Chapter one outlines the scope of the study and introduces the main concepts that will be dealt with, including 'civil society', 'transitional justice', 'electoral violence' and 'narratives of violence'. These concepts will be further unpacked in following chapters of this thesis.

Chapter two seeks to unpack and link the main concepts used in the thesis, including transitional justice and civil society. The theories as well as contextual underpinnings that influence civil society's approach to their mandates are also explored in order to provide an understanding of what influences the way civil society organisations approach transitional justice.

Chapter three will unpack the concept of 'narratives of violence'. In unpacking this concept, the chapter explores the importance of narrative in transitional justice and why certain narratives may prevail over other narratives in such contexts. The role of key events in shaping narratives of violence is also explored in this chapter as a means of setting the conceptual basis for analysing Zimbabwe's interactions with transitional justice over the years, which is done in chapter five of the thesis.

In Chapter four the methodology and research design of the study is outlined. Unpacking of the research problem and questions is also done, while the limitations posed by the methods applied to the study as well as the challenges encountered in using the selected methods are highlighted.

In Chapter five , using the critical path model for transitional justice developed by Lessa (2013) and Dumbl's (2016) analogy of 'transitional justice moments' outline the Zimbabwean state's

interaction with the concerns of transitional justice is given. Using key moments in the country's political life during the period under study, the chapter illuminates the context in which the transitional justice agenda in Zimbabwe is shaped.

Narratives of violence by civil society organisations under study together with some of the perceptions narratives by the experts interviewed for the study are made in chapter six.

Chapter seven presents depictions and analysis on how the transitional justice agenda has been shaped as well as reflections on the current transitional justice agenda are made in this chapter.

In conclusion, chapter eight brings together the findings of the study and conclusions drawn from the findings presented in the thesis. Recapping the findings of the research in response to the research questions is also done while reflecting on the limitations of the study and possible future research areas.

1.8. Conclusion

This chapter gave an outline of what the thesis will focus on, the context of the study, working definitions as well as the methods that will be used to answer the research questions. Concurring with Lessa (2013), the chapter contended that the thesis is grounded in the understanding that narratives of past violence cannot be separated from the decision about what mechanisms are put in place to deal with the past. Further, the chapter argued that the manner in which individuals and organisations within or outside the state interpret and engage with processes of dealing with the past can be influenced by the narratives they hold and are exposed to and this can have positive or negative implications long term peace. These arguments situated the thesis in a narrative world and justified the analysis of narratives as the phenomena of research as is dine in this study.

The chapter also gave context to the study by highlighting the history and patterns of violence in Zimbabwe. As outlined in the chapter, violence has been a consistent part of the electoral landscape of post-independence Zimbabwe and has been characterised by inter-party violence as state sponsored violence (Sachikonye 2011) and the latter has dominated the period under study. The research therefore does not focus on violence as a unique phenomenon in Zimbabwe's political landscape but as a recurring scourge and seeks to comprehend how understandings of this violence have led to the responses to deal with these violations.

An outline of the research design and methodology was also given in this chapter. The chapter highlights how *categorical content analysis*, will be used this study, through the review of reports, statement and other publications in the public domain Zimbabwe Human Rights Non -Governmental Organisation Forum (ZHRNGOF), The Zimbabwe Human Rights Association (ZIMRIGHTS), Zimbabwe Peace Project (ZPP) and Amnesty International-Zimbabwe (AI-Z) with specific focus on electoral violence. The chapter also outlined how expert interviews were carried out to capture opinions on the current narrative of transitional justice and its framing in Zimbabwe.

The central argument of this thesis is that narratives of violence cannot be separated from mechanisms put in place to respond to this violence. As will be shown in this thesis, narrative is a contested field and leads to contested mechanisms in which political muscle is key. Through engaging literature on transitional justice and narrative as well as capturing the hidden happenings in agenda setting, this thesis argues that beyond the narrative of violence, how to deal with the past will be decided by the politically powerful.

Chapter Two

Situating civil society in transitional justice: A Conceptual Review

2.1. Introduction

Transitional justice narratives have been shaped by the discourse on judicial versus non-judicial approaches as well as the truth versus justice debate to dealing with legacies of past violence. This chapter focuses on the former broader debates in which the latter can argued to fall under. Different political contexts have been identified as allowing either or both processes to take place. This chapter looks at the different meanings and understandings that have been ascribed to the concepts of transitional justice and civil society. This is done in order to understand how these concepts are used in this thesis as well as to allow for the unpacking of the understandings of the concepts as drawn from the empirical work of this study.

Transitional justice has always been the labour of civil society (Brancovic and Van der Merwe 2018) and this chapter explores civil society's interaction with the discourse and practice of transitional justice. This is done in order to draw understandings of the evolution of civil society in countries such as Zimbabwe, their strategies or approaches to transitional justice, as well as the limitations in shaping the agenda on transitional justice in such a context. By exploring the different approaches and competing interests of civil society actors in the transitional justice space, this chapter opens up the conversation about the role of narratives in determining the responses to violence as put forward by Lessa (2013). These interests and narratives often dictate how transitional justice processes are instituted, which goals are pursued, and which role players are at the forefront, as will be explored in this as well as later chapters of this thesis. In this spectrum of narratives and agenda-setting, civil society has become an important actor both in the shaping of narratives of violence and in influencing the setting of various transitional justice programmes.

Further, this chapter situates this research in the broader literature on transitional justice and the role of civil society within this realm. By reviewing literature that traces the history, goals and methods of transitional justice, the chapter highlights the changes in the narrative of transitional justice from focusing on its mechanisms and methods (Hoogenboom and Vieille

2009:2) to a narrative that acknowledges the need for a holistic approach that is cognisant of contextual variables that impact on these processes (Kagoro and Okello 2012).

While not the major focus of this study, the chapter also highlights the various conceptions of civil society and its role in transitional justice; globally, on the African continent and more specifically in the Zimbabwean context. In showing these links, the chapter seeks to situate civil society and transitional justice in Zimbabwe in the global and African frameworks while underpinning the uniqueness with which these concepts are understood and applied in the local context.

2.2. Understanding transitional justice

The focus of scholarly investigations into transitional justice as both a theory and practice has evolved over the years. It has transcended its original focus on the mechanisms of transitional justice such as truth commission, trials, and amnesties, among others (Hoogenboom and Vieille (2009:2), to broader debates about applicability in certain contexts and what kind of violence and injustice should be addressed by transitional justice. It has also delved more deeply into the sphere of understanding the implications of conflict and violence on individuals and communities, opening up the discussion of how different existing conflict resolution processes can be used to address past violence and the suffering it brings (see for example Benyera 2019).

Kent (2011:437) posits that "Transitional justice discourse is informed by an underlying narrative of 'transition' or 'progress' that implies a progression from an illiberal to a liberal regime, or from violence to peace". The study or enquiry into transitions is termed 'transitology' and Benyera (2019:1) describes it as a "sub-discipline which deals with communities in transition usually from dictatorships, genocides and war...[and] Transitology is efficacious in framing transitional justice". Benyera (2019:1) further notes that there are three basic components of transitology; firstly, a violent and abusive past where violations of human rights were committed, usually by those in authority; secondly, survivors and perpetrators and thirdly, an envisioned peaceful future. The question to be asked therefore is 'what is transitional justice?'

Transitional justice has various conceptions or definitions, some of which have been described as vague (see for example Lubina 2019). One of the conceptions is that of transitional justice is "a theory, a practice and a discipline" (Benyera 2019:4). This "theory, practice and discipline" is underpinned by central values that inform its different approaches. According to

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Kent (2011:437), transitional justice draws from the values of enlightenment, "reason, progress, improvement and redemption" and built on the idea of separation from the past and a distinction of the past and the present. In its expectations, transitional justice seeks to find national strategies to challenge the past in a manner that can aid society in moving towards accountability and restoring harmony between the state and citizens (Lubina 2019). Similarly, Lambourne (2009) contends that transitional justice involves a transformation in relationships, structures and institutions that enable violations, and concurring with Kent (2011) contends that it is both backwards and forward-looking, essentially dealing with what happened in the past in order to secure an envisioned peaceful future. Van der Merwe et al. (2009) also point to transitional justice as a societal process that is engaged in by a group of people affected by violence and repression. Hence, one factor that differentiates transitional justice from other forms of justice is the recognition of how violence and conflict affect society as a whole and the need to transform the systems that have contributed to this upheaval.

Following periods of violent conflict and autocratic rule, states and communities have to contend with how to move on from the past towards an envisioned peaceful future in the midst of providing redress for survivors and bringing perpetrators to account. Various approaches have been used by different states to deal with the past and secure the future. Examples include the Truth and Reconciliation Commission in South Africa to deal with the crimes of apartheid, the Special Court for Sierra Leonne following the end of the civil war, as well as the United Nations (UN) Security Council-established International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993, among others. These approaches applied in post-conflict societies have been referred to as transitional justice, a term that refers to a wide range of processes and mechanisms that support a society's attempts to come to terms with a legacy of past violent abuses (Machakanja 2010). This conception of transitional justice is used for the purposes of this thesis.

The term transitional justice became widely used following the adoption of processes to deal with gross human rights violations in Latin American countries, including Chile and Argentina, in the late 1980s and early 1990s (Arthur 2009; Andrieu 2010). However, such processes have been traced as far back as 2000 years ago during political upheaval in ancient Athens, as highlighted by Elster (2004). Other scholars such as Teitel (2003), in tracing the genealogy of transitional justice, point to the Nuremberg trials as well as the prosecution of the Mussolini regime in Italy as important historical occurrences in the shaping of transitional justice theory and practice.

Through various transitions, the theory and practice of transitional justice continues to evolve and has gained prominence as an important process for post-conflict societies to engage with in order to move away from a violent past. Some of the key developments in transitional justice have been international criminal tribunals, hybrid courts and the International Criminal Court (ICC), "the development of a 'right to truth' and 'right to reparation' under international law" Nagy (2008:275), the setting up of truth and reconciliation commissions (TRCs), policy and non-governmental organisations and scholarship on transitional justice. These processes have largely been centred on how to deal with the perpetrators of the violence, what is regarded as "the torturer problem" (David & Holliday 2006; Huntington 1991). This is a theme that is central in most post-conflict societies regardless of the mode of transition and is definitely one of the key questions in Zimbabwe's transitional justice discussion. The following section deals with some of the main debates in transitional justice theory and practice based on the need to address "the torturer problem" while considering the victims of the torturer, as well as implications for how the torturer is dealt with for peace.

2.3. The theoretical underpinnings of transitional justice

Transitional justice approaches to deal with the past include prosecution, compensation, truth-telling, creating accountable institutions and the rule of law, providing access to justice, and advancing reconciliation, among others (Lubina 2019:80). While all these processes seek to break with the past following autocratic rule or armed conflict into a more peaceful and inclusive dispensation, the focus is essentially on what to do about those responsible for the violence and ensuring that they are not in a position to cause such harm again. Arthur (2009:323), in the case of Argentina, for example, notes that,

> "The questions raised… were not only ones of justice: Whom to punish, by what authority, and on what grounds? What to do for victims and their loved ones? Rather, they were questions about justice and prudence: How to balance competing moral imperatives, reconcile legitimate claims for justice with equally legitimate claims for stability and social peace, and foster the relationship between justice for crimes of the past and a more just political order in the present".

This is never an easy task, given the many dynamics in such contexts, including power relations between those seeking to break away from the past and those seeking to maintain the status quo.

These dynamics determine what mechanisms can be applied in a transitional justice process. Whatever manner is chosen to deal with past conflict violence, Bass (2000:310) contends that "Justice, of a sort, will be done; the only question is whether it will be finely tuned or crude". In the event that justice is not seen to have been done through the formal legal international or domestic processes, there is a risk of revenge attacks by the victims and the generation of other informal processes that may not necessarily be within the confines of the law.

 Transitional justice scholars have often broken this down to two main options, retributive or restorative justice. In some instances, this has meant a choice between punishing or pardoning perpetrators of violence (Holliday 2011, 2014). This brings to the fore the debate over peace and justice and whether there can be peace without some form of redress for the crimes of the past, as contended by Lubina (2019:81):

> "On one side there are victims of the warfare or those repressed by the old regime (and their families), local and international NGOs, some international institutions and engaged individuals: they all demand justice', that is some 'form of accountability be imposed on the perpetrators of gross human rights violations and war crimes', citing accountability for the sake of victims, their survivors, society at large, deterrence and the (re)building of democracy and the rule of law… On the other side are those who advocate peacebuilding/peace-making in order not to make the conflict re-emerge or the transition to democracy reverse; they do not question the value of justice or accountability but warn that enforcing it may destabilise fragile post-conflict or under-transition states".

This analysis by Lubina (2019) captures the dilemmas of pursuing either restorative or retributive justice. In many contexts, as in the case of Zimbabwe, transitional justice becomes a battleground of various interests and narratives, including whether to pursue restorative or retributive justice.

Retributive justice has taken a largely juridical approach in which criminal prosecutions have been the central objective. Retributive justice is concerned with the establishment of the rule

of law and ensuring that perpetrators are held accountable for their actions (Carey et al. 2010). Retribution focuses on punishment and the imposition of penalties that are comparable with the crime committed (Amstutz 2006, Quinn 2005, Van der Merwe et al. 2009). One of the aims of retributive justice is to ensure that perpetrators are individually brought to justice through criminal prosecutions. Based on the retributive model of justice, the international community has pursued prosecutions through ad hoc international criminal tribunals, an international criminal court and joint domestic/international courts and war crimes tribunals (Lambourne 2009). At the domestic level, prosecutions have also been pursued through the use of domestic courts and laws.

Scholars who conceptualise transitional justice in its juridical form include Teitel (2003:69), who contends that it is "a concept of justice, intervening in a period of political change, characterised by a juridical answer to the wrongs of past repressive regimes". Retributive justice seeks to remove perpetrators of these crimes from society and act as a deterrent to would-be perpetrators, particularly in contexts where material reparations are not available as an alternative. In arguing in support of retributive justice, Bass (2000) argues that trials are the most effective way of dealing with collective crimes, because they remove those who might threaten the stability of the new government, deter future violators and provide knowledge and truth about collective wrongdoing, which is essential for the social and political well-being of the community.

Similarly, Stover and Weinstein (2004:12) assert that there is an assumption in the realm of post-conflict justice that "Trials as national ritual or performance are conceptualised as critical to reconciliation because the catharsis of truth-telling, along with the inscribing of national memories, will lead to a decrease in suffering and a renewed commitment to reconciliation". Also in support of retribution, Aukerman (2002:45) affirms that "Prosecution can certainly satisfy a society's demand for retribution in reaction to massive human rights violations". These assumptions designate that without justice, post-conflict societies are unable to reconcile and adequately move on and rebuild their lives. It is however important to note that in the short term, due to a number of reasons, criminal prosecutions of those largely responsible for this violence are not always possible in a post-conflict setting. This may be due to the limited capacity of the domestic legal system to deal with a large number of prosecutions, or mass opposition to such a process, which may threaten the stability of the new order (Bass 2000).

Further, as argued by critics of retributive justice, including Huyse and Salter (2008:3), "The outcome of a trial must be 'guilty' or 'not guilty'... However, during violent conflict the behaviour of perpetrators often falls into a grey area in which different forms of guilt and innocence are mixed. Child soldiers, forcibly abducted from their families and compelled to commit horrendous crimes in the course of the conflicts in Sierra Leone, Uganda and elsewhere, are a clear case in point. Courtrooms are not usually capable of the subtlety needed to deal with such complexities". Such complexities of criminal accountability also bring to the fore matters of moral responsibility, which cannot be determined under juridical processes.

Huyse and Salter (2008) argue that such grey areas need a more nuanced approach, including restorative approaches that are present in many cultures and traditions and allow for broader discussions on how to deal with such complex dynamics. Apart from the establishment of guilt, the other question that concerns societies emerging from violent conflict or autocratic rule is what to do about the victims. Haley (1996:3) argues that "The state and its criminal justice system cannot stand in as a fictitious surrogate for real people who have been personally afflicted by a crime. The debts offenders owe are not to an abstract entity called 'the state' but to the victims and actual communities". The state and its juridical processes from the above argument cannot be the only solution to dealing with "the perpetrator problem", as victims are often left out of such processes. In fact, retribution may not be what the victims seek, but rather other measures such as reparations and the restoration of relations within the community.

Repairing the damage done to the victims and attending to their needs rather than punishing the offender is at the centre of the restorative justice paradigm. The needs of victims of violence include the truth about the crime and restitution for damages incurred. Restorative justice is focused on the needs of the victim and the community rather than punishment of the offender (Zehr 2002). Clamp (2013:4) puts forward: "This allows offenders to take direct responsibility for their actions; assists victims in asking questions, seeking information and clarification from the offender and therefore moving beyond a position of vulnerability and powerlessness towards feeling that the moral order has been restored". Similarly, Zehr (2008:3) contends that

> "As a conceptual framework, restorative justice seeks to reframe the way we conventionally think about wrongdoing and justice: away from our preoccupation with lawbreaking, guilt and punishment, toward a focus on harms, needs and obligations. Restorative justice especially emphasizes the

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importance of the engagement and empowerment of those most affected by wrongdoing and uses a problem-solving approach".

These conceptions of restorative justice not only put the victim of the crime at the centre of the wrong that is done, but also the community in which this victim resides. This view of wrongdoing emphasises the collective harm of violence and human rights violations and this is an inherent value in many cultures and traditions, including many communities in Zimbabwe (see for example Murambadoro 2018, Huyse and Salter 2008).

Clamp (2013) puts forward four values that should frame any restorative approach, that is *engagement, empowerment, reintegration* and *transformation*, arguing that these values provide the opportunity for local actors to come up with their own contextually relevant processes to secure peace. Mechanisms that have been set up in pursuit of restorative justice include truth commissions, the memorialisation of conflicts and the victims of those conflicts. Restorative justice suggests, as argued by Johnstone (2013:1), that once the facts have been established about a crime, "priority should not be to punish the offender but to meet the victim's needs [and] … to ensure that the offender is fully aware of the damage that they have caused to people and of their liability to repair that damage". Hence, restorative justice in many ways brings the perpetrators to account for their crimes despite not seeking a commensurate punishment as with retributive justice.

While the notions of both restorative and retributive justice have their critics as well as advocates and are often viewed as being on opposite sides of the spectrum, these approaches often complement each other. These restorative measures are often seen as alternatives to punishment rather than alternative punishment (Daly 1999). As is exemplified in chapter seven of this study in a discussion with Webster Zambara, these processes can go on concurrently and restorative justice is not necessarily an alternative to punishment. The sanctions imposed through the institution of restorative justice should therefore be viewed as reprimands for the crime committed, while recognising and seeking to make amends for the wrong that has been done.

Increasingly it is becoming evident in the practice of transitional justice that this one or the other approach (retributive or restorative) has failed to address the needs of post-conflict societies. Instead, some scholars, including Kagoro (2012), are calling for a shift in the manner in which transitional justice is theorised and therefore the manner it conceptualises injustice and how justice ought to be served. Some of this work further recognises that the needs and

concerns of post-conflict societies do not only exist where there has been a change of regime or shift in political power, as previously assumed in earlier writings on transitional justice (see for example Chitsike 2009). Even without regime change, the need for some form of justice for victims of violence, including the need to see perpetrators punished, is a key contention that has the potential to destabilise a community coming out of conflict. Transitional justice mechanisms, especially in contemporary times, are being set up even without a change of government as well as during ongoing conflict.

These processes have been at the official government level as well as at the unofficial level, with civil society taking the leading role as in the case of Zimbabwe from 2003. Transitional justice mechanisms are also being set up during ongoing conflicts, as in the case of the Northern Uganda conflict (Iversen 2010). Hence, the concept of transitional justice only taking place where a "democratic transition" has occurred is fast changing into a broader response of dealing with impunity for gross human rights violations. The setting up of transitional justice mechanisms by governments who are liable for the violations that these mechanisms seek to address is also another development that has characterised the practice of transitional justice in recent years. Conditions under which "new repressive elites, and even old repressive elites who survive to rule and repress in nominally new systems" may choose to launch broad investigations of the past (Grodsky 2008:281).

Zimbabwe has fallen into this category with the establishment of the National Peace and Reconciliation Commission (NPRC) in 2013 and the Organ on National Healing Reconciliation and Integration (ONHRI) during the 2009 unity government, both overseen by political elites implicated in the violations that these institutions were to investigate. After the ousting of Robert Mugabe in 2017, the government represents an ostensibly new system with many of the same actors presiding over the NPRC, while the ONHRI was presided over by the same elites that had been responsible for the violence together with what Kriger (2012) views as a largely powerless former opposition. Grodsky (2008) contends that decisions to set up such institutions by these elites that are also culpable for the abuse is based on internal or external incentives such as foreign aid and the level of political influence enjoyed by past regimes over the new regime.

The pertinent question, therefore, as posited by Grodsky (2008:282), is, "Why should yesterday's oppressors open a broad public investigation into their own past?" The Zimbabwean perspective largely points to internal and external pressure as the push factors

behind instituting these mechanisms. The Southern African Development Community (SADC)-led mediation that led to the formation of a coalition government between ZANU-PF and the MDC formations presented an opportunity for the opposition to push for a transitional justice process (Mbire 2011, Masunda et al. 2019). It also provided for the tough negotiations for a new constitution that culminated in the 2013 document that also provided for the NPRC (Dzinesa 2012). While the NPRC provision had been made in the 2013 constitution before the deposition of Robert Mugabe, it was operationalised by the regime that succeeded him only in 2018 having run much of its proscribed ten-year tenure. It is not clear what the incentives for this may have been, however given the initial optimism surrounding the new government, it may have been part of its project to spruce up its image and garner international support. Certainly, what is clear is that the "nominally new" regime in Zimbabwe that eventually signed the NPRC bill is firmly entrenched in the old regime, as will be discussed further in chapter five of this thesis.

The question of the independence and effectiveness of these mechanisms set up by political elites responsible for the violations then comes to the fore. Some scholars, including Bamu (2008) and Muvingi (2009), argue that in the case of Zimbabwe in particular, instituting transitional justice mechanisms without a complete change in regime is not possible due to resistance from the political elite who are liable for many of the violations. The case of the ONHRI and NPRC have been proof of this and this is discussed further in chapters five and seven of this thesis. The failure of the state-led processes has led to informal processes set up by various civil society organisations at the local community level as well as through engaging the formal systems of justice and challenging impunity through civil suits (Munyaka 2016). While it is debatable whether or not these processes can be called transitional justice processes, what is clear is that they have shaped the understanding of transitional justice in Zimbabwe, as well as how the national processes have evolved, as will be discussed further in this thesis.

The question of elite institutions of transitional justice bring to the fore issues of diverse interests in the instituting of transitional justice. It becomes a case of whose transitional justice is being instituted, why it is being instituted and the timing of the processes or debates about the processes. Nagy (2008:275) categorises this dilemma as "when, to whom and for what transitional justice applies". The following section explores some of these contentions in the plan for transitional justice.

2.4. Debates on transitional justice

Having discussed the theoretical groundings of transitional justice in both retributive and restorative justice traditions, this section highlights some of the contentions in its grounding in the values of liberal peace, including human rights, international law and a peacebuilding approach that is rooted in the building of liberal states. These debates allow the research to situate civil society in this notion of liberal peace and trace its claim to transitional justice as an agenda.

Transitional justice work is never a process where homogenous interests and goals are pursued. Transitional justice is often pursued in contexts where a number of harsh realities of post-conflict situations are at play, including deep divisions between and among different groups. As potently put by Kagoro and Okello (2012:7-8),

> "In Africa when transitional justice meets the messy reality of centuries of colonial domination and exploitation, decades of plutocratic and kleptocratic rule, deeply held pathologies that are anti-national, notorious ethnic chauvinism and gender and class apartheid, we must ask the following irreverent questions: transition from what state (economic, social, political)? Whose transition? Can the justice needs of a community that has survived genocide and near annihilation ever be transitional?"

These key questions remain largely unaddressed in transitional justice theory, although more scholars (see for example Kagoro and Okello 2012; Lambourne 2009) are calling for a more holistic and context-based approach to transitional justice that is cognisant of the realities presented in each society rather than a one-size-fits-all approach. As argued by Boesenecker and Vinjamuri (2011), this is rooted in normative contestation over which strategy to apply in dealing with past atrocities and in which context. The challenges outlined by Kagoro and Okello (2012:7-8) have been argued by scholars such as Benyera (2019) as being grounded in transitional justice's rootedness in the norms of liberal peace. Benyera (2019:1) argues that "The main problem is the marriage of transitional justice to Western liberal notions such as the rule of law, liberal democracy and development…" This assumes a state moving away from the history, experiences and structures of violence expressed by Kagoro and Okello (2012) into a democratic dispensation. Hoogenboom and Vieille (2009) contend that when a state's transition is assumed to be a move towards liberal democracy, the supposition is that its history

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and culture do not matter and are grounded in the idea of cutting ties with an illiberal past completely and utterly. However, as seen in the analogy by Kagoro and Okello (2012), the reality on the ground has been far from this as societies and their history, culture and traditions are inextricable.

Gready and Robins (2014:341) contend that "The liberal peace in which transitional justice is embedded emerges from two dominant strands of contemporary globalisation. The first strand privileges liberal paradigms of civil and political rights through an emphasis on elections, procedural democracy, constitutionalism and the rule of law and various backward-looking truth and justice measures". Seeking a clear demarcation between the past and the envisioned liberal democratic future have created tensions in the practice of transitional justice in contexts such as Zimbabwe, where communities still rely on their historic and cultural roots to resolve conflicts but are constantly tied down with outside norms and processes as means of addressing their conflicts. Tailor-made transitional justice programmes may make it difficult to tap into this history and culture, which may help in unpacking the root causes of the electoral violence as well as other forms of political violence in the country.

As argued in Richmond and Mac Ginty (2015), liberal peace is focused on power relations in which Western power and knowledge are held in higher esteem than that of other political and geographic spaces. These power relations can be based on claimed knowledge of the theory and practice of transitional justice by civil society actors; hence the imposition of these on communities (a "we-know-what-is-best-for-you" approach). The question then, as noted by Richmond and Mac Ginty (2015), is what kinds of peace can be achieved with different forms of power relations as opposed to those provided by liberal peace.

Gready and Robins (2014:340) put forward transformative justice as an alternative that can bring about an alternative to liberal peace and contend that "It is a concept that can clearly be applied anywhere and at any time to address concerns such as structural and everyday…" Further Gready and Robins (2014:340) note that "Transformative justice is defined as transformative change that emphasizes local agency and resources, the prioritisation of process rather than preconceived outcomes and the challenging of unequal and intersecting power relationships and structures of exclusion at both the local and the global level". Transformative justice is therefore seen as a key to changing power relations between norms, practices and actors. In Zimbabwe, key debates on transitional justice have largely centred on the human rights-based understandings of violence drawn from the campaigns from a civil society that

has largely taken on the norms and values of liberal peace and governance with the foreign funding that comes with it as a means of pushing for the transformation of the state. While this is discussed in more detail in later sections of this chapter, the following section captures some of the key debates in the human rights and transitional justice nexus.

2.5. The human rights narrative

While the connection between human rights and transitional justice can be drawn from the human rights-centred policies enacted at the end of repressive rule in Latin America and other parts of the world, Mégret and Vagliano (2017) argue that the link between human rights and transitional justice is not immediately clear. Mégret and Vagliano (2017) contend that this link can largely be drawn from international human rights law, which obliges states to investigate and prosecute past human rights violations. International human rights law dictates that states have an obligation to act on human rights violations committed in their territories. These obligations under the UN system have also been countered by the rights on the victims to truth and reparations (Mendez 1997). These responsibilities were documented in documents such as the Joinet principles.

The principles against impunity were initially formulated by Louis Joinet in a final report on the administration of justice and the question of impunity to the UN Sub-Commission in 1997. They were revised by Diane Orentlicher in 2005 and became known as the "Joinet/Orentlicher' principles Sisson (2010). Sisson (2010:13) contends that some of the importance of the principles is "… the fact that they are based on the precepts of state responsibility and the inherent right of redress for individual victims of grave human rights violations". As is shown in chapters six and seven of this thesis, these principles have largely been the initial basis for which the state's performance in this regard have been measured by international bodies as well as local civil society, as in the case of Zimbabwe.

Such principles have however been criticised for their narrow conception of violations, thereby shaping transitional justice processes in ways that do not necessarily deal with the root causes. Nagy (2008) argues that transitional justice has been shaped to deal with specific crimes and specific sets of actors, thereby limiting the understanding of violence, limiting the timeframes that can be looked at, as well as excluding certain actors from the process. Where violence is understood as human rights violations and violations of international law, they are basically

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understood as crimes for which commensurate punishment should be given. This approach is referred to in later parts of this thesis as 'human rights-based justice'.

The state is obliged to provide redress to the victims through its institutions and therefore the agenda for transitional justice from such understandings should be the punishment of the offenders. An example of this is given by Arthur (2009), who states that the violence that had occurred during the rule of authoritarian regimes in South America was understood as human rights violations for which perpetrators needed to account, while balancing this with something being done for the victims. This may have been because human rights activists had taken the lead in advocating for an end to authoritarian rule and when these regimes fell, they immediately had to shift their activism towards redress for it (Arthur 2009; Zalaquett 1990). A similar argument can be made in the case of Zimbabwe, where these campaigns have been going on almost simultaneously in which human rights-based civil society is calling for an end to state-sponsored human rights abuses and in the same vein calling for transitional justice. In Latin America, this approach seems to have gelled well with the policies of the incoming regimes, which also took on a human rights perspective, as in the instance of Argentinean President Alfonsín's policies following the demise of the military junta (Arthur 2009). In Zimbabwe, this approach has not been as rewarding, as seen in discussions in chapters six and seven of this thesis.

Olsen et al. (2010:982) contend that there are four main theoretical approaches to human rights and transitional justice, which are a "*maximalist, moderate, minimalist, holistic*" approach to dealing with legacies of past violence. The *maximalist* approach aims at a completely retributive, perpetrator-centered, judicial line to dealing with human rights violations. This approach, which falls under the retributive tradition of justice, is concerned with the establishment of the rule of law and ensuring that perpetrators are individually held accountable for their actions (Carey et al. 2010). The *moderate* approach seeks to find a balance between bringing the perpetrators to account while taking being cognisant of the needs of the victims. It takes a restorative approach that is victim-centered while also bringing the perpetrators to account (Olsen et al. 2010). This approach falls under the restorative tradition of justice. However, framing these processes as *moderate* may also depend on what is *maximalist* and what is moderate in terms of the framings of justice in any society. In other words, what is deemed as satisfactory in any approach to transitional justice may differ significantly in different contexts in accordance to the needs of the society as well as their understandings of justice. It is however important to note that under the human rights discourse of transitional

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justice, these considerations are often irrelevant, as what to do about the perpetrators boils down to the law and due process rather than restoring relations and social harmony. Different understandings of justice are not taken into account, but instead a strict legal framework is adhered to. Hence the restorative processes often fall away under the human rights narrative.

The *minimalist* approach is averse to accountability and leans towards amnesty and moving forward without dealing with the past (Olsen et al. 2010). This approach makes use of either de facto or de jure impunity or both. Impunity, according to Redress Trust (2006:22), is "a concept wherein those that perpetuate human rights abuses are not held to account or are somehow held to be 'above the law'". Human Rights Watch (2011) defines de facto impunity as "impunity [which] takes place when the state fails to prosecute human rights abusers due to lack of capacity or political will… [And] De jure impunity occurs when laws or regulations providing immunity or amnesty extend and strengthen the impact of de facto impunity by limiting or making it impossible to prosecute a perpetrator for human rights abuses". It is both these types of impunity that human rights-based civil society groups have been fighting to end through different forms of activism and campaigns.

De jure impunity has been established in Zimbabwe through the passing of official amnesties following periods of politically motivated violence. Clemency Order No. 1 of April 18, 1988 was issued for the crimes committed during the *Gukurahundi* genocide (Human Rights Watch, 2011). Other official amnesties by the state following electoral violence, which include the Clemency Order (1) of 1995, which officially pardoned those who perpetrated the politically motivated beatings and destruction of property during the violent 1995 elections; including those who had been convicted for these crimes, as well as Clemency Order (1) of 2000, which was also declared following the violent and disputed 2000 elections (Chabvuta, 2006; Eppel, 2004).

Following the 2008 electoral violence, General Notice 85A/2008 Clemency Order No. 1 of 2008 covering the period between March 29 and June 16, 2008 was also passed (Human Rights Watch, 2011). It provided amnesty for violations such as torture and abductions and excluded murder, rape, and fraud. Despite the exclusion of murder, rape and fraud from the amnesty, very few cases were prosecuted, largely due to inefficiencies in the justice sector and the lack of political will to do so. More recently, following the November 2017 military intervention in Zimbabwe, unofficial pronouncements have been made inclining towards a *minimalist*

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approach to human rights violations and other crimes committed during the last presidency. It remains to be seen how this will evolve at a policy level.

 A *holistic* approach aims at balancing the different approaches and mechanisms to dealing with past human rights violations (Olsen et al. 2010). The holistic approach is increasingly being advocated for by scholars (see for example Kagoro and Okello 2012) as a means of securing sustainable peace by being cognisant of context and history and moving away from prescriptive measures and approaches. Advocates of a rounded approach to transitional justice have emphasised a need to move away from a solely human rights-based analogy of conflict and instability into broader understandings of the challenges that lead society to violence (see for example Kagoro and Okello 2012, Nagy 2008). Kagoro and Okello (2012:15) contend that sustainable transitional justice should be comprehensive, allowing for the punishment of offenders while taking the needs of victims and the broader society into consideration. Hence, addressing human rights violations cannot be the sole goal of transitional justice; instead, the goal should be to address a wider range of concerns, including social and economic injustices.

The emphasis on juridical processes in the human rights-premised notion of violations has been one of the key criticisms of transitional justice as a means of dealing with past conflict and repression. Kagoro and Okello (2012:7) for example argue that "As jurists and academics we are predisposed to assume… that juridical forms and processes are the sine qua non of the struggle to end impunity… However, these are mere tools and approaches to legal social engineering that must recognise the messiness of reality…"

On the one hand, some scholars (see for example Olsen et al. 2010) contend that transitional justice has strengthened human rights and democracy in post-conflict societies where the correct combination of measures have been applied. On the other hand, a human rights-based approach to transitional justice has been argued to have had negative implications in some instances, for example Mégret and Vagliano2017:1, who contend that "In general, human rights have served as both an impetus for undertaking transitional processes, as well as a constraint on legitimate judicial and extrajudicial measures available to post-transition governments". These negative implications have stemmed from a focus that has largely been on civil and political rights while neglecting other categories of rights and understandings of injustice. This has been a challenge in the shaping of a narrative of electoral violence in Zimbabwe, particularly by civil society, as seen in chapters five, six and seven of this thesis. Chirimambowa and Chimedza (2014) argue that a sole focus by civil society on human rights

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demands lacks a holistic understanding of the structural causes of political violence in Zimbabwe.

Focus on juridical measures has supported this approach to transitional justice (Kagoro and Okello 2012; Megret and Vagliano 2017; Olsen et al. 2010). The imposition of uniform requirements for transitional justice without being aware of the diverse needs of each post-conflict society has led to some scholars (see for example Lambourne 2009) advocating for a peacebuilding approach to transitional justice. The peacebuilding approach to transitional justice is viewed as a more holistic approach to transitional justice instead of focusing solely on human rights concerns (Lambourne 2009). However, it is important to note that that these ideals of justice and dignity embodied in the human rights discourse have also significantly framed and provided the normative base for the liberal peacebuilding approach, which is discussed further in the following section.

2.6. The liberal peacebuilding narrative

Scholarly debate has been divided between those who see transitional justice as adding to the liberal peacebuilding processes in post-conflict societies and those who argue that it has its roots in the liberal peacebuilding paradigm (McAuliffe 2017). However, there is consensus among most mainstream scholars that "transitional justice is a core component, as opposed to a merely marginal aspect, of the liberal peacebuilding enterprise" (McAuliffe 2017:91). According to Andrieu (2010:539) citing the UN (1992) notes that "peacebuilding comprises a wide range of political, developmental and humanitarian programmes, as well as several mechanisms to prevent the recurrence of violence: promoting democracy, eradicating poverty, ensuring sustainable development and a culture of the rule of law". Peacebuilding is also defined as "action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse of conflict" (Curtis 2013:81). The focus of liberal peacebuilding is on institutions and structures rather than on the individuals that make up these institutions.

Zambakari (2017) argues that there are two schools of thought within the liberal peacebuilding framework: i) that violence and instability are rooted in failed or fragile states and are ii) a result of the failure of nation-building and statebuilding. Both schools subscribe to the idea that stability and peace are brought about by statebuilding, or the formation of liberal institutions of the state. Curtis (2013:80-81) describes statebuilding as a subcomponent of peacebuilding

that encompasses "action to build and strengthen political, administrative and government institutions". Transitional justice in its conceptions assumes the availability of a democratic developmental state that will support and enforce reforms (Andrieu 2010) and it has become an "apparatus within the wider peacebuilding 'package', as confronting the past is considered essential to building a culture of human rights, reforming a state's institutions and rebuilding civil society after mass violence" (Andrieu 2010:539-540). This would be the agenda of transitional justice where violence is seen as a failure of the state or nation-building.

According to Lemay-Hebert (2013:2), "Liberal peace refers here to the idea that certain kinds of society will tend to be more peaceful both in their domestic affairs and in their international relations than 'illiberal' states… building peace on the basis of liberal democracy and market economics". The components of liberal peacebuilding vary in each context but usually include the promotion of democracy, rule of law, good governance, human rights, economic reform and privatisation (Lemay-Herbert 2013; Richmond 2013). Liberal peacebuilding typically happens with the support of intergovernmental organisations such as the United Nations (UN) through multilateral agreements on "supporting democratisation, a rule of law, human rights and civil society as a form of governmental power" (Richmond 2013:379). Transitional justice, in its normative aspirations of impartiality, development and established international norms, is increasingly being linked to the liberal peacebuilding framework. This liberal framework has become the benchmark against which past injustices of state actors could be judged (Teitel 2003). For this reason, transitional justice has become part of the broader peacebuilding framework. Despite this link between the ideals of liberal peacebuilding and transitional justice, many transitional justice scholars have not situated their research in a peacebuilding context, focusing instead on human rights concerns and legal procedures (Lambourne 2009:2).

The focus for both liberal peacebuilding and transitional justice is largely on institutions that are seen as key in sustaining stability and peace. Andrieu (2010:538) contends that "It [transitional justice] affirms that successor governments must build institutions that will seek justice for past transgressions, while showing their commitment to good governance in the future". Hence the non-recurrence of conflict through the strengthening of institutions that enable the rule of law are key components of both peacebuilding and transitional justice. However, scholars such as McAuliffe (2017:21) contend that while the goals of transitional justice concur with those of liberal peacebuilding, it [transitional justice] is not of decisive importance to the non-recurrence of conflict in the way that "democratization, rule of law or security sector reform" are. The creation of a hierarchy of components to be prioritised in post-

conflict contexts is problematic, as this differs in each context. This prescriptive approach to both peacebuilding and transitional justice has been criticised and noted as causes of the failings of both approaches respectively (see for example Kagoro and Okello 2012; Richmond 2013). Other critiques of the peacebuilding approach such as Chandler (2010) argue for a shift from elitism and conservatism, which focus only on stability through securitisation and regulation of the political environment, to a more holistic approach.

There has been growing criticism of the liberal peacebuilding approach and as noted earlier in this chapter citing Benyera (2019), its marriage to transitional justice has been deemed detrimental to dealing comprehensively with past legacies of violence. Richmond (2009: 324) contends that "Liberal peacebuilding has often offered resources to an elaborate structuration of sometimes predatory elites international and local but not to the general populations of these multiple states. Institutions have been created, but the reach of liberal politics has had little impact other than in basic security and in rhetorical, rights-oriented terms on the everyday life of populations". The failures of liberal peacebuilding to reach the ordinary citizens has perpetuated top-down approaches that exclude the local on the perception that the local is disorganised and does not embody the liberal values of human rights and free markets (Richmond 2009).

Another criticism of liberal peacebuilding is its conception of the state in the "Western" model. For Siba Grovogui, as cited in Zambakari (2017: 1), "there is an epistemological failure about the nature of the state that is derived from the peace of Westphalia in 1648 and the post-colonial African state". This argument brings to the fore the critique earlier in this chapter by Kagoro and Okello (2012), which highlights the challenges faced when transitional justice that is rooted in the values of liberal peace meets with the realities of the African state that has been ravaged by centuries of violence and oppression. Unfortunately, as argued by Zambakari (2017), the failings of African states to meet the requirements of liberal peace are simply dismissed as the inability to live up to the requirements of the sovereign state without questioning the application of uniform requirements for contexts that are historically and culturally different.

In line with this cautionary view, McAuliffe (2017:91) contends that "transitional justice exemplifies an ineluctable trend towards a form of liberal governmentality in which democracy and market economics represent the most efficacious route to peace, to the exclusion of redistribution and equality". Similarly, Kagoro and Okello (2012) also argue against a single perspective of justice that neglects different understandings of harm and further neglects the

agency of those on which these notions of justice are imposed. McAuliffe (2017:91) further warns against "*ceremonial conformity*", where the norms of liberal peacebuilding are adopted for window-dressing purposes and for "normative and reputational benefits for its [the successor government's] legitimacy", without genuine strides being taken to fulfil the obligations.

As can be seen from this discussion, thinking about the liberal peacebuilding narrative is shifting through a growing literature that considers the importance of local agency in restoring peace to conflict-ridden communities and in ensuring the non-recurrence of these conflicts (see for example Kagoro and Okello 2012; Nagy 2008; Richmond 2013). The peacebuilding narrative is therefore littered with ruptures emanating from failure to reconcile the normative aspirations of the discourse with the realities prevailing in most post-conflict societies. The failure to contextualise the post-conflict state with its history of colonialism, exclusion and violence (Kagoro and Okello 2012) have been key to these ruptures in the narrative of peacebuilding. However, continuities in this narrative can be seen in the manner in which peacebuilding initiatives as well as transitional justice initiatives continue to be shaped by the norms of liberal peacebuilding and a Westphalian understanding of the state.

The growing role of civil society in peacebuilding and transitional justice is evidence of such continuities, as will further be discussed in this chapter. Despite this indictment by some scholars (see for example Richmond 2013), the liberal peacebuilding approach continues to be central to post-conflict processes and in particular to the practice of transitional justice. For the purposes of this study, it is important to draw this link between the norms of liberal peacebuilding and those of transitional justice, as the former have been the basis on which mechanisms have been and continue to be shaped in various parts of the world.

From the discussions in chapters six and seven of this thesis, it appears that Zimbabwean civil society's understandings of violence and framing of requisite responses to electoral and other forms of politically motivated violence have been centered on the values of liberal governance. This has shaped the narratives of violence that have emerged from civil society and therefore the agenda for transitional justice in Zimbabwe. The implications of this approach for the shaping of the transitional justice agenda are discussed further in the following chapters of this thesis.

It is important to understand where this privileging of liberal norms in civil society emerges from and how it centres their work. The following section seeks to capture how civil society has interacted with the transitional based on the values and norms that underpin their existence.

2.7. Civil society and transitional justice

In order to understand the interaction between transitional justice and civil society, it is important to define it in a manner that is cognisant of context and history as factors that play an important role in shaping civil society. The definition and conception of civil society has evolved and continues to do so, from the enlightenment thought (or modern natural law theory), to the post-enlightenment political thought of Hegel and Marx to contemporary civil society theory (Fine 1997). Subsequently, so have the range of activities that are accepted or deemed appropriate to be performed by, on the one hand, spheres of the state, and on the other hand those outside the state (Güneş-Ayata 1994). The term civil society is used to refer to a contested realm in the political space that has been the subject of debate by its advocates and critics alike.

Edwards (2009:3) describes the concept of civil society as "a chicken soup of social sciences". The concept is described as so broad that it can be used to express almost any idea (Van der Aa Kühle and Hörmann 2010). Fine (1997:7) argues that "The contemporary world of social theory is largely divided between skeptics and the faithful: those who reject the concept of 'civil society' as a fraud, illusion or analytically too imprecise to be useful; and those who privilege it as the normative ideal and theoretical pivot of contemporary political philosophy". Civil society is therefore conceived as a norm as well as from a more empirical perspective.

However, this is seldom done from an integrated point of view that seeks to link norms and practice (Backer 2003). As posited by Howell and Pearce (2001:2), "the constant slippage between civil society as a normative concept and civil society as an empirical reality conceals the intense, ongoing debate about its meaning and enables donors to fund 'civil society' as if it was a given". This debate about the meaning and role of civil society is increasingly being fueled by this contention around funding, which is seen to take away the agency of local civil society and pushing for the encroaching into the space of the state by these groups. This has been a key debate in terms of the role of civil society in pushing for transitional justice, where external funding and interests have been seen as entering the space of the sovereign state. This issue has been a key contention in Zimbabwe's transitional justice debate. While this thesis does not delve into these contentions about civil society, it contends that civil society in its

many formations is an important domain that continues to shape the public sphere at varying levels.

There have been numerous conceptions of the term civil society in literature across different disciplines, including political science, development studies and economics, among others. Various conceptions that emphasise different key aspects and historic origins have been developed by various scholars (Seligman 1995). In this vast body of work, the idea of civil society has become "a historical/analytical concept as well as an ethical idea, in addition to serving as an ideological slogan", which is an invention of the history of both Western Europe and European ideas (Seligman 1995:201).

Bratton (1994:4) contends that civil society is distinguishable for being apart from the state and not the same thing as a political society, which seeks political power. Van der Aa Kühle and Hörmann (2010) argue that the difference between civil society and the state is that the state exercises their powers over society, whereas civil society is the sphere where citizens either accept or reject the government's decisions. Acceptance of government policies is usually seen through complementary work and partnerships with the state and disagreements through lobbying and advocacy for change. Fine (1997) argues that the thesis of civil society should capture a system of needs; a system of rights and non-statal association. This concurs with the view that civil society as a sector is generally conceived as the occupation of the space between family, market and the state (Gray, Bebbington & Collins 2006). Therefore, civil society relates to how communities outside the structures of the state voluntarily organise to promote or discourage particular ideas (Ndou 2016). Civil society organisations include community groups, NGOs, labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and foundations (World Bank 2014).

Fine (1997:9) argues that "civil society theory places civil society on the side of *agency, creativity, activity, productivity, freedom, association, life itself*". To describe the economic and political system, civil society theory uses the terms "*conformity, consumerism, passivity, privatization, coerciveness, determination, necessity*". From Fine (1997)'s assertions, this would put the state at the opposite side of the spectrum, where there is the absence of agency, creativity, freedom and conformity, among other traits raised. This manner of analysing civil society theory essentially puts the state and civil society at odds and is part of the shaping of the relations between these two spheres.

Sachikonye (1995:9) maintains that "Civil society does not exist independently from the state, there is an inter-penetration between the two… Civil society is situated in the rules and transactions that connect state and society". This space is therefore blurred and must be negotiated by the various groups in a polity. However, the notion of agency and privatisation in civil society has somewhat created an illusion of an all-powerful civil society outside of state control and regulations. This has led to tussles for power and influence that also impact the relationship between the state and civil society. Civil society has been conceived as not looking to "win state control, power or positions, but persuades the state concessions, benefits, policy change, institutional reforms, redress, justice and accountability" (Ndou 2016:33). Therefore, civil society must exclude those that vie for power in government office. However, as will be reflected upon in this thesis, actors in civil society have straddled both spaces, at times leading to the questioning of roles in the political sphere.

This thesis uses the term civil society from the standpoint of an associational model. This refers largely to local and national civil society organisations and non-governmental organizations (NGOs) as opposed to international organisations (Duthie 2017). These civil society organisations are what Martens (2002:282) defines as "formal (professionalised) independent societal organisations whose primary aim is to promote common goals". I select this categorisation of civil society, as this is largely the character of civil society organisations in Zimbabwe working in the field of human rights and transitional justice. While one of the organisations selected for this study is an international organisation with a local office and secretariat specifically monitoring the situation in Zimbabwe, it largely falls into the category of these organisations described by Martens (2002), as will be discussed in chapter four of this thesis. This conception of civil society is also selected because it is widely used in the literature on transitional justice. However, this conception has been challenged by scholars such as Gready and Robins (2017), who contend that a 'new civil society' of social movements that have driven democratisation in various parts of the world is being left out of the discussion on transitional justice, thereby limiting its understanding. While recognising the many nuanced ways in which civil society is conceptualised, using the associational model is a useful starting point for the study of state civil society relations and transitional justice in Zimbabwe as it best depicts the Zimbabwean context.

2.7.1. Civil society in Africa

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Having defined how civil society is conceived in this thesis, this section situates Zimbabwean civil society and its development in that of other parts of the African continent. This is done in order to show linkages between developments in the rest of the continent with those in Zimbabwe, as they are inextricably linked.

Several scholars have been engaged in debates about civil society in Africa, including Bratton (1994), Makumbe (1998) and Chabal and Daloz (1999). The very existence of civil society in Africa has been one of the key deliberations that have been part of this work. A contextual understanding of civil society in Africa has been one of the key arguments made by scholars on African civil society, including Mamdani (1996), who argues for the moving away from a historic perspective of understanding civil society in Africa, which he contends is typically vague and nonconcrete. Similarly, Bissell (1999) argues that any attempt to understand civil society in Africa that fails to take into account the implications of colonialism fails in illuminating the African reality. Such failures, Bissell (1999) further argues, are among the reasons why African states are often seen as failing to measure up to the liberal democratic standards that prescribe a strong civil society as necessity for a stable polity. This thesis seeks to work from a contextual understanding of Zimbabwean civil society, being cognisant of how context has shaped its development and its response to state violence in particular.

As already highlighted in this chapter, civil society in Africa has often been viewed as a complex notion, with some scholars, including Chabal and Dalos (1999), arguing that civil society does not exist in Africa due to its numerous entanglements with state. However, scholars such as Makumbe (1998) contend that such scholars do not take into consideration the pre- and post-colonial histories of African countries, which created a different relationship to the state as opposed to those in other parts of the world. Bratton (1989) notes that public standards of ethics in Africa are derived from values of economies of affection rather than from the universal values in constitutional law and bureaucracy. Hence, perceived entanglements with the state are rooted in different notions of what relations between those in authority and those subjected to this authority ought to be. Further, assumptions of an absence of popular participation in issues of governance in pre-colonial Africa are among the reasons why a liberal democratic perspective of civil society is seen as the saviour for the "dark continent" (Cammaroff and Cammaroff 1999; Makumbe 1998). This perspective neglects the difference in systems of governance in pre-colonial Africa, in which leaders were born into a ruling family rather than elected. However, within that system, institutions curbing the abuse of power and authority existed (Makumbe 1998).

States are often ranked according to their level of civic development with a bourgeoning civil society as its hallmark (Kasfir 2013). This has given civil society organisations power to advocate for various interests and to become significant political actors, albeit not without some strain in their relationship with the state. Civil society in Africa has had a complex relationship with the state, partly due to their history of struggles against colonialism and the struggles for democratisation in the post-independent era respectively. Contemporary civil society in post-colonial Africa has largely been associated with the latter struggles, particularly the precedent of the one-party state in Africa (Makumbe 1998). Civil society, together with opposition parties, challenged the one-party state, putting it at odds with the state that had previously successfully co-opted civil society into its structures (Masunungure 2014, Makumbe 1998). This precedent across many African countries, including Zimbabwe, has shaped state-civil society engagements and are among the key developments that are discussed in this thesis.

