

**ZIMBABWE HUMAN RIGHTS NGO FORUM**

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**Organised Violence and Torture  
in Zimbabwe in 1999**

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**A Report by the Human Rights Legal Unit of the  
Zimbabwe Human Rights NGO Forum**

**March 2000**

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This report was prepared by the Human Rights Legal Unit of the Zimbabwe Human Rights NGO Forum in conjunction with the AMANI Trust.

The Zimbabwe Human Rights NGO Forum wishes to acknowledge the support of the Oak Zimbabwe Foundation and the Royal Norwegian Embassy.

## 1. Zimbabwe Human Rights NGO Forum

The idea of an NGO Forum was initially developed in 1997 by the AMANI Trust. The organizations which today form the Zimbabwe Human Rights NGO Forum came together to deal with problems of the January 1998 Food Riots. It was agreed then that the priorities of the Forum were to provide legal assistance to those victims in detention by applying for bail pending trial, to assist victims of police/army brutality seeking damages for injuries, to compile an accurate report of human rights abuses and to provide rehabilitation to victims in need of it. A report was compiled which made several recommendations<sup>1</sup> and a further report was submitted to the Human Rights Committee of the United Nations<sup>2</sup>. Forty-two victims were assisted to file civil suits against the state for injuries. To date some of these cases have been settled out of court, some have proceeded to trial and some are still pending.

The Human Rights Legal Unit of the Zimbabwe Human Rights NGO Forum came into full operation during 1999 mainly to continue support to the cases from the Food Riots in 1998. The Unit has taken on additional cases of gross human rights violations during 1999 because there was a clear need to do so.

## 2. Zimbabwe in 1999

The crisis which began in late 1997 showed little sign of abating during 1999, and all political commentators remain agreed that the severe crisis continuing in Zimbabwe shows little sign of immediate resolution. The President continued to act without consulting Parliament or with respect to the Constitution. The extremely costly war in the Democratic Republic of the Congo continued during 1999, and by the end of the year there were few signs that this war would be easily ended or that any of the negotiations would produce a political solution. This war is estimated to be costing Zimbabwe in excess of US\$3 million per day, and press reports suggest that the government has spent a Z\$6 billion in unbudgeted military expenditure related to the war.

There were serious attacks by the President and the Government on the press, the Judiciary and civil society, with the most serious of these involving the kidnapping and torture of two journalists. This led immediately to a crisis in the rule of law, and, although there has been an uneasy truce between all the parties, the crisis is yet to be resolved in any meaningful way.

### 2.1 Economic decline

It is nearly two years ago since a collapse of confidence led to a stampede on the forex market which saw a catastrophic plunge in the value of the dollar. This event in 1997 was set off by two things. Firstly, President Mugabe made an undertaking to war veterans that they would be paid over \$4 billion in the form of gratuities and pensions. This was money the country clearly did not have and this pledge of the President completely sabotaged the undertakings that the Minister of Finance had made to donors.

Secondly, the government announced the seizure of 1 500 productive farms without any consultation with stakeholders or regard to the damage such an arbitrary move would cause to the country's image and to agricultural output. There then followed "Black Friday" on November 14, 1997 which saw a record fall in

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<sup>1</sup> See Zimbabwe Human Rights NGO Forum (1998), *Human Rights in Troubled Times: An Initial Report on Human Rights Abuses During and After Food Riots in January 1998*.

<sup>2</sup> See Zimbabwe Human Rights NGO Forum (1998), *Comments from some Zimbabwean Non-Governmental Human Rights Organisations on the Report of Zimbabwean Government under the International Covenant on Civil and Political Rights to be presented to the Human Right Committee in March 1998*; See also UN HIGH COMMISSION FOR HUMAN RIGHTS (1998), *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*.

the local unit and an accompanying exit by investors from the stock exchange. The collapse was followed by price increases, and the Food Riots became an inevitable event<sup>3</sup>.

