

THE ECONOMIC COSTS OF POLICE BRUTALITY IN ZIMBABWE

**A study of public expenditure caused by police violence against
civilians during the social unrest in July and August 2016**

A report produced by

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1.0 INTRODUCTION

This study investigates the direct and indirect economic costs of police brutality on victims in Zimbabwe, from events related to the social uprising between July and August 2016. Establishing the economic costs of police brutality provides the basis for determining requisite compensation for victims' loss of earnings; medical and hospitalization expenses; funeral expenses and for the dependants' loss of maintenance. Collating information on the economic costs of police brutality also enables society to identify adequate responses for future police brutality episodes, recommend modalities for community policing programs, develop stronger policy (such as the costs of health care, including specialist and rehabilitation treatment) and lobby for the need for security sector reform.

Zimbabwe witnessed social unrest reminiscent of the 1998 food riots between June and September 2016, characterised by a wave of demonstrations, protests, stayaways, and a national shutdown across all major cities and towns. The social unrest emanated from unresolved national grievances over corruption and the deterioration of social and economic conditions. Social movements, born out of the realisation that the state had been unresponsive to formal and informal complaints mechanisms, facilitated the mobilisation of citizens to make their voices heard by protesting against poor governance and lack of accountability. Under the banner of social movements such as #Thisflag; #Occupy Africa Unity Square; National Vendors' Union of Zimbabwe, #Tajamuka/Sesjikile, and others, the activists used platforms such as whatsapp and Facebook to mobilise citizens to protest in what became an international movement in the virtual (web or internet) sphere. Across the country a host of residents' and traders' associations took to organising and mobilising for the protests. Following failed attempts to reverse controversial Statutory Instrument (SI) 64 of 2016, which prohibits importation of specified basic goods, social movements planned for a national country shutdown on 6th July, through a total stoppage of all business, formal and informal, as well as traffic movement. Government responded by using the state media, some legislative pieces and the might of the law enforcement agencies to suppress the protests.

The state-citizen conflict became more pronounced when opposition political parties joined the fray by demonstrating for a fairer electoral platform. In particular, there were demonstrations organised and convened by the National Electoral Reform Agenda (NERA), a coalition of opposition political parties. Police reacted to the demonstrations by using live ammunition, setting police dogs on people and spraying teargas indiscriminately to quell demonstrations .

Arbitrary arrests and torture of citizens became widespread, with Zimbabwe Lawyers for Human Rights (ZLHR) estimating that 600 protest-related arrests were made between June and August 2016. A total of 19 journalists were either assaulted or arrested and detained while conducting their lawful and constitutionally protected responsibility of reporting¹. Over 300 cases of torture were recorded by various civil society organisations. Government violated citizens' rights to personal security; liberty; freedom from torture, inhuman and degrading treatment and punishment; and arbitrary arrests and detention.

Social media and the independent press captured human rights violations by the police. Despite the availability of irrefutable image and video evidence of torture perpetrated by police, government remained unresponsive to public concerns on police violence against citizens. Government even went further to attempt to clamp down on social media to stifle generation and public sharing of evidence of police brutality.

These rights violations culminated in the deprivation of liberty, injuries, physical and economic displacement. The cross-section of national and international organisations unanimously agreed that the observed levels of police brutality were excessive. In a strongly-worded statement on 28 August, calling on the police to respect citizens' rights, the Zimbabwe Human Rights Commission (ZHRC) condemned police brutality. Similarly the Zimbabwe Christian Alliance, Zimbabwe Human Rights NGO Forum, the European Union Delegation in Zimbabwe and a Cabinet Minister condemned police brutality, describing it as unacceptable, violating the Constitution, contravening international human rights law, erodes government's legitimacy and soiling Zimbabwe's image².

¹ MISA-Zimbabwe, Media Freedom Monitor, May –September 2016

² Cited in Newsday 19 August 2016

1.1 Motivation for the study

The administration of justice the world over focuses more on the offender, to the exclusion of the rights, needs and interests of victims. The costs of peace-keeping, law enforcement and the administration of justice that are state-funded are all justified as being for the social good. The abuse of peace-keeping and law enforcement, also termed police brutality, constitutes state-sponsored violence, which remains funded or subsidised by the state. State-sponsored violence makes deliberate attempts at evading liability. Victims of police brutality are usually labelled criminals and thereby automatically become ineligible for state-funded assistance to address the effects of the violence. In the absence of empirical data on the costs borne by victims of police brutality, the tendency for funding, law enforcement and peace-keeping at the expense of respecting the rights to life and freedom from torture, inhuman and degrading treatment and punishment, is often overlooked.