Campaigns for liberal reforms have yielded changes in regimes in some countries, including what has commonly been referred to as the 'Arab spring' in North Africa, painting civil society as key political actors (Gready and Robins 2017). Such revolutions, as noted earlier in this chapter, have in a short time changed the role of civil society from advocates of liberal reform to advocates for redress for the past regime's crimes. They have also changed the role and perceptions about the role of civil society. Increasingly, civil society is viewed as a threat to autocratic regimes and heavy-handed approaches have been used by the state to stifle civil society activities. In Zimbabwe, as is discussed in the following section, state-civil society relations have been largely less than amicable, particularly with those organisations in the governance and human rights space (Sisulu et al. 2009).

While forging a relationship of cooperation between civil society and the state has been argued to be the key to the attainment of liberal democracy and stability on the continent (Zhou 2014), this is not always the norm, as will be shown in the context of civil society in Zimbabwe. This paradigm imagines a state that is accountable and open to participation of all citizens, with civil society as a key partner (Hearn 2001). The different contexts in which civil society operate determine the extent of this cooperation.

Having situated Zimbabwean civil society in the debates on civil society on the continent, the following section situates civil society in transition justice discourse and practise.

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2.7.2. Situating civil society in transitional justice

Civil society has played an important role in shaping the discourse and practice of transitional justice and this has made it an important actor in this space. Crocker (1998) has described the role of civil society organisations in transitional justice as largely complementary to the activities and mechanisms put in place by states and international agencies and rejects the notion of parallel transitional justice activities between the state and civil society. Data collection and monitoring, advocacy and representation, collaboration, facilitation as well as consultation are some of the roles of civil society identified in the work by Backer (2003) and Crocker (1998).

Similarly, Andrieu (2010:550) posits: "Civil society's role in transitional justice is… multidimensional. It can act as innovator, facilitator, temporary substitute, educator or critic". These "modalities for civil society interaction", as put by Gready and Robins (2017:957), have been the basis on which civil society has interacted with transitional justice in different contexts with the extent of interaction being determined by local dynamics. Civil society, particularly within the peacebuilding narrative, is assumed to be a powerful source of democratisation and empowerment and "understood to be the source of the liberal civic peace…" (Christie 2012:22). This literature and understanding of the role of civil society in transitional justice has been dominant despite many transitional justice scholars not situating their analysis within the peacebuilding framework (Lambourne 2009).

Gready and Robins (2017:4) have come up with a framework for how civil society interacts with transitional justice and contend that "Approaches that limit their understanding of civil society to (human rights) NGOs typically envisage such interaction as based largely on an externally codified normative framework, and rooted in an engagement with the state as duty-bearer". This understanding of the interaction between civil society and transitional justice has proved incompatible with realities on the ground, in particular in contexts where the state has reacted adversely to this human rights-normative standpoint. For this reason, a context-based version of justice and rights and how these can be attained is continuously being framed by civil society (Gready and Robins 2017).

The strategies advocated for and employed by civil society have been shaped in part by the theoretical underpinnings of these civil society groups as well as the environment in which they operate. The involvement of civil society organisations and their role as major actors in

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transitional justice processes are linked to both the neoliberal and human rights frameworks that advocate for civil society participation in the broader political context, but more so in the latter.

Zimbabwean civil society has played these multiple roles as campaigners for transitional justice, putting forward proposed solutions to dealing with the country's legacies of past violence, as well as educating communities about the options they have for redress and giving a platform to those previously silenced victims of the country's legacy of violence (Munyaka 2016). Hence civil society's interaction with transitional justice has been in the shape of interaction with the formal institutions of the state, as well as in instituting parallel processes of transitional justice. The latter has largely existed where there exists what Crocker (1998) calls the anti-government approach, which emphasises civil society's freedom from state influence and domination. The anti-government approach implies a civil society whose processes are parallel to those of the state and government, which would pose challenges in a transitional justice setting, where the state should provide institutional and material resources for mechanisms of redress. Crocker (1998:501) however critiques this approach to civil society in relation to transitional justice and argues that "it neglects the myriad ways in which government and non-governmental groups can work together and supplement each other's efforts… Government and civil society need not be at odds, and each can contribute something important to democratisation and transitional justice". In transitional justice, the anti-government approach to civil society has developed as a response to the absence of inadequacy of the formal mechanisms of transitional justice, a scenario termed in Rubin (2014) as "transitional justice against the state". As will be discussed in chapters six and seven of this thesis, this has not been without consequences for civil society activists, as the state has not taken kindly attempts to bring various actors to account for violations under their watch.

The question therefore arises of what gives civil society the legitimacy to make these demands from the state. Andrieu (2010:550) argues that "[Civil society] often [has] greater legitimacy in local communities and may therefore be better able to win the cooperation of those who do not trust the government". This legitimacy is partly drawn from the liberal values that civil society is expected to be grounded in, by including independence and impartiality (Kasfir 2013). The legitimacy of civil society organisations is especially important in the institution of both formal and informal transitional justice as it influences participation by the affected communities (Munyaka 2016). The lack of legitimacy of informal civil society-driven mechanisms of transitional justice and acceptance by the communities they work with may be

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due to concerns about leadership, funding or previous civil society initiatives that were deemed unsuccessful, among other reasons.

Beyond the inclinations of civil society to either an associational approach or an anti-government approach, there are factors that are external to any particular organisation that influence the manner in which they interact with transitional justice. Backer (2003:301) argues that the state or international agency's choice in transitional justice approach or mechanisms to deal with legacies of violence influences the opportunities and need for civil society engagement. Some processes, such as amnesties, may not require much input from those outside the structures of the state, while others such as trials may require the submission of evidence that may have been collected by civil society organisations. Backer (2003) further asserts that processes by states and international agencies may not be comprehensive enough to deal with transitional justice issues, thereby creating space for civil society actors to complement such efforts or to initiate parallel processes. Some of the work on transitional justice and civil society, like the work by Backer (2003), questions the implications of parallel processes of transitional justice by the state and civil society. These are key questions transitional justice scholarship still needs to deeply engage with.

The following section looks at Zimbabwean civil society's interaction with transitional justice and this will also be discussed further in the empirical work of this thesis.

2.7.3. Civil society, violence and transitional justice in Zimbabwe

Masunungure (2014) contends that there are three generations of civil society in Zimbabwe: humanitarian, developmental and governance-based organisations. This came about according to the different stages of the development of the state. The humanitarian organisations were largely there in the pre-independence era to alleviate the suffering of the disenfranchised indigenous people, while the developmental organisations emerged largely to partner with the developmental state that emerged in the post-independent era. The governance organisations in Zimbabwe largely grew between 1990 and 1999 in opposition to the one-party state and increasingly autocratic state (Masunungure 2014). In 1999, as Masunungure (2014:9) contends, these organisations played the role of 'midwife' in the birth of the opposition Movement for Democratic Change (MDC), pitting the state against civil society as civil society straddled the private space and political realm of power, which is often reserved for political

parties vying for state control. The MDC emerged out of the coalition of trade unions, Zimbabwe Congress of trade Unions (ZCTU).

Civil society in Zimbabwe, as in other African countries, has moved from being a sphere largely co-opted by the state to a force demanding neoliberal reforms from the state. This demand for a neoliberal state came with the growth of the human rights discourse not only in Zimbabwe but other parts of the world including in Latin America where the fall of authoritarianism brought into focus human rights and the transformation of the financial sector (Faulk 2012). Neoliberalism, just like liberalism is a broad concept spanning different disciplines as shown in the interviews carried out for the purposes of this thesis is often loosely used to describe classic liberal norms of individualism and choice (rights). Thorsen and Lie (2006:14) define neoliberalism as "…a loosely demarcated set of political beliefs which most prominently and prototypically include the conviction that the only legitimate purpose of the state is to safeguard individual, especially commercial, liberty, as well as strong private property rights. This conviction usually issues, in turn, in a belief that the state ought to be minimal or at least drastically reduced in strength and size, and that any transgression by the state beyond its sole legitimate purpose is unacceptable".

From interviews and discussions done for this thesis, a link between neoliberalism and human rights discourse is drawn (see chapters six and seven of this thesis) and this is similarly done by scholars such as Faulk (2012). This link between neoliberalism and human rights can be drawn as argued by Faulk (2012) in both conceptions as languages of political change and moral transformation. Therefore, neoliberalism has multiple meanings in different contexts. This thesis draws the meaning of neoliberalism from the values and norms espoused by the interviews used in the study which draws on the relationship between individuals and legal institutions as they relate to international law and norms. In other words, neoliberalism is used in this thesis to describe basic liberal principles that focus on the individual and their ability to participate in political life with minimal interference from the state (Faulk 2012). Interference of the state in the participation in political life of the individual is therefore then sanctioned by legal institutions through international and human rights law.

In the field of governance, civil society has played an important part in activities such as election monitoring, political violence monitoring, corruption monitoring and tracking of public opinion. Civil society in Zimbabwe has been a key actor in the struggles for the

liberation from colonial rule and for democratic reforms, among other struggles that have been synonymous with the sphere around the world (Moore 2003).

During colonial rule, African political activity was criminalised by the colonial authorities of the then Rhodesia, thereby thwarting the development of civil society among the African majority (Zhou 2014). However, church-based organisations such as the Catholic Bishops Conference were still able to highlight the violence against the African population, albeit not without the disdain of the state. At independence, civil society was largely co-opted into the state through an agenda of 'nation-building', which was seen as imperative for the country's moving on process after the end of colonial rule. National unity was at the centre of this project and all sectors needed to work together to achieve this (Mandaza 1986). This cemented a centralised system of governance in which power was centred around the head of state and government. Further, this system yielded a highly autocratic state that was unwilling to allow opposition into its hold on power (Ndlovu-Gatsheni 2004). The state became securitised, with a high level of surveillance on citizen activities and the use of the security forces to thwart any form of threat to the state's absolute power (Ndlovu-Gatsheni 2004).

While the might of the state's coercive power grew, so too did the ruling ZANU-PF, leading to the complexities of separating the party from the state. These complexities have also plagued civil society in the discussion about the separation of the MDC and civil society in Zimbabwe. Hence the question of the existence of civil society in Africa and in particular in Zimbabwe is re-ignited as the entanglements of straddling the political space by both the state and civil society remain complex. At the centre of these disagreements is the role of civil society in the electoral space. Before the 2000 parliamentary elections, ZANU-PF had held what Sithole and Makumbe (1997) termed an "electoral hegemony". Civil society's role as 'midwife' to the opposition MDC (Masunungure 2014) has changed both the electoral and civic spaces, with the state accusing civil society of a regime change agenda and meddling politics. It has also hardened the violent stance of the state against civil society and the opposition movements leading to the call for transitional justice processes. These demands include prosecutions for those responsible, truth-telling and lustrations for those in public offices among others, as will be discussed in chapter six of this thesis.

Through various campaigns, advocacy and lobbying, civil society has put forward the agenda for transitional justice culminating in the National Peace and Reconciliation Commission (NPRC) in 2013. This work by civil society has run through various periods of violence and

has laid the foundation for the discussion on transitional justice and the existing national agenda for dealing with the legacies of past violence. As noted by Matyszak (2009:135), "Human and civil rights organisations in Zimbabwe… have largely confined their activities to monitoring, documenting and exposing violations and providing assistance to victims. This has taken the form of measuring the extent of freedom of assembly, association and expression, and freedom from arbitrary and wrongful arrest; examining the nature, extent and effect of undemocratic legislation; documenting and providing legal and medical assistance to victims of political violence; and assessing the framework, context and conduct of elections in Zimbabwe in line with democratic norms. These activities have fed into the campaign for transitional justice by providing crucial evidence of the violence and capturing the stories of those affected by the violence".

The work of civil society in calling out the excesses of state violence can be traced back prior to independence with examples such as the work of the Catholic Commission for Justice and Peace in Rhodesia (CCJP) and the Rhodesian Catholic Bishops Conference. These organisations published some of the worst atrocities by the Rhodesian state during the liberation war and these were publicised around the world with the help of human rights organisations in London (Scarnecchia 2015). Following independence, when state-sanctioned violence broke out in Matebeleland in 1983, the Catholic Bishops and the CCJP worked with a government of Zimbabwe-led commission which was meant to investigate claims against government soldiers (Scarnecchia 2015), and in 1997 the CCJP published a report titled 'Breaking the Silence: Building True Peace – A Report on the Disturbances in Matabeleland and the Midlands1980–1988' This report was one of the earliest discussions on dealing with the *Gukurahundi* genocide and opened up civil society and academia to discussing other epochs of violence. The state however largely maintained its silence on these issues and pushed a united front between ZANU and ZAPU, which had signed the Unity Accord in 1987 to end the violence and merging into one-party ZANU-PF. This work expanded in the 1990s with the growth of organisations such as ZIMRIGHTS and ZHRNGOF, among others, and more so after the violence of the early 2000s following the violent land reform as well as the 2000 and subsequent violent elections of 2002, 2005 and 2008.

Sachikonye (1995:9) maintains that "Civil society does not exist independently from the state, there is an inter-penetration between the two… Civil society is situated in the rules and transactions which connect state and society". This space is therefore blurred and must be negotiated by the various groups in a polity. However, the notion of agency and privatisation

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within civil society has to an extent created an illusion of an all-powerful civil society outside of state control and regulations. This has led to tussles for power and influence that also impact the relationship between the state and civil society. Civil society has been conceived as not looking to "win state control, power or positions, but persuades the state concessions, benefits, policy change, institutional reforms, redress, justice and accountability" (Ndou 2016:33). Therefore, according to this argument, civil society must exclude those that vie for power in government office. However, as was reflected upon in interviews with civil society actors during the empirical work for this study, actors in civil society have straddled both spaces, at times leading to the questioning of roles in the political sphere.

Kasfir (2013:1) contends that "This concept [of civil society not seeking to win political influence] has been shaped to serve the goal of better governance, particularly democratic reform, rather than a deeper understanding of the relationship between social formations, the associations that represent them and the state". This has been one of the key contentions of civil society in Zimbabwe. The push for democratic reforms has been viewed by the ruling elite as an agenda for regime change. While transitional justice has always been the labour of civil society (Brankovic and Van der Merwe 2018), in Zimbabwe it has been viewed by the state as suspicious and part of civil society's alleged regime change agenda (Munemo 2012). This perception from the state could be argued to be part of a wider discourse that discredits its critics and perceived critics (Kriger 2005). The discourse compounded civil society's position as an enemy of the state, an enemy that emerged as a largely coordinated grouping of organisations in the form of coalitions such as the ZHRNGOF, Crisis in Zimbabwe Coalition, and the Church and Civil Society Forum (CCSF), among other groupings.

While proponents of neoliberalism and liberal democracy argue that a vibrant civil society promotes more stable systems and practices of democratic governance by monitoring the excesses of the state and ensuring accountability, Kasfir (2013:1) argues that, "As a result, analysis of the relations of state and society has been distorted and the possibilities for democracy exaggerated". In Zimbabwe, increased vibrancy of civil society has seemingly increased the state's resolve to shrink the democratic space and crush dissent. Hence the argument by Kasfir (2013) that an organisation's inclusion in civil society is dependent on whether it contributes to or stands in the way of better governance then falls into disarray, thereby excluding many societal structures in the African context.

2.8. Conclusion

Transitional justice and civil society are contentious concepts largely due to their framing in specific contexts, supported by specific norms that are aligned with these contextual understandings and conditions. This chapter sought to define these contentious concepts while drawing on some of the contentions that underpin them, including their grounding in contexts in the global north and the implications of applying these concepts in the global south, where history and culture have shaped society's interaction differently. This history and culture have also impacted on how society interacts with the state and therefore institutions and programmes conceived within the state, including transitional justice processes.

The human rights and neoliberal bases that have underlain the transitional justice discourse and practice have been highlighted in this chapter, showing a leaning towards these norms and values in the development of transitional justice programmes. Despite the contentions and unequal power relations in the rooting of the norms of transitional justice, it is a theory and practice that has gained global prominence and is perceived as key in building sustainable peace. The transformation of relationships, institutions and structures is presented as vital to attaining this peace (Lambourne 2009), essentially dealing with what happened in the past in order to secure an envisioned peaceful future. The way this envisioned future is to be attained is influenced by how violence is perceived. The dominant narratives in transitional justice have been human rights and liberal peacebuilding. The human rights narrative as presented in this chapter is based on an understanding of violence as a crime for which appropriate domestic and international law should be applied to establish guilt or otherwise and appropriate penalties applied to those found acting contrary to the law. This is based on the tradition of retributive justice.

The peacebuilding narrative that conforms to the restorative approach or tradition to justice and based on the assumption that conflict is a result of state failure and the failures of nation building (Zambakari 2017). Liberal peacebuilding subscribes to the notion that the formation of liberal institutions of the state will yield peaceful societies. Liberal peacebuilding has become a core component of transitional justice and this form of narrative has been instrumental to the development of transitional justice programmes around the world as it advocates for the promotion of the rule of law, human rights and liberal democracy, including civic freedom and the development of civil society among other aspirations. Transitional justice, in its normative aspirations of impartiality, development and established international

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norms, is increasingly being linked to the liberal peacebuilding framework. For this reason, transitional justice has become part of the broader peacebuilding framework, drawing on actors such as civil society organisations who share these values of democracy and freedom.

As highlighted in the literature reviewed in this chapter, both the human rights and liberal peacebuilding framework need to be reconsidered as approaches to understanding and resolving conflict. In recognition of these limitations, scholars such as Kagoro and Okello (2012) and Nagy (2008) point to a more nuanced understanding of violence that takes into consideration history and culture in a particular context rather than a one-size-fits-all contention of violence and therefore the mechanisms to deal with it.

As shown in this chapter, civil society, and in particular professionalised civil society funded by governments of the 'developed' and 'free world', have been key players in campaigning for transitional justice in post-conflict societies, including Zimbabwe. In Zimbabwe, this has put the state at odds with civil society in a context where the state's legitimacy has come under scrutiny and its violent scourge to protect its power has been brought under the international spotlight. The antagonistic relationship between the state and civil society places the transitional justice agenda in a precarious position as its liberal values and human rights inclination threaten the very core of those culpable for violence.

The following chapter explores the meaning of narratives and situates it in this study as it relates to responses to violence.

Chapter 3

Situating the transitional justice agenda in narrative: An analytical framework

3.1. Introduction

In setting the agenda for transitional justice, civil society seeks to influence government policy on what mechanisms ought to be put in place to deal with past violence. In order to examine these processes, this chapter seeks to provide an analytical framework within which narratives of political violence will be observed in this thesis. To do so, the chapter explores the different forms and uses of narrative, as well as its importance in forming political, social and other identities. Further, this chapter unpacks how narrative as a concept will be used in this thesis,

while its use as a research method will be explored in chapter four.

Narratives of political violence as well as agenda-setting are also discussed in this chapter. Through this unpacking, the chapter seeks a working definition for the term as it will be applied in this thesis, especially as it relates to political violence. Narrative in this chapter is examined by drawing from different categories and perspectives, including as a lens through which to understand the social world, as data and as an analytical tool. This is done in order to understand the various ways in which narratives are used in this thesis, not only in this chapter but also in subsequent and previous ones.

Having explored the concept of civil society and its role in transitional justice in chapter two of this thesis, the role of civil society in shaping narratives of political violence, as well as their role in influencing agenda setting is also explored in this chapter. This is done in order to highlight the various roles civil society may play on various levels and in different contexts, as well as to gain an understanding of the politics or the drivers behind which issues take precedence over others.

The chapter concludes by outlining the *focusing events theory* by Birkland (1997), the *transitional justice moments* approach by Drumbl (2016) as well as the *critical juncture* approach by Lessa (2013), which will be adapted and applied in chapter five of this thesis to trace how various events and processes during the period under study have influenced the narratives generated by civil society and the agenda on transitional justice. This is done to

clarify the lens through which the phenomena under study will be perceived and understood, as well as foreshadow what will be presented in subsequent chapters.

3.2. Understanding Narrative

How we understand and interact with the past is influenced by narrative (Rosenwald and Ochberg 1992; Riessman 1993), as is how we relate to the present as well as how we envision the future (Grødum 2012). In this thesis, the term *narrative* is used to refer to the way we describe, think of, and understand events as a coherent whole (Cobley 2001a; Rosenwald and Ochberg 1992; Cobb 2013). In this thesis, the term narrative is not used to refer only to historical accounts of the past but as the telling of the accounts of violence as part of "a transitional plot" (Grødum 2012: 13), both as written texts as well as pronouncements made in various forums. The narratives related to a transitional plot therefore relate the past, present and future (Grødum, 2012). Similarly, Lessa (2013:2) defines these interpretations of what happened in the past as "memory narratives". This term is derived from the recognition that memory or how people remember events shapes how they interpret and therefore express them as stories or accounts of what happened. This thesis recognises this and therefore memory or how people remember events is included in the use of the term 'narrative' in this thesis.

Following periods of violence and conflict, interpretations of what happened are often varying and contested, as different individuals and groups remember and express these events differently. These interpretations of events and processes affect how different groups deal with various issues, including those of transitional justice. In turn, these variances form different identities among those who have experienced particular events or what Lessa (2013: 2) terms particular "memory groups". Social and political action and identities are guided by narrative, making it a crucial part of shaping the way people relate to each other. This is based on the interpretations of past events as well as the role and position of "the other" in relation to these events. As affirmed by Alexander and Smith (1993:156), "narratives help individuals and groups "understand their progress in time in terms of stories, plots which have beginnings, middles, and ends, heroes and anti-heroes.".

For this reason, narratives of a particular event can be passed down in time with similar interpretations and understandings of events and processes that took place in the past, shaping the dynamics of how different groups relate even long after these key events and witnesses to them have passed. In light of this, narrative "is itself a carrier of identity"; identity which may

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promote or subvert cohesion and in turn promote or jeopardise peace (Cobb 2013). As argued by Cobb (2013:20), this identification of 'the other' is a key component of group identities because "Community itself requires the exclusion of 'the other' to create aggregation, collectivity and commonality..". By connecting self-narratives with collective/group narratives, "individuals can identify with "imagined communities" such as "class, gender, race, ethnicity and nation" (Jacobs 2000, Anderson 2006). However, it can be argued that to those who hold a particular narrative, such identities are hardly "imagined", but often form part of their lived realities, past, present and future.

Other identities may be those of 'perpetrators' or 'victimhood', particularly in contexts of conflict. These identities are formed and framed by how "people evaluate their lives", and narratives play an important part in this evaluation, even if they themselves were not part of any key historic event that forms part of collective memory (Jacobs 2000). Such identities provide an important lens through which to understand narratives and in the framework of transitional justice can be an important part in framing how to respond to past violence. A poignant example of this in Zimbabwe's history of violence is the *Gukurahundi* genocide in Matebeleland, in which the lines of ethnicity, spatiality, victim and perpetrator, and exclusion were drawn sharply in a narrative that has transcended the generational divide. For this reason, these massacres continue to be a key part of the national discussion on how to deal with the various epochs of mass violence experienced at different stages in the country's history.

As already stated, narratives play an important part in shaping political thought and action and are shaped by the environment within which they are generated and operate (Cobley 2001a, 2001b). In other words, narratives are defined by who tells them, where and why. This explains why some narratives become dominant while others are suppressed. Cobb (2013:30) contends that "Conflict is defined as 'differences' and conflict resolution as a practice that "symmetrizes". Based on this line of argument, inconsistent narratives can be interpreted as conflict and in conflict resolution, in particular transitional justice, a common official narrative accepted by the state is often considered as desirable and a pathway to peace. However, as learnt from many post-conflict contexts, including Zimbabwe, the suppression of some narratives in favour of the domination of another has in itself led to 'conflict' as different groups fight for narrative recognition, as illustrated earlier in the case of the Matebeleland massacres. Identity based on narrative, as previously highlighted in this section, therefore then comes into play. As argued by Cobb (2013:30),

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"Conflict' is more than simply contesting narratives, more than simply differences between narratives. It is the struggle against abjection, against exclusion, from within the state of exception. It is a struggle to make pain visible from a context where the pain for the excluded cannot be formulated".

Creating narratives in such an environment therefore becomes a struggle for different groups that may have been excluded from the dominant narrative. The narratives that are told or untold then reflect and recreate the conflict that unfolded in that community (Cobb 2013). Narrative competition, as articulated by Graef et al. (2018) is what various individuals and groups, "including perpetrators, victims, and (other) audiences of violent action and events…", participate in to be able to create and articulate their experiences and have them heard (Graef et al. 2018). The use of counternarrative as an approach to dealing with this narrative competition particularly by civil society, governments and think tanks has grown as a result of this narrative completion (Glazzard 2017). The use of counternarratives will be discussed further in this chapter in the discussion on civil society and narratives.

Graef et al. (2018:2) identify three modes in which narrative may be comprehended: "as a lens to view the social world; as data that provides insights into that world; and as a tool for analysing this data in a systematic and coherent manner". These three modes of narrative are outlined in chapter four of this thesis to enhance understanding of how narrative is used in this study.

3.3. Narratives of political violence

Cobb (2013:25) contends that "The word *violence* is fundamentally a relational word – it refers to a force extended *towards others*, a force that 'breaks', 'dishonours', and generates 'outrage'". This break is not only in relations but also in the narrative order of the world itself. Bosi et al. (2014:1) maintain that "Political violence involves a heterogeneous repertoire of actions aimed at inflicting physical, psychological and symbolic damage on individuals and/or property with the intention of influencing various audiences in order to effect or resist political, social, and/or cultural change". Electoral violence as a form of political violence seeks to influence the outcome of elections, as outlined in chapter one of this thesis. Therefore, as Graef et al. (2018:2-3) assert, "to explore political violence as narrative phenomena means to study how and why individual and collective actors (try to) create coherent stories out of the complex

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and messy reality of human life, as well as the impact they have on political agency and, ultimately, the construction of social orders".

Graef et al. (2018:1) contend that since *political* "refers to the power struggle involved in establishing, maintaining, and developing a specific social order, narratives of political violence contribute to negotiating the normative boundaries of a political entity, including (but not limited to) the nation-state". They constitute perceptions of identity and belonging and the relationship between "individuals and the collective, between ingroups and outgroups". Graef et al. 2018:1). These narratives or expressions of what happened in the past can therefore "be understood, too, as political struggles for recognition from the state by individuals and groups who perceive themselves to be excluded from the nation building process" (Kent 2011: 436). Therefore, narratives about political violence are essentially shaped by one's identity in the narrative and perceptions about how the narrative has been shaped and the struggles for that narrative to be recognised as well as heard.

While this thesis contends that narrative refers to the way we describe, think of, and understand as well as remember events as a coherent whole, Cobb (2013:26) posits that, "There is simply no way to account for or make sense of institutionalised violence, which is always extreme, intentional and systematic". According to Galtung (1969, cited in Cobb 2013:26), "Violence can be understood as 'institutionalised' in any context in which the conditions of suffering are built into ways of life, into local institutions and practices referred to as structural violence". Much of the political violence in Zimbabwe, including electoral violence, has become institutionalised from the grassroots level (for example traditional leadership) to the very top echelons of the state, where the army and other state security agencies have taken part in these violent acts, as referred to in chapter one of this thesis. Despite this assertion by Cobb (2013) and the apparent difficulties in interpreting political violence, those who have experienced, witnessed or perpetrated it often hold and sketch various interpretations of these events, and these become the narratives that shape their actions, as outlined in the earlier section.

However, it is important to note that these narratives may not reflect or represent the experiences of those affected by the violence. Particularly where violence is institutionalised, agency in the production of narratives may be curtailed by those wielding power and influence over a particular group (Cobb 2013). Both governments and civil society have played this role of placing victims, perpetrators and bystanders outside the realm of agency in terms of shaping their narratives. This has either been through a carrot or stick approach, or simply through the

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manner in which a story is captured in order to serve various political ends. Cobb (2013:26) posits that "All too often, the account of violence and violation is more of a story about a set of events rather than a narrative that contextualises those events". This has been how many civil society organisations, particularly in Zimbabwe, have captured and recorded political violence, thereby disregarding the circumstances in which these events have taken place. This will be explored further in chapters five and six, where this analytical framework is applied specifically to the Zimbabwean case.

It is important to note, however, that despite this manipulation of narratives, particularly with regard to political violence, narratives hardly remain static. As argued by Lessa (2013:2), in relation to memory and similarly in the case of narrative, "[it] does not preserve a single conclusive account of what happened, but rather what is remembered changes with evolution in ideas, interests, identities, and visions of the future". So too in the absence of the carrot or stick, agency may be regained, and suppressed narratives revealed. For this reason, among others, countries that have undergone transitional justice decades ago continue to contend with the concerns of this period, albeit from a standpoint of varying narratives. This can be seen in countries such as Chile and Argentina, where violations of the past continue to be grappled with. Changes in narrative can change prevailing beliefs and understandings of past events, current events as well as the future (Jacobs 2000), more so when these narratives capture events of political violence. Increased repression by the Zimbabwean government over the period under review in this study led to a shift in the understanding, for example, of the Matebeleland massacres. These changes in perception and narrative will be explored further in later chapters of this thesis.

3.4. Narrative, memory and transitional justice

Fierke (2006:119) argues that "Memories are always constructed by combining bits of information selected and arranged in terms of prior narratives and current expectations, needs and beliefs". Prior understandings, current experiences and perceptions all shape what about and how the past is remembered. In an article in the magazine Sensitive Skin titled 'Memory is Narrative; Narrative is Memory', Richardson (2013) contends that memory is mostly narrative and memory narratives are shaped by present events. Memory and narrative bring together the lived and the remembered. In this thesis, narrative is captured as both the lived and the remembered and how it is interpreted and understood as well as expressed. In dealing with past political violence, these expressions become key to the decision of what ought to be done

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to deal with the demands for justice and restitution for the victims. Concurring with Lessa (2013), this thesis argues that narratives of past violence cannot be separated from the decision about what mechanisms are put in place to deal with the past. This allows some narratives to become "hegemonic" while others are marginalised (Lessa 2013:3).

Memory and transitional justice have so far been treated as separate in the scholarship, despite the close link between and interdependence of these two concepts (Lessa 2013). Similarly, the link and interdependence between narratives and transitional justice has not been adequately addressed in the scholarship. For this reason, this thesis seeks to add to the growing scholarship, including Lessa (2013), that contends that narrative and memory play a significant role in shaping the transitional justice agenda.

In the aftermath of violence, memory as well as narrative can be used as a political tool that may promote or suppress the experiences of some groups and therefore threaten the repair of relations in society. According to Lessa (2013:2), transitional justice mechanisms must be carefully examined to see "whether they champion explicitly or not, specific interpretations and understandings of what happened during the years of violence". Therefore, is it important to examine Zimbabwean civil society as one of the 'memory groups' shaping the transitional justice agenda in the country. As political tools, memory and therefore narrative are integral to "the practice and policies" regarding what happened in the past (Jelin 2007), as previously argued in this chapter. For this reason, narratives and memory are intrinsically linked to transitional justice and this thesis argues that greater attention should be paid to the study of these narratives.

Narrative as a political tool can be used by various groups to push for their experiences to be heard by policymakers or as a means of challenging prevailing policies that may subjugate them. Kent (2011:436) asserts that "some victims are using the language of 'rights' to constitute themselves as political subjects and to appeal to the state to respond to their experiences of suffering". These dynamics can be seen in civil society campaigns for victims' rights and reparations and have in some spaces been dismissed as transitional justice entrepreneurship (see Madlingozi 2010). The question becomes whether such labels suppress genuine narratives of those that have suffered violence and are seeking recourse.

The link between narratives, memory and transitional justice can be seen in both individual and collective memories. Collective memory, according to Osiel (1995:475), "consists of the stories society tells about momentous events in its history, the events that most profoundly

affect the lives of its members and most arouses their passion for long periods". Electoral violence post-2000 in Zimbabwe continues to be a talking point among many Zimbabweans from all walks of life and in both public and private spaces, particularly whenever new elections are called. These collective memories of electoral violence have shaped the narrative of political violence in the country and how people speak about and behave during electoral periods. Understandings of what elections mean, for instance, go beyond the choosing of political representatives through the ballot, but extend to the experiences of individuals as well as the collective during electoral periods. It is important however to note that all memories and narratives, whether private or public, are contested; therefore 'collective' does not mean 'homogenous'. This will also be explored further in following chapters of this thesis.

Memory and narrative, like transitional justice, are not static, as highlighted earlier in this chapter. As put forward by Lessa (2013), memory does not reserve one irrefutable account of what happened, but this changes with time and differing interests and perceptions among the various groups. Narratives "have the power to disrupt prevailing systems of belief and to change understandings about other events in the past, present and future" (Jacobs 2000:8-9), more so when these narratives capture events around political violence.

Therefore, narratives may change according to the particular agendas set. For example, if the agenda is to prosecute perpetrators of past violence, certainly the narratives may differ to those when the agenda for instance is truth-telling. Similarly, transitional justice policies change over time, reflecting different political and social moments, as evidenced by the fortitude of transitional justice debates in countries that transitioned from authoritarian rule years ago, including Chile, Uruguay and Argentina. So it is, in Zimbabwe, that the agenda will continue to shift in accordance with the political moment in which it is presented. Memory therefore shapes the narrative of any particular time, just as current narrative and changing contexts shape memory.

To explain these changes, Lessa (2013:27) applies the critical juncture approach to trace the changes that transitional justice processes underwent in Uruguay. Section 3.5 briefly outlines this critical juncture approach, which will be adapted and applied in chapter five of this thesis to trace the critical junctures in the framing of narratives of violence in Zimbabwe for the period under review, as well as critical junctures in the setting of the country's transitional justice agenda.

The following section outlines the critical role of civil society in shaping narratives of violence in relation to the context in which they operate.

3.4.1. Civil society and narratives of political violence

As highlighted by Graef et al. (2018), there are always many events to narrate and different sources of these narrations; it is up to individuals, groups and institutions to discern which events to narrate. The choice by civil society as advocates for transitional justice of what narratives are to be dominant in their discourse then shapes the nature of their agenda and vice versa. Civil society has varying roles in terms of projecting narratives of violence in the public arena. Their role is to inform by recording and publicising these violations, to use these narratives to lobby and advocate for policy to end the violence or to seek justice for the victims by using these narratives as evidence of violence. The narratives espoused by civil society are therefore influenced by how they seek to influence public opinion and the policy agenda, as will be discussed in section 3.5 of this thesis. Savelsberg (2016:1) contends that "Communicating narratives about mass violence to a broad public is a messy and often complicated endeavour. Non-governmental organization (NGO) actors and other practitioners seek to impress on the world specific interpretations of these situations, yet they often face competing voices and varying receptivity across countries". This is true of any narrative of major events, as highlighted in earlier sections of this chapter.

Savelsberg (2016) further contends that the 'field' in which an actor is situated, influences how they interpret violent events. Savelsberg, in relation to Darfur, articulates this in an examination of "how global actors, national contexts, and distinct fields interact to create at times conflicting social constructions of the reality of aggression and suffering". This analogy sheds light onto how different actors interpret violence, for example from "the justice cascade" (Savelsberg 2016:6), which understands mass violence as a crime to be prosecuted under international humanitarian law. Hence the key themes to be drawn from narratives presented from this field are essentially legalistic, compared to those in a field of humanitarian assistance or diplomacy. This can be picked up for instance in reports or during interviews with various actors. This has been true for the narratives of violence presented by civil society actors in Zimbabwe, who tackle the issues of mass violence from varying fields. These variations will be explored further in chapters five and six, where specific narratives from specific organisations will be explored.

In most contexts, relations between civil society and official mechanisms of transitional justice are not always smooth (Kent 2011). This is because civil society organisations often have to

be the sole watchdogs of these state-led mechanisms. Where political will is absent to move along these processes of transitional justice or the narratives of other groups are ignored, civil society has to lobby and advocate for them. This is often seen by governments as antagonistic, leading to strained relations between the state and civil society and may even result in civil society instituting parallel projects of transitional justice, an approach which Crocker (1998) terms the "anti-government approach" to civil society and thus the production of counternarratives.

Civil society has largely used counternarrative as an approach to tell stories (Glazzard 2017). This approach has gained traction in face of increased global extremism and mass violence. "Counter-narrative refers to the narratives that arise from the vantage point of those who have been historically marginalized… [it] implies a space of resistance against traditional domination…[and] goes beyond the notion that those in relative positions of power can just tell the stories of those in the margins" (Mora 2014:1). However, while the counternarrative approach has gained widespread acceptance in governments, think tanks and civil society organisations, some scholars, including Glazzard (2017:1), believe that the concept is not theoretically and empirically solid because it is not grounded in literary studies and argues that "Understanding the creative sources of this inspiration is vital if counter-narrative is to succeed in presenting an alternative to the propaganda of violent extremist groups". This approach means that conflicting narratives of the past are put forward by both government and civil society as each side picks which narrative to project. This is not to say a single narrative is desired in the aftermath of violence; in fact, as already highlighted in this chapter, a single narrative of the past may lead back to a path of conflict and violence as different groups seek to assert their own narratives.

Having established the role played by civil society in shaping narratives of violence, the following section focuses on how civil society uses narratives for agenda-setting as well as the importance of the way these narratives ought to be presented in order to have the relevant impact. This also speaks to issues of civil society legitimacy, as articulated in chapter two of this thesis.

3.5. Agenda-setting

Policy can be defined as a "purposive course of action followed by an actor or set of actors. This goes beyond documents or legislation to include activities on the ground" (Pollard and

Court 2005:2). Policies include those of government, international organisations and agencies, bilateral agencies or NGOs (Pollard and Court 2005:2). Before policy comes to fruition, it goes through various stages, or what is known as the policy process. This includes agenda-setting, policy formulation, policy implementation and policy monitoring and evaluation (Pollard and Court 2005). However, it is important to note that these are not linear processes, as often outlined in public policy literature, but may take different routes (Birkland 1997). This thesis focuses specifically on agenda-setting rather than the entire policy process.

Birkland (1997:8) defines an agenda as "a collection of problems, understandings of causes, symbols, solutions and other elements of public problems that come to the attention of members of the public and their government officials". By drawing understandings and symbols, agendas represent the narratives of particular issues and how they are communicated to a wider audience, including those responsible for formulating and enacting policies. Like narratives, agendas have several layers that need to be unpacked in order to develop policies that resolve the problem. These layers are related to the fact that society is plagued with many different problems at any given time; hence it is crucial to set a hierarchy of what is to be prioritised through agenda-setting. In any society, competition among different groups to set the agenda is therefore high, with each group seeking to align policy to their needs and understanding of the problem, as highlighted earlier in this chapter in the analysis on narrative competition.

While agenda-setting has gained traction as a topic of scholarly enquiry in the field of mass media studies, less attention has been paid to it in the field of political science. Birkland (1997:8) defines agenda-setting as "the process by which problems and alternative solutions gain or lose public and elite attention". Hence agenda-setting is essentially a competition for the attention of the public and policymakers. This is the definition that is used for the purposes of this thesis.

Like narratives, agendas are often contested, with competition by different actors forming an important part of understanding the narrative context in which a particular issue emerges. Birkland (2006) states that there is often contestation by various actors in a policy environment on how to define the issues, the causes of the problem and how best to deal with them. This is true of many post-conflict societies as they seek to deal with their violent past. As different narratives of the past emerge, so too do different solutions; hence the debates such societies must contend with in terms of what to prioritise in terms of truth, prosecutions, reparations or other processes in the transitional justice 'toolkit'. It then falls to different groups, including

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civil society, to push for a particular agenda in accordance with their narrative and to ensure that this agenda of theirs takes precedence over others in the attention of the public and policymakers. Agenda-setting therefore draws similarities with narrative competition, which ensures the dominance of some narratives over others, as captured earlier in this chapter.

In this arena of agenda-setting competition, power relations between the various actors then becomes important. Birkland (2006) contends that power in agenda-setting is not only about who makes the most convincing argument or presents the most convincing evidence, or the ability by one group to compel the other to act in a particular way that may be contrary to what they desire. The other face is the ability to keep a person from doing what he or she wants to do; instead of a coercive power, the second face is a blocking power. Power, Birkland (2006:65-66) argues, also lies in the ability to block the moves of other actors:

> "The blocking moves of the more powerful interests are not simply a function of A having superior resources to B, although this does play a substantial role. In essence, we should not think of the competition between actor A and actor B as a sporting event on a field, with even rules, between two teams, one vastly more powerful than the other. Rather, the power imbalance is as much a function of the nature and rules of the policy process as it is a function of the particular attributes of the groups or interests themselves".

Therefore, power dynamics, just as in the case of narratives, shape which issues go to the top of the agenda. This is true in post-conflict societies where the nature of the political change that has occurred from conflict to peace or from authoritarian to a more liberal dispensation shape how much control the previous regime has over the transitional justice processes that ensue. This is discussed further in section 3.5.2 of this chapter. Due to these dynamics as well as biases within the political system, some of which are shaped by narratives about past events, some issues are unlikely to reach the policy agenda.

Birkland (2006) further suggests a third face of power in which groups and individuals who have a legitimate claim to redress remain dormant and do not make any claims or demands for redress from policymakers. In post-conflict or post-authoritarian contexts this may be the case, especially with groups that have been previously victimised by those wielding political power in the post-conflict scenario. The fear to speak out stems from being a victim of the powerful who can still inflict harm as punishment for speaking out. This is often the case where the state is the perpetrator of these violations. As cited by Hackett and Rolston (2009:361), one victim

of state violence in Northern Ireland said, "When you become a victim of the state, you became an enemy of the state and you are treated in that way whether or not you wanted to be".

These victims understood the system to be against them rather than for them, hence they felt speaking out in pursuit of redress would be to challenge the system (Hackett and Rolston 2009). Such observations can be made in the case of the Matebeleland massacres in Zimbabwe, in which victims were virtually silenced following the 1987 Unity Accord by the same government that had perpetrated the violations, as the threat of retribution, though unpronounced, was rife. Birkland (2006) argues that in this third face of power, the more powerful forces are able to ignore any rebellion against the system and "In the long run, people may stop fighting as they become and remain alienated from politics; quiescence is the result". In terms of power dynamics then, the perpetrator remains in a position that suppresses the agenda-setting influence of victimised and less powerful groups.

Agendas exist at all levels of society and can include "lists of bills that are before a legislature, but also includes a series of beliefs about the existence and magnitude of problems and how they should be addressed by government, the private sector, non-profit organizations, or through joint action by some or all of these institutions" (Birkland 2006:62). Hence different problems can be addressed at different levels of society, depending on which level that particular problem is viewed. For example, following periods of mass violence, issues of transitional justice can be addressed at the different levels at which the conflict has occurred, starting for example with the family, then the local community and its leaders, right up to the national stage where government processes are engaged (Murambadoro 2018). Civil society can play different roles at these different levels to set the agenda with the aim that these agendas may ascend to the top echelons of policymaking. It is critical to acknowledge the role of civil society in influencing the agenda at these different levels, as it informs how they influence the national policy agenda with which this thesis is concerned. The following section looks at the role of civil society in influencing the agenda-setting process.

3.5.1. The role of civil society in influencing transitional justice agenda-setting

The main aim for civil society in influencing agenda-setting is to influence policy to solve perceived policy problems. Civil society usually plays a role in influencing the agenda-setting process, while the political elites set the actual agenda. Pollard and Court (2005: v-vi) argue that studies and debates around the role of civil society in development have focused on the

internal dynamics of the organisations themselves, rather than on the way they influence the policymaking process, including in agenda-setting, policy formulation, policy implementation and policy monitoring and evaluation. Civil society influences agenda-setting.

Civil society has agenda-setting influence when it appeals to social norms and justice when working with policymakers to unify their interests and motivate them to pursue neglected policy (Lee 2010). In concurrence with Lee (2010) and Murphy (2007), Gomez (2018) argues that "civil society has agenda-setting influence when they can increase international and domestic attention to neglected policy issues through the publication of empirical data, research and/or personal testimonies, while strategically referring to this information during agency hearings and debates…" This aids in informing as well as influencing policymakers and those who have greater influence over policymakers (Gomez 2018, Pollard and Court 2005). Civil society also influences policymakers when they jointly engage policymakers in various forums to explain the need to prioritise particular issues while proffering solutions on how to deal with the issues presented.

Evidence from the research is key to these forms of engagement. Pollard and Court (2005) identify seven main objectives towards which civil society could use evidence to improve their chances of policy influence; that is for the policy problem to have legitimacy morally or legally, for effectiveness improving the impact of their work and sharing lessons with others, for integration between civil society work and policy implementation, for translation by turning people's understanding into legitimate evidence and combining this with expert knowledge, for access to policymaking processes as they are drawn in as experts on particular matters, for credibility and claims to be accepted and substantiated, and for communication and the presentation of information in an accessible manner so as to spread knowledge of the problem as widely as possible. This evidence may be drawn from the narratives various groups may have on a particular occurrence, or drawn from physical evidence (such as bones, clothes, and so forth) or written texts.

Lessa (2013) contends that transitional justice has emerged as an arena of policymaking on how societies emerging from conflict or authoritarian rule could deal with the past or at least come to terms with it. Given this perception of transitional justice, Kent (2011:437) contends that this leads "policy makers to view transitional justice mechanisms as 'technical' projects that are short term in nature, embody 'universal' values and are transferrable to a wide range of places". Hence past violence and repression are construed as policy problems that require

policy solutions. This approach and understanding of transitional justice have been strengthened by for example the UN "toolkit" for post-conflict recovery, which largely fails to consider the context to which these mechanisms are applied (Kent 2011).

Many civil society organisations, in particular NGOs, have fallen into this policy framework of engaging with and pushing for issues of transitional justice and hence play an important role in shaping the policy agenda in the transitional justice realm. For this reason, this thesis draws on the literature on public policy, among other fields, to understand the agenda-setting process. It is important to note that while the main focus of this thesis is not the resultant policies of transitional justice in Zimbabwe but rather what is on the agenda, policy as a product of agenda-setting is an important lens through which to analyse how civil society in the country has shaped the transitional justice agenda.

The question then is how narratives relate to policy problems that civil society seeks to highlight and change. Stone (2002:138) makes the point that "Definitions of policy problems usually have narrative structure; that is, they are stories with a beginning, middle, and an end, involving some change or transformation. They have heroes and villains and innocent victims, and they pit forces of evil against forces of good". In agreement with this, Jones and McBeth (2010:340) identify key components of a narrative as "(i) a setting or context (ii) a plot that introduces a temporal element (beginning, middle, end) providing both the relationships between the setting and characters, and structuring causal mechanisms (iii) characters who are fixers of the problem (heroes), causers of the problem (villains), or victims (those harmed by the problem); and (iv) the moral of the story, where a policy solution is normally offered".

Jones and McBeth (2010) contend that each of these components plays a vital role in understanding the construction of the resultant policies. In other words, these components speak to who sets the agenda on particular issues, from which standpoint (victim, victim's representative) and what the likely outcomes or reception to these issues are. These components, combined as narrative, shape policy as argued by Jones and McBeth (2010), who contend that narratives play an important role in understanding policy. Concurringly, and using context as a point of departure in terms of presenting issues (narratives) in the public agenda, Pollard and Court (2005: iv) state that "the critical crosscutting issue that CSOs must negotiate in order to influence policy effectively is political context. Evidence must be relevant, appropriate and timely, in a specific social, political and economic context".

Further, Pollard and Court (2005) argue that the position civil society holds in a particular context, as well as its relationship with other actors such as the state, determines the likelihood of it being able to influence policy processes, including agenda-setting. Hence in the context of authoritarian rule, as in the case in Zimbabwe during the period under review in this thesis, the ability of civil society to push for transitional justice to be placed on the national agenda was often restricted in various ways by the government through censorship. However, at critical junctures in the period under review, this ability shifted with the changing political dynamics within the context, as will be discussed further in chapter five of this thesis. The following section discusses the critical juncture approach that will be used in chapter five to further explore the relationship between context and narrative.

In transitional justice agenda-setting, this can be done through unofficial processes such as unofficial truth projects, instituting civil claims against perpetrators, lobbying of individuals and state bodies that make or influence policy at different levels, as well as publishing evidence in the media. Unofficial processes are an essential part of bringing public attention to the violence, and litigation draws the attention of the elites. This however does not always lead to a quick response but may have to be a sustained effort before any shifts in the setting of agenda can be witnessed. At an international level, consensus-building can be done through transnational advocacy networks. Advocacy networks are groups of activists that converge on issues of mutual norms and interests such as human rights or transitional justice and link actors in civil societies, states and international organisations to increase opportunities for cooperation (Keck and Sikkink 1999). These networks are usually an alternative to protests and mass action, particularly where there is no space domestically for this due to authoritarian rule during the transitional phase.

These strategies shift at different points of the transition and are shaped by conditions prevailing on the ground politically. In other words, civil society's ability to influence agenda-setting is largely determined by the politics of the day. Hipsher (1998:153) argues that "social movements and therefore protest activity [are] cyclical phenomena which rise and fall as a function of political changes" and "protest cycles emerge as a consequence of changed political opportunities" (Hipsher 1998:155). Key political events and power dynamics among other factors are included among these opportunities that may have a positive or negative impact on agenda-setting. Recognising these factors, the following section focuses on two factors: firstly, what Birkland (1997) calls focusing events and how they influence agenda-setting, and secondly the section will discuss the critical juncture approach as posited by Lessa (2013),

which will be used in chapter five of this thesis. This approach seeks to assess how critical political points have shaped the narratives of violence and consequently the transitional justice agenda in Zimbabwe.

Similarly, in terms of looking at the study of agenda-setting as argued by Baumgartner and Jones (2010:48), the study does not consider "political manipulation which may occur in different circumstances. These types of manipulation include as identified by Ricker i) agenda control; ii) strategic voting; iii) dimensionality. The first two types have to do with the formal control of the rules and strategies of voting in social choice situations. The third has to do with rhetorical arguments that are used to change the nature of debates. Both are important for agenda studies. Policy entrepreneurs often try to manipulate both the rules and the institutions of policy making and understandings that others develop of the issue". They know that both factors can serve their interests.

3.6. Role of key events in influencing agenda-setting

This section discusses how and why key events matter in transitional justice and in influencing its agenda.

3.6.1. Why do key events matter in transitional justice?

Events that affect transitional justice processes are often punctuated by several developments that come together before an event that triggers some form of change. Following periods of violence, it is asked, what went wrong? Who is to blame? What is going to be done to ensure that it never happens again? These questions are asked in the hope that something might be learnt from the past (De Brito et al. 2001). Simply asking questions about the past in terms of 'who, why, what, when?' are not enough to prevent the recurrence of a 'bad moment'. Without learning and putting in place measures to prevent recurrence, violence becomes cyclical and an almost normal part of political life, as seen in the Zimbabwean case.

Key events provide a context within which a narrative can be developed. The narratives provided by a particular "sociocultural context", as argued by Wertsch (2008:120), are examined "in their capacity to serve as cultural tools for members of a collective as they recount the past". The context provided by various moments of violence in Zimbabwe has led to the development of a particular kind of narrative around political violence and its inherent link to electoral processes. These contexts are what this chapter seeks to link with the development of

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narratives of transitional justice in Zimbabwe, drawing lessons from how context and narrative have shaped the agenda of dealing with the past. The contexts in which societies attempt to address legacies of past violence are important to the concept of transitional justice and these contexts vary extensively, including ongoing conflict, post-conflict transitions or post-authoritarian transitions (Duthie 2017). With such diverse contexts, so too are the goals of transitional justice, hence the different policies to address past violence.

Duthie (2017:2) argues that the context of transition is important for three reasons: "1) it opens up opportunities to respond to violations that may not have existed under an authoritarian regime or during an active armed conflict; 2) the responses are seen to make a potential contribution to certain objectives, such as reconciliation, democratization, rule of law, or peacebuilding; and 3) at the same time, a transition presents specific obstacles or constraints, whether they be political, institutional, or material". While these obstacles or constraints may change over time, the foundation on which the initial processes are built on are often key to the success or otherwise of a transitional justice process. Reeler and Mue (2014) contend that context is the key to evaluating which mechanisms will or will not work and just because one remedy worked for one context, we should not assume it will work in the next. For example, the case of Sierra Leone following years of civil war necessitated two key mechanisms to operate simultaneously, a truth commission and prosecutions through the Special Court for Sierra Leone (Evenson 2004). A similar set of facts is, however, not applicable to Zimbabwe (Reeler and Mue 2014).

