World over, there has been a remarkable increase in the prevalence of conflicts. While these have taken various forms, it has been widely argued and proved that it is usually the ordinary citizen who suffers more. Worse-still women and children among other vulnerable groups remain the hardest hit. Since 1970, more than 30 wars have been fought in Africa and most of these are internal and not wars between countries. In some cases, the conflicts result in serious loss of human life. In 1994, in a space of 90 days close to a million people about 20% of the Rwandan population at that time was killed in Genocide in Rwanda. After the genocide, efforts were made to try and address this inhuman act by bringing those who masterminded and executed it to justice. This was achieved by way of a hybrid Transitional Justice process. Transitional justice generally refers to legal or non-legal processes in which past injustices and violations are systematically addressed. It is a premeditated process of addressing the wrongs of the past the period can date back as far as those spearheading it choose.

Though used synonymously with national healing, the term refers to a more authoritative route, focusing more on righting past wrongs than on helping people forget the past and open fresh pages in life. In its best form, Transitional Justice attempts to strike a balance between the fears of the perpetrator and the demands of the victim, the Prime Minister of the Republic of Zimbabwe, Morgan Tsvangirai always allude to this fact when asked to talk about the possibility of Transitional justice process in Zimbabwe. In Shona there is a common adage which says Kugara nhaka huona Dzexamwe...this simply means for someone to engage in a life changing engagement, there is need to tear a page from other person’s book. Zimbabwe surely can learn something from Rwanda.

**Elements of a Comprehensive Transitional Justice Policy**

The different elements of a transitional justice policy are not parts of a random list, but rather, are related to one another practically and conceptually. The core elements are:

1. **Criminal prosecutions**, particularly those that address perpetrators considered to be the most responsible.
2. **Reparations**, through which governments recognize and take steps to address the harms
suffered. Such initiatives often have material elements (such as cash payments or health services) as well as symbolic aspects (such as public apologies or day of remembrance).

3. **Institutional reform** of abusive state institutions such as armed forces, police and courts, to dismantle—by appropriate means—the structural machinery of abuses and prevent recurrence of serious human rights abuses and impunity.

4. **Truth commissions** or other means to investigate and report on systematic patterns of abuse, recommend changes and help understand the underlying causes of serious human rights violations.

**Transitional Justice in Rwanda**

Rwanda’s post-genocide experience with transitional justice is varied and complex. The Rwandan case study presents two distinct transitional justice strategies which are the **International Criminal Tribunal for Rwanda (ICTR)** and the grassroots **Gacaca courts**. By definition, The ICTR is an ad-hoc United Nation’s institution with an international jurisdiction, located outside the territory of the population affected by the violence, and uses formal trial and punishment procedures. Both the tribunal’s successes and failures have been instructive for the design and execution of future transitional justice strategies, such as the International Criminal Court (ICC). On the other hand, Rwanda’s Gacaca courts sought to provide a kind of justice that is **both institutionally and culturally different from the ICTR**. For better or for worse, Gacaca’s restorative justice principles of community participation, truth-telling, and reintegration have a much greater impact on local communities than the ICTR. However, these two were embedded in a law developed in 1996 called the organic law. As a way of drawing lessons from these transitional justice instruments, there is need for a brief explanation as to their structure content and mandate.

**Organic Law**

The legal foundation for genocide prosecutions in Rwanda was Rwanda’s Organic Law; this law was developed in 1996 and had a temporal jurisdiction of 1 October 1990 to 31 December 1994. The Organic Law is most significant for its categorization of criminal responsibility: category one is for the most serious criminals and comprises those in a position of authority and orchestrators; category two comprises perpetrators and accomplices; category three is for those who looted or stole property.

**The ICTR**

The Security Council acted upon the Rwandan Government’s request under Chapter VII of the United Nations Charter to establish the International Criminal Tribunal for Rwanda in 1994. The Statute of this Tribunal closely resembles its sister tribunal in The Hague, the International Criminal Tribunal for Yugoslavia. The ICTR is located in Arusha, Tanzania and is composed of three organs: the Chambers and Appeals Chamber; the Office of the Prosecutor, in charge of investigations and prosecutions; the Registry, responsible for providing overall judicial and administrative support to the Chambers and Prosecutor. A Deputy Prosecutor to assist with prosecutions before the ICTR is based in Kigali. The ICTR has a temporal jurisdiction of 1994 and its mandate is to prosecute the leaders and masterminds of the Rwandan genocide. Despite its characterization as international justice, the International Criminal Tribunal for Rwanda has both the mandate and institutional components to foster local ownership of transitional justice within Rwanda.

**GACACA Courts**

Gacaca, meaning “justice on the grass”, is an indigenous dispute resolution mechanism that was reinvented by the post-genocide Rwandan Government to judge genocide cases in local communities. As a primarily restorative justice strategy, Gacaca’s processes of community participation, truth-telling, and compensation were meant to achieve reconciliation through a
swift and culturally appropriate mechanism for accountability. While **reconciliation was the ultimate goal of Gacaca**, its practical benefits cannot be ignored. Rwanda’s prisons were overcrowded and the number of suspects estimated at over 761,448 in all categories of criminal responsibility. The approximately 12,000 Gacaca courts spread across the country were able to prosecute these cases more quickly than a national court system.