Victims may require psychosocial and medical attention, special protection, and compensation. The *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)* defines victims of abuse of power as “*persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power*”. It specifies victims’ rights of access to justice and fair treatment, restitution, compensation and assistance. The *Guide for Practitioners Regarding the Implementation of the Declaration To promote implementation of the Declaration* contains principles that they “*apply, without discrimination, to all countries, at every stage of development and in every system, as well as to all victims*”, placing “*... corresponding responsibilities on central and local government, on those charged with the administration of the criminal justice system and other agencies that come into contact with the victim, and on individual practitioners*”.

Human rights violations are acts committed in the name of, or on behalf of, the state by government representatives (usually the security or law enforcement officials). States have a

legal duty to ensure the effective protection of human rights, through prevention of human rights violations, provision of domestic remedies, investigation of alleged human rights violations, prosecution of suspect; punishment of those found guilty, provision of restitution or compensation to victims of human rights violations, and addressing the problem of impunity for human rights violations.

Most governments, in both the developed and developing world, subsidize police behaviour and misconduct by taking liability for their actions through having inadequate policies for managing and enforcing police conduct or permitting policy non-compliance. Credible and effective monitoring of human rights violations makes a contribution to social accountability. Human rights monitoring and lawsuits against offending state agents for responsive governments can inspire better oversight, policing and accountability.

1.2 Applicable laws and standards

To show that the cost incurred by victims of police brutality do not fall within regular and acceptable individual responsibilities for expenditure, the following provisions from the Constitution of Zimbabwe are applicable to show police were liable for the cost of managing brutality they meted on citizens:

- Section 219: police are obliged to protect and secure the lives of people and property; maintain law and order and uphold the Constitution and enforce the law without fear and favour.
- Section 208: police conduct should be non-partisan; not further the interests of any party or cause or violate the fundamental rights of any person.
- Section 53: the subjection of anyone to physical or psychological torture and inhuman, degrading treatment and punishment is prohibited and unlawful.
- Section 59: guarantees the freedom to demonstrate and petition.

International human rights legislation outlaws police brutality. The following laws, principles and guidelines are applicable:

- Harare Resolution on the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) Code of Conduct for Police Officials. Article 1 of the SARPCCO states that *“In the performance of their duties, police officials shall respect and promote human dignity and maintain and uphold all human rights for all persons”*.
- Code of Conduct for Law Enforcement Officials (General Assembly Resolution 34/169 of 17 December 1979);
- UN Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment;
- UN Basic Principles for the Use of Force and Firearms by Law Enforcement Officials;
- UN Basic Principles for the Treatment of Prisoners;
- the International Covenant on Civil and Political Rights, 1966;
- International Covenant on Economic, Social and Cultural Rights of 1966;
- International Convention on the Elimination of All Forms of Racial Discrimination of 1965; Convention on the Elimination of All Forms of Discrimination against Women of 1979;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984;
- Convention on the Rights of the Child of 1989; and
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985.

A United Nations report³ on the quantification of the costs of political violence identifies the following as economic losses:

- immediate injuries such as fractures and hemorrhaging, and long-term physical conditions (e.g. gastrointestinal, central nervous system disorders, chronic pain);
- mental illnesses, such as depression, anxiety, post-traumatic stress disorder, attempted suicide;

³ Bott et al., 2005; TC-TAT, 2008; UN General Assembly, 2006; Walby, 2004

- sexual and reproductive health problems, e.g sexually transmitted infections (including HIV); sexual dysfunction; unintended or unwanted pregnancies and unsafe abortion; risks to maternal and fetal health (especially in cases of abuse during pregnancy);
- post trauma substance abuse (including alcohol);
- lost workdays, lower productivity and lower income;
- overall reduced or lost educational, employment, social, or political participation opportunities;
- expenditures (at the level of individual, family and public sector budgets) on medical, protection, judicial and social services; and
- medical, protection, judicial and social services.

There are direct and indirect costs of political violence on victims. Direct costs are those easily attributable to the violation, such as medical, non-medical and productivity costs that affect the victim. Indirect costs have impacts beyond the violation period, beyond direct victims and resulting as a consequence of, but external to, the violation. In cases of both fatal and non-fatal victimization, victims and their relatives or friends can report on the costs of injury, both mental and physical; productivity losses and property damage as costs. Costs submitted by victims, their relatives or friends require validation. Small costs or costs of addressing minor injuries may be forgotten to become missing data; cumulative costs of managing serious injuries may not be recorded; and standard tariff charges are not always applied by different service providers or health insurance firms. Such factors affect the total direct and indirect costs of managing violence aftermaths.

1.3 Study methodology

A desktop study was carried out using source records that involved registered victims of police brutality who had already received medical and psychosocial assistance from the Counseling

Sevices Unit (CSU). Contained in the source records⁴ were the presentation of injuries sustained through police brutality, types of weapons used by police; victim background details; the nature of the violation; medical determination of the severity of the injury; the presentation of physical and mental trauma; site of the injury; and victims' narratives of the incident in which they were brutalized by police, detailing what had transpired, why, where and when.

The study population comprised of 19 randomly selected victims of police brutality from a population of 224 victims that had already been attended to by CSU between July and August 2016. Following a review of the source documents, a semi-structured questionnaire was administered to the study participants. The semi-structured questionnaire allowed researchers to capture anticipated response types and capture unpredictable responses that could not be categorised. Semi-structured questionnaires provide room for probing to get clarifications on information volunteered by respondents.

The data collection process involved calling potential study participants on mobile numbers they had provided to CSU, requesting interviews and meeting them at agreed venues, in consideration for the participants' safety and anxiety. Study participation was voluntary and confidentiality was guaranteed.

1.4 Data validation

Information on the names; contact details; medical assessments, therapies prescribed and costs, as well as legal interventions carried out, was made available from the non-state service providers for legal, medical and psychosocial assistance. The personnel in these service provider organisations is experienced and appropriately trained and registered to operate. Information sourced from the victims was on direct and indirect costs that were not covered by assistance from service providers. Calculating the costs of political violence to victims is a challenging task, demanding rigour in the validation process. Data collection for this study involved the following:

- medical costs/expenditure provided for and documented by an organisation that provides medical and psycho-social assistance
- legal costs/expenditure provided for and documented by an organisation that provides

⁴ from member organisations of the Forum consortium that provide legal, medical and psychosocial assistance to victims of organised violence and torture

- victim/family-sponsored medical costs reported by victims, confirmed by medical personnel in organisation that provides medical assistance as costs incurred before realistic and consistent with observed injury presentations
- property losses reported by victims⁵
- income loss reported by victims, calculated on a 4 week basis using daily or weekly rates.

To validate figures provided by the study participants as direct and indirect cost expenditures incurred following the effects of brutality by the police the following was done:

- identification and validation of fee structures⁶ for health service provision by General Practitioners, Medical specialists, public and private medical institutions
- referrals to appropriate specialists or service providers for cost structures
- identification and validation of specified drug costs in retail pharmacies
- mini-cost (including internet) surveys for cited commodity prices for property lost

1.5 Nature of violations

Fig 1: Sten Zvorwadza lying down after brutal assault by police



Picture courtesy of Newsday

⁵ could not be validated with police reports of property damage or loss as the police would be implicated and considered unreliable sources of validation.

⁶ including consultation fees, bed facility costs and specified procedures

Fig 2: Police brutalising unknown victims



Photo: Courtesy of Newsday

Police brutality constitutes torture, defined as *“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed; such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”*.

The numerous injuries arising from the torture included the following:

- psychological trauma
- eye, dental and chest traumas
- depression/mood disorder
- soft tissue injury
- trauma to buttocks
- head injury
- sepsis infection
- genital injury

- laceration

Fig 3: Victim with visible lacerations



Fig 4: Victim with head and neck injuries



All victims were subjected to torture and underwent pain and suffering. For the purposes of this study all victims who had been subjected to arbitrary arrests and detained were subjected to inhuman and degrading treatment and punishment. This determination was made after acknowledging that arresting officers effected arrests for purposes other than law enforcement during the period of social unrest. As a result most victims were released without charges, or their charges were altered to enable them to pay bail and leave remand.

Treatments for victims were provided by private health care providers. Medical assistance was available for victims who were aware of the existence of such a facility or who were referred for such assistance.

Medical presentations of the injuries involved pain, deformity, anxiety, psychological trauma; depression or mood disorders, lacerations, abrasions and fractures. The distribution and description of the violations emanating from police brutality are as shown in Table 1.

Table 1: Nature of violations

Violation	Victims affected	Description of violation	Effects of violation
Torture	19 (100%)	Assaults by riot police with baton sticks and rifle butts; chasing by police for purposes of assault or arrest; being set upon by dogs;	General body pain, genital pain; high blood pressure; temporary to permanent disability affecting tooth functions, sight and bodily functions control
	6 (32%)	Adversely affected limbs such as teeth, eyes, jaws, legs and internal injuries compromising bodily functions e.g incontinence	Temporary to permanent disability
Inhuman and degrading treatment and punishment	9 (47%)	Unwarranted arbitrary detention	Loss of liberty; stigma; anxiety
Property losses	11 (58%)	Seizure, appropriation of induced loss of property that includes trading wares, mobile phones, personal documents, spectacles etc	Inconveniences; replacement costs
Right to work and earn a living	8 (42%)	Direct or indirect impediments to working or making a living	Temporary income loss
Displacement	4 (21%)	Forced to find alternative places of residents for safety	Life-style changes with associated costs

As Table 1 shows, 9 (47%) of victims were subjected to inhuman and degrading treatment and punishment through arbitrary detention; 11 (58%) suffered property losses involving movable and immovable property; 6 (32%) suffered temporary to permanent disability affecting tooth functions, sight and bodily functions control; 8 (42%) suffered temporary income loss; and one victim developed incontinence as a result of their assault and 4 (21%) were physically displaced.

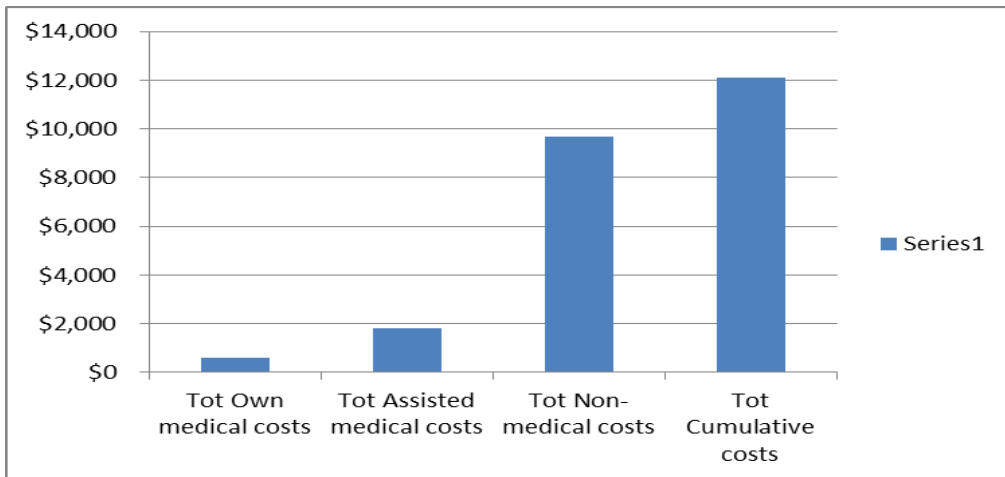
2.0 Police brutality costs

The total medical costs used to cater for 19 victims of the police brutality between July and August 2016 was \$1806.02, the average cost per victim was \$95.05. For 4 (21%) of the victims the actual medical costs could not be established as they used medical health insurance to pay for some of their medication and medical procedures. The medical expenditure for all victims catered for drugs, and general and specialist medical services to deal with cases of moderate to severe and blunt physical and psychological traumas.

From the sample 11 (58%) clients incurred medical costs on their own prior to, or after, medical assistance. The highest recorded cost paid by an individual victim for their treatments was \$330, while the least was \$4. The upward variance of costs paid by individuals in addition to medical assistance Medical assistance contributions to victims was between \$0.02 and \$483.84 while those who had to pay more from their pockets in addition to medical assistance used between \$15 and \$152.73. Individuals on medical insurance benefited from this facility although the actual expenditure paid by medical insurance could not be ascertained. Economic losses to the victims were a staggering \$10 299. Non-medical costs, covering property loss, legal costs and loss of earnings totaled \$9 424 for 16 (84%) of the 19 victims, the least cost for non-medical costs for the 19 individual victims being \$90, while the highest cost was \$1700 with an average of \$483.80. . A mere 3 (16%) victims did not suffer any losses involving non-medical costs. For the 10 (53%) victims who were arbitrarily arrested, bail payment was at \$100 per victim. From the 16 victims, 8 (50%) suffered losses below \$500, 6 (38%) suffered losses between \$500 and \$1000 while 2 (13%) suffered losses over \$1000.

