

AMANI TRUST

Heroism in the Dock: Does testifying help victims of organised violence and torture? A pilot study from Zimbabwe.

**A Report prepared by the Mashonaland
Programme of the AMANI Trust.**

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Introduction

This monograph focuses on the effects upon the victims of human rights violations from testifying in the election petitions that took place in the period following the June 2000 Parliamentary elections. The General Election marked the first time a strong opposition party, the Movement for Democratic Change (MDC), had challenged the ruling Zimbabwe African National Union – Patriotic Front (Zanu (PF)) in the political arena. In the General Election the MDC won 57 out of 120 contested seats but the price paid for these democratic gains was high. This was perhaps the most violent election in Zimbabwe's history, with killings, wide scale torture, threats and intimidation and property damage around the country. The organised violence and torture continued through the various bye-elections held in 2000, 2001, and persisted into the Presidential Election in 2002.

Following the General Election, the MDC brought legal challenges to the High Court of Zimbabwe in 38 constituencies in an effort to contest the election results in those areas. They alleged that the violence perpetrated by Zanu (PF) agents, with the knowledge or active participation of the Zanu (PF) candidate at the time, unfairly affected the outcome of the vote in these constituencies, and thereby violated the Electoral Act of Zimbabwe. The MDC asked in their petitions that the results be overturned, and that elections be held again in these 38 constituencies. The MDC additionally requested that, if any member of parliament was found guilty of election misconduct, that member be rendered ineligible to run for public office for five years.

The trial of 39 cases (Zanu (PF) submitted one case as the petitioner) began in February 2001, and, by December 2001, 15 petitions had been heard by a High Court Judge, and eight cases cancelled or withdrawn. First hand testimony was documented from all the election petition cases that were heard in the High Court of Zimbabwe from February to October 2001.

This present monograph concentrates upon the effects upon the witnesses who testified in the petitions. Most of these witnesses were victims of organised violence and torture during the June 2000 General Election. They were either primary victims – those who were direct victims of organised violence or torture – or secondary victims – family members or witnesses to direct violence. They were followed up after they had given their testimony, and a detailed interview conducted on their experiences during and after testimony in the High Court.

This monograph, and the others in this series, are based on detailed observation of the election petitions held in the High Court of Zimbabwe, as well as testimonies available from victims seen during the General Election and the subsequent bye-elections. A team of researchers attended all the court hearings, making notes of all proceedings, as well as studying the case notes held by the AMANI Trust and the Zimbabwe Human Rights NGO Forum. There are two companion monographs on the violence and on the petitions¹. As will be seen, these reports corroborate many of the earlier reports of the Zimbabwe Human Rights NGO Forum², as well as the reports of international human rights organisations³.

¹ See AMANI TRUST (2002), *Organised Violence and Torture in the June 2000 General Election in Zimbabwe*, HARARE: AMANI TRUST; AMANI TRUST (2002), *Neither Free nor Fair: High Court decisions on the petitions on the June 2000 General Election*, HARARE: AMANI TRUST.

² See ZIMBABWE HUMAN RIGHTS NGO FORUM (2000), *Who is Responsible? A Preliminary Analysis of Pre-election Violence in Zimbabwe*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM; ZIMBABWE HUMAN RIGHTS NGO FORUM (2000), *Report on Pre-election Violence in Mberengwa*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

³ See AMNESTY INTERNATIONAL (2000), *Zimbabwe: Terror tactics in the run-up to the parliamentary elections, June 2000*, LONDON: AMNESTY INTERNATIONAL. See also IRCT (2000), *Organised Violence and Torture in Zimbabwe, Harare and Copenhagen, 6th June 2000*, COPENHAGEN: IRCT; IRCT/RCT (2001), *Organised election violence in Zimbabwe 2001*, COPENHAGEN: IRCT & RCT.

Human Rights violations and human rights tribunals

During 2000, AMANI Trust and the other members of the Zimbabwe Human Rights NGO Forum – the “*Human Rights Forum*” - provided support to over 1,000 persons who complained of gross human rights violations during the year in which was held a general election in Zimbabwe. The greatest majority of these cases came from the period February to June 2000. Many of these cases were documented in a series of reports over the period of the 2000 General Election⁴.

