



## Transcript

# Zimbabwe: Taking Transitional Justice to the People

Sekai Holland

**Minister for National Healing, Reconciliation and Integration, Zimbabwe**

Gabriel Shumba, Human Rights Lawyer

**Director, Zimbabwe Exile Forum**

Okay Machisa

**Director, Zimbabwe Association for Human Rights; Board Member,  
Zimbabwe Human Rights NGO Forum**

Chair: Abel Chaikomo

**Executive Director, Zimbabwe Human Rights NGO Forum**

Wednesday 3 February 2010

**Chatham House is independent and owes no allegiance to government or to any political body. It does not hold opinions of its own; the views expressed in this text are the responsibility of the speakers. This document is issued on the understanding that if any extract is used, the speaker and Chatham House should be credited, preferably with the date of the event. While Chatham House aims to provide an exact representation of the speaker's words we cannot take responsibility for any minor inaccuracies which may appear.**

## **Abel Chaikomo:**

Good evening ladies and gentlemen. I come from Zimbabwe and it's part of our culture, we greet each other. If I'm welcome, I expect you to greet me back so I was worried that I am standing in front of this audience that is not wanting to talk to me.

Thank you very much. I would first like to thank Chatham House for providing us with this venue and for all the work that they've done to put together this meeting and our colleagues. Before we begin, can I request that you switch off your phones.

Colleagues, as the meeting notice says, this evening we're going to be discussing issues to do with the transitional justice via Zimbabwe's consent. As you may be aware, obviously, many years of violence and intolerance have left our country's population and properties damaged and so many people have left the country. I think we've got quite a few Zimbabweans in this country. Some as political refugees, others as economic refugees and so forth.

Back home, have a programme that we launched last year that we call Taking Transitional Justice to the People. This programme effectively is about going out to the communities, talking to the communities themselves, listening to the people to hear what they think needs to be done if Zimbabwe is to be healed. What is to be done for the conciliation to be achieved?

We identified 84 political constituencies out of the 120 constituencies in Zimbabwe which have been the most affected by all sorts of violations and human rights abuses. These are the ones we're targeting. So far we have done 63 of those, and we're still moving on with that programme. Today we would want to officially launch a similar programme here but targeting those many of our colleagues and friends from Zimbabwe who are actually here in the UK and other parts of the world.

As you will see from the panel we've got Mr Gabriel Shumba, he is one of our partners. He is actually going to be the one who is going to be running the similar programme in Southern Africa. We've a very rich panel to discuss these issues tonight.

Amongst the panellists obviously is the Honourable Minister of State in the office of the Prime Minister, Honourable Minister Sekai Holland. She is one of the three core ministers representing each of the three political parties that are part of the GPA, the Global Political Agreement which of course gave way to the inclusive governance that we find in Zimbabwe today. They set up an

Organ that is called the Ministerial Organ on National Healing, Reconciliation and Integration.

We as the Forum have been working quite closely with the Organ. I was of the first people who made a presentation to the Organ when it was formed about what we felt could be the kind of work that they could be doing.

After the Minister, we will then have my colleague Gabriel, who is working for the Zimbabwe Exile Forum. Gabriel actually works as a lawyer and he fled the country after he had been tortured, so he has been an employee of the Forum and also a client of the Forum, because the Forum litigates issues of Organised violence and torture. So we were actually representing him and now he's got a case before the African Commission. But he's not going to be talking about that today, he's going to be talking about the work that he's going to be doing around rebuilding the country. In terms of trying to ensure that issues of justice and reconciliation are actually part of the process.

Finally, we have Mr Okay Machisa, who is by profession a journalist, but also the director of Zim Rights, which is one of the oldest human rights Organisations in Zimbabwe and a member of the Forum. He will also be speaking about the work that we are doing internally in the country.

So, colleagues, please help me to welcome the Honourable Minister, she will be the first speaker.

### **Sekai Holland:**

Thank you very much. I think many people would ask why the Organ would want to be here this evening. I think there is a very simple answer, which is that Zim Forum, which they say from the beginning have expressed that they wanted to work very closely with us to see that we did what they felt a civil society Organ ought to be able to do.