The collapse in the dollar fuelled inflation through 1998, as did the persistent borrowing by government to fund its deficit and recurrent spending. The economic crisis the country suffered as a result of maladroit handling of issues of expenditure continued through 1999. The problems were fuelled by the doubts that arose over the cost of maintaining troops in the Congo. This is a highly unpopular war<sup>4</sup>, and the government has consistently refused to make any frank disclosure about either the casualties or the costs. In fact, the Minister of Defence even refused to give Parliament the full facts when this was demanded in the House of Parliament.

Now, nearly two decades after Independence, Zimbabweans have been severely impoverished by the country's burgeoning domestic debt whose interest bill alone has doubled from the initial estimate of \$10 billion to Z\$41 billion. At the end of 1998 the external debt was Z\$90.2 billion and the figures at the end of 1999 are likely to be nearly double this amount.

The practical effect has been a large increase in the number of "very poor" people: the official figure has risen from 67% in 1998 to 76% in 1999. The Poverty Datum Line for a family of six was estimated to be Z\$5046 per month which was about 5 times the lowest statutory minimum wage in the private sector<sup>5</sup>.

## 2.2 Corruption

Out of 99 countries, Zimbabwe was ranked the 42nd among the 85 most corrupt countries in the Transparency International Corruption Perception Index. During the year graft and underhand dealings were endemic in both the private and public sector. The most notable cases in the public sector involved the National Oil Company of Zimbabwe, which has sustained losses of US\$14.6 billion since 1994 and an independent investigation indicated massive fraud and theft throughout the company. The VIP housing scandal, and the War Victims Compensation Fund scandal remained unresolved during 1999.

The rampant corruption caused the National Economic Consultative Forum to appoint a ten member anti-corruption task force. In October 1999 the Minister of Home Affairs was reported to have said that plans were underway to set up an anti-corruption agency in the police force. One hopes that all these measures will be useful in the fight against corruption.

## 2.3 The war in the DRC

The legal basis for Zimbabwe's involvement in the Democratic Republic of the Congo (DRC) has been a bone of contention from the outset. When President Mugabe decided to commit the Zimbabwe National Army to the conflict in the DRC, it seemed that he had done this unilaterally: if the Cabinet did give approval, this was certainly not made known to the public.

Since the purpose of the Defence Forces as set out in the Constitution is to defend Zimbabwe, and, further, since the dispatch of troops to the Congo was not for the purposes of defending Zimbabwe, this use of Zimbabwean soldiers was not constitutionally permitted. Furthermore although the Constitution does empower the President to declare war, provided he is acting on the advice of his Cabinet, the President has not, however, declared war on any other State. Thus this military expedition was not initially covered by this provision although it may have been ratified subsequently. Finally, since this military engagement was bound to require additional finance over and above the statutory provision in the budget, Parliament should have been consulted before any decision was made. However, despite wide publicity given to the contention that there was no legal basis in Zimbabwean law for the President's decision, there has been no

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<sup>3</sup> See Zimbabwe Human Rights NGO Forum (1999), *A Consolidated Report on the Food Riots, 19th to 23rd January 1999*, Harare: Zimbabwe Human Rights NGO Forum.

<sup>4</sup> See Zimbabwe Human Rights NGO Forum (1998), *A Gallup Poll on Zimbabwe's involvement in the DRC War*.

<sup>5</sup> See Cheater A (1999), "Human rights developments January-June 1999" *Zimbabwe Human Rights Bulletin* 1 3-47.

attempt by any Government officials to argue the issue of legality, and a long period elapsed before this matter was even debated in Parliament.

The funding of this military action in a distant African country was obviously of great concern to ordinary Zimbabweans because at home they were suffering from adverse economic conditions. Different Government Ministers made contradictory statements relating to how the military action was being funded. One Minister said it was being funded entirely out of the defence budget, whereas others informed us that it was being funded entirely by a number of Governments such as the DRC and Angola.