During the pre-election period, it was evident to all members of the Forum that the violence would have a significant effect upon the outcome of the election, and this was endorsed by the reports of several of the observer missions covering this election. It was also felt that, in common with all previous periods of epidemic political violence, there would probably be little attempt by the Government to provide a proper legal accounting for the violence. This in fact transpired with the promulgation of a general amnesty on 6th October 2000.

The recognition that victims of human rights violations suffer from a variety of medical and psychological consequences has come in the past two decades⁵. In particular, it is now widely recognized that torture usually results in long-term psychological disturbance, often in the form of a Post-Traumatic Stress Disorder, but not necessarily only this form of disorder⁶. It is important to recognize that such disorders can crucially affect the victims in the manner in which they testify as well as in the content of their testimony.

Torture survivors may have difficulty recounting the specific details of the torture for several important reasons, including:

1. Factors during torture itself such as blindfolding, drugging, lapses of consciousness, etc.;
2. Fear of placing oneself or others at risk;
3. Lack of trust in the interviewer and/or interpreter;
4. Psychological impact of torture and trauma such as high emotional arousal, and impaired memory secondary to trauma-related mental illnesses such as depression and posttraumatic stress disorder;
5. Neuro-psychiatric memory impairment from beatings to the head, suffocation, near drowning, and starvation;
6. Protective coping mechanisms such as denial and avoidance; and
7. Culturally prescribed sanctions that allow traumatic experiences to be revealed only in highly confidential settings.

Inconsistencies in a person's story may arise from any or all of these factors. These factors operate in the clinical setting, which is usually interviewing in a supportive environment, but may

⁴ See ZIMBABWE HUMAN RIGHTS NGO FORUM (2000), *Who is responsible? A preliminary analysis of pre-election violence in Zimbabwe*, A Report compiled by the Zimbabwe Human Rights NGO Forum, 20 June 2000.

⁵ See BASOGLU, M. *Torture and Its Consequences: Current Treatment Approaches*, CAMBRIDGE: CAMBRIDGE UNIVERSITY PRESS, 1993.

⁶ See REELER, A.P. (1994), *Is torture a post-traumatic stress disorder?* TORTURE, 4, 59-65.

be greatly exacerbated in more hostile settings such as cross-examination in the courtroom. The victim-as-witness can have considerable problems in giving a good account of his or her experience in a hostile environment, and this can clearly prejudice the outcome of any hearing in which the victim's testimony is important to that outcome.

This has been recognized in contemporary human rights tribunals and both the hearings around the Truth and Reconciliation Commission in South Africa and the International Criminal Tribunal on the Balkans at the Hague set up special systems to deal with this issue. In both systems the following were applied:

- *Witnesses were brought to a central venue prior and during the hearing;*
- *Witnesses were provided with access to a special team prior to testifying;*
- *Witnesses were provided with briefings about the court proceedings;*
- *Witnesses were given psychological counselling pre- and post-testimony;*
- *Witnesses were provided with support personnel during their testimony;*
- *Courts were provided with information relating to the special needs of victims.*

These systems ensured as far as possible that there was no further traumatising of victims, and ensured that the victims gave the most favourable account of their experiences. Most of these issues are covered in a comprehensive document that is now accepted as the standard manual by the United Nations High Commission for Human Rights⁷.

A system for Zimbabwe was set in place that used a similar system to that described briefly above. As regards the witnesses, they were brought immediately prior to the trial to a central location in Harare. At this central location, the following occurred:

- *Briefing by the trial counsel on their evidence;*
- *Briefing by staff from the Human Rights Legal Unit on court procedure and trials;*
- *Medical examinations by doctors where this is necessary;*
- *Examinations and treatment by Rehabilitation Department of the University of Zimbabwe;*
- *Psychological examinations by AMANI staff for all witnesses;*
- *Counselling by Amani Trust staff on their human rights violation and their fears about testifying;*
- *De-briefing by Amani Trust staff following their testimony;*
- *Video-taping of all testimony.*

It was hoped that this system would ensure that the victims were able to give a good account of their traumatic experiences, and that all medical and psychological problems would be addressed. The system would also allow the preparation of both a dossier for submission to international human rights bodies, and for the preparation of civil suits on behalf of the victims.

⁷ See UNHCHR(2000), *A Manual for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (The Istanbul Protocol)*.

All victims, including the witnesses, were followed up after the trial, and, where necessary, arrangements made for witnesses to be accommodated in “safe houses” if further victimization occurred after the trials. There was concern that the witnesses could be subject to retaliation or further intimidation. There was early evidence that several had been assaulted subsequent to testifying, and there was credible evidence that a gang of “government supporters” was hunting down the witnesses through their various constituencies. Of course, this then makes the situation considerably different to the South African Truth Commission or the Balkans War Tribunal where the victim-witnesses were no longer under obvious threat.

Human Rights violations and psychological health

Additionally, the AMANI Trust was interested to see whether the process of testifying would have any effects upon the victims’ psychological health. As indicated above, there is a large literature demonstrating the effects of human rights violations, and especially torture, upon the mental health of victims⁸. There is additionally a substantial Zimbabwean literature dealing with the effects of torture⁹.

In previous work with the survivors of torture, the AMANI Trust has been very interested in the long-term effects of torture. As indicated above, one of the major effects upon torture survivors is persistent psychological disorder. The AMANI Trust, in a number of studies, found this was the case with Zimbabwean survivors. In a large epidemiological investigation of the survivors from the Liberation War of the 1970s, it was found that nearly 1 in 10 adults over the age of 30, attending primary care facilities, was a survivor of torture¹⁰. A clinical investigation of war veterans found that 73% of the sample was suffering from clinically significant psychological disorder¹¹. These were very high rates and in chronic populations: that is, populations in which the original trauma was at least two decades previously, and in which the disorder had been present for a similar period.

⁸ See BAKER, R. *Psychosocial consequences for tortured refugees seeking asylum and refugee status in Europe*, in M. BASOGLU (ED), *Torture and Its Consequences: Current Treatment Approaches*, CAMBRIDGE: CAMBRIDGE UNIVERSITY PRESS, 1993; BASOGLU, M. *Torture and Its Consequences: Current Treatment Approaches*, CAMBRIDGE: CAMBRIDGE UNIVERSITY PRESS, 1993; RAMSAY, R., GORST-UNSWORTH, C., & TURNER, S. *Psychiatric Morbidity in Survivors of Organized State Violence including Torture: A Retrospective Series*, BRIT. J. PSYCHIAT., 1993, 162, 55-59.

⁹ See REELER, A.P., MBAPE, P., MATSHONA, J., MHETURA, J., & HLATYWAYO, E. (2001), *The prevalence and nature of disorders due to torture in Mashonaland Central Province, Zimbabwe*, TORTURE, 11, 4-9; REELER, A.P., & MHETURA, J. (2000), *The psychosocial effects of organised violence and torture: A pilot study comparing survivors and their neighbours in Zimbabwe*, JOURNAL OF SOCIAL DEVELOPMENT IN AFRICA, 15, 137-169; REELER, A.P., & MUPINDA, M (1996), *An investigation into the Sequelae of Torture and Organised Violence in Zimbabwean War Veterans*, LEGAL FORUM, 8, 12-27.

¹⁰ See REELER, A.P., MBAPE, P., MATSHONA, J., MHETURA, J., & HLATYWAYO, E. (2001), *The prevalence and nature of disorders due to torture in Mashonaland Central Province, Zimbabwe*, TORTURE, 11, 4-9.

¹¹ See REELER, A.P., & MUPINDA, M (1996), *An investigation into the Sequelae of Torture and Organised Violence in Zimbabwean War Veterans*, LEGAL FORUM, 8, 12-27.

Most of the findings on the chronic consequences of organised violence and torture were summarised in a comprehensive monograph, published in 1998, and this work remains the only substantial Zimbabwean work done on the long-term consequences¹². This work established that, if untreated, survivors of organised violence and torture were likely to develop chronic psychological disorders. Clearly, and axiomatically, early intervention should prevent chronicity.

However, there is a paucity of good information and research on the treatment of torture survivors. There are many clinical studies, but virtually no controlled-outcome studies, and it is from these latter studies that conclusions can only be drawn scientifically about the efficacy of treatment. AMANI has carried out one clinical study of the effects of a brief psychotherapeutic Intervention with chronic survivors of torture, and the results were highly encouraging: all patients improved significantly, and remained improved at 12 months¹³.

Having seen the effects of a very brief intervention with chronic, and hence more difficult to treat conditions, we were interested to see the effects of testimony on an acute group. Testimony has been used as a therapeutic intervention in other settings, but has not been evaluated, as far as we know, for its effects within the court setting itself.

Methods

A detailed follow-up questionnaire was designed and pre-tested on a small sample. A copy of the questionnaire is provided in the Appendices. The questionnaire was designed to examine the following areas:

- The preparations for the court;
- Communications between the victims and the support organisation [Amani Trust];
- The process in the court;
- Events after the court sessions;
- Feelings and attitudes to the verdict.

It was intended that all cases in which victims testified would be followed-up, but in the end only 4 cases and 33 victims could be followed up. There were a variety of reasons for this, mainly related to the victims' safety in being followed up in the community, and also the safety of the staff members undertaking the activity.

The staff members doing the follow-up were 2 experienced psychiatric nurses, who had also received training in trauma counselling and were in the process of receiving training as forensic nurse examiners. The data were recorded in purpose-built data base, and the raw data converted

¹² See AMANI TRUST (1998), *Survivors of Torture and Organised Violence from the Liberation War of the 1970s*, HARARE: AMANI TRUST.

¹³ See REELER, A.P., & MBAPE, P. (1998), *A pilot study of a brief form of psychotherapy for survivors of torture: The Single Therapeutic Interview*, TORTURE, 8, 120-126.

to percentages for ease of comparison. The overall numbers per group were too small for meaningful statistics to be calculated.

The numbers finally seen were as follows:

Constituency	Number
Zvishavane#	9
Mutoko South#	4
Hurungwe East#	10
Chiredzi North*	10

denotes petition won by victims.

* denotes petition lost by victims.

Results

The results are reported below in the various tables and figures.

Table 1.
Attitudes towards testifying in victims, their families and their communities.

	Willingness to testify	Family support for testimony	Community support for testimony
Zvishavane	100%	100%	100%
Mutoko South	100%	50%	100%
Hurungwe East	100%	50%	30%
Chiredzi North	100%	30%	40%
Total	100%	33%	61%

As can be seen from Table 1, all victims were willing to testify, but support from their families and their communities was less strong.

- *My family members were afraid that I could be killed after testifying. I am a public figure and also own businesses within my community. My business was destroyed during the campaigning.*
- *My family feared about my life since I was attacked before.*
- *My immediate family members were afraid of both my security and theirs after testifying. My area is a Zanu (PF) stronghold hence the community was afraid for their security.*
- *The rest of my community support the other party.*
- *My community and family felt I would be killed for testifying.*
- *They feared they would be beaten again.*
- *Some of the community support Zanu (PF).*

Adequate information for testifying seemed to have been provided for most of the sample [85%], but the group from Chiredzi North did not seem as well prepared: 50% stated that they had not been adequately prepared.

As regards the assistance given to testify, Table 2 below indicates that most were satisfied with the support given, both by the legal team and the support team.

Table 2.
Attitudes towards support given to the victims.

	Legal assistance	Medical assistance	Other assistance
Zvishavane	100%	100%	100%
Mutoko South	100%	100%	100%
Hurungwe East	100%	100%	100%
Chiredzi North	60%	100%	80%
Total	88%	100%	94%

For most of the sample [79%], this was their first time to testify in court. As the process is adversarial, cross-examination can be very intimidating, and this can be perhaps more the case with person that have been previously tortured.

Table 3.
Treatment on cross-examination.

	Well-treated on cross-examination?
Zvishavane	80%
Mutoko South	0
Hurungwe East	0
Chiredzi North	0
Total	24%

Some were nervous or afraid:

- *I had to pick up a lot of courage because I was a bit afraid and uncertain of what was going on.*
- *I was afraid and I wasn't sure what was going to happen to me.*
- *I felt afraid because I had never done that and afraid I would be attacked afterwards.*

Some were more comfortable:

- *I had self-motivation; I was not afraid.*
- *I was all right because I was explaining what I knew.*
- *I was happy to be there to testify how I had been made to suffer.*
- *Before testifying I was a bit afraid but during testifying I became so relaxed because the atmosphere was free.*
- *I was happy and comfortable to be afforded to say out what happened to me and what I felt.*
- *It was a great opportunity to be in court with the perpetrators since they were said to be invincible and that no one could take them to court.*
- *I felt that my rights were felt when I gave evidence in court.*
- *I was confident because I was saying the truth.*

- *I was calm and determined to give my testimony.*

For the remaining respondents who had prior court experience, they describe if and how it was different from past experience. Here are some examples:

- *My previous testimony was in a free atmosphere but this time I was watched by government agents.*
- *This was a political case and I was afraid to testify in front of the perpetrators.*
- *There was no difference.*
- *Yes. It was different. The former court did not have lawyers like this one. This made me feel threatened.*

As regards the victims' feelings about the judges, Table 4 indicates a broad spread of different feelings. Most of the sample felt that the judges were indifferent to them during their testimony.