**Lessons for Zimbabwe**

**Government involvement**

In all the transitional justice mechanisms that Rwanda used, the role played by the Government of Rwanda (GoR) brings critical lessons for Governments in Africa who are faced with the need for some form of transitional justice. In setting up the ITCR, it is the Government of Rwanda that requested the UN and the Security Council acted upon the Rwandan Government’s request under Chapter VII of the United Nations Charter to establish the International Criminal Tribunal for Rwanda in 1994. The idea of realizing that criminal activities that happen in a conflict require the involvement of the International Criminal Court (ICC) and its special courts like the one set up in Rwanda is something the Inclusive Government in Zimbabwe can adopt.

The organic law which formed the legal foundation for all genocide prosecutions was a Government initiated and supported piece of legislation. The government of Zimbabwe has for the past three decades failed to come up with legislation that seek to provide for transitional justice prosecutions. The only attempt was the setting up of a Human Rights Commission which to date is still in its infancy. It is however not certain that the presence of a commission to investigate human rights abuses can lead to prosecutions because there is no law to support it. Worse still there is an attempt by the commission to deliberately ignore human rights abuses that happened before September 2009.

The Government of Rwanda also supported the Gacaca process after realizing the failure by national courts to cope with the pressure of suspects awaiting prosecution. The Government was at the forefront of establishing the new Gacaca courts across the country. To show its desire for the success of the Gacaca, it established the **National Service of Gacaca Jurisdictions (NSGJ)** with full Government administration support. To show the support of Government, the Gacaca fell under the Ministry of Justice like all other courts of Rwanda. Justice Minister Edda Mukabagwiza once showed her commitment to see Gacaca processes succeed when she told the New Times: “**nobody should fear; witnesses should give their testimonies freely and the suspects should be able to co-operate and not intimidate or cause harm to witnesses.... Maintain the security of witnesses and survivors**”

The Government has also the duty to pursue other non legal process such as reparations. The Government of Rwanda made efforts towards this and by 2001 a draft law was in place for a compensation scheme put forward by the Ministry of Justice to Parliament and the Senate. However for the Rwandan Government, compensation was only to the poorest of survivors in the form of health and education assistance. The compensation scheme acquired funds from the Government, donors, and assets seized from wealthy perpetrators. Zimbabwe has a far less number of victims compared to Rwanda therefore there is no need for segregating victims. To carryout compensation, Zimbabwe can make use of its vast natural resources. If resources are well managed, a compensation fund is not only viable but feasible. Assistance from donors will not be necessary. As a way of appealing to victims to consider national healing and reconciliation, there might be need to consider having well known, rich perpetrators and in most cases are politicians contribute to the compensation fund as a way of acknowledging their ills. The magnitude of the Zimbabwean conflict is lower than that of Rwanda and victims in Zimbabwe know those who looted their property and in some cases victims see their property in
the possession of the perpetrator. In that case, the Government has a very simple task of forcing those who looted victims’ properties to return them to the owners.

Another lesson from Rwanda is the use of traditional justice delivery mechanisms. Zimbabwe like Rwanda has a very strong Traditional Leader’s Act that gives Chiefs the power to preside over cases of political violence where the perpetrator and the victim are under the same chief. The Gacaca are more ideal in that they are culturally and traditionally driven. Generally Zimbabwe, though declared a Christian nation, it still observes and upholds its cultural norms. Once a community agrees on a way to reconcile and maintain peace in a certain cultural way, it simply means the people in that community will follow the initiation taken by its community leaders and feel very comfortable to make contributions as they will be taking such initiatives to be theirs-for their own good. Following the 2008 political violence, there are some traditional leaders who have brought known perpetrators before their Dare an equivalence of the Gacaca. Some of these cases have resulted in smaller crimes such as looting and minor assaults being resolved by the presiding Chief’s counsel. This also encourages good conduct even during times of conflict as it encourages unity and oneness in communities and also acts as a deterrence measure to future offenders.

The success story from Rwanda was also premised on truth telling. The empirical significance of truth-telling is evident in the large number of truth commissions operating in post-conflict regions of the world. Furthermore, truth-telling is advocated as an important restorative justice value for its ability to reconcile and heal survivors and perpetrators, and provide both knowledge and acknowledgement of the crimes committed. Acknowledgement is particularly necessary when crimes have been committed in a political and social environment of myths, misinformation, and secrecy. In Rwanda the benefits of healing, reconciliation, knowledge and acknowledgement came from truth-telling and there was a lesser punishment for those who would tell the truth. Truth telling on the conflict in Zimbabwe has been a missing link for the desired national healing and peace building, as a result, the Zimbabwean conflict has since before independence been a vicious cycle where those who were victims at one time become the perpetrators and vice versa. The truth to the nature and execution of organized torture and violence has not been told. Rwanda recorded success in the Gacaca because the courts rewarded truth telling. The Government of Zimbabwe may need to take the lead and publish the truth pertaining to what happened to political violence victims that alleged to have disappeared or tortured by state agents. Politicians who have been involved in supporting or financing violent campaigns seeking political office should also lead the way to encourage ordinary perpetrators to follow in truth telling. The need for State involvement and commitment to transitional Justice comes out clearly as the secret behind whatever Rwanda achieved in its Transitional Justice process. 

**Let's continue fighting for the establishment of a Truth, Reconciliation and Justice Commission in Zimbabwe before the holding of an election in the country.**

Mission: To rebuild national cohesion through national tolerance and peaceful coexistence in local communities.