

**Zimbabwe Human Rights NGO Forum**

**What Happened to the  
Victims of the Food Riots  
19–23 January 1998?**

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# Remembering the Food Riots

In the aftermath of the extended violence of the past five years, the Food Riots in 1998 may hardly seem significant at all, but, in 1998, the whole nation was shocked by them – not just by the rioting of ordinary citizens but also by the violence of the State’s response. Eight deaths, uncounted injuries, thousands of people arrested and detained– all made an enduring impression on the nation. The Food Riots caused the first mass violations of human rights after the end of the Matabeleland emergency in 1987, and Zimbabwe since that time had earned a reputation for being a country with good observance of human rights. Whilst demonstrations and protests had taken place during the 1990s, these had been largely peaceful, and the Zimbabwe Republic Police were earning strong respect from the citizens of Zimbabwe for their increasingly professional approach.<sup>1</sup> This is not a view held by many Zimbabweans today, although an Afrobarometer survey in 2004 showed that 52% of Zimbabweans still did trust the Zimbabwe Republic Police.<sup>2</sup>

As the riots were in progress, the human rights community of Zimbabwe made strong appeals to government to control the situation and to obey the principle of ‘minimum force’ that needs to be observed when dealing with civilians. Amnesty International, too, made a strong appeal to the Minister of Home Affairs to repudiate his view that the situation required the use of arms of war and the shooting of unarmed civilians.<sup>3</sup>

Human rights groups and NGOs in Harare swung into action following the many reports of human rights violations, and the Zimbabwe Human Rights NGO Forum [Human Rights Forum] was formed. This group, a loose alliance of NGOs, provided assistance to detainees, persons complaining of human rights violations and ill-treatment, and produced a report on the riots which was forwarded to the President and Parliament in support of the request for an independent commission of inquiry.<sup>4</sup> As was stated in the report:

*The human rights organisations call upon Government to set up, as soon as possible, an independent Commission of Inquiry headed by a High Court Judge to investigate these allegations of human rights violations. In the interests of transparency and accountability the findings of this Commission must be made public. Pending the setting up of such a Commission, the organisations request Parliament to establish its own Committee to look into these allegations and report its findings to Parliament. In conducting these investigations the Parliamentary Committee should enlist the assistance of the Ombudsman’s office which now has jurisdiction to investigate allegations of human rights abuses on the part of members of the police, army and prison service. Although the Ombudsman may only investigate when complaints have been made to that office, the proposed Parliamentary Committee would be able to refer some of the complainants to the Ombudsman’s office so that their complaints can be investigated by personnel in this office.*

*Following these inquiries arrangements must be made for compensation to be awarded to all persons found to have suffered human rights abuses without those persons having to bring*

<sup>1</sup> See Helen Suzman Foundation, *Political Opinion in Zimbabwe 2000: March 2000* (Johannesburg: Helen Suzman Foundation, 2000).

<sup>2</sup> See A. Chikwana, T. Sithole and M. Bratton, *The Power of Propaganda: Public Opinion in Zimbabwe, 2004* (Afrobarometer Working Paper No. 42, 2004).

<sup>3</sup> These calls have contemporary relevance in the wake of the reported remarks of various members of the government that the State would use violence against people protesting on the streets. Here it is highly relevant to point out that no group within Zimbabwe has advocated the use of violence, and that all have publicly indicated that any protest would be non-violent.

<sup>4</sup> See Zimbabwe Human Rights NGO Forum, *Human Rights in Troubled Times: An Initial Report on Human Rights Abuses During and After Food Riots in January 1998* (Harare: Zimbabwe Human Rights NGO Forum, 1998).

*claims in the courts. Government must also take stern disciplinary action against all those who are proven to have perpetrated human rights abuses to send a clear signal that this sort of misconduct will not be tolerated.*

*In respect of those who are alleged to have engaged in unlawful violence the law must continue to take its course. However these cases must be dealt with according to the ordinary rules of procedure and evidence which are there to ensure that accused persons receive fair trials. Any cases that were hurriedly processed through the courts in the emotionally charged atmosphere following upon the food riots must be thoroughly reviewed to ensure that no miscarriages of justice have occurred. The sentences in these cases must also be carefully scrutinised to ensure that they were fair and not disproportionate, taking into account the all the relevant factors that have a bearing upon sentence, including the fact that the criminal action may have been an expression of anger and frustration about harsh economic conditions. On the other hand, more deterrent sentences are obviously appropriate for hooligans and criminals who simply took advantage of the troubled situation to commit crimes.*

*Last but certainly not least, mechanisms must be established to ensure that businesspersons who suffered financial loss as a result of the riots receive compensation or at least soft loans to allow them to re-establish their businesses.*

There was no response from the government, and thus the Human Rights Forum took the step of lobbying the UN Human Rights Committee at its meeting in 1998 to consider the implementation by Zimbabwe of the International Covenant on Civil and Political Rights. When the Committee produced its final report in September 1998, it made a strong statement endorsing the call by the Human Rights Forum for an independent commission of inquiry. The UN Committee made two specific recommendations in respect of the Food Riots:

*16. The Committee expresses its concern over recent reports of excessive use of force by the police and the army during food riots in 1998. The Committee urges that all cases of alleged excessive use of force committed by members of the police or the army be investigated by an independent and impartial body, that action be taken against those officers found to have committed abuses and that compensation be paid to the victims; the State party should report to the Committee thereon. Intensive training and education programmes in the field of human rights for members of the army and law enforcement officials are recommended. The Committee urges that the list of situations in which the use of lethal force is allowed under domestic law be reduced.*

*30. The Committee requests the State party to ensure the wide dissemination in Zimbabwe of the Covenant, the State party report and the Committee's concluding observations.*

There was no wide dissemination of the report as requested, and, since the government took no steps either to constitute a commission of inquiry or to compensate those who suffered human rights violations, the Human Rights Forum decided to go ahead and support the request by survivors for civil claims against the government. Forty-two suits were filed against the Zimbabwe Republic Police, the Ministry of Home Affairs, and the Ministry of Defence. The government, through the office of the Attorney-General, initially indicated that it would contest all claims.

The Human Rights Forum then issued a second, and much more comprehensive, report as an extension of the original report submitted to the President and Parliament.<sup>5</sup> This report made use of

<sup>5</sup> See Zimbabwe Human Rights NGO Forum, *A Consolidated Report on the Food Riots 19–23 January 1998* (Harare: Zimbabwe Human Rights NGO Forum, 1999).

extensive research on the official court records regarding the Food Riots, as well as an in-depth case study of one of the worst affected areas, Mabvuku Township. This report was submitted again with the appeal for an independent commission of inquiry. As was seen in that report, the facts that were established made a strong prima facie case that the principle of minimum force had been exceeded by the security forces.

Neither of these two reports, nor the report of the UN Human Rights Committee, was acted upon by the Zimbabwe government. No commission of inquiry was ever constituted as requested by the UN Human Rights Committee, and hence the Human Rights Forum pursued the problem with the only means at its disposal – civil actions in the Zimbabwean courts. Since all these cases have now been concluded, it is appropriate to return the matter of the Food Riots, and to examine what has been learned as a consequence. It is particularly pertinent to do so when large-scale peaceful demonstrations are being threatened again by opposition groups, as well as there being the possibility, which the government itself acknowledges, that widespread rioting itself might take place owing to the intolerable living conditions that ordinary people now experience.

This report provides a summary of the previous reports, with additional information obtained from an analysis of the completed court cases.

# Analysis of Arrests, Charges and Convictions after the Food Riots

This section outlines the findings from an investigation of the legal proceedings taken against rioters in the Harare and Chitungwiza Magistrates' Courts. It was thus necessarily a select group and cannot claim to be wholly representative of the legal proceedings that took place throughout the Food Riots, and did not include any data from other areas of the country; but the data did cover the areas in which the disturbances were arguably the worst.