However, the reason we are here is to really explain where we are coming from as the Organ, in relation to the global political agreement so that what they do and what we do, there is a harmonious relationship rather than one which is full of tension, as there would be with civil society.

The Global Political Agreement is on the internet, and many people who have read it on the internet really don't quite read it the way it would be read by people that have received it, to implement it. For me, the Global Political Agreement is a work that has taken quite a few years for people to work to achieve. I don't think that many people know that the Global Political

Agreement is the direct result of political work by several parties inside Zimbabwe.

In the year 2006, the Movement for Democratic Change made the resolution which was that we would actually launch a peaceful campaign to get ZANU-PF on the negotiating table so that we got an agreement which would take Zimbabwe forward in a transitional period of two years we would get the atmosphere reduced so that people were able to work together and really get to understand how to move the country forward.

There is an African saying which says 'what goes up must come down'. It's something that people quite forget when we're talking about Zimbabwe. That there was bound at one point for people to see that we're tired of violence, let's do something. It's a very weak document, it's a very flawed document, but it is a document with a history. When we now finish that congress, the churches fund what is called the Save Zimbabwe Campaign to now implement the democratic resistance campaign, which was to work in an environment to get ZANU-PF on the negotiating table and come up with an agreement.

Little did we know in March that the following March, on the 11<sup>th</sup>, we would be tortured so badly in a police state, in broad daylight by people who were from the services who were supposed to protect us. That led the African Union to finally come up and say to Mugabe, 'you must sit down and talk to the opposition'. And this is what we got. Very weak, very flawed, but this is what we got and this is what we have to work with.

Point 2 that I would like to make, is that unfortunately I don't have three panels here. I normally work with three panels. The panel where we were working from in 2006, when Zimbabwe was in full conflict, the panel in the middle would be where Zimbabwe is in transition. And the panel at the end would be Zimbabwe post-conflict.

Zimbabweans need to understand where we are right now, that we are in transition because there is now a political agreement among political parties. The main source of violence in our country, we are told by the different sections, comes from political parties-- it is political violence. They have put the blame on the fate of the political parties. Therefore this document coming from three political parties saying that violence will end is very important.

We are not in Zimbabwe in a post-conflict situation. We are in the middle. If you look at countries that have been in conflict around the world, you'll find that they have certain characteristics. Zimbabwe has a very weak transition. We've been in conflict for a long time. It will actually take everybody's effort to

try and understand what their role is during the transition, because the tools that we develop together in our diversity give us the tools that can actually build peace in Zimbabwe, so that we move into a post-conflict Zimbabwe that is a peaceful Zimbabwe. Something that would be very very strange, where we have non violence for so many generations.

So it's important for people, when we talk about Zimbabwe, to put it in the context of other countries. The tragedy about Zimbabwe is that it's loved so much by so many that people want to put it on its own and that it's a rare case which is extraordinarily different from other countries. If you look at other countries that have gone into conflict, you will find very clearly that we are just another country.

I would say to everybody, we've given everybody the Global Political Agreement. Article 7, is a very good section to look at what the intention of the GPA is. It's the promotion of equality, national healing, cohesion and unity. The parties hereby agree, 7 1A is very important because it says 'the parties will ensure equal treatment of all, regardless, and will work towards equal access of development for all'. For Zimbabwe, that's something extraordinary, because there has always been some provinces that are more favoured than others.

B, will ensure equal and fair development of all regions, and in particular, correct historical imbalances in the development of all the regions. If one comes from a region which has always been disfavoured, you would actually look at that clause and start to work a programme that corrects the imbalances that have gone on for so long instead of arguing about what we will do.

But 7 1C is where we talk about transitional justice. What does it say? 'The parties hereby agree that the new government shall give consideration to the setting up of a mechanism to properly advise on what measures'. So the mechanism being the Organ, our job is to advise on what measures might be necessary and practicable to achieve national healing, cohesion and unity, in respect of victims of pre and post independence, political conflicts. To me that's the 7 1C, which really gives us the mandate as the Organ to advise on what mechanisms to address pre and post independence conflicts.

Number 4 for Zimbabweans is extremely important, because this is something that our culture embodies, and up to today people still practice that. But where we then do political discourse, it's still completely lost. 'The parties hereby agree that the new government will strive to create an environment of

tolerance and respect among Zimbabweans, and that all citizens are treated with dignity'. 7 1E is about the diaspora.

Now, once we realise that our job was merely to advise, we had to come up with a methodology of exactly how we would set up a process within Zimbabwe. Where would Zimbabwe create an enabling environment so that we're able to work together to situate the mechanisms to bring peace to Zimbabwe.

And happily we live in a time when people who are not the actual sufferers of things are the ones who do the decision making, because the focus in Zimbabwe is on victims, which does not take into consideration what the Organ now really looks at as the most important aspect to understand. We think that as the Organ, we must really struggle and strive to understand the source of the violence in Zimbabwe for so many generations.

Having identified the source, we must then work to find what the solutions are. As the Organ we can do that. So, we say to the different Organisations we met, we have as a strategy an all stakeholders meeting that we will have as the final getting together, but before that we've met the traditional chiefs, we've met civil society, we've been meeting very specialised groups in different areas to actually tell them how we see things, and find out how they themselves see things.

Why do we want to deal with the source of the problem? In 1980, the then Prime Minister Robert Mugabe became a big hero to the West, because he articulated a very simple statement of reconciliation. That statement was received by the entire world and heralded as something very important. As the Organ, what makes us want to understand the source of the violence is that after that statement was articulated, what then would make it so difficult for us in Zimbabwe to maintain peace and reconciliation?

And of course the answer is, there were no mechanisms put in place to actually deal with 95 years of colonial rule, with what had happened before that, when the different military powers for the past 500, 600, 700 years have come to defeat one another and set up their new states. There has never been a mechanism put in place to build peace in Zimbabwe.

So for us, in the Organ, in talking about how to find a source of the problem, have identified history of Zimbabwe, not just the history of the past 10 years, but what is the history of Zimbabwe? The traditional chiefs of Zimbabwe hold the key to much of what we have in our society. They are the custodians of the different groups in Zimbabwe, of our history and culture and all that. They will be a very big component in the history.

Why are we bringing history in? Because we think that Zimbabwe has some very beautiful qualities which make everybody really fall in love with Zimbabwe. But it's also got some really terrible things, this violence which makes the whole world sit up and be really shocked, that people can do this to one another. So how do we create a situation where Zimbabweans are able to talk about what has happened in its fullest ugliness, its fullest beauty, and together remove the ugly things and take the beautiful ones forward?

So we have a history project that is being launched in April. We have identified a Midlands State University to get historians together and to get the different disciplines of academia as we know them today, psychologists, sociologists... at the local level, so that the intellectuals really start to talk about, within a historical context, the different events, results, of what has happened in the past.

Why did we choose Midlands State University? It's got a gender quota, it's got a quota for poor students, it's in the middle of the country, it's culturally diverse, and we just thought that it would be a good place to start this. Also we had asked experts of different disciplines to co-ordinate the other experts and we came across something that was also with the NGOs-- we don't have a culture of people wanting to work together, so we just got an institution to ask them to do it and they're doing it.

The experts will work in this area of bringing us their wisdom. Why the NGOs of this process are going to an all stakeholders meeting? Why are we choosing to do it this way, by consulting the communities first? Because we saw what happened during the constitution making process. You cannot invite 6,000 people and expect to come up with something.

I think we should look at that. We have a statistic that we've been given, that we have one million torture survivors, starting from the liberation war. If that is the case, and the main form of support, because there are no social services, are the family, it means that you have a family that is very traumatised and you have 11 million traumatised people in Zimbabwe. You've got neighbours... it means the whole society in Zimbabwe is very traumatised.

And that we need to understand how, in the Organ, is meeting each of the ministries. How do we align a health service for the country that recognises the torture survivors' needs, in terms of physical health? Psycho-social help that is family based, networks in the family, networks in the community. How do we get an education system that incorporates a 'never again' syndrome, where people really learn that what we have done in the past is wrong? How

do we get all the different ministries to understand the rule of law and to abide by that?

I know there is very deep concern about farm invasions, but I want to put it to people here that the rule of law and its breakdown includes laws such as the specification laws, where African prisoners have lost their businesses. How do we as the Organ want to address these things? We think the Ministry of Foreign Affairs, the Ministry of Home Affairs, should sit down with the Organ and start to understand a process where we really get these laws changed and get them friendly so that people do come back and have a life there.

We want to have a National Code of Conduct coming out of the stakeholders' meeting, which takes us to an the Organ as independent. We do not believe as an Organ that it is useful in such an explosive situation to make statements about things that we see. Rather, where violence is coming up, it's in a transition, it will happen... violence will come back, but it's not as much as it was.

In Zimbabwe, where the machinery of violence is still in tact, it is important to realise that the Organ must delicately work towards a goal, which is the dismantling of the violence machinery in a peace-building culture and that this job is not just for the Organ but for all Zimbabweans.

The diaspora of Zimbabwe is one of the most precious developments, and it is- I always say this at the beginning of my talks- we must thank the Zimbabweans that came out of the country, who have always sent money home for their families to survive. Some of whom really supported political parties.

The problems of today come because people have not got the environment where they can sit down together and work out how, as political parties, they're able to do these things in a politically friendly environment. But the process of national healing, reconciliation and integration is a job for all Zimbabweans, in and out of the country. It's a job for the region, for the friends of Zimbabwe, to start reducing the outrage and talk about it in a diplomatic manner.

### **Abel Chaikomo:**

You know, transitional justice, or national healing is a very emotional subject. But thank you very much, Minister, for those words. I forgot to say at the beginning as well that we at the Human Rights Forum believe in empirical evidence, always. We litigate and we only take facts to court. You don't take

assumptions and this kind of stuff. Everything we do is done on record and so this meeting, as well, is on the record, because we don't believe there's anything to hide. So even those who are going to speak, know that it's on the record. Thank you again, Minister, I will hand over to my colleague.

### **Gabriel Shumba:**

Good evening everybody. I am happy to say that since yesterday when we were in Brussels talking about the Global Political Agreement, this is the only time that we seem to be agreeing with the Minister that Zimbabwe is not yet post-conflict.

I would also like to go back to the Global Political Agreement to say that most of the aspirations that under Article 7, that have not been dealt with... Article 7 talks about equal treatment for all. This has not happened in the present Zimbabwe. It talks about equal and fair development of all regions. This has not happened. Measures and mechanisms that might be necessary and practicable to achieve national healing- this is happening through three political parties.

There is absolutely no mention of justice in this document, which is also one issue I think many people find mind-boggling, especially considering what Zimbabwe has witnessed recently.

Lastly it talks about the diaspora. Formulate policies and put in measures to attract and retain repatriation. In particular, the return of skilled personnel... it is not all of us that were tortured that are skilled. Why in particular only those that are skilled? Because the government wants something from the diaspora. But why don't we address the issue of why did we force everybody out of the country? At least it was four million or so who are presumed to be in the diaspora. If we want national healing, why do we have to look at a particular group of skilled personnel? I think those are some of the questions that arise out of our attempt to deal with the injustice.

In any attempt to have transitional justice in a country, there are fundamentals that cannot be dispensed with. Some of these include issues of redress, issues of justice to prevent recurrence. There are also issues of reconciliation- forgiveness. It's easy to forgive. It's easy for victims to forgive, but it depends on the environment. I think there are two imperatives in any transitional justice process. That the environment that gave rise to violent atrocities is no longer existent. In Zimbabwe, the environment is still the same, primarily.

We have been implicated in torture, in crimes against humans. Beginning pre-independence, she has mentioned, but also in the 1980s, 2002, 2005, 2008. These people are still roaming the streets; they are part of the power sharing agreement. Unfortunately, that environment is one that does not have power for the progressive process in the country. It is an environment that does not have any sharing or any agreement at all, judging from the day-to-day announcements that we receive from the parties.

But my choice, the arrangement is one that does not recognise those who are not part of that power sharing agreement. In fact, many of you who have been forced into exile, many of those who want to see Zimbabwe reclaim its space as one of the bread cases of the region or the world, one of the examples of democracy in Africa, will agree with me that the situation that we have is not conducive to a realisation of some of the values that we were hoping for, when, for example, we went to the elections in 2008.

Many of you who are part and parcel with the Global Political Agreement will be worried that the compromises that have been made by the MDC are such that they take away the potential to raise issues of transitional justice. The majority of Zimbabweans that I speak to are not so much worried about the compromises themselves, but are worried about the effect that MDC will be compromised in the unity government, which is not united anyway. I think if you look at what is happening, the recurrence of violence, the setting up of militias... you will actually agree with me that it's an environment of impunity that's still happening in the country.

What do we expect to happen with the launch of the diaspora transitional justice programme? We hope that through this programme, at least for those that are still in the diaspora, will be able to work with forces and structures in Zimbabwe, including the Organ itself, that are committed to ensure that the broader political, human rights, as well as the social, economic, environment, will improve. But also looking at the justice aspect itself, to ensure that those that have committed atrocities will be brought to book.

We may have our different interpretations of how much weight we should place on the justice element of the transitional process. How much weight should be placed on the reconciliation angle, but I am sure that the diaspora has a keen interest in this. As I have said, the majority of the four or so million people who are in exile today, have been one way or another faced the atrocities that we have witnessed in the country.

We also hope, as civil society, that this process will engage the process and will also lead to a common position with those who are in the country who are

survivors of torture and other abuses, to ensure that a structure, in the form of a Truth and Justice Commission will be set up to investigate independently. We also hope to psycho-social and other treatment, of those who have faced the abuses.

Maybe let me end by announcing that Zimbabwe Exile Forum will be launching a similar project in March. This venture is part of a process that is done jointly with the Zimbabwe Human Rights NGO from there, and we are able to say that the Minister is also keen to assist us in this process. I will leave my intervention to answering any questions later on. Thank you very much.

### **Okay Machisa:**

Greetings from Zimbabwe. The danger of speaking last is that one could be rushed or you end up repeating what everybody has said. Nonetheless I am not going to find anything very difficult, because I have got something that is new, that you might also be interested in.

The first thing I want to say on behalf of the Forum is that the Global Political Agreement which we have today is an agreement which favours Mugabe. And Mugabe is failing completely to implement the agreement which favours him. I'm not going to be very radical as a civil society person, but I think I will treat some of these things in reality.

What I am trying to say is, yes, I know I went to vote in 2008. I voted for a political party that was denied power and for me power is the effort of a commanding B to do what A should reluctantly do. Or B cannot say anything to A. Did I confuse you enough? In other words, I am saying that power is like, I should command you to do something. But you can't command me to do something. Precisely why Bennet is not being sworn in, because MDC is actually reluctant to tell Mugabe that. But you have selected your own ministers. This is our own deputy minister, but Mugabe is saying 'no, we can't swear him in'.

So A is actually telling B what to do. I don't want to dwell on that. I just want to go back to the scenario that we are in in Zimbabwe now. That we have a country that is an egg. An egg that I am going to put in four categories. The cracking stage, the peeling stage, the wedding celebration and the honeymoon. Yes, we've agreed the cracking. We've achieved the cracking of the egg and we've seen signs of cracking. And we are happy that our effort has been recognised.

Now where is the Forum coming in? Well, it assisted in cracking the egg. But the busy part of it is in peeling. If you tried to boil an egg, there is an egg that is very difficult to peel. You end up peeling with something that you should be eating. So this is where we are. And it's a very difficult egg to peel. But we are confident or we are happy that we are trying to peel an egg that is showing some signs of cracks. We haven't actually gotten into the process of the wedding celebration, let alone the honeymoon.

So what I am saying today, where we are as a Forum, we have realised that there is a very important component in peeling, which is transitional justice. And precisely why we are launching this process today.

Where do we derive source of violence? We derive it in Zimbabwe from any election. Each time we have elections in Zimbabwe, that's when Mugabe really knows that he will release the reign of terror. I have no apologies today that violence that is perpetuated by ZANU-PF has caused many of us to flee the country. And we are really happy that something is taking place on the ground. The Forum today is happy because it has conglomerated Organisations in Zimbabwe to take transitional justice into the communities.

I belong to an Organisation called Zimbabwe Human Rights Association, as a National Director. And we are happy to be associated with the Forum. But I am talking also on behalf of Zim Rights. We are a grassroots Organisation and what we have started to do on behalf of the Forum is to try to make that we have provoked the communities to take part in defining what they think should be a healing process.

I believe the Organ here today, represented by Honourable Sekai Holland, is able to associate with NGOs and we are very happy that we are working with the Organ. There are shortcomings, of course, but that the Organ is trying to work with the Forum is an encouragement.

So what are we doing on the ground? We are making sure the people in the communities have defined the ways that they think are the possible parts to make communities healed. Last year in October, the Forum invited a number of civil society leaders to go to what we call Theatre in the Park, to watch a drama programme. This is a very powerful production which a lot of civil society organisations realised that it is a tool that can be used in the communities to provoke debate.

We have done thirty productions and we have filmed, what we are interested in is the discussions after the theatre production. I want to tell you that I witnessed one of the productions and the discussions where a woman clearly just in front of the video camera explained the ways she was tortured. She

told everybody that 'I was forced to open my mouth and someone urinated in my mouth'. This is clear, on the camera. I want to tell this gathering that the Forum is busy collecting a lot of information from the communities. Visual evidence, audio evidence. It is in a process that we think the Organ would be very happy to have this typical evidence in their hands.

I wanted to say something about the diaspora, but I think Gabriel managed to say that. But what do we think that the Organ should work on? We think the Organ should stop state media from hate language. On daily basis we see state media perpetuating hate language. So if the Organ could just stop that, it would be helpful.

Intervention in the security sector would be very welcome. Because these are the people that unleash, that really torment the souls of the people- the army, the police, paramilitary. We also feel that the Organ, using their power, should actually stop farm invasions. Because a lot of people are suffering, even the farm labourers. There are so many things I could talk about but I don't have time. But I would like to thank the Forum for giving me these 10 minutes for something I could say for two hours. Thank you very much.

### **Abel Chaikomo:**

Thank you very much. This is how you reach the Zimbabwean communities, you can see by the divergent views that we have. And yet, you can see that the divergent views can also sit at the same table. It's something positive. Precisely why, perhaps, Zimbabwe has not gone into some state that other African countries have gone into. We are able to still take jokes out of a difficult situation.

I think we have heard the three panellists speak. These are the views from inside Zimbabwe; from the diaspora side, and from the government. The reason why, speaking as the Director of the Human Rights Forum, why we find this all important for us to continue to engage with this government, even though of course it is not a perfect arrangement. Somebody says power can never be shared. But we believe that it is not a permanent arrangement.

It's a transitional arrangement and I think for many years, Zimbabwe and human rights activists... I have been referred to internally as the person who always makes reference to, we are used to the demand side of rights. Demand side of good governance. Now we are being called on to be civic actors- supply side of the things we've been demanding. We want to make sure that this arrangement can perhaps make some meaningful reforms to the security sector, to the media, to the electoral laws. So by the time we get

to the next election, perhaps, things will be different. We want to be there to help provide the alternative. So we are not saying it's a perfect arrangement, but we also want to challenge the ministers and the government and say 'it can be done'.

That's why we are going to the communities and bringing the same government, saying this is what the people are saying on the ground. That the traditional leaders are being politicised, they are behind the violence and therefore cannot be parties in this kind of process. However, they are traditional leaders. So how do you bring them on board? We're trying to find alternative ways of dealing with this kind of issues.