Key political events present limitations as well as opportunities for transitional justice. The nature of the transition determines the types of opportunities that will be available for transitional justice or if in fact any process addressing the past will be possible. De Brito et al. (2001) acknowledge that the more a transition involves the defeat of a repressive regime, the greater the opportunity for transitional justice. This must not merely be a change in government but an entire shift from an undemocratic regime to one that is democratic (De Brito et al. 2001). This argument by De Brito et al. (2001) can be argued to be a summary of Zimbabwe's transitional justice woes, as the country's transitional justice complications have been premised on the challenges of 'transition', as will be discussed later in this chapter. While opportunities to deal with the concerns of transitional justice have been presented in the period under study in this thesis, what seem to be stalled transitions have diminished what could have been achieved at each 'transitional justice moment'. This has been the case in other contexts as well. Transitions are seldom clear-cut processes, particularly where there is no outright defeat of the

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previous regime. Even when this is so, various factors, including the values of the incoming regime and the balance of power with the previous rulers, will play a part in determining the direction transitional justice will take.

Drumbl (2016) asks the pertinent question of whether we even know where to look to determine whether a moment was transitional or not. To attempt to answer this question, various models and theories can be proposed, including Drumbl's (2016) 'transitional justice moments approach', the 'critical juncture' approach by Lessa (2013) as well as the 'focusing events theory' by Birkland (1997). These approaches have been used in various disciplines and sub-disciplines of political science to map out events that have moulded the course of political action. As such, the recognition of a key moment will depend on perceptions rendered consciously or not, of whom or where to ascribe blame, expectations of what ought to happen in that moment, one's identity at that particular moment in relation to other groups (for example perpetrator or victim), among other factors (Hearty 2018). To curb these biases, this thesis, as highlighted earlier, combines aspects or criteria derived from Lessa (2013)'s critical juncture approach, Birkland's (1997) focusing events theory and from Drumbl's (2016) analogy on transitional justice moments. This analogy will be done in chapter five of the thesis in tracing Zimbabwe's transitional justice trajectory.

The following section outlines Birkland's (1997) focusing events theory.

3.6.2. Focusing Events theory

Long-term changes in the social and political order are often a result of long-term flow of events interrupted by sudden events (Birkland 1997). Events such as major battles in war, coups d'état, riots or mass protests may have significant consequences for the shaping of agendas and indeed the manner in which transitional justice evolves in a particular setting. Scholars such as Kingdon (1995) and Walker (1977), promote the importance of sudden attention-seizing events in progressing agenda and possibly prompting policy change. Birkland (1998) terms these events 'focusing events' and develops a theory of 'focusing events' and identifies them to include plane crashes, oil spills and natural disasters. Birkland (1998:54) sees a focusing event as "an event that is sudden; relatively uncommon; can be reasonably defined as harmful or revealing the possibility of potentially greater future harms; has harms that are concentrated in a particular geographical area or community of interest; and that is known to policy makers and the public simultaneously". Although the events identified by Birkland (1998) as focusing

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are not necessarily of a transitional nature, his theory provides a useful framework for this study in terms of understanding how events shape narrative and therefore the influencing of agenda.

Focusing events present important opportunities for weaker or disadvantaged groups in society to express previously suppressed concerns (Birkland 1998). Their impact is immediate, and harms done during these events are more obvious and therefore often warrant an immediate response to them. However, the harms done by other events are sometimes what Birkland (1998:55) calls "subtle, contested, and difficult to visualize, and are less likely to be focal". Focal events may serve to illuminate some previously existing problems that were previously ignored or did not receive policy attention. Civil society groups often use these focal events to push for this policy attention, highlight critical weaknesses in existing policy where it exists, as well as come up with alternative solutions (Birkland 1998). Efforts by civil society groups to push issues on the agenda are important as they pull other important actors into the discussion, thereby keeping the issue on the agenda, and may shift the "balance of debate" as argued by Birkland (1998:55), in favour of those in support of change. Hence group pressure coupled with a focusing event can have a positive impact on influencing the agenda and therefore the entire policymaking process.

While civil society groups and others who do not wield power to make policy can take advantage of focusing events, this is not true for those in power. Birkland (1998:57) posits, "If an event threatens to reduce the power of advantaged groups to control the agenda, these groups are likely to respond defensively to focusing events". These groups may downplay the importance of an event, arguing that it is not as important as stated by opposing groups, as well as seek alternative meanings of these events (Birkland 1998). Powerful groups, including governments, may further downplay these events by restricting access to information to the public about a focusing event, once the initial news that reaches all groups at the same time has been released. However, as argued by Birkland (1998), some events are just too big, making it dangerous for powerful groups to exclude civil society or "pro-change" groups from participating in the agenda-setting process. Birkland (1998:60) argues that "Indeed, from the perspective of more powerful groups, some benefit may come from letting group representatives and individual actors vent their frustration at hearings, so as to prevent this frustration from boiling over into other forms of political expression and resulting policy change". From this perspective, allowing groups such as civil society to participate in influencing the agenda-setting process is containment of the policy problem.

Focusing events form an important part of individual and collective narratives and therefore shape understandings about different groups and issues. For this reason, focusing events have agenda-setting power. John Kingdon cited in Birkland (1997:6), contends that "issues gain agenda status" when elements of three streams come together. These are the *political stream*, which encompasses the state of politics and public opinion; the *policy stream*, which contains potential solutions to the problem; and the *problem stream*, which encompasses attributes of a problem and whether it is getting better or worse. Birkland (1997:6) argues that these streams are parallel and they meet at a "window of opportunity" that creates a chance for policy change and may be triggered by a change in the understanding of the problem, changes in the understanding of the manageability of the problem or a focusing event that draws attention to the issue. Therefore, for agenda to be influenced, there needs to be conducive political environment that enables the issue to be heard by policymakers, and there needs to be an understanding that the issue is a problem that needs a solution and can be resolved.

While focusing events are undeniably important in shaping agenda and policy discourse, Birkland's (1998) contention that these events are always essentially harmful or always have negative consequences, both immediately and in the future, is problematic. This thesis argues that any given event can have both positive and negative consequences. For example, a mass protest against authoritarian rule may result in injury and even death of protesters but also provide sufficient pressure for regime transformation or even the fall of the regime. Hence the lens through which an event is being viewed can be important in discerning whether it is necessarily harmful or not. From this perspective, which seeks to capture both positive and negative events as influencing agenda-setting, this thesis adopts the critical juncture approach by Lessa (2013) as a lens through which to trace the changes in the narratives of violence in the period under review and how these have influenced the transitional justice agenda during the same period. Birkland's (1997) theory of focusing events, however, provides some critical perspectives that will be applied in this thesis within the framework of critical junctures provided by Lessa (2013).

3.6.3. Critical juncture approach to narrative and transitional justice

Pierson (2004:135) posits, "Junctures are 'critical' because they place institutional arrangements on paths or trajectories, which are then very difficult to alter". Critical junctures are therefore significant key moments that chart the course that political life takes. More specifically, according to Lessa (2013:23), "Critical junctures are defined as periods of

significant change that occur in various ways in different countries and often generate distinct legacies". Government and its institutions are altered at various critical junctures in their life stream, including elections that may lead to changes in the ruling elite or return to incumbency. These critical junctures also transform society including their understanding of various events and processes. Narratives, both individual and collective are shaped by these junctures. Zimbabwe's elections between 2001 and 2013 each represent a critical juncture in the shaping of the narrative of political violence by civil society organisations and the broader Zimbabwean society. The outcomes of these elections were heavily disputed, bringing to the fore concerns about violence and intimidation as being part of the narrative not only of civil society but Zimbabweans as a collective.

Using the critical juncture approach developed by Lessa (2013), this thesis seeks to identify how critical moments around these elections and the aftermath have shaped how civil society has influenced agenda-setting through narrative and other actions. Lessa (2013) applies the concept of critical juncture to transitional justice and memory narratives in Argentina and Uruguay, inspired by the work on political change and in particular how critical junctures were conceptualised by Collier and Collier (1991). In this thesis, the application of the critical juncture approach is done in recognition of each of the elections during the period under study as a critical juncture in changing the path of the transitional justice agenda in the country. In chapter five, this thesis attempts to identify these critical junctures. This section outlines the critical juncture approach developed by Lessa (2013). This approach, together with Birkland's (1998) focusing event theory, will be adapted to the case under study in this thesis in order to draw understandings of the factors that have shaped transitional justice agenda-setting by civil society as well as government.

According to Lessa (2013:23), "Critical junctures are a useful conceptual tool to better understand i) timing of transitional justice mechanisms and their evolution over time as a result of different critical junctures, and ii) trace alterations in the status of memory narratives that are dominant at a specific moment and which others may be more marginalised". While the focus of this thesis, as emphasised earlier in this chapter, is specifically on agenda-setting rather than other stages of the policy process, it is imperative to highlight that agenda will be viewed from different levels. In other words, agenda-setting will be viewed from a perspective that understands that agenda can be influenced and set at different levels, including at the national level by policymakers. Critical junctures are also useful for exploring when and why specific narratives may become hegemonic while others may become marginalised (Lessa 2013).

Each critical juncture can have a positive or negative impact on transitional justice. Lessa (2013:25) argues that "Negative impacts are likely to trigger backward shifts and damaging consequences in terms of accountability while positive impacts instead generate advantageous pressures and momentum for progress in confronting the past". This is another shift from the focusing theory by Birkland (1998), which captures only events that cause harm in the immediate or far future. Lessa (2013:25) further contends that "Over time different critical junctures may occur and these in turn generate alterations to memory narratives and transitional justice policy". Hence such critical junctures shape narratives as well as the agenda. Like focusing events, civil society groups can use these critical junctures to interpret events and process and project these to the broader public as well as policymakers in a manner that influences agenda-setting, their norms and interests.

The concept of critical junctures has its roots in historical institutionalism. Historical institutionalists, according to Hall and Taylor (1996), understand institutional development in terms of inadvertent consequences and path dependence as being determined by previous historical processes, hence factors such as historically rooted ideas can have an impact on decisions made. Factors such as historically grounded ideas are engrained in narratives that are expressed about issues as well as groups and form an important part of identity. These identities and perceptions then inform how the agenda is set, what comes onto the agenda or what is discarded and what actions are taken for instance to deal with past violence.

While the study of political and economic institutions has been at the centre of political science as a discipline, contemporary developments have seen a widening of this scope from the study of formal institutions in historical institutionalism to the what is termed "new institutionalism" (Peters 2019). New institutionalism, however, maintains the central thesis of institutionalism, namely that institutions play a key role in determining the direction of political life. New institutionalism is divided into three categories by Hall and Taylor (1996): historical, rational choice and sociological. This chapter takes on the historical institutionalist perspective, which according to Hall and Taylor (1996:938) views institutions generally as "the formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy".

Pierson (2004:135) posits that "Junctures are 'critical' because they place institutional arrangements on paths or trajectories which are then very difficult to alter". Critical junctures are therefore significant key moments that chart the course in which political life unfolds.

Critical junctures are characterised by the implementation of a particular institutional arrangement that is selected from among a number of alternatives, thereby removing some alternatives from the agenda (Mahoney 2000). Conventionally, with historical institutionalism, the decisions, policies and rules that initiate an institution or policy will have a persistent influence over it (Peters 1999:210). Periods of crisis, however, can bring unplanned changes to institutions while creating opportunities for new rules to be enacted and entrenched (Hogan 2006). Institutional change has therefore been divided into "normal periods" and "critical junctures" (Hogan 2006:657).

According to Lessa (2013:23), "Critical junctures are defined as periods of significant change that occur in various ways in different countries and often generate distinct legacies". Government and its institutions are altered at various critical junctures in their life stream, including elections that may lead to changes in the ruling elite or return to incumbency. Civil society is not left unchanged by these critical junctures and is often faced with the task of changing its positions and narratives about specific issues in line with these alterations. Understandings and perceptions of various key events and actors are also altered at these critical junctures, leading sometimes to raptures in previously dominant narratives of various events and processes or conversely to the strengthening of an already dominant narrative.

Much of the historical institutionalist literature postulates a dual model of institutional development that is made up of fairly long periods of stability with short periods of institutional instability in between, which are referred to as 'critical junctures' and may lead to more intense changes (Capoccia and Kelemen 2007). Certainly, in the case of Zimbabwe, the post-independence era has been characterised by various periods of instability that have lasted for varying periods. Many of these key moments have been characterised by violence, including the *Gukurahundi* genocide. Such periods have significantly and permanently altered the course of political life, as seen with the signing of the Unity Accord and the merging of ZANU and ZAPU at the end of this conflict. To date, historically grounded understandings of the Gukurahundi genocide as well as other periods of violence continue to play an important role in the path that the country follows politically.

Lessa (2013) applies the concept of critical juncture to transitional justice and memory narratives in Argentina and Uruguay and captures critical junctures to distinguish key moments that cause change in transitional justice policy and or memory narratives. Lessa (2013) uses these critical junctures to show the evolution of both transitional justice and narrative in

Argentina and Uruguay. In this thesis, the critical juncture approach is used to identify key moments related to electioneering that have led to changes in policy as well as shifts in the transitional justice agenda in Zimbabwe during the period under study. This thesis however refrains from solely using the critical juncture approach as a lens through which to view Zimbabwe because this approach would then discard other key moments that shaped the transitional justice agenda in the country but may have not led to significant policy or narrative shifts.

Critical junctures displace older institutional arrangements and produce a shift from the status quo. According to Lessa (2013:23), "Critical junctures are a useful conceptual tool to better understand

i) timing of transitional justice mechanisms and their evolution over time as a result of different critical junctures.

ii) Trace alterations in the status of memory narratives that are dominant at a specific moment and which others may be more marginalised". (It is important to note that memory narratives shift over time).

As highlighted in chapter three of this thesis, Lessa (2013:2) defines interpretations of what happened in the past as "memory narratives". This term is derived from the recognition that memory or how people remember events shapes how they interpret and therefore express them as stories or accounts of what happened. A critical juncture, as argued by Hogan (2006:661), "points to the importance of the past to explain the present and highlights the need for a broad historical vantage point". Such critical junctures are also useful for exploring when and why specific narratives may become hegemonic while others may become marginalised (Lessa 2013). Interrogating the dominance of some narratives over others forms an important part of illuminating the shaping of the transitional justice agenda in Zimbabwe at each transitional justice moment and will form part of the analysis in this chapter.

Each critical juncture can have a positive or negative impact on transitional justice. Lessa (2013:25) argues that "Negative impacts are likely to trigger backward shifts and damaging consequences in terms of accountability while positive impacts instead generate advantageous pressures and momentum for progress in confronting the past". This thesis concurs that each transitional justice moment can have both positive and negative impacts and it is important to recognise both in each of these moments to learn from them and improve responses to issues of transitional justice. Both civil society groups as well as government can use these critical

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junctures or transitional justice moments to interpret events and process and project these to the broader public in a manner that sets the agenda (in the case of government) or in a manner that influences the setting of the agenda (in the case of civil society organisations). It is important to note, however, that critical junctures are not the only propellers of institutional change but still able to transform and discredit existing institutions while triggering change (Cortell and Peterson 1999).

Lessa (2013) uses four categories of critical junctures and an analysis of each is beneficial in understanding how and why these junctures can trigger alterations to transitional justice policies and memory narratives. These categories are *political moment, opposition moment, evidentiary moment* and *international moment.* These categories refer to different moments that cause a phase of change with regard to transitional justice. Through this critical juncture approach developed by Lessa (2013) it is possible to trace both narrative and transitional justice within the same framework.

In the aftermath of critical juncture, a *reaction phase* occurs (Lessa 2013) in which various actors position themselves to set or influence the agenda, similar to Birkland's (1997) window of opportunity (which is discussed later in this chapter), which may have either positive or negative implications. Lessa (2013:28) contends that "The shift in transitional justice policy and memory narratives triggered by the critical juncture are in fact likely to produce new dynamics and trends emerging in response; during this reaction phase, the seeds of the next critical juncture are often planted". For example, when an amnesty law is passed, civil society may mobilise to challenge this, and if successful, the campaign may lead to prosecutions or the setting up of truth commissions.

However, unlike focusing events as proposed by Birkland (1998), critical junctures do not focus on a single event but rather a phase or sequence of events, therefore providing a more useful lens through which to understand the impact on agenda-setting and narratives. Secondly, through the critical junctures approach it is possible to trace both narrative and transitional justice within the same framework. ".The following are the categories outlined by Lessa (2013):

a) Political moment

According to Lessa (2013:24), "This category relates to changing power balances, which can happen because of systematic change such as transition from dictatorship or conflict to peace or because of change of government or both". How a country moves from conflict or

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dictatorship is one of the indicators that have been used to explain the nature of transitional justice policy (see Huntington 1991). Power dynamics between former and current regimes have been argued to shape the direction transitional justice policy will take. However, power dynamics are likely to change over time (Lessa 2013) and this could lead to a further shift in transitional justice policy.

Transitions have generally taken the form of "collapse, negotiation, transformation" (Mainwaring 1992, Lessa 2013). A collapse theoretically provides the most suitable conditions for transitional justice (Mainwaring 1992) and entails the complete dislodging of a regime and the coming in of a new regime that completely breaks from the past. Negotiation and transformation are not as advantageous for transitional justice, as successor regimes are unlikely to deal with the past (Mainwaring 1992, Lessa 2013). With negotiation, pacts (both official and unofficial) may prevent the prosecution of past crimes, and in the case of transformation the old guard is likely to be guilty of past crimes and therefore will not subject itself to transitional justice (Lessa 2013:24). Zimbabwe has experienced negotiation both in its past and recent history and is currently undergoing what seems to be a transformation. The implications for transitional justice will be explored further in chapter five.

b) Opposition moment

As highlighted earlier in this section, critical junctures can have either negative or positive implications. Lessa (2013:25) suggests that "*Negative opposition moments* refer to when members of the old regime retain enough power to influence political agendas and may even hold government positions in democratic administration-spoilers". This is quite similar to the analysis on the types of transition that influence the power balance in the political system; however, on the opposite side of the spectrum Lessa (2013:25) puts forward that there can be *positive opposition moments*, which are suggested as being "produced by civil society, especially human rights organisations and those directly affected namely victims and therefore relatives, and can help trigger positive shifts in transitional justice. These groups have raised awareness of crimes perpetrated during authoritarian periods. This is done through unofficial truth projects and calls for redress". These positive opposition moments have characterised Zimbabwe's transitional justice journey and will also be explored in greater detail in chapter five of this thesis.

c) Evidentiary moment

This is when evidence that has been suppressed resurfaces. Lessa (2013) suggests that authoritarian regimes go to great lengths to cover their tracks and try to ensure that evidence of their crimes is buried. When these buried secrets resurface, it becomes an evidentiary moment that can be used to institute transitional justice processes. There are two main kinds of evidentiary moments: when physical evidence such as unmarked or mass graves are discovered, and secondly the resurfacing of written evidence, such as sealed archives or unpublished findings (Lessa 2013). Zimbabwe's Chihambakwe Commission Report[6] is an example of the latter; activists have been calling for its release as evidence of what happened in Matebeleland during the *Gukurahundi* genocide, but this has not been released to date. Such findings may lead to forensic work being carried out to uncover the truth and may also encourage previously silenced groups to come and reveal some of these hidden crimes (Lessa 2013). An example of such forensic work has been carried out by Spanish civil society associations since 2000 to help relatives of the disappeared "locate, exhume and honour" those who were killed in the Spanish Civil War and the subsequent Francisco Franco dictatorship (Rubin 2014).

d) International moment

This is when transitional justice is carried out as a result of regional and international pressure (Lessa 2013). This includes transitional justice being initiated by regional and international bodies as well as intergovernmental organisations. Through international hybrid tribunals such as the International Criminal Tribunal for Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), among others, transitional justice has been instituted (Lessa 2013). The International Criminal Court (ICC) has also been part of this international pressure to account for past violence. Local civil society organisations can also play an important role in this international moment by instituting civil claims through regional courts such as the African Court on Human and Peoples' Rights (ACHPR), thereby putting pressure on governments to address transitional issues.

These categories will be used in chapter five to further explore how critical junctures have influenced civil society narratives of violence and the transitional justice agenda in Zimbabwe during the period under review. The following section outlines Drumbl's (2016) transitional justice moments approach.

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[6] The Chihambakwe Commission of enquiry was established to investigate the *Gukurahundi* genocide in Midlands and Matebeleland (Killander and Nyathi 2015)

3.6.4. Transitional justice moments

Drumbl (2016) uses the term "transitional justice moments" to describe key happenings that impact a nation's process of moving forward after a period of violence and repression. These moments, according to Drumbl (2016), consist of "Hidden happenings/unspoken transitional justice; Omissions; Partial happenings and Bad moments". Through identifying various happenings in Zimbabwe's transitional justice journey, this chapter uses these categories to unpack key moments that shaped the transitional justice agenda in Zimbabwe. Such categorisation enables identification and reflection on these moments. As highlighted earlier in this chapter, this will be done through a combined lens, using the "focusing events theory" by Birkland (1997) and the "critical juncture model" by Lessa (2013) as well as Drumbl's (2016) analogy of 'transitional justice moments' together. This approach is drawn from work by scholars such as Hearty (2018:3), who uses "an innovative theoretical synthesis of previously unconnected frameworks" to study transitional justice. In summary, the approach by Drumbl (2016) categorises transitional justice moments, while the approaches by Lessa (2013) and Birkland (1998) explain how these moments emanated from a particular context and this is how this chapter adopts each of these approaches.

There are several events that have shaped the transitional justice journey in Zimbabwe. Many of these events have been related to the electioneering and the struggles for power that have come with these elections. However, a distinguishing factor is the nature in which these moments have put transitional justice on the national agenda and shaped the discussion and implementation of responses to concerns of transitional justice, including truth and accountability.

For the purposes of this thesis, key moments in transitional justice are referred to as "transitional justice moments" as drawn from the work of Drumbl (2016) and will be identified by the following features:

    i.   An event that leads to pressure by civil society, the international community and other actors for a transitional justice process.

    ii.   An event that leads to the setting up of a transitional justice process/policy or institution.

    iii.   An event that leads to the attainment of the goals of transitional justice (intentionally or otherwise) such as accountability or truth-telling.

Chapter five of this thesis will further explore and apply this approach to the Zimbabwean case as discussed earlier in this chapter.

3.7. Conclusion

This chapter provided a framework in which narratives are understood and used in this thesis. It sought to link narrative and agenda setting in transitional justice while illuminating the role of civil society as key actors in this space. How we understand and interact with the past is influenced by narrative and how we relate to the present, as well as how we envision the future (Grødum 2012; Rosenwald and Ochberg 1992; Riessman 1993). In this thesis, the term *narrative* is used to refer to the way we describe, think of, and understand events as a coherent whole. Based on these assumptions, the world, in this thesis, is essentially viewed as a narrative world in which narrative is used as a lens, as data and as analytical tool (Graef et al. 2018).

Narratives are always contested and can be passed down from generation to generation with the same meaning. Therefore, narratives are a carrier of identities such as victimhood (Cobb 2013). This is why there is competition among different groups to have their narratives heard and this narrative competition may lead to conflict. Narrative competition as explored in this chapter is competition to influence the agenda. The agenda will determine which problems are set up for consideration by policymakers who decide on action that needs to be taken to resolve a problem (Pollard and Court 2005). Without the ability to influence agenda-setting, the narratives of some groups are suppressed and those who are able to influence agenda-setting may have their narratives become hegemonic.

Concurring with Lessa (2013), this chapter argues that narratives of past violence cannot be separated from the decision about what mechanisms are put in place to deal with the past. In other words, narratives determine the policy of transitional justice. As also outlined in this chapter, transitional justice is set within this policymaking framework and issues of transitional justice are often treated as policy problems that a set toolkit is thrown at. While this has been widely accepted as the appropriate response to post-conflict situations, as outlined in chapter two of this thesis, this approach has failed. This chapter argues the importance of context in influencing the route transitional justice should take. The conditions prevailing on the ground must be conducive to transitional justice to take place as presented in the arguments by Drumbl (2016), Lessa (2013) and Birkland (1997). The environment may be made conducive by the occurrence of key events that allow weaker groups to push for change or through pressure from

civil society, or external pressure from other governments or multilateral organisations. It is these occurrences and the environment that will be examined in chapter five in a bid to trace the changes in narratives of political violence by civil society organisations and the changes in the transitional justice agenda in the country at various periods. The following chapter will focus on the methods applied in this study and will focus on narratives as a lens through which to view world, as well as an analytical tool through which to draw understandings of the world.

Chapter Four

Methodology

4.1. Introduction

The assertion that narratives of violence cannot be separated from how we respond to the violence, as proposed by Lessa (2013), leads this thesis to ask who generates what narratives, for what reason and with what implications. The thesis seeks to interrogate how civil society narratives of electoral violence, as drawn from the way they report and depict understandings of this violence, through written texts as well as the way they speak about violence in various public forums, have shaped the transitional justice agenda in Zimbabwe.

This chapter also presents the research problem, research questions and the research design adopted to answer the questions posed in this thesis. Through the presentation of the outline of the qualitative research tradition and its theoretical underpinnings, the chapter seeks to explain the choices made by the researcher, as well as the limitations of these choices. The descriptive research design that is undertaken in this research is also outlined, while highlighting the methods employed to collect and analyse data in the research.

The chapter also outlines the categorical content analysis process that was undertaken to map out the narratives by four civil society organisations, namely the Zimbabwe Human Rights NGO Forum (ZHRNGOF), the Zimbabwe Peace Project (ZPP), Zimbabwe Human Rights Association (ZIMRIGHTS) and Amnesty International-Zimbabwe (AI-Z). The sampling techniques for the selection of the organisations and the reports analysed are defined, including the organisation, analysis and presentation of the acquired data. Further, a description of how in-depth interviews were carried out with stakeholders and experts within and outside of civil society is also given.

4.2. Research problem, questions and aims

Transitional justice comprises measures taken in post-conflict societies to restore the rule of law through democracy and institutional reform in a bid to build sustainable peace (Grødum 2012). The nature of these measures is determined by the interpretations of the root causes and

manifestations of violence during the conflict, and these form the various narratives about the conflict. Concurring with Lessa (2013), this thesis argues that narratives of past violence cannot be separated from the decision about what mechanisms are put in place to deal with the past. These mechanisms may be restorative or retributive, or both, depending on the post-conflict context, as explained in chapter two of this thesis. To this end, this thesis interrogates the role of civil society narratives of violence in influencing the transitional justice agenda in Zimbabwe between 2000 and 2013. It is however important to emphasise, as highlighted in chapter three of this thesis, that the agenda is shaped by the narrative of the dominant group in society at any particular time. This agenda in turn has implications (both positive and negative) for mechanisms put in place as policy to respond to the concerns of transitional justice, including redress for victims of violent conflict, accountability of perpetrators of this violence and ensuring the non-recurrence of such violence and conflict.

The concerns of transitional justice or rather its agenda may shift at different stages of the conflict cycle, thereby determining which mechanisms are dominant at a particular time, for instance, the gathering of evidence, prosecutions, truth-telling processes or memorialisation of the conflict. This is in concurrence with the shifting narratives about conflict at different stages of the conflict cycle, influencing what victims' demands are regarding redress at a particular time in relation to the interests of the political elites. However, where conflict and violence remain recurring phenomena, these different stages may not necessarily be fully reached (McClelland 2014), with continuous digressions that hamper, for example, accountability of the perpetrators.

Research on transitional justice has largely conceived challenges in post-conflict societies as a policy issue and as such approaches to its study have leaned toward this (Kritz 2009). Such research has been used to inform policy processes, but, given the long-term goals of transitional justice, much of this work has become a "snapshot of little pieces of a very long process" (Kritz 2009:14). In order to gain a greater understanding of transitional justice as a peacebuilding measure, there is a need to look beyond its mechanisms and their effectiveness or lack thereof in building sustainably peaceful societies. There is a need to look at what informs these mechanisms as responses to the needs of post-conflict societies as drawn from the interpretations of their experiences of conflict and violence. As expressed in chapter three of this study, these interpretations then become the core narratives of the conflict, which shape the responses of mechanisms such as transitional justice. In light of this need to go beyond the implementation stages of transitional justice policy and mechanisms, this thesis seeks to

highlight the importance of understanding the machinations that shape these responses to post-conflict scenarios, including actors, norms and contextual conditions (moments/critical junctures).

Grødum (2012:10) contends that "Transitional justice today is a highly institutionalized field" with its origins in legal institutions. Contrary to this, a narrative approach largely captures the experiences and interpretations of individuals about these violent events that transitional justice focuses on. It may be argued then that narrative is not the appropriate lens through which to study transitional justice. However, on further examination, narratives and the institutions of transitional justice can hardly be separated.

Importantly, the society that transitional justice seeks to repair is made up of individuals who are expected or intended to participate in the processes of transitional justice that are implemented through these institutions. It is the experiences and interpretations of these individuals (perpetrators, victims, observers), making up their narratives, that will be used by the institutions of transitional justice as evidence for prosecutions and truth commissions, as well as for memorialisation of the conflict. These individual experiences and interpretations are also collated by those seeking to influence policymaking at the agenda-setting level of institutions. These actors include civil society and the media among others. Further, those expected to account for the violence during conflict through legal institutions established through transitional justice processes are individuals who may have acted on behalf of institutions for varying political reasons. In this way, narrative becomes an important and relevant lens through which to study transitional justice.

As argued in chapter three of this study, civil society plays an important role in influencing the agenda of transitional justice. They do not set the agenda of transitional justice institutions or determine which mechanisms are put in put in place. Their role is to influence which matters take precedence at the table of those with power to implement these processes; in other words, influencing agenda-setting. This is done through the use of narrative in different genres and at different forums, hence the importance of studying agenda-setting through a narrative lens. As argued by McCombs and Shaw (1993:62), "agenda setting is a theory about the transfer of salience, both the salience of objects and the salience of their attributes". Both the selection of matters for attention and the selection of frames for thinking about them are potent agenda-setting roles (McCombs and Shaw 1993) and are a critical role played by civil society through narrative. In transitional justice, as in other policy fields, the selection of matters for attention

and frames from which to think about them is critical, as it determines what mechanisms are put in place to respond to the challenges of the post-conflict society. These mechanisms will determine the success or failure of a transitional justice process.

Burd (1991:291) contends that agenda-setting research is at its best when it is "empirical and cautious but also eclectic and congenial to multiple methods and different disciplines. At its worst agenda setting is mass media centric… and tied naively to a largely rational notion of human nature and the myth of an objective interest". In concurrence with this argument, this research is not primarily interested in the role of mass media in agenda-setting but is interested in multiple ways in which the agenda is set, and uses various methods, including content analysis and in-depth interviews, to study the phenomena. This thesis also takes on an interpretivist approach, which does not assume a homogenous polity as was previously the case in most agenda-setting research (Burd 1991). Contemporary agenda-setting research now recognises the polity as a space for competing views and interests and as such is in line with the growing realisation in the field of transitional justice of a contested space with different values and interests. Agenda-setting research is finding increasingly that informal communication outside of mass media may shape the agendas of policymakers as well as citizens (Burd 1991). This is true of civil society reports and publications that are not available to large sections of the polity but may be targeted at policymakers or specific narrative holders who are able to influence the agenda on a particular matter.

The aim of this study is not to criticise or endorse the role played by civil society in influencing the transitional justice policies of states around the world, and in particular in Zimbabwe, but rather to highlight the various aspects that inform this role. Highlighting these complexities and the interaction of various conditions such as timing and the balance of power are an important step towards not only re-examining the role of civil society in the entire transitional justice framework but also in emphasising the need to move away from a one-size-fits-all conception of transitional justice. These factors are also highlighted in chapters two and three of this thesis.

This research uses a qualitative interpretivist approach to understand the role played by civil society in influencing the transitional justice agenda in Zimbabwe through the use of the narratives of violence that they espouse. This is done by assessing these narratives of violence in relation to external factors, including the political, social and economic environment, as well

as key events that may have had an implication on the shaping of both narratives of violence and the transitional justice agenda.

For the reasons stated above, as was introduced in Chapter One, this thesis aims to answer the following question:

How have civil society narratives of violence shaped the transitional justice agenda in Zimbabwe (2000-2013)?

To answer this question, the following sub-questions are asked:

a) What are the narratives of electoral violence that have been espoused by civil society between 2000 and 2013?
b) How and why have these narratives developed?
c) What have been the implications of these narratives on shaping the transitional justice agenda?

These questions are asked in order to gain an understanding of how civil society in Zimbabwe has influenced transitional justice policy in the country, as well as to interrogate factors that have influenced the role that these civil society organisations have played in influencing transitional justice policy. This is done while also seeking to illuminate the response of the policymakers to the role of civil society as influencers in the agenda-setting process.

4.3. Why narrative: the rationale for using narrative as a lens and method of investigation

Creswell and Poth (2016:54) contend that "*Narrative* might be the term assigned to any text or discourse, or, it might be text used within the context of a mode of inquiry in qualitative research (Chase 2005), with a specific focus on the stories told by individuals". Narrative can also refer to the study of successive happenings giving an account of an "event/action or series of events/actions, chronologically connected" (Czarniawska 2004:17; Creswell and Poth 2016). These stories may be presented as written texts, visual or audio recordings. As is argued in this chapter, narrative provides a critical lens through which to study how electoral violence is interpreted by civil society in Zimbabwe to influence the agenda on transitional justice at the national level.

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One of the approaches to narrative research is to differentiate the types of narrative research by the methodical approaches used by authors (Polkinghorne 1995). This may be as Polkinghorne (1995:12) distinguishes: "analysis of narratives" or "narrative analysis". Creswell and Poth (2016:55) argue that with "analysis of narrative" the researcher uses "paradigm thinking to create descriptions of themes that hold across stories or taxonomies of types of stories". With "narrative analysis" the researcher uses "descriptions of events or happenings and then configure them into a story using a plot line". The approach used in this thesis is the "analysis of narratives" and content analysis is used to carry out the process, as is described in more detail in a later section of this chapter. As with this thesis, narrative research may focus on a particular context such as a particular group of people or a particular organisation (Creswell and Poth 2016).

As highlighted earlier in chapter three of this thesis, the term narrative has different uses and meanings, so does narrative research which has many forms, procedures and is rooted in many disciplines of study (Creswell and Poth 2016; Czarniawska 2004). Therefore, narrative research refers to any study that uses or examines narrative material (Lieblich et al. 1998). In carrying out narrative research, Lieblich et al. (1998:2-3) contend that narrative can be used as "the object of the research or a means for the study of another question" or it may be used for comparison. Narrative may be used as "the phenomenon being studied such as the narrative of illness" or it may be used as the "method used to study, such as the procedures of analysing stories" (Creswell 2012:70). This thesis uses narrative as the phenomenon under study as it studies narratives of electoral violence as a gateway to setting the transitional justice agenda in Zimbabwe. This study therefore is not narrative research but rather a phenomenological study. As Cresswell and Poth (2016:57) highlight: "Whereas a narrative study reports the life of a *single individual*, a *phenomenological study* describes the meaning for several individuals of their *lived experiences* of a concept or a phenomenon".

Civil society reports capture the individual experiences of electoral violence and interpret these experiences as those of a collective (victims). Therefore, what is under study in this thesis is the meaning and experience of a common phenomenon of the collective rather than individuals. While these experiences have not been captured by the researcher but rather by the civil society organisations under study, these reports serve the simple purpose of phenomenology, which is "to reduce individual experiences with a phenomenon to a description of the universal essence…" (Cresswell and Poth 2016:57). An object of human experience is identified (experience of electoral violence) and those who have experienced the phenomenon are the

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source of data, seeking to unearth "'what' they experienced and 'how' they experienced it (Cresswell and Poth 2016:57). This thesis analyses these experiences as they have been captured in the reports of civil society organisations.

As also noted in chapter three of this thesis, Graef et al. (2018:2) identify three modes in which narrative may be comprehended: "as a lens to view the social world; as data that provides insights into that world; and as a tool for analyzing this data in a systematic and coherent manner", as presented below:

i)   Narrative as a lens to view the social world

Graef et al. (2018:2) contend that "Approaching the social world as a narrative world means to acknowledge that we live in a storied reality (i.e., that narrative is an ontological condition of life)". Through shaping multiple events, people come to understand the world around them and interpret events and conditions around them. Therefore, individual events and experiences obtain their meaning only in relation to other events "through a process of employment that creates syntagmatic (i.e., discursive) links between isolated episodes" (Graef et al. 2018:2). It can therefore be concluded that narratives are utensils to comprehend, negotiate, and understand situations we meet and are utensils for living (Adams 2008, Graef et al. 2018). In this way the study of narrative enables the "analyst" to consider the consequence of events, which other theories fail to do (Jacobs 2000:8-9). In other words, as a lens, narrative allows people to think about an event, its meaning and the multiple consequences that come with each narrative. The ontological grounding of this thesis therefore is based on this premise of a storied or narrative based reality, or the stories told about organisations (Czarniawska, 2004). Narratives may also be guided by a theoretical lens or perspective such as feminism (for example telling stories from a feminist perspective) (Cresswell and Poth 2016).

Graef et al. (2018:3) contend that "Temporality and contextuality, selectivity and multiplicity can thus be identified as key elements of viewing political violence and terrorism through a narrative lens". In other words, time, setting and background, perception and discernment, as well as a diversity of players and issues, are the main focus in the study of violence through narrative. These elements help analysts to draw understandings of violent events as well as a better understanding of the narrative consequences as expressed by different groups. From this breakdown of narrative as a lens it can be concluded that that this thesis uses this mode of narrative in grappling with how civil society narratives of violence have shaped the transitional justice agenda in Zimbabwe.

ii)   Narrative as data that provides insights into that world

Various studies gain their understandings into "narrative worlds" through different forms of narrative data that can be oral, textual, or visual. Graef et al. (2018:4-5) identify "policy documents, police reports, court files, psychiatric evaluations, written material produced by activists… interviews with key actors—perpetrators, victims, witnesses, and officials—collected by the researchers themselves... news media and literary texts, films, posters, photographs, and social media comments". Through a process of narration, these tools are used to make sense of different events and processes. According to Graef et al. (2018:5), "while all of them tell stories by establishing temporal [sequential] and spatial relations between multiple, heterogeneous events, the process of narration and its appropriation by the reader, listener, or viewer is shaped by the particular characteristics of their narrative genre". The way events are presented have an implication on what interpretations are drawn about these events. It determines what is told and what is left untold, depending on the aims of a particular genre in presenting those events (Skultans 2002). For this reason, it is important to question the use of a particular narrative genre in presenting events and issues, as this determines the understandings drawn. As aptly described by Graef et al. (2018:5),

> "It makes a difference if we apply the concept to, say, the study of literature, history, life story interviews, or social media conversations, because it implies fundamentally different understandings of narrative as an art form, a precondition for everyday existence and lived experience, or the representation of past events".

Civil society reports are used as narrative data in this thesis and are the main source of data for this enquiry, together with data gathered from in-depth interviews and other secondary sources of data, including academic texts. The presentation of individual experiences of violence in human rights reports creates a different narrative from those experiences documented in say, a newspaper article or captured as a biography of that individual. The narrative genre of civil society reports often targets a specific audience, particularly policymakers who have the power to set the agenda. Therefore it is important for these reports as data sources to be evidentiary and as comprehensive as possible. However, this is not always the case, due to limitations in resources and accessibility of data for these civil society organisations (Straus and Taylor 2009). These reports are also narrative texts that perform 'collective identities' (Gad 2012) of

victims and perpetrators and are used to illustrate how electoral violence is constructed by these organisations.

As already highlighted in this section, this thesis uses narrative as the object of research by analysing how individual stories of the experiences of electoral violence are condensed into the reports and analysis of civil society organisations to represent a collective interpretation. It does not study the life histories of individuals, but rather a series of events in a particular context and how the collective interpretations of individual experiences have influenced agenda-setting in the transitional justice space in Zimbabwe. Civil society reports are documented from individuals' perceptions drawn from experiences of these events of violence and collated together into reports analysing and interpreting these events. These collations are then used as representations of the experiences of the collective.

iii)   Narrative as a tool for analysing data in a systematic and coherent manner

There is often a lack of clarity as to how narrative data can be explored systematically, particularly in the case of non-literary narratives (Graef et al. 2018). Narrative data is often analysed through categorical content analysis. Narrative materials are handled methodically, by breaking text into moderately small components of content and "submitting them to either descriptive or statistical treatment" (Lieblich et al. 1998:112). This is the conventional methodology to doing research with narrative material (Riessman 1993).

Narrative is used as a means of studying transitional justice in this thesis in order to illuminate the link between interpretations of violence and policy responses or debates by policymakers about what mechanisms are put in place to deal with the past. As argued in chapter three of this thesis and concurring with Lessa (2013), narratives of past violence cannot be separated from the decision about what mechanisms are put in place to deal with the past. It is therefore important to explore issues of transitional justice from a narrative based perspective, which informs the framing of the transitional justice narrative and therefore the transitional justice agenda as well as ultimately the policy outcomes.

As argued by Grødum (2011:12), "Interpretation is not a subjective internal reflection, but it involves inter-subjective mediated contexts of meaning that include history". Hence understanding issues of transitional justice requires a combination of approaches that are aware of context and history, making narrative analysis an important approach in studying the phenomenon. In this study, narrative is selected as a means of studying transitional justice in

order to give a clearer interpretation of the context of the transitional justice discussion in Zimbabwe and the initiatives of both government and civil society. This permits the thesis to explore how different narrative groups interpret not only the electoral violence presented in the sample of reports and articles analysed in the study, but also the transitional justice process in the country, independent of the term used for it. The following section outlines how data was collected and analysed for this study using narrative as data, as well as a tool for analysing this data.

4.4. The qualitative approach

This research falls into the qualitative interpretivist research tradition and takes on a descriptive research design, as shown in the questions outlined earlier in the chapter. Qualitative research makes use of the "interpretive naturalistic" approach, which seeks to study phenomena in their natural settings and aims at understanding phenomena based on the meanings people bring to them (Hennink et al., 2011). This research seeks to understand the role of civil society in influencing the transitional justice agenda in Zimbabwe based on the narratives of violence they have adopted. Therefore, meanings of electoral violence and transitional justice are derived from this specific context. This is in line with the interpretivist paradigm which, as argued by Lin (1998:162), "seeks to combine data into systems of belief whose manifestations are specific to a case". Similarly, Vosloo (2014:307) contends that the purpose of research in interpretivism is "understanding and interpreting everyday happenings (events), experiences and social structures as well as the values people attach to these phenomena". These considerations influenced the choice of research design and tools for this study as is further outlined in this chapter.

Morgan and Smircich (1980:491) state that "Qualitative research is an approach rather than a particular set of techniques and its appropriateness derives from the nature of the social phenomena to be explored". Similarly Hennink et al. (2010:8) assert that qualitative research is "An umbrella term that covers a wide range of techniques and philosophies… it is an approach that allows you to examine people's experiences in detail, by using a specific set of research methods…" The qualitative approach makes use of several methods of analysis, for example, phenomenology, hermeneutics, grounded theory, ethnography, phenomenographic and content analysis (Burnard, 1995).

As such, qualitative research is characteristically multi-method in its approach to data collection and includes document/content analysis as well as in-depth interviews (Denzin and Lincoln 2011; Hennink et al. 2010), which are used in this research. This use of a combination of research tools and sources of data enhances understanding of the phenomena under study from different viewpoints. The process of using different data sources as applied in this study is referred to as triangulation and is explained further in the following sections of this chapter. The methods used in qualitative research use inductive logic or reasoning. Inductive reasoning, according to Bengtsson (2016:9-10), is "the process of developing conclusions from collected data by weaving together new information into theories". The researcher examines the text with a view that is receptive to different opinions in order to identify meaningful subjects that answer the research question (Bengtsson 2016).

4.4.1. Underlying philosophical assumptions

The qualitative research approach has several underlying philosophical assumptions that set it apart from other research traditions such as the quantitative approach. As outlined by Creswell and Poth (2016:17), in qualitative research the ontological basis (nature of reality) is subjective and multiple, as seen by different participants in the study, and its epistemological basis (relationship between the researcher and what is being researched) is characterised by the researcher's proximity to the phenomenon being researched. Further, Creswell and Poth (2016) allude to the fact that in qualitative research, the axiological (the role of values) standpoint recognises that research is value-laden and that narratives are shaped by biases of the researcher as well as those of the participants; additionally the methodology is inductive and shaped by the researcher's experiences in carrying out research.

In line with these philosophical assumptions, this research gathers different understandings of transitional justice and civil society from different sources in order to capture these multiple and subjective viewpoints that are influenced by underlying values, such as respect for human rights and the rule of law expressed through the different sources of data. This is done through the selection of four different civil society organisations that provide four different data sets, and through the interviewing of ten experts in the field and context of transitional justice in Zimbabwe. The selection of these data sources is discussed further in a later section of this chapter. The biases of the researcher are also recognised in this research, as the researcher has been in the position of both an "insider" and "outsider" in relation to the phenomena under study. Through working in civil society organisations in Zimbabwe, the researcher has some

experience of how these narratives under study have been recorded and now takes on the role of an "outsider" by seeking to study these narratives and their implications for agenda-setting in the transitional justice realm in the country. These biases are managed by taking on a descriptive research design, as well as by taking on an interpretivist approach in which meanings are derived from the participants and the context or in this case the presented data (through content analysis), rather than the researcher's own understandings. Further, steps in carrying out each stage of the research have been recorded and replicated in an attempt to deal with any biases.

4.4.2. The descriptive research design

The descriptive research design is selected for this study as it best enables the answering of the core questions of this study. As outlined by Labaree (2009), "Descriptive research designs help provide answers to the questions of who, what, when, where, and how associated with a particular research problem". This research asks *how* civil society narratives of violence have contributed to the shaping of the transitional justice agenda in Zimbabwe by interrogating *what* these narratives are; by *whom* and *when*. Hence it aims to describe the narratives presented by civil society as well as explain how these narratives have interacted with critical junctures within the political context in order to shape the transitional justice agenda. While a descriptive study cannot decisively establish answers to "why" questions, it is useful in providing information about the existing condition of a particular phenomenon (Anastas 1999). However, before asking "why?' it is important to be sure of the description of the phenomena.

This research does not aim to discover causality but rather to discover "causal mechanisms" (Lin 1998:162). In other words, this research does not seek a causal relationship between civil society narratives of violence and the transitional justice agenda in Zimbabwe, but rather to discover the trappings that have shaped this agenda. This process applies inductive reasoning, which is a method of developing inferences from collected data by knitting together new information into themes or theories (Bengtsson 2016; Polit and Beck 2006; Lin 1998). This will be highlighted further in later sections of this chapter as more specific methods, including categorical content analysis and thematic analysis, are discussed.

As already alluded to, this research design does not provide sufficient answers to the questions of 'why?' the agenda has been set in a particular way; it however provides an important lens through which to view the development of the transitional justice agenda in Zimbabwe and

possibly enable the design of more explanatory research. Further challenges of using the descriptive research design, as well as the various research methods applied in this study, will be further discussed in the various sections of this chapter.

4.4.3. The unit of analysis and sample

The unit of analysis refers to the sample from which the researcher extracts data to answer the research question (Bengtsson 2016). In selecting the unit of analysis, Bengtsson (2016) argues that the researcher has to decide from whom or where to collect the data, when it ought to be collected and whether the data collected should be analysed separately and using different methods. The researcher has to determine whether the material is to be analysed in its entirety or divided into smaller units. This research uses narratives of electoral violence as the unit of analysis and is specifically examining these narratives in relation to the reports of four civil society organisations produced between 2000 and 2013.

Electoral violence, for the purposes of this study, is disaggregated into pre- and post-election violence; that is three months before the election and three months after the election, respectively. This disaggregation gives the researcher clearer timelines in terms of the data sources to be handled and ensures this can be replicated for each of the four organisations under study. This disaggregation is done at the discretion of the researcher with guidelines from previous research, such as Straus and Taylor (2009). As alluded to by Bengtsson (2016), there are no conventional standards when using content analysis for the size of a unit of analysis; therefore the researcher has to decide to create a sample that adequately addresses the research question.

In qualitative studies, it is common that data is based on one to 30 informants (Fridlund & Hildingh 2000). However, the sample size should be determined on the basis of whether the respondents can sufficiently answer the research question (Bengtsson 2016). This research used purposive sampling to select the organisations that were used to study the phenomena of civil society narratives of violence and how they influence the transitional justice agenda. The purposive sampling technique is, according to Etikan et al. (2016:2), "the deliberate choice of an informant due to the qualities the informant possesses. It is a nonrandom technique that does not need underlying theories or a set number of informants… the researcher decides what needs to be known and sets out to find people who can and are willing to provide the information by virtue of knowledge or experience". Purposive sampling can be used with both qualitative and

quantitative research techniques. While biases in most forms of research are cautioned against, with the purposive sampling technique, bias adds to the efficiency and robustness of the method (Tongco 2007). It is therefore critical when using purposive sampling to ensure selection of sources of data that ensure reliability through competence or proficiency in the subject of interest (Etikan et al. 2016; Tongco 2007).

Purposive sampling employs various methods in its selection, including homogenous, typical case and expert sampling, among others. This study makes use of homogenous sampling in the selection of the organisations from whose reports to study narratives of electoral violence and expert sampling for the selection of informants for the in-depth interviews. According to Etikan et al. (2016:3), homogenous sampling "focuses on candidates who share similar traits or specific characteristics". The aim is to focus on the specific similarities and how they relate to the topic being researched (Etikan et al. 2016). Hence in the context of this study only organisations that have been involved in working on electoral violence and transitional justice would be suitable for the sample. While the organisations selected in this study are not entirely homogenous in their values, structure of governance and even the tools used to present the narratives of electoral violence, they present similar traits in their focus on human rights, the environment in which they operate as well as their advocacy towards redress and transitional justice policy in Zimbabwe.

The four organisations from which the unit of analysis (narratives of electoral violence) was drawn for this study were selected from a list of 21 organisations that fall under the umbrella of the Zimbabwe Human Rights NGO Forum (ZHRNGOF)[7]. The ZHRNGOF as a coalition of human rights organisations in Zimbabwe, together with its member and partner organisations, is among the pioneers in the discussion on transitional justice in Zimbabwe, as will be discussed further in sections 6.1 to 6.3 of this thesis. Outside of this coalition of 21 organisations, other groups dealing with transitional justice have emerged, but only in the later years of the discussion, thereby not providing appropriate cases for this study, which focuses on earlier discussions. These organisations are Amnesty International-Zimbabwe (AI-Z), ZIMRIGHTS, the Zimbabwe Peace Project (ZPP) and the ZHRNGOF itself. The organisations were purposively selected based on:

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[7] The Zimbabwe Human Rights NGO Forum (the Forum) is a coalition of 21 human rights NGOs in Zimbabwe (http://www.hrforumzim.org/).

1. Whether or not these organisations have been in existence for the duration of the period under review; that is 2000 to 2013 (this allowed the researcher to review the narratives by the different organisations within the same context, including political, social and economic environments, as well as for the same electoral periods);

2. Whether these organisations have taken an active part in shaping the narrative of electoral violence through documentation of electoral violence, or by providing reflection, analysis and advocacy through other public forums (this allowed the researcher to pick up key themes in the narratives of each of the organisations, as well as assess how the different issues are expressed by the different organisations).

Purposive sampling is therefore used in order to ensure that organisations that best meet the criteria are selected, thereby providing a better opportunity to study the subject under review. The table below gives a brief outline of the work of the selected organisations.