Finally in a letter to the IMF in July 1999 the Minister of Finance admitted that the war had cost Zimbabwe US\$ 1.3 million per month in 1998 or 0.4 per cent of the Gross National Product. When additional troops were sent to the Congo in 1999 the cost to Zimbabwe was US\$ 3 million or 0.6 per cent of the Gross National Product. At the beginning of June 1999 an internal memorandum came to light in the Ministry of Finance which seemed to indicate that the expenditure on the Congo war between January and June this year was US \$ 166, nearly ten times the official figure. Although the government tried to explain away this memorandum as being a request for funding from the Ministry of Defence, the IMF has accused the Zimbabwean government of lying about what was being spent on the war and has put further funding support on hold.

Right from the start, there has been widespread opposition to the use of our troops in the Congo. Even some high-ranking Government officials voiced their reservations about this military action. A Gallup poll amongst urban Zimbabweans suggested that a large majority of urban Zimbabweans were opposed to the deployment of Zimbabwean troops in the Congo for a variety of reasons.<sup>6</sup> People were concerned about the financial burden this war would impose upon a Zimbabwean economy that was already very weak. They were also very worried about the grave risks to which our soldiers would be subjected. Despite the apparent unpopularity of this military action the Government remains determined to press ahead, and has continued to justify the involvement as necessary for regional peacekeeping. The issue became much more complicated in 1999 by the attempts to create a cease-fire and negotiate a peaceful transition to democratic existence. At the end of 1999 the Zimbabwe National Army remains in the DRC, expenditure continues at an unknown level and there is little sign that there will be a quick transition either to civilian rule or a United Nations supervised peace.

## 2.4 Constitutional Reform

The objective of a genuine constitutional reform process will be to produce a constitutional framework based on enduring values and on the feelings and aspirations of the people as a whole. A process which produces a constitution which simply reflects what the political party holding power wants is clearly not a genuine reform process<sup>7</sup>.

Few issues in 1999 epitomised the deep divides in Zimbabwean society and the lack of trust in the government than the Constitutional (Review) Commission. As Professor Feltoe points out above, the singular problem was the perception by most of civil society that the government was attempting to co-opt the popular process of the National Constitutional Assembly, and also attempting to impose a constitution derived from within ZANUPF.

The Constitutional (Review) Commission was chaired by Justice Chidyausiku and the 385 members included all MPs. A nation wide process of taking the views of the populace was undertaken by the Commission which were then collated into Provincial Reports. The final draft presented to the full Commission was widely criticised for not reflecting the views contained in the Provincial Reports and led

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<sup>6</sup>See again Zimbabwe Human Rights NGO Forum (1998), *A Gallup Poll on Zimbabwe's involvement in the DRC War*.

<sup>7</sup> See Feltoe, G (1999), *Discussion Paper on the Constitutional Commission's Draft Constitution for Zimbabwe [draft paper]*.

to 28 Commissioners resigning after making a public statement. The draft was accepted “by acclamation” after a highly acrimonious meeting and presented to the President.

The draft was widely criticised by many organisations including Amnesty International. The NCA continued its own parallel process and by the end of the year the country was headed for a referendum in early 2000.

## **2.5 Attacks on the Rule of Law**

The most serious attacks on the rule of law came in the context of the journalists’ case. As human rights lawyer Tendai Biti pointed out in a very hard-hitting article these attacks are a continuation of sustained attacks since Independence in 1980<sup>8</sup>. However the journalists’ case raised some of the most serious problems to date.

Firstly there was the matter of the Zimbabwe National Army acting ultra vires in a civilian matter which was illegal and unconstitutional. Secondly the Zimbabwe Republic Police failed to exercise their authority in protecting their own suspects against unlawful arrest by the army. Thirdly there was the evasion by state officials of court orders which was clearly the context in which the judiciary wrote to the President requesting that he unequivocally state his commitment to the rule of law. Fourthly there was the failure by the Attorney-General to take the appropriate action to uphold the law and take action against the perpetrators. The statement by the President in his State of the Nation Address in February that the judges in question should resign precipitated a crisis which remained unresolved by the end of the year.

Against this deteriorating socio-economic background the existence of gross human rights violations must be taken very seriously.

Next we report upon the gross human rights violations reported in 1999 including those seen by the Human Rights Forum.

## **3. Extra-judicial Killings**

The use of excessive force by the police which is not commensurate with the danger of the situation facing them is a cause for concern. During the year there were reports of people who were shot and killed by the police and in some instances these can be attributed to the negligent use of firearms. In other cases, however, the police opened fire to kill people suspected of being criminals. This, it can be argued, amounts to extra-judicial execution, which clearly runs counter to the provisions of the Constitution of Zimbabwe which guarantees the right to life.

*The Zimbabwe Standard* [7th March 1999] reported two incidents which suggest the use of firearms by the police to summarily execute people suspected of involvement in criminal activities. In the first incident a student teacher was shot in the leg during an off campus demonstration. In the second, police shot and killed a 20-year-old man named Van Niekerk near Bulawayo. It was alleged that the Traffic Police had apprehended Van Niekerk whilst driving with his friend in Gweru but fled after discovering that Van Niekerk had a pistol. They later set up a roadblock near Bulawayo. Van Niekerk and his friend tried to drive through the roadblock whereupon the police opened fire. Two shots were aimed at the driver’s door, hitting Van Niekerk in the shoulder and the heart.

A relative of the deceased disputed the claim that the deceased and his friend were trying to escape from the police, saying that the two had previously arranged to drive to Bulawayo. The police expressed the view that the killing of Van Niekerk was justifiable. As a result no investigation into the shooting was carried out.

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<sup>8</sup> See Biti T (1999), “Judiciary bashing: a predatory state and the rule of law in Zimbabwe” *Zimbabwe Human Rights Bulletin* 1 97-107.

Later in the year, again in Bulawayo, police shot and killed Misheck Beremauro. According to the *Daily News* [2 July 1999], eye witnesses said that Beremauro was shot inside a car, handcuffed and left lying in a pool of blood by the side of the road. He later died at the Bulawayo United Hospital. The cause of death was severe bleeding after bullets shattered his right femur and cut open his blood vessels.

The police said he was a suspected car thief trying to run away from arrest. However, it appears that there was no merit in the suspicion that Beremauro had stolen the motor vehicle as the owner confirmed that he had given it to Beremauro to look for buyers. There were no investigations into the shooting as the police maintained their position that they had merely killed a thief.

In another case, Nelly Chirangwi, a mother of five who was on her way to work, was shot and killed at a roadblock by a policeman. The police said that an officer opened fire at a car which suddenly made an about turn at the roadblock. It was reported in *the Daily News* [7th April 1999] that the officer missed his target and the bullet ricocheted off the tarmac and hit Chirangwi who was a passenger in a commuter omnibus. The bullet hit her at the back and came out through the chest. Questions were raised whether the version given by the police is correct since it seems improbable that after hitting the tarmac the bullet would ricochet horizontally to hit someone at the back and come out through the chest.

Two inquests into deaths during the food riots were reported. A Mutare magistrate ruled that charges be preferred against a police officer who shot and killed Clever Gunda after the court heard that Gunda died of gunshot wounds sustained after police opened fire to disperse a crowd. One of the shots ricocheted off the ground and hit Gunda between his nose and left eye. The cause of death, according to medical evidence, was brain damage caused by a gunshot. Police officers who testified during the inquest indicated that warning shots should not have been fired into the ground but in the air in a safe direction before shooting to disable or kill as a last resort.

In the other inquest, a magistrate in Gweru heard that Kudzai Ndlovu died as a result of bleeding of the lower part of the lungs caused by a gunshot. The magistrate recommended that law enforcement agencies be trained to deal with riots and that further investigations be held, possibly by independent investigators, to establish the circumstances leading to the death.

#### **4. Torture and inhuman treatment**

Police and other law enforcement agencies frequently use torture and other forms of inhuman and degrading treatment to extract confessions and other information that they require. The majority of torture and ill-treatment cases reported are on people accused of routine criminal offences. It appears that those who are not represented by a lawyer are at a higher risk of being tortured or treated in an inhuman and degrading manner. Not all cases reported were seen by the Human Rights Legal Unit and those reported immediately below were identified from press reports.