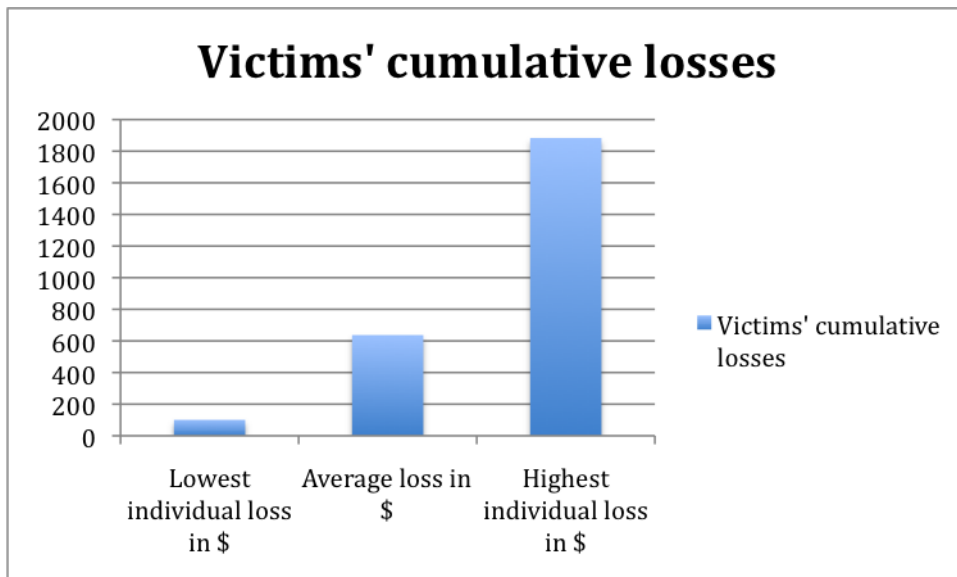
The cumulative costs of medical and non-medical costs incurred in mitigating the effects of police brutality by non-state service providers, as well as the victims themselves, for 19 victims in Harare and Epworth was \$12 097.02. The lowest cumulative figure per victim was \$101, while the highest cumulative figure per victim was \$1883.06, with the average cumulative total being \$636.69. There were massive differences between the total of expenditures in the cumulative costs as shown in Fig 5.

Fig 5: Cost summary



Variations between cumulative costs incurred by individuals were also stark as shown by Fig 6.

Fig 6: Individual variations of cumulative losses



Through these cost differences, and the variation between the lowest and highest costs, it is clear that individual's capacity to meet the costs of the effects of police brutality is very limited. The cost of police brutality cannot only be interpreted as the cost of medication because there are direct and indirect costs incurred by victims, some of which are non-medical.

3.0 Conclusion

The cumulative figure of \$12 097.02 for losses incurred by 19 victims over a two month period may not appear excessive. The sample size of 19, however, represents 8.5% of the 224 victims comprising the study population, and the study population does not form the entirety of the population affected by police brutality countrywide. With an average of \$636.68 of cumulative costs for victims of police brutality in one month, this represents a figure way above the average monthly salary of a civil servant. Individuals have a limited capacity to sustain such costs and the state itself is failing to provide budgetary support to either the public health system or the judiciary system. The costs established in the survey are preliminary rather than definitive - they exclude direct losses of emergency response services, health and other insurance, fringe benefits, and non-monetary losses, pain, the deterioration in the quality of life, and the costs society incurs to prevent future crime.

The state has the obligation to respect, protect and fulfill human rights. State sponsored violence erodes a government's legitimacy to govern. State sponsored violence that is systematically planned, financed and deployed against the country's citizens, using state resources, violates the Constitution and contravenes international human rights law. The police, in accordance with Section 208 of the Constitution, should not violate the fundamental rights of any person. Section 201 of the Constitution provides for an act of Parliament that should create an effective and independent mechanism for receiving and investigating complaints from members of the public about misconduct on the part of security services, and remedying any harm caused by such misconduct.

It is hoped that the Zimbabwe Human Rights Commission, which has already condemned police brutality, will not be impeded in its efforts to carry out investigations as appropriate. The Government of Zimbabwe should abide by the provisions of the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Social, Economic and Cultural Rights (ICESCR), the Universal Declaration on Human Rights (UDHR) and the African Charter on Human and People's Rights (ACHPR) which all protect citizen rights that are being abused by police through torture, inhuman and degrading treatment and punishment. The Harare Resolution on the Southern Africa Regional Police Chiefs Co-operation Organisation (SARPPCO) Code of Conduct for Police Officers prohibits torture by specifying "police officials shall respect and protect human dignity and maintain and uphold all human rights of all persons". Police violence against citizens is a threat to the security and well being of citizens. It will never be an option for the actual redress of the current socio- economic challenges bedeviling the country. The government's pariah status is not a result of tainting by non-state actors, particularly human rights NGOs, but its own lust for violence through its security apparatus. The human rights of citizens are not at the discretion of the state, but are claimable and justiciable rights, for which individuals and office bearers at some point will be held accountable.