Table 4.
Feelings about the judges' attitudes.

How did you feel about the judge's attitude towards you?	Percentage
Helpful	27%
Friendly	18%
Hostile	12%
Indifferent	42%

Judge James DeVittie was described equally among respondents as being helpful, friendly, or indifferent. Judge Vernanda Ziyambi was described by three respondents as helpful, five felt that she was friendly, and 14 felt that she was indifferent. However, five of the respondents felt that she was hostile to them. Twenty-nine respondents felt that they were given enough time in court, four felt that they had too much, and eight, who all testified in Ziyambi's court, felt that they had too little. Here are their explanations:

- *I was cut off by the judge before I had finished. The judge adjourned and did not call me again the following day.*
- *I couldn't explain other incidents that took place. I wasn't given adequate time to explain.*
- *I was not able to say all I wanted in detail; the respondent's lawyers said there was no time.*
- *I was not given time to give details because the judge kept saying "Stick to the question".*
- *I was not able to give a detailed account of what happened because the respondent asked his lawyer to ask me no further questions.*
- *My advocate only allowed me to only relate personal experience. I would have been much happier if I had been allowed relating what the constituency brought to me.*
- *I didn't say all what I wanted to say.*

The issue of time was also a possible factor affecting the victims' attitudes to the court process, and, as can be seen from Table 5 below, most of these victims felt that they had had sufficient time for their testimony.

Table 5.
Feelings about time allowed for testimony.

Did you have sufficient time for your testimony?	Percentage
Enough	73%
Too little	15%
Too much	12%

There were some differences in the groups over whether they had been able to convey all that they wished to say to the court. As can be seen from Table 6 below, only Chiredzi North, the losing petition, felt that they had been unable to convey all that they wished.

Table 6.

	Said everything wanted?
Zvishavane	100%
Mutoko South	100%
Hurungwe East	100%
Chiredzi North	30%
Total	79%

As indicated above, cross-examination can be very intimidating, especially to an inexperienced witness, as most were. Even more intimidating in these cases might have been the presence of the opposition candidate – the respondent – who was in all cases accused of violence or masterminding violence against the witnesses. As can be seen from Table 7 below, this did seem to have an effect upon some of these victims, although some also felt empowered by being able to testify in front of the respondent.

Table 7.
Feelings about appearing before the respondent

	Comfortable in front of respondent?	Different if respondent absent?
Zvishavane	100%	100%
Mutoko South	100%	100%
Hurungwe East	10%	30%
Chiredzi North	0%	0%
Total	42%	49%

One of the most surprising results to one of the questions illustrated that many felt that it was important to testify in front of the petitioner in these cases, the Zanu (PF) candidate. Respondents were asked if it would have made a difference if the respondent were absent and if they felt comfortable testifying in his or her presence.

Some were made uncomfortable or they felt threatened:

- *The respondent knows me quite well hence it hindered me from saying of things that I wanted say because I was fearing victimization.*
- *The respondent took my name down and victimised me after the court session.*
- *The presence of the whole party including Dr. Hunzvi was threatening.*
- *I was afraid even though he is my uncle.*
- *He was accompanied by CIO agents.*

For others it made no difference:

- *My information would not change whether he was absent or present.*
- *I was still going to say the same truth.*
- *I had confidence of my safety in court.*
- *Although he was looking at me with a threatening eye it did not deter me from telling the truth and say everything that I wanted to say.*
- *I wanted the whole nation to know what took place. I was no longer afraid of anything. I was prepared for anything.*
- *In court I knew I was protected. I only worried when I got home.*

For others it was important for the Zanu (PF) candidate to be there:

- *I wondered why he was not there because I wanted to testify to his face.*
- *I wanted him to see me testify.*
- *He had to hear me.*
- *I wanted the respondent to know what took place.*
- *I wasn't going to be settled because I wanted to testify during his presence.*
- *He was there when I was assaulted so I wanted him there when I gave testimony.*
- *I wanted him to know the truth that his supporters were perpetrators of violence.*

Communication did not seem to be an impediment to testimony, and all victims [100%] reported being comfortable with the language being used in court, and virtually all [94%] reported being happy with the interpreter's translations.

As regards the victims' feelings after testimony, most felt relieved after the ordeal was over, but, as can be seen from Table 9 below, the general trend was not negative.

Table 9.
Feelings after testifying.

Feelings after testimony	Percentage
Relieved	49%
Uncertain	15%
No difference	30%
Afraid	6%

There was a mixed response in regard to the victims' feelings after the result. As indicated above, the petitions were upheld – the election result negated – in Zvishavane, Mutoko South and Hurungwe. Those were felt “sad” came from the petition that lost – Chiredzi North. However, virtually all [94%] would testify again if needed.

Table 10.
Feelings about the verdict

Feeling about the verdict	Percentage
Happy	57%
No difference	22%
Uncertain	6%
Sad	15%

Similarly, all victims from the winning petitions reported being satisfied that justice was done, whilst only 20% of the losing petition – Chiredzi North- felt that there had been justice. The real consequences for these victims and witnesses were profound, as indicated by Table 11 below. . A total of 28 respondents were threatened, including all ten from Hurungwe East. In most cases respondents were threatened by multiple people. Zanu (PF) supporters threatened 20 respondents, war veteran militias threatened 13 respondents, and in three cases the police threatened respondents. In five cases, the Zanu (PF) candidate himself was alleged to have threatened respondents; Chauke of Chiredzi North, Baloyi of Chiredzi South, and Marumahoko of Hurungwe East were identified by the respondents. Other respondents were able to name those who threatened them, and those who were identified were Zanu (PF) supporter Lovemore Gota, Zanu (PF) Chairman Malokuwa, prominent Zanu (PF) member and accused torturer Boniface Mutemachani, and war veteran Nzara. Zanu (PF) supporters attacked five witnesses, and three were attacked by war veterans. It is not surprising then, that 25 of the respondents did not feel safe returning to their community.

Table 11.
Consequences of testifying in the courts.

	Have you been threatened after testimony?	Have you been attacked after testimony?	Do you feel safe to go back to your community?
Zvishavane	100%	56%	100%
Mutoko South	100%	0%	75%
Hurungwe East	100%	0%	0%
Chiredzi North	20%	0%	0%
Total	76%	15%	36%

It is interesting that the consequences were different between the successful and the unsuccessful petitions. Chiredzi North witnesses have not been attacked and very few threatened, whilst all the other groups have been threatened. There are some anomalies in these findings with witnesses reporting threats and attacks but still feeling that it was safe to return to their communities.

The effects upon the mental health of the victims can be seen below in Table 12. As can be seen, there was no overall change in the mental health of the groups as a whole, although there were differences between the groups. The differences were not as predicted however. It had been assumed that successful testimony – testimony that led to an overturning of the election result – might have produced a greater shift in the SRQ-8 scores¹⁴, but this has not been found. This may be due to the fact that all these witnesses have been attacked or threatened subsequent to testifying, and virtually all have had to go into hiding away from their local homes and communities.

Table 12.
Pre- and post SRQ-8 scores: Means and S.dev.

	Pre-testimony SRQ-8	Post-testimony SRQ-8
Zvishavane	3.5 [2.1]	3.4 [2.2]
Mutoko South	4.3 [0.8]	2.3 [1.3]
Hurungwe East	3.2 [1.7]	4.1 [2.4]
Chiredzi North	4.3 [1.9]	4.1 [2.0]
Total	3.7 [1.9]	3.7 [2.2]

Conclusions

Testifying about the human rights violations that one has experienced is clearly a very difficult thing indeed. From Nuremburg onwards, it has been evident that it is painful to have to recount the terrible things that a person has experienced, and it is often so terrible that even experienced psychotherapists would rather not hear the stories that their torture victim patients can tell them¹⁵. However, it can be doubly difficult when the testimony must be given in a situation where the gross human rights violations are continuing to occur and where there still remains significant threat to anyone who makes public statements about the gross human rights violations that they have experienced personally. This is the background against which this small study took place.

As indicated in the introduction, a caring process was set up that would hopefully overcome all the many handicaps that these Zimbabwean victim-witnesses could experience. The pilot study reported here has evaluated as far as possible whether the process was successful and which factors contributed to the success or failure in the testimony of the witnesses.