There were several reports of beatings. *The Zimbabwe Independent* [22nd October 1999] carried the story of Fortune Sithole who sustained permanent head injuries after police in Sunningdale severely assaulted him. He had been arrested after a dispute with his girlfriend. He was handcuffed and beaten throughout the night with chains, truncheons, fists and planks. He was also kicked. The doctor's report confirmed multiple blows. A criminal report against the assailants was made and they were identified.

A policeman in Birchenough Bridge was reported in the *Eastern Star* [20th August 1999] to have grabbed a woman, felled her to the ground and started caressing her while sitting on her stomach. He stripped her of her petticoat and demanded to have sexual intercourse with her. The woman continued to fight and he handcuffed her and detained her for the night. The woman filed a complaint and the policeman was charged with indecent assault. He was convicted and sentenced to five months imprisonment with labour.

In Mutare's Dangamvura suburb Crispin Masengere died after police details, who wanted to question him in connection with a suspected theft, set dogs in his two roomed house. According to the *Eastern Star* [26th March 1999], a passerby who witnessed the police unleashing the dogs said loud cries were heard

from the house and there was blood all over. In Sakubva, three people were seriously injured when police dogs were let loose in their homes. The police were hunting for suspected criminals.

In another case fifteen people residents of Nyanga were wounded after police, who were searching for suspected thieves, unleashed dogs in their homes. The residents received various degrees of injuries from dog bites. They were treated at Nyanga District Hospital. Police promised to investigate the matter.

Three Americans, Gary Blanchard, Joe Pettijohn, and John Dixon were arrested for illegal possession of firearms. There was proof that torture and general use of force had occurred during interrogations. The medical report submitted to the court showed that the men had been subjected to electric shocks to the genitals, repeated assaults with leather straps on bare feet, made to sit up against a wall as if on a chair for lengthy periods with arms outstretched and sometimes holding shoes or a chair, near suffocation using a typewriter cover and plastic bag, threats of sodomy and death, having the head held under water, as well as being denied access to a lawyer or the American embassy.

Subsequent to their torture, the three Americans were kept in inhuman conditions under maximum security: kept in isolation, manacled and stripped naked at night, constant lighting, and minimal exercise. The State was forced to alter their conditions following a successful court action on behalf of the three. The final outcome was that the three Americans were charged with relatively minor offences, convicted and given very small sentences. There was clear anomalies between the allegations by the State and the inhuman treatment to which the Americans were subjected during interrogation and incarceration, and the minor crimes with which they were finally charged and convicted.

The most celebrated example of State-sponsored torture relates to the kidnapping and torture of two journalists for the Zimbabwe Standard newspaper. Following a story that there had been a minor coup in the Zimbabwean National Army, the two journalists, Mark Chavunduka and Ray Choto, were held by intelligence officers for nine days. During interrogations they were taken to a torture chamber. Methods of torture used include death threats, assaults all over the body including genitals and electrical shock. They were also made to face a beam of extremely bright light shone in their faces. This case attracted a lot of outcry both at home and abroad. European Union member states summoned Zimbabwean diplomats and told them how deeply concerned they were with the harassment of the press and the attempted defence of the grave human rights violations committed against the journalists.

There were also allegations of torture by students from the Harare Polytechnic who were arrested following disturbances in October, and also allegations that three University of Zimbabwe students were tortured by security guards of the University. It is noteworthy in both of these reports that there are allegations of the use of “falanga”, or beating on the soles of the feet, by both the Police and the security guards.

## **5. Cases from 1998**

These cases were previously reported in the Consolidated Report on the Food Riots.

### **5.1 Settled**

The six cases which fall under this heading were settled on the basis that the responsible State agency was admitting liability. In all the cases judgments were formally entered and court orders made. All of the cases mentioned below were settled at Pre-Trial Conferences before judges in chambers.

Getting judgment against a Government department is one thing and getting payment if damages is another. At the end of last year it was indicated to us by the Civil Division of the Attorney-General's Office that the Ministries of Defence and Home Affairs had exhausted their votes and did not have alternative means of raising money to pay the damages. Up the date of this report nothing has been paