



Zimbabwe
HUMAN RIGHTS
NGO Forum

***DAMN LIES? GROSS HUMAN
RIGHTS VIOLATIONS DURING
APRIL 2008.***

**Report produced by the Zimbabwe Human
Rights NGO Forum and the Research &
Advocacy Unit**

July 2008

"The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that civilisation cannot tolerate their being ignored."

Opening remarks for the prosecution by Justice Robert Jackson at the Nuremberg tribunal.

Background

The Zimbabwe Human Rights NGO Forum has been documenting political violence since its inception in 1998, and, since July 2001, has been issuing Monthly Political Violence Reports. In addition, the Human Rights Forum has issued a total of 34 special reports, many of these concerned with violence during elections. The Human Rights Forum has consistently indicated that the majority of the violence recorded has been undertaken by both state agents and supporters of the ZANU PF party. The Human Rights Forum has been vindicated in its allegations, both by the reports of independent human rights organizations and bodies as well as by the decisions of the Zimbabwean courts.¹

The Human Rights Forum's reports have received little or no consideration from the Government of Zimbabwe, as there is little or no evidence that any of its allegations have had serious attention, and the Human Rights Forum has had to continue to express its concern. Ahead of the March 2008 poll, the Human Rights Forum issued a comprehensive report on the probability of the elections being free and fair, and drew particular attention to the deteriorating human rights climate. The Human Rights Forum pointed out that there has been a steady increase in the number of alleged violations being reported to itself and its members since 2004.

Table 1
Consolidated statistics [numbers of violations reported] per year: July 2001 to April 2008
[Source: Human Rights Forum]

	2001	2002	2003	2004	2005	2006	2007	2008	Totals
Abductions	116	223	52	62	18	11	19	48	549
arrest & detention	670	274	627	389	1286	2611	2766	286	8909
Assault	0	86	388	401	530	486	865	922	3678
attempted murder	0	2	10	10	1	3	0	4	30
death threats	0	12	80	35	9	7	7	23	173
disappearance	0	28	4	0	0	0	0	0	32
displacement	0	11	208	189	609	55	0	412	1484
Freedoms	12	39	809	760	1036	1866	3500	1324	9346
Murder	34	61	10	3	4	2	3	10	127
Political discrimination	194	388	450	514	476	288	980	1547	4837
property violation	356	807	153	132	61	55	16	89	1669
Rape	0	7	6	3	4	1	0	0	21
school closure	0	45	1	0	0	0	0	11	57
Torture	903	1172	497	389	136	366	603	596	4662
Total	2285	3155	3295	2887	4170	5751	8759	5272	35574
Monthly average:	380.8	262.9	274.6	240.6	347.5	479.3	729.9	1757.3	

¹ Here see Zimbabwe Human Rights NGO Forum (2006), *An Analysis of the Zimbabwe Human Rights NGO Forum Legal Cases, 1998–2006*. Published by the Zimbabwe Human Rights NGO Forum. June 2006, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

As can be seen from *Table 1* [above], the run up to the elections occurred against the background of the worst year since the Human Rights Forum began reporting on political violence, with every indication that 2008 will be even worse than 2007, and certainly the monthly average is more than double the worst previous year, which was 2007.

In its May 2008 report, the Human Rights Forum also drew particular attention to the finding from its own data that human rights violations increase appreciably during elections.² As can be seen from *Table 2* [below], eight of the fourteen violation types, recorded by the Human Rights Forum, increase significantly during elections. This analysis included the data from the March 2008 poll.

Table 2
Months with elections compared to months without elections: July 2001 to April 2008
 [Source: Human Rights Forum.]³

	Non-Election Month N=51	Election Month N=31
Abductions	116	433**
arrest & detention	5998	2911
Assault	1653	2025*
attempted murder	9	19*
death threats	47	126**
disappearance	1	31*
displacement	796	694
Freedoms	6383	2963
Murder	39	88*
Political discrimination	1686	3151*
property violation	768	901
Rape	9	12
school closure	4	53
Torture	1606	2827*
Totals:	19115	16234

* all significant at $p=0.05$; **all significant at $p=0.01$ or greater.

Thus, there was serious apprehension by the Human Rights Forum about the possibility of political violence in the March election, which has been vindicated, not only by some violence during the pre-election period, but, more seriously, in the interregnum between the March poll and second round Run-off between Robert Mugabe and Morgan Tsvangirai. There have already been a number of reports indicating the seriousness of the current violence and its implications for a free and fair Run-off on 27 June 2008.⁴ All these reports have concluded that there have been, and continues to be, serious abuses of human rights, and that the Zimbabwe government, by commission or omission, is responsible for these violations. The violations are so serious that they even resulted in a special mission being sent to Zimbabwe by the SADC mediator, President Thabo Mbeki, and have drawn

² See Human Rights Forum (2008), *Can the elections in Zimbabwe be Free and Fair?* Paper produced by the Research and Advocacy Unit [RAU] for the Human Rights Forum, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

³ See again Human Rights Forum (2008), *Can the elections in Zimbabwe be Free and Fair?* Paper produced by the Research and Advocacy Unit [RAU] for the Human Rights Forum, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

⁴ Reports have been issued by the Zimbabwe Peace Project, the Solidarity Peace Trust, Amnesty International, Human Rights Watch, amongst others.

statements of criticism and concern from a number of African countries, let alone the EU, the US, and United Nations Secretary-General.⁵

Against this background, the Human Rights Forum is issuing this brief report, to compliment the reports already issued, adding to the calls for strong international action to be taken in order to ensure the integrity of the coming poll, and to call for immediate steps to be taken to protect the rights of ordinary Zimbabwe citizens to chose their leaders without coercion, and in a climate in which their basic freedoms are respected, enforced, and protected under the Constitution. This report raises explicitly the allegation that crimes against humanity have been committed in the period since the March poll.

Crimes Against Humanity

This is a very serious charge to bring against a government, perhaps the most serious charge, together with genocide and war crimes, that can be brought. It is, however, not a new charge against the Zimbabwe government, and has been brought in the past by both Zimbabwean NGOs and other international bodies.⁶ In 2003, Zimbabwean NGOs and civil society organizations raised the issue of crimes against humanity indirectly in a symposium held in Johannesburg, where the symposium delegates, comprised of members of more than 70 NGOs and civil society organizations concluded:

*From 2000 onwards there have been increasing levels of violence resulting in pervasive human rights abuses. All available evidence indicates that the government has engaged in a **widespread, systematic, and planned campaign of organised violence and torture** to suppress normal democratic activities and to unlawfully influence electoral process. The government has also created and the law enforcement agencies have vigorously applied highly repressive legislation. These measures were directed at ensuring that the government retained power rather than overcoming resistance to achieving equitable land redistribution and correcting historical iniquities.*

According to the definition contained in the Rome Statute of the International Criminal Court, crimes against humanity are inferred when any of the following acts are carried out in peacetime:

- *Murder;*
- *Extermination;*
- *Enslavement;*
- *Deportation or forcible transfer of population;*
- *Imprisonment or other severe deprivation of physical liberty in violation of fundamental rule of international law;*
- *Torture;*
- *Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;*

⁵ A short summary of events since the March poll is provided in Appendix 2.

⁶ See International Bar Association (2003), *The IBA's Human Rights Institute Calls for Robert Mugabe to be Investigated for Crimes Against Humanity*, Friday, March 07, 2003.

- *Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law;*
- *Enforced disappearance of persons;*
- *The crime of apartheid;*
- *Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.*

Such crimes are called “war crimes”, when committed during hostilities. Crimes against humanity, war crimes, and genocide are regarded as the most serious human rights violations, and should always evoke the “responsibility to protect”.⁷ The question arises as to whether the recent violence reported in Zimbabwe should be considered to be merely political violence, violence between competing political parties – as alleged by the Zimbabwe government – or is altogether more serious, and conforms to the above definition, and represents the widespread and systematic ***persecution of an identifiable group*** – the MDC mainly – by the government of Zimbabwe?

Post Election violence: The evidence⁸

When the Human Rights Forum issued its previous report on the 5 of May,⁹ it provided evidence from the reports from only 64 persons seen to that time by the Forum’s officers. The current report has had access to considerably more evidence upon which to base its conclusions, and hence can give a more comprehensive picture of events since the beginning of March 2008.

The report deals only with cases that were reported in April. There is a significant lag generally between the occurrence of an incident and the reporting by the victims to the Human Rights Forum or one of its members, usually in the nature of several weeks, and hence many cases from May are still being reported to the Human Rights Forum. Here it should be borne in mind that the reports from the Zimbabwe Association of Doctors for Human Rights indicates that health practitioners have seen close to in 2,000 cases of serious injuries due to violence since the March election. A subsequent report, dealing with all the cases from March, and including the data from May 2008, will be issued shortly.

⁷ The Responsibility to Protect was developed by the International Commission on Intervention and State Sovereignty in 2001, and was derived “in direct response to the world’s failure to intervene in Rwanda, and the controversial interventions in Somalia, Bosnia and Kosovo”. Very simply:

State sovereignty implies responsibility, and the primary responsibility for the protection of its peoples lies with the state itself; and where a population is suffering serious harm, as a result of internal war, insurgency, repression, or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.

⁸ This report does not deal with the deaths that have been reported, since few deaths are reported directly to the Forum, and, where deaths are alleged in the reports received by the Forum, it is not in a place to directly confirm or disconfirm them. The MDC has alleged that over 70 of its members have been killed since 29 March 2008.

⁹ See again Human Rights Forum (2008), *Can the elections in Zimbabwe be Free and Fair?* Paper produced by the Research and Advocacy Unit [RAU] for the Human Rights Forum, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

The findings of this current report are based on the reports given to the officers of the Human Rights Forum or its member organizations. The overall data available consisted of 783 cases, seen by the Human Rights Forum or its members during April 2008.¹⁰ In many cases, the data was sketchy or incomplete, and only 477 cases were complete enough to consider. However, this report will deal in detail only with the reports given directly to the Public Interest Unit [285 cases]. This report will however examine the general spread of the violence from the larger data set of 478 cases.

The Spread of the Violence

As was indicated in the May report of the Human Rights Forum, which only dealt with cases that had been reported up to 24 April, a substantial number of the cases [31%] came from the three Mashonaland Provinces and Harare, and this was similarly reported by the Solidarity Peace Trust.¹¹ Overall, 56% of the cases came from Harare and the three Mashonaland Provinces. However, from all the anecdotal reports in the press and media, the violence has spread over the past two months to many other areas in Zimbabwe. As can be seen from Figure 1 below, the trend towards most violence being seen in the areas mentioned above, which began in March, and intensified during April, with other areas now being affected. No comment can be made about the overall prevalence of violations, since this data is derived only from persons making reports, and many people do not make reports for various reasons. Hence, the national picture can only be inferred and not quantified.

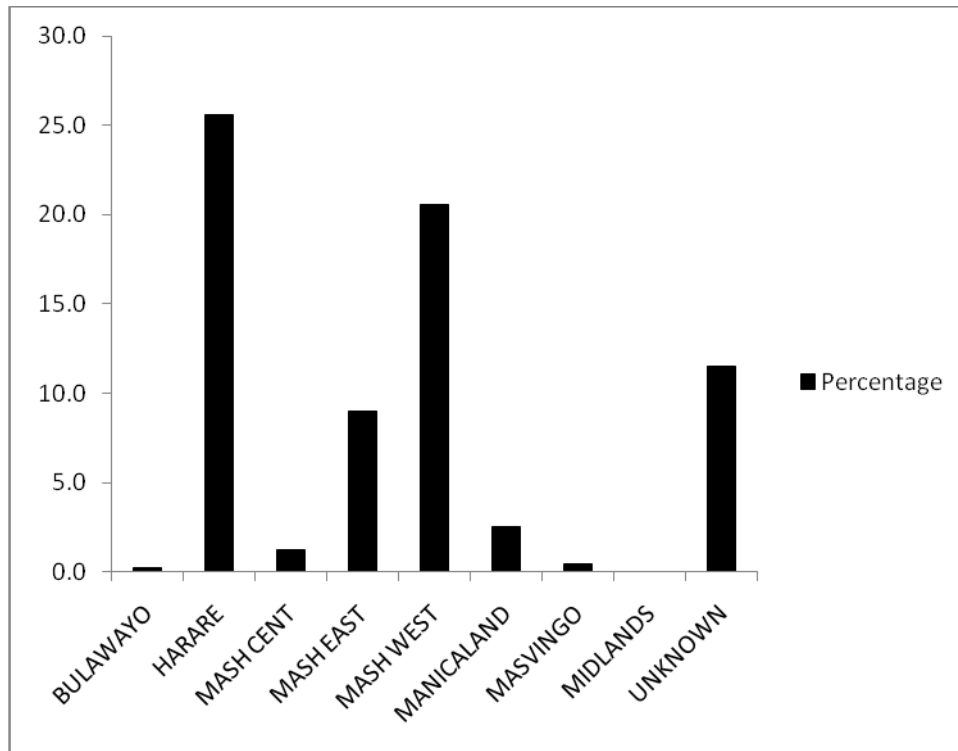
In March, violence was only reported from Harare, Manicaland, Mashonaland East, and Mashonaland West, but, by April, has spread to include Bulawayo, Mashonaland Central, and Masvingo.

Nonetheless, the data indicates violence in seven of Zimbabwe's ten Provinces. Furthermore, there was an increase in the number of separate places mentioned in the incidents reported over the months, and especially during April, when 421 different places were named. So, during April, when reports of violence were received in all of the seven Provinces indicated above, this was accompanied by a greater number of places mentioned as well. This strongly supports the allegation that the violence was widespread: it involved many separate places and not merely a large number of incidents at a small number of sites.

¹⁰ See Zimbabwe Human Rights NGO Forum (2008), *Political Violence Report*. April 2008. HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

¹¹ See Zimbabwe Human Rights NGO Forum (2008), *If you can't join them, beat them! Post-election violence in Zimbabwe. An alert of the Zimbabwe Human Rights NGO Forum & the Research and Advocacy Unit*. 5 May 2008. HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM, & Solidarity Peace Trust (2008), *Punishing Dissent, Silencing Citizens: the Zimbabwe Elections 2008*. 21 May 2008. JOHANNESBURG: SOLIDARITY PEACE TRUST.