ZHRNGOF	The Zimbabwe Human Rights NGO Forum (the Forum) was established in 1998 in response to the state's violent response to the 1998 Food Riots. It had an initial membership of eight human rights organisations in Zimbabwe and has since grown to 21 organisations working in diverse fields of human rights, including women's rights, children's rights, youths, LGBTQ rights, prisoners' rights, freedom of expression and the media, anti-corruption, good governance, peacebuilding, and non-violent ways of conflict resolution (ZHRNGOF 2020).
ZIMRIGHTS	ZIMRIGHTS was founded in 1992 to ensure that Zimbabwean citizens are informed about human rights and are empowered to defend their own rights (ZHRNGOF 2020).
ZPP	The Zimbabwe Peace Project was established in 2000 by a group of non-governmental and church organisations. Current member organisations include the Catholic Commission of Justice and Peace in Zimbabwe (CCJPZ), the Evangelical Fellowship of Zimbabwe (EFZ), the Zimbabwe Council of Churches (ZCC), and the Zimbabwe Human Rights Association (ZIMRIGHTS) among others. The organisation seeks to work for sustainable peace through

	monitoring, documentation, advocacy and community peacebuilding interventions with its members and partners (ZPP 2020).
AI-Z	Amnesty International is a worldwide campaigning movement that works to promote internationally recognised human rights. It established offices in Harare, Zimbabwe, to monitor the deteriorating human rights situation in the country.

Table 1. Outline of the mandates of ZHRNGOF, ZIMRIGHTS, ZPP and AI-Z

The organisations selected in this study have compiled diverse reports that present data on electoral violence and other forms of politically motivated violence. These reports range from a weekly to a monthly output, with weekly reports being collated into one publication at the end of each month. Reports that give an analysis or overview for an entire month are selected for all four organisations. Further, reports that present an overview of the electoral period are also collated. These reports include ad hoc reports, which present particular aspects of the violence as well as more comprehensive reports, including annual reports, which give an overview of the violence for each particular period. This provided the researcher not only with a comprehensive view of the narratives presented by each organisation, but also enabled the tracking of any changes in the narrative at different points.

This being said, it is important to note that the coverage of electoral violence by the organisations included in this study cannot be assumed to be a comprehensive representation of the electoral violence nationally or even in any particular area of the country. As highlighted by Straus and Taylor (2009), reporting of electoral violence by NGOs is often uneven, and some cases may be well documented while others are not. For the purposes of this study, such disparities are noted to have an implication on the narrative that emerges from each organisation. For this reason it was important for the researcher to purposively select organisations that have been consistent in recording electoral violence during the period under study, as well as organisations that are part of a network that is able to assist in the verification of recorded incidences, as is provided for by the NGO Forum network. The researcher also selected the four organisations based on the differences (even slight) in reporting styles in order to "avoid a systematic reporting bias" (Straus and Taylor 2009:11) that comes with having a single source of data.

Also important to note in the analysis and selection of the data and data source for this research was that data collected between 2000 and 2008 varied in terms of the category of elections that were being held. The elections held in 2000 and 2005 were for the House of Assembly and Senate, while those held in 2002 were presidential elections and those held in 2008 and 2013 were harmonised elections that combined presidential, House of Assembly and local government elections. It was important for the researcher to pay attention to these differences in the electoral laws in order to trace changes in the narrative, as all these elections provided critical junctures for the narrative of electoral violence in Zimbabwe and therefore the shaping of the transitional justice agenda. These changes in the electoral system will be discussed further in chapter five, as critical junctures in Zimbabwe's transitional justice agenda are explored.

4.5. Data collection and analysis

A critical question in this thesis is 'How do we infer that civil society narratives of violence have influenced the transitional justice agenda in Zimbabwe?' This is explored by deducing what the transitional justice agenda in Zimbabwe consists of in relation to the interpretations of electoral violence presented by civil society in their reporting and advocacy. It is therefore imperative to accurately describe the narrative presented by civil society (which brings us back to the first research question above). As already presented in this chapter, the civil society narratives of violence are drawn from the reports of four civil society organisations that form part of this study. The transitional justice agenda is drawn from the official mandate of the Peace and Reconciliation Commission (NPRC) as well as the Organ on National Healing, Reconciliation and Integration (ONHRI) before it. The ONHRI and NPRC reflect the official state position on issues of transitional justice in terms of policy, as well as in terms of setting the agenda on what issues are to be considered and what mechanisms ought to be put in place to deal with these issues. They provide the state's response to civil society pressure on transitional justice, as will be discussed further in chapter six of this thesis.

As stated earlier in this chapter, one of the ways narrative is used in this thesis is as data to better understand the phenomena under study. This data is in the form of civil society reports documenting and analysing electoral violence in the period six months before the election date and three months after the election. These reports, as stated earlier in this chapter, are drawn from four civil society organisations in Zimbabwe working in the field of human rights, transitional justice and political violence. These reports were collected both physically from

the respective organisations as hard copies as well as downloaded from their websites as soft copies. The hard copies were taken back to the researcher's university for analysis and collation of the data.

Additional data was collected through in-depth interviews with key informants both within and outside of civil society, as outlined in the following section.

4.5.1. Structured in-depth interviews

Expert sampling is used in this research to select respondents for the structured in-depth interviews. Etikan et al. (2016:3) contend that expert sampling "calls for experts in a particular field to be the subjects of the purposive sampling". Expert sampling may be beneficial where there is a lack of "observational evidence" or where it will take a long time for conclusive results to be drawn from the research (Etikan et al. 2016:3). Experts on Zimbabwe's transitional justice agenda and policy, electoral violence and the documentation and analysis of this violence were selected for an in-depth discussion on the phenomena under study. They were purposively sampled based on the work they have done in the area under study, as well as their understanding of the context and its nuanced complexities.

These experts were also selected for their potential to provide diverse insights into various dimensions of the phenomena under study without necessarily drawing concrete conclusions or establishing causal relationships. These experts include 'field officers' who are responsible for recording and documenting the electoral violence, which forms the basis of the narrative being examined in this study, as well as academics and activists who do not work in the four selected organisations. Six of these interviews were conducted.

Structured in-depth interviews that took approximately forty minutes each were used for the discussion with these experts. A structured in-depth interview can be described as a conversation with a set purpose in which a guideline[8] for the conversation is prepared beforehand (Legard et al., 2003). Mears (2012:170) argues that in-depth interviews allow for the researcher to discover and record what another person has "experienced, thinks and feels" about a particular subject, as well as the significance and meaning of those experiences, thoughts and feelings. This method of collecting data was selected because it allows the researcher to interact purposefully with informants according to a structured method, allowing

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[8] See interview guide in appendix 1

the researcher to focus the discussion on the particular issues the study seeks to investigate, as opposed to having an unstructured discussion with the risk of deviating from the focus of the study. Structured in-depth interviews also allow the researcher to probe deeper into a respondent's answer and link it to contextual factors by probing for aspects such as beliefs and opinions (Legard et al. 2003).

Although relatively structured, these interviews still require a significant amount of planning and preparation, as well as attentive listening during the actual interview (Mears 2012). Also required is relative flexibility by the researcher without deviating from the subject and failing to get the required data. The goal with in-depth interviews is depth, hence the selection of information-rich participants from whom the researcher can gain a lot about the subject (Legard et al. 2003; Boyce and Neale 2006; Mears 2012).

The use of different sources of data, as well as different methodologies to collect this data, is one of the methods that this research employed to ensure rigour and manage the bias of having a single source of data. This process is called triangulation. Denzin and Lincoln (2011:5) explain that "Triangulation is not a tool or strategy of validation but an alternative to validation… The combination of multiple methodological practices, empirical materials, perspectives and observers in a single study… [is] a strategy that adds rigor, breadth, complexity, richness, and depth to any enquiry". This study makes use of various sources of data, not as validation of any single finding or position, but in order to gain different perspectives on the subject under study. Capturing the different understandings and perspectives on violence is an integral part of moving away from a one-size-fits-all approach to transitional justice, as argued in chapter two of this thesis. It has its roots in the philosophical assumptions of the qualitative approach, which assumes that the nature of reality is subjective and multiple, as observed by different participants in the study, as already highlighted in this chapter. The following section outlines how data was collected and analysed from the civil society reports.

4.5.2. Content analysis

Krippendorff (2004:18) defines content analysis as "a research technique for making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use". From this definition of content analysis, it is clear that contextual meanings and interpretations are essential in content analysis, in alignment with the philosophical basis of the interpretivist

paradigm used in this thesis. The goal, therefore, is to link the results with the context in which they were produced (Downe-Wamboldt 1992; Bengtsson 2016; Lieblich et al. 1998). Czarniawska (2004:17) suggests that "narrative is understood as a spoken or written text giving an account of an event/action or series of events/actions, chronologically connected".

Similarly, Downe-Wamboldt (1992:314) argues that content analysis provides a systematic and impartial means to make valid interpretations "from verbal, visual, or written data in order to describe and quantify specific phenomena". The purpose may be of a descriptive or exploratory nature based on inductive or deductive reasoning using either qualitative or quantitative methods (Bengtsson 2016). Lieblich et al. (1998:114) contend that the validity of the analysis should not be taken for granted, and when planning to undertake categorical content analysis, the most important consideration should be the concordance between the research goal and its method.

Narrative is interpretive in nature and hence subject to various biases, including those of the researcher. In order to describe the narrative of violence espoused by civil society, it was important for the researcher to use a method that was systematic and could be repeated with other texts from different organisations. This helped to deal with some of the biases based on the researcher's own perceptions of the organisations and their work; hence content analysis was chosen as a method for this study. Content analysis also provided the researcher with a systematic manner of analysing the data collected through a narrative lens, as outlined earlier in this chapter.

The method of content analysis has many variations, depending on the purpose of the study as well as the nature of the material (Lieblich et al. 1998; Bengtsson 2016). It can be used in both qualitative and quantitative studies. Quantitative content analysis has its origin in media research, while qualitative content analysis has its roots originally in social research (Bengtsson 2016). In quantitative content analysis, facts from the script are presented as frequency stated as a percentage or actual numbers of key categories (Krippendorff 2004; Neuendorf 2002). This method is useful when the researcher seeks to summarise rather than give details regarding the text and seeks to answer questions about "how many?" (Krippendorff 2004; Neuendorf 2002). With qualitative content analysis, data is presented in words and themes, which makes it possible to draw some understanding of the results (Bengtsson 2016).

Lieblich et al. (1998:12) have advanced a measurement that considers the unit of analysis and hermeneutical approach when developing an appropriate narrative research model. These units

of analysis range from extracting a section from a complete text (categorical analysis) to taking the narrative as a whole (holistic analysis).

The table below gives an overview of the units of analysis and hermeneutical approach in relation to one another, outlining four possible approaches to narrative research (Lieblich et al. 1998:13).

Holistic-Content	**Holistic-Form**
Uses the complete life story of an individual and focuses on the content presented by it. Analyses sections of the narrative in the context of the whole narrative.	Looks at the plot and structure of a complete narrative. Considers climax, or a turning point, which sheds light on the whole narrative.
Categorical-Content	**Categorical-Form**
Content analysis; categories of the studied topic are defined, separate utterances in the text extracted, classified and gathered into these categories.	Stylistic or linguistic characteristics of defined units of the narrative, e.g. metaphors, passive or active voice. Instances are counted and categorised.

Table 2. Four possible approaches to narrative research (Lieblich et al. 1998:13)

This thesis makes use of the *categorical-content approach* to collect and analyse civil society narratives of electoral violence from the reports of the four NGOs. These reports, as highlighted earlier in this chapter, are selected from six months prior to a particular election and three months after the election date. These include monthly reports of violence, ad hoc reports presenting analysis of electoral violence, and workshop reports in which the violence that occurred in the period under review is discussed. As outlined in chapter one of this thesis, the electoral periods under review in this thesis are the 2000 parliamentary elections, 2002 presidential elections, 2005 parliamentary and House of Assembly elections, and the 2008 and 2013 harmonised elections respectively. Ad hoc reports on transitional justice by these four organisations during the period under review will also be reviewed.

The narratives presented by CSOs in their reports and analysis seldom capture entire life stories (as would be of interest in a 'holistic analysis') but largely contain narrations of the violent occurrence that is of interest to the particular report. Hence categorical-content analysis in which "categories of the studied topic are defined, separate utterances in the text extracted, classified and gathered into these categories" is used in this thesis (Lieblich et al. 1998:12).

These reports and statements were reviewed manually, as they were of a manageable number (30 reports with not more than 50 pages each) in a process that took the researcher approximately two months. These reports, as well as other secondary data, was obtained on the websites of the four organisations through the University of Pretoria libraries, as well as in hard copy from the civil society organisations, as already indicated earlier in this chapter. While these reports and other sources of public engagement by the NGOs provide an important overview of how civil society organisations have shaped the narrative of violence, it is important to note that the examination of these written texts is only a partial reflection of the narrative of electoral violence in Zimbabwe and this narrative is skewed by virtue of operating in the public domain and being designed for a particular audience (Christie 2012). For this reason, structured in-depth interviews were also conducted with employees of the organisations and selected stakeholders in order to balance these opinions, as well as to gain a better understanding of how these narratives are constructed.

4.5.3. The process of carrying out content analysis

According to Lieblich et al. (1998), there are four steps in categorical-content analysis, which are the *selection of the subtext*; *definition of content categories; setting of material into categories*, and finally, *drawing conclusions*. Similarly, Bengtsson (2016:9-10) also outlines four stages in the content analysis process: *Decontextualisation Identify meaning units* – Create code list; *Recontextualization* – Include "content" – exclude "dross" *Distance*; *Categorisation* – Identify homogeneous groups and Triangulation by investigators; and *Compilation* – Draw realistic conclusions. For the purposes of this thesis, the process outlined by Lieblich et al. (1998) was used as it provided the researcher with clearer descriptions and parameters as guidelines to carry out the study.

i) *Selection of subtext*

In the first stage of content analysis, on the basis of a research question or hypothesis, all pertinent sections of a text are marked and assembled to form "a new file or subtext which can

be seen as the content universe of the subject studied" (Lieblich et al. 1998:113). In this study, sections talking about electoral violence, organised violence and torture, as well as redress, were highlighted and compiled. In the reports reviewed by the researcher, much of these categories were already highlighted through subheadings; hence very little text was discarded. These subsections were withdrawn from the total context of the life story and treated independently by the civil society organisations. However, interpretation of the results is validated or facilitated by parts of the material that remains outside of the selected subtext, including the political and socio-economic context at the time (Lieblich et al. 1998). When the research question leads the researcher to choose a source that enables the teller to focus on the relevant material (and not focus on the complete life story), all the obtained text can be taken as data for the content analysis (Lieblich et al. 1998:113). This is the case for this study, as civil society reports focused on specific events of violence documented from individuals affected by violence, while drawing conclusions from their own analysis based on international norms of human rights and law.

ii) *Definition of content categories*

Bengtsson (2016) highlights that as part of the content analysis process, the researcher has to choose whether the analysis is to be a manifest analysis or a latent analysis. In a manifest analysis, the researcher describes what words the informants actually use in the text and describes what is clear and obvious in the text, while in latent analysis researcher seeks to find the underlying meaning of the text (Bengtsson 2016). This thesis largely uses manifest analysis, highlighting the contents of the texts, which are largely perceived to be factual due to the nature of civil society reports. Some aspects of latent analysis may, however, have been used. These modes of analysis are used in the selection of content categories.

The content categories are the various themes or perspectives cut across the selected subtext (from the first stage) and provide a means of classifying its units. These can be words, sentences or groups of sentences that can be predefined by theories that may provide a reason to look for opposite claims (Lieblich et al. 1998). This thesis uses both theoretical and empirical categories that are drawn from the text. By highlighting the dominant themes and concerns within these narratives, the research seeks to capture the dominant narratives on electoral violence presented by civil society, as well as understand the meanings these civil society organisations attach to violence.

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iii) *Sorting material into categories*

According to Lieblich et al. (1998), at this stage, separate sentences and utterances are assigned to the relevant categories. These may include utterances from different sources of text. This process of defining content categories can be done by more than one researcher independently to allow for the calculation of "inter-judge reliability" where required, or it can be done jointly to allow greater understanding to the text (Lieblich et al. 1998:114). For this thesis, it was done by one researcher who decided which units were to be considered. The biases inherent in having one researcher carrying out this purpose were largely managed by having the violence, perpetrators and victims being clearly categorised in most of the reviewed reports.

iv) *Drawing conclusions from the results*

In content analysis, the sentences from each category can be counted, tabulated, ordered by frequency or subjected to various statistical computations in accordance with the research aims and nature of the question (Lieblich et al. 1998:114). Each category can be used descriptively to formulate a "picture of the content universe" (Lieblich et al. 1998:114).

4.6. Ethical considerations and challenges

Participation in this research was done on an entirely voluntary basis, and confidentiality was ensured in the interview process, as well as this thesis where participants requested this be done. Three of the research participants, Shastry Njeru, Webster Zambara and Tony Reeler, gave the researcher permission to use their real names in the thesis, and one participant requested confidentiality; hence a pseudonym (Former ZIMRIGHTS Field Officer (F.O.) was used in the thesis. Verbal consent was sought before the interviews were carried out, and the contents of the consent form[9] read and explained to the participants. The purpose and uses of the research data were also explained to the participants prior to the interview process. Authorisation was also sought to make audio recordings of the interviews. Recording the interviews gave the researcher the opportunity to refer back to the interviews during data analysis and for the purposes of transcribing. Participants were given a choice on whether or not they wanted their interviews to be recorded. Where a participant did not want to be recorded, the researcher took extensive notes to capture the data. Consent[10] was also sought

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[9] See appendix 1
[10] See appendices 3,4,5

from ZHRNGOF, AI-Z, ZPP and ZIMRIGHTS to use their reports in the study. However, no response could be attained from AI-Z, and the researcher later learnt in the press as well as during interviews that the executive had been dissolved on allegations of corruption. It also took a long time to get responses from the ZPP, but permission was eventually received. Providing clarity about the purposes of the research was crucial due to both individuals participating in the research as well as the organisations from which consent was sought, as both parties needed to ensure that the information would be used ethically.

Another major challenge for the researcher was in accessing the soft copies of many of the reports online on the websites of the organisations selected for the study. The ZIMRIGHTS website was down for more than a year during the duration of the research process and many of the reports were eventually accessed from Kubatana.net. From initial efforts to secure the reports needed for this study, it appears that archiving has been a major challenge in the organisations selected for this study, with the exception of ZHRNGOF, in which all reports and statements were archived on their website as well as Kubatana.net. These challenges with archiving meant that information that could have been used in the study to draw on organisational patterns of narrative, for example, could not be accessed. Hence this thesis cannot claim to provide a comprehensive narrative of the four organisations but rather a snapshot, with certain organisations being analysed more thoroughly than others.

Efforts to secure hard copies of reports and statements from as far back as 2000 were also futile. These organisations no longer keep many hard copies in their offices due to concerns about space as well as security (see for example ZHRNGOF 2013), as state agents have been known to target the offices of these organisations in raids and other procedures. The continued political instability in Zimbabwe during the course of this study, including the November 2017 coup d'état, the 2018 post-election violence, and the 2019 riots, also impacted the researcher's ability to access interviewees, as many civil society actors were occupied with the events that were happening in the country and discussion on the period under study was generally not a priority. Many of the proposed face-to-face interviews had to be rescheduled and done over Skype. For interviewees based in Zimbabwe, Skype calls also had to be carefully planned and scheduled due to power cuts and at times poor network connections. However, the flexibility of the respondents in working with these challenges was most helpful to the researcher.

4.7. Conclusion

This chapter outlined the methodology of this thesis and its theoretical underpinnings. Falling into the qualitative interpretivist research tradition, this chapter outlines how the thesis takes on a descriptive research design as drawn from the questions it seeks to answer. The chapter highlighted how the qualitative research approach makes use of the "interpretive naturalistic" approach, which seeks to study phenomena in their natural settings and aims at understanding phenomena based on the meanings people bring to them (Hennink et al. 2011). This 'interpretivist' approach is ideal for this particular study, which uses content analysis in the "analysis of narratives" rather than "narrative analysis" (Creswell and Poth 2016).

As this research focuses on a particular context, it was essential for meanings and interpretations drawn from its empirical bases to reflect those particularities; Hence the qualitative interpretivist framing of this research, as discussed in this chapter, was ideal. This research seeks to understand the role of civil society in influencing the shaping of the transitional justice agenda in Zimbabwe based on the narratives of violence they have adopted. Therefore meanings of electoral violence and transitional justice are derived from this specific context. The methods selected to collect and analyse data for the study were also in line with these theoretical considerations; hence the use of categorical content analysis to study civil society reports and the interviewing of experts in the field who are knowledgeable about the context.

The qualitative approach within the interpretivist tradition provided the rigour and depth needed in a study of transitional justice, while providing the much-needed contextual lens that is becoming increasingly advocated for in the study of transitional justice. The use of triangulation in gathering and analysing data further enhanced this rigour and helped to further understand the key variables in the study (transitional justice and agenda-setting), which are individually complex to study.

The chapter concludes by outlining the ethical considerations t in undertaking this research, including seeking consent from interviewees as well as the organisations selected for this study. The challenges of accessing the research site as well as the implications of the vicious circle of violence in Zimbabwe is also captured. The continued cycles of violence that are referred to in this chapter can be understood in a broader context of violence, which is depicted in the following chapter of this thesis. The following chapter highlights key moments and processes

that have contributed to the country's transitional agenda while illuminating the state narrative of violence amid these important happenings. The following chapter shows how the civil society narratives of violence have been shaped in relation to those of the state thereby giving a greater understanding how key events have interacted with state decisions in forming a transitional justice agenda in Zimbabwe.

The development of a transitional justice agenda in Zimbabwe

5.1. Introduction

The chapter gives a historical context to Zimbabwe's transitional justice trajectory which did not begin with the period under study in this thesis. These moments are organised in accordance with Drumbl's (2016) framework and concludes by outlining the state narrative of violence, how it has determined state led processes of transitional justice and conversely how these processes have shaped the state narrative of violence.

Section 3.6 of this thesis outlines how key events impact the setting of agendas, as well as the direction political life will take. The transitional justice agenda in Zimbabwe has been carved out by various key moments, or what Drumbl (2016) terms "transitional justice moments/happenings" and Birkland (1996) terms "focusing events", resulting in several critical junctures that have transformed the transitional discourse in the country. Zimbabwe's transitional justice trajectory has primarily been shaped by political pacts that have emanated from violent conflict in which political protagonists have sought to buy peace without dealing with the root causes of conflict or the grievances that emanated during the conflict. This has resulted in various transitional justice moments/happenings that have emerged from the state's efforts at "fire-fighting" but have not addressed key transitional justice issues. These moments/happenings have shaped the narratives of violence that have emerged from both the state and civil society. Some of these transitional justice moments/happenings will be the basis of the discussion in this chapter.

As outlined in chapter three of this thesis, Lessa (2013:3) developed a theoretical framework to "better understand the emergence and later variation in transitional justice policy" and applies the concept of critical junctures to explain changes in transitional justice policies in Uruguay and Argentina over time. Lessa's (2013) framework explores how narratives have had an influence on the choice of transitional justice mechanism and conversely on how transitional justice mechanisms have had an effect on narratives of violence (Berastegi 2016). This has been the grounding of this thesis, contending in concurrence with Lessa (2013) that narratives of violence cannot be separated from the responses or mechanisms put in place to deal with it. Using the theoretical framework by Lessa (2013) in conjunction with Drumbl's (2016)

"transitional justice moments/happenings" as well as Birkland's (1996) "focusing events theory", this chapter seeks to highlight major happenings that have shaped Zimbabwe's transitional justice trajectory and agenda while engaging with some of the main narratives of violence that have emerged from the state during these periods. These frameworks and theories will be adapted for use in this chapter, in particular Birkland's "focusing events theory", which is expressly construed for natural occurrences.

Three political pacts, namely the Lancaster House Agreement of 1979, the Unity Accord of 1987 and the Global Political Agreement of 2008, are highlighted as critical junctures for transitional justice in Zimbabwe. The events, moments/happenings that led to these junctures as well as the aftermath of these junctures will form the main discussion of this chapter. Drumbl's (2016) framework is used in this chapter as the primary organising tool for these happenings in terms of their implications for transitional justice policy. Drumbl's (2016:203) framework identifies "transitional justice moments/happenings" where transitional justice "did not happen, or only partly happened, or happened badly" and are described as "hidden happenings, omissions, partial happenings and bad moments".

Drumbl (2016) asks the pertinent question of whether we even know where to look to determine whether a moment/happening was transitional or not. In this chapter, these moments can be identified by their role towards particular critical junctures as well as through their agenda-setting role as "focusing events". It is important, however, to concede that the moments captured and identified as key in this chapter are not homogenously accepted as such. As put forward by Hearty (2018:2), "Whether any individual approves or disapproves of 'transitional justice moments' rests on myriad factors, including how they consciously and unconsciously evaluate that moment…"

The Lancaster House agreement and its implications are what Drumbl (2016:203) describe as "A transitional justice brimming with abstractions and guidelines but that condescends flesh-and-blood beings quickly becomes ineffective and dehumanized" and will be discussed in the following section.

5.2. The Lancaster House Agreement and independence in 1980

The moments/happenings at independence form the backdrop for the way the Zimbabwean state has responded to violations against its citizens, entrenching a culture of impunity and

creating institutions that would perpetuate violence in Zimbabwean society. As put by Ndlovu-Gatsheni (2009:114),

> "The 1979 Lancaster house settlement, which ushered in independence, ensured the privileged maintained their positions and amnesties were granted to all… 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".

The liberation struggle that brought the Zimbabwean state into being was ended through a negotiated settlement brokered through a constitutional conference at Lancaster House in London in 1979 (Sibanda 1990). Questions of transitional justice have been at the centre of Zimbabwe's political discourse throughout its post-independence life as a result of the government's failure to deal with the injustices that were at the root of the war of liberation and failing to transform the systems that created and continued this injustice. According to Chitsike (2012:3),

> "There was thus no discussion or public consideration of whether to hold actors from both sides accountable for their alleged crimes. Indeed, some alleged perpetrators, including some high-ranking Rhodesian military and intelligence officers, became part of the Zimbabwean government – a fact that may help to explain the continuation of certain abuses under the new government. Victims and survivors were powerless as they watched their abusers not only get off scot-free but also be given key positions in the new government".

Despite it never being referred to as transitional justice (hence the notion of *unspoken transitional justice* as articulated by Drumbl (2016)), Zimbabwe's independence was a transitional justice moment in which collective amnesia was forced on the masses. Much of the literature on transitional justice highlights institutions such as truth commissions and tribunals, as well as domestic trials, as measures of applying transitional justice, as discussed in chapter two of this thesis. The case of Zimbabwe's independence, therefore, presents a less documented but not unique approach to transitional justice and in some cases may not even be recognised as such. The concerns for justice for atrocities committed during the liberation struggle, the land question, and racial reconciliation, among other key concerns that are now embodied in

contemporary discourses of transitional justice in Zimbabwe, were among the many contentions the new government of Robert Mugabe had to tackle, but instead a top-down policy of national unity that focused on the future was adopted.

The signing of the Lancaster House Agreement and the country's subsequent independence was a critical juncture for transitional justice and set the trajectory for political life and transitional justice in the country. Firstly, as a critical juncture for transitional justice, independence established the fall of the colonial regime and ushered into power the new African regime which was, as termed by Lessa (2013), a *political moment*, as it heralded a change in the balance power of the state through a change in regime. However, scholars such as Sibanda (1990) and Benyera (2014) contend that this *political moment* was tainted by a number of farces. Sibanda (1990:4) contends that "Standing as if it were a neutral ring-holder was the British Government represented by none other than the then Foreign Secretary, Lord Carrington… from historically documented word and deed, the British were a long-time ally of the settler colonial and 'internal settlement' combination". This assertion brings to the fore the contention that the shift in power balance was a public farce or an illusion as the real power remained in the hands of the colonial elite as seen in the handling of the concerns of transitional.

The declaration by the independence prime minister Robert Mugabe to let "bygones be bygones" and the policies and mantra of "national unity" (see for example Gwekwerere and Mpondi 2018, Murambadoro 2015) set the stage for the state's responses to violence in the future, as will be seen in discussions in chapters six and seven of this thesis. This call to collective amnesia became both the official and unofficial mechanism to deal with the violence and grievances of the liberation war. Transitional justice took a top-down approach in which leaders decided for the masses that they had reconciled and had to move forward with building the nation.

Benyera (2014) argues that the state's response to the concerns of transitional justice at independence was based on the inheritance of a colonial state structure that was taken over and staffed by political elites who were not sympathetic to the needs of the black majority. Further, Benyera (2014) notes that the maintenance of violent and oppressive colonial systems of government in the new government meant a continued suppression and control of the masses could continue, fitting into the description by Mamdani (2018) of the masses as "subjects" of the state, denoting the degree to which the state violates the citizens it is supposed to serve.

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Muvingi (2009), in concurrence with Ndlovu-Gatsheni (2009), who is cited earlier in this section, however, contends that the failure to dismantle the structures of the colonial state was not merely a consequence of a disinterested political elite, but rather the power dynamics at that moment. Muvingi (2009:171) argues that "The new Zimbabwean government calculated that the desire of the majority for economic redistribution was less threatening than the backlash from those who still held military and economic power". This moment can therefore also fall into the category of "*negative opposition moments*", which, according to Lessa (2013), refer to members of the old regime retaining enough power to influence political agendas and even holding government positions in democratic administrations (spoilers). The Rhodesian regime and its supporters certainly had a hold on the new Zimbabwean state. However, when the Zimbabwean state faced a challenge to its hegemony, this all fell apart, as witnessed by the violent farm invasions initiated in 2000 (see Magaisa 2010).

The past was therefore buried at this critical juncture in the form of a *political moment* (Lessa 2013) in which it appeared that the balance of power had shifted from the colonial regime to the new African-led government. These unaddressed transitional justice issues of accountability, truth, and reparation, among others, are described by Muvingi (2009) as "powder kegs" the state and Zimbabwean society were sitting on and that would eventually explode. Indeed, these issues exploded in two main ways, forcing the state to respond, with dire consequences for the Zimbabwean economy as well as for political stability. Firstly, more than twenty years after independence, the ZANU-PF government, in response to its waning popularity and a defeat at the polls in the constitutional referendum, initiated the 'Fast Track Land Reform Programme' launched in 2000, involving forced evictions of white commercial farmers (Magaisa 2010:1). The Zimbabwean state called out the former colonisers for reneging on the financial assurance, made by the Conservative government during the 1979 Lancaster House independence negotiations, to work with the Zimbabwean government to fund land reform (Tendi 2014:7). This became a source of diplomatic tension between the two states.

An anti-imperialism campaign by the Zimbabwean state was introduced at this time (Manase 2011), altering the narrative of land and dispossession as well as identity in Zimbabwe. The politicisation of a pre-independence transitional justice concern has left the land question unresolved to date as this state-sponsored violent take-over did not benefit ordinary citizens, but the political elites within ZANU-PF (Magaisa 2010). There remains a need for redistributive justice that is more inclusive and transparent, and without it, this matter is likely to explode again in the future. Redistributive justice focuses on altering the distribution patterns

of resources, power or privilege and according to Deutsch (1975) is based on three principles: equity, equality, and need. The land reform programme in Zimbabwe has largely failed to meet these three principles due to the politicisation and patronage that have dominated it.

Secondly, in 1997, a revolt by veterans of the liberation struggle ensued, in which they demanded to be compensated for their service in liberating the country. The idea of compensating veterans of the liberation war for their service had been on the agenda since 1980 and tussles with the state over this compensation had taken place over the years (Kriger 2003). Although the War Victims (Compensation) Act of 1980, which "provided for disability pensions for civilians and guerrillas injured in the war, death pensions for the surviving spouse and dependents of the war dead, and medical and vocational rehabilitation for the war-disabled" had been enacted, mismanagement, politicisation and looting of the fund heightened disgruntlement by the war veterans. After protests, over 60 000 war veterans were granted a once-off payment of ZWD$50 000 and a monthly allowance of ZWD$2 000, increasing the country's fiscal deficit for that year (Addison and Laakso 2003:461). This led to a downward spiral for the economy as unaddressed transitional justice matters came to haunt the state.

Based on Lessa's (2013) assertion that narratives can lead to the establishment of particular mechanisms, and, conversely, that certain mechanisms can lead to the generation of particular narratives, it can be seen that the grievances that were not addressed at independence when politicisation created an opportunity for the state to develop an anti-imperialist narrative. This narrative discredited critics of the state as anti-revolutionary (Kriger 2003) and the British government that had overseen the Lancaster House agreement as neocolonialist enemies of the Zimbabwean people. Tendi (2014:1) argues that "From 2000, mutual demonisation discourses became a distinct feature of the Britain-Zimbabwe diplomatic conflict". The narrative of foreign interference and a nation fighting for its sovereignty was used to counter critics of the manner in which the land issue had been handled and drew sympathy from some states in Africa and beyond (Tendi 2014).

These narratives on either side put redistributive justice for the land in shambles as the state held to its narrative of redistributive justice, while its critics called it out for its excesses. Further, it can be argued that the narrative of violence that emerged from the compensation of the war veterans and the Fast Track Land Reform is that of a just war against colonial forces and the anti-imperialist rhetoric that the state discourse has become. Chirimambowa (2008:46), however, argues that this anti-imperialist rhetoric is a farce, and states that "Evidence at hand

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undermines the regime's claims of fighting imperialism. The Zimbabwe case is a good example of a government that seeks to divert attention from its failure by regurgitating anti-imperialist rhetoric". From these assertions it is clear that transitional justice concerns are among the issues that have been manipulated by the state in its anti-imperialist rhetoric and been set on a trajectory of being a highly contested space, as will further be illuminated in chapters six and seven of this thesis. Further, the state's approach to transitional justice, as will be illustrated in this chapter, has been one of collective amnesia and national unity unless pressure is exerted, therefore creating a reactionary approach to dealing with the past, as seen in the two instances outlined in this section. The anti-imperialist narrative was also used to remobilise the veterans of the liberation struggle, putting them at the forefront of the violent 'Fast Track Land Reform'. This was in contrast to the disgruntled war veterans that had protested against the state a few years earlier for not recognising their contribution to the war of liberation. The land reform addressed some of the grievances they had at independence that were nor addressed.

The Lancaster House Agreement put the new Zimbabwean state on an unstable transitional justice trajectory by blocking redress for civil and economic violations, hence the explosion of these grievances years later. The concessions made at Lancaster enforced the silencing of many narratives of those who had suffered at either side of the war. As argued by Eppel (2019:108), "By granting particularly the colonial government and also the guerilla armies impunity, Mugabe set the stage for his reaction to all future human rights violations…" Timing was of the essence in dealing with the grievances of the liberation struggle and the mechanisms selected to deal with the past did not make good use of this important aspect in critical junctures such as this. The explosions of the "powder kegs" in the form of the Fast Track Land Reform and the War veterans compensation may be viewed by some sections of society as moments of what Drumbl (2016:203) categorises as moments of "regretting and ruing"; these were certainly used as moments of political survival by the state. The way these issues were addressed left room for further grievance in the future as it left other sectors of society aggrieved. The following section addresses another hidden transitional justice moment, the signing of the Unity Accord in 1987 and explains some of the implications for the trajectory of transitional justice in Zimbabwe.

5.3. The Unity Accord (1987)

While the independent Zimbabwean state had been fought for on the basis of allowing plurality, this was soon obliterated due to the perceived threat to the ruling elite's monopoly on power

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(Mashingaidze 2005). Zeleza (1997:412-13) observed following independence that, "With the attainment of *uhuru* there was the institutionalisation of the independence contract in which all, the people, the masses, were supposed to pray at the altar of nation building and development, and the articulation of sectional class, social, community, ethnic and gender interests was frowned upon as selfish and subversive". This was true in the case of post-independence Zimbabwe. While a policy of national unity that co-opted all sectors of society into allegiance to the state's programme of national unity and development resulted in forced unity and reconciliation, a top-down approach that was expected to be accepted by all sectors of society. A government of national unity was also formed at independence, including ZANU's political foes, such as members of ZAPU. Ndlovu-Gatsheni (2012:3) contends that through the rhetoric of the liberation struggle the political elite sought a "politically usable narrative in ZANU-PF's bid to construct a postcolonial nation, unite people, gain popularity, and assume political power at the end of settler-colonial rule".

When the forced unity and reconciliation fell apart due to the incapacity of the political elite to allow plurality, a civil war ensued between 1983 and 1987 in which more than 10 000 civilians were killed (Eppel 2004, Mashingaidze 2005). This conflict emanated from tensions between the two former liberation armies, ZANLA (military wing of ZANU) and ZIPRA (military wing of ZAPU) and was fueled by inflammatory remarks by some politicians on both sides (Sachikonye 2011). The liberation movements had initially split during the liberation struggle in 1963 into ZANU and ZAPU, with fierce fighting between the two liberation armies in the 1970s both inside and outside Zimbabwe (Eppel 2004, Sachikonye 2011). The animosity and distrust between the two former liberation movements were escalated when after independence and the merging of the two armies, an arms cache was discovered at a ZAPU-linked company and at ZIPRA assembly points (Sachikonye 2011). This led to the harassment and dismissal from government of ZAPU leader Joshua Nkomo and other ZAPU members, as well as violence and segregation in the Zimbabwe National Army (ZNA) against former ZIPRA officers (Alexander et al. 2000, Sachikonye 2011). The discovery of the arms cache was taken as proof that ZAPU had been plotting a coup and was used as a justification for the state's violent response (Mashingaidze 2005).

The genocide, also known as *Gukurahundi*, is conceived by Ndlovu-Gatsheni (2012:1) as follows: "the strategy of *gukurahundi* entails violent and physical elimination of enemies and opponents. But this hegemonic drive has always encountered an array of problems, including lack of internal unity in ZANU-PF itself, counternarratives deriving from political formations

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like the Zimbabwe African People's Union (ZAPU); labor movements; and critical voices from the Matebeleland region, which fell victim to gukurahundi strategy in the 1980s". The *Gukurahundi*, as with other epochs of state-sponsored violence, was portrayed by the state as a "just war" against dissidents that threatened the state's sovereignty. As noted by Ndlovu-Gatsheni (2012), this has been severely countered by various sections of society, including civil society groups.

While the signing of the Unity Accord in 1987 brought to an end the *Gukurahundi* in an elite pact between ZAPU and ZANU, nothing was done to reconcile the masses that had been affected by the violence. Political pacts, by nature, are not inclusive and usually include elite groups that have the power and potential to harm each other's interests if rules and regulations on how to play the political game are not put in place (Hartzell and Rothchild 1997). By design, political pacts are meant to be temporary arrangements, and although some of the institutions created by the pact may remain intact for longer periods, they eventually disintegrate with changes in the polity, and in some cases with changes of the elite groups themselves (Chandhoke 2010). As asserted by Hartzell and Rothchild (1997:149), "over the long term, pacts cannot freeze the balance among the elite interests that they originally are designed to protect". Hence the Unity Accord represents what Drumbl (2016) identifies as a *partial transitional justice moment*. This has been the case with the Unity Accord, in which the conditions of the pact have disintegrated with changes in the political environment, including the formation of a new opposition, the MDC, in 1999 challenging ZANU-PF hegemony in the political system. The revival of ZAPU in 2000 can be explained in part by this argument, as the pact fell apart internally, which left ZAPU members disgruntled.

The signing of the Unity Accord was a failed transitional justice moment because it did not acknowledge the *Gukurahundi* genocide, nor was it accompanied by a transitional justice package to address the violence as is now the norm internationally. There was no acknowledgement of the suffering of the people affected by the violence; hence there was no reconciliation (Mashingaidze 2005). To date, no formal acknowledgement of *Gukurahundi* has been made by the state. As noted by Sachikonye (2011:17), "There has been no accounting by those who sanctioned and carried out the violence…The victims have had no access to justice and restitution". The agreement had the potential to be a key *political moment* where power dynamics could have been changed to allow the concerns of *Gukurahundi* to be addressed. However, as asserted by Eppel (2019), "The Unity Accord… simply entrenched the power of both ZANU-PF, which now officially ruled in the context of a de facto one-party state and

Robert Mugabe…". By locating power in one party, the narrative of the *Gukurahundi* has been suppressed at the official level, as those responsible for the atrocities continue to hold political power (Killander and Nyathi 2015).

 The setting up of the Dumbutshena[11] and Chihambakwe[12] Commissions of Inquiry were merely a smokescreen and not a genuine process by the state to investigate the violence. The findings of the Chihambakwe Commission have never been released, pointing to a cover-up by the state. Civil society organisations have approached the courts to have the report's findings made public, and in 2003 the Zimbabwe Supreme Court held that two Zimbabwean non-governmental organisations, the Zimbabwe Lawyers for Human Rights (ZLHR) and the Legal Resources Foundation (LRF) had no right to obtain the report in the public interest (Killander and Nyathi 2015:471). These civil society efforts were a case of *unspoken transitional justice*, as they were not labelled as such. Whether the unreleased report of the Chihambakwe Commission can be classified as a *hidden transitional justice moment* due to the failure to release the report is a point for further consideration. It may also be seen as a *transitional justice omission* in which truth recovery was hindered by the state. The recovery of truth was later made through a 1997 publication by CCJP and LRF, 'Breaking the silence, building true peace: a report on the disturbances in Matabeleland and the Midlands, 1980 – 1988'. This report brings to the fore the suppressed atrocities and counters the state narrative of a "just war". The Unity Accord was meant to essentially bury what had happened during *Gukurahundi.* Hence rather than categorising these moments (the Commissions and the Unity Accord) as transitional justice moments, it can also be argued simply that transitional justice still needs to be done for this period of violence as with other periods of transitional justice.

The following section focuses on yet another political pact that had implications for transitional justice discourse and policy in Zimbabwe.

5.4. The 2009 Government of National Unity

A distinguishing feature of the state's response to the 2008 electoral violence and the political crisis that accompanied it, unlike at independence and following the *Gukurahundi*, was the

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[11] The Dumbutshena Commission of Inquiry was set up to investigate the violence that occurred at Entumbane in Bulawayo and other demobilisation camps across the country following the 1981 clashes between the ex-combatants of ZANLA and ZIPRA (Murambadoro and Matshaka 2019:137)

[12] The Chihambakwe Commission of enquiry was established to investigate the *Gukurahundi* genocide in Midlands and Matebeleland (Killander and Nyathi 2015)

formation of the Organ on National Healing, Reconciliation and Integration (ONHRI), which was headed by representatives from the three political parties who were signatories to the Global Political Agreement (GPA) of 2008: John Nkomo (ZANU-PF), Sekai Holland (MDC-T), and Moses Mzila Ndlovu (MDC) with the mandate to establish and entrench peace following various episodes of violence (Machakanja 2010, Masunda et al. 2019). The ONHRI was meant to formulate policies and programmes to ensure conflict prevention, as well as promote respect and tolerance in the broader Zimbabwean society (Masunda et al. 2019).

At this time, the anti-imperialist narrative had largely been discredited, as evidence of the excesses of the state's violent campaign had been seen by the world (see Matyszak 2008). The GPA was signed by ZANU-PF, MDC-Tsvangirai (MDC-T) and a splinter formation of the MDC led by Arthur Mutambara following electoral violence, an electoral impasse and political crisis after the disputed 2008 harmonised elections. To end the political impasse, a mediation process brokered by the Southern African Development Community (SADC) and led by former South African President Thabo Mbeki was instituted (Mutisi 2011; Ndlovu-Gatsheni 2011). The signing of the GPA was what Lessa (2013) defines as a *political moment* in which the dynamics of power in the state change, paving the way for transitional justice to be on the national agenda.

The unprecedented violence that characterised the 2008 electoral process was a catalyst for the concerns of transitional justice to become part of the national agenda-seeking to resolve the resultant political impasse, making it what Birkland (1997) terms a *focusing event*. The formation of the ONHRI was a policy response to political pressure and the opening of what Birkland (1997) terms a *window of opportunity* or coming together of the *political, problem* and *policy streams*. The *political stream* that encompasses the state of politics and public opinion (Birkland 1997) had shifted against the legitimacy of the incumbent regime domestically and internationally following the disputed elections and deepening economic crisis in the country (Mutisi 2011). The lack of an African Union (AU) and SADC endorsement following the one-man presidential run-off was due to the unprecedented levels of violence and was a significant catalyst for the SADC mediation seeking a political solution to the impasse (Eppel and Raftopoulos 2008). Domestically the lack of legitimacy created a volatile political environment and perpetuation of the economic crisis as the country came to a stand-still (Mutisi 2011).

The establishment of ONHRI was also a case of *precursory transitional justice* as well as *unspoken transitional justice*, as it was not publicly labelled as an instance of transitional justice. This moment sowed the seeds for Zimbabwe's future transitional justice processes, as seen by the setting up of the National Peace and Reconciliation Commission (NPRC) following the passing of the 2013 Constitution, which was itself a product of the GPA. The GPA led to the creation of an interim Government of National Unity (GNU) that had among its primary objectives the overseeing of the writing of a new constitution within its first 18 months and to enable free and fair elections to take place thereafter (Zembe and Masunda 2013). This was an agreement that sought to change the context and allow for the formation of institutions and processes that would allow the country to deal with the legacies of past violence while preventing its recurrence. These institutional changes can be identified as the peacebuilding focus of transitional justice, which seeks to build inclusive institutions and prevent the recurrence of violence, as outlined in chapter two of this thesis. The establishment of the ONHRI was in fulfilment of Article 7 of the GPA, and it became what Drumbl (2016) terms *precursive transitional justice* as it was the first institution of its nature to be created in Zimbabwe and paved the way for the NPRC at the expiry of the mandate of the GNU in 2013.

Although the electoral violence of 2008 was not a rare occurrence, the nature of the violence and high level of organisation by state agents made it what Birkland (1998) categorises as a "sudden, relatively uncommon" occurrence, like a focusing event. The electoral violence also constituted the possibility of greater future harms and was concentrated in particular geographic areas (Birkland 1998). The violence was concentrated in opposition strongholds in a bid to punish the electorate there for voting for the opposition, as highlighted by Matyszak (2009). The future harms of this violence continue to be felt in many communities as political polarisation remains rife, and the vicious cycle of state-sponsored violence continues (Benyera and Ndlovu-Gatsheni 2011). However, the failure, according to Birkland's (1998:54) criteria, was that this violence was not "known to policymakers and the public simultaneously". In fact, this violence was well organised by the security cluster through the Joint Operating Command (JOC) (Matyszak 2009).

The SADC-led negotiations that led to the signing of the GPA presented an *international transitional justice moment* in which external forces helped to broker a transitional justice process in the form of a provision in Article 7 of the agreement. International actors such as regional organisations are increasingly being recognised as important players in determining the trajectory that transitional justice will take in society, moving from authoritarianism or

armed conflict (Davis 2010). However, as noted by Dempster (2016), these actors may have opposing impetuses for their intervention and how they frame issues, but this does not prevent the transitional justice process. Instead, they may mediate the challenges by keeping the opposing parties from reneging back to violence, as the parties may see the way they frame narratives as non-judgemental and disapproving (Drumbl 2016). Although the intervention of SADC was described as being marred by obscurities (Ndlovu-Gatsheni 2011), it put the concerns of transitional justice on the national agenda; a target of civil society for many years prior to this. The question then is to what end?

Like all focusing events, critical junctures and transitional justice moments constitute both opportunities and limitations; so too did the signing of the GPA and subsequent formation of the ONHRI. Through article 7 of the GPA, transitional justice was kept on the national agenda and continues to date through the NPRC. The contribution of civil society during the negotiations for the GPA as well as currently on the work of the NPRC has created what Birkland (1998) terms a "balance of debate", which kept transitional justice on the agenda of the GPA negotiation, thereby influencing the agenda. However, as learnt from the term of the GNU, the utility of power lies in that it "subverts the possibility of refusal and resistance through selective pre-formation of the premises on which decisions are based" (Detel 1998:13). In other words, power is what yields desired outcomes. At the point of the signing of the GPA, opposition forces backed by civil society and other constituencies calling for transitional justice did not have the requisite power to call for total accountability for the violence of the 2008 electoral violence and beyond. As argued by Cheeseman and Tendi (2014:219), in reference to power-sharing deals in Kenya and Zimbabwe following violent elections in 2007 and 2008 respectively, "In both cases, incumbent governments were willing to sign unity deals precisely because they recognised that so long as they retained the all-powerful presidency they would continue to be able to effectively veto reform by simply refusing to implement the clauses of the agreements they found most problematic".

The formation of ONHRI was also what Lessa (2013) terms an *opposition moment*. An opposition moment can be either positive or negative (Lessa 2013:25). A positive opposition moment constitutes of the stalling of transitional justice by an incumbent regime that holds government positions and the latter may constitute civil society and victim-led initiatives of creating awareness and calling for accountability. During the GPA, Zimbabwe had both in relation to the functioning of ONHRI. The implementation of the provisions of the GPA was a tug of war between ZANU-PF and the MDC formations (Mbire 2011), leading to the frustration

of political reforms and transitional justice processes, resulting in a *negative opposition moment* for transitional justice. ZANU-PF continued to hold key positions in the government, including in the ONHRI, and was accused of stalling on reforms, including the setting of a clear agenda for ONHRI (Chiweshe 2016). Chiweshe (2016:11-12) contends that "What transpired became a political cat and mouse game in which actors at the national level frustrated the process of uncovering the truth and the promotion of healing". The context of the GNU presented a *negative opposition moment* in which political competition took over and prevented transitional justice from happening. The *positive opposition moment* for the GNU lay in the ability of civil society to actively lobby and advocate for issues of transitional justice to be put on the negotiating table for the GPA. It also lay in the drafting of the 2013 Constitution, which continued the discussion on transitional justice, albeit not without challenges of implementation emanating from the political context in which opposition forces remained powerful enough to frustrate the momentum.

The provisions for the setting up of the ONHRI left many decisions on transitional justice hanging and many issues unaddressed. It did not give a concrete mandate nor define clearly what the role of this institution would be and left much to the discretion of the political principles (Mbire 2011), leading to what Drumbl (2016) terms *transitional justice omissions*. According to Drumbl (2016), *transitional justice omissions* are characterised by the neglect of certain aspects of a conflict. In the case of the ONHRI, these omissions included clear definitions of the concerns that where to be addressed (Machakanja 2010). As argued by Masunda et al. (2019:108), "The lack of clarity of mandate and obscurity of the provisions of Article seven that established the ONHRI made its work more difficult. It was not clear whether the ONHRI was an implementer or advisor and this significantly affected its effectiveness". Similarly, Dzinesa (2012:8) argues that "Although Article 7 of the GPA acknowledges the culture of endemic violence and impunity in Zimbabwe, it is ambiguous in dealing with the fundamental issues of justice, reconciliation and human rights… the GPA is, perhaps predictably, muted about the issue of accountability for past atrocities". The language used in Article 7 of the GPA was also a source of criticism, as it was non-committal about dealing with the key concerns of transitional justice that it was expected to address. Machakanja (2010:4) argues that "The critical keywords of 'justice' and 'reconciliation' are missing in the article. Whilst articles 7.1(a) and 7.1(b) do state that the 'government will ensure…', this phrase evokes a sense of willingness but not commitment". The failure to commit to concrete strategies and to elaborate on the significant concerns of the 2008 electoral violence, including

justice for the victims, was a clear sign of window dressing by the political elites. The major omissions of ONHRI were a result of the context in which it was conceived, that is the context of the GPA, a political tug of war in which moral judgements and counternarratives were dominant and frustrated not only transitional justice moves but broader political transformation.

The lack of a basis in Article 7 to hold the state accountable for its failure to effectively deal with the aftermath of the 2008 electoral violence was critical to the failings of the ONHRI. Mashingaidze (2010:25) affirms that "This has resulted in many regarding it as a political gimmick to hoodwink a traumatised people – a national political placebo". Without committing to any concrete measures, state actors could then avoid dealing with many of the issues that needed to be addressed following the electoral violence, hiding behind the absence of a mandate to deal with, for example, issues of justice. Mbire (2011:22) notes that "The lack of clarity and properly defined mandate for ONHRI has greatly constrained its work in that ONHRI wields little power and has little room to maneuver in promoting national healing and reconciliation". The lack of clarity in terms of its mandate also meant that the OHNRI could easily be vetoed by powerful state actors who were involved in the perpetration of the violence.