It is worth recapping here on the reports emanating from the press. These reports showed very conflicting numbers of arrests. According to the *Herald* (22 January 1998), a police spokesman reported that 2,300 persons had been arrested in Harare and Chitungwiza. A court official (*Herald*, 22 January 1998) reported that over 1,000 persons had been arrested in Harare alone. Subsequent to these newspaper reports, no government official has indicated what the final figures were. The ZRP report indicates that 3,000 persons were arrested, but gives no indication of the number finally charged and sentenced.<sup>6</sup>

## Harare

As can be seen from Table 1, the Forum reported on a total of 730 cases. The cases were drawn from Braeside, Glenview, Harare Central, Hatfield, Mabvuku, Machipisa, Marimba, Southerton, Warren Park, Waterfalls, and a large number from unidentified – 'Unspecified' – suburbs.<sup>7</sup>

**Table 1: Legal consequences for Food Riots cases in Harare**

<i>Warrant issued</i>	<i>Withdrawn before plea</i>	<i>Withdrawn after plea</i>	<i>Remand refused</i>	<i>Remand</i>	<i>Acquitted</i>	<i>Suspended sentence</i>	<i>Fined</i>	<i>Prison</i>
21	102	38	407	18	45	1	14	84
2.88	13.97	5.21	55.75	2.47	6.16	0.14	1.92	11.51

As can be seen, the great majority were discharged either before pleading or at the remand hearing. In fact, 14% were discharged before pleading, 5% were discharged after pleading, and 56% had their remand refused at the remand hearing, making 75% in all being released after periods in excess of three weeks already in remand. In addition, a further 6% were acquitted of the charges. Of the remainder, 13.1% were convicted of the charges, with the great majority receiving custodial sentences. The sentences were generally severe, about 12 months, while the fines imposed were rather moderate, about Z\$250 on average. The data did not allow any determination of the charges for which sentence was imposed, which is a pity as it would have been useful to know whether custodial sentences were being imposed for theft or for public violence.

As can be seen from Table 2, there were considerable differences between the different areas, but the general trend was the same: many more people were discharged than convicted. In the cases from Hatfield, virtually everyone arrested was released unconditionally or remand was refused, which was also true for Marimba. There were higher conviction rates in cases from Mabvuku and the Unspecified cases. However, the general trend remained similar in the cases from all the suburbs: many more people were arrested than were convicted, with the vast majority having applications for their remand refused at the remand hearing. There were no data on the outcome for those who

<sup>6</sup>Police Report on the Food Riots: Issued by ZR Police General Headquarters', *The Outpost*, June 1998.

<sup>7</sup>'Unspecified' here means that the area could not be established from the court record.

had their remand refused, and thus it was not possible to determine how many persons were subsequently discharged or convicted from this sub-group.

**Table 2: Legal consequences for Food Riots cases: Comparison of different Harare suburbs**

	<i>Braeside</i>	<i>Glenview</i>	<i>Harare Central</i>	<i>Hatfield</i>	<i>Mabvuku</i>	<i>Marimba</i>	<i>Warren Park</i>	<i>Unspecified areas</i>
<i>Warrant issued</i>	1	2	0	7	4	1	0	6
<i>Withdrawal before plea</i>	0	3	14	5	36	16	4	24
<i>Withdrawal after plea</i>	2	1	1	11	11	10	0	2
<i>Remand refused</i>	1	226	25	14	66	46	7	22
<i>Remand</i>	2	1	0	6	4	4	1	0
<i>Acquittal</i>	10	6	3	1	3	20	1	1
<i>Fine</i>	0	2	0	0	10	0	0	2
<i>Prison</i>	3	41	3	0	18	1	3	15
<i>Suspended sentence</i>	0	0	0	0	0	1	0	0
<b>Totals</b>	19	282	46	44	152	99	16	72

## Chitungwiza

The data from Chitungwiza showed a more complete picture. Data were obtained on a total of 681 cases, and, as can be seen from Table 3, the picture was very different from the Harare Magistrate's Court. No breakdown was available for the areas of Chitungwiza involved, so the data cannot reflect any distribution for these cases.

**Table 3: Legal consequences for Food Riots cases in Chitungwiza**

<i>Withdrawn before plea</i>	<i>Withdrawn after plea</i>	<i>Wholly suspended sentence</i>	<i>Fined</i>	<i>Imprisoned</i>	<i>Community service</i>	<i>Cuts</i>	<i>Other</i>
310	185	19	0	113	4	33	17
45.52	27.17	2.79	0.00	16.59	0.59	4.85	2.50

Firstly, there was a complete absence of information on whether remand was refused for those charged. This tied in with the press reports of large numbers of persons being brought swiftly before Magistrates in Chitungwiza. Secondly, the state withdrew cases against the overwhelming majority or had cases dismissed (total 73%), so that the arrests were not sustainable on the evidence produced by the ZRP.

Thirdly, a very high number of persons were given custodial sentences (17%), and this is of great concern if these sentences were given on the basis of warned and cautioned statements produced under duress. It is distressing to see that no-one was given the option of a fine, or at least that no-one was able to take advantage of this option if it was offered. Fourthly, the persons given cuts were all juveniles.

The data from the courts did not support the impression given by ZRP spokesmen to the press at the time, nor did it conform to the report issued by ZRP Police General Headquarters.<sup>8</sup> There clearly were not large numbers of 'looters' or people being convicted of violence: **over 70% of the persons arrested could not be convicted on the available evidence before the courts.**<sup>9</sup> The investigations by the ZRP were unable to support credible charges and resulted in very few convictions. It may also be that many of those arrested were arrested by the army, and, unsurprisingly, the soldiers of the ZNA were unable to formulate proper charges or carry out proper police duties. This is not to say that there was no theft, looting or public violence, merely that the police work was inadequate to support many charges. The data also supported the notion of 'drag-net' arrests, which were alleged by many, and this is of great concern when there are credible allegations of widespread torture and ill-treatment of those detained.

**Table 4: Legal consequences for all cases from Harare and Chitungwiza**

	Number	Percentage of total
Warrant issued	21	1.5
Withdrawn before plea	412	29.2
Withdrawn after plea	223	15.8
Remand refused	407	28.8
Acquitted	45	3.2
Suspended sentence	20	1.4
Fined	14	0.99
Prison	197	13.9
Community service	4	0.3
Other	17	1.2

The number detained was of great concern when it was learned subsequently that so few – only 18% overall – could be convicted in a court of law. Firstly, there were *prima facie* cases of unlawful arrest and illegal detention that needed to be considered. Many of these people were detained for periods in excess of two weeks, and suffered considerable hardship during that time and even afterwards. It is important to point out here that a *prima facie* allegation of being a criminal can result in people losing their jobs, being shunned by neighbours and their community, quite apart from the actual hardship experienced during incarceration.

Secondly, detention may well have led to further human rights abuses. There were virtually no data about the conditions in the prisons at the time of the Food Riots, but it is not difficult to imagine that the injection of a further 2,300 people into the prisons in and around Harare must have aggravated the existing overcrowding and produced extreme discomfort for all. The Human Rights Forum saw only a single person who was imprisoned after the Food Riots, so there were no good data on the situation in the prisons. However, according to the one report that was received, this person alleged that there was widespread torture and ill-treatment at the hands of the ZRP in particular.

Thirdly, the possibility of coercion through torture led to concerns about those convicted. Bearing in mind that 78% of those convicted were given custodial sentences this was not a trivial issue. There was no attempt to establish how many persons may have been subjected to torture or duress, and, since the Human Rights Forum received credible reports of persons being convicted on warned and cautioned statements obtained under duress, there must be considerable concern that many people who were convicted were convicted inappropriately.

<sup>8</sup>'Police Report on the Food Riots'.

<sup>9</sup>It is interesting to see this in the light of reports about the inappropriate application of POSA. Here see Solidarity Peace Trust, *Disturbing the Peace: An Overview of Civilian Arrests in Zimbabwe: February 2003 – January 2004* (Solidarity Peace Trust, <<http://www.solidaritypeacetrust.org>>, July 2004).

Fourthly, there were credible reports that there was interference with the justice process by members of the government. It was reliably reported that a meeting was held between senior members of the ZRP, the Attorney-General's Office, senior magistrates and possibly some Ministers, at which it was agreed that bail hearings would be delayed and remand hearings postponed. This was given additional significance by the decision of the Attorney-General not to proceed against the Mayor-Elect of Chitungwiza, Mr Macheke, a decision that was roundly condemned by civic society groups and legal groups. The inference here is that there could have been some kind of cover-up for human rights violations.

In conclusion, this analysis of very scanty data gave considerable cause for concern. The allegations of drag-net arrests seemed borne out by the very high rate of discharges by the justice machinery, more than 70% having the cases against them dismissed. There was also the concern that the lengthy periods of incarceration, apart from being an infringement of civil liberties, may have led to experiences of torture and ill-treatment and much more serious infringements of human rights. There was finally the concern that there may have been political interference in the justice machinery. All of these concerns needed to be dispelled by an open investigation into the events around the Food Riots, as had been requested by the Human Rights Forum and the UN Human Rights Committee.<sup>10</sup>

<sup>10</sup> See Zimbabwe Human Rights NGO Forum, *Human Rights in Troubled Times*; UN High Commission for Human Rights, *UN Human Rights Committee: Consideration of Reports Submitted by States Parties under Article 40 of the Covenant. Concluding Observations of the Human Rights Committee: Zimbabwe* (New York: UN Commission for Human Rights, 1998).