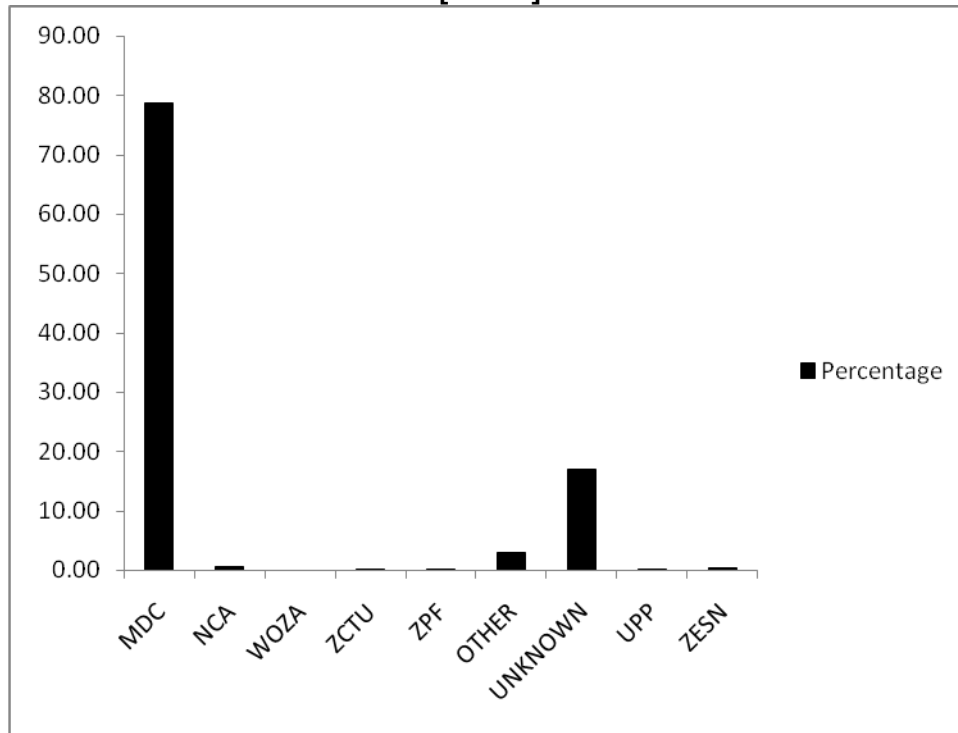
Figure 1
Distribution of violations reported by province
[n=477]



Where possible the incidents reported were related to an electoral constituency, which gave a total of 48 constituencies where the incident could be placed in a constituency:¹² 28 of these were won by the MDC and 20 by ZANU PF. The average winning margin for the MDC in these constituencies was 6,101 votes, whilst the margin for ZANU PF was 5,506. The overall vote for the MDC was 286,732, whilst that for ZANU PF was 242,696, with the difference about 2 percentages points on the turn out in the March 2008 poll. It is also worth noting that the majority of the constituencies came from the Mashonaland and Manicaland Provinces, representing either seats lost to the MDC or won by ZANU PF with reduced turn outs. As regards the latter, and without ZEC releasing the detailed results of the Presidential poll in March, it is interesting to speculate whether this represented either a lower poll in the Presidential election or indications that ZANU PF voters actually voted for Morgan Tsvangirai. Either way, the supporters of the MDC suffered as a consequence.

¹² For a substantial number of records [n=180], it was not possible to easily determine in which constituency the incident occurred, and hence this analysis could only be carried out for 495 cases.

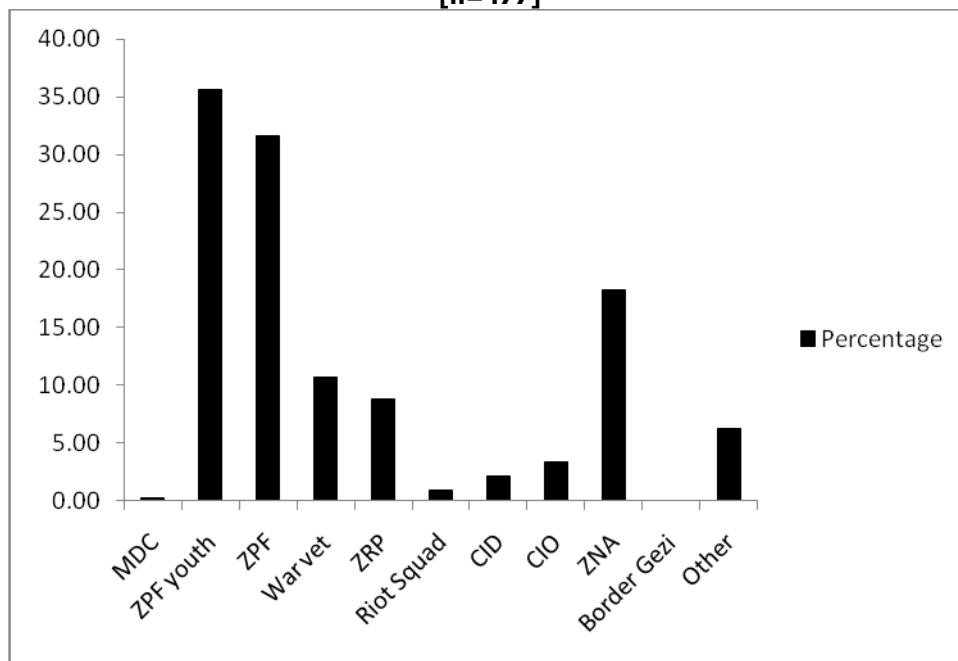
Figure 2
Percentage of victims reporting in April
[n=477]



As Figure 2 [above] indicates, the victims were overwhelmingly reported to be members of the MDC, which strongly supports the notion given in previous human rights reports and press reports of a pogrom mounted against the party. This alone would suggest a systematic campaign of violence against the MDC.

As Figure 3 [below] shows, there were virtually no cases in which the MDC was alleged to be the perpetrators, with the major perpetrators alleged to be ZANU PF Youth or ZANU PF supporters. There were also significant percentages of state agents – ZRP and the ZNA – mentioned. The ZNA are mentioned with much greater frequency than in previous election reports.

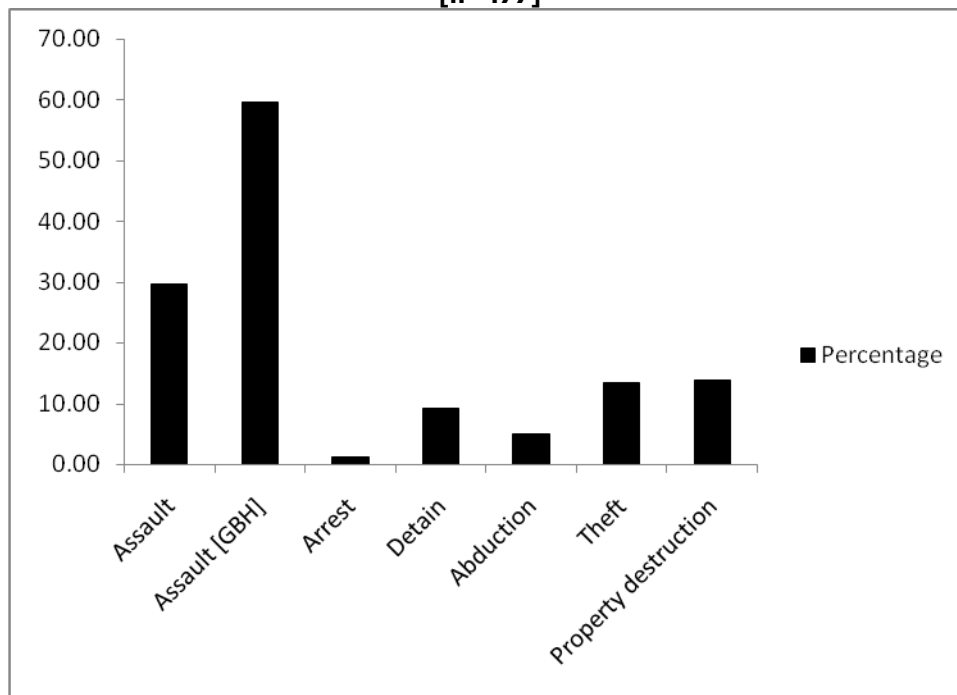
Figure 3
Percentage of alleged perpetrators in April
[n=477]



More seriously, the types of violations reported are a considerable cause for concern. As can be seen from Figure 4 [over], there are very high percentages of serious assaults [assault with intent to commit grievous bodily harm] reported, and this alleged crime is reported more frequently than ordinary assault: this is a marked change from previous elections and is reflected in the reports of the Zimbabwe Association of Doctors for Human Rights [ZADHR] that have indicated that health practitioners have seen extremely serious injuries over the period of this report. Furthermore, significant percentages of abductions and property destruction are also reported. As regards the latter, this frequently involved not only the destruction of an entire house, but was also associated with theft of property and livestock, and even the destruction of livestock.¹³ Abductions are rarely reported outside of elections, as can be seen from *Table 2* [above].

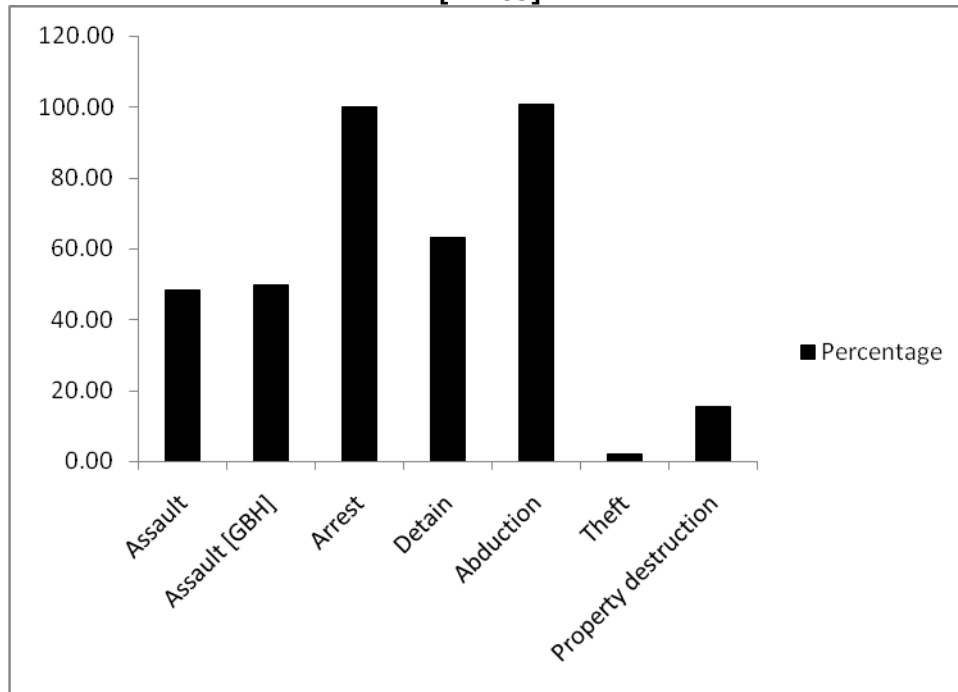
¹³ The killing of livestock was a feature of the farm invasions, and can be seen as a form of psychological torture, as is property destruction. Here see JAG/GAPWUZ (2007), *DESTRUCTION OF ZIMBABWE'S BACKBONE INDUSTRY IN PURSUIT OF POLITICAL POWER. A qualitative report on events in Zimbabwe's commercial farming sector since the year 2000*. Report prepared by the Justice for Agriculture Trust [JAG] & the General Agricultural and Plantation Workers Union of Zimbabwe [GAPWUZ]. April 2008. HARARE: JUSTICE FOR AGRICULTURE TRUST; JAG/RAU (2008), *Land, Retribution, and Elections. Post Election Violence on Zimbabwe's Remaining Farms 2008*. Report prepared by the Justice for Agriculture Trust [JAG] & the Research and Advocacy Unit. May 2008. HARARE: JUSTICE FOR AGRICULTURE TRUST.

Figure 4
Percentage of violations in April
[n=477]



With the high frequency of reported assault [GBH], allegations about torture need to be considered. Here the cases were examined to see how many would conform to the definitions contained in the United Nations Convention Against Torture and the Rome Statute of the International Criminal Court: pain and suffering [physical or psychological], done with intent, for a purpose, and done by a state agent or with the approval of the state. Using this criterion, 285[59%] of the cases of assault [GBH] would be classified as torture, and, as can be seen from Figure 5 [below], many abuses characteristic of torture – falanga, deliberate burning, use of restraints, and forms of asphyxiation – were reported. Furthermore, there were very high frequencies of displacement reported, which not only reflects the destruction of property, but also the extreme fear experienced. Although it was not possible to determine the frequency of psychological torture, both as a consequence of direct violence as well as the threats and intimidation experienced, 180[38%] and 287[60%] of the cases reported threats and intimidation respectively, and this can be taken as an indication of the extent of psychological torture.

Figure 5
Percentage of Torture and types of torture in April
[n=285]



So, the overall data set available indicates a number of features that can be tested against the more comprehensive data derived from the statements taken by the Public Interest Unit [PIU] lawyers of the Human Rights Forum.

- *The alleged violations are geographically widespread;*
- *the alleged victims are disproportionately drawn from one group, which suggests strongly a systematic campaign of violence;*
- *both state agents and ZANU PF supporters are mentioned with high frequency, and apparently in concert;*
- *serious gross human rights violations are very common, with torture being the most common.*

Cases reporting to the Human Rights Forum

As indicated earlier, this data was compiled from the statements given by victims about their alleged violations to lawyers of the Public Interest Unit, and was compiled from 258 complete records.¹⁴

Most victims were male [225; 79%], and were generally mature adults [mean age=33; sd. 12.1 years]. This is commensurate with the findings on previous elections.¹⁵

The spread of violations across the country was very similar to the larger data set, with most violations [62%] being reported from the three Mashonaland Provinces, but a significantly large number also being reported in Harare.

Table 3
Number and Percentage of violations reported by Province
[n=285]

Province	Number [%]
Bulawayo	0
Harare	122[43%]
Manicaland	12[4%]
Mashonaland Central	6[2%]
Mashonaland East	40[14%]
Mashonaland West	98[34%]
Masvingo	2[1%]
Unknown	2[1%]

Again the cases were examined for their relationship to electoral constituency. This time the data was more comprehensive and constituency could be assigned to 265 [87%] of the cases. 27 of the constituencies were won by the MDC and 19 by ZANU PF, with the MDC's average margin being 5,781 votes to ZANU PF's 5,477 votes [see Appendix 1].

The total vote for these 41 constituencies was 523,365, with MDC-T getting 265,946 and ZANU PF getting 257,742. Assuming that the violence in ZANU PF strongholds could produce similar results to those in 2002,¹⁶ then Robert Mugabe could pick up nearly 250,000 votes from these strongholds. Given that one percentage point in the March poll was 24,000 votes, this would give Robert Mugabe

¹⁴ There were 250 reports taken by the PIU, but this reduced to 218 when the data was cleaned, as 32 cases had no details on either place or time of incident, and hence could not be easily confirmed. This was done to ensure reliability of reporting. Furthermore, the statements taken by the PIU lawyers are supported by medical evidence.

¹⁵ See Amani (2002), *Organised Violence and Torture in the June 2000 General Election in Zimbabwe*, HARARE: AMANI TRUST; Amani (2002), *Beating your opposition. Torture during the 2002 Presidential campaign in Zimbabwe*, HARARE: AMANI TRUST; IRCT (2000), *Organised Violence and Torture in Zimbabwe, 6th June 2000*, Copenhagen and Harare, COPENHAGEN & HARARE: IRCT & AMANI TRUST; IRCT (2001) *Organised Violence and Torture in Zimbabwe, 24th May 2001*, Copenhagen and Harare, COPENHAGEN & HARARE: IRCT & AMANI TRUST; Physicians for Human Rights (2002), *Zimbabwe 2002. The Presidential Election: 44 days to go*. Physicians for Human Rights, Denmark, 24 January 2002. Zimbabwe Human Rights NGO Forum (2001), *Human Rights and Zimbabwe's June 2000 election*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM; *Zimbabwe Human Rights NGO Forum (2002), Human Rights and Zimbabwe's Presidential Election: March 2002*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

¹⁶ In 2002, constituencies in the Mashonaland Provinces produced staggeringly high turnouts relative to the national average. For example, UMP [85%], Mutoko North [72%], Mutoko South [84%], Muzarabani [72%], Mudzi [72%], and Mount Darwin North [83%] when the national average was only 58%.

nearly 10% points from just three Provinces.¹⁷ Thus, it would be obvious that the strategy behind the violence would be to increase the ZANU PF vote in ZANU PF strongholds and to reduce the MDC share in constituencies won by the MDC, which was a strategy observed in the 2005 elections, albeit with intimidation and coercion around access to food rather than the blunt violence seen currently.¹⁸

The vast proportion of the victims was composed of self-admitted members of the MDC, often holding positions of authority or leadership. Many reported having been involved in the March elections, and a further large percentage [12%] reported that they were attacked because of a perceived affiliation to the MDC, or the possibility of voting for the MDC. One unusual feature was the reporting of violations by a few members of ZANU PF, who do not usually report to the Human Rights Forum, and perhaps the answer lies in the finding reported immediately above; ZANU PF supporters were voting for the party in the House of Assembly and Senate elections, but not for Robert Mugabe.

The distribution of the victims strongly conforms to the patterns seen in previous elections, and especially to the election in 2002. Nearly 80% of the cases came from rural as opposed to urban areas, as was commonly seen in 2000 and 2002.

Table 4
Reported affiliations of victims
[n=285]

Affiliation	Number [Percentage]
MDC	250[88%]
WOZA	0
ZESN	0
ZANU PF	0
NCA	1[0.4%]
Other	10[4%]
Unknown	23[8%]

As was indicated in the findings from the large data set, virtually no reports implicated the MDC in violence, and rather the data corroborates the view that ZANU PF Youth and ZANU PF supporters were the major perpetrators alleged in the reports [see *Table 5* below]. Incidentally, about 12% provided names of perpetrators, but it is also evident from the statements that the victims knew the names of many of their perpetrators when the group was composed of locals. However, in many cases, it also evident that the perpetrators were not local, as was also frequently reported in reports of previous elections.

¹⁷ As can be seen in Appendix 1, 26 of the 41 constituencies come from the three Mashonaland Province, and 9 of the 10 most violent constituencies are from one or other of the Mashonaland Provinces, 5 of which were won by ZANU PF.

¹⁸ For an analysis of the 2005 election, see Reeler, A.P., & Chitsike, K.C (2005), *Trick or Treat? The effects of the pre-election climate on the poll in the 2005 Zimbabwe Parliamentary Elections*. June 2005. PRETORIA: IDASA.

Table 5
Reported affiliation of alleged perpetrators
[n=285]¹⁹

Alleged Perpetrator	Number [%]
CIO	11[4%]
MDC	2[0.7%]
War Veterans	45[16%]
Zimbabwe National Army [ZNA]	69[24%]
ZANU PF Youth	102[36%]
ZANU PF Supporter	77[27%]
Zimbabwe Republic Police	43[15%]
Zimbabwe Republic Police [CID]	10[4%]
Zimbabwe Republic Police [Riot]	10[4%]
Unknown	24[8%]

As was seen in past elections, non-state actors – ZANU PF and war veterans – were overwhelmingly named as the perpetrators,²⁰ but it is unusual on past experience to see the ZNA mentioned so frequently, supporting the notion that the ZNA has been intimately involved in the violence. The smaller data set showed the ZNA as much more frequent perpetrators than the larger data set, but, on either data set, the ZNA are mentioned much more frequently than in previous election reports. As indicated above, the MDC was hardly mentioned, and, interestingly in relation to the Zimbabwe government’s allegations about MDC violence, only in cases of intra-party violence, and the few ZANU PF supporters that reported to the Human Rights Forum also mentioned intra-party conflict as the major reason for the violation. Thus, the evidence from the legal statements strongly supports the earlier finding that the violence is systematic in its application, and, although mostly against one political party, the MDC, almost exclusively so.

Since the legal statements provided both times and places for the alleged violations, it was possible to examine the notion that state and non-state actors were allegedly operating in concert. Most significant were the very reports of the involvement of the ZNA and all other groups, as the ZNA has not previously been identified in violence during elections with such a high frequency, and this strongly supports the many allegations in the press and media that the military have a controlling role in the violence, probably under the direction of the JOC. The reports of the involvement of the ZNA have occurred outside of any formally proclaimed state of emergency or martial law, and hence their

¹⁹ Note that the number of perpetrators does not add up to 100%, as there was frequently more than one type of alleged perpetrator involved in an incident.

²⁰ Here 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 (2001), *Who was responsible? A consolidated analysis of pre-election violence in Zimbabwe*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM; Zimbabwe Human Rights NGO Forum (2002), *Are They Accountable?: Examining alleged violators and their violations pre and post the Presidential Election March 2002*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

presence in civilian life is unlawful and unconstitutional, never mind their involvement in alleged gross human rights violations.

This finding, of the involvement of both state and non-state agents in alleged violations, does not imply that all these separate groups were always present together, but rather that there were significant combinations on a regular basis. For example, the illustrative case below shows the interaction between these various groups.

Before the March 29 election, on the 16/03/08, a soldier (NAME PROVIDED) and council candidate Zanu PF (NAME PROVIDED) came to my house and gave me a strong warning to stop campaigning for MDC. They took me to Muzarabani Community Hall and beat me up with metal bars under the feet and on the lower leg. I sustained serious wounds and was treated at St Alberts. They detained me for two days and released me. They would give me water no food. The leg is still painful. I did not stop my campaigns and was a polling agent during the elections. Then the second time, on Sunday 04/05/08, Zanu PF youths came to my house together with senator (NAME PROVIDED) and Mm (NAME PROVIDED), they were so many. I sneaked out of the house and disappeared without them noticing. They knocked on my door and my wife came out. I heard her screaming and being beaten. I could see from a distance. They told my wife that they are looking for me and want to kill me this time. I did not have money to leave home as the money was burnt in the house. On 06/05/08, I went to Muzarabani to look for money and assistance so I could leave as I was fearing for my life. There I saw Mu (NAME PROVIDED), a Zanu PF, who told the youths that X is here. The youths came and apprehended me and then took me to their base. There, I and 8 other MDC supporters were detained and beaten. I was also detained and beaten under feet, on the buttocks and in the palms of our hands. During the periods anybody, i.e. Zanu PF, would call us and beat us. In the morning, everyday around 3am, most of the youths would go and wait for buses coming from further taking any food on the bus claiming that nothing should go to Harare because the people there are MDC. They would go with an MDC youth to help identify the other MDC youths escaping and force them to disembark and take them to the base to be beaten and detained. Today in the morning as they were beating us a policeman who I know came and then lied to them and said I have a pending case with the police and that he wanted to take me. I managed to escape and got a lift to Harare around 6. My whole body is painful from the beatings. I am worried about my family at home.

The violations alleged by the victims were not trivial, as can be seen from *Table 6*.

Table 6
Alleged violations reported
[n=285]

Alleged Violation	Number [%]
Abduction	5[2%]
Assault	78[27%]
Assault [GBH]	210[74%]
Destruction of property	46[16%]
Theft	46[16%]
Unlawful arrest	6[2%]
Unlawful detention	36[13%]

The average number of different violations per person reported was 2.1 [sd.1.3], and a total of 40 [14%] reported being displaced [see *Table 7* below]. There are also an appreciable number of

witnesses [31; 11%.8] to the violations reported, with a good number of names provided by the victims.

Of the serious assaults – assault with intent to do grievous bodily harm, or aggravated assault – many would be classified as torture. The most common abuses were beatings [with fists and hands] and severe beatings [using some instrument]. As can be seen from *Table 6* above, serious beatings [assault GBH] were markedly more common than beatings [assault], which is markedly different to the findings of previous reports, and suggests a very serious escalation in the type of violence being perpetrated.

The threats preponderantly referred to elections; either because a person supported the MDC, or had voted for the MDC, or would still vote for the MDC. The destruction of property was very high, and mostly referred to the burning of houses, often accompanied by the theft of property, agricultural produce and livestock. The general effect was to make the victims indigent and mostly resulted in their being displaced.

Table 7
Frequency of torture and torture types reported.
[n=210]

	Number [%]
Torture	92[44%]
Types of Torture:	
Asphyxiation	20[10%]
Burns	4[2%]
Death threats	2[1%]
Displaced	40[19%]
Falanga	8[4%]
Intimidation	187[89%]
Threats	102[49%]
Use of restraints	7[3%]

The inferred rates of torture, as a percentage of the assault [GBH] category, were still high [44%], and higher than the overall rate recorded by the Human Rights Forum [see *Table 1* above], but not as high as the rate as that reported earlier in Figure 5.²¹ Both falanga and the use of restraints – both shown in the case reported above – were found, and these are highly indicative of torture, but, as indicated above, the major abuse reported was severe beatings. Displacement was included as this can be plausibly described as a form of psychological torture, and it is worth commenting that no

²¹ The actual rate of torture is undoubtedly higher, as was reported in the analysis of the larger data set, but the more conservative estimate emerged due to the lack of detail in the statements. Strict conformity with the definition in the UN Convention Against Torture meant that, in many cases of aggravated assault, torture could not be concluded from the information. However, the information clearly established aggravated assault.

attempt was made to quantify psychological torture, but this has been well-described in previous reports.²²

Altogether the findings from the analysis of this smaller data set corroborate both the findings of the larger Human Rights Forum data set, as well as the findings of the other recent reports from the Solidarity Peace Trust and the Zimbabwe Peace Project. The findings clearly suggest, at the very least, a very serious decline in the human rights climate in Zimbabwe.

Conclusions

On the basis of the evidence before the Human Rights Forum, and summarised above, it is clear that very serious human rights violations have taken place since the March 2008 poll. As was indicated by the analysis of the larger data set available to the Human Rights Forum, a number of conclusions could be drawn:

- *Violations are widespread across the country;*
- *the alleged victims are disproportionately drawn from one group, which suggests strongly a systematic campaign of violence;*
- *both state agents and ZANU PF supporters are mentioned with high frequency, and frequently acting in concert;*
- *serious gross human rights violations are very common, with torture being the most common.*

As could be seen from the analysis of the smaller data base, all these conclusions are strongly corroborated, and give clear support to the earlier conclusion of the Human Rights Forum; that the violence indicates that crimes against humanity have been and are being committed. As the Human Rights Forum commented in its report of 5 May 2008:

So the suggestion that crimes against humanity – the widespread, systematic and planned use of torture – are being perpetrated by a regime that may well no longer have a legitimate basis for continuing in government (and may well be avoiding handing over government) is a situation that deserves a more determined response from SADC and the AU than has been the case to date.²³

²² See IRCT (2000), *Organised Violence and Torture in Zimbabwe, 6th June 2000*, Copenhagen and Harare, COPENHAGEN & HARARE: IRCT & AMANI TRUST; IRCT (2001) *Organised Violence and Torture in Zimbabwe, 24th May 2001*, Copenhagen and Harare, COPENHAGEN & HARARE: IRCT & AMANI TRUST.

²³ See again Human Rights Forum (2008), *Can the elections in Zimbabwe be Free and Fair?* Paper produced by the Research and Advocacy Unit [RAU] for the Human Rights Forum, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM [page 11].

Thus, the evidence before the Human Rights Forum corroborates all the recent reports, and indicates that state agents and supporters of ZANU PF are allegedly the preponderant perpetrators of these violations. The responsibility of the Zimbabwe government for protecting its citizens' stands seriously questioned, and even more so given the utterances of the most senior government and political figures that there is a situation akin to a war.²⁴ There is an urgent need for the international community, and especially SADC, to bring the strongest possible pressure to bear on the Zimbabwe government to obey its constitutional responsibility, to ensure that all state agents act within the law, and that all proxy militia groups and party supporters are brought under civilian control, and, if this last is not possible, then there is the need for an international peace keeping force as some international leaders have suggested.

Zimbabwe stands on a knife edge, with the possibility of even greater violence erupting, and this is a situation about which the Zimbabwe Human Rights NGO Forum has continually and consistently warned. It is no credit to South Africa and SADC that they have consistently blocked discussion about gross human rights violations at international venues and forums, for their failure to do so has undoubtedly encouraged the Government of Zimbabwe and its supporters to believe that they can act with impunity.

It is also evident that it would not be possible to claim that the immediately completed Presidential Run-off bore the vaguest resemblance to a free and fair election under any electoral standards in the world. Unsurprisingly, the election has drawn widespread condemnation, and from within Africa itself for nearly the first time. However, it is not enough to condemn an election; there must be some expression of the reasons for concluding this, and here the violence, amongst other factors, is clearly understood to be of such magnitude that the election was given a failed grade before it even took place.

At this point in Zimbabwe's history, when the citizens through continuous peaceful means and the ballot of March 2008, have unequivocally stated their preference for the government of the future, this requires South Africa and SADC to act firmly in defence of the Zimbabwean people. As a recent analysis has pointed out,²⁵ there is no political violence in Zimbabwe, merely crimes against humanity, and this requires more than the wringing of hands and rhetoric, but rather strong action in terms of the SADC Treaty, and especially the AU Constitutive Act that specifically enjoins the African Union to take action in cases of war crimes, genocide, or crimes against humanity. The Human Rights Forum would not claim that the violence described above is genocide, which has been loosely argued in

²⁴ These statements and utterances by the Zimbabwe government and ZANU PF are not new, however, and have been a consistent feature of the political landscape in Zimbabwe since 2000. See here Zimbabwe Human Rights NGO Forum (2007), *Their Words Condemn Them: The Language of Violence, Intolerance and Despotism in Zimbabwe*, May 2007, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

²⁵ See Pigou. P (2008), *Defining violation: Political violence or crimes against humanity?* Paper commissioned by the Research and Advocacy Unit, SITO: IDASA.

recent months, but it would assert, on the basis of the evidence before it, that crimes against humanity have been committed in Zimbabwe.

Appendix 1

Distribution of incidents according to violence reported and constituency

Constituency	Won by MDC	Won by ZANU PF	MDC[MT] vote share	ZANU PF vote share	MDC winning margin	ZANU PF winning margin	No of incidents
Mutoko South*		1	2897	10795		7898	29
Harare East	1		8377	2587	5790		24
Harare South		1	4489	7111		2622	24
Makonde*		1	1254	6526		5272	19
Mutoko North*		1	3163	6922		3759	15
Mutare	1		7284	2322	4962		13
Chikomba*	1		6062	4698	1364		12
Harare Central	1		5944	1705	4239		11
Maramba Pfungwe*		1	1947	14916		12969	10
Harare North	1		6710	3135	3575		9
Murewa North*	1		6468	7104	-636	636	9
Wedza North*		1	3586	6267		2681	8
Makoni South	1		6501	5230	1271		7
Epworth	1		6220	4758	1462		6
Goromonzi *South	1		6456	5305	1151		5
Dzivarasekwa	1		6374	2769	3605		5
Mabvuku	1		7677	1901	5776		4
Mudzi North*		1	6593	8041		1448	4
Makoni North	1		5055	3657	1398		4
Budiriro	1		11880	2270	9610		3
Mutasa South	1		8207	3409	4798		3
Glen Norah	1		7030	1139	5891		3
St Mary's	1		6508	2464	4044		3
Marondera East*		1	2268	6513		4245	3
Headlands			4235	7257		3022	2
Kuwadzana	1		8763	2048	6715		2
Kadoma Central*	1		8180	2738	5442		2
Mbare	1		7520	6121	1399		2
Rushinga *		1	3772	14264		10492	2
Zvimba East*		1	3554	5197		1643	2
Mt Darwin North*		1	3507	11046		7539	2
Hurungwe West*		1	2928	5639		2711	2
Hurungwe East*		1	1573	9465		7892	2
Warren Park	1		9652	1894	7758		1
Glen View South	1		9158	1273	7885		1

Nyanga North	1		8312	3931	4381		1
Bikita East	1		7784	5373	2411		1
Zengeza	1		7570	3042	4528		1
Chitungwiza	1		7539	2073	5466		1
Kariba*	1		7090	5502	1588		1
Gutu East	1		6306	4688	1618		1
Mbire		1	6137	9610		3473	1
Magunje*		1	4264	4587		323	1
Mazowe South*		1	4052	4109		57	1
Muzarabani*		1	3913	7691		3778	1
Chegutu East*		1	2724	9222		6498	1
Mt Darwin South*		1	2698	9105		6407	1
Totals:	27	19	265946	257419	107491	95365	265

****denotes constituency in a Mashonaland Province***

Appendix 2

Post Election violence: The context

Although the March 2008 poll was probably the most peaceful election held in Zimbabwe since 1980, the aftermath has produced a crisis of major proportions. Shocked by their rejection at the polls, ZANU PF immediately began a process of damage control, and this was covered in detail by the Human Rights Forum in its report of 5 May 2008. The most important aspect of this aftermath lay in the delay over the publication of the results of the Presidential poll, which remained unknown for over a month, and were only finally released on 2 May 2008. The point at issue was whether Morgan Tsvangirai had won with a mere majority or an absolute majority. If the former was the case, it would be necessary to hold a Run-off between the top two candidates in the Presidential poll, and hence a contest between Morgan Tsvangirai and Robert Mugabe. If the latter, Morgan Tsvangirai immediately should then have been appointed President of Zimbabwe.²⁶

As it transpired, the Zimbabwe Electoral Commission [ZEC] announced that Morgan Tsvangirai had won with 47.9% of the vote to 43.2% for Robert Mugabe, although, and contrary to the procedures for all the other three elections, ZEC did not release the detailed results for the Presidential poll. This clearly gave rise to all manner of speculations about whether this result was accurate or stage-managed.²⁷ Whether this was the case or not, there was nonetheless the very clear demonstration that ZANU PF and Robert Mugabe had been rejected by the Zimbabwean electorate, and considerable scepticism about whether ZANU PF and Robert Mugabe could win the second round, particularly if all the voters that had polled for Simba Makoni moved their allegiance to Morgan Tsvangirai. In very simple terms, if Simba Makoni's 8.3% [according to ZEC] of the vote shifted to Tsvangirai, then the latter would win with 56% of the vote, and he would be the next President of Zimbabwe, and the MDC would form the new government.²⁸

The MDC initially indicated that it had won the Presidential election outright, and declared no need for a Run-off. The party subsequently stated that it would participate, but under duress. There was enormous pressure for the MDC to participate, but also a growing constituency arguing in favour of abandoning the Run-off for negotiations for a power sharing arrangement.

²⁶ See SITO (2008), *The Inconvenient Truth. A complete guide to the delay in releasing the results of Zimbabwe's presidential poll*. Prepared by Derek Matyszak of the Research and Advocacy Unit, Zimbabwe. IDASA: PRETORIA; SITO (2008), *THE INCONVENIENT TRUTH (PART II). A complete guide to the recount of votes in Zimbabwe's "harmonised" elections*. Derek Matyszak, Research and Advocacy Unit, Zimbabwe. IDASA: PRETORIA.

²⁷ See SITO (2008), *ZIMBABWE ELECTIONS 2008. Examining The Popular and Presidential Choice - Hiding or Run Off?* IDASA: PRETORIA; SITO (2008), *What happened in the Presidential election?* Research & Advocacy Unit, Zimbabwe. IDASA: PRETORIA.

²⁸ A recent opinion from the Southern African Litigation Centre [SALC] suggests a more serious problem: in terms of Zimbabwe's electoral law, and because of the delay in the run off, Morgan Tsvangirai should be appointed President as a result of his having the majority. Here see *Ex Parte*: SOUTHERN AFRICA LITIGATION CENTRE. In re: THE PROCEDURES GOVERNING THE DETERMINATION AND DECLARATION OF THE PRESIDENT IN THE EVENT OF AN UNLAWFUL RUNOFF; SOUTHERN AFRICA LITIGATION CENTRE. LAWFULNESS OF ZIMBABWE PRESIDENTIAL RUN-OFF.

The response to the election loss from ZANU PF was predictable. Declaring that this rejection was tantamount to war, an attempt by former colonial powers to regain control of the country, ZANU PF began an aggressive campaign well ahead of the announcement of the date for the Run-off. The date was finally announced on 15 May 2008, but which time it was evident that violence had taken place in many parts of the country.²⁹

Whilst the violence was developing, both the President of the MDC, Morgan Tsvangirai, and the Secretary-General, Tendai Biti, undertook a world-wide campaign to seek support for a genuine, peaceful, free and fair election. Tendai Biti had been accused of treason by the Zimbabwe government for announcing the results of the March poll in advance of ZEC, and there were reports of significant threats to Morgan Tsvangirai's life. Here it must be borne in mind that, if either of the two candidates to the Run-off died, or withdrew from the poll, the other would automatically succeed to the Presidency, so any threat to either candidate was clearly significant, and the threats to both the above MDC officers were not trivial: threats about prosecution for treason, which carries the death sentence – no matter how specious - or assassination, are not trivial. Given the many reports of abductions, torture, and summary executions emerging in the press and media, the caution adopted by the MDC leadership was justified, but, in the end, Morgan Tsvangirai returned to Zimbabwe to campaign for the Run-off.

In the meantime, the reports of massive violence were so disturbing that the SADC mediator, President Thabo Mbeki of South Africa, dispatched a high-level mission to investigate them. It is alleged that the mission was deeply disturbed by what it learned, but the report was never made public, presumably in keeping with the general policy of "quiet diplomacy". The Zimbabwe Association of Doctors for Human Rights [ZADHR], a member organization of the Human Rights Forum, issued several reports detailing the horrific injuries being treated by its members. ZADHR's most recent statement has pointed out that the medical services are in danger of being overwhelmed by the number of severe injuries that require treatment.

Against all the preparations for the Run-off, there was continual speculation about the need for a government of national unity [GNU], with one of the losing candidates in the Presidential poll, Simba Makoni, foremost amongst Zimbabweans arguing for this option, but supported by others.³⁰ This was an option supported by a number of SADC countries. ZANU PF, whilst not wholly rejecting this option, indicated that it would only consider this in the aftermath of the Run-off, whilst the MDC stated that it

²⁹ See again Zimbabwe Human Rights NGO Forum (2008), *If you can't join them, beat them! Post-election violence in Zimbabwe. An alert of the Zimbabwe Human Rights NGO Forum & the Research and Advocacy Unit. 5 May 2008.* HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

³⁰ See Solidarity Peace Trust (2008), *Punishing Dissent, Silencing Citizens: the Zimbabwe Elections 2008.* 21 May 2008. JOHANNESBURG: SOLIDARITY PEACE TRUST.

was in favour of a “broad-based” government, led by the MDC as the winners in the March poll, and excluding Robert Mugabe.³¹

While all these manouvers were going on, and against the background of the now catastrophic decline in the economy, as well as the escalating humanitarian crisis, the progress to the Run-off has continued. Increasing numbers of reports of violence have been received, with greater numbers of deaths being reported, and the Zimbabwe government response has been to escalate the crackdown against the MDC, through the harassment of Morgan Tsvangirai, and arrests of MPs and members, together with the banning of most MDC meetings and rallies. The government also announced a ban on all NGOs and humanitarian organizations, but ameliorated this by restricting the ban to all organizations concerned with “mobilising people”, which means virtually all NGOs. It has further shrunk the media space, banning all MDC advertisements on radio, television, and the government-influenced press, and vociferously propounded vicious anti-MDC propaganda.

The Zimbabwe government has also continued to allege that there is political violence, and has most recently asserted that the MDC is the major proponent of this violence. This is a tactic that has been used before – in the aftermath of the torture of many members of the MDC in March 2007 – but is one that is easily exposed.³² As was shown by the Human Rights Forum report, the allegations of MDC and civic violence was wholly false – most were accused of indulging in normal civic and democratic activity – and those arrested for violence were themselves the victims of torture, police brutality, and unlawful arrest and detention. It is also worth mentioning that there is ample evidence to demonstrate that the ZRP uses arrest and detention as a method of intimidation against both political party leaders and members of civil society organizations.³³

Whilst all concerned parties have recognised the extreme violence that has been taking place, there has been no attempt to place it any context other than the violence that usually accompanies elections in Zimbabwe, and certainly no attempt to contextualise the violence as the most serious violations of human rights, crimes against humanity. The Human Rights NGO Forum raised this definition in its report of 5 May 2008, and, in this present report, provides further support of this contention.

³¹ It has been argued that the calls for a GNU, whilst understandable, have flown in the face of the polling result from the March election, and may have strongly contributed to the violence itself. Here see Kwinjeh. G (2008), *Staring a gift horse in the mouth. Death Spiral in Zimbabwe: Mediation, Violence and the GNU*. 18 June 2008. [www.kubatana.net]

³² The Zimbabwe Republic Police issued two reports after the March 2007 arrests and torture, but the credibility of these reports were comprehensively challenged by the Human Rights Forum. Here see ZRP, “*Opposition Forces in Zimbabwe: A Trail of Violence*”, April 2007; ZRP, “*Opposition Forces in Zimbabwe: The Naked Truth, Volume 2*”. May 2007; Zimbabwe Human Rights NGO Forum (2007), *At Best a Falsehood, At Worst a Lie? Shooting Oneself in the Foot? Comments on the Zimbabwe Republic Police Report “Opposition Politics in Zimbabwe. A Trail of Violence*. June 2007. HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

³³ Here see Zimbabwe Institute (2004), *Playing with Fire*. Cape Town: Zimbabwe Institute; Solidarity Peace Trust (2004), “*Disturbing the peace*”. *An overview of civilian arrests in Zimbabwe: February 2003 – January 2004*. July 2004. ZIMBABWE & SOUTH AFRICA: SOLIDARITY PEACE TRUST.