Drumbl (2016) contends that the challenge in a transition is the expectations of various groups and individuals, which often become a stumbling block to the transitional process. These expectations are the basis for satisfaction or otherwise by various parties in a transition. Expectations are drawn from moral judgements of who is to blame, who is a victim or hero; among other categories of actors. These moral judgements are a result of what Hearty (2018:2) terms the 'moral emotions' of those passing them and affect how transitional justice moments are viewed. In the case of the ONHRI, Masunda et al. (2019:108) argue that "popular expectations for attaining national healing and reconciliation were not met. As an independent transitional justice machinery, the ONHRI was not able to explore a combination of restorative and retributive mechanisms". The parameters of a successful or otherwise transitional justice moment may, therefore, be premised on these moral emotions.

It is important to note however that these moral emotions change with the alteration in context, as perceptions of heroes and villains during conflict shift. Traditionally, transitional justice has tended to relegate these moral emotions in favour of principles and obligations of international law and human rights law that had been laid down and state the rights of victims and the obligations of states following mass violence. The failure of the ONHRI to comply with these

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international standards, including the Rome Statute, also tainted its credibility. However, this is not to say that moral emotions do not contribute to how these laws are applied. These rights and obligations in law are used in the identification of *omissions, hidden moments, partial happenings* and *bad moments*, which are viewed as such for failing to meet the criteria of internal law. Too often, however, the law may fail to meet the expectations of various groups in addressing the concerns of transitional justice depending on their positioning of themselves in the narrative of violence (Jamieson 2016). The lack of an inclusive understanding or definition ascribed to victimhood, for example, may lead to a partisan stance in apportioning blame for conflict (Jankowitz 2018).

As argued earlier in this chapter, the ONHRI became a political compromise and failed to effectively transform the transitional justice space and trajectory from the failings of the past. However, regardless of the challenges of the ONHRI, the 2008 electoral violence has become an important *evidentiary moment* for transitional justice in Zimbabwe, providing a record for future transitional justice processes, as is discussed in chapters six and seven of this thesis. While the violations that were documented did not suddenly resurface from previously sealed or suppressed archives, without the work of civil society to document these violations, many of them would have remained unknown.

As Raftopoulos (2010:705) argues, "The GPA… set the change for a new set of political dynamics in Zimbabwe. Although it has not transformed the coercive base of ZANU-PF's support, it has led to new battles for state power and changes in the strategies of the major political parties". It can be argued that the GPA also set the tone for changes in the shaping of the transitional justice agenda in Zimbabwe, as it presented civil society and victims of the violence with an opportune moment to push for these concerns to be placed on the national agenda. The signing of the GPA and subsequent formation of the ONHRI created expectations among various sectors of society for a process that would deal with the country's legacies of past violence.

The following section looks at the establishment of the NPRC as a result of the 2013 Constitution – a product of the GPA – and how it has contributed to shaping the current transitional justice agenda in Zimbabwe.

5.5. The 2013 Constitution and establishment of the NPRC

The coming into effect of the 2013 constitution was a critical juncture for transitional justice in Zimbabwe. It came as what Lessa (2013) terms a *positive opposition moment*, in which the opposition and civil society were able to successfully campaign for the inclusion of a transitional justice mechanism in the new constitution. This was also an *unspoken transitional justice moment* (see Drumbl 2016), as it is not officially identified as such. The ONHRI was dissolved in 2013 at the end of the mandate of the GNU, which was followed by an election that brought back majority rule for ZANU-PF. At this point, the NPRC was established through the finalisation of the 2013 Constitution of Zimbabwe as was dictated by the GPA (EISA 2013). As alluded to earlier in this chapter, the NPRC was a result of a *precursive transitional justice moment* in the form of the ONHRI and moments emanating from *political, opposition, international* and *evidentiary moments*. Like the ONHRI, the NPRC was conceived in a politically unstable context in which competing political interests threatened to derail the process, as seen by the challenges in the execution of its mandate despite the legislative framework being available, leading to what Drumbl (2016) terms omissions and bad moments.

The NPRC is one of five Independent Commissions established under Chapter 12 of the Constitution of Zimbabwe Amendment (No. 20) Act 2013, with a mandate of

> "supporting and entrenching a culture of human rights and democracy; protecting the sovereignty and interests of the people; promoting constitutionalism; transparency and accountability in public institutions; securing the observance of democratic values and principles by the State and all institutions and agencies of government as well as ensuring that injustices are remedied as provided for in Section 233 of the Constitution" (NPRC 2020).

Like the ONHRI, the NPRC mandate is broad and emphasises healing and justice as well as unity and cohesion as routes to reconciliation (Tshuma 2018), with a number *of transitional justice omissions* being highlighted by stakeholders, including civil society groups, as will be discussed further in chapters six and seven of this thesis. The narrative of "moving on" that the state has largely espoused at different periods of violence in the post-independence history of the country continues to be heard, albeit not as loudly as in other periods of violence due to the *positive opposition moment* that led to the establishment of the NPRC. As noted by Chengeta (2018), Mnangagwa, in the so-called "new dispensation" following the 2017 removal of Robert

Mugabe, has continued to frustrate efforts towards accountability by unilaterally granting Robert Mugabe amnesty as well as amnesty for various economic crimes.

Those critical of the NPRC agenda, including Tshuma (2018), argue that it is premised on false notions of unity and cohesion while neglecting the key components of a process of moving on, including truth-telling and accountability. The current discourse of reconciliation and unity in Zimbabwe is according to Ndlovu-Gatsheni and Benyera (2015:9-10) being tabled in a context that in which political life is underpinned by a "perennial paradigm of war" characterised by recurring conflict and violence. This paradigm of war is derived from the liberation struggle and is a consistent narrative of the state in dealing with threats to its hold on power.

Reconciliation requires the restoration of relationships. Dealing with the legacy of war is one of the key challenges facing the NPRC, as seen by the recurring violence including the post-election killings of August 2018 (Chengeta 2018) and fuel protest violence of January 2019. These recurrences of mass violence have formed what Drumbl (2016) terms *bad moments* for transitional justice, as they have set back any progress that might have been made towards a peaceful society and the repairing of relations and trust between the state and its citizens.

While it can be argued that the agenda of the NPRC as expressed in its mandate reflects an understanding that retributive justice alone will not sufficiently deal with the country's legacies of violence, it may also be a sign of the unwillingness of the state and many of its actors who are responsible for these violations to account for their actions. This is seen by the continued occupation of key state positions and the rewarding of perpetrators of violence within the structures of the state (Chengeta 2018). Further, the signing of the NPRC bill into law just before the 2018 harmonised elections has been argued by some scholars (see for example Murambadoro 2019) as a late political strategy to gain support from the electorate as well as the international community on the basis of political and institutional reforms.

The lack of political will to operationalise the NPRC has been a stark contrast to the letter and spirit of its enabling legislation, but certainly not alien to the way its predecessor the ONHRI was handled. The NPRC has had a life span of 10 years, but almost half of this time expired before the body became fully functional. This was due to several delays, including the appointment of commissioners, which was only done in February 2016, with work by the commission only commencing in January 2018 when President Mnangagwa signed the NPRC bill into law (Tshuma 2018). This means the NPRC has a very limited time to execute its expansive mandate. It is also limited by constraints in financial and other resources, given the

struggling Zimbabwean economy and a lack of prioritisation of issues addressing past violence (see Ndlovu-Gatsheni and Benyera 2015). This reduced time frame has been challenged by civil society and individuals, including MDC Alliance proportional representation legislator Concillia Chinanzvavana, a survivor of torture in 2008, who has taken President Emmerson Mnangagwa to the Masvingo High Court to force him to extend the tenure of the NPRC to ensure it has its 10-year tenure as prescribed by the Constitution (Chitagu 2019).

Other victims of violence have over the years also expressed dismay at the length of time it has taken the state to operationalise the NPRC. A case in point is one in which Nelson Mtetwa, a victim of the 2008 political violence, is quoted as saying "[The] people tasked to put the NPRC in place did not understand the cost of violence… If the role to set up the commission had been given to victims of political violence, the commission would have been operationalised just a few months after the adoption of the new Constitution" (Newsday 12 June 2015). This view from Mtetwa shows distrust of the sincerity of the state in setting up the NPRC. Many of these challenges relate to the context of incumbency and the 'second republic' following the November 2017 coup, which added to the list of victims and perpetrators to the cycle of politically motivated violence.

Through the National Transitional Justice Working Group (NTJWG)[13] in 2014, civil society organisations came up with a list of minimum standards for an effective NPRC, which highlight some of the key omissions in the mandate and constitution of the NPRC. The NTGWG (2015: v) argues that a good NPRC should measure up to these minimum standards, which they contend are in accordance with international standards, the expectations of the majority of Zimbabweans and the nature and unique history of the country. These minimum demands are:

> "1. A Constitutional Foundation; 2. Firm Legislative Foundation 3. A Protection Mechanism 4. Victim-Centeredness; 5. Inclusiveness and Public Information and Participation; 6. Privacy and Confidentiality; 7. Provision for Persons with Special Needs; 8. Recruitment Policy; 9. Power to Call for Evidence; 10. Funding and Resource Mobilisation; 11. Adequate Support Structure Section" (NTGWG 2015:3-9).

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[13] The National Transitional Justice Working Group (NTJWG) is a platform established by 46 Zimbabwean organisations representing various transitional justice stakeholders to provide the interface between transitional justice stakeholders and the official transitional justice processes in Zimbabwe (NTJWG 2020).

Some of these minimum standards have been argued to have not been met by the NPRC Act, thereby impacting on the effectiveness of the NPRC. The NTJWG in a press statement (Newsday 12 January 2018), following the enactment of the bill, applauded the state for finally signing it into law but highlighted the limitations posed by the failure to meet the minimum standards. These omissions, as alluded to by the NTJWG, include the absence of an explicit transitional justice mandate, the absence of provisions for the protection of victims as well as "the Act's indifference towards the NPRC's healing and justice mandate", which they argue alienates and discourages the victims of past violence (Newsday 12 January 2018).

Further, the appointment of the commissioners by the President does not augur well for the legitimacy and transparency of the NPRC. The NPRC is composed of a chairperson appointed by the President in consultation with the Judicial Service Commission. "The President must cause the Committee on Standing Rules and Orders to be informed as soon as practicable" and must be a person who has been qualified for at least seven years to practise as a legal practitioner in Zimbabwe (Constitution of Zimbabwe 2013, 242(1), (2)). Eight other members are appointed by the President from a list of twelve or more nominees submitted by the Committee on Standing Rules and Orders (Constitution of Zimbabwe 2013, 242(1)). Trust between the state and its citizens in Zimbabwe has been a key issue expressed in various consultations by civil society groups. Emmerson Mnangagwa has also been named as culpable in various periods of state-sponsored violence, including the *Gukurahundi* genocide. This poses challenges for the NPRC to deal with mass violence after the November 2008 coup, as the administration is characterised by incumbency and greater military visibility in terms of the running of the country. Politicians and military personnel have been equally culpable in many of the episodes of violence in Zimbabwe, including electoral violence. The current composition of government, which places the former commander of the Zimbabwe National Army (ZNA) at the vice-presidency and many of the pre-November 2017 political incumbents in government, places the independence of the NPRC at great risk and it remains to be seen whether the NPRC is able to fulfil its mandate.

The limitations of an unclear NPRC agenda, while limiting the attainment of the goals of national healing, may be useful in keeping the issues of transitional justice on the national agenda, while helping stakeholders understand that transitional justice has its limitations and thinking beyond the realm may provide a more potent opportunity for Zimbabweans to exorcise the demon of recurring mass violence. These concerns are discussed further in chapters six and seven of this thesis.

The following section highlights another transitional justice moment/happening in the form of the Montlanthe Commission and discusses how this moment had served to reinforce some of the transitional justice concerns in Zimbabwe.

5.6. The Motlanthe Commission

Any resurgence of electoral violence and other forms of politically motivated violence represents a *bad moment* in a country's process of moving on. It reopens the wounds of past violence and diminishes any goodwill towards dealing with past violence. The killing of six civilians by members of the ZNA on 1 August 2018, following yet another disputed election and subsequent appointment of a commission of enquiry led by former South African president Kgalema Motlanthe, was one such moment. It revealed the critical need for institutional reform, a key process in achieving the goals of transitional justice. These violations occurred despite the assurances from the new president of key political reforms as well as a peaceful election, including the signing of a peace pledge by political parties initiated by the NPRC before the election (Shubin 2019, NPRC 2018).

The Commission of Inquiry into the August 1, 2018 post-election violence (herein referred to as the Motlanthe Commission) was an important juncture for transitional justice in Zimbabwe despite its limitations, including questions of its independence and the sincerity of the government in appointing it (see for example Magaisa 2018). The Motlanthe Commission exposed the entrenchment of violence in the security apparatus of the state, bringing to the fore important and often hidden details of the violence through testimonies from previous insiders who were displaced by the November 2017 coup d'état.

The Motlanthe Commission was the result of an *opposition moment* as well as an *international moment*. There was an outcry domestically, primarily from civil society, as well as the international community that had been watching the election process closely, for an investigation into the violence (Mungwari 2019). On 12 September 2018 President Mnangagwa appointed a Commission of Inquiry in terms of Section 2(1) of Commission of Inquiry Act [Chapter 10:07], to inquire into the circumstances leading to 1 August 2018 post-election violence to investigate and come up with recommendations in three months (see Magaisa 2018).

The Motlanthe commission was described as an unfair platform that was biased against the main opposition and was, like the NPRC, appointed by the president, who is seen as culpable

in the violence (see Magaisa 2018). The composition of the commission was a key point of contention due to the appointment of members who were seen as conflicted due to their political affiliation. For example, Professor Charity Manyeruke, a well-known supporter of ZANU-PF and President Mnangagwa, was appointed to the commission and during the enquiry fingered for planning some of the violence during the rule of former president Mugabe during a testimony by Jim Kunaka, an ex-ZANU-PF terror leader, on 21 November 2018 (Newsday 22 November 2018). The commission became part of an exercise in ascribing moral blame not only for the 1 August violence but also for other periods of violence. Some of the testimonies given by people like Jim Kunaka could be argued to have been given in the knowledge that no form of accountability would be instituted after the process, as they implicated senior officials in the state and government. Therefore, the commission, while not bringing about any justice for the victims or institutional reforms, was a key moment in which perpetrators spoke of what they have done in the past with impunity. Unprecedentedly, known perpetrators of political violence were broadcast on live television and other online streaming channels, detailing their various roles in the violence and how the system of state-sponsored violence operates.

Key *omissions*, as with other attempts to deal with mass violence, such as the ONHRI and NPRC, point to the Motlanthe Commission's terms of reference. The Motlanthe Commission sought to investigate electoral violence after the 2018 harmonised elections but failed to refer to the killings of the six civilians or the establishment of the chain of command in the ZNA responsible for the killings (Mungwari 2019). The commission also failed to address other incidences of violence by the ZNA and police reported in many urban areas in and around Harare after 1 August (Magaisa 2018).

Unlike the Chihambakwe Commission's report, which was never released to the public, the Motlanthe Commission's report was made public. The report found that military intervention was necessary because the police were incapable of dealing with the rioters and that the intervention of the army had been necessary (Mutanda 2019). A key recommendation by the Commission was on nation-building and reconciliation and dealing with the unfinished business of the past, including the *Gukurahundi* (Mungwari 2019).

Like the ONHRI and the NPRC, the Motlanthe Commission was far from comprehensive in terms of dealing with the electoral violence of the period it was decreed to. There were many *omissions* in terms of the clarity of its mandate and the failure to bring justice for the victims. As argued by Drumbl (2016), transitional justice cannot be expected to cover all issues. A good

transitional justice process, however, strives to bring positive reforms rather than become a window-dressing exercise, as has plagued the Zimbabwean context, leading only to *partial happenings*.

5.7. Conclusion

As highlighted throughout this thesis, the relationship between transitional justice and narrative in shaping the agenda and response to mass violence as part of how collective narrative is activated into the public discourse of transitional societies. A major argument of this thesis is that narratives about violence cannot be separated from the decision about which direction transitional justice policy that addresses that violence will take. This chapter sought to illuminate some of the key moments that have shaped the narratives and responses to violence in Zimbabwe. This was done by tracing Zimbabwe's transitional justice moments/happenings, including critical junctures from its independence in 1980. This allowed the researcher to point to a part of the trajectory that has shaped the transitional justice agenda in Zimbabwe, particularly in the formal state realm as opposed to civil society, which will be discussed in chapters six and seven of this thesis.

The chapter showed a pre-colonial state that has struggled to deal with various epochs of violence as a result of failed or partial transitions. Political pacts have played a role in usurping redress from the victims of violence. The result has been *partial happenings* of transitional justice such as the Fast Track Land Reform, which remains an unresolved concern for redress. The reactionary transitional justice moments and mechanisms of the state have centred on the interest of maintaining ZANU-PF hegemony. This has left Zimbabweans with more transitional justice concerns as new victims have been created, as seen with the violence that the Fast Track Land Reform enacted. The economic implications of the war veterans compensation continue to be felt, as the country's economy has never recovered from this transitional justice moment.

The implications of the independence pact were also illuminated in the chapter through outlining the happenings/moments that led to the *Gukurahundi* genocide. Unresolved tensions in the liberation movement and a desire by one party for hegemony over the state, its history and future fueled one of the Zimbabwean state's worst atrocities. While the Unity Accord of 1987 ended the violence and enabled the swallowing up of ZAPU into ZANU-PF, it did not deal with the grievances of ZAPU cadres at independence, nor did it provide redress for the

Gukurahundi. Instead, as was the case at independence, national unity and de facto and de jure amnesties were forced onto the victims. To date, *Gukurahundi* remains officially unresolved and unacknowledged.

As shown in the chapter, the rhetoric of national unity and "letting bygones be bygones" has become the de facto transitional justice approach of the state, with institutions such as the ONHRI and the NPRC pushing a narrative and agenda of national reconciliation, national healing and unity while negating processes to curb impunity. It is clear from the presentation in this chapter that the state narrative of violence has been that of a "just war" against its perceived enemies (ZAPU dissidents, neo-colonialism, sell-outs in the MDC and protestors threatening the state's stability). With such narrative groundings, transitional justice, it is argued, becomes an unnecessary exercise; hence the state's lackluster responses to state-sponsored violence. Through *opposition* and *international transitional justice moments,* important institutions that have kept transitional justice on the national agenda have been formed. What remains to be seen is a full transition that will allow these institutions to operate.

 The outlining of key events relating to transitional justice in Zimbabwe points to many omissions and partial happenings even in the moments of precursory transitional justice. The outlining of these moments also points to the state's agenda for transitional justice, which has largely been focused on restorative aspects, including reconciliation and national unity, as opposed to retribution. The state's transitional justice agenda has been shaped by a need for political window dressing and countering the neoliberal narrative of human rights espoused largely by civil society (as will be shown in chapter six of this thesis) with a restorative and redistributive approach (Eppel and Raftopoulos 2008).

Having outlined the transitional justice agenda of the state in this chapter through an analysis of the context and responses by the state to different periods of violence, the following chapter will outline the narratives of violence espoused by civil society and the key demands they have sought to put on the agenda to respond to these understandings of violence.

Chapter Six

Civil society narratives of violence

6.1. Introduction

Civil society has created a narrative of human rights and the liberal transformation of the political system as a means of dealing with the political and economic crisis the country was faced with from the late 1990s. The state created a counternarrative that was anti-neoliberalist and emphasised redistributive justice (Ndlovu-Gatsheni 2015). The transitional justice agenda became split between redistributive justice and a more civil rights and governance-based discourse. This chapter, through historical accounts presented by four experts, outlines some of the *hidden moments* of the shaping of the transitional justice discourse in civil society in Zimbabwe. The activists and scholars interviewed for this study are Tony Reeler, a human rights and transitional justice activist in Zimbabwe; Shastry Njeru, a transitional justice activist and scholar; Webster Zambara, an activist and scholar , as well as a former ZIMRIGHTS activist who is unnamed in this thesis (he chose to remain anonymous for personal security reasons). These perspectives and historical accounts help to illuminate how some of the narratives of electoral violence that are also presented in this chapter may have been fashioned in relation to a particular political and socio-economic context as well as to meet particular goals.

One of the important illuminations from the interviews carried out for this study, as presented and discussed in this chapter, is how civil society in Zimbabwe has evolved over the years and has been shaped by the different dilemmas that the country has been faced with, particularly economically and politically. Speaking to people who were on the ground during the various phases gave the researcher insight into how civil society arrived at the current discourse of transitional justice, the contradictions within civil society and the dynamics of the tug of war between the state and civil society in the transitional justice space. This history is often untold and undocumented; hence this chapter provides issues for further research in the context of Zimbabwean civil society.

This chapter captures the central understandings of electoral violence that have been espoused by four civil society organisations: the Zimbabwe Human Rights Association (ZIMRIGHTS),

the Zimbabwe Human Rights NGO Forum (ZHRNGOF), Amnesty International (AI) and the Zimbabwe Peace Project (ZPP). These understandings of violence are drawn from the four civil society organisations and include the motive of the violence and its modus operandi as well as the implications of the violence as highlighted in the reports reviewed.

This chapter captures the demands of these civil society organisations for justice and accountability, as well as recommendations for reforms. This is done in order to draw linkages between demands for transitional justice issues to be dealt with and the narratives of violence captured in the reports. This is done from the earlier stated position by Grødum (2012), acknowledging the role of narrative in the envisioning of the future. This chapter does not provide a comprehensive narrative of the four organisations as highlighted in chapter four of this thesis, but instead uses particular examples from the dominant narratives to illuminate the understandings of the electoral violence in the period under study.

6.2. The history of civil society interactions with transitional justice in Zimbabwe

Advocating for transitional justice is a political act that needs to be understood in a broader political context. This is why the history of civil society's interactions with transitional justice matters, as it shapes the present-day agenda. From the discussions with the four civil society activists interviewed for this study it became apparent that the history of civil society interactions with issues of transitional justice did not begin post-2000 but as early as the liberation struggle. Shastry Njeru, a transitional justice activist and scholar, points to the work of the Catholic Commission for Justice and Peace (CCJP) in Rhodesia (and later Zimbabwe), which drew attention to and provided a record of atrocities committed during the war of liberation. One keyway this was done was by releasing in 1997 the report 'Breaking the Silence, Building True Peace: a report on the disturbances in Matebeleland and the Midlands 1981 to 1988' (hereinafter referred to as the Breaking the Silence report). This was done as precursory work to transitional justice with the hope that this evidence would be used in future processes of transitional justice. Shastry Njeru attests that,

> "If we talk of civil society and issues of governance we see institutions of
> civil society stretching back into the liberation struggle, where organizations
> such as the Catholic Commission for Justice and Peace (CCJP) were
> providing a critique on the Rhodesian regime and its excesses, particularly on

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the black community. People like Michael Auret[14] presented programmes that they thought would assist the society to transform for the better. So, it did not begin with the violations that were taking place in the country post-independence or post-2000.. Although it was not as fully developed as it is now… We know that civil society is the one that began an earnest discussion or discourses on transitional justice. Before that the talk was scattered among academics" (Skype interview 26 July 2019).

The work of civil society in Zimbabwe both pre- and post-2000 was aimed at an envisioned future transitional justice project and was characterised mainly by documenting mass violence and advocating for redress for these crimes. Their work resonates with what has emerged more broadly in transitional justice literature on the importance of laying a foundation for transitional justice. For example, Bickford et al. (2009:4) state that "Documentation efforts are a vital aspect of human rights advocacy, and they are often precursors of fair and effective transitional justice mechanisms".

In Zimbabwe, this documentation by civil society was done as part of what Shastry Njeru terms "a story for the future", and she points out, in light of the documentation of the Gukurahundi genocide, that:

> "Even if it [Breaking the Silence Report] was a sample which they used to infer the kind of carnage that had taken place in Matebeleland during *Gukurahundi*, they managed to produce a document which is unparalleled in terms of its value to the story of *Gukurahundi*. The Breaking the Silence Report is the only source we have in the country which has a trusted story of *Gukurahundi*. When they were writing that book, they were writing for the future. It was not a matter of just documenting what happened, but to start a process in the future. Breaking the Silence was a document to start a process of transitional justice. A story for future generations; for the people of Zimbabwe in future to reconsider dealing with the *Gukurahundi* story, fully and comprehensively for the healing of the regions that were affected by it" (Skype interview 26 July 2019).

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[14] Michael Auret is the former chairperson of the CCJP

Within a transitional justice framework, aspects of the assertions by Shastry Njeru that can be highlighted include truth-telling, holding perpetrators to account and the healing of communities affected by violence.

The "story for the future" is told where action cannot immediately be taken (see for example Lagrou 2013) to deal with the concerns of transitional justice either through prosecutions or truth commissions and fits into Drumbl's (2016) notion of *precursive transitional justice*. Such contexts are often plagued by ongoing conflict and instability or the absence of political will to deal with the concerns of transitional justice. Examples of such contexts include Afghanistan and Iraq, where conflict is still ongoing, and Burma, where authoritarian leadership still prevails (Bickford et al. 2009). Civil society groups continue to push for transformation of political spaces to allow transitional justice to take place, while documenting mass violence so that it can be dealt with in the envisioned future that allows this to be done. Zimbabwe largely remains in this position, where documentation remains for future transitional justice process. This is drawn from the perceptions of interviewees in this study who draw on the absence of an enabling environment for transitional justice to take place currently.

History has however shown that in the absence of political will, pressure and evidence by civil society can lead to precursory transitional justice, as discussed in section 5.3 of this thesis. This might take the form of window dressing by the state, where important truths may be revealed unintentionally, thereby setting the stage for genuine future processes of transitional justice, or it can further victimise those who have already been affected by the violence. An example of failed precursory transitional justice in Zimbabwe occurred during the *Gukurahundi* in the form of the Commission of Inquiry into the Matabeleland Disturbances (1983-1984), also termed the Chihambakwe Commission. As argued by Shastry Njeru,

> "So, civil society became involved only through documentation and not necessarily engaging the people. It is the same civil society institutions that we had at that time that pushed the government to constitute the Chihambakwe Commission, and if you read the stories in the Breaking the Silence Report on how the Chihambakwe Commission Presented itself to the people of Matebeleland, then it was not necessarily looking for ways of healing and may have proceeded to further threaten the people of Matebeleland. If you look at how the people were questioned and how they were gathered, it was purely a governmental process that had nothing to do

with healing or even accounting for what happened in the past" (Skype interview 26 July 2019).

From the above discussion on the Chihambakwe Commission, it can be deduced that processes that set the stage for transitional justice can either have a positive or negative impact. Where impunity continues to exist even after processes such as the Chihambakwe Commission, the stage is laid for fear to speak out against atrocities. Therefore, the constituents of the precursory processes of transitional justice are important to how communities will respond to future processes. Genuine reforms may, however, alter these conditions of fear and allow for what was not permitted to come out during precursory moments. Similar concerns have been raised about the National Peace and Reconciliation Commission (NPRC), as is highlighted in later sections of this chapter by the four interviewees who see the NPRC as a window-dressing exercise rather than a genuine attempt at dealing with the country's legacies of violence.

6.3. Civil society interactions with the international transitional justice community

From the interviews carried out for this study, it emerged that the shaping of the discourse of transitional justice as it exists today in Zimbabwe is grounded in connections with civil society organisations from other parts of the world in which varying forms of transitions had occurred or were taking shape.

Human rights and transitional justice activist Tony Reeler notes that,

> "So in 2000, we then realised that we were in for a long struggle, but some of the issues around transitional justice had been raised in the 1990s. Certainly, Amani Trust[15] was raising those things, and part of the reason why Amani was raising this, and few people know this, but in 1990 there was an enormous international conference held in Harare under the theme 'Victims of organised violence in Southern Africa'. It was massive. People from Angola, South Africa, Namibia, Mozambique, even Ethiopia. A lot of international people. It was held under the auspices of what was then called the Psychiatric Association of Zimbabwe… This eventually materialised in the African Union (AU) Transitional Justice Policy. At the end of this conference, we had these high-level, high-sounding resolutions, and the resolution was to get a

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[15] Amani Trust was a civil rights organisation in Zimbabwe established in 1993 and closed in 2002 following threats and harassment by the state (Daily News, 2 January 2003).

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regional organisation going, which was pretty ambitious, I must say. That did not materialise very easily, and I think we had two meetings trying to bring everyone together, it went from Addis to Cape Town, it was just impossible" (Skype interview 30 July 2019).

According to Tony Reeler, then, these initial meetings about the need to deal with past violence played an important part in opening the world of transitional justice to civil society activists in Zimbabwe like himself while contributing to the early thinking and development of a regional policy on transitional justice. The AU Policy on transitional justice is becoming an important part of the region's integrated efforts to deal with mass violence, and as outlined in the introductory section of the policy document, "This Transitional Justice Policy is conceived as a continental guideline for AU Member States to develop their own context-specific comprehensive policies, strategies and programmes towards democratic and socio-economic transformation, and achieving sustainable peace, justice, reconciliation, social cohesion and healing" (AU 2019:1). This had been one of the main aims of the early interactions referred to in the discussion above with Tony Reeler.

For Zimbabwean civil society, as emerged from the interviews, interactions with the broader network of advocates of transitional justice around the world also shaped understandings of transitional justice within the programming of these organisations. While these understandings of transitional justice continue to change, the roots of transitional justice remain firmly entrenched in the values of human rights and international law shared in these early interactions, as the interviews reveal. In the case of Zimbabwe, the human rights-based approach to dissecting the electoral violence and other forms of political violence experienced in the country over the years has presented challenges for transitional justice.

Shastry Njeru, for example, argues that,

"The framing of the transitional justice programme by civil society was all wrong from the beginning. It was framed by lawyers. The process in Zimbabwe is led by lawyers who have only two colours, that is black and white. You know these things are shaped by whoever initiates them. The team that started this programme are the ones that affected the framing of everything, and they did it badly… It depends *kuti akanzwa dambudziko ndiyani* (It all depends on who hears the problem). In our situation, the people who heard the problem or claim to have heard the problem are the people who

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do not suffer the consequences of violence every day" (Skype interview 25 July 2019).

Savelsberg (2016) contends that actors such as civil society organisations seek to push particular understandings of violent situations, albeit with competing voices from other actors. Competing knowledge systems, such as tradition-based and liberal peace systems, therefore come into play. Hence it is important for responses to violent conflict to take these factors of narrative competition and seemingly altruistic motives such as the interests of the victims for justice into consideration when drawing on understandings of the causes of these conflicts in order to give more nuanced resolutions.

Tony Reeler further highlights other key interactions with the transitional justice community outside the country that were important in shaping the discourse of transitional justice in Zimbabwe and reflects that,

> "Amani Trust and I were invited to become part of the International Rehabilitation Council for Torture Victims (IRCT), which was a new international organisation. The IRCT was an advisory body, and I was invited to become a council member. One of the first learnings from that association was the demand for transitional justice coming from that first wave of democratisation coming from Greece, Portugal, Latin America, in which transitional justice was a big component of rehabilitation. That was given a bit more emphasis because the UN picked it up, and in 1993, Joinet published the very important Joinet Principles which became an organising device for transitional justice. And in some of the writings from Amani Trust published by the Legal Resources Foundation (LRF) and me, we published a number of articles raising issues of transitional justice, explicitly focusing on the Joinet Principles and coming at it from the rehabilitation component of the reparation right but none the less, justice, truth, non-recurrence etcetera. All of that was part of an ongoing discussion. So I think that little bit of history got embedded in civil society and they got to understand that as key to transitional justice" (Skype interview 30 July 2019).

As noted by Sisson (2010), the principles against impunity were initially formulated by Louis Joinet in a final report on the administration of justice and the question of impunity to the UN Sub-Commission in 1997 and were revised by Diane Orentlicher in 2005 and became known

as the "Joinet/Orentlicher' principles. Sisson (2013:13) contends that some of the importance of the principles are "… the fact that they are based on the precepts of state responsibility and the inherent right of redress for individual victims of grave human rights violations". These principles, as stated in some of the recommendations by civil society in chapter six of this thesis, reflect civil society's roots, the early experiences and learnings from interactions with these international norms and standards.

The learning of these norms and standards were entrenched in the programming of civil society and, as acknowledged by Tony Reeler, allowed a more judicious approach to pre-transitional justice work, such as that of documentation. As Tony Reeler further reflects,

> "So from 2000 onwards, we were much more judicious in documenting because clearly we were all over the place in 2000 and we were not expecting anything like that [the electoral violence]. So that led to a number of things being set up which were hosted by Amani at the time. The legal unit, using volunteers to get these legal cases going. At the same time, a research unit was set up. And in the middle of it was Amani both in Matebeleland and Mashonaland being able to provide psychosocial assistance to victims… So then the systems got more and more sophisticated, and we got pretty clear on how accurate our data was after we triangulated it in many different ways. We then had the innovativeness of Zimbabwean civil society in using civil suits to challenge impunity, because the Zimbabwean government was clearly not going to investigate itself any more than it would investigate *Gukurahundi*…" (Skype interview 30 July 2019).

From the reflections above, it appears that the international norms and standards provided a more focused approach to the processes of civil society in laying a foundation for transitional justice, including the documenting of violence and challenging impunity. It also rooted the work of civil society in the human rights framework of understanding and analysing electoral and other forms of political violence. However, as mentioned earlier in this section, these norms have been argued to have created a transitional justice agenda that does not fully reflect the needs of those affected by the violence nor their value systems as a society.

As highlighted in chapters five and seven of this thesis, civil society and the opposition created a narrative of human rights and the liberal democratic transformation of the political system as a means of dealing with the political and economic crisis the country was faced with from the

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late 1990s. The state created a counternarrative that was anti-neoliberalist and emphasised redistributive justice (Ndlovu-Gatsheni 2015). The transitional justice agenda became split between redistributive justice and a more civil rights and governance-based discourse. Hence, a clash emerged between civil society and the state. Scholars such as Chirimambowa and Chimedza (2014) argue that a focus by civil society solely on human rights demands lacks a holistic understanding of the structural causes of political violence in Zimbabwe. This has been one of the major contentions on transitional justice in Zimbabwe in both its discourse and practice, as will be discussed in the following section on the contradictions among actors in the shaping of the transitional justice agenda in Zimbabwe.

To better understand some of these reflections presented in this section, the following sections of this chapter outline the key understandings of electoral violence as presented in the reports of the four civil society organisations reviewed in this study.

6.4. Violence and hanging on to political power

While the precise dynamics of each election were different, the end goal of the use of violence was the same, as picked up concurrently from the narrative of the four civil society organisations. The preservation of political power by the ruling elite at all costs is expressed as the root cause of the electoral violence. These sentiments, while largely expressed during and in the aftermath of the 2008 electoral violence, embodied the meanings tied to the electoral violence in the entire period under review in this study, with variations in the intensity and modus operandi.

Following the 2008 electoral period, AI (2008) contends that "Human rights violations were perpetrated to maintain political power".

Concurrently, ZHRNGOF (2008c:5) states that,

> "Although it [the state] goes through the motions of holding elections, it is prepared to do whatever is necessary to ensure that it will win these elections. Consistent with this belief, which has been openly expressed by its service chiefs, the ruling party is entirely intolerant of opposition and dissent and has set out to smash all opposition, using the state security apparatus for the purpose".

This view by ZHRNGOF concurs with scholars such as Sachikonye (2011:17), who argues that "The major motivating factor in the deployment of violence and rigging is the grabbing and retention of power by hook or by crook".

Similarly, the ZPP (2008b:4) points to this intolerance and the preparedness of ZANU-PF to hold on to political power by all means and contend during the March 2008 electoral period that,

> "Since mid-June anti-opposition rhetoric has been stepped up as the ruling
>
> party presidential candidate reportedly threatened to go back to the bush if
>
> the opposition won the 27 June [run-off] election".

This was a clear message by ZANU-PF that they would not yield to any electoral outcome that took control of the state away from them, and this message has been consistent through the years under study. This message, according to Ndlovu-Gatsheni (2015), has been that ZANU-PF will not derive its political power and legitimacy from elections. These concurring sentiments by ZHRNGOF (2005) and Ndlovu-Gatsheni (2015) point to an electoral process that seeks to maintain a façade of democracy by ticking the boxes of participation for citizens in democratic processes. However, scholars such as Morgenbesser (2016) argue that elections in authoritarian states similar to Zimbabwe are more than just window dressing or ticking boxes but rather sustain the rule of the regime by allowing authoritarian regimes to gather information, seek legitimacy and interact and manage the rest of the polity. Hence elections are part of both authoritarian and democratic systems of governance (Morgenbesser 2016). In Zimbabwe, Bratton (2014:3) suggests that ZANU-PF created a "militarized version of an electoral authoritarian regime".

Further, ZHRNGOF (2008c:5) contends that,

> "The ruling party in Zimbabwe adamantly refuses to accept the core
>
> democratic principle that Zimbabweans have the right to freely choose whom
>
> to elect into government. It believes that only it has the right to govern
>
> Zimbabwe and characterises all its opponents as sell-outs and lackeys of the
>
> West".

The sentiments expressed by ZHRNGOF (2008c) point to a deep-rooted entitlement to political power by the political elites and an embedded disregard for the political agency of the citizens. Muvingi (2008:77) contends that this entitlement by the ruling elite is "… liberation entitlement

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that was accepted by the public in part due to colonial resentment, [and] enabled ZANU-PF to maintain a monopoly on political office under the façade of democratic governance". This liberator's privilege has been used by the party as both a carrot and a stick to whip the masses into alignment at different stages of the country's post-independence history, including in electoral contests. As argued by Bratton (2014:3), the Zimbabwean leadership's political tactics and approaches cannot be understood outside this legacy of the liberation struggle. He contends that "Political leaders opted for violence, first as a reaction against the brutalities of settler colonialism, later as a means of retaining their tight grip on the bountiful privileges of state power".

This entitlement to political power and its entanglements with the liberation struggle is consistently highlighted in the reports by the four organisations that the researcher reviewed. As drawn from the earlier statement by the ZPP (2008b:4), going "back to the bush", in reference to the guerilla war for independence in the 1960s and 1970s, is part of this mantra by the ruling elite. It also manifests in the failure to respect electoral outcomes and the failure to allow the electorate to choose through violence and intimidation.

For example, ZPP (2008a:5) notes that,

> "While initially election violence had an individual focus, by June election violence had visibly assumed a collective and national focus with the Zimbabwean electorate at large threatened with war if they do not 'vote correct' – a ruling party euphemism for voting for the ruling party candidate… Threats of war resonated from the top leadership down to the grassroots structures of the ruling party".

This narrative and reference to war as a memory of what the ruling elite are capable of in terms of violence remains a sword they hold over many of the electorate, especially those who lived through the war of liberation. This relates to what Grødum (2012) calls the "transitional plot", in which the narrative and memory of past violence continues to influence the present and future. This use of the memory and narrative of past violence by the state will further be discussed in a later section of this chapter.

The narrative of entitlement to political power is linked to the entitlement of the ruling elite to the economic benefits, or rather, economic predation with impunity that comes with this power. This was also highlighted in the reports of the four organisations that were reviewed in the study, as well as from the interviews carried out with four civil society activists who have

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worked in the field of human rights and transitional justice in Zimbabwe. It emerged that economic predation with impunity was one of the main reasons for the need by ZANU-PF to protect its place at the helm of political power. Tony Reeler, a human rights and transitional justice advocate in Zimbabwe, in an interview with the researcher noted,

> "Bratton and Masunungure and others pointed out that Zimbabwe was a predatory state. Not just an authoritarian state, but a predatory state in which the political elite and the structures that support the elite is taking all the resources for their benefit and for no one else. So, there is hardly an aspect of civil life in which ZANU-PF is not able to exert an influence, and that leaves a very limited space for dissent and challenge" (Skype interview 30 July 2019).

In a study that uses the predatory state paradigm to understand the state-military and business relationship in Zimbabwe, Shumba (2016:3) contends that "rather than it being a 'developmental state,' the state, military and business accumulation patterns qualify Zimbabwe as a 'predatory state'". Shumba (2016:3) characterises the predatory state as having the following the features: "(1) party and military dominance in the state; (2) state-business relations shaped by domination and capture; and (3) state-society relations shaped by violence and patronage". This pattern of accumulation with impunity puts the goals of transitional justice at risk, as accountability for violence may also lead to accountability for economic crimes, an undesirable situation for the ruling elite. This is in contrast to Zimbabwe's earlier years as a developmental state, which Alexander and McGregor (2013:749) argue set it apart from many case studies on the African continent that had been the basis of state, failure by virtue of its strong state bureaucracy, and history of service provision.

A loss of political power puts the ruling elites in Zimbabwe who are primarily the ones culpable of electoral violence and other forms of political violence at risk of prosecution, hence the desire to maintain political power at all cost as argued by AI (2008:5),

> "A small number of people in Zimbabwe have a vested interest in perpetuating the culture of impunity in order to escape accountability for human rights violations or to retain their wealth and privileges... They include senior serving and retired members of the army, intelligence service and police, as well as "war veterans" and ZANU-PF officials. Endemic corruption within the ruling elite has led to a situation of acute economic disparity in

which a few individuals have acquired vast wealth while the rest of the population continues to face increasingly severe deprivation. These individuals have exploited their political connections with government to access scarce commodities for export or for sale locally at exorbitant prices".

Hence economic predation is an important factor in understanding ZANU-PF's desire to maintain a hold on political power and the use of electoral violence to ensure that this is achieved. As asserted by Bratton (2014:4), "In power politics, might makes right. In this form of politics, the main sources of authority are military strength and the selective distribution of economic resources. Little room remains for ethical values or constitutional rules to constrain the unlimited exercise of power". These power politics have infiltrated all aspects of life in Zimbabwe, including in the transitional justice agenda, as is explored further in this chapter as precedents and patterns of electoral violence are illuminated.

While the narrative espoused by the civil society organisations in this study is largely that of a state unwilling to give up political power, human rights and transitional justice activist Tony Reeler argues that it is also an indirect acceptance by the state that it has lost popular support. Reeler argues that,

> "And it was the same question that Angela Cheetah asked in 2000, that why was the worst violence in constituencies it had won in 1995 by large majorities or uncontested. In Mashonaland province, they walked over. So why were they attacking their own people? So, the answer is, that the referendum taught them that they had lost support in the commercial farming areas, plantation agriculture and there were huge numbers of potential voters who were expecting to be left out of the land reform, those of Malawian descent for example who did not have a kumusha (rural home), were not expecting to get land. So that's were their affiliation went. The attack on urban centers in 2005 was a reaction by ZANU-PF realising that they had lost the urban base completely and utterly. And it was very successful, I mean the MDC split under all the pressures and differences in opinion and ideology. The opposition was in disarray… And I don't think we speculated clearly at that that time, but to them I think it was a realisation that they had lost the population in a deep way. I mean why would you attach people when you have 2/3rds majority?" (Skype interview 30 July 2019)

These assertions by Tony Reeler concur with the observations by Sachikonye (2011) that the state's use of violence is an admission of the failure to retain the electorate through persuasion rather than coercion. However, unlike Tony Reeler, Sachikonye (2011) argues that this does not always work, as highlighted in a later section of this chapter.

Further, Tony Reeler points to a "fracture in society" and a "breakdown in the social contract". Responding to a question on the root causes of Zimbabwe's trend of electoral violence particularly after 1999, he contends that

> "When you think about the obligation of the state to ensure the best possible life for its citizens, that's been missing for a very long time. That's back to the 1990s and ESAP, the implementation of a very harsh neoliberal economic restructuring and no safety nets. That clearly energised Zimbabwe, the strikes in the 1990s, the formation of Zimbabwe Congress of Trade Unions (ZCTU), against the harsh economic climate and then the formation of the National Constitutional Assembly (NCA) and then the MDC. That discontent that led to the first serious violence for ten years in the aftermath of the 1997 collapse of the dollar and the 1998 Food Riots when ZHRNGOF was first formed was no picnic. A small number of people were killed after being shot and indirectly" (Skype interview 30 July 2019).

The failure by the state to provide services to the population and to run its agencies posed a threat to its legitimacy. Alexander (2013:807) says: "It threatened what had been one of ZANU(-PF)'s most powerful claims to legitimacy: the delivery of public services and goods (including order) by a professional civil service". To deal with this collapse in the social contract, the government implemented a counternarrative that drew upon the values of the liberation war and discredited its critics (Kriger 2006, Alexander 2013). It can be argued, therefore, that the predatory state emerged from this collapse of the social contract; hence the intense levels of economic predation.

Describing the violence of the 1998 riots as a precursor for the violent elections from 2000, Tony Reeler contends that

> "It was a massive onslaught and represented a deep fracture in the social contract in Zimbabwe. Given my age, I watched what I thought was an implicit social contract through the 80s. *Gukurahundi* notwithstanding, there was a general sense that we were working towards a socially democratic

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society, maybe from a Marxist-Leninist perspective but that was small factions, and other factions were thinking more of a social democracy which persisted for a long time, but 1998 was a big fracture" (Skype interview 30 July 2019).

The "fracture" that is alluded to by Tony Reeler is seen in the depictions of violence presented in the reports of the four organisations. While this thesis is concerned with the understandings of violence, some of these reports documented particular incidences of violence against various individuals in detail, providing first-hand an example of the fracture that Tony Reeler speaks of. The following section captures the nature of the violence as drawn from the reports of the four organisations, including its perpetrators, victims and implications.

6.5. The nature of the violence: precedents and patterns

Sachikonye (2011:17) suggests that "elections are a crucial battleground in which violence and other methods, such as rigging, are employed against opponents". This concurs with the understandings drawn by the four civil society organisations in their analysis of how ZANU-PF sought to protect its hold on state power and resources through the institution of electoral violence during the period under study.

As highlighted by ZPP (2008b:3),

> "Visibly manifest in patterns of violence is a chilling craving to inflict physical harm, to eliminate, to disenfranchise, to displace and to starve the political victim and immediate family members by destroying their source of livelihood – features that are reminiscent of scorched earth war strategies".

These assertations by ZPP (2008b) indeed point to a battleground in which power is the ultimate price. The nature of the violence depicted in this analogy by ZPP (2008b) also concurs with Cobb (2013) in their analogy of violence as a force that causes interruptions and discredits and generates reactions of disapproval, as noted in chapter three of this thesis. It also depicts physical, psychological and symbolic damage as drawn from Bosi et al. (2016), intent on stifling change and agency.

From the reports reviewed in this study, the electoral violence sought to eliminate or neutralise the threat to the ruling elite's hold on power, and this was expressed as its modus operandi. For example, ZPP (2008b:3) during the 2008 electoral violence noted,

"The nature of the violence has also visibly changed in terms of scope, profile, patterns, modus operandi and impact. Its profile and pattern have changed with visible shifts to more extreme physical, systematic and retributive acts of violence… There has also been an increase in retaliatory violence".

The stakes in the 2008 election have been argued to have been higher than any other in the period under review (Sachikonye 2011) because the threat to power was higher. Sachikonye (2011:20) contends that "There is a qualitative leap" when state institutions are deployed against the citizens, as done consecutively to ZAPU in the 1980s and MDC in the 2000s. This is also reflected in the reports by the four organisations. The narrative presented by the four civil society organisations indicates that this violence was meant to intimidate, to punish, to disenfranchise, to destroy political opponents and those perceived as opponents or aiding them. All this is done in order to protect the political power of the ruling elite, as discussed in the earlier section.

From the above understandings drawn in ZPP (2008b), electoral violence is used as a tool to stifle the consent of the governed (Morgenbesser 2016). The reports, as well as the four interviews carried out for this study, point to a well-oiled machine, fit for purpose and used with precision to achieve the desired ends. This well-oiled machine manifested among others as organised violence, as human rights violations, criminality, intimidation, retribution and retaliation, as described in the reports by the four organisations reviewed. The following sections illuminate some of these depictions as captured in the narrative of the four organisations under study.

6.5.1. Organised Violence

The reports analysed in this study tell a story of a well organised and orchestrated plan to ensure the protection of ZANU-PF's hold on political power. This was, according to Alexander (2013), a response to the emergence of the MDC as a real threat to this monopoly on political power. The response was invented as an attack on key features of rule-bound state institutions and the bureaucracy by creating new rules and militarisation that enabled partisan use of state resources (Alexander 2013). Elections were one of the key institutions to be affected by these changes, as seen in the reports of all four organisations.

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The type of violence outlined in the reviewed reports points to what ZHRNGOF terms Organised Violence and Torture (OVT). ZHRNGOF (2002d) defines OVT as "blunt violence, falanga (beating on the soles of the feet), sexual torture, other forms of torture leaving marks such as cuts, bruises, burns with cigarettes". Despite the varying contexts of the elections reviewed in this study, this has been a consistent strategy of ZANU-PF and goes beyond the electoral periods that form the basis of the empirical work for this study. Kriger (2005:1) contends that "Organized violence and intimidation of the opposition, albeit of varying intensity, has been a recurrent strategy of the ruling party before, during and often after elections to punish constituencies that dared oppose it". This is the dominant position expressed in the reviewed reports as well as interviews carried out during the study.

The ZHRNGOF (2002b:1) defines 'organised violence' as "the interhuman infliction of significant avoidable pain and suffering by an organised group according to a declared or implied strategy and/or system of ideas and attitudes. It comprises any violent action which is unacceptable by general human standards and relates to the victims' mental and physical wellbeing". This is the general understanding also drawn from the other three organisations that also fall under the coalition of ZHRNGOF; although not explicitly stated, this is drawn from the various narratives.

In 2008, compared to other periods of electoral violence, ZPP (2008a:5) for example notes that,

> "The organisation of the post-election violence has also visibly shifted from merely coordinated and organised violence to heavy military style retributive violence against known and unknown opposition, characterised by coercion, intimidation, beating and torching of houses and homesteads. The ferocity with which victims were targeted had no parallel other than those akin to a war situation".

Hafner-Burton et al. (2014:2) contend that "Government-sponsored election violence events in which incumbent leaders and ruling party agents employ or threaten violence against the political opposition or potential voters before, during, or after elections is common". In Zimbabwe, it became an unfortunate but common feature of electioneering both in the pre- and post-election phases. From the reports of ZHRNGOF (2005) and AI (2008), the extent of state involvement and militarisation of institutions points to issues of the separation between party and state that have been contentious in Zimbabwean politics. This has enabled militarisation to go beyond the state, but also the masses who have been armed by the state to exert electoral

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violence in their localities under the guise of defending the country from neo-colonialism (Mapuva 2010). The militarisation of the state is a dominant feature in the reportage of the four civil society organisations used in this study. The involvement of the army in almost all aspects of state life, including elections, has been a major concern raised by all four organisations. AI (2008:4-5) for example notes,

> "The increasing reliance by the government on the security forces, and the participation of the security forces in serious human rights violations, were very clear in the violence by ZANU-PF in the campaign for the Presidential election run-off on 27 June 2008. Among those who instigated the violence were members of the Joint Operations Command (JOC), a powerful group made up of senior military, intelligence, prisons and police officials, and government representatives, who publicly stated their loyalty to President Mugabe. They went as far as declaring that they would not salute Morgan Tsvangirai even if he was elected leader. Victims of the violence told Amnesty International that senior army and police officers threatened to kill them if they voted for the MDC. There is no evidence that the government conducted any investigations into the allegations of serious human rights violations committed by members of the security forces during the election run-up period".

Similarly, ZHRNGOF (2005:6) contends that,

> "The militarisation of key public institutions in Zimbabwe has been noted elsewhere. As President, Robert Mugabe has the power to appoint persons to numerous commissions and to head various public bodies. Over the last 7 years he has chosen to appoint former army and security personnel to these positions. This is what has happened in respect of the bodies overseeing the electoral process".

Sachikonye (2011) notes of the 2008 elections that "It was the centralisation of the planning and execution of the violence that was chilling. Those who fell victim to it were defenseless in the sense that the state institutions such as the police did not offer protection or assistance because of their implication in the process itself". The involvement of state security agencies has presented the challenge of impunity for electoral violence in Zimbabwe as those

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responsible for providing justice to the citizens are seemingly captured by one party and powerful individuals in the party.

Concurring with Sachikonye (2011), the ZPP (2008b:3) suggests that

> "The consistency and uniformity with which these acts of violence were applied smack of a well-coordinated program of violence. Alleged involvement of state actors (Soldiers, police and CIOs) also point to the possibility of state organised violence".

Further, the ZPP (2008a:5) contends that

> "The organisation of the post-election violence has also visibly shifted from merely coordinates and organised violence to heavy military style retributive violence against known and unknown opposition, characterised by coercion, intimidation, beating and torching of houses and homesteads. The ferocity with which victims were targeted had no parallel other than those akin to a war situation".

The equating of the violence with a war situation points to the high levels of militarisation of the whole operation of violence and its reminiscence of the war of liberation, which is often referred to in discussions about war in Zimbabwe, as is further deliberated upon in section 6.2.5 of this thesis.

While some of the reports pointed to the involvement of the state as alleged, some reports clearly stated the involvement of the state based on evidence gathered. Following the 2000 elections, for example, AI (2000:1) contends that,

> "Amnesty International has concluded from its inquiries that there is evidence that the Government of Zimbabwe is either instigating or acquiescing in serious violations of human rights including extrajudicial executions, torture and other cruel, inhuman or degrading treatment or punishment".

Following the 2008 electoral violence, similar allegations were again made against the state by AI that point to similar levels of organised violence as with the 2000 electoral period. AI (2008:2) reports that,

> "Amnesty International's findings show that the violence that followed the presidential, parliamentary and local government elections on 29 March 2008

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was sponsored by the government. The Zimbabwe security forces – army, police and intelligence service – were directly involved in committing human rights violations against perceived opponents of the ZANU-PF government. The security forces (including retired members) and some "war veterans" were the main force behind the human rights violations. They also organized ZANU-PF supporters to commit human rights abuses against opposition supporters… Few of these cases have ever been investigated as perpetrators appear to enjoy state protection".

Through this gathering of evidence, these civil society organisations were able to inform the public as well as publicise the nature of the violence as well as lobby for change at different stages of the transition. As argued in chapter three of this thesis in relation to the submission by Pollard and Clark (2005) on the use of civil society evidence-based narratives to influence policy, such evidence is invaluable to agenda-setting and policy formulation. However, this pointing of fingers with ammunition in hand (evidence) has not been well received by the state, as is discussed in section 6.5 of this chapter.

Such analysis as in the 2000 and 2008 AI reports (AI 2000, 2008:2)reports, brings into focus the consistency of the use of state apparatus for the organisation and implementation of electoral violence, as it draws a similarly disturbing pattern in the different elections under study. This violent response was well entrenched, and part of a long-term plan, as alluded to by human rights and transitional justice activist Tony Reeler who says, as civil society,

> "We also wanted to understand one thing that puzzled us in 2008, that how come they were able to marshal such a national violent response so quickly. So there used to be a report that may not be public domain called the anatomy of terror, based on research on the 13 most violent constituencies and what we learnt was that the structure of violence used in 2008 was set up in 2005. If you remember operation Maguta/Taguta, the deployment of the military to rural areas ostensibly for the purposes of agriculture, which allowed them to put the rural areas under central control invisibly in a sense because it was just one of those ZANU-PF operations and they were there legitimately to help with agriculture. They didn't do much farming, but they were the core of the whole operation that was happening in 2008. There were army bases and political bases in any given geographical area, the weaving together of a

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political base with an army base and the police and CIO, traditional leaders, ZANU-PF supporters. So, they were absolutely ready by the time 2008 came, they knew how to unleash the violence. It was all in place, and all you needed to do was turn the key" (Skype interview 30 July 2019).

From the AI analysis and observations by researchers such as Reeler, the narrative of violence by civil society points to a well-orchestrated system of electoral violence meant to manipulate the entire electoral process. The narrative also points to these acts of electoral violence as criminality, based on international norms and standards of human rights, as will be discussed in the next section.

6.5.2. Violence as violations of human rights

As outlined in chapter two of this thesis, human rights have a juridical focus. In transitional justice scholarship and practice, this largely takes a retributive justice position in which punishment commensurate to the crime should be meted out (Amstutz, 2006; Quinn, 2005; Van der Merwe et al., 2009). It has its basis in the rights of individuals and groups as well as in the obligations of states under international law, as stated in chapter one of this thesis (Donnelly 2013). Donnelly (2013:8) defines violations of rights as "a particular kind of injustice with a distinctive force and remedial logic". This has unsurprisingly been a key feature of the narrative of electoral violence espoused by the civil society organisations reviewed in this study, which advocate the promotion and protection of human rights. While there has been criticism of this focus on human rights by these organisations, as discussed in chapter seven of this thesis, these organisations concur with scholars such as Mégret and Vagliano (2016), who contend that human rights have primarily provided a stimulus for undertaking transitional processes.

The situation of electoral violence is described in the narrative of the four organisations as being part of a broader context of abuse that they describe as "violations of human rights". For example, AI (2005:1) in light of the aftermath of the 2005 parliamentary elections contend that,

> "Human rights concerns in respect of the 31 March elections cannot be viewed in isolation from the broader human rights context in Zimbabwe. Key elements of this broader context include: The past five years have been characterized by a serious deterioration in the human rights situation in Zimbabwe, with widespread and credible reports of state-sponsored

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intimidation, arbitrary arrest, torture and attacks on supporters of the political opposition, human rights defenders and the independent media".

An outline of rights and obligations, as well as a legal framework that ought to guide the operation of the political system, forms part of the analysis given in the reports by the four organisations. For example, AI (2005:2) notes that,

> "Zimbabwe is State Party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples' Rights (ACHPR). Zimbabwe has also endorsed the Southern African Development Community (SADC) Principles and Guidelines Governing Democratic Elections, which include commitments to ensuring the full participation of citizens in the political process; freedom of association; political tolerance; equal opportunity to exercise the right to vote and be voted for; and the independence of the judiciary".

This outline indicates some of the obligations of the state in the protection of the citizens as well as in the process of holding elections. Mapuva (2010:461-2) notes that "Zimbabwe, being a signatory to numerous legal instruments, has obligations under international law to adhere to international protocols and conventions that incorporate citizens in the decision-making processes and observance of human rights, especially those to which it is a signatory". However, as evident from the narrative of the four organisations, the state has negated many of these obligations, leading to civil society organisations, including the four under review in this study, to bemoan the rule of law in the country and an absence of sanctions against the state in this regard. Raz (2017) submits that "'The rule of law' means literally what it says: The rule of the law. Taken in its broadest sense this means that people should obey the law and be ruled by it… Conformity to the rule of law is a virtue but only one of the many virtues a legal system should possess". This has been absent in the manner in which electoral violence in Zimbabwe has been dealt with, as drawn from the reports of the four organisations reviewed in this study.

Through the use of repressive legislation, the state has sought change to the rules of the system to prevent dissent and shrink the political space of opponents, particularly during electoral periods. ZIMRIGHTS (2003:2) contends that,

"Since 2000 Zimbabwe authorities have developed a neutralization strategy of all those who denounce violations and abuses committed by the government which are contrary to the principle of the Rule of Law. Thus, the authorities can openly violate freedoms of speech, association and demonstration guaranteed by the International Covenant on Civil and Political Rights, the International Labour Organization Convention 87 on the right to organize and the right to bargain collectively ratified by Zimbabwe in 1998, and also the United Nations Declaration on Human Rights Defenders adopted in 1998".

States have obligations under international law to protect their citizens from human rights violations and to provide redress where they have been committed. As emphasised in a report of the Office of the UN High Commissioner for Human Rights (2006:2), it is the "duty and obligation of the State to protect and guarantee human rights, to conduct effective investigations and to guarantee effective remedy and reparations".

AI (2008:24) highlights some of these obligations in a report reviewed for this study and contend that,

"Under Article 2(3) of the International Covenant on Civil and Political Rights, states are obliged to ensure that victims of human rights violations have the right to an effective remedy. Article 7 of the African Charter on Human and Peoples' Rights provides similarly that every person has the right to appeal to competent national bodies against violations of their internationally recognized human rights. The rights of victims of human rights violations to redress and reparation are elaborated in more detail in the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law".

These rights and obligations are enshrined in international treaties and charters, including the UN Charter, and pillars of the international legal system, which are international human rights law, international humanitarian law, international criminal law and international refugee law (UN 2010). Where the state is the principal violator of human rights, implementing the rule of

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law is a significant challenge as in the case of Zimbabwe, as only the state can adhere to these laws.

As highlighted in chapter three of this thesis, narrative as a political tool can be used by various groups to push for their position to be put on the official agenda by policymakers or challenge policies that subjugate them. The use of a human rights approach, while arguably fundamental to the core values of the civil society organisations under study, has evidently been a position that has allowed them to challenge the repressive laws and brutality of the state within the confines of the law. It has also enabled civil society to seek remedies to state violence beyond the Zimbabwean borders and beyond the Zimbabwean legal system through intergovernmental bodies such as the African Union (AU), which not only subscribe to these values but also place obligations on member states to uphold them.

In an example of such demands for the state's alignment with international norms, AI (2005:1) highlights that,

> "Repressive laws that violate freedom of expression, association, assembly and information remain in place. These include the 2002 Public Order and Security Act (POSA)[16] and the 2002 Access to Information and Protection of Privacy Act, both of which the African Commission on Human and Peoples' Rights has recommended should be amended so as to be brought in line with international human rights law".

In April 2019, the Maintenance of Peace and Order Bill that will replace the Public Order and Security Act (POSA) was gazetted in what the government argued was in line with the opening of the democratic space (New Zimbabwe 21 April 2019), considering the change in state administration following the 2017 coup. While critics such as ZHRNGOF (2019) argue that the bill is reminiscent of POSA, this thesis argues that the state has certainly made the right noise in terms of its claim to alignment with the 2013 constitution and therefore the rule of law. In a position paper based on a textual analysis of the Maintenance of Peace and Order Bill, ZHRNGOF (2019) contends that "A preliminary reading of the Maintenance of Peace and Order indicates that it is not only replete with errors in drafting, but falls short of any reformative agenda, securing the endurance of POSA under a different title".

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[16] "POSA was enacted in 2002… POSA repealed the Law and Order Maintenance Act [Chapter 11:07] (LOMA), a colonial and draconian law by the government's own admission. POSA incorporated many provisions of LOMA and introduced even more repressive provisions" (ZHRNGOF 2019).

The narrative of reform and alignment with the promises of the 2013 Constitution of Zimbabwe may be seen as a public relations exercise by the state while in reality tightening its hold on preventing dissent, which has been crushed as part of the strategy of electoral violence, as is discussed in the following section.

6.6. Enemies of the state

While earlier sections of this chapter point to coercion as a key understanding of the electoral strategy of the ruling elite, the narrative also points to this violence as being part of a discourse that discredits critics and perceived critics of the ruling party (Kriger 2005). This discourse seeks to justify the physical violence meted out to political opponents. For example, ZHRNGOF (2005:4) contends that this was

> "… a relentless campaign to portray the opposition and its supporters as responsible for Zimbabwe's economic decline and as enemies of the State. The opposition had little opportunity to counteract this. Following the election period, the threats made prior to the election were implemented. Food aid was withheld. People suspected of voting for the opposition were assaulted and driven from their villages".

The violence meted out by the state has been described as compulsion of the electorate to keep the ruling elite in power, and the post-election violence has been narrated as retribution for those who have not acceded to this compulsion, as illustrated by the above assertions by ZHRNGOF (2005a). Sachikonye (2011) suggests that this strategy has not always worked as exemplified by the *Gukurahundi* genocide which did not lead to the people of the Matebeleland region voting for ZANU-PF overwhelmingly in the 1985 elections. It appears therefore that this violence is part of a broader strategy that includes other administrative mishandling of the electoral process, as also highlighted in the reports by the four organisations and is discussed in a later section in this chapter.

In the period between 2000 and 2013, perceptions of political affiliation were especially important, as highlighted in the reports by the four organisations. This is because suspected supporters and sympathisers of the opposition were also targeted in the state's electoral violence. The ZHRNGOF (2002:82 as well in other reports) in reporting cases of violence use terms such as "The victim was accused of being an MDC supporter", implying that supporting the opposition had become criminalised and violence was the penalty.

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Apart from actual opposition members and supporters, the state's association of civil society organisations with the "regime change agenda" led to a backlash of violence by the state. As submitted by the ZPP (2008a:5),

> "Structures that were viewed as indirectly oiling or giving oxygen to MDC structures were raided, their infrastructure impounded".

Concurrently ZIMRIGHTS (2003:1) suggests that,

> "Defenders of human rights have been one of the targets of the political violence that has marked Zimbabwe in 2002. This violence, caused by security forces and members of President Mugabe party, has reached its height during the March presidential elections ….

To punish civil society and NGOs in particular, the state put in place laws regulating their operations, particularly in rural areas, where they were seen as pushing disaffection towards the ruling party among the rural communities (Matyszak 2009). An illustration of this is how after being accused of supporting the MDC, NGOs were banned by President Mugabe on 4 June 2008, although he later excluded some organisations, including those dealing with HIV/AIDS, children and disability (The New Humanitarian 29 July 2009). The ban disrupted food aid distribution in the wake of one of the country's worst droughts and allowed the state to control all food distribution, in which they applied partisan discrimination and villagers were denied food aid if they did not carry ZANU-PF cards (Matyszak 2009). Further, Matyszak (2009) contends that the banning of NGOs in 2008 was a strategy by the state to eliminate those who could observe and document the extent of their brutality prior to the 2008 election run-off. Hence, blunt violence was part of a wider system of abuse by the state to control the outcome of the electoral process, not only in 2008 but also in the entire period under review. The reports also show that this politicisation of food aid was a well-orchestrated plan by the state in which its patronage systems participated to punish its enemies, as exemplified by ZHRNGOF (2005:4), which contends that,

> "In drought-prone Zimbabwe, the threat to withhold famine relief is a powerful weapon. … Having increased the power of traditional leaders by giving them influence in the distribution of food and land and having secured their sympathies through largesse, these leaders were deployed to ensure that villagers voted and voted favourably".

This attack on civil society has continued beyond elections, and several other threats to ban NGOs have been pronounced. President Mugabe in 2009 while speaking on the theme of "Inclusivity and national visions" at the Global 2009 Dialogue on 27 July suggested

> "We have now a phenomenon of NGOs, or shall I call them phenomena, for they really are a type of government in the background of a formal government. I don't know whether this creature is for the better or for the worse, but in our country we have seen a situation where they have exceeded their terms of reference, and perhaps we might have to reconsider the advisability of having NGOs" (The New Humanitarian 29 July 2009).

Civil society has however struggled to disassociate itself from its pro-opposition label, and this has caused state representatives to dismiss genuine concerns of human rights violations as well as redress for these violations. Various state representatives have made statements about civil society as anti-state in the media as well as at international forums. A case in point is cited by Bere and Maguchu (2014), in which Minister Patrick Chinamasa said before the United Nations Human Rights Council on 10 October 2011 in Geneva: "… Zimbabwe has more than 2500 NGOs who are paid to throw stones… these organisations [are] responsible for spreading falsehoods about Zimbabwe". To deal with these stone throwers, the government has responded violently both during electoral processes and other forms of political processes.

Apart from civil society groups, civil servants were also targeted in the electoral violence. They were seen as oiling the opposition machinery by actively campaigning for it and perceived to be influencing disaffection by the rural populace against ZANU-PF (Ranga 2015). This perception may have also stemmed from the visible role of civil servants, such as teachers and nurses as community organisers at various levels (Scarnecchia 2008). The attack on rural teachers was not only part of the discourse of discrediting the 'enemies of the state' but a campaign that also discredited the rural masses' agency in political processes; hence the view that eliminating teachers from these constituencies would make it easier for the state to control the voting choices of this constituency. This has also put rural communities outside the realm of agency in terms of shaping their narratives, as alluded to in chapter three of this thesis.

The Minister of Education, Sports and Culture is cited by ZHRNGOF (2002c:2) as having told a meeting that "We cannot continue to pay our enemies. People have to know which side of their bread is buttered".

ZHRNGOF (2002c:2) contends that

"The threats came a month after the Deputy Minister of Education, Sports and Culture allegedly said that his ministry would not provide security to teachers affected by violence for supporting the opposition. The threats by the two ministers were seen by ZIMCET Executive Director, David Chimhini, as having exposed civil servants to possible attacks by ZANU-PF supporters. The brutal attack on teachers has had far-reaching consequences that go beyond the teachers themselves. Violence also affects the schoolchildren, when, in some instances, they are made to witness scenes of extreme violence such as beatings and torture".

The campaign of discrediting those perceived to be against the state was intertwined with the land reform process, which was part of the continuum of violence between the referendum defeat of ZANU-PF, the formation of the MDC and the 2000 elections. Muzondidya (2010:5) contends that "… ZANU-PF successfully utilised the emotive issue of race to mobilise support internally, regionally and internationally, while both the opposition and external critics of ZANU-PF underestimated the power of race in mobilizing support for ZANU-PF, and in polarising political opinion in Zimbabwe". A counternarrative of a political elite that is unwilling to give up state power, a revolutionary party and state under attack from external forces was therefore created. Following the beginning of the 'Fast Track' land reform programme around 2000 and the subsequent parliamentary election in this same year, a counternarrative of racial war became prominent, with redress for the masses at the centre of this narrative (Muzondidya 2010). Civil society organisations, including the ZHRNGOF (2002b:5), however challenged this narrative and explained the violence as being rooted in contestations for political power, which was slipping away from ZANU-PF. The ZHRNGOF (2002d:5) argues that,

"The politically motivated violence in Zimbabwe is NOT a black on white war based on the redistribution of land and its ownership… The problem, rather, is an intolerance of and lack of respect for political pluralism".

This created a narrative conflict and competition between the state and civil society (Cobb 2013, Graef et al. 2018).

While the electoral violence between 2000-2013 is reported as targeting a broader base of the electorate as exemplified earlier in this section, it also showed a greater geographic spread. This is compared to other periods of violence such as *Gukurahundi* genocide, which was

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geographically concentrated in Matebeleland and Midlands, and Operation Murambatsvina, which largely targeted urban areas. The ZPP (2008a:5) contends that during the 2008 electoral violence,

> "While initially election violence had an individual focus, by June election violence had visibly assumed a collective and national focus with the Zimbabwean electorate at large threatened with war if they do not 'vote correct' – a ruling party euphemism for voting for the ruling party candidate… Threats of war resonated from the top leadership down to the grassroots structures of the ruling party".

'Voting correctly' was understood to be essential for avoiding reprisal attacks by the state through security agents and other structures of violence within the party, including veterans of the liberation struggle and youth militias. This was done under the ruling party's many named 'operations' or as blatant and unnamed violence meted out to the electorate. Examples of such operations include the infamous 'Operation Murambatsvina/Clean up the filth'[17] in 2005 and 2008's 'Operation Makavhoterapapi (Where Did You Put Your Vote?'[18] (Moore 2018). Unnamed attacks were also mounted around the country. For instance, following the 2005 elections, the ZHRNGOF (2005:27) reports that,

> "In early April 2005 the MDC accused the ruling party of mounting a nation-wide campaign of violent reprisals against its supporters and alleged that scores of its supporters had been injured as a result of reprisal attacks or had their homes destroyed, with some having had their homes burnt down".

'Voting correctly' therefore was crucial for the survival of many communities. The extent to which this intimidation influenced the electoral outcomes of the period under review has not been fully studied, although detailed studies such as Kriger (2005), and Makumbe and Compagnon (2000), among others, have emerged on the subject.

Other campaigns of retribution included targeting those who set out to testify against the electoral irregularities in the numerous election petitions against ZANU-PF following the violent 2000 parliamentary elections. More than 30 petitions were filed at the High Court

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[17] According to Bratton and Masunungure (2006:22), "In May of that year, in the aftermath of parliamentary elections that confirmed that ZANU-PF had lost political control of Zimbabwe's urban areas, the government cracked down. Its security apparatus launched a massive The 'urban clean up' campaign called Operation Murambatsvina (OM) that was justified as a strategy to eradicate illegal dwellings and eliminate informal trade" (Moore 2018).

[18] Mavhoterapapi

against ZANU-PF candidates, mostly citing vote-buying, intimidation and violence among other incidences of disregarding the electoral regulations (Sachikonye 2004). Petitions were also filed for the similarly violent 2000 elections, and Tony Reeler, a human rights and transitional justice activist, noted that,

> "You remember there were about 58 election petitions and Legal Resources Foundation (LRF) and Amani got money to support these election petitions. To support the lawyers, and to support the victims. And that was a pretty tense time I must say. Every time an affidavit was filed, and brave people put their names to those affidavits, those people were quickly hunted down, went on the run, displaced. Amani was then running a safe house system, and by the end of the year, it didn't look much like a safe house system but rather, in 2001 it was looking more like an internal refugee camp. I think we were looking after close to 7000 people dotted around the country. It was hell" (Skype Interview 30 July 2019).

This narration by Tony Reeler points to the extent of state terror and the fear that the targets of this violence had. It also speaks to how civil society upheld its status of enemies of the state by protecting and providing for those that were challenging its legitimacy.

As highlighted in chapter three of this thesis, narrative "is itself a carrier of identity", identity which may promote or subvert cohesion and, in turn, promote or jeopardise peace (Cobb 2013). For Cobb (2013:20), this identification of 'the other' is a key component of group identities because "Community itself requires the exclusion of 'the other' to create aggregation, collectivity and commonality.". The victims and perpetrators of the violence are also clearly stated in the reports of the four civil society organisations, thereby directly pointing a finger to the state and its agencies. AI (2008:19) for instance suggests that

> "The Zimbabwe Republic Police (ZRP) is the main institution responsible for serious human rights violations in Zimbabwe… Police have used excessive force to break up peaceful protests, often inflicting serious injuries on victims. Detained human rights defenders and political activists have frequently and repeatedly been denied access to lawyers, family, food and medical attention".

In the event of a process of accountability, the information by AI (2008) becomes vital evidence. However, it is such pronouncements that can be argued to have heightened the ire of

the state, with civil society directly implicating them in violence. While the state has clearly developed a discourse of discrediting their critics, in many ways these four civil society organisations have also framed their understandings around particular group identities of victim and perpetrator. While these identities are arguably part of the lived realities of those that have experienced and witnessed state violence, including those within civil society, they have served to amplify the divide between state and civil society in Zimbabwe. This has had implications for transitional justice processes in the country as each group seeks to amplify their own status of victimhood, as alluded to in chapter five of this thesis. Smyth (1998:32) calls these hierarchies of pain and contends, in light of the Northern Island civil war, that "We cannot say we are all victims, because to do so implies that we have all had equally difficult experiences". Similarly, the narrative competition between the state and civil society in the transitional justice agenda in Zimbabwe points to such difficulties in assigning victimhood and which period of violence should be prioritised by a transitional justice process. This is discussed further in chapter seven of this thesis.

The assigning of victimhood may also be a strategy by civil society to create what Birkland (2006) calls the third face of power, in which groups and individuals who have a legitimate claim to redress remain dormant and do not make any claims or demands for redress from policymakers, as alluded to in chapter three of this thesis. Civil society, therefore, provides this space for victims of the state who automatically become enemies of the state, as argued by Hackett and Rolston (2009). So, rather than a competition for narrative domination, the formation of identities becomes a tool for pushing for the concerns of those who are unable to speak out. The victims of state violence may view the system as working against them; hence the feeling that speaking out in pursuit of redress would be to challenge the system, thereby further endangering them (Hackett and Rolston 2009).

However, there are some acknowledgements that this line of identity is not as clear-cut as sometimes presented.

ZHRNGOF (2002d:5) states,

> "… although not the sole perpetrators, ZANU-PF supporters have been the major perpetrators of gross human rights abuses against members of opposition political parties or ordinary citizens".

There have also been highlights of intra-party violence in the opposition, showing that members of the opposition are not merely victims or bystanders in this electoral violence but have agency in their political actions. The ZPP (2013b) reports that,

> "Inter and intra-party issues also came to a head during the month especially within the MDC-T where some councillors from the MDC-T reportedly "sold out" to ZANU-PF by entering into a deal with ZANU-PF to vote its candidate as the deputy mayor much to the chagrin of MDC-T leadership. The mayoral elections were allegedly sold in Redcliff, Mutare, Victoria Falls and Gweru towns. ZANU-PF continues to be the main perpetrator of human rights violations as its supporters are not allowing other parties political space".

Similarly, AI (2013a:25)

> "While in 2008 the majority of politically related human rights violations were attributed to security services working in collaboration with local ZANU-PF supporters, the situation could be different in the 2013 election if police fail or are unwilling to protect supporters of other parties from ZANU-PF attacks. MDC-T leaders have in some instances publicly urged their supporters to defend themselves if attacked. Similarly, ZANU-PF leaders have also urged their members to fight back if provoked. Although such statements are veiled in pro-peace messages, at the local level they can be seen as a green light for members to attack each other as self-defence that is condoned by the senior leadership".

Hence the dominant narrative is that of the state as the main perpetrator and organiser of the electoral violence and a less dominant one of an opposition that has agency in the violence and is also a perpetrator of this violence. The narrative also portrays a mighty state that seeks to crush its enemies and deny them political agency. But what have been the implications of these strategies? The following section captures the understandings of the implications of the electoral violence as espoused by the reports of the civil society organisations.

6.7. Implications of the violence

The consequences of the electoral violence narrated earlier in this chapter continue to have grave implications for various aspects of life for many different people. In a reflection on the 2005 parliamentary elections, the ZPP (2005:1) for example notes that

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"The much-anticipated March 31 parliamentary elections have come and gone, although the same cannot be said for the effects of the pre- and post-election events".

Similarly, ZESN (2013:27) submits that,

"The long-term psychological impact of the type of violence that characterized the 2008 presidential election run-off campaign with no recognition or meaningful reconciliation cannot be quantified, particularly when the threats to the victims have continued throughout the lifetime of the GNU and this electoral cycle".

The ZPP (2008b:3) concurringly contends that,

"In terms of impact, post-election violence assumed multiple ripple effects, netting in its wake, innocent bystanders such as children, the elderly, the unknown and in some cases even livestock. There are reports of innocent children being murdered and traumatized after the burning of their homes, some sustaining severe burns and some no longer attending schools since their parents have been displaced".

The following sections focus on some of the interpretations of the implications of electoral violence in the period under review by the civil society organisations as well as interviewees.

6.7.1. "The fear factor"

Sachikonye (2011: xix) contends, "It was not an accident that violence reached its peak during election campaigns. There was often a 'margin of terror' which induced fear amongst the electorate and tipped election outcomes in favour of the incumbent regime". Instilling fear in the electorate as an objective of the electoral violence is a dominant narrative in the reports reviewed for this study and is also highlighted by one of the interviewees.

Fearmongering has been used by the ruling elite to force the electorate to vote in a particular way, to prevent dissent and to send a clear message to anyone seeking to challenge its monopoly on power (Sachikonye 2011; Gallagher 2015). According to Gallagher (2015:40) "Fear is bound up with physical and material security, both of which are echoed in questions of how the state provides for and protects citizens". As noted earlier in this chapter from the

reports of the civil society organisations and from one of the interviewees, both physical and material security of the electorate has been compromised by the state and provision for the electorate has also declined significantly. Protection of the citizens has also become compromised, as seen by the narrative presented earlier in this chapter in which agencies such as the police and army have been identified as major perpetrators of state violence and repression. These facets combined have been argued to have sent a clear message to the electorate of the nature of the state and the implications of a loss of power for the elites at the helm of the state. As noted by Tony Reeler,

> "After 2002, all Zimbabweans were under no illusion what would happen if ZANU-PF lost. The fear factor that I was talking about. So, ZANU-PF win the election, and extraordinarily with a 2/3rds majority, in a collapsing economy and all that. But who knows what any of those results mean?" (Skype interview 30 July 2019).

Concurringly, ZHRNGOF (2008c:5) suggests,

> "They have created fear that if they vote for the opposition, they may themselves be victimised and subjected to violence. They may therefore believe that they cannot freely choose how they will vote. The damage done cannot be quickly repaired. Even if more favourable conditions are created, it will take time for voters to regain confidence in the freeness and fairness of electoral processes".

Fear is, therefore, a long-term consequence of the electoral violence, and as drawn from the assertions of ZHRNGOF (2008c:5) above, this fear also has the implication of destroying the trust of citizens in the state and its institutions.

The narrative of previous violent elections, as well as the war of liberation, have been used to instil fear in the electorate before elections. Those who have witnessed and experienced these periods of violence were expected to tremble at these threats and be discouraged from voting for the opposition (Dzimiri et al. 2013). The use of the memory of violence is part of this "fear factor" and features prominently in some of the reports of the four organisations. This rhetoric of past violence makes particular reference to the war of liberation and previously violent elections to reignite fear in the electorate (Dzimiri et al. 2014, Sachikonye 2011). The ZPP (2008b:4) during the 2008 election reports that,

> "Since mid-June anti-opposition rhetoric has been stepped up as the ruling
> party presidential candidate reportedly threatened to go back to the bush if
> the opposition won the 27 June [run-off] election".

The narrative of violence is punctuated by the memory of what ZANU-PF can do to sustain its hold on political power. This is because the narrative of violence continues to be passed on from generation to generation, including the violence of the liberation war and other periods of the country's violent past. As noted by Sachikonye (2011), this violence was not only between the Rhodesian forces and the guerrilla forces fighting for black majority rule, but a lot of this violence was also used by the guerrillas against the largely rural African population as a means of securing allegiance to the guerrillas. Non-allegiance was punishable by violence and sell-outs and perceived sell-outs were made an example of (Dzimiri et al. 2014). This modus operandi has continued in post-independence Zimbabwe as the state continues to make an example of its "enemies".

Alexander (2013:807-8) suggests that "ZANU(PF) responded to the threat to its legitimacy through the elaboration of 'patriotic history', a sophisticated narrative that opposed the frustrated goals of the liberation struggle and its gun-wielding heroes to neo-colonialism and its traitorous local allies". The strategy was not only to use this narrative of patriotic history but also to re-enact the liberation war. This heightened the "balance of terror". The memory of violence was enacted to imprint into the psyche of the nation the memory of violence from the liberation war. As reported by the ZPP (2008a:5),

> "Liberation style 'pungwes' initially restricted to rural areas had by the time
> of the run-off become part and parcel of urban high-density suburbs".

The deadly elections from 2000 appear to invoke a state of pride and triumphalism in ZANU-PF, as it continues to be a reference point of what the party can do to its enemies. Moore (2018:267) suggests that "The 2008 killings, torture and displacement were a big factor in the 2013 elections. Citizens feared more: ZANU-PF campaigners often warned of repetition". Similarly, ZHRNGOF (2013:8) reported during the 2013 elections, which were regarded as more peaceful than those of other years under review in this study, that

> "Most violations recorded during the period hinged on the electoral process.
> Although the environment prior to the elections seemed relatively peaceful,
> there were reports of voter harassment and intimidation, coercion,
> victimization, forced attendance at rallies and voter migration concentrated

mostly in rural areas. Villagers were reportedly threatened of a repeat of the 2008 violence if they voted for any party other than ZANU-PF".

Scholars such as Sachikonye (2011), as highlighted earlier in this chapter, argue that such tactics of fear and violence have not always worked to sway the electorate and may instead build resentment for the perpetrators. Similarly, in contending with how ZANU-PF managed to win the 2013 election, Moore (2018:266) asks, "If Zimbabweans' memories of ZANU-PF's 1980s 'cleansing ceremonies' had faded because they were Shona and not Ndebele, or they supported ZANU-PF over PF-ZAPU, surely they would recall ZANU-PF's punishment for wrong voting in Operation Murambatsvina or 2008's Operation Makavhoterapapi (Where Did You Put Your Vote?)?" This question by Moore (2018) points to the importance of the memory and narrative of violence in determining political action. In this vain, Bratton, Dulani and Masunungure (2016) argue that the violence in 2008 influenced ZANU-PF winning the 2013 election together with vote-buying and other forms of electoral fraud.

In this use of the memory of violence is a strong "paradigm of war", as alluded to Ndlovu-Gatsheni and Benyera (2015:10), who contend that, "This paradigm of war has inscribed conflicts and violence. It has created unending cycles for perpetrators and victims in which victims become perpetrators in one episode of violence and perpetrators become victims in the next". War continues to surface as a solution to dealing with any national problem; hence the difficulty in moving towards genuine transitional justice processes and peace (Ndlovu-Gatsheni and Benyera 2015). ZHRNGOF (2008a:3) contends that

> "During his election campaign ahead of the March 2008 elections President Mugabe said he regarded the campaign as a war against the opposition. In past election campaigns he has often used such bellicose language. Speaking at his party's congress in 2002 he is reported as having said: "This is total war. We will have a central command centre. This is war, it is not a game. You are all soldiers of ZANU-PF for the people. When we come to your province we must see you are ready. When the time comes to fire the bullet, the ballot, the trajectory of the gun must be true".

Thram (2006) contends that the strategy of evoking liberation war memories re-opened old wounds from the violence of that period and promoted embitterment and fear. The same can be said for periods of electoral violence that are used as reference for past violence, as alluded to in some of the reports of the civil society organisations.

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The following section looks at the implications of the electoral violence on achieving free and fair elections, as highlighted in the reports of the four organisations.

6.7.2. Free and fair elections

Shumba (2002:328) submits that "It is now axiomatic that free and fair elections are one of the fundamental prerequisites for any democratic transition". This stems from a liberal democracy perspective and is a notion that has largely been embraced by the organisations under review, as seen in their reports. Tendi (2013:965) however, submits that "Elections in Southern Africa are hardly ever 'free and fair' in any strict sense and have thereby not provided the Zimbabwean state the impetus to do better. The concern of free and fair elections features prominently in the narratives of the four organisations, especially between 2000 and 2005 and less so subsequently in 2008, in which analysis of violence is more dominant. The 2013 reports, however, feature more prominently issues to do with procedural issues of the elections.

While some observers have chosen to endorse Zimbabwe's violent elections in the period under review, it is largely accepted by the civil society in this study as well as by scholars such as Shumba (2002), Hove and Harris (2015), and Raftopoulos (2013) that this endorsement is a facade. Both physical and structural violence have prevented free and fair elections in Zimbabwe (ZHRNGOF 2008c).

Conditions necessary for free and fair elections are outlined in the civil society reports and failure to comply by the state highlighted. For example, ZHRNGOF (2008c:19) contends of the 2008 elections that,

> "Conditions do not exist for the holding of free and fair elections in March 2008. The ruling party's instruments of intimidation of the opposition remain as strong as ever and are being used countrywide, with little attempt to restrain them. 2. Political campaigning by the opposition is still being obstructed by ruling party supporters and the police. 3. The important mass media remain firmly under the control of the ruling party although the law now requires them to give fair coverage to election campaigning. These media have continued to operate mostly as pro-ruling party propaganda organs".

The overall political environment of the holding of elections is, therefore, an important aspect in the determination of free and fair elections. Apart from outright violence and intimidation,

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the malfunctioning of the electoral structures of the state has been a key concern for civil society (Raftopoulos 2013). These calls for electoral reform have included the independence of the electoral commission and transparency of the electoral process (Dube and Makaye 2013).

Similarly, for the 2013 harmonised elections, ZHRNGOF (2013:3-4) submit that,

> "In fact, the 2013 harmonised elections were conducted without the full implementation of the GPA and fell short of SADC's Guidelines and Principles Governing Democratic Elections. Furthermore, SADC the guarantor of the GPA has since 2011 insisted on a clear election road map that would guarantee free, fair and credible election. All this was not fulfilled before the 31st July plebiscite".

ZIMRIGHTS (2005:1)

> "believes that the people of Zimbabwe have been unable to freely participate in the Governance of their country against a backdrop of repressive laws such as Public Order and Security Act, Access to Information and Protection of Privacy Act, harassment and arrest of journalists, and closure of independent papers among others, which the Commission in its fact-finding mission report of June 2002 established to be contrary to the principles and rights enshrined in the African Charter. Human rights defenders are operating in an increasingly difficult environment where their actions are viewed as contrary to the interests of the state notwithstanding the Non-Governmental Organisations Bill having not being signed. The Bill, designed to curtail the operations of human rights NGOs, still hangs ominously over the heads NGOs if it is referred back to parliament".

This assertion by ZIMRIGHTS (2005) points to a wider system of repression apart from the outright electoral violence that impacts on the credibility of the electoral processes in Zimbabwe. Hence apart from ending intimidation and coercion, wider reforms need to be implemented to ensure elections reflect the consent of the polity to be governed.

The need for more comprehensive reforms is also expressed in the reports as being part of the reasons for the absence of trust of state institutions by citizens. Where the state has seemingly made commitments to free and fair elections by ensuring peace, the narrative of the civil society

organisations as expressed in the reports point to both optimism and sceptical eyes. For example, during the 2013 electoral period, the ZPP (2013:1) submits,

> "The Zimbabwe Peace Project welcomes the signing of the political code of conduct on political violence by the country's major political parties. The agreement of the Organ of National Healing, Reconciliation and Integration, according to the political parties, will see political party leaders being held accountable for their supporters' violent conduct. The ZPP believes this is a move in the right direction towards ending the culture of violence and impunity. However, the ZPP remains very concerned on whether the code will make any difference to stem political violence because it does not have legal teeth".

The state has also been accused of not walking the talk in terms of seeking free and fair elections. The ZPP (2013b:1) notes that,

> "Politicians in Zimbabwe have over the years been accused of preaching peace by day and perpetrating political violence by night. The ZPP has reported in its monthly reports, violations that were perpetrated by members of parliament and other senior politicians from the country's major political parties. The code of conduct, however, clearly states that leaders of political parties will be compelled to issue directives forbidding the intimidation of opponents".

Similarly, AI (2013a:24) submits that,

> "Although President Mugabe and Prime Minister Tsvangirai have made public statements urging their supporters to be tolerant and desist from violent conduct such statements have not been followed by concrete steps to specifically take action against perpetrators of human rights violations. As a result, people on the ground perceive the statements to be nothing more than just public relations rhetoric. Throughout the lifespan of the GNU Amnesty International received numerous accounts from activists in rural areas of persistent threats and 'reminders' of the violence in the run-up to the 27 June 2008 run-off of the presidential election".

Human rights and transitional justice activists highlighted Reeler's findings in some of his research work and submitted that,

"What you find is that about a third of Zimbabweans have what you call high trust of state institutions, but a big chunk doesn't and when I asked myself why, I tested it against one question AFRO barometer always asks which is "are you always careful about what you say in public?" Which I took to be a measure of political fear. And it was very clear that trust or mistrust went in the direction you would expect. People who had low trust expressed political fear and those who had high trust didn't. On further analysis it came out as a rural-urban split where urban people were less trusting of the state than the rural. If you think about the political patronage and all that over the years. That said to me there had been a fracture in the state as I have already pointed out. That was also present in the understanding of civil society in the late 1990s as well" (Skype interview 30 July 2019).

Hence the lack of trust in the state has been shown to be firstly an implication of it turning on the citizens as alluded to by Sachikonye (2011); secondly the absence of credibility in the rule of the political elites as a result of the absence of credible elections and thirdly failing to be sincere in calling for reforms, including the end to violence.

Also related to the concerns of confidence in the state and its institutions is the culture of impunity for electoral violence, which is a key concern for transitional justice as asserted by the reports of the civil society organisations reviewed in this study. The following section captures the understandings of this impunity drawn from the reviewed reports.

6.7.3. Culture of impunity

Masitera (2011:98) contends that "The non-prosecution of political heavyweights inversely encourages the continuation and perpetuation of transgressions that threaten to destroy Africa politically, economically and socially. Philosophically speaking acts of non-action against wrongdoing aspire to create a form of Leviathan and ensure that a new dynasty of political non-accountability and one-party exists". As highlighted in chapter two of this thesis, in Zimbabwe, this impunity has been both de facto and de jure. The four civil society organisations have highlighted this pervasive impunity as a major concern for transitional justice as well as the recurrence of violence.

AI (2000:104) in a list of the characteristics of this impunity argue that,

> "This pattern of impunity in Zimbabwe has consisted of five elements: ·
> preventing those responsible for human rights violations from being brought to
> justice through the granting of presidential amnesties, clemencies and
> indemnities; · the government has taken steps to obscure or prevent the
> identification of the state's agents in perpetrating human rights violations; ·
> human rights defenders and the independent media are prevented from
> investigating and publishing accounts of human rights violations;·
> investigation and prosecution of state perpetrators has been blocked by the
> state's political manipulation of the police; and · the undermining of the whole
> judicial system, not simply by encouraging the police to serve the political
> dictates of the government rather than the law, but also by eroding the
> independence of the judiciary and circumventing its effectiveness".

The summary by AI (2000) points to a state that has blocked accountability for electoral and
other forms of politically motivated violence. This comes as no surprise, given the earlier
narrative in this chapter highlighting the state as the major perpetrator of electoral violence. It
also weighs heavily on the confidence of the victims to seek any form of accountability as the
same institutions that have persecuted them are expected to provide them with redress. AI
(2013a:25) submits that,

> "Most of the victims of 2008 political violence live in constant fear because
> the perpetrators have remained largely free to intimidate and harass victims
> with little being done since the GNU to build victims' confidence in the
> ability and/or willingness of police to protect them from violence in the
> future".

Apart from repeat attacks highlighted by AI (2013a), impunity heightens the risk of victims
taking matters into their own hands and becoming perpetrators themselves as the state's
systems of justice have blocked the way to redress (Bass 2000). For this reason, ending
impunity to prevent recurrence of violence becomes an important concern of transitional
justice.

Principle 36 (a) of the UN guidelines to combat impunity states that "Public officials and
employees who are personally responsible for gross violations of human rights, in particular
those involved in military, security, police, intelligence and judicial sectors, shall not continue

to serve in State institutions" (United Nations 2005). The continued service and promotion of many known high-ranking state officials constitutes a violation of this norm. As alluded to earlier in this chapter, state officials, including members of the army and the police, have been responsible for a large proportion of the electoral violence without consequence, thereby entrenching this culture of impunity in these institutions.

From the narrative of the four civil society organisations, it can also be drawn that the measure of impunity from civil society is drawn largely from a human rights perspective and liberal democratic principles of rights and accountability. AI (2008:2) for example notes that

> "Amnesty International is also concerned about the culture of impunity which permeates the Zimbabwe Republic Police (ZRP). In 2007, Amnesty International documented a series of human rights violations by the Law and Order Section and the anti-riot unit in the ZRP. Suspected government opponents were beaten, tortured and detained in a manner that denied their internationally guaranteed rights. The allegations of torture, excessive use of force and related violations by the police have not been investigated and those responsible have not been held to account".

This perspective also draws on the obligation of the state to hold perpetrators of electoral violence accountable, as stated earlier in this chapter. Similarly, as noted earlier in this chapter, this has been difficult to uphold due to the absence of political will. Morreira (2014) contends that an end to impunity is largely unattainable due to the absence of an enabling environment both within the legal system and the unchanged power dynamics within the state. As aptly argued in Roht-Arriaza (1990:513), "Requiring states to investigate and prosecute the gravest human rights violations committed in their territory pulls together some of the thorniest strands of current human rights law". Essentially, the Zimbabwean state and government will not arraign itself, neither will it allow those that acted with its acquiescence to be prosecuted. Impunity, therefore, is not only a failure by the state to meet its obligations to prosecute crimes against human rights but it also denies the victims the right to see justice done as stated in human rights law.

In line with this argument, the ZPP (2013b:1) contends that,

> "It is the ZPP's strong view that the realization of the fundamental human rights and freedoms very much depends on the willingness of those in power to enforce implementation. Unless there is change in the political and

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democratic culture in Zimbabwe the culture of violence and impunity will prevail for a very long time to come".

As argued by Eppel and Raftopoulos (2008:12), "Much of the Zimbabwean bureaucracy has been militarised… with a vested interest in maintaining the status quo of impunity, in order to safeguard not just their freedom but also their excessive, corruptly gained wealth". Without civilian oversight of state institutions in Zimbabwe, reform is highly unlikely. The challenges to addressing issues of transitional justice, including the lack of access to justice, truth and material reparation, continue to be perpetuated. Even with the new constitution of 2013 and the legislative guarantees it provides through the formation of institutions such as the NPRC, which seek to address issues of past human rights violations, without the political will and genuine reforms within state institutions, redress will remain a challenge. The November 2017 coup has so far not changed this prospect as impunity continues to be the norm. This will be further explored in chapter seven of this thesis.

The following section highlights some of the key demands by the four civil society organisations considering the understandings drawn on the causes and implications of the electoral violence between 2000 and 2013.

6.8. Civil society demands

Concurring with Lessa (2013), this thesis argues that narratives of past violence cannot be separated from the decision about what mechanisms are put in place to deal with the past. This allows some narratives to become "hegemonic" while others are marginalised (Lessa 2013:3). Similarly, the demands of the four civil society organisations for redress and accountability are drawn from the narratives of electoral violence they have espoused, as exemplified in the earlier sections of this chapter.

Different problems can be addressed at different levels of society depending on the level on which that particular problem is viewed (Birkland 2006). The problem of recurring electoral violence has been mainly interpreted as a state problem due to the intertwining of the state and the ruling party. In dealing with problems of the state, policymaking has been the main solution. Civil society in Zimbabwe appears to have fallen into this trap of viewing transitional justice issues as technical projects, as suggested by Kent (2011). Past violence and repression are construed as policy problems that require transitional justice policies. This can be drawn from

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the push by civil society organisations for state-led transitional justice policies such as the NPRC in a mostly unreformed state. In many ways, such an approach may be seen as going through the motions in terms of playing the role of civil society in a transitional justice framework and is discussed further in chapter seven of this thesis. This is not to dismiss the critical role civil society plays in this policy framework of engaging with and pushing for issues of transitional justice, therefore playing an important role in shaping the policy agenda.

As highlighted in chapter three of this thesis, Jones and McBeth (2010:340) identify key components of a narrative: "(i) a setting or context (ii) a plot that introduces a temporal element (beginning, middle, end) providing both the relationships between the setting and characters, and structuring causal mechanisms (iii) characters who are fixers of the problem (heroes), causers of the problem (villains), or victims (those harmed by the problem); and (iv) the moral of the story, where a policy solution is normally offered". The narrative explored in this chapter has many of these elements, including the state as the villain, civil society as the fixers of the problem and opposition members (largely) as the victims. This section, therefore, touches on the moral of the story, where policy solutions are offered.

One of the key demands from civil society has been institutional reform. For example, ZHRNGOF (2013:17) suggests,

> "It remains to be seen whether the relatively peaceful environment that has prevailed in the pre and post electoral period is sustained. Although the President in his speech at the official opening of parliament did not say anything about institutional reforms, the new government must urgently consider reforming state institutions and in particular the security sector. In the past members of the security sector have been used to perpetrate human rights violations against known and perceived enemies of ZANU-PF. There also must be a clear distinction between ZANU-PF as the party in power and the state. A conflation of the party and the state will most likely slide the country back into the 2008 social, economic and political crisis".

Congruently, AI (2013b) argued in 2013 that

> "The new Constitution offers a golden opportunity for the government to begin to right the wrongs of the past, to deliver justice for its people and to

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allow freedom of expression. With political will all that is possible. We want

to see the new government sending a clear signal that it is committed to

breaking away from a past where human rights were blatantly violated".

Andrieu (2010:538) contends that "It [transitional justice] affirms that successor governments must build institutions that will seek justice for past transgressions, while showing their commitment to good governance in the future". The Zimbabwean context, in the period under review, did not have a successor regime; hence the difficulty of such demands by civil society.

The separation of the party from the state is a key contention in the narrative espoused by the civil society organisations in which they point to organised violence sponsored by the state to keep ZANU-PF in power. The above narration illustrates the need for further reforms of the security sector, stemming from the understandings of the militarisation of the state and use of the police force in partisan violence and in failing to investigate the violence.

Similarly, AI (2000:7-8) contends,

"the police should take swift and impartial action consistent with the UN

Basic Principles on the Use of Force and Firearms by Law Enforcement

Officials to protect all persons in Zimbabwe from human rights violations and

to investigate all politically-motivated killings and assaults".

This again is in line with the understanding of the violence as a human rights issue. However, scholars such as Kagoro (2012) argue against a single perspective of justice that neglects different understandings of harm and further neglects the agency of those on which these notions of justice are imposed. This is also further explored in chapter seven of this thesis.

The demands of civil society, as with many of the goals of transitional justice, have been criticised for their assumption of a democratic and developmental state (Andrieu 2009). In the Zimbabwean context, this was also problematised by Eppel and Raftopoulos (2008) following the civil society list of demands for justice in the aftermath of the 2008 elections, as highlighted in chapter five of this thesis. Eppel and Raftopoulos (2008:3-4) assert that "These demands were very much a wish list of desirable processes and outcomes for transitional justice and accord with Boraine's conception of the five key pillars of what he calls a 'holistic approach to transitional justice': Accountability; truth recovery; reconciliation; institutional reform; and reparations". Civil society, therefore, has mostly failed to align their demands for justice with

their contextual realities. This view is however contested by some of the experts interviewed for the study, as seen in chapter seven of this thesis.

6.9. Conclusion

The narrative of violence espoused by civil society presented in this chapter is that there is need for transitional justice in Zimbabwe to deal with the excesses of a state that has been captured by a political elite that seeks to use violence to maintain its power (Sachikonye 2011). The political elites have become the villains in this story and civil society and other groups calling for transitional justice the heroes and at times the victims (Jones and McBeth 2010) as the state seeks to crush its opponents. The opposition and perceived opposition are cited in the narrative as the main victims. Further, a failing economy, declining support for the status quo, and a shift in racial and economic relations (land reform) are the context in which this story plays out (Kriger 2006, Moore 2018).

The historical account of civil society's interaction with transitional justice brings to light how civil society in Zimbabwe has always been at the forefront of pushing for transitional justice to be placed on the national agenda. Even where the environment has not been conducive, civil society has documented and publicised state violence, therefore laying the foundation for future transitional justice processes. An example of such work was the Breaking the Silence report, which tells the story of the *Gukurahundi* genocide, what was termed "a story for the future". While real justice for these atrocities remains unattained, this preliminary work remains invaluable for future processes.

This chapter highlighted the reality, principal elements and outcomes of the electoral violence in the period under review as espoused by the civil society organisations and four interviewees for the study. The immediate cause of the violence is cited as a desperate ruling elite seeking to maintain its hold on political power at all costs and maintain its hold on economic privilege (Sachikonye 2011). The evidence presented in this chapter also points to fracture in state-society relations as anger against the state mounted over its lack of provision for its citizens (Kriger 2006). The state responded by what Sachikonye (2011) sees as a state turning against its citizens. This was in the form of violent reprisals, which the narrative presented in this chapter points to as organised violence and human rights violations.

The consequences of this violence include contested elections and legitimacy for the incumbent regime, disenfranchisement of the electorate through fear, weakening political descent, and a culture of impunity. The evidence points the finger at the state as the main perpetrator of the violence with the use of state resources in order to protect the power of the political elites in ZANU-PF. It points to a well-orchestrated and entrenched system of electoral violence that prevents consent by the ruled and goes against the democratic principles associated with elections as an institution (Morgenbesser 2016). The demands by civil society, including for institutional reforms as presented in the reports reviewed for this study, point to an assumption of a democratic and developmental state, in some ways evading the understandings of the violence presented in the narratives reviewed. The following chapter delves further into these contentions as well as the perspectives of four experts interviewed in this study. In chapter seven the challenges of the current discourse of transitional justice as being rooted in neoliberal notions of justice are highlighted as chief among the weaknesses of the civil society framing of transitional justice and narratives of violence.

Chapter Seven

The shaping the transitional justice agenda in Zimbabwe

7.1. Introduction

The previous chapters of this thesis have sought to situate the Zimbabwean transitional justice debate within the broader literature and practise of transitional justice as well as within particular knowledge systems. It has also sought to situate this study within the broader methodology of transitional justice, which has focused mainly on evaluating the various approaches of transitional justice as applied to different countries. Through an analysis of some of the reports of four civil society organisations as discussed in chapter six, the understandings of violence and transitional justice are captured. This chapter will critically engage with these narratives of violence, how they are formed and presented as well as their roots in particular norms and knowledge systems that are discussed in sections 2.3 and 2.4 of this thesis.

The chapter further captures the disagreements between the state and civil society on how transitional justice is framed and presented publicly. There is also a struggle within civil society between and among those arguing for a legalistic approach to transitional justice and those calling for non-legalistic understandings and responses. As presented in the chapter, these disagreements have left civil society with an untenable situation in which their demands are disregarded by the state. The challenges of transitional justice being grounded in particular knowledge systems and norms emerging from other parts of the world as opposed to traditional knowledge systems are one of the major contentions that emerged in discussions presented in this chapter. This is linked to the imposition and translation of particular norms in a context different from that in which they have been conceived.

One of the key arguments of this study, in concurrence with Lessa (2013), is that narratives of past violence cannot be separated from the decision made about what mechanisms are put in place to deal with the past. This chapter continues to capture the perceptions of four civil society activists and experts on transitional justice in Zimbabwe on the framing of the narrative of electoral violence and the shaping of the transitional justice agenda in the country. As stated in the previous chapter, the activists and scholars interviewed for this study are Tony Reeler, a human rights and transitional justice activist in Zimbabwe, Shastry Njeru, a transitional justice

activist and scholar, Webster Zambara, an activist and scholar, as well as a former ZIMRIGHTS activist who is unnamed in this thesis.

From the reflections presented in this chapter, it appears that the international norms and standards provided a more focused approach to the processes of civil society in laying a foundation for transitional justice, including the documenting of violence and challenging impunity. It also rooted the work of civil society in the human rights framework of understanding and analysing electoral and other forms of political violence. However, these norms have been argued to have created a transitional justice agenda that does not fully reflect the needs of those affected by the violence nor their value systems as a society.

Beyond the politics of inclusion and exclusion in the transitional justice discourse of Zimbabwe, in which culture and history are often disregarded and the voices of those who have experienced the violence are silenced, there is, therefore, a need to examine the power relations between organised civil society organisations such as those reviewed in this study and the communities they claim to represent. It is also pertinent to examine the dominant nature of certain norms over others and how it affects the development of a comprehensive transitional justice agenda.

However, a bleak future is painted with regard to the future of transitional justice, as the four interviewees concur on the need for an enabling environment for transitional justice to take place. The perceived future of transitional justice in Zimbabwe, with consideration being given to the political context, is sought in order to understand some of the key demands of civil society for transitional justice and the envisioned future.

The chapter captures the debates, contradictions, misconceptions and misgivings in section 7.2; The transitional justice battlefield in section 7.3 and the predicted trajectory of transitional justice in section 7.4 headed 'Where to for transitional justice in Zimbabwe'.

7.2. The debates, contradictions, misconceptions and misgivings

The shaping of the transitional justice agenda in Zimbabwe has been a battleground not only between and among the state, civil society and the opposition MDC but within civil society itself as well. Some of these contestations have been based on establishing what transitional justice is or is not in the Zimbabwean context and who should take the lead. The following

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sections present the contradictions about the meanings of transitional justice and its grounding in particular knowledge systems.

7.2.1. Meanings of transitional justice and its goals

As noted by transitional justice scholar and civil society activist Webster Zambara,

> "If you look at the years you are touching, the concept of transitional justice was relatively new in Zimbabwe… it was often mistakenly intermixed to a transition in government. Because the first understanding of transitional justice was limited to regime change, it actually affected our narratives of violence and how we tackle these issues. Such that when you look at the mandate of the NPRC it is transitional justice as simple as it is, but you don't find the phrase transitional justice being used anywhere because of the earlier fears of transitional justice meaning regime change. And that failure of understanding is the challenge… It was never understood as a process that could happen without necessarily having a change in government. The question was, when Mugabe goes what needs to be done?" (Skype interview 28 July 2019).

The focus on a change in regime in Zimbabwe was premised on the need for those responsible for the violence to be out of office for meaningful transitional justice to take place, an assumption by many practitioners in the field of transitional justice (Iliff 2010). However, transitional justice mechanisms are increasingly being set up during ongoing conflicts; hence, the conception of transitional justice only taking place where a 'democratic transition' has occurred is fast changing into a broader response of dealing with impunity for mass violence (Iversen 2009).

The concerns of transitional justice, although seemingly revolving around the post-Mugabe era, as noted by Webster Zambara, Tony Reeler and Shastry Njeru, point to broader concerns that led to transitional justice issues being put on the national agenda. Shastry Njeru contends that,

> "There was a break in terms of issues of dealing with the past in this country. When the issues of *Gukurahundi* emerged, it was years after the experiences had almost been buried or no one was talking about it. We remember Breaking the Silence was in 1997, right, and people started talking about

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transitional justice after the formation of the MDC. MDC I think in its founding documents had something to do with that. The new people in civil society, the lawyers, the activists, also started talking about how to address the past so that the country can move forward after the violence of 2000. Also, the experiences with the land invasions and the need to compensate and so forth. When these issues came to the fore, people began debating whether they should only compensate a few people who were affected by the land invasion or they should actually start a programme that would compensate everyone who had lost something as a result of what was happening in the country" (Skype interview 26 July 2019).

The violence of the land reform and the electoral violence were crisis moments that sparked attention on dealing with past violence or what Birkland (2006) calls a "focusing event" as highlighted in chapter five of this thesis. However, there were other moments that provided signs of a country in crisis. As related by Tony Reeler, there had already been a fracture in Zimbabwean society before the 2000 electoral violence. This fracture was represented by heightened state repression and a failure to deliver social services. This is also highlighted in chapter seven of this thesis. Tony Reeler further notes that,

"If you remember in the beginning of the 1990s, there were a number of NGOs who had come up after the lifting of the Emergency Powers Act; Lawyers for Human Rights, Amani Trust, Legal Resources Foundation and even Transparency International (Zimbabwe), ZIMRIGHTS. That awareness that the country was in trouble was what allowed this group to come together in 1998 to form the ZHRNGOF and almost immediately one of its tasks was to document the violence and provide assistance to the victims. So lawyers provided legal assistance and the only rehab organisation was Amani and they tried to provide rehabilitative psychosocial assistance to the victims" (Skype interview 30 July 2019).

The coming together of civil society in 1998 to form the ZHRNGOF led to continued coalitions within civil society in the governance space, as well as in forging a way forward in terms of dealing with the mass violence that had escalated since the formation of the MDC and the land invasions. This was in many ways an attempt to build consensus within civil society about the

issues of transitional justice as well as a means of dealing with what Keck and Sikkink (1999) see as a lack of space for civil society to push for issues due to the prevalent authoritarian rule.

Civil society came together in Johannesburg in 2003 for a symposium on Civil society and Justice in Zimbabwe as part of a realisation that there were no proper legal systems or political will to deal with the violence. They saw the need to develop their own positions on how processes of redress should be addressed (Morell 2004). Shastry Njeru notes,

> "So, trying to come up with the methods for compensation and dealing with what had happened in 2000 brought civil society together in 2003 at the Johannesburg Symposium. Trying to formulate transitional justice for Zimbabwe, and that is where we had people that had travelled overseas for education, coming into the ZHRNGOF coming together to say this is what we want for transitional justice in Zimbabwe. That is how the transitional justice discourse really began to coalesce and ideas about how to deal with the past in Zimbabwe were formulated" (Skype interview 26 July 2019).

The interaction of Zimbabwean civil society with the international transitional justice community through this engagement is again brought to the fore as being significant in shaping the transitional justice discourse and its agenda, as highlighted earlier in this chapter. This coming together of civil society has been reflected on with some misgivings by some scholars and activists as the point at which the cementing of the human rights and the legalistic base of transitional justice in Zimbabwe was done, as is also reflected in the above by Shastry Njeru.

The focus on the post-Mugabe era, however, points to a civil society that had immersed itself in the regime change agenda, as it mapped out the transitional agenda that planned for life after Mugabe. This position by civil society has resulted in it being seen as an enemy of the state, thereby impacting on the campaign for transitional justice. While scholars such as Kriger (2005) point to a discourse by the state that discredits its opponents and perceived opponents, civil society's immersion in opposition politics cannot be denied. It brings to the fore questions posed by scholars such as Kasfir (2013) of a concept of civil society that is fashioned with a view of better governance and democratic reform through its apolitical stance. As highlighted in chapter two of this thesis, such assumptions lead to a skewed view of the role played by civil society and impacts on the analysis of its role in the governance space.

7.2.2. Challenges of the neoliberal inclination: inclusion and exclusion

The neoliberal inclinations of transitional justice have been expressed in some of the interviews conducted for this study, as a challenge for its practice, particularly in a context such as Zimbabwe. In this vein, Benyera (2019:1) posits that "The main problem is the marriage of transitional justice to Western liberal notions as the rule of law, liberal democracy and development". These roots then exclude many mechanisms and perceptions that are not rooted in liberal democracy. In response to the neoliberal rooting of transitional justice in Zimbabwean civil society, Shastry Njeru argues that

> "The intellectuals who met in Johannesburg in 2003 going forward were neoliberal in training and neoliberal in belief; neoliberal to the core. Their narrative of transitional justice was essentially neoliberal, and if you look at the documents that emerged out of Johannesburg, including the civil society report, there was no blending of local mechanisms with the neoliberal mechanisms which they were presenting or proposing for addressing the conflict in Zimbabwe. That then shapes the agenda" (Skype interview 26 July 2019).

Concurringly, Webster Zambara argues,

> "Look at the AU policy on transitional justice and how it validates our own traditional practices. Because of the narratives that were developed we did not have many scholars exploring that this [traditional practices] is transitional justice. When we talk of *Kuripa Ngozi* (traditional Zimbabwean practise of compensation for murder by the murderer), it is transitional justice, when we talk of any reconciliation process, these are transitional justice measures that are traditionally accepted. If you remember the Machaya case in Midlands. As the court case was proceeding, the burial only happened after the father of the accused paid a number of cows to the family of the deceased. That is a traditional transitional justice mechanism we have in Zimbabwe, but rarely will you hear civil society speaking on such a narrative because of this limited understanding of what transitional justice is" (Skype interview 28 July 2019).

While interstate organs such as the AU are beginning to recognise the importance of indigenous practices in transitional justice policy formulation, from the interviews carried out for this study it appears that organised or mainstream civil society in Zimbabwe is being left behind in terms

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of their programming, which still largely focuses on human rights and international law as a means to address the electoral violence in the country. From the contentions above it appears that there is room for both international and indigenous practices in a transitioning society. However, in some cases there seem to be disagreements between liberal democratic values and those of indigenous systems of justice. Boesenecker and Vinjamuri (2011:345), for example, argue that "normative contestation over appropriate strategies for dealing with the past is robust, and that much of this contestation takes place through the work of civil society actors who translate global norms into local practice rather than through vigorous public debate".

Hence civil society has an important role to play in this battle of norms, and one-way NGOs can manage this is through the non-imposition of liberal democratic norms on communities, rather allowing them to voice their will according to their perceptions of their context and experiences. The failure of Zimbabwean civil society to fully take on board public debate without imposition of liberal democratic norms was one of the critiques given by three of the experts interviewed in this study. A former ZIMRIGHTS Field Officer (F.O.) for example argues that,

> "Community voices are missing. The way we are modelling our transitional justice processes is failing to build on existing mechanisms of dealing with the violence. We have viable traditional mechanisms that are effective that can assist us in dealing with issues of transitional justice, but they are not being brought to the fore in the transitional justice discussion. You can be certain that these mechanisms will work because they were designed by the people to serve the people. They don't rely on funding and just need a nudge. They need minimal resources. For example, to convene a meeting, what might be needed as is part of our culture (chuckles) is that we have something to eat after. And sometimes these things come from the community, everyone contributes. But the approach civil society has been using does not do that. We [civil society] will be in front dictating what they should do instead of encouraging them to find solutions for the problems they find in their communities" (Skype interview 27 July 2019).

When a state's transition is assumed to be a move towards liberal democracy, the supposition is that its history and culture do not matter (Hoogenboom and Vieille 2009). This is grounded in the idea of cutting ties with an illiberal past completely and utterly. Gready and Robins

(2014:341) contend that "The liberal peace in which transitional justice is embedded emerges from two dominant strands of contemporary globalisation. The first strand privileges liberal paradigms of civil and political rights through an emphasis on elections, procedural democracy, constitutionalism and the rule of law and various backwards-looking truth and justice measures".

Seeking a clear demarcation between the past and the envisioned liberal democratic future have created tensions in the practice of transitional justice in contexts such as Zimbabwe, where communities still rely on their historical and cultural roots to resolve conflicts. Tailor-made transitional justice programmes, therefore, make it difficult to tap into this history and culture, which may help in unpacking the root causes of the electoral violence as well as other forms of political violence in the country. As highlighted by Shastry Njeru in the case of the ZHRNGOF's transitional justice programme,

> "The ZHRNGOF approached the communities with a ready-made template of what transitional justice is. The people need not be led into ready-made concepts" (Skype interview 26 July 2019).

Ncube (2010:155) contends that "The counter-hegemonic forces in Zimbabwe have had only to import universally defined norms and values and moralise the extent to which these norms and values have been negated by an intransigent state". This norm appropriation and translation by civil society remains a challenge in dealing with the causes and consequences of electoral violence in Zimbabwe and has dominated the narrative of violence presented in chapter six of this thesis, where the state is called out for its failure to comply with these norms and values.

While experts such as Webster Zambara and Shastry Njeru bemoan the exclusive nature of a neoliberal approach to transitional justice, these exclusions may be based on power relations between organised civil society and the communities they claim to represent. As argued in Richmond and Mac Ginty (2015), liberal peace is focused on power relations in which "Western" power and knowledge are held in high esteem, as opposed to knowledge from other political and geographic spaces. These power relations can be based on claimed knowledge of the theory and practice of transitional justice by civil society actors; hence the imposition of these on communities (a "we know what is best for you" approach). The question then, as noted by Richmond and Mac Ginty (2015) is what kinds of peace can be achieved with different forms of power relations as opposed to those provided by liberal democracy.

Beyond the politics of inclusion and exclusion in the transitional justice discourse of Zimbabwe, in which culture and history are often disregarded and the voices of those who have experienced the violence are silenced, there is therefore a need to examine the power relations between organised civil society organisations such as those reviewed in this study and the communities they claim to represent. It is also pertinent to examine the dominant nature of certain norms over others and how it affects the development of a comprehensive transitional justice agenda.

While the above arguments present a negative view of neoliberal hegemony in transitional justice, Tony Reeler has a slightly different view:

> "I think it's been more of a strategy rather than an endorsement of neoliberalism and its agenda. That the neoliberalist states use them in that way is undoubted, but there are great differences in Zimbabwe Democracy and Economic Recovery Act (ZIDERA)[19] for example, and Cotonou[20] from the EU. A lot of people can argue that the basis for good interstate relations are good governance, rule of law, human rights and constitutionalism. Whether you are neoliberal or social democratic, these are the basis on which states can trust each other. That's a framework for democratic engagement, and the Zimbabwean government fails miserably on these tests and has done for 20 years and even before. So, the argument gets used quite often by critics that what is happening in civil society is that we are marching towards a neoliberal agenda, and I would reject that. I would say, we are all marching around different things" (Skype interview 30 July 2019).

"Marching around different issues" as put by Tony Reeler brings to the fore questions about whether transitional justice is the ideal approach to bring post-conflict societies to sustainable peace, particularly in contexts such as Zimbabwe. It also brings to the fore the question of what the end goals of transitional justice in Zimbabwe are. If the understandings of violence do not

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[19] The Zimbabwe Democracy and Economic Recovery Act (S. 494) is an act passed by the United States Congress, which imposed economic sanctions on Zimbabwe. The USA has two forms of sanctions against Zimbabwe:
The first is imposed by Presidential Executive Orders. The second by the Zimbabwe Economic Recovery and Democracy Act (Kubatana.net 2019)
[20] Resolution 148 of 2002 is a Council Resolution brought to a conclusion consultations taking place between Zimbabwe and the EU under Article 96 of the Cotonou Agreement to agree the steps necessary to restore respect for human rights, democratic principles, the rule of law and good governance in Zimbabwe (Kubatana.net 2019).

take into consideration the structural nature of the violence and the economic predation that funds state violence, transitional justice processes are likely to neglect these concerns, thereby leaving room for these structures to regroup and inflict the same violations it sought to deal with.

The contested neoliberal grounding of transitional justice has led to a dominant human rights approach, especially among civil society organisations such as those reviewed for this study. This has resulted in a legalistic and judicial understanding of transitional justice in these organisations as they campaign for accountability and an end to impunity. This judicial and legalistic focus has come under criticism by some of the experts interviewed for this study, who view it as a limitation to a nuanced approach to transitional justice that brings other knowledge systems and norms, including that of indigenous practices, into consideration. The following section examines the civil and political rights focus of transitional justice in Zimbabwe and its implications for the processes and agenda for dealing with past violence in the country.

7.2.3. The civil and political rights approach to transitional justice in Zimbabwean civil society

While it can be understood from the discussion above and in the previous chapter of this thesis that the human rights approach of civil society in Zimbabwe is drawn from its interaction with the international transitional justice community of the 1990s and early 2000s, this has been one of the many criticisms against it. Ncube (2010) contends that rights-based strategies have been employed in the struggle for social change in Zimbabwe after 2000. This is due to the growth in governance-based civil society groups, including the ZPP.

The normative framework of human rights in international and human rights law has given it a judicial and legalist focus, largely neglecting other implications of violent conflict. While the state through the NPRC has taken a wider understanding of dealing with the concerns of transitional justice, experts interviewed for this study argue that this is merely a strategy to avoid dealing with key issues of transitional justice that will bring about genuine accountability and truth.

From the narratives explored in chapter six of this thesis and the interviews carried out for this study, it can be concluded that understandings of transitional justice from a liberal democratic

perspective shaped the programming of NGOs. This includes the understanding of the electoral violence in Zimbabwe as "human rights violations" and, more specifically. violations of civil and political rights. However, as cautioned by Drumbl (2016:203), "Human rights are admittedly abstract but remain deeply personal. Often, however, it is easier for transitional justice to grapple with abstracted rights than it is to come to terms with actual human beings with all our indecision, nuance, resilience and unpredictability". Mégret and Vagliano (2016), as outlined in chapter two of this thesis, also contend that this focus on human rights can be both an impetus or a constraint for transitional justice in which extra-judicial measures can be neglected in favour of judicial measures, which may not address the concerns of the victims of the violence and their communities.

One of the key arguments of this study, in agreement with Lessa (2013), is that narratives of past violence cannot be separated from the decision made about what mechanisms are put in place to deal with the past. As shown from the interviews, this depends on who shapes these narratives, their background (including training) and personal experiences. Further, as will be shown later in this chapter, the decision about what mechanism is put in place to address the past is also a product of whether the narrative of past violence is acceptable to those wielding political power. The understanding of electoral and other forms of political violence during the period under study has been espoused by the civil society organisations reviewed in this study as mainly violations of human rights that require legalistic remedies that call the perpetrators to account. This has been a source of contention among civil society organisations in Zimbabwe, as organisations outside the human rights framing of violence have emerged. Beyond the contentions about what transitional justice should focus on and the narratives espoused by civil society focusing on and hegemonising civil and political rights, there is a struggle in civil society between and among those arguing for a legalistic approach to transitional justice and those calling for non-legalistic understandings and responses to the violence. As argued by Webster Zambara,

> "On the side of civil society, you see organisations such as ZPP and ZHRNGOF and the like not working closely with those that were saying we are doing peacebuilding. So, the Organ on National Healing and Reconciliation (ONHRI) tended to bring them together, in some way because these issues were put together. But the challenge in Zimbabwe has always been human rights organisations and calling themselves human rights defenders and how they go beyond highlighting human rights violations. But

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also instituting transitional justice processes that would bring about healing and peace in the communities. In their programming, take the programming of the ZHRNGOF for example, when they started transitional justice work, you find the other pillars of transitional justice were not there at all. You don't find issues of memorialisation, you don't find issues of reconciliation being highlighted by ZHRNGOF and only after the 2013 symposium they held that's when you see them beginning to realise that transitional justice is such a broad concept and involves a lot of aspects that are not political" (Skype interview 28 July 2019).

The legalistic base of mainstream organised civil society, as highlighted in chapter six of this thesis, has been cautioned against, given the political context prevailing in Zimbabwe, in which key institutions such as the courts and law enforcement are politicised (Eppel and Raftopoulos 2008; Verheul 2013; Alexander and MacGregor 2013). McEvoy (2007:411) also contends that in general "The field of transitional justice is increasingly characterised by the dominance of legalism to the detriment of both scholarship and practice". Despite this criticism, the more established human rights organisations that have led the discussion on transitional justice in Zimbabwe continue to maintain a strong legalistic base. Webster Zambara explains,

"There are also some organisations that would emerge, such as the Peace Building Network of Zimbabwe, a coalition of 19 organisations led by the Centre for Conflict Management and Transformation (CCMT). These NGOs are saying they are doing peacebuilding, and there was a rift between them and the human rights defenders. Human rights defenders would look at those doing peacebuilding and say you are dealing with the softer issues and we are doing the harder issues such as joining the likes of Mawarire when he goes to court, working with Zimbabwe Lawyers For Human Rights (ZLHR) and others, and they were getting better funding of course. That has been one of the major weaknesses of civil society in Zimbabwe where they don't seem to work together closely and yet if you look at transitional justice, it is beyond just human rights defending. So, the narratives that are shaped along the way are narratives that would highlight human rights violations and fail to highlight a just and reconciled society because that was not their focus" (Skype interview 28 July 2019).

McEvoy (2007:417) argues that "… legalism tends to foreclose questions from other complementary disciplines and perspectives which transitional lawyers should be both asking and asked". The human rights basis of the transitional justice programmes by human rights organisations is essentially legalistic and presents some of the challenges explained by Webster Zambara and McEvoy (2007). From the discussion above with Webster Zambara, it also appears that there is competition among civil society organisations for norm dominance. Human rights-based organisations are seeking to drive the framing of the transitional justice agenda to the detriment of cooperation between them and organisations dealing with other concerns of transitional justice, including reconciliation and national cohesion.

At the official national level, it appears, however, that the peacebuilding tenets have gained more traction, as seen in the mandate of the NPRC discussed in section 5.4 of this thesis. The approach by civil society, in many ways, has resulted in a piecemeal approach to shaping the transitional justice agenda. The failure of civil society to come up with a united voice is highlighted as one of its main weaknesses in their contribution to the shaping of the transitional justice agenda in Zimbabwe, as is discussed in the following sections of this chapter.

Tony Reeler has a different view on this. He suggests that the focus on civil and political rights by advocates of transitional justice is part of a broader strategy by the state rather than a failure of civil society to capture diverse concerns of transitional justice:

> "… my view is that one of the only ways to deal with a predatory state has been in a sense to have diverse processes running in separate and parallel tracks. So, for example, the whole notion of a bona fide social contract reflecting what the citizens really want, which I suspect is something like a social democratic state, and separation of powers etcetera. Yes, you have to deal with structural violence which is through the economy, Zimbabwe Coalition on Debt and Development (ZIMCODD) and others; they work with that side of it. Then you have people working with resources and other issues. All these initiatives don't come together, and in a way that was one of the aims behind the Crisis in Zimbabwe Coalition, to bring those narratives together, and boy did the state work hard to demolish that, and we also demolished it ourselves as civil society… But the idea that we could come up with a comprehensive approach to violations on the broadest front, corruption, looting of extractive minerals, the decline in delivery of social

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goods and services has been very difficult to tie all those people together...
So that has been the strategy of the state to keep us separate. In many ways
that has been our safety, in the early years of the millennium. The most
dangerous place to be was with people arguing for first generation rights such
as Amani, ZHRNGOF and in many ways organisations dealing with second
generation rights kept a long way away from us" (Skype interview 30 July
2019).

From the above assertions, the separation of civil and political rights from socio-economic
rights is part of the state's strategy to control civil society as well as a consequence of civil
society's disunity in a bid to weaken its influence. Mendelson (2015) argues that the state's
targeting of independent institutions is as old as the state system itself, with changes in the
dynamics including the growing use of technology and growing transnational efforts.

As highlighted in chapter six of this thesis, Tony Reeler describes Zimbabwe as a predatory
state and in the discussion above sees the separation of civil and political rights from other
rights as a strategy rather than a neglect of these issues. However, this thesis contends that if
structures that perpetuate violence through economic predation are not called out and brought
to account, violations of civil and political rights will continue, as the resources to commit these
atrocities and to silence the victims continue to exist. In contrast to Tony Reeler's sentiments
on strategy, Shastry Njeru argues that

"Civil society is not talking about the violation of economic rights, the looting
that is going on. Civil society has no capacity to understand the economic
issues. We have become too entrenched in civil and political issues. How do
we deal with politically exposed persons? Our narratives are very thin and
cover only one side of the package. We need a critical civil society" (Skype
interview 26 July 2019).

Maguchu (2019) contends that transitional justice all over the world has focused on civil and
political rights while neglecting socio-economic rights. However, the 2003 symposium by
Zimbabwean civil society in Johannesburg contained a recommendation for a special
commission to deal with socio-economic rights violations, thereby presenting a departure from
this status quo (Maguchu 2019). This was in recognition of what Maguchu (2019) identifies as
the intersection between transitional justice and socio-economic rights. Maguchu (2019:2)
contends that "… it has become imperative to extend its [transitional justice] boundaries to

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closely related socio-economic issues, such as economic policies, structural violence, odious debts and significant economic crimes such as corruption, when they are identified with the root causes of the conflict". The discussions with the four experts interviewed for this study point to the need for a nuanced understanding of transitional justice and political violence, and in particular electoral violence. From the narratives drawn in chapter six of this thesis, it appears that electoral violence cannot be separated from corruption and failed economic policies. The exclusion of these issues from the transitional justice agenda will not lead to comprehensive transitional justice polices.

The debate over knowledge systems and norms has also centered on the domination of civil and political rights that have dominated responses to past violence. The importance of norms and training in a particular field have undeniably shaped the transitional justice agenda in Zimbabwe, as argued by the former ZIMRIGHTS F.O., who contends that,

> "It depends who you send to attend to a problem. We know the problem, but we have sent the wrong person. For example, if you send a doctor to lead the process to investigate the violence... the doctor will only look at those with physical. Same as if you send a lawyer. Being a lawyer does not make one equipped to understand the dynamics of the violence nor does it make one a human rights activist. He looks at issues that violate a specific law. But an activist who lives in the community understands the multiple dynamics of the violence and impact. It takes someone who understands the dynamics of that particular community to identify for instance structural violence that deprives other community members of access to resources for example. But if you send a lawyer, he might look at that scenario and fail to identify the underlying dynamics. So to tell such a person that there is violence they will dispute it if that violence is not open violence or visible manifestations of violence. But violence comes in many forms. Community activists will know *kuti mai nhingi havana kupihwa chibage chakawuya nehurumende nekuti vakanzi ndeve MDC. Mai nhingi havana kupihwa ma inputs ekurima nekuti vakapikisa zvakataurwa na* Member of Parliament (MP) (A community activist will know that Mrs. so and so did not get maize from the government because she was fingered as a member of the MDC or she did not get agricultural inputs because she opposed what the MP said at a meeting). But when we as civil society organisations go into these communities we seldom

pick up on these issues unless it is specifically part of our mandate for example in the case of ZPP. How often are those stories heard" (Skype interview 27 July 2019).

The above discussion cements the notion of how narratives are developed and captured and by whom. Structured programming that focuses on specific forms of harm limit the narrative that is developed, portraying a one-dimensional story. The struggle for norm dominance in the civil society and transitional justice space in Zimbabwe has led to fractures within civil society and has produced a disjointed effort to shape the national transitional justice agenda. The following section explores these fractures as espoused by the experts interviewed for this study.

7.3. The transitional justice battlefield

Having highlighted the contradictions and reservations on how the transitional justice agenda has been shaped through the appropriation of norms and practices, the following sections highlight the battle for transitional justice in Zimbabwe. The fight to occupy the space in which the shaping of the agenda takes place has been a key factor in determining the current discourse on transitional justice. The following sections unpack some of these battles, as expressed by the experts interviewed in this study.

7.3.1. Contradictions within civil society and the implications thereof

As highlighted in the methodology section of this thesis, the narrative of violence in the four civil society organisations[21] that were studied is not homogenous. In fact, as illuminated in the discussions with the experts interviewed for this study, there are several contradictions in the understandings of violence. Many of these disagreements have not been extremely visible in the reports analysed in chapter six of this thesis, but become more evident through the expert interviews, as they reveal into some of the behind-the-scenes happenings within civil society and its interactions with the state.

Narrative competition among civil society actors is highlighted as one of the major disagreements among the organisations dealing with the issues of transitional justice in

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[21] ZHRNGOF, ZIMRIGHTS, ZPP and AI

Zimbabwe. The desire for a dominant narrative by different actors is exemplified by Webster Zambara, who explains,

> "Only after 2013, when the NTJWG came into being, you saw these organisations coming in full force to push to working closely with the NPRC. Also linked to that are organisations such as the Counselling Services Unit (CSU) formerly known as Amani Trust, that looked at a niche of giving psycho-social support. To them it was seen as specialised clinical work, and this was rarely linked to how these victims would need to make peace with their perpetrators and in some cases their victims as well. So, you see civil society organisations in Zimbabwe doing parallel things that in their own senses would equate to some aspect of transitional justice. But those aspects were not coordinated. The only aspect of transitional justice that became coordinated was when the NTJWG was formed and we would work together with them to think of transitional justice in its broadest sense" (Skype interview 28 July 2019).

Similarly, Shastry Njeru contends with the challenges in partnerships between organisations in seeking a more comprehensive approach to understandings of violence, and exemplifies this with the partnership between CSU and ZHRNGOF:

> "Look at ZHRNGOF documentation and its conflict with the CSU. It was on documentation. ZHRNGOF wanted to document material that could be used in effectively in court and secure a conviction. CSU wanted to document everything. The totality of pain is not necessarily equated with aspects that can be used for documentation.. That is why for a long time there was a conflict between the two organisations. ZHRNGOF used international standards for injury and CSU used other standards. It was only resolved in 2014 when they buried the hatchet. ZHRNGOF was the lead organisation and it had a neoliberalist outlook and CSU wanted to take into cognisance everything that constituted pain and suffering" (Skype interview 26 July 2016).

The discussions by Shastry Njeru and Webster Zambara above bring to the surface contentions not only for narrative dominance but also reveal the importance of power relations among civil society organisations in determining the shaping of the transitional justice agenda. As

highlighted earlier in this chapter, the privileging of liberal norms becomes central and a key factor in determining the dominant understanding of the violence. Unbalanced power relations between civil society actors are therefore perpetuated as well. It revolves around several issues, including the political economy of transitional justice. As argued by Birkland (2006), power imbalances are not only determined by the amount of resources at one's disposal but also a function of the rules of the system, including interests of various groups, as seen in the case of a liberal conception of transitional justice that emphasises particular values.

Shastry Njeru further notes that,

> "So, when you talk of documentation, you find that the standards or the focus is different. For example, other organisations that came later, like Heal Zimbabwe, are using their own form of documentation and their understanding of transitional justice is totally different. CSU is dealing with psychosocial issues and all this contributes to the well-being of a person. ZHRNGOF is dealing with the somatic injuries such as rape and CSU is also using that but using different standards to determine what constitutes injury, and that is why we have different narratives from civil society, different signals from civil society and government took advantage of that" (Skype interview 26 July 2016).

At first glance, the discussions above may seem to contradict the earlier discussions that critique a neoliberal understanding of transitional justice and the wrongs that warrant this response. However, further consideration points to what Shastry Njeru says about the dangers or rather the implications of a divided civil society; this would be desirable for the state that seeks to keep civil society in check. This does not mean, however, that a univocal narrative across all actors is desired. It may simply point to a need for civil society to package these different interests and understandings in a manner that is more nuanced and able to capture a wider narrative base. As argued by Edwards (2009:5), "A healthy civil society needs both strong bonds and strong bridges, associations that meet the needs of citizens in all their expressions, and ties that reach back in time to provide continuity as well as forward to a new sense of Self".

While scholarship on African civil society has tended to focus on divisions along kinship and geographical ties (Edwards 2009), it appears broader divisions of ideology, training and space have taken precedent in the Zimbabwean context. These divisions in civil society were pointed

out as being among its major weaknesses in advocating for the state to act on matters of transitional justice.

Just as critical moments have shaped the direction the transitional agenda in Zimbabwe has taken, this has also had implications for civil society and how CSOs have rallied together to shape the agenda. As Tony Reeler states,

> "I think the big problem for civil society for me came with the GPA. MDC was completely sucked into government, there was no effective opposition outside of government, and that the MDC was split into two factions. But also, the constitution-making process also divided civil society in a very unhelpful way and if you recall there were really three constituencies in this. There was a group of people saying this is our opportunity to get a constitution and we are going to work hard at it. Then there were the rejectionists… who said no, no, no, this is a game, this is not a transitional arrangement, the GPA is a peace treaty. ZANU-PF has no intention of being bona fide, they are buying time in a weak state after all this inflation, reforming themselves and getting ready to win an election in 2013, that's their strategy. And the constitution will be a pawn that keeps everybody away from pressurising for major reform. I am not saying the constitution wasn't important, but it was the capture of the state that needed to be challenged at that point and we didn't do that" (Skype interview 30 July 2019).

The GPA was largely seen as an opportune moment to push for general reforms in the political system and, more so, deal with the issues of transitional justice. As highlighted by Tony Reeler, this moment rather brought challenges for a civil society in terms of an ideological split as well as political split, with many civil society activists jumping ship to join the government on an MDC ticket. Without convergence in civil society, the GPA and constitution-making process have weakened the ability of civil society to shape the transitional justice agenda. This has also occurred in other contexts, such as Jordan and Algeria, where Carvatorta and Elananza (2008) describe how ideological differences in civil society make it difficult for them to make any real demands on autocratic states, thereby consolidating authoritarian rule even where the government's legitimacy is in question.

This is also the case in the context of Zimbabwe, as further unpacked by Tony Reeler in the context of the constitution-making process,

"So the rejectionists said this is a flawed process and we are not having anything to do with it. The advocates for it said we have to do our best to get a good constitution… In the middle, there were a group of people who were saying well, maybe it's a good thing maybe it's not; we will watch and see. That created divisions in civil society in a sense that there was a certain amount of bitterness for those who were seen as hard line and those seen as accommodating. I think that there was a rift there which has never really mended. I think you see that tendency today in the push for reform between sections of civil society that are willing to go along with the new dispensation and those that stand outside of it" (Skype interview 30 July 2019).

The weakening of civil society in Zimbabwe from within appears to be happening jointly with the efforts from the state through repression and coercion, as discussed in chapter six of this thesis. Literature that focuses on the role of the state in the weakening of civil society, including Mendelson (2015), who explores why states target civil society, contends that this is aimed at destroying legitimacy and relevance as well as disrupting the business model of civil society among other factors. However, as drawn from the discussions with the four experts interviewed for this study, the internal dynamics of civil society can be equally if not more damaging than a repressive state on civil society and its efforts.

To try and manage some of the damage caused by some of these disagreements and in particular those prior to the discussion above, civil society came together in 2009 through an initiative with the churches called Church and Civil Society Forum (CCSF). Shastry Njeru notes,

"At one-point civil society came together, that's in 2009, the churches and the civil society organisations, in Kariba and formed the CCSF to try and engage the GNU government on various issues. One of the issues that CCSF managed to engage the government on was transitional justice. In the CCSF platform, I remember very well because I was part of that process, we presented that Zimbabwe needed transitional justice because we were all influenced by the ZHRNGOF, which was the only organisation courageous enough to push for transitional justice. I have to give them credit for that although it was a neoliberal model. But they were able to stand by their position and pushed for so many things that shaped transitional justice as we have it in Zimbabwe at this time.…" (Skype interview 26 July 2019).

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The dynamics of power again are brought up as Shastry Njeru concedes the influence of well-established organisations on others within this space. This forces the dominance of particular narratives over others and alignment by organisations based not on their values and norms but a desire to make inroads and engage the system as part of a coalition. Within these dynamics of power imbalances, these coalitions, as argued by Yanacopulos (2005), are often strategic and negotiated with resource dependency (for example for funding, legitimacy and information) being among the considerations.

Despite these strategic coalitions within civil society, there continues to be polarisation among the organisations. Differences within Zimbabwean civil society on how to engage the state on transitional justice and matters of governance have been highlighted by scholars such as Masunungure (2014), Saki and Katema (2011) as well as Muzondidya (2011) as being among the reasons for a weakened civil society in Zimbabwe. According to Masunungure (2014:17),

> "One of the cardinal flaws of civil society in the past had to do with this lack of co-operation and co-ordination. More often than not, there was more competition especially for funding and recognition from donors, sometimes the same one than co-operation and collaboration. As a consequence, there was an unnecessary duplication of activities in a given sector or sub-sector, and sometimes in the same geographical area, a typical example of there being too many cooks in the kitchen".

In the field of transitional justice, Shastry Njeru laments this polarisation as a stumbling block to the push for transitional justice and contends that,

> "If civil society in Zimbabwe was as powerful as what we saw in Latin America, especially in Argentina and other former military states, we would be talking of something else. Look at the report on the missing in Argentina. It was meticulous. In Zimbabwe we have had many challenges such as the rift between the ZHRNGOF and CSU not agreeing what to document" (Skype interview 26 July 2019).

Elitism in society was also highlighted as a challenge in the quest for a transitional justice process in which civil society's contribution is significant. This is in concurrence with Muzondidya (2011), who argues that this elitism is largely found in urban-based civil society, which is detached from rural communities and their struggles, despite claiming to represent their interests. Shastry Njeru further argues that,

"The NTJWG … [is] an elitist platform because they are always engaged in some hotel or some conference writing very high English. But they don't go down to the people who are affected by these things. So, I don't see any middle ground, I see a *comprador bourgeoisie* kind of approach that these guys take. They need to take a stretch into the communities and a stretch into the government then it would be a middle ground. But they are stretching right into the government in terms of policy, which is fine but then without speaking to the people who are affected by the violence to ask them what they want it is meaningless" (Skype interview 26 July 2019).

From the arguments by Shastry Njeru, it appears that the approach taken by groups such as the NTJWG is that of an 'economic' type of civil society (Fine 1997*)* that embraces the idea of "a bourgeois civil society". The economic type of civil society captures, in part, the professionalised civil society sector that derives economic benefits from donor-funded projects and their moral grounding from the normative aspirations of these funders. This is evident in the human rights approach and neoliberal discourse, as discussed earlier in this chapter, and have been topical in the discourse of the state versus civil society discourse in Zimbabwe. The following section explores the key disagreements between the state and civil society on transitional justice and what direction the national agenda should take.

7.3.2. The state versus civil society

The disagreements between the state and civil society when it comes to issues of transitional justice are deeply rooted in sustaining political power, as shown in chapter six of this thesis, and as inferred from the discussions with the four experts interviewed for this study. These disagreements have revolved around *unspoken transitional justice*. This has meant that the shaping of the transitional justice agenda has turned into a tug of war, a battle in which meanings have been at the centre of the concessions given by the state towards a transitional justice process. Ncube (2010:166) aptly summarises the contestations between the state and civil society and contends that,

"Post-2000 state-civil society relations in Zimbabwe were generally strained, emanating, firstly, from the contested legitimacy of the state not only as a result of the violent land reform programme and the hegemonic and authoritarian nature of ZANU-PF's nationalisms (political and cultural), but

also of an outcome of perennial disputation over the freeness and fairness of almost all post-2000 elections".

These disagreements are presented in the narratives of violence espoused by civil society as presented in chapter six, in which questions of legitimacy and contested electoral outcomes have become central in the state-civil society relations in Zimbabwe. Violence being at the centre of these disagreements has always meant that a consensus on how to deal with it would inevitably be contentious, presenting another issue in which the rejection or acceptance of each other's position was not only a show of force and power but rather a competition for narrative dominance between nationalism by the state and neoliberalism by civil society.

Shastry Njeru states that,

> "They [the state through ONHRI] presented us with their own model on dealing with the past. They did not want the term transitional justice; it was an anathema to them. I remember talking to part of the secretariat there, and when we presented the term transitional justice to them, they were horrified and said what are you guys talking about… we are not going to talk about that. Transitional justice meant a lot of things to them, especially the Matebeleland issue; they were really scared. It was a hot potato for them because they did not want, or they felt it would go to the name of Robert Mugabe directly. The people in government were not comfortable with the concept… They thought that by starting to talk about transitional justice, they would be starting something they could not stop" (Skype interview 26 July 2019).

The fear of transitional justice and misgivings about it on the side of the state were rooted in the threat to political power. As discussed earlier in this chapter, what was understood to be a regime change agenda by civil society as well as its juridical focus, which would mean perpetrators of violence being held to account, did not sit well with the state. This was shown in chapter six of this thesis through the narratives of violence as the main perpetrator. These identified perpetrators included those in the highest echelons of political power, including the head of state, making any talk of transitional justice highly threatening.

As noted by the former ZIMRIGHTS F.O.,

"If we want to be serious about issues of transitional justice *takutobataka mukuru wenyika* (We are pointing a finger at the head of state). Which is what they do not want.". (Skype interview 27 July 2019).

There was, therefore, a need for some degree of trust between civil society and the state in order for transitional justice to remain on the national agenda during the GPA and the drafting of the 2013 constitution.

Shastry Njeru further notes that,

"I think it took about a year for them [state representatives] to be able to say the word transitional justice. So that's where we can really say civil society through CCSF was able to allay some fears the government had with transitional justice and eventually with the framing of the constitutional provision on transitional justice. If you look at it, that provision does not have the word transitional justice, and it was a pact between the three protagonists in the GNU that they would not put the word transitional justice into the provision" (Skype interview 26 July 2019).

In many ways, the process in Zimbabwe has become a case of what Drumbl (2014) terms *unspoken transitional justice*. From the discussion above, it appears the state is more comfortable to practice transitional justice without calling it such. But what are the implications of such an approach? Firstly, on the side of civil society, it has meant continued engagement with the state on issues of transitional justice as opposed to a stalemate. Ncube (2010:166) contends that between 2000 and 2008, three separate strategies of engaging the state were assumed by different civil society organisations, which are "outright non-engagement" due to the view that the state is illegitimate; "principled engagement", which is engagement of the state for the greater good rather than as an endorsement, and "out-right engagement", which is equated with co-option. Through the NTGWG it appears civil society in the field of transitional justice has mainly taken a stance of principled engagement and this continued even after the 2013 elections in which ZANU-PF won a majority in parliament and the presidential race. Masunungure (2014:16) contends that "by early 2014, most local CSOs were already 'engaging' with the new post-election ZANU-PF government, even if they did not endorse the electoral process that had produced it. Unmistakeably, a new mood was in the air and it was one of pragmatism (*kushanda nezviripo*, literally meaning 'working with what is there')". This approach has however been argued to have its flaws by experts such as Shastry Njeru, who

contend that civil society groups such as the NTJWG have given in too much to what the state has dictated.

A second implication of *unspoken transitional justice* in Zimbabwe, according to the experts interviewed for this study, is that this has meant that the state could handpick what they wanted in the transitional justice policy without much input from civil society or the victims of the violence. It also meant that the state could steer away from human rights violations as a grounding for the discussion on transitional justice, which essentially meant eliminating matters of the rule of law as dictated to in the neoliberal sense and as advocated for by civil society.

> "During the GNU time, the time of the ONHRI, we see components of transitional justice being incorporated into creating the ONHRI but only those components that were not tough on human rights violations. So, you find, I think if you look at the whole documentation, the word justice did not appear in the setting up of the ONHRI. So, the issues of justice may sort of have a lower ranking and reconciliation and healing were given prominence. The understanding probably being, let's forgive and forget. I think that was the approach by ZANU-PF and we know how it failed (Skype interview 28 July 2019).

By giving prominence to non-judicial measures and refusing to take up the term transitional justice, the state was simply perpetuating its handling of previous transitional justice processes in which it dictated what the agenda would be and what would be forbidden, as argued by former ZIMRIGHTS F.O.,

> "The state has maintained what you can call "command transitional justice'. They have declared that we should "let bygones be bygones". Let us move on and forget what happened. So, this command transitional justice is evident in everything this current government does, including the way they have dealt with the NPRC" (Skype interview 27 July 2019).

From the sentiments of the former ZIMRIGHTS F.O., it can be drawn that the state has used its muscle to contain the demands for transitional justice by civil society. It also appears that civil society does not have many options apart from cautious engagement with the state in order to keep transitional justice on the national agenda. Previous strategies of civil disobedience

have led to a violent response from the state and further shutting down of the space in which civil society operates (Sisulu et al. 2009, Ncube 2010).

The focus by the state on steering the discussion away from a legalistic base while seemingly detracting from some of the goals of transitional justice, including accountability, enabled civil society actors to engage and keep the concerns of transitional justice on the table. For instance, by referring to other state-led processes of transitional justice that were not named as such, civil society was able to engage the state. Webster Zambara exemplifies this when he notes,

> "When I worked with the organ for instance, I had to explain to them, that when we did the land reform exercise, that was transitional justice because we are saying we are dealing with the colonial imbalances. When we talk of memorialisation in transitional justice, we talk of the Unity Accord, we have Heroes Day, Heroes Acres in all provinces, those are memorial sights, but because the narrative was not known as transitional justice, when transitional justice is brought up something that is out of this world, which it is not. When you look at compensation, we had the war victims' compensation fund, which was looted by war veterans if you remember. That was reparation. And those are exactly aspects of transitional justice that we have engaged in without having to name them transitional justice" (Skype interview 28 July 2019).

From the discussion above with Webster Zambara, it appears that in many ways civil society organisations in the field of transitional justice were steered into a space where they had to retreat from what Ncube (2010:142) terms a "resistance to state hegemony", from a "counter-historic bloc around the opposition MDC and governance and human rights civil society that sought to compel society to consent to the 'common sense' of a counter-ideology (i.e., liberal democracy) that is rooted in 'a people-driven constitution', respect for property rights, human rights and the rule of law". The need to dig into the history of state-led processes such as the Unity Accord, which has largely been criticised by both civil society and academics (see for example Mashingaidze 2005), can be seen as a retreat by civil society organisations that have largely been viewed as anti-state in their approach and anti-state hegemony as presented by Ncube (2010).

The disagreements between civil society and the state and the lack of an inclusive understanding of transitional justice also poses a challenge in a polarised society such as Zimbabwe where victimhood and the level of harm experienced then becomes contested. As

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argued by Brewer and Hayes (2011), blame and victimhood are then ascribed along partisan lines in such cases. A push by civil society to challenge the hegemonic nationalist narrative of the state and proactively campaigning for redress for post-independence violations has led the state to push for redistributive justice in line with their nationalist ideals (Eppel and Raftopoulos 2008), hence a split agenda for transitional justice between the state and civil society and often the delegitimisation of the suffering of others.

The disagreement between the state and civil society on matters of transitional justice have also been based on civil society's engagement with the international community, in which the state has continually been exposed and discredited through evidence presented to the international community and campaigns for action against the state (Ncube 2010). The following section looks at the role of the international community in the strained state-civil society relations in Zimbabwe.

7.3.3. The international community, donor agencies and their role in the disagreements between the state and civil society

Civil society in Zimbabwe, especially organisations focusing on issues of governance, apart from the funding from foreign donors, have engaged foreign governments as part of a strategy to discredit and put pressure on the state to reform. Ncube (2010:143) asserts that "There was also a strategy to delegitimise the state through campaigning and supporting sanctions against key figures of the regime, embarking on demonstrations and job 'stay aways', and exposing human rights abuses by the state to the international community". These strategies were met with much disdain by the state as seen in the violent manner in which the state responded (Sisulu et al. 2009). Civil society therefore was portrayed in the state narrative as "selling out" to the "West", who had been very vocal in their criticism of the state and in particular the land reform programme.

The accuracy and the impact with which this was done in terms of the provision of evidence by civil society to these international bodies and foreign governments is argued to have created some challenges for the state, especially in denying the violations. Tony Reeler contends that the state has seen civil society as a threat due to its accuracy in documenting the violence and this has made civil society a powerful force despite the often-violent response of the state. He argues,

"The state has always responded harshly and since the first attacks on civil society… was it on Amani? (side note: That led me to exile for quite some time) they were very clear about NGOs' power to expose them and being a major threat because the NGOs knew all this stuff. With the election petitions for example, Amani had three very bright researchers they were running three petition courts at the time in parallel and we put one researcher in each court and every week they wrote up a report and each report would be sent out to every single member of the United States Congress. So when you think of it, it is linked to the basis of the belief in the United States to implement ZIDERA. You can see they were deeply informed about what was going on. They knew. So the government knew the threat of civil society organisations… And the state's only response has been denial and where they can't deny they ignore…So where it was difficult to deny they ignored it and where it was easy they just denied it and at the same time continuously working to undermine all the organisations' capacity to do that. Having such impact is a remarkable story for civil society" (Skype interview 30 July 2019).

Closely related to this strategy is the question of the funding of civil society by international donors. This has been a source of controversy not only in Zimbabwe but worldwide, both in scholarship and in the civic space. In Zimbabwe this has served to reinforce the discourse of the state of a "Western-led" regime change agenda in which civil society organisations such as the ones reviewed in this study are the foot soldiers for this agenda. Ncube (2010:197), however, building on the argument by scholars such as Karume (2005) and Kagoro (2004), contends that donor funding of civil society in Zimbabwe was not part of a regime change agenda, but rather intended to fortify and reform state institutions towards a more neoliberal status. However, this has not been viewed as such by the state, as this funding enabled civil society to disentangle itself from the state's control, as had previously been the case in the 1990s, to a more independent and militant grouping opposing the state. This has strained relations between the state and civil society and has impacted on matters such as transitional justice. As noted by the former ZIMRIGHTS F.O.,

"Look, we have done various reports, some not necessarily related to transitional justice, we have done marches, sit-ins, lots of activities and communiques; but the underlying issue or attitude from the state is we will not listen to you because you are funded by, for example, USAID, we will

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not be dictated to by Trump. Whereas, maybe, if the strategy of civil society was to empower local communities and their traditional leaders and have say the local chief approach the NPRC with suggestions, it might actually work. The value given to traditional structures by the current government must be considered and capitalised on" (Skype interview 27 July 2019).

From the discussion above, it can be inferred that the state views civil society as discredited in terms of the discussion about transitional justice by virtue of being foreign funded. The implication of this is a barrier between the state and civil society in terms of shaping a transitional justice agenda based not on the needs of victims of the violence or their understandings of the violence that has befallen them, but on state-civil society relations.

Donor funding is also argued to have disempowered civil society in its work as advocates of transitional justice, as much of their programming has to be in line with the agenda of donor partners. As Masunungure (2014:19) puts forward,

"It is difficult to identify any civil society organisation in the governance and human rights sector that has an independent source, i.e. membership fees, for financing its activities. This has created an asymmetrical relationship between donor and recipient, such that 'partnership', the word often used to describe the relationship, rings rather hollow in practice. The unequal 'partnership' often translates into chronic dependence upon the donor or group of donors. As a result, autonomy is severely circumscribed and the organisation has little freedom when it comes to decision making and action, especially in terms of agenda-setting".

The sentiments expressed by Masunungure (2014) point to an unequal relationship between civil society and the donor community. In the context of transitional justice this dependency and unequal power relations may have the implication of discrediting some of the important work done by civil society in campaigning for transitional justice and the preliminary work such as documenting that they have done. This, as argued by Boussard (2003), has the potential to limit civil society's ability to build democracy. However, apart from these unequal power relations, discussions with experts in interviews in this study pointed to an entrepreneurial civil society that is only interested in getting the prominence and resources that comes with this work, hence the absence of community voices in their discourse and a strong allegiance to donor agendas. Shastry Njeru for example contends,

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"Have you read Tshepo Madlingozi? Where he talks of transitional justice entrepreneurs? That is where we are at the moment, where transitional justice entrepreneurs in civil society found an opportunity to survive and when they got the opportunity to survive, they ran with it and shaped the whole thing so that they are sustained in terms of their inward-looking motives. So transitional justice became an existential project for certain institutions in civil society and in order to survive they had to write the proper terminology and language and push for the proper goals. When I say proper here, I mean the neoliberal. They knew that's where the funds were coming from. Civil society is concerned with money issues. In fact, do we have civil society, or we have employees of civil society. All these factors help us to analyse whether we will ever get the kind of transitional justice we are looking for. And that is why we are taken advantage of by the state" (Skype interview July 2019).

Masunungure (2014) ascribes this partly to the failure of civil society to read the changing political economy in the post-structural adjustment decade and to adjust to it. Hence the need for reliance on donor funding in the post-adjustment era.

Civil society has been hailed in the literature (see for example Rangelov and Teitel 2011) as having the requisite expertise to steer the transitional justice project of a nation. However, as argued by the former ZIMRIGHTS F.O., this is not always enough in order to steer the process in the right direction. He contends,

"In terms of expertise to understand and track the root causes of violence, they do understand those issues. The problem is that the agenda or response to a certain issue or rather the desire to track an issue to its core may not be within the scope of what funding partners want to fund, which then limits your response. So they end up serving the interests of the funding partner more. Would you say then that transitional justice in Zimbabwe is donor-driven? Certainly. Who is leading the issue of transitional justice in Zimbabwe? Are the communities at the forefront of these processes an intervention across Zimbabwe? Civil society in my opinion was supposed to simply provide a platform for dialogue using already existing platforms that are there to deal with these issues of violence in the community. Civil society

is taking a leading role in these processes instead of just providing a platform. That's why there is no buy-in to these programmes. If we were to design a model of how transitional justice is being done in Zimbabwe, you'll find that it is a top-down approach. You find that the problem with these top-down approaches is that when the supply to the top is cut off, the whole structure crumbles. Civil society remains output driven. We go where the money is, and it is a vicious cycle. We know what needs to be done but we need to think of livelihoods" (Skype interview 27 July 2019).

The dependence of civil society on foreign funding has given the state a leg to stand on its discourse of external "enemies of the state". It has also put civil society groups in a position where their legitimacy is in question. Having said that, the need for transitional justice measures cannot be underrated even in the midst of these disagreements. The following section discusses the implications of these disagreements on transitional justice in Zimbabwe.

7.3.4. Perceived implications of the disagreements

A split narrative of violence, split goals for transitional justice and numerous disagreements about the shaping of the transitional justice agenda, as illustrated in this chapter, have had various implications for moving on with a holistic process. This also means differences in the strategy applied in mobilising for transitional justice. The absence of a collective narrative is not only specific to electoral violence but other forms of politically motivated violence in other periods. For instance, one cannot talk of the legacy of state violence in Zimbabwe without mentioning the pre-independence period or *Gukurahundi*. However, to a generation that did not experience this violence, the implications of this violence cannot be measured. In the same way, due to geographic location, the 2008 electoral violence may be nothing but hearsay to people in other parts of the country. This difference in experiences of violence in different parts of the country at different periods means mobilising for transitional justice becomes a split process without the coming together of all stakeholders. Shastry Njeru contends that,

"What we need is a national transitional justice narrative and that is not there. Transitional justice is a national process and a national process should have one tone. If you want to compensate the people of Matebeleland for harms during *Gukurahundi* you will have to apply similar compensation to anyone who has suffered similarly elsewhere… So, the government is fully aware of

this, that there is no consensus on what happened to the people of Zimbabwe. Our consensus only comes when we talk of colonialism, but we lose consensus in what happened post-independence, the suffering that everyone went through" (Skype interview 26 July 2016).

Different epochs of violence have had different implications. The experiences of *Gukurahundi* cannot be squarely compared to the electoral violence, although there are some commonalities is the modus operandi. This thesis, in concurrence with the sentiments of Shastry Njeru, argues that instead of a common narrative of transitional justice, there needs to be a process that deals with each period of violence comprehensively, considering the nuances of the lived experiences of those that were affected by the violence and the implications for them.

"So, for me, maybe transitional justice will have its results, but I don't think we will have the kinds of solutions we talk about. Who knows? We do not talk about what happened during *Gukurahundi*, the number of women raped, and children born out of this rape. We amplify violence in the 2000s and speak more of people like Itai Dzamara[22] and Tonderai Ndira[23] and yet we don't talk about the people who were detained during *Gukurahundi*, the ZAPU liberation heroes who suffered under *Gukurahundi* like Dabengwa and Lookout Masuku and so forth" (Skype interview 26 July 2019).

From these sentiments it appears civil society narratives of violence have been centred on specific geographical spaces and time. This line between who is a greater or lesser victim is a challenge in the shaping of the transitional justice agenda and will continue to be a point of contention. Further, the need by the state to maintain their discourse on transitional justice, which has been to deny redress and accountability, has resulted in them seeking the same position, even following the change of the head of state. In light of this, Shastry Njeru argues,

"The state says they are open for business; but they are not open for justice. Mnangagwa says the same old words 'let's forgive, let's forget and move on'. How do we deal with that as civil society? Our leadership is not concerned about addressing what happened in the past" (Skype interview 26 July 2019).

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[22] Itai Dzamara, an outspoken critic of Robert Mugabe, remains missing after being abducted by suspected state agents in 2014 (BBC News 24 May 2018).
[23] Tonderai Ndira was the MDC-T Youth Assembly secretary for security and was murdered by suspected ZANU-PF and state agents in 2008 (SW Radio 12 May 2012).

The evidence presented in this section points to a state that is perpetually making the same mistakes, highlighted in chapter five of this thesis, in which they simply wait for issues of transitional justice to blow up into another conflict before responding to them. Based on lessons from the past responses to transitional justice and the current political context, the following section highlights some of the perceptions on the future for transitional justice in Zimbabwe.

7.4. Where to for transitional justice in Zimbabwe?

During discussions with the four experts, the perceived future for transitional justice in Zimbabwe in light of the current political arrangement was brought up. This was done not as a prediction of the future but rather as an opportunity to think about what both civil society and the state could do to spur transitional justice on. The following sections highlight some of this thinking as presented by the four experts. There is agreement among the four experts that that the state is merely playing a game when it comes to matters of transitional justice with the aim of expiring the constitutional mandate of the NPRC.

7.4.1. The NPRC game and recommendations for civil society

The implications of this split agenda between the state and civil society are apparent in how transitional justice issues have progressed over the past few years. The process has been stalled. As argued by Shastry Njeru,

> "The effects can now be seen in the NPRC that was eventually set, their terms of reference of the NPRC and the nature in which it is structured will not lead to it dealing with transitional justice issues. While in the public it postures like an institution that can be trusted to deal with the past, in practice, the NPRC has not been able really to face head-on issues of the past, particularly those that are sensitive and that would result in ZANU-PF individuals being accountable for the past directly or indirectly. They are not comfortable with that" (Skype interview 26 July 2019).

The sentiments expressed in the discussion above point to the relationship between the state and civil society, which is characterised by suspicion and mistrust of the intentions of the other, as summarised by Zambara (2019) in his contention of state-civil society relations in Zimbabwe. It can be understood that the NPRC is seen to have been set up only as a window-dressing exercise. The implication of this on the shaping of the transitional justice agenda in

Zimbabwe is a continued stalling and frustration of the process, particularly by the state, in order to avoid giving away any concessions to civil society. It also may lead to continued antagonism rather than cooperation between the state and civil society for a comprehensive process to occur. Webster Zambara aptly captures these implications:

> "For us to even have an NPRC was a huge struggle because ZANU-PF didn't want it but eventually it came about. What is lacking at the moment is coordination and local understanding of what it is we want. You know the problem with state-civil society relations is that as long as they are weak, it becomes an elitist debate and an elitist narrative, which is unfortunate. If you look at the work that Shari Eppel for example is doing on reburials on *Gukurahundi*, it is an important aspect of transitional justice work. But, the lack of coordination and collective understanding of how the process should go is a limiting factor such that you would wonder, is what civil society wants and what government wants the same as what the communities want? And who has consulted the communities so that processes can go on, particularly victims; that has always been a bone of contention. Who has the mandate to lead a transitional justice process? In our case now, that question is now almost closed because the constitution gives the mandate to the NPRC but is there enough trust between the NPRC, civil society and the government to take on this process?" (Skype interview 28 July 2019).

The lack of political will to operationalise the NPRC had been in stark contrast to the letter and spirit of its enabling legislation as well as its predecessor through the GPA. The NPRC has a lifespan of 10 years but almost half of this time expired before the body became fully functional. This was due to several delays, including the appointment of commissioners, which was only done in February 2016, with work by the commission only commencing in January 2018 when President Mnangagwa signed the NPRC bill into law (Tshuma 2018). This means the NPRC has very limited time to execute its very broad mandate. It is also limited by constraints in financial and other resources, given the struggling Zimbabwean economy and a lack of prioritisation of issues of addressing past violence. This reduced time frame has been challenged by civil society and individuals, including MDC Alliance proportional representation legislator Concillia Chinanzvavana, a survivor of torture in 2008, who has taken President Emmerson Mnangagwa to the Masvingo High Court to force him to extend the tenure

of the NPRC to ensure it has its 10-year tenure as prescribed by the Constitution Bulawayo24 News16 February 2019).

The observations by the four experts interviewed for this study, paint a bleak picture of the NPRC. Shastry Njeru for example argues,

> "So, the NPRC remains a paper title because we did secure a process that would lead to transitional justice as you and I understand it. We believe that contexts differ, and they should differ. Look at the NPRC and what it is doing, the confusion it is causing in the process and what it has achieved so far. They are simply hopping from one province to another doing things that will not result in dealing with the past. We are paying for not securing the process" (Skype interview 26 July 2019).

The sentiments above bring to the fore concerns of good faith when it comes to the implementation of transitional justice programmes by those charged with the task. Such challenges may lie in the high expectations of transitional justice processes such as the NPRC, without proper contextual understanding or consideration. Bosire (2006:70) asserts that "in African countries, despite the realities of institutional deficiencies, poor governance, and poverty, transitional justice measures continue to be laden with high expectations". Given the Zimbabwean context explained in chapters five of this thesis, an effective NPRC seems highly politically constrained and civil society could have managed their expectations. Does this mean then that civil society should not place any burden of expectation on state institutions? Certainly, civil society should continue to highlight and challenge these shortfalls and advocate for changes that will lead to better implementation of the policy. What Bosire (2006) terms "overpromised, underdelivered: transitional justice" remains a burden for civil society activism and the victims of the violence. Tony Reeler aptly captures what the expectations at the end of the road could be, and says,

> "The point is these situations, transitions always end up in some kind of amnesty, good or bad, that's the price you pay for an entrenched political, military elite" (Skype interview 30 July 2019).

That being said, expectations for the NPRC were still expressed in the discussions below the former ZIMRIGHTS F.O. noted,

"We need a functional NPRC. Not an NPRC that will say we are not currently able to do anything because we do not have funding. It needs to operate as a truly independent body. That way the work of civil society will be more effective. Otherwise all our efforts as civil society are in vain. We can march on the streets every day, but nothing will change. Look what happened with the Public Order and Security Act (POSA), we were in the streets endlessly protesting against it. But what changed? We protested until we started to comply with it. It's a cycle. It's a charade until we have an independent constitutional body" (Skype interview 27 July 2019).

The cycle of the state simply ignoring civil society or creating a façade of engagement through institutions and programmes that do not deliver has major implications on how transitional justice is shaped and implemented in transitional justice. The perception is that civil society organisations and the victims of the violence are being taken for a ride as far as the NPRC is concerned. Shastry Njeru adds,

"They would rather put an institution that is a façade of the whole transitional justice process. And after ten years they will say, didn't we give you an institution? Why didn't you use it? The NTJWG are in a losing game. In fact, the state is taking play on them, the state knows that these people have not been connecting well with the people who are affected. So eventually they will get tired I suppose because the years are going by and nothing is happening in the state… What I know for sure even if the NTJWG were to present a shadow position, the government would not really be bothered about that. But there is no harm in continuing the engagement and noisemaking at the door of the state. Maybe one day they will open the door and listen" (Skype interview 26 July 2019).

From the discussion above it appears civil society, in their attempt to engage with the state and its institutions, may be complicit in perpetuating the façade the state seeks to portray of a transitional justice process. Perhaps it is important in future studies to examine the role of civil society in promoting genuine transitional justice processes in contexts such as Zimbabwe where the state continues to maintain a tough stance on dealing with the past. This is especially key in the light of civil society's status not only as advocates for transitional justice but as victims of the state who need redress for violations suffered. Sachikonye (2011) contends that

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the violence against Zimbabwean civil society actors is often clumped together with violence against the opposition. While some of this violence against civil society groups is documented in the reports of the four organisations examined in this study and others, it is clear that here is a need to consistently bring out this nuance in the narrative and examine the implications they may have on the shaping of the transitional justice agenda in Zimbabwe.

The view that the state is merely taking civil society organisations and the entire Zimbabwean polity for a ride when it comes to dealing with the past was also echoed by Tony Reeler, who argues,

> "The constitution produced these chapter 12 institutions and most of them are a joke really… There is a strong indication that the government has no strong commitment to human rights, and the NPRC is exactly their game. The appointment of weak ineffectual commissioners who do not have the gravitas or understanding… All of a sudden, they have come up with a statement to say we have three epochs to deal with, pre-independence, *Gukurahundi* and post 2000… My prediction is that they will say, the next epoch we are going to take is pre-independence and then finally post-2000. But then, post-2000 will be let's focus on the violence in Manicaland, and parcel it out so that the whole picture of centralised state violence and political power is diminished… And the argument will say well, we have limited resources and we can't go for a national process, so we need to do it bit by bit. And that's clearly the aim I think, of immobilising, distracting the civil society as a whole. We will certainly get into big fights about that. That is a big challenge for the NTJWG, and I believe that in the end we will have to run our own commission, a parallel process" (Skype interview 30 July 2019).

From the discussion with Tony Reeler, the idea of a parallel transitional justice commission led by civil society was brought up. Whether the state will allow this or not and what kind of credibility this commission by civil society will have is another potential headache for civil society. If the fear and intimidation by the state as discussed earlier in this thesis is anything to go by, will victims be willing to participate in such a process and putting themselves in the firing line again? These are some of the considerations for such a process. Webster Zambara, however, dismisses a parallel process and calls for a complementary one:

"My take is that there must be an element of complementarity between the NPRC and civil society. They need each other, because the NPRC has the mandate and civil society has the expertise from knowledge gained over the years and the documenting they have done about this. Most of the commissioners from the NPRC I worked with did not know these concepts of transitional justice before they got into the commission. So, civil society remains a repository of knowledge and have the creativity needed to assist the commission. We saw how it was very difficult during the time of the ONHRI for civil society to join in the process until it became moribund and if we allow that to happen again then we are in serious trouble and we would have missed a golden opportunity for transitional justice to take place" (Skype interview 28 July 2019).

Whether the NTJWG, as suggested above, is the way for civil society to make inroads into the NPRC is yet to be determined in terms of gauging its success and failure. However, as scholars advocating for civil society coalitions, including Yanacopulos (2005), argue, it is a step towards a strengthened voice for civil society.

The general consensus among the four experts interviewed is that despite their respective reflections and misgivings about how the process of shaping the transitional justice agenda thus far has been handled within the space of civil society, there is need for continuous engagement between the state and civil society for the process to move forward. Shastry Njeru for example argues,

"If transitional justice is to happen, there should be a consensus in the state that we need to deal with the past. Civil society organisations must engage the state and institutions on the ground: the people who were affected, the local leaders, the churches. There are people who are known in society as leaders, women, women's organisations to deal with the specific concerns of each group. Civil society organisations should start thinking about these issues" (Skype interview 26 July 2019).

Further, Shastry Njeru problematises the fixation with retributive justice and calls for restorative approaches to be considered more by the main organisations dealing with issues of transitional justice in Zimbabwe, arguing,

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> "CS has been concerned with retribution, yet Zimbabwe is not even party to the Rome Statute. Instead they should focus more on how they can make use of the AU Policy on transitional justice. CS must look more towards restorative justice. They must look at how the state can be convinced to prioritise transitional justice through this AU policy (Skype interview 26 July 2019).

The AU Policy on Transitional Justice comes at an important point in the shaping of Zimbabwe's transitional justice agenda, where there remain contentions about the role of the NPRC and how it will conduct its work. Again, it remains to be seen if the state will take up the recommendations of the AU in dealing with the continent's perennial challenges with violence and whether the AU Policy will be embraced contrary to rejected notions that have been labelled "Western" and as having a regime change agenda.

That being said, it is clear that the current political conditions in Zimbabwe are not conducive to a genuine transitional justice process. Tony Reeler suggests,

> "If we can get to some kind of political settlement, as Ibo Mandaza and I have been arguing for a national transitional authority for years now, if we get to the point of a political settlement and a national transitional authority for a given period of time, then I think a strategy will emerge, that will be possibly different… The commitment we made in 2003 was for a victim-driven process, and that is very difficult to be doing now… What I would really hope is that when the space was absolutely right, the original commitment we all made in 2003 would be turned into action and we would get out there and we would engage those local communities to find out what they want. And it may be very different to any transitional justice process seen elsewhere; there is no one size shoe fits all… Truth and reparations is a big thematic but how's that going to be done. So, I think it is going to be at the point where we can or cannot consult, and I hope we don't go the South African way where you suddenly get this commission, that is done in mad hurry and the victims were completely left out. That is something some of us are deeply aware of and that is a back channel we are all watching" (Skype interview 30 July 2019).

The focus, therefore, for civil society as drawn from the comments above is to keep transitional justice on the national agenda while ensuring that the process is not highjacked in a manner that disenfranchises those who suffered and experienced violence at the hands of the state. Ensuring a thorough and comprehensive process will also be a task for civil society to push and advocate for regardless of the type of political dispensation.

7.5. Conclusion

This chapter captured the perceptions of four civil society activist and experts on transitional justice in Zimbabwe on the shaping of the narrative of electoral violence and the determining of the transitional justice agenda in the country. The narratives of violence presented in chapter six of this thesis point to a predatory state that is captured by a political elite seeking to protect its hold on power through the use of violence and economic predation. The evidence presented and discussed in this chapter further points to a state that seeks to prevent transitional justice in order to protect the hold on power by political elites. The hold of political elites on state institutions meant to deliver transitional justice point to a need for reform of the structures of the state that are susceptible to abuse by those in power, as presented by the experts interviewed for this study. This includes the need to take into consideration the structural nature of the violence and the economic predation that funds state violence. Transitional justice processes focused on civil and political rights are likely to neglect these concerns, thereby leaving room for these structures to regroup and inflict the same violations it sought to deal with.

The consensus that emerged from the discussions in this chapter point to unfavourable political dynamics for transitional justice to take place currently. The NPRC has been described as a window-dressing exercise that may be used against civil society in the future if they complain that the past was not addressed. It may well be a case of 'we will give you the institution but not justice'. The state is therefore seen as "taking" civil society organisations, including formations such as the NTJWG, "for a ride" while keeping its grip on power and suppressing any real transitional justice.

The transitional justice agenda is a political agenda that determines who is accountable morally and legally. From the reflections in this chapter, it appears that the national transitional justice agenda continues to be shaped by a tug of war between the state and civil society. It remains a cat-and-mouse game in which the state ultimately decides how it will shape the transitional justice agenda in a manner that does not threaten its hold on power. The national agenda,

through the NPRC, continues to dodge issues raised by civil society and excluding the voices of the people. Civil society is also complicit in the latter despite claims to represent the victims. At the end of the day it is the state that will determine what the future of transitional justice will be.

Further, the culture of fear among victims of state violence is also highlighted as an impediment to genuine transitional justice under the current political context. Where impunity continues to exist, the stage is laid for fear to speak out against atrocities. Even where commissions have been set up, such as the Chihambakwe Commission of Inquiry into the *Gukurahundi*, without transformation of the conditions that led to the violence, such processes perpetuate fear and distrust of future processes of redress. Therefore, the constituents of the *precursory processes of transitional justice* are important to how communities will respond to future processes. Genuine reforms are needed to alter these conditions of fear and allow for what was not permitted during *precursory moments* to come out. Similar concerns have been raised about the NPRC, as expressed by some of the experts whose views are presented in this chapter who see the NPRC as a window-dressing exercise rather than a genuine attempt at dealing with the country's legacies of violence.

The chapter also presented the difficulties in dealing with different periods of violence that affected different regions in different ways. This chapter contends, in concurrence with the sentiments presented by some of the four experts, that instead of a common narrative of transitional justice, there needs to be a process that deals with each period of violence comprehensively, considering the nuances of the lived experiences of those that were affected by the violence and the implications for them. There is a danger however of further splitting the transitional justice agenda in ways that may delegitimise the suffering of other groups. For example a push by civil society to challenge the hegemonic nationalist narrative of the state and proactively campaigning for redress for post-independence violations has led the state to push for redistributive justice in line with their nationalist ideals (Eppel and Raftopoulos 2008); hence a split agenda for transitional justice between the state and civil society and often the delegitimisation of the suffering of others.

While the narrative presented in chapter six paints a picture of 'a good civil society' and 'a bad state', the evidence presented in this chapter point to flaws in this narrative. An example of this is the admitted focus by civil society groups on the political demise of Robert Mugabe, as the transitional moment sought in order for transitional justice to occur. The focus on the post-

Mugabe era points to a civil society that had immersed itself in the regime change agenda, as it mapped out the transitional agenda that planned for life after him. This position by civil society has resulted in it being seen as an enemy of the state, thereby impacting on the campaign for transitional justice. It brings to the fore questions posed by scholars such as Kasfir (2013) of a concept of civil society that is fashioned with a view to better governance and democratic reform through its apolitical stance. As highlighted in chapter two of this thesis, such assumptions lead to a skewed view of the role played by civil society and impacts on the analysis of its role in the governance space.

The lack of consensus within civil society for a transitional justice agenda and the perception of the emergence of an elitist civil society was also highlighted in this chapter. Without convergence in civil society, the GPA and constitution-making process have weakened the ability of civil society to shape the transitional justice agenda. These divisions in civil society were pointed out as being among its major weaknesses in advocating for the state to act on matters of transitional justice.

Beyond the politics of inclusion and exclusion in the transitional justice discourse of Zimbabwe, there is a need to examine the power relations between organised civil society organisations such as those reviewed in this study and the communities they claim to represent. It is also pertinent to examine the dominant nature of certain norms over others and how it affects the development of a comprehensive transitional justice agenda.

Chapter Eight

Conclusion

8.1. Introduction

As presented in this thesis, narratives of past violence cannot be separated from the decisions about what mechanisms are put in place to deal with the past. This thesis further contends that beyond the narratives of violence, transitional justice scholars and practitioners should seek to understand and be cognisant of how these narratives are developed. This includes the knowledge systems and norms that underlie the shaping of these narratives as well as how these underlying factors interact with the political system to produce transitional justice outcomes.

The findings presented in this thesis reveal that disputed narratives yield disputed responses to dealing with legacies of violence, leaving room for these legacies of violence to remain unaddressed, and thus perpetuated and repeated. However, this is not to say that a hegemonic narrative is more desirable to ensure lasting peace. Rather, a narrative that accommodates and represents diversity is what transitional justice processes should seek. As learnt from the evidence presented in this thesis, without inclusivity, transitional justice processes risk merely being a window dressing exercise while promoting the interests of some groups over others or even victimising other groups.

Beyond the politics of inclusion and exclusion in the transitional justice discourse of Zimbabwe, in which culture and history are often disregarded and the voices of those who have experienced the violence are silenced, there is therefore a need to examine the power relations of stakeholders in transitional justice. The power relations between organised civil society organisations such as those reviewed in this study and the communities they claim to represent is one such relationship that requires further interrogation by scholars and practitioners alike. The relationship of the state and civil society is also key to ensuring that a comprehensive transitional justice is adopted. A dysfunctional relationship as revealed by the evidence presented in this thesis is detrimental to transitional justice and only serves to perpetuate the cycle of violence, as both stakeholders fight for space to control and influence the transitional justice agenda. As also highlighted in this thesis, it is also pertinent to examine the dominant nature of certain norms over others and how it affects the development of a comprehensive transitional justice agenda.

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This chapter highlights these and other findings presented throughout this thesis as well as the conclusions drawn from the evidence presented. It also provides an overview of the preceding chapters of this thesis. This chapter further concludes this thesis by highlighting some of the limitations of the study as well as recommendations of issues for further probing by scholars and practitioners.

8.2. Overview of the thesis

Chapter one of the thesis gave the study background and context in section 1.2., highlighting how violence has been a consistent part of the electoral landscape of post-independence Zimbabwe. This violence has been presented as "typical interparty violence" and "sophisticated state-sponsored violence" (Sachikonye 2011:17). This context and background presented in chapter one provides an understanding of how the violence that is the subject of this study is not unique, but rather part of a vicious cycle of violence and illusive transitional justice. Further, the chapter gave an overview of what follows in the thesis.

Transitional justice narratives have been shaped by the discourse on judicial versus non-judicial approaches to dealing with legacies of past violence. Different political contexts have been identified as allowing either or both processes to take place. Chapter two of this thesis highlighted that as transitional justice seeks to break with the past following autocratic rule or armed conflict into a more peaceful and inclusive dispensation, the focus is essentially on what to do about those responsible for the violence and ensuring that they are not in a position to cause such harm again. The approaches to transitional justice presented in this chapter are outlined as being largely a choice between restorative and retributive justice paradigms that steer transitional justice measures towards either juridical or non-juridical approaches. Section 2.2 of the chapter addresses the options presented by both approaches, highlighting the practical as well as moral limitations of pursuing a single paradigm. The challenge of presenting the state as a surrogate for individuals who have experienced violence is highlighted among the challenges of retributive justice (Haley 1996), while restorative justice is seen to give more credence to the victims' experience of violations and to restoring their dignity as well as community relations. The chapter also highlighted the human rights and liberal peacebuilding narratives of transitional justice. The literature presented in the chapter concedes the need to reconsider both frameworks as approaches that take into consideration history and culture in a particular context rather than a one-size-fits-all contention of violence and therefore the

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mechanisms to deal with it. In conclusion to the chapter, civil society is defined and situated within the transitional justice discourse internationally and on the African continent.

Chapter three explored the different forms and uses of narrative as well as its importance in forming political, social and other identities. Further, this chapter unpacked how narrative as a concept was used in this thesis. Narratives of political violence as well as agenda-setting were also discussed in this chapter. Narrative in this chapter was unpacked through drawing from different categories and perspectives, including as a lens through which to understand the social world, as data and as an analytical tool. The chapter sought to link narrative and agenda-setting in transitional justice while illuminating the role of civil society as key actors in this space. How we understand and interact with the past is influenced by narrative and how we relate to the present as well as how we envision the future (Grødum 2012; Rosenwald and Ochberg 1992; Riessman 1993). In this thesis, the term *narrative* was used to refer to the way we describe, think of, and understand events as a coherent whole. Based on these assumptions, the world, in this thesis, is essentially viewed as a narrative world in which narrative is used as a lens, as data and as analytical tool (Graef et al. 2018).

Chapter four of the thesis presented the research problem, research questions and the research design adopted to answer the questions posed in this thesis. Through the presentation of the outline of the qualitative research tradition and its theoretical underpinnings, the chapter explained the choices made by the researcher as well as the limitations of these choices. The descriptive research design that is undertaken in this research is also outlined while highlighting the methods employed to collect and analyse data in the research. The chapter highlighted how the qualitative research approach makes use of the "interpretive naturalistic" approach, which seeks to study phenomena in their natural settings and aims at understanding phenomena based on the meanings people bring to them (Hennink et al., 2011). This "interpretivist" approach is argued to be ideal for this particular study, which uses content analysis in the "analysis of narratives" rather than "narrative analysis" (Creswell and Poth 2016).

Chapter five of the thesis gives a historical context to Zimbabwe's transitional justice trajectory, which did not begin with the period under study in this thesis. These moments are organised in accordance with Drumbl's (2016) framework of transitional justice moments and outlines the state narrative of violence, how it has determined state-led processes of transitional justice, and, conversely how these processes have shaped the state narrative of violence. The

chapter sought to illuminate some of the key moments that have shaped the narratives and responses to violence in Zimbabwe by tracing Zimbabwe's transitional justice moments/happenings, including critical junctures from its independence in 1980. This allowed the researcher to point to part of the trajectory that has shaped the transitional justice agenda in Zimbabwe, particularly in the formal state realm as opposed to civil society, which was discussed in chapters six and seven of the thesis.

Chapter six of the thesis, through historical accounts presented by four experts interviewed for this study, outlines some of the *hidden moments* of the shaping of the transitional justice discourse in civil society in Zimbabwe. The activists and scholars interviewed for this study were Tony Reeler, a human rights and transitional justice activist in Zimbabwe, Shastry Njeru, a transitional justice activist and scholar, Webster Zambara, an activist and scholar, as well as a former ZIMRIGHTS activist who is unnamed in this thesis. These perspectives and historical accounts helped to illuminate how some of the narratives of electoral violence that are also presented in this chapter may have been fashioned in relation to a particular political and socio-economic context as well as to meet particular goals. One of the important illuminations from the interviews carried out for this study, as presented and discussed in this chapter, is how civil society in Zimbabwe has evolved over the years and has been shaped by the different dilemmas that the country has been faced with, particularly economically and politically. This chapter also highlighted the reality, principal elements and outcomes of the electoral violence for the period under review as espoused by the civil society organisations and four interviewees for the study. The immediate cause of the violence is cited as a desperate ruling elite seeking to maintain its hold on political power at all costs and to maintain its hold on economic privilege.

Chapter seven of the thesis captured the perceptions of four civil society activists and experts on transitional justice in Zimbabwe on the framing of the narrative of electoral violence and the shaping of the transitional justice agenda in the country. The challenges of transitional justice being grounded in particular knowledge systems and norms emerging from other parts of the world as opposed to traditional knowledge systems is one of the major contentions that emerged in discussions presented in this chapter. This is linked to the imposition and translation of particular norms in a context different to that in which they have been conceived. The chapter further captured the disagreements between the state and civil society on how transitional justice is framed and presented publicly. There is also a struggle in civil society between and among those arguing for a legalistic approach to transitional justice and those calling for non-legalistic understandings and responses. As presented in the chapter, these disagreements have

left civil society with an untenable situation in which their demands are disregarded by the state.

8.3. Key findings

Transitional justice in Zimbabwe has had many false starts, as revealed in this thesis. This has been due to a combination of factors, including the absence of an enabling environment for transitional justice to take place, as well as the absence of political will to provide redress to those violated in various epochs of violence. Given the legacy of violence and stalled transitional justice in Zimbabwe, civil society has stepped up to demand that this changes. The demands by civil society for political reforms and transitional justice have however widened the rift between the state and civil society, as presented in chapters six and seven of this thesis. This rift has made transitional justice to be a pawn in the conflict and has prevented any real commitment to dealing with the past.

The disagreements between the state and civil society in Zimbabwe are based on a number of positions that were illuminated in the evidence presented in this thesis, particularly in chapters six and seven. These disagreements are based not only on the perception by the state of a civil society entering the political space but also the view that this overlapping is funded and supported by external forces seeking regime change in Zimbabwe. Further, the disagreements between the state and civil society have been shaped by a history of state co-option and later resistance to this co-option, creating foes of previous allies.

The following sections delve into some of these key findings and discussions of this thesis including in section 8.3, the dominant narratives espoused by the civil society organisations the study focused on, the disagreements in the narrative and the shaping of the agenda in section 8.3.2.

8.3.1. The narrative of violence

Meanings associated with violence, for example, criminality or subversion of the constitution, are often drawn from the end goals of the violence as well as its implications. What did the violence seek to achieve and what was the nature of the violence (the perpetrators, the victims,

to what end the violence was employed, what laws did it contravene)? These are some of the dynamics that are interrogated in seeking meaning and understanding where violence occurs. Concurringly, Graef et al. (2018:2-3) contend that to learn about political violence as "narrative phenomena" is to study how and why different groups as well as individuals seek to produce comprehensible stories out of a complex condition (of violence and chaos) and the implications these stories have on political agency and shaping of society. This was the approach taken in this thesis to draw interpretations of violence from the four civil society organisations studied.

As highlighted earlier in this thesis in chapters five, six, and seven, civil society has created a narrative of violence centred on human rights and the liberal transformation of the political system as a means of dealing with the political and economic crisis the country was faced with from the late 1990s. Increased state violence and repression coupled with violent elections over the period under study has increased these demands by civil society. The narrative of violence espoused by civil society further points to a state that has been captured by a political elite that seeks to use violence to maintain its power (see chapters six and seven); hence the difficulty in separating the state from the ruling ZANU-PF party. The political elites have become the villains in this story and civil society and other groups calling for transitional justice for the heroes and at times the victims (Jones and McBeth 2010) as the state seeks to crush its opponents. A failing economy, declining support for the status quo, a shift in racial and economic relations (land reform) are the context in which this story plays out (Kriger 2006, Moore 2018).

The narrative of violence that points a finger at the state for violations of civil and political rights is however not unique to the period focused on in this study. As shown in sections 6.1-6.2 of the thesis, the historical account of civil society's interaction with transitional justice brings to light how civil society in Zimbabwe has always been at the forefront of pushing for transitional justice to be placed on the national agenda. Even where the environment has not been conducive to this, civil society has documented and publicised state violence, therefore laying the foundation for future transitional justice processes. An example of such work is the 1997 Breaking the Silence report by CCJP and LRF, which tells the story of the *Gukurahundi* atrocities, which was termed by one interviewee, Shastry Njeru, "a story for the future". While real justice for these atrocities remains unattained, this preliminary work remains invaluable for future processes.

From the narratives examined and presented in this thesis, another finding was that interpretations of the violence that came through was that of a state leadership unwilling to give up state control and power and has resorted to violence to maintain this (see section 6.3). Concurringly, Sachikonye (2011:17) argues that "The major motivating factor in the deployment of violence and rigging is the grabbing and retention of power by hook or by crook". Violence was used to this end in a number of ways. Firstly, it was used to send a clear message to opponents and perceived opponents of the political elite that they would not yield to any electoral outcome that took control of the state away from them. Secondly, violence was used to imprint a deep-rooted entitlement to political power by the political elites and an embedded disregard for the political agency of the citizens. This entitlement is part of a discourse at independence that privileged 'liberation heroes' as opposed to other members of society. This is also discussed in chapters five (section 5.1 and 5.2) and six (section 6.3) of this thesis. Thirdly, the evidence presented in this thesis also points to electoral violence being used to eliminate or neutralise the threat to the ruling elite's hold on power and this was expressed as its modus operandi, as discussed in section 6.4. Fourth, the violence is presented in the narrative as part of a broader fracture in state-society relations as anger against the state mounted over its lack of provision for its citizens (Kriger 2006). The state responded by what Sachikonye (2011) sees as a state turning against its citizens. This was in the form of violent reprisals, which the narrative presented in the thesis points to as organised violence and human rights violations.

From the narrative presented in the civil society reports, the narrative of violence is presented as manifesting in the form of organised violence. The deployment of state resources, including personnel, in electoral violence is evident in the narrative of the four organisations reviewed in the study. The extent of state involvement and militarisation of institutions points to issues of the separation between party and state, which has been contentious in Zimbabwean politics. This has enabled militarisation to go beyond the state, but also the masses who have been armed by the state to exert electoral violence in their localities under the guise of defending the country from neo-colonialism (Mapuva 2010). The centralised planning and execution of the violence leaves those targeted by the violence defenceless and often without recourse. Victims of the state as shown in the thesis become enemies of the state; hence, seeking justice from the same institutions that perpetuate violence is next to impossible unless there is a complete shift in the political dispensation that controls the state.

The understanding of electoral violence as human rights violations comes as no surprise given the grounding of the four organisations in human rights norms and discourse. The human rights understandings of the electoral violence in Zimbabwe is underpinned by international law, which is consistently referred to in the reports on the organisations as benchmarks of the state's obligations (see section 6.4.2). As highlighted in section 3.4 of this thesis, narrative as a political tool can be used by various groups to push for their position to be put on the official agenda by policymakers or challenge policies that subjugate them. The use of a human rights approach, while arguably fundamental to the core values of the civil society organisations under study, has evidently been a position that has allowed them to challenge the repressive laws and brutality of the state within the confines of the law. It has also enabled civil society to seek remedies to state violence beyond the Zimbabwean borders and beyond the Zimbabwean legal system through intergovernmental bodies, such as the African Union (AU), which not only subscribe to these values but also place obligations on members states to uphold them. However, as presented in sections 2.4 as well section 7.1, this grounding has the potential to neglect other concerns of transitional justice that do not fall into this system of rights and remedies. Responses couched in these human rights groundings are likely to lack the nuances of societal harm and exclude victims without access or knowledge about bodies that provide redress. These norms are also argued in thesis to have created a transitional justice agenda that does not fully reflect the needs of those affected by the violence, nor their value systems as a society.

The thesis also found that the opposition and perceived opposition members are cited in the narrative by civil society as the main victims of state violence and repression. This has caused the state to accuse civil society of siding with and representing the interests of opposition parties; hence the blanket association by the state of civil society with opposition and regime change forces (see section 2.6.2). Again, this interpretation of civil society and opposition as enemies of the state has its genesis in the liberation struggle wherein enemies had to be violently squashed. This included the colonial forces as well as perceived enemies among the liberation movements who were seen and labelled as 'sell-outs' for not agreeing to ZANU-PF hegemonic narrative as discussed in section 5.2.

However, civil society has struggled to shake off its association with the opposition, as also highlighted in discussions in section 7.1 of the thesis. The focus by civil society on transitional justice in a post-Mugabe era points to a civil society that had immersed itself in the regime

change agenda, as it mapped out the transitional agenda that planned for life after Mugabe. This position by civil society has resulted in it being seen as an enemy of the state, thereby impacting on the campaign for transitional justice. While scholars such as Kriger (2005) point to a discourse by the state that discredits its opponents and perceived opponents, civil society's immersion in opposition politics cannot be denied. It brings to the fore questions posed by scholars such as Kasfir (2013) of a concept of civil society that is fashioned with a view to better governance and democratic reform through its apolitical stance. The focus on a change in regime in Zimbabwe was premised on the need for those responsible for the violence to be out of office for meaningful transitional justice to take place, an assumption by many practitioners in the field of transitional justice (Iliff 2010). These entanglements compromise the credibility of civil society in their campaign for transitional justice.

Apart from a violent response to the narrative of civil society, the state created a counternarrative that was anti-neoliberalist and emphasised redistributive justice (Ndlovu-Gatsheni 2015). The transitional justice agenda became split between redistributive justice and a more civil rights and governance-based discourse; hence, the clash between civil society and the state. This has been one of the major contentions on transitional justice in Zimbabwe in both its discourse and practice, as was discussed in the section on the contradictions among actors in the shaping of the transitional justice agenda in Zimbabwe (see section 7.1).

8.3.2. Disagreements about the narrative and the shaping of the agenda

As shown in this thesis, the shaping of the transitional justice agenda in Zimbabwe has been a battleground not only between the state and civil society groups but also among civil society groups. The narrative of violence itself has been a source of contention, with the state presenting counternarratives of "just wars" against its enemies. Disagreements about the narrative have trickled down to the responses to deal with the violence in line with the argument by Lessa (2013) that how we respond to violence cannot be separated from the narratives of the violence.

Some of the contestations have been based on establishing what transitional justice is or is not in the Zimbabwean context and who should take the lead. These disagreements are rooted in the norms and values that underpin those that construct narratives, and these have been between the state and civil society, as well as among civil society. As illustrated in thesis in section

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7.3.1, the neoliberal grounding of the transitional justice agenda in mainstream civil society presents a challenge for the relationship between the state and civil society. The state in its anti-liberal discourse and rhetoric are unwilling to bend to the demand of civil society for political reforms and have instead moved to shrink civic space. This goes against the assumptions of liberalism, which contends that a vibrant civil society leads to a more liberal society.

The contested neoliberal grounding of transitional justice has led to a dominant human rights approach, especially among civil society organisations such as those reviewed for this study. This has resulted in a legalistic and judicial understanding of transitional justice in these organisations as they campaign for accountability and an end to impunity. This judicial and legalistic focus has come under criticism by some of the experts interviewed for this study, who view it as a limitation to a nuanced approach to transitional justice that brings other knowledge systems and norms, including that of indigenous practices, into consideration.

The disagreement on the narrative of violence and therefore the response in dealing with past violence is based on power relations between organised civil society and the state, among civil society actors as well as between civil society and the communities they claim to represent. As argued in Richmond and MacGinty (2015), liberal peace is focused on power relations in which "Western" power and knowledge are held in high esteem, as opposed to knowledge from other political and geographic spaces (see section 2.3). These power relations can be based on claimed knowledge of the theory and practice of transitional justice by mainstream civil society actors; hence the imposition of these on communities. This can lead to resistance by those who do not subscribe to the same value systems, including the state.

The juridical focus of many of the lead civil society organisations in the transitional justice space in Zimbabwe, as presented in the thesis (see section 7.1) has created a barrier between CSOs and the state. As presented in chapter seven of the thesis, fear of prosecution and being held legally liable for violations put the state in a position where the use of the term transitional justice was rejected by the state. The understanding of transitional justice in the state was that of a retributive approach and this was not and is still not on the state's agenda of dealing with the past. As highlighted in chapter five of the thesis, the agenda of the NPRC (see section 5.4) is that of fostering reconciliation and peace using restorative means rather than a retributive process. Hence, civil society will have to continue the fight for retributive justice to be put on the agenda.

The juridical focus of mainstream civil society organisations in the transitional justice space has also served to alienate organisations calling for a restorative approach. While scholarship on African civil society has tended to focus on divisions along kinship and geographical ties (Edwards 2009), it appears broader divisions of ideology, training and space have taken precedence in the Zimbabwean context. As highlighted in sections 7.1 and 7.2, there are unbalanced power relations between the two camps of civil society. Civil society organisations with a juridical and human rights focus have gained more traction over the years with norms that are internationally accepted. This has also enabled these organisations to have greater access to funding and support from the international community and donors as opposed to those with a more restorative approach.

Civil society organisations focusing on restorative justice grounded in norms outside of liberalism and democracy have had to fight for recognition and funding in a space dominated by human rights and liberal peace. The transitional justice civic space remains dominated by human rights organisations and their narrative and agenda continue to be more visible than that of other groups. There is therefore a need to balance power in civil society against norm dominance that creates a single narrative of violence and a single approach to dealing with the violence. This does not mean, however, that a homogenous narrative across all actors is desired. It may simply point to a need for civil society to package these different interests and understandings in a manner that is more nuanced and able to capture a wider narrative base. The approach by civil society, in many ways, has resulted in a piecemeal approach to shaping the transitional justice agenda. The failure of civil society to come up with a concurring voice is highlighted as one of its main weaknesses in their contribution to the shaping of the transitional justice agenda in Zimbabwe. These divisions in civil society were pointed out as being among its major weaknesses in advocating for the state to act on matters of transitional justice. The weakening of civil society in Zimbabwe from within appears to be happening jointly with the efforts from the state through repression and coercion, as was discussed in chapter six of this thesis.

The following section captures some of the limitations of this study.

8.4. Limitations of the study

It is not possible to measure the true contribution of civil society narratives of electoral violence on the shaping of the transitional justice agenda in Zimbabwe. However, the contribution of

this thesis is to open up a discussion on the role played by different actors in this space. It also creates an opportunity to delve into Zimbabwe's stalled transitional justice processes outside the absence of political will by the state for it to happen. By interrogating the contribution of different actors such as civil society, the thinking about transitional justice in Zimbabwe and other parts of the world may shift from focusing on particular norms and knowledge systems and particular forms of violations.

This study focused on only four civil society organisations in gaining insight into the civil society narratives of violence in Zimbabwe and how these narratives have shaped the transitional justice agenda of the country. This means that the narrative is limited. Future studies would benefit from the study of more organisations within a broader scope as opposed to limiting these to one coalition, as explained in chapter four of the thesis. The thesis would have also benefited from the perceptions of those organisations that are not rooted in notions of liberal peace but in other norms and knowledge systems.

Further, future studies would benefit from a deeper analysis of the state narrative of violence through the engagement of state actors (former and current) in order to get a more nuanced view of the other side of the narrative.

8.5. Conclusion

The central argument of this thesis has been that narratives of violence cannot be separated from mechanisms put in place to respond to this violence. As shown in this thesis, narrative is a contested field and leads to contested mechanisms in which political muscle is key. As shown in this thesis, beyond the narrative of violence, how to deal with the past will be decided by the powerful. However, as also shown in this thesis, matters of transitional justice, like powder kegs, have the potential to explode against those forcing those in power to react. The challenge of this reactionary form of transitional justice, as illustrated by the Fast Track Land Reform (see chapter five), is the creation of more victims that will also need redress; a vicious cycle.

The transitional justice agenda has been and continues to be shaped by flawed state-civil society relations in which transitional justice is consistently used as a pawn. The state has yielded to civil society demands for an NPRC, but it has certainly not yielded to demands for transitional justice. It is a case of 'we will give you the institution but not justice'.

In conclusion, while the understandings of violence are key to how we deal with the violence, these understandings have to be drawn genuinely from the experiences of those that have lived the violence and not from agendas that seek certain ends, whether political or economic. From the evidence presented in this thesis, it is argued that beyond the narrative of violence, transitional justice should seek to understand the hidden happenings that contribute to the shaping of these narratives. This will allow for a more nuanced understanding of conflict and violence and how to deal with it. Taking narratives at face value will not equip societies to find the lasting peace that transitional justice seeks to establish.

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23 July 2019

TO WHOM IT MAY CONCERN

RESEARCH PROJECT: *Civil society narratives of violence and the shaping of the transitional justice agenda in Zimbabwe (2000-2013).*

My name is Chenai G Munyaka, I am a postgraduate student (nr. 13301927, PhD Political Science) in the Department of Political Sciences at the University of Pretoria and I am conducting field research on the above topic. Permission to conduct the field research has been granted by the University of Pretoria. My research findings will eventually appear in my dissertation and in journal articles Permission is hereby requested to interview you (see questions below) and to record this interview on an audio device or through note taking for the purposes of this study. Confidentiality will be maintained, and your name will not be used in the thesis or journal articles unless you agree to it.

I will provide you, upon request, with any additional information on my research project and answer any questions about my studies, my research methods, and myself. You are welcome to request a copy of my research and I am willing to make suggested changes to those parts that involve your contribution until my research is submitted to the department for examination. All the information gathered will be stored safely at the University of Pretoria, Department of Political Sciences for a minimum of 15 years. You may also contact me at the following telephone number: +27719413322. My supervisors are Dr Cori Wielenga and Dr Chris Nshimbi who can be contacted at the Department of Political Sciences at the University of Pretoria , or on e-mail cori.wielenga@governanceinnovation.org or chris.nshimbi@governanceinnovation.org Tel: 27 12 420 2464.

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I, the undersigned, have read the above and I understand the nature and objectives of the research

Project of *Chenai Gillian Munyaka* as well as my potential role in it and I understand that the research findings will eventually be placed in the public domain.

I voluntarily consent to participate in all discussions, to give my expert opinion and to provide details about my life history, keeping in mind that I have the right to withdraw from the project at any stage.

I also grant the researcher the right to use my contribution to the research project in completing this project as well as other projects that may emerge from it in future.

Full name of organisation	Signature of the researcher	Signature of participant	Date

Questions

1. Do you think the way in which CS in Zimbabwe has framed issues of political violence over the past 20 years is largely representative of the root causes of this violence? (What are the issues that are being lost in the narrative?)
2. Do you think the solutions proffered by civil society to deal with this violence are feasible given the history and current political conditions in the country?
3. Do you think the NPRC under its current mandate and given the history and current political dynamic in the country, is the ideal institution to deal with the issues of transitional justice in Zimbabwe?

UNIVERSITEIT VAN PRETORIA
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YUNIBESITHI YA PRETORIA

Humanities 100.
1919 - 2019

10 July 2019

Dear Ms Munkaya

Project:	Civil society narratives of violence and the shaping of the transitional justice agenda in Zimbabwe (2000 – 2013)
Researcher:	C Munkaya
Supervisor:	Dr C Wielenga
Department:	Political Sciences
Reference number:	13301927 (GW20170819HS)

Thank you for your response to the Committee's correspondence.

I have pleasure in informing you that the Research Ethics Committee formally **approved** the above study at an *ad hoc* meeting held on 10 July 2019. Data collection may therefore commence.

Please note that this approval is based on the assumption that the research will be carried out along the lines laid out in the proposal. Should your actual research depart significantly from the proposed research, it will be necessary to apply for a new research approval and ethical clearance.

We wish you success with the project.

Sincerely

Prof Maxi Schoeman
Deputy Dean: Postgraduate and Research Ethics
Faculty of Humanities
UNIVERSITY OF PRETORIA
e-mail: PGHumanities@up.ac.za

cc: Dr C Wielenga (Supervisor)   Prof SW Zondi (HoD)

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Website : www.zimrights.co.zw

Registration as a Welfare Organisation in Zimbabwe W/O 3/83
Member of the Gordes Group, fidh & Observers status with the African Commission on Human and Peoples Rights

Campaigners for Human Rights

23 October 2017

To whom it may concern

This letter serves to confirm that Chenai Munyaka has been granted permission to work with the Zimbabwe Human Rights Association in her research titled *'Civil Society narratives of violence and the shaping of transitional justice agenda in Zimbabwe'*.

ZimRights has 15 community based organizations it sub-grants who work in related areas. We are also a member of the Church and Civil Society Forum, the National Association of Non-governmental organizations in Zimbabwe and have working relationships with all major civil society organizations in Zimbabwe.

We support scholarly work and we will render our assistance as requested by Chenai Munyaka.

Sincerely,

Okay Machisa
National Director, Zimbabwe Human Rights Association (ZimRights)

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12 June 2018

To whom it may concern

RE: Permission to use the ZHRNGOF reports in academic study

Permission is hereby granted to CG Munyaka to use the Zimbabwe Human Rights NGO Forum's reports that are in the public domain with relevant referencing and acknowledgement.

If you require any further assistance the organisation is prepared to assist where possible.

Regards,

Blessing Gorejena

Executive Director

Zimbabwe Human Rights NGO Forum

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Number 1 Raleigh Street

Harare

Zimbabwe

Tel: +263 4 770177/8; 772860; 770170

Cell: +263 772 980 325

Skype: blessing.gorejena

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Dear Chenai

You are welcome to use our materials in the public domain, just acknowledge us and when possible send me a link of the article you are developing even a URL link.

Many thanks for your patience.

Senele Bhala

Programme Coordinator

ZPP

pco@myzpp.com
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Appendix 6. Interview schedule

Name of interviewee	Date of interview	
Shastry Njeru	26 July 2019	Over Skype
Webster Zambara	28 July 2019	Over Skype
Tony Reeler	30 July 2019	Over Skype
ZIMRIGHTS F.O	27 July 2019	Over Skype