# Human Rights Violations and Psychosocial Consequences for Survivors during the Food Riots

This section deals with the cases that were referred to members of the Human Rights Forum, and is based on detailed interviews with all the clients. It reports only on those persons who were assisted by the Human Rights Forum, and thus represents the most accurate detail about the events and the effects of the Food Riots. As will be seen, the data on the medical assessment of these people corroborated all the information gathered from the interviews in Mabvuku, and shed considerable doubt upon claims that there were no human rights violations perpetrated during the disturbances. Furthermore, most of the persons reported upon in this section instituted claims for damages against either the ZNA or the ZRP, or both.

All persons had lengthy interviews with health workers and legal practitioners. Additionally, medical reports were obtained from medical practitioners and physiotherapists, where the clients had seen these personnel. Where possible, witnesses were interviewed and affidavits obtained from them. All these data were compiled in a database, and the following results are derived from this database.

Detailing the psychosocial consequences is important when it is considered that the only other official report on the Food Riots, that issued by the ZRP General Headquarters, made no mention of human rights abuses, or even the scale of injuries suffered. It is also important to stress that the cases reported below are only indicative of the kinds of injuries and disorders suffered by survivors, and there are no data to indicate the scale. It would be necessary to carry out a study of clinic records and hospital outpatient records to get a clearer picture of the suffering experienced by ordinary citizens in Zimbabwe. The victims assisted by the Human Rights Forum were drawn from a wide number of the areas affected during the Food Riots, but, as can be seen from Table 5, the breakdown is reflective of the areas in which human rights violations were reported, or where the violence was reportedly high. The largest number came from Mabvuku and Zengeza.

**Table 5: Areas from which Food Riots victims were drawn**

Budiriro	2
Chitungwiza	1
Epworth	1
Kuwadzana	1
Mabvuku	8
Mbare	3
Mufakose	3
Mutoko	1
Seke	4
St Mary's	1
Sunningdale	1
Tafara	7
Zengeza	8

The press reports indicated that men, women and children were all affected by the violence, and this is again corroborated by the results of the Mabvuku case studies. As can be seen from Table 6, more men than women were affected, and most were young persons (average age 27) as opposed to other groups of survivors. This is not a comment of any consequence, however, and it would be expected that current victims would be young. As also might be expected of a young group, there were a large number of single persons and relatively few widowed or divorced persons.

**Table 6: Demographic characteristics of Food Riots victims**

<i>Gender</i>	
Male	30
Female	14
<i>Average age</i>	
	27
<i>Marital status</i>	
Single	15
Married	16
Divorced	3
Widowed	1
Not recorded	9
<i>Employment</i>	
Employed	28
Unemployed	16

A high number were unemployed, and this may be important in making this group more vulnerable to civil disturbance since they were more likely to be at home and possibly more vulnerable to arrest for this reason. Additionally, there were students and pupils affected. Of those who were employed, most had formal employment (Table 7). It is also worth commenting that several members of this group became unemployed as a consequence of either the injury or the period spent away from work as a result of the injury. This is reflected in the claims for damages.

**Table 7: Forms of employment among Riots Victims**

Student	4
Pupil	3
Vendor	2
General hand	3
Formal employment	9
Self-employed	7

One complaint was brought on behalf of a deceased person, whilst 13 were complaints about injuries due to bullet wounds (Table 8). The majority brought complaints about assaults, and some of these experienced these assaults during detention.

**Table 8: Complaints by victims of Food Riots**

Death	1
Bullet wounds	13
Assaults	30
Detention	11

It is significant that the report issued by ZRP General Headquarters made no mention of deaths or injuries due to gunshot wounds, and the ZNA, according to press reports, claims that no shots were fired by members of the ZNA. Furthermore, there is no mention in the ZRP report of complaints of assaults, nor that any investigations were pending into charges of assaults.

As can be seen from Table 9, most persons were injured by members of the Zimbabwe Republic Police, but a large number were also injured by members of the Zimbabwe National Army. Some were injured by more than one branch – uniform branch and support unit of the ZRP – or more than one agency – ZRP and ZNA.

**Table 9: Alleged perpetrators of human rights violations**

Zimbabwe National Army	16
Zimbabwe Republic Police	23
Riot Squad	2
Criminal Investigation Department	1
Support Unit	4

The medical complaints of these survivors were split between those who had been shot – death, bullet wound and amputation – and those who had been assaulted – fracture, pain. Two persons complained that they had lost employment as a result of the injuries sustained. One man, for example, sustained permanent disability – loss of function in his arm – as a result of a bullet wound, and was unable to continue his employment as a driver owing to the disability.

**Table 10: Injuries and disabilities of victims of Food Riots**

Death	1
Bullet wound	10
Amputation	1
Fracture	4
Pain	12
Loss of job	3
Epilepsy	1

As regards the deaths, the Human Rights Forum was able to obtain information on the follow-up to only one death, that of Kudzai Ndlovu, who was shot and killed in Gweru. The public inquest, which was concluded in March 1999, revealed a wholly unsatisfactory situation. The presiding magistrate noted that no satisfactory investigations were conducted in order to reveal the identity of the perpetrator, and went so far as to state that the ZRP in Gweru were actually stifling investigations. He then recommended that the investigations should be taken over by an independent team of investigators from a different town. This is clearly at variance with the assertions of ZRP Spokesperson, Superintendent Bvudzijena, and the ZRP's own report.

## **Torture**

Torture can be identified according to various different definitions, the most common of which are those contained in the UN Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment and Punishment,<sup>11</sup> and the Declaration of Tokyo.<sup>12</sup> The latter has remained the most complete statement about torture yet produced by the medical profession. As this definition states:

*For the purpose of this Declaration, torture is defined as the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason.*

For the purposes of the UN Torture Convention torture is defined as involving the following elements:

<sup>11</sup> See *United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Adopted and Opened for Signature, Ratification and Accession by General Assembly Resolution 39/46 of 10 December 1984.

<sup>12</sup> See World Medical Association, *Declaration of Tokyo: Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment*. Adopted by the 29th World Medical Assembly, Tokyo, Japan, October 1975.

- the intentional infliction of severe pain and suffering, whether physical or mental;
- the purpose of inflicting the pain or suffering must be—
  - to obtain from the victim or another person information or a confession;
  - to punish the victim for an act that the victim or another person has committed or is suspected of having committed;
  - to intimidate or coerce the victim or another person; or
  - for any reason based upon discrimination of any kind;
- the pain or suffering must be 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.

According to both of these definitions, a very large number of persons experienced torture during the Food Riots. This can be seen from the interviews in Mabvuku and in the cases assisted by the Human Rights Forum.

Torture can be classified in various ways, but it is by no means synonymous with physical abuse only. The Amani Trust, one member of the Human Rights Forum, has had considerable experience with torture in Zimbabwe, and has provided evidence of the very number of persons who experience long-term, persistent psychological disorders as a consequence of both physical assault and psychological torture.<sup>13</sup> The classification used by the Amani Trust can be described briefly as set out below, but a more comprehensive explanation can be found elsewhere.<sup>14</sup>

Impact torture	Physical abuse and deprivation
Psychological torture	Sensory over-stimulation and psychological abuse
Witnessing	Witnessing of torture or executions

In addition, disappearances should be mentioned, for this is a method of traumatising political opponents and communities which is being used more frequently. However, we do not deal with disappearances here because this was not mentioned by any informants or in the press.

Obviously, physical assaults can lead to long-term disability and persistent pain, but what is less well known is the very frequent long-term consequence of psychological disorders. Post-Traumatic Stress Disorder (PTSD) is the most common acute disorder, but Depression, Somatisation Disorder and even Brief Reactive Psychosis are common long-term consequences as well as PTSD. It is also common for survivors to have a combination of physical and psychological disorders. As regards the life consequences of psychological disorders due to Organised Violence and Torture (OVT), social and occupational functioning are frequently affected, with survivors having their social relationships, including the family, and their work life impaired to a degree. The degree that a person is affected depends upon the severity of the trauma, the frequency of the trauma, and the vulnerability of the person.<sup>15</sup>

<sup>13</sup> See Amani Trust, *Survivors of Torture and Organised Violence from the 1970s War of Liberation* (Harare: Amani Trust, 1998); A. P. Reeler, 'Is torture a post-traumatic stress disorder?' *Torture*, 4 (1994), 59–65; A. P. Reeler, 'Trauma in Mozambican refugees: Findings from a training programme for refugee workers', *Torture*, 5 (1995), 18–21; A. P. Reeler, 'Epidemic violence and the community: A Zimbabwean case study', *Community Development Journal*, 33 (1998), 128–139; A. P. Reeler, 'Compensation for Gross Human Rights Violations: Torture and the War Victims Compensation Act', *Legal Forum*, 10 (1998), 6–21.

<sup>14</sup> See Amani Trust, *Assessment of the Consequences of Torture and Organised Violence: A Manual for Field Workers* (Harare: Amani Trust, 1997, revised).

<sup>15</sup> See Reeler, 'Is torture a post-traumatic stress disorder?'

The group did not report frequencies of torture as high as previous groups,<sup>16</sup> which again is unsurprising since most had only one encounter with the police or the army. Impact torture was reported much more frequently than other forms, and, of the forms of impact torture, beatings were the most frequently reported. Psychological abuse was reported with the greatest frequency. A very high proportion (24%) of the group reported unconsciousness, but most of these reported unconsciousness of less than 30 minutes (Table 11). For the majority of those reporting unconsciousness, this was associated with gunshot wounds, but two members reported unconsciousness following assaults. Unconsciousness is important to identify, both because of its association with long-term disability and its status as an indicator of the severity of the assault.

**Table 11: Unconsciousness reported by Food Riots victims**

<30 minutes	7
30–60 minutes	1
60–120 minutes	1
>120 minutes	1

The group as a whole reported very high numbers of symptoms after the alleged torture. The mean number of symptoms reported was very high (13.7), and this was a mixture of both psychological and physical symptoms. People with ordinary psychological disorders have been shown to present with high numbers of symptoms – about 3 according to most Zimbabwean studies<sup>17</sup> – and this group has a considerably higher number of symptoms. This is probably due to the combination of physical and psychological injuries. In addition, 16 (43%) of the group were suffering from a clinically significant psychological disorder. This was slightly lower than other Zimbabwean groups that have suffered gross human rights violations, but, as stated in the previous report,<sup>18</sup> is undoubtedly due to the fact that most people experienced only a single occurrence.

No details of the personal experience of any of these cases were reported in 1999, since all these cases were *sub judice*, but the general data corroborated the reports from the Mabvuku interviews. The sample overwhelmingly reported experiences of gross human rights violations, and, distressingly, most had physical, psychological and social difficulties as a consequence of their experience.

At the time of the 1999 report, all these cases were awaiting the outcome of their civil suits, with the Civil Division of the Attorney-General's Office indicating that it would contest all the cases. Here the Human Rights Forum commented:

*this is unsatisfactory in the light of the UN Human Rights Committee's recommendations that all cases of gross human rights violations should be paid compensation, and that it is legalistic of the Government to insist upon court proceedings before any award of compensation. We are certain that this was not the intention of the UN committee.'*

Furthermore, the Human Rights Forum pointed out that the cases reported upon represented only a small proportion of the persons who were likely to have experienced gross human rights violations. If, as noted above, more than 70% of the persons seen in the Harare Magistrate's Court

<sup>16</sup> See again Amani Trust, *Survivors of Torture and Organised Violence from the 1970s War of Liberation*.

<sup>17</sup> See A. Hall, and H. Williams, 'Hidden psychiatric morbidity: Part I: Study of prevalence in an outpatient population at Bindura Provincial Hospital', *Central African Journal of Medicine*, 33 (1987), 239; A. P. Reeler, H. Williams and C. H. Todd, 'Psychopathology in primary care patients: A four-year study in rural and urban settings', *Central African Journal of Medicine*, 39 (1993), 1–8; V. Patel, C. Todd, M. Winston, *et al.*, 'Common mental disorders in primary care in Harare, Zimbabwe: Associations and risk factors', *British Journal of Psychiatry*, 171 (1997), 60–64.

<sup>18</sup> See *Zimbabwe Human Rights NGO Forum A Consolidated Report on the Food Riots*.

were unconditionally discharged, and the evidence of the conditions in detention (see above) was that gross human rights violations were perpetrated on a massive scale, then the numbers were clearly much higher. Even more significantly, when the evidence suggested that gross human rights violations were perpetrated on a massive scale within the communities without arrests taking place, then the numbers affected were likely to be in the region of many thousands.<sup>19</sup> Of course, this assertion is based upon extrapolation and is no substitute for detailed analysis, but this was what the Human Rights Forum continually requested from the President and the government: an independent commission of inquiry. Importantly, this was also requested by the UN Human Rights Committee.

As can be seen from this section, the human consequences of the Food Riots were not trivial and the suffering continues unaddressed for an unknown number of ordinary Zimbabwean citizens caught up in a terrible disturbance. They required a response from the government better than ignoring the problem or offering a mendacious report such as that from the Zimbabwe Republic Police.

<sup>19</sup> This is now wholly probable and can be seen in the light of Operation Murambatsvina. Here, see ActionAid (2005), *An In-depth Study on the Impact of Operation Murambatsvina/Restore Order in Zimbabwe* (Harare: ActionAid International in collaboration with the Counselling Services Unit (CSU), Combined Harare Residents' Association (CHRA) and the Zimbabwe Peace Project (ZPP), November 2005).

## The Verdicts from the Courts

In its first detailed follow-up of the Food Riots cases in 2000, the Human Rights Forum reported on 32 of the 42 cases that had come to them. Awards had been made in 13 (40%) of the cases described in Table 12, which seemed strong vindication for the views of the Forum that the principle of minimum force had been exceeded.<sup>20</sup>

**Table 12: Results of cases reported to the Human Rights Forum**

<i>Awaiting trial or pre-trial conference</i>	<i>Awaiting judgment</i>	<i>Dismissed</i>	<i>Award</i>	<i>Agency renounced</i>	<i>Left country</i>	<i>Died</i>
7	1	2	13	4	2	3

There had been a number of judgements in those completed cases, and these were briefly outlined in the Forum's 2000 report. These findings and the verdicts from a number of the court cases are briefly summarised.

### Shootings cases

Despite the *prima facie* evidence that people were shot by the police or army, in the main, there had initially been some concern as to whether these cases would stand up in court. However, the courts generally took a very sympathetic view of the cases, and there were several in which important precedents were set in respect of the principle of minimum force, or about the nature of exemplary damages for cases of gross human rights violations.

#### *Simbarashe Ruka*

He was outside his house when a bullet hit him on the forehead. The bullet did not enter his forehead and there was no injury to the bone. The doctor indicated that the injuries were not serious and the amount of force used to inflict the injuries was moderate. The ballistics report by Superintendent Charles Hailey indicated that the bullet was fired from a 9mm pistol and had rifling characteristics common to CZ/PI/Browning pistols. The report concluded that from the description of the plaintiff's injuries and the appearance of the bullet it was most likely that the bullet was almost completely spent before striking and it was probably fired from over a kilometre away. The matter was set down for trial for the week beginning 9 October 2000. The parties were called to the judge's chambers where the matter was settled. Judgment was entered for the plaintiff in the sum of Z\$12,000.

#### *Fabian Muradzikwa*

The plaintiff was coming from work when the police shot him in the right shoulder on 19 January 1998. He had left his workplace in the company of two workmates. The commuter omnibus dropped them off before entering Mabvuku as rioters blocked the road. They walked towards Tafara where the plaintiff lived. They passed through a park in an effort to avoid the shopping centre. There was gunfire coming from the direction of the shopping centre. When he was struck by the bullet, the plaintiff lost consciousness and fell to the ground. He was taken to the clinic where he was bandaged and placed on a drip. He was later taken to Parirenyatwa Hospital together with Janet Jonasi who had also been shot. He was hospitalised for one and half days but the bullet was not removed because he had bled excessively. The evidence led by the plaintiff showed that he was in extreme pain for many days. He could sleep only on one side and he could not go to work for three weeks.

<sup>20</sup> Further details of the remaining cases are provided in Appendix A.

Superintendent Hailey, who was in charge of the police firearms forensic laboratory, examined the X-ray pictures and told the court that the object which was lodged in the plaintiff's shoulder had the appearance of a bullet jacket. He stated that from its appearance the bullet was fired from a military rifle and not a civilian rifle. Superintendent Hailey told the court that FN rifles, which the police were using, are not suitable for riot control.

Two issues that arose for determination in respect of liability were whether the plaintiff was injured by a bullet fired by a policeman, and whether the injury, if the police caused it, was justified. From the evidence that was led, the court was satisfied that a bullet that was discharged from an FN rifle by the police who were trying to suppress riots shot the plaintiff.

On the second issue the court affirmed the position that one can kill in defence of another's life or property. Having regard to the magnitude of the violence as described by the parties the court found that the police were totally justified in using firearms. The case turned, however, on the use of military weapons by the police. It was held that it is unreasonable and wrong for the police to use military weapons to suppress an urban uprising in the full knowledge that such weapons are dangerous and therefore not suitable for riot control. The police should not be excused for exposing people like the plaintiff who were going about their business to the risk of being hit by ricocheting bullets fired from weapons that should not be used to suppress riots. While the police have a duty to maintain law and order they should do so with the use of suitable equipment. The plaintiff was awarded Z\$40,000 as general damages and Z\$6,617.62 as special damages.

#### *Lovemore Musona*

His 17-year-old son Reditus Musona was coming from school when the police shot him in the head. He died four hours later at Harare Hospital. The autopsy indicated that he had died of brain laceration caused by a gunshot wound. The police denied that the officers who were sent to Glen View on 20 January were armed at all. However, a police officer who investigated the matter was subpoenaed together with the docket. He told the court that, in his investigations, he had found out that members of the Support Unit and the Police Reaction Group had been sent to Glen View and that they were armed with guns.

Although he was satisfied that the boy had been shot by members of the Zimbabwe Republic Police he had recommended that the docket be closed because no one could identify the police officer who had killed the plaintiff's son. On the basis of this policeman's evidence, and the evidence of the plaintiff and his wife, the court made the following findings of fact:

- that the Support Unit and Police Reaction Group were at Glen View on the day in question;
- that they were armed with guns; and
- that they were firing their weapons.

The court ruled that the question of whether it was the police who killed the plaintiff's son was a question of inference from all the evidence led. The plaintiff had proved his case on a balance of probabilities, and on the basis of the evidence led the court found that it was reasonable to conclude that police had fired the shot that killed the plaintiff's son. The plaintiff had claimed Z\$30,000 for funeral expenses and Z\$500,000 for loss of future support. The plaintiff was able to prove funeral expenses of \$12,000. Judgment was accordingly entered for the plaintiff in the sum of \$12,000 plus interest and costs.

## **Torture cases**

The majority of the cases from 1998 involved instances of torture by either the Zimbabwe Republic Police or the Zimbabwe National Army. In general, the courts have found in favour of the plaintiffs and awarded damages according to Zimbabwean precedent. However, as the Human Rights Forum commented in 2000, there was concern about seeing damages for the deliberate infliction of harm by State officials being awarded on the same scale as ordinary civil damages. The Human Rights Forum argued at the time that exemplary damages should always be awarded for cases of torture in order that the point be made strongly to the State that its officials, and especially the police and army, owe an exemplary duty of care to the citizens that they are obliged to serve.

### *Ngonidzashe Mapuranga*

Members of the Zimbabwe Republic Police assaulted the plaintiff on 23 January 1998. He was coming from Chitungwiza Magistrates' Court where his sister's case was being heard. He was a security guard and had spent the previous night on duty. On his way home he met police officers who asked him about people who were looting shops. They accused him of being part of the group and assaulted him under his feet with batons. He was forced into the police truck. On the way to the police station he was forced to carry a blanket. Upon arrival at the police station, the plaintiff was beaten again under his feet and forced to admit that he had stolen the blanket. He denied this and was taken to court where he was acquitted.

As a result of the beating the plaintiff sustained severe blisters under his feet. A physiotherapist saw him six months later. The physiotherapist was called to give evidence. She indicated that the plaintiff's feet had been badly damaged. He was now permanently disabled as he could not walk long distances and stand for long periods. The plaintiff would therefore need cushioning for all his shoes. He would also need ultrasound treatment to resolve adhesions between tissue strata and for chronic inflammation in the soles of the feet. Judgment was entered for the plaintiff in the sum of Z\$55,000, together with interest and costs. The judge indicated that this was a case where exemplary damages could have been called for because the assault was carried out in order to get a confession from the plaintiff.

### *Ratidzai Madzimure*

This case was concluded at the pre-trial conference. The plaintiff was awarded Z\$30,000, plus interest and costs. Members of the army who were purportedly investigating incidents of looting approached her while she was in her house; she lived in Chitungwiza. She was dragged from her house and beaten with whips and hosepipes. The plaintiff was an epileptic patient. She sustained injuries on her thighs. At the pre-trial conference the judge noted that the plaintiff now had weals on her thighs as a result of the assault and that the plaintiff had been assaulted in full view of other people. He recommended a settlement in the region of Z\$30,000.

### *Dorothy Julius*

She lived in Mabvuku and was a TB patient at that time. She was sitting outside her house. Two police officers, a man and a woman, and three soldiers came to her house and asked the plaintiff about the location of certain looted goods. They got inside the house and ransacked it. They found nothing and asked the plaintiff to lie down. The policewoman started assaulting the plaintiff with a whip on her buttocks, back and arms. They also kicked her with booted feet. They asked the plaintiff to accompany them to the local police station. They forced the plaintiff to carry two wine bottles full of water. The plaintiff was told to go back home before they got to the police station. She was awarded Z\$15,000 together with interest and costs. The police have paid the damages.

### *Anesu Mafunga*

The defendants were ordered to pay Z\$10,000 to the plaintiff as general damages. He lived in

Mabvuku and had gone to see his friend in the neighbourhood to discuss homework; he was doing Advanced Level studies. Whilst at his friend’s house they were confronted by three soldiers and two policemen. They accused the plaintiff and his friend of having taken part in looting the shops. The plaintiff denied any knowledge of looting and told them that they were students. The plaintiff was beaten with a whip. He was told that he was being assaulted for obtaining a higher level of education than the soldiers and to appreciate what happens when the economy is bad. The plaintiff sustained weals on his back. He was treated at Parirenyatwa Hospital.

As can be seen from these cases, in almost every case the claims of the plaintiffs were accepted by the courts, and, since these were the only independent investigations of the Food Riots, it is noteworthy that they all support the claims of the Human Rights Forum, and verify the conclusions of the Forum.

**Data from the completed legal cases**

Since the Forum’s report in 2000, the remaining cases have been completed, and hence the Forum can now provide a full overview of the legal process. The data from the legal files were compiled in an electronic database for ease of analysis, and, in addition, comprehensive notes were made from the files.

Of the original 42 cases, 39 were finally filed with the courts. Of these 42 cases, three persons died before their cases were heard, and, in a further 6 cases, the Forum renounced agency owing to the clients either leaving the country or failing to turn up for appointments. Thus, 30 cases went the full route in law, although most did not actually go to court but were settled out of court. In the end, another three cases were dismissed for lack of evidence.

As can be seen from Table 13, reference was made to torture in 8 of the cases. However, on more careful analysis of the case notes, and using the definition provided in the UN Convention Against Torture, it is evident that this was actually an underestimate. Using the UN definition, it would seem that 23 of these cases would actually conform to this definition. Thirteen cases were concerned with shootings, while in six cases the violations took place in a detention centre.

**Table 13: Types of violations reported**

<i>Violation</i>	<i>Number</i>	<i>%</i>
Assault	8	20
Assault with intent to do grievous bodily harm	12	49
Murder	1	3
Property destruction or violation	1	3
Unlawful arrest	1	3
Unlawful detention	1	3
Torture	8	20

As can be seen from Table 14, the uniformed branch of the ZRP and the Zimbabwe Republic Army accounted for a majority of all alleged perpetrators. The overall percentage exceeds 100, since there were multiple perpetrators in a number of cases. There is no information about any possible recriminations by the State against any of the alleged perpetrators, and, as was reported above, in one case the courts alleged that the ZRP were being obstructive in their investigations of the alleged perpetrators.<sup>21</sup>

<sup>21</sup> See the case of Kudzai Ndlovu, above.

**Table 14: Perpetrators reported**

<i>Perpetrator</i>	<i>Number</i>	<i>%</i>
ZRP [Uniformed branch]	11	27
ZRP [CID]	1	3
ZRP [PISI]	0	
ZRP [Riot Squad]	8	20
ZRP [Support Unit]	5	12
Army	18	44
CIO	0	

## Awards and Damages

In 17[59%] of the cases, multiple defendants were named. However, the three main defendants are described in Table 15.

**Table 15: Defendants named**

<i>Defendant</i>	<i>Number</i>	<i>%</i>
Commissioner of Police	26	63
Ministry of Defence	19	46
Ministry of Home Affairs	28	68

Damages were awarded in 23 of the cases [see Appendix 2], and damages have now been paid for all the cases, with the last award being paid in March 2004. As can be seen from Table 16, there is a significant difference between the damages claimed and awarded, with only 23% of the damages being finally awarded. However, in any assessment of the damages, the massive decline in the Zimbabwe economy and the value of the Zimbabwe dollar is highly significant, which accounts for the substantial difference between the amounts claimed and the amounts awarded. Inflation was the major factor here. Since the quanta take no account of inflation, and certainly no account of hyperinflation, the final amounts granted in 2004 are mostly derisory.

**Table 16: Damages awarded**

	<i>Z\$</i>	<i>US\$</i>
Total damages claimed	3,130,293	118,199
Total damages awarded	3,806,129	16,100

As can be seen in Appendix 2, some individuals received more than they claimed, which accounts for some of the variation seen in Table 17. However, as can be seen from Table 19, the means were accompanied by massive variance between the amounts claimed and the amounts awarded. These differences are also to be explained by the differences between those who claimed for being shot and those for being tortured.

**Table 17: Average differences in claims and awards**

Difference (Z\$)	13,439
Difference (US\$)	3,983

**Torture and shootings**

A comparison was also made between the awards made to those clients that were claiming for injuries due to shootings and those that were claiming damages due to torture. There is an important distinction to be made between these two groups. Those that were shot were all shot accidentally; that is, their wounds came about because of the reckless discharge of firearms, mostly by the police. This is well described in the cases summarised earlier. The other group, those claiming torture, were deliberately harmed by either the police or the army, and this too is well illustrated by the cases described earlier. It is the deliberate infliction of harm that characterises the differences between the two groups, and the difference in intent should to some extent influence both the claiming of damages as well as the award. There does seem to be a significant difference between a person injured by the discharge of a rifle by a poorly-trained and frightened policeman, on the one hand, and the systematic assault of an unarmed person by a group of policemen or soldiers, on the other.

Thus, it is interesting to see, from the cases completed, that greater damages were claimed by, and that the courts gave greater awards to, those who were shot than those who were tortured. This is well illustrated in Table 18.

**Table 18: Comparison of average damages awarded to shootings versus torture**

	<i>Torture</i>		<i>Shootings</i>	
	<i>Z\$</i>	<i>US\$</i>	<i>Z\$</i>	<i>US\$</i>
Damages claimed	59,035	2,123	253,946	10,032
Damages awarded	13,859	207	308,863	1,595

There was no difference in the time taken for resolution of the cases for the two groups, but the torture group did have a greater number of persons that took longer than three years. There are clearly substantial differences in the damages claimed and awarded: the shootings cases both claimed and received greater damages. The differences between claim and award were also significantly different for the shootings cases, as seen in Table 19: there was a greater discrepancy between the claims and the awards for the shootings cases. Thus, it would appear that, whilst the courts viewed the reckless discharge of firearms as more serious than torture, they also did not view the injuries of those shot as warranting the damages claimed.

**Table 19: Average differences in damages**

	<i>Torture</i>	<i>Shootings</i>
Difference between claim and award [Z\$]	45,176	54,917
Difference between claim and award [US\$]	1,916	8,437

Now clearly the hands of the courts are tied by specified quanta for damages, but there does nonetheless seem to be an anomaly here in that deliberately inflicted harm is seen as less serious than accidental injury. Certainly the consequences of being shot can be more serious, involving potential loss of life, but, where life is not threatened, then disability is likely for both types of harm, and undoubtedly the contumely due to torture is infinitely greater. Here it is clear that the failure of the Zimbabwe government to ratify the UN Convention Against Torture and to create a domestic crime of torture leads directly to the view that these victims suffered merely assaults, and assault is a significantly less serious crime than torture.

## Conclusions

As stated at the beginning of this report, a consideration of the Food Riots may seem gratuitous in the light of the violence and the epidemic of gross human rights violations that have taken place subsequently. However, with the threats of peaceful mass demonstrations currently being posed by the MDC and other civic groups, as well as the repeated threats of a violent response by the State,<sup>22</sup> it does not seem gratuitous to return to a previous period and examine the manner in which the State has handled such public expressions.

It is evident that the assertions of the Human Rights Forum, that the State violated the principle of minimum harm, have been supported in every way. This has been demonstrated by the research as well as by the findings of Zimbabwean courts. Firstly, the research showed that massive numbers of ordinary citizens were arrested and incarcerated on grounds that could not be supported in law.<sup>23</sup> In Harare, convictions could be obtained for only 13% of those arrested, whilst over 70% were discharged after periods well in excess of the statutory maximum. A similar picture obtained for Chitungwiza, where 73% were discharged. Overall, in Harare and Chitungwiza, only 18% of those arrested could be found guilty of any crime. All of these persons who were not charged, or whose charges were dismissed, had *prima facie* claims for wrongful arrest and illegal detention, but they were afforded no remedy by the State. It is relevant to point out that the UN Human Rights Committee made an explicit request to the Zimbabwe government to afford such remedy, but that this did not happen.

Secondly, there is abundant evidence that State agents, both the police and the army, committed gross human rights violations on a massive scale. There is clear evidence from the court cases that the Zimbabwe Republic Police were guilty of reckless discharge of firearms, and there must therefore be considerable apprehension currently that, when the State threatens potential demonstrators with violent suppression, this will occur again. As the court cases show, many innocent people, not even remotely connected to the disturbances, were injured by the shots recklessly fired, mainly by the police. The human rights community has since that time made repeated calls for weapons of war – automatic weapons – to be withdrawn from the police, but these calls have been wholly ignored.

It was also evident from the court cases that both the police and the army were guilty of torture, and this was corroborated by the case studies from Mabvuku. Here, it should be pointed out that there should be very unusual circumstances occurring for the army to be deployed against civilians, and, where these circumstances prevail, it is also clear that the army must show considerable restraint in dealing with civilians. On the evidence from the Food Riots, the Zimbabwe National Army does not appear to show restraint in dealing with civilians, and the widespread torture and assaults reported, and confirmed by the court cases, indicate that the army should not be deployed without very strong grounds. Here, it must be admitted that there was looting and destruction being wrought by civilians during the Food Riots, but it is highly debatable that this required the deployment of the army, and incontestable that this deployment should have required the army to behave with the excessive brutality that has been described.

<sup>22</sup> Minister of State Security, Didymus Mutasa said: 'Anyone, particularly Tsvangirai who threatens peace and stability in this country will get capital punishment ... and we mean it. We maintain organs of national security such as the army to protect the stability and integrity of our country. They will be instructed to use all resources at their disposal, including guns (to stop protests)'. 'Zimbabwe Security Minister threatens to shoot protesters', *Zim Online*, 12 April 2006. The Minister subsequently denied this statement.

<sup>23</sup> This is not a situation that has improved in recent years, and indeed has worsened with the passing of the now-notorious Public Order and Security Act (POSA). Here see again, Solidarity Peace Trust, *Disturbing the Peace*.

Thirdly, the numbers of those who suffered gross human rights violations were not trivial, and the consequences were equally not trivial, as shown by the effects on the very small number who approached the Human Rights Forum for assistance. It is evident that the numbers of those tortured and assaulted exceeded those shot by an order of magnitude. The data do not allow any estimate of how many persons were tortured or assaulted, but it seems safe to assume that the majority of those arrested and detained were so treated, and here it does seem that this group – those arrested – was only a small proportion of those ill-treated in the community. An ancillary piece of research may be helpful here.

A recent study by ActionAid International on the consequences of *Operation Murambatsvina* demonstrated that there had been a significant increase in gross human rights violations since 1998.<sup>24</sup> While this study was focused primarily on the consequences of produced by *Operation Murambatsvina*, it also examined the contribution of trauma over past decades. The data indicated an increase in trauma during periods when organised violence and torture were highly prevalent. For example, there was significant increase in trauma reported from the sample from Bulawayo during the 1980s, and, furthermore, a dramatic increase in reported trauma from 1998 onwards (Table 20).

**Table 20: Trauma over the years: Percentage of persons reporting trauma experience per year**

	<i>Harare</i>	<i>Bulawayo</i>	<i>Mutare</i>
Before 1980	27.4	45.1	46.4
1980–1987	30.0	58.3	47.3
1990–1997	57.4	62.4	70.3
1998–2000	80.5	65.3	89.5
2001–2004	88.9	81.6	97.9
2005	97.4	93.3	100.0

As the ActionAid study demonstrated (Table 21), there is a massive increase in imprisonment, severe beatings and torture from 1998. While this research clearly demonstrates the decline in human rights observance since 1998, it does not enable any estimation for each of the years between 1998 and 2000. However, there was no epidemic of violence during 1999,<sup>25</sup> and hence the changed climate is clearly due to both 1998 – the Food Riots – and 2000. Thus, the ActionAid research can be interpreted as partial support for the assertions of the Human Rights Forum that violations took place on a large scale in 1998.

**Table 21: Frequency of imprisonment, severe beatings and torture, 1980 to 2005**

<i>Before 1980</i>	<i>1980–1987</i>	<i>1990–1997</i>	<i>1998–2000</i>	<i>2001–2004</i>	<i>2005</i>
199	232	149	676	878	685

Fourthly, there has been no attempt by the State to hold any investigation into the events around the Food Riots. There has been neither any commission of inquiry, nor has the State widely disseminated the report of the UN Human Rights Committee, as was requested by that Committee.<sup>26</sup> To the knowledge of the Human Rights Forum, the government published only one very small article in the Zimbabwe *Herald* newspaper, and this did not deal with the Food Riots but with issues of racial

<sup>24</sup> See ActionAid, *An In-depth Study on the Impact of Operation Murambatsvina/Restore Order in Zimbabwe* (Harare: ActionAid International in collaboration with the Counselling Services Unit (CSU), Combined Harare Residents' Association (CHRA) and the Zimbabwe Peace Project (ZPP), November 2005).

<sup>25</sup> See Zimbabwe Human Rights NGO Forum, *Organised Violence and Torture in Zimbabwe in 1999* (Harare: Zimbabwe Human Rights NGO Forum, 1999).

<sup>26</sup> See again, UN High Commission for Human Rights, *UN Human Rights Committee: Consideration of Reports Submitted by States Parties under Article 40 of the Covenant*.

discrimination in schools. The only publication that emerged from any government organ was the report of the ZRP mentioned earlier, and this was a wholly unsatisfactory account of the Food Riots. The failure of the government to address the concerns of either the UN Committee or civic society demonstrates the kind of impunity that is imposed when its human rights record is questioned.

Fifthly, there is no evidence that any investigations took place in the police and army into either their management of this crisis, or the behaviour of their members. The report published by the ZRP is mostly laudatory about the police's management, and can only be seen as a whitewash of their incompetence in dealing humanely with civilian unrest. The same can be said for the army, although there has been no public report from the army on this matter.

Sixthly, there remains the issue of the damages. As was seen above, the cases mounted by the Human Rights Forum were mostly successful, and provide the strongest evidence in support of all their allegations. However, it is obvious that civil remedies are a poor substitute for a full and detailed inquiry into an event such as the Food Riots. Civil remedies are beyond the resources of most Zimbabwean citizens, and indeed, in the context of such a massive disturbance as the Food Riots, beyond the resources of civil society. So there is a clear problem of access to justice here, just as there has been in the years after the Food Riots. Furthermore, damages awarded in a climate of economic hyperinflation are clearly problematic. As shown above, there were significant differences between the amounts claimed and the amounts awarded, significant losses due to inflation, and dramatic differences between the awards for those shot and those tortured. By the time that most victims received their damages, the value of the damages had been wholly eroded by inflation.

There are two issues to be raised here in respect of the damages, whilst acknowledging that the hands of the courts in respect of the award of damages are tied by legislation. The first point is that the scale of damages in a hyperinflationary economic climate can result in derisory awards being granted, and the whole notion of the penalty incurred through damages is lost. If the State delays both in the time taken to resolve a matter, and then further delays in payment, the consequence is that no penalty is incurred at all: a million dollars claimed in 1998, which turns out to be Z\$500,000 dollars awarded in 2003 and then paid in 2004, amounts to very little penalty in the end.

The second point relates to the difference between accidental injuries due to reckless shootings and deliberate assaults and torture. As noted earlier, the contumely due to deliberate infliction of harm must surely be different from that occasioned by accidental injury. This difference would be removed if torture were a criminal offence in Zimbabwean law, but this has yet to happen, despite the request by Parliament to the President that the UN Convention Against Torture be signed and ratified. There is a consistent avoidance by the government of any attempt to criminalise torture, and rather a consistent trend towards impunity, as exemplified in the General Amnesty of 2000.

Finally, it seems evident that civilian society must have considerable apprehension at the present time when civic bodies and political parties have the kinds of dissatisfaction with the policies of the government that were evident in 1998. The response of the State in 1998 was out of all proportion to the threat, and, even if there were some threats to public order, these could not be contained without violating the principle of minimum harm. The apprehension must be even greater in the wake of the past five years, when the security forces have been continuously implicated in the commission of gross human rights violations,<sup>27</sup> and in the context where no group outside government has

<sup>27</sup> Here see Zimbabwe Human Rights NGO Forum, *Are They Accountable?: Examining Alleged Violators and Their Violations pre and post the Presidential Election March 2002* (Harare: Zimbabwe Human Rights NGO Forum, 2002); Zimbabwe Human Rights NGO Forum, *Torture by State Agents in Zimbabwe: January 2001 to August 2002* (Harare: Zimbabwe Human Rights NGO Forum, 2003).

advocated anything but peaceful means of protest.<sup>28</sup> In 1998, the Minister of Home Affairs was severely criticised for even justifying the use of lethal force, but, in 2006, the Minister for State Security openly threatens lethal force in advance of any protest.<sup>29</sup>

Since 1998, the Human Rights Forum and its members have been pressing the government of Zimbabwe for accountability over the actions of its agents and for a restoration of the rule of law. These have not been unjustified demands, as can be seen from this report. The Forum claimed that there had been violations of human rights, and this was supported by the reports in the press, the research undertaken by the Forum itself, and even by the Zimbabwean courts. There has been no credible response by the government, not even to the UN Human Rights Committee. Since 1998, the human rights climate has deteriorated even further: if ordinary citizens cannot turn to the state for protection or redress of their wrongs, and, if the state is oblivious to its international obligations, to whom can they turn?

<sup>28</sup> Here it is relevant to point out that the last large demonstration by Zimbabwean citizens, the Peace March in April 2000, was violently broken up by government supporters with very little attempt made by the police to protect them. See Zimbabwe Human Rights NGO Forum, *The Unleashing of Violence: A Report on Violence against Peaceful Protestors in Harare* (Harare: Zimbabwe Human Rights NGO Forum, 2000).

<sup>29</sup> Following an earlier statement (which he later denied), Minister of State Security Didymus Mutasa stated, 'Organs of security are there to maintain security and no sane government in this world will keep its security organs in the camps while some mischievous elements destabilise the country, even threatening to remove a democratically elected government by force.' 'Zimbabwe security minister repeats threats to shoot protesters', *Zim Online*, 25 April 2006.

## Appendix A: Summary of cases from 1998

This is the complete summary of all cases handled by the Human Rights Forum.

Case No.	Reasons for suit
1102/98	The plaintiff was beaten up by the police while at a night club while they were investigating the burning of a police vehicle. He was taken to Makoni Police Station where the assaults continued overnight. Consent to judgment. Payment not yet made. He experienced 'falanga' during his ill-treatment.
11022/98	The plaintiff was accused of looting, and was beaten by soldiers with hosepipes and whips made from car tyres. Epileptic patient with increased seizures as a result of the attack. Settlement.
11023/98	The plaintiff was going to pick up his sister from school when he was approached by police who told him to flee and he did so. He then encountered another group of police officers, who then took him to Makoni Police Station, and he was accused of having stolen goods. He was beaten with metal chains and detained for five days. Case was withdrawn as client passed away.
11025/98	The plaintiff was assaulted by the army as they thought he was part of the riots and had looted one of the shops. He was assaulted with booted feet and baton sticks. The army also destroyed his property. Settlement. By September 2005, the client had not collected his payment.
11036/98	The plaintiff was cycling home from work during the food riots. The police were firing recklessly, and the plaintiff was shot in the right arm. He had not been participating in the riots. The defendants consented to the judgment. The amount was eventually paid in June 2001.
11037/98	The plaintiff was accused of being involved in food riots in Chitungwiza, and was assaulted with baton sticks. Claimed damages of Z\$55,200, but was awarded Z\$88,750.
11038/98	The plaintiff was assaulted with a rifle butt while soldiers searched his home looking for evidence for him having been at work that day. Was awarded damages of Z\$55,000.
11039/98	Soldiers entered her premises looking for looted property and the accused. In the process of their search, they assaulted plaintiff and other members of her family with baton sticks and sjamboks. Agency renounced.
11041/98	The plaintiff was shot in the head during the food riots while he was in his friend's house. He was not part of the riots and the police shot directly into the room.
11043/98	The plaintiff was beaten by police officers using a piece of wire, baton sticks and booted feet. The plaintiff was accused of having participated in looting, and the beating was to get a confession from him. The case was closed as the plaintiff could not be located.
11044/98	The plaintiff was shot during the food riots by a member of the police. He is now paralysed as the bullet lodged in his spinal cord. Judgment was given for the plaintiff. Payment of \$4,243,200 was only made on 12 December 2004.
11045/98	Plaintiff was a child (9), and was shot by soldiers during the food riots when they fired at random into the street and homes. The child was playing outsider a neighbour's house when she was shot. Consent to judgment.
11048/98	Tear gas was fired on his roof, and, while fleeing from it, he ran out of the house and was shot on the forehead by the police. At the hospital the doctors managed to remove the bullet and he was sent home the next morning. Court order in favour of plaintiff. Cheque was paid 31 May 2001.

11049/98	The plaintiff was shot in the neck by an unknown police officer who was working in concert with others while trying to disburse a crowd during the food riots. He was not engaged in any illegal activities at the time as he was sitting under a tree. Default judgment on 24 May 2002, but, to date, the amount has not been paid.
11050/98	Beaten by soldiers after being accused of theft. Plaintiff and her family were beaten repeatedly with baton sticks, booted feet, and fists. Not clear from the file why the case was closed.
11051/98	The plaintiff was beaten by soldiers with baton sticks, as they wanted to get information from her regarding the whereabouts of a certain person and property. Judgment for plaintiff, but payment only in June 2000.
11052/98	Plaintiff was attacked by soldiers with a whip made from wire, and also assaulted with fists. The aim of this assault was to get the plaintiff to give them information on the whereabouts of an accused and some property. A consent order was agreed upon.
11053/98	Soldiers entered the plaintiff's premises by force. They beat the plaintiff together with his sisters, mother and wife, when they failed to give them the information they required. Judgment was entered for the plaintiff in 1999, but payment only made on 19 November 2001.
11054/98	The plaintiff was taken by force to a beer hall by the police in order for them to get some information from him concerning an accused person. He was made to sit on broken bottles, and was beaten with booted feet and fists. He was taken later to Marimba Police Station, where he was again beaten with baton sticks and booted feet. The plaintiff was not involved in the food riots in any way. The case was withdrawn when the plaintiff passed away.
11055/98	During the food riots the police were firing indiscriminately and recklessly, and a 14-year-old boy, Anthony Nyasulu, was shot in the leg while returning from school. He was not involved in any illegal activities. The defendants consented to judgment. Although the consent was made in 2000, the plaintiff only received the cheque on 24 June 2002.
11059/98	The plaintiff was assaulted with baton sticks for no apparent reason. Experienced loss of income as a result of the attack. Case was settled.
11060/98	The plaintiff's 17-year-old son was shot in the back by the police on his way home from school, and died four hours later. The police were found to be reckless and negligent. Plaintiff's son was not involved in any illegal activities.
11062/98	The plaintiff was approached by 12 plain clothes policemen who asked him what he knew about the lootings. When he denied any knowledge, he was beaten with baton sticks and fists on his head and torso. He was then dragged to Mbare Police Camp, and then later taken to Harare Central, where was detained for 18 days. Agency renounced.
11063/98	The plaintiff was assaulted by the police for no reason as she was driving to work. Case was withdrawn.
11065/98	Plaintiff was shot from a helicopter by a police officer as he was walking home, He was not part of the riots.
11066/98	The plaintiff was shot in the thigh by the police while coming from school. Later taken to hospital by the police. Judgment given in favour of the plaintiff.
11067/98	Plaintiff was said to have looted from shops, and was whipped and ordered to balance on forehead and toes without touching the ground with hands. Consent order given, and cheque only collected in February 2003.

11068/98	The plaintiff was returning home from work when he was assaulted by the police. They took him to an unknown police post, but then moved him to Braeside police camp, where they continued to assault him with sticks and broom handles. Then he was transferred to Harare Central, where police officers bashed his head against another detainee's. Case was withdrawn as plaintiff passed away.
11069/98	The plaintiff was beaten by soldiers after being accused of looting. The plaintiff denied the claim but was taken to Mabvuku Police Station where she was detained overnight and beaten with baton sticks while in custody. Case withdrawn as the plaintiff passed away.
11071/98	Plaintiff was going home from work and was caught in crossfire between the police and the looters. When he got home, he realized he had been shot. The matter was reported to the police at Marimba Police Station [CR 520/1/98]. Judgment was handed down for the plaintiff. Plaintiff only collected cheque on 8 August 2003.
11072/98	Plaintiff was assaulted by members of ZNA with ropes and baton sticks. The soldiers wanted to find out information about a stolen stove. Consent to judgment.
11073/98	The plaintiff was in the house when members of the police from Mabvuku Police Station and the army entered her house. They stated that they were looking for people who had looted property. In the process they assaulted the plaintiff with a stick and sjambok. Renounced agency, as the plaintiff moved to unknown address.
11074/98	The plaintiffs were assaulted by the police and army with sjamboks, as well as tying teargas canisters to their heads and between their legs. This was done to get information from them about a woman who wanted to burn a police car. Each plaintiff claimed \$55,000 plus costs. Conclusion of case not clear.
11078/98	The plaintiff was assaulted in the process of extracting information and looking for an accused. Two policemen and three soldiers entered the victim's premises, and assaulted her and her family members with plaited electrical wires. Was awarded damages of Z\$9,000.
11079/98	The plaintiff was accused of looting. Soldiers entered her home by force, looking for property and the whereabouts of a certain person unknown to the plaintiff, as well as get some information from her. She was beaten with fists, sticks and sjamboks. She denied all allegations. Not clear why case was closed.
11081/98	The plaintiff was beaten by soldiers with a electrical cord, after being accused of being involved in looting. Consent to judgment. Payment effected March 2001.
11082/98	The plaintiff was shot in both thighs by members of the police while she was at her tuck shop. At the time she was 8 months pregnant. Paid on 25 October 2002.
11083/98	The plaintiff was accused of being part of the looters in the riots. She was whipped and kicked with booted feet. The matter was referred to Marimba Police Station. Judgment in favour of plaintiff.
11252/98	The two plaintiffs were not able to give any reasons for their ill-treatment. They were assaulted with booted feet, rifle butts and fists, and they were told to roll in the mud. They were then taken to Harare Central where they were forced to crawl certain distances, and were detained there for more than five days. Not clear why case was closed.
11672/01	The plaintiff was shot in the arm and in the stomach while she was walking home when the police were firing randomly and recklessly. Judgment was entered for the plaintiff. The defendants applied for an application to rescind, but this was dismissed.
8686/98	The plaintiff was caught up in demonstrations while coming from work, but was not part of them. He had a teargas canister thrown at him while waiting to go home. The canister cracked his ankle. Consent to judgment.

## Appendix 2: Damages awarded to Food Riots victims

The Z\$:US\$ rates were calculated at the rates pertaining to both the times of claim and the time of award.

This was done in order to obtain a 'real value' for the damages.

<i>Damages claimed</i>		<i>Damages awarded</i>		<i>Difference</i>	
Z\$	US\$	Z\$	US\$	Z\$	US\$
152,000	8,421	72,917	1,389	-79,083	-7,032
516,000	28,571	3,066,000	3,755	-550,000	-24,816
54,000	2,975	34,000	593	-20,000	-2,382
150,500	7,089	13,000	232	-137,500	-6,857
32,000	1,000	100,000	1,753	68,000	753
530,000	16,562	12,000	209	-518,000	-16,353
260,150	8,130	40,150	729	-220,000	-7,401
314,000	9,812	25,000	650	-289,000	-9,162
402,000	10,677	65,000	1,178	-337,000	-9,499
55,200	3,058	10,000	255	-45,200	-2,803
55,200	2,936	35,500	9	-19,700	-2,927
21,000	743	21,000	381	0	-362
55,200	1,725	55,000	966	-200	-759
35,564	1,111	9,000	163	-26,564	-948
85,125	2,660	10,000	261	-75,125	-2,399
67,200	2,100	13,000	340	-54,200	-1,760
55,190	1,725	15,000	300	-40,190	-1,425
45,500	1,422	20,000	5	-25,500	-1,417
55,080	1,721	10,000	255	-45,080	-1,466
28,000	875	28,000	34	0	-841
55,200	1,725	88,750	1,548	33,550	-177
71,120	2,222	22,812	397	-48,308	-1,825
35,064	939	40,000	698	4,936	-241
<b>3,130,293</b>	<b>118,199</b>	<b>3,806,129</b>	<b>16,100</b>	<b>-675,836</b>	<b>-102,099</b>