Although this is too small a sample to test the hypotheses statistically, the results are nonetheless interesting.

¹⁴ The SRQ-8, or the Self-Reporting Questionnaire-8, is an 8-item psychiatric screening instrument that was developed in Zimbabwe, and has been widely used in epidemiological and other psychiatric investigations. It was developed from the SRQ-20, an instrument developed by the World Health Organisation. All scores in excess of 4 on the SRQ-8 are indicative of psychiatric disorder, but do not indicate the type of psychiatric disorder.

¹⁵ See DANIELI, Y. *Confronting the Unimaginable: Psychotherapists reactions to victims of the Nazi Holocaust*, in J.P.WILSON, Z.HAREL, & B.KAHANA (EDS), *Human Adaptation to Extreme Stress*, NEW YORK: PLENUM, 1988.

The findings indicate that the victims were motivated to testify and that this was supported by their families and their communities. The pre-testimony process seems to have been well-organised, with virtually all the sample being satisfied with the preparation and support given by the legal and medical teams. This is an important finding since it was intended that there be as much support as possible for these victims, and that the support lead to the best possible testimony.

The process of testifying was rather more complex. For nearly all the sample, this was their first time in court, and the adversarial process was intimidating for virtually all: only 24% felt that that they had been well-treated under cross-examination. Additionally, most felt that the judges were indifferent to them, but most felt that they had had enough time for their testimony and had been able to say all that they wanted. The presence of the respondent, who was generally accused of sponsoring violence that had directly affected the witnesses, was clearly intimidating. There are clearly some issues that have a strong bearing on any future human rights tribunals.

Most felt relieved that this clearly intimidating process was over, and most were happy with the verdicts. Although there was no shift in mental health status that went with the verdict, it was apparent that those victims who felt that their testimony had produced a successful verdict were more satisfied than those from the unsuccessful petition. That there was no shift in mental health status due to the verdict must be seen in the light of the subsequent threats and attacks upon these witnesses. It would be unusual for there to have been a shift when threats of a very real nature still remained.

The Court process was clearly difficult for these victims, and very different to the process that obtains in human rights tribunals such as the South African Truth and Reconciliation Commission. Testimonies were given in a clearly adversarial setting, and not in a victim-driven setting, and this clearly makes it much more difficult for victims.

It seems clear that certain factors must be taken into account when victims of torture are giving testimony, and the first relates obviously to their safety. Clearly it is wholly unacceptable that any witness is harassed or attacked as a consequence of being a witness, and it should be incumbent upon the courts to ensure that witness protection is seriously undertaken by the police. This must be so for attacks upon witnesses or harassment is an attempt to subvert justice, and the courts have to take a strong line here.

The second issue relates to the giving of testimony itself. Where victims of torture are appearing in court, there should be mechanisms to ensure that the process is victim-driven, in much the

same way as child witnesses are protected in child abuse cases. It may be argued that adult torture victims do not deserve such protection and should be subject to robust cross-examination, but this ignores a very important matter. The issue of torture is not merely a matter of giving a statement of opinion, but can be verified by hard evidence, by hard medical evidence. So the court has already strong prima facie evidence that a person has been tortured, and, even if this not available prior to testimony, it can be subsequently provided by forensic examination. Torture victims as witnesses are thus clearly in a different category to ordinary witnesses to civil or criminal proceedings, and this is wholly due to the availability of medical evidence.

This was the first time in Zimbabwe law that such numbers of torture victims testified in the Zimbabwean courts, and thus it is unsurprising that the courts were unaware of the issues surrounding torture. However, this will not be the case in the future, and we would hope that the courts learn from this experience and set in place more humane proceedings, both before and during testimony. Ignorance cannot be an excuse in the future, more especially when the records of these cases now reflects expert evidence on the effects of torture, as was the case in the yet to be completed petition on the Marondera East constituency.

Finally, we must comment, as our title suggests, upon the heroism of the many torture victims who testified in these cases. It took considerable courage to stand up in public to talk about their horrible treatment and humiliation that they suffered. It took even greater courage to do so when they faced the possibility of further attack and torture. These victims are the most powerful example today in Zimbabwe of the faith that ordinary Zimbabweans have in the law and democracy: they are indeed heroes, all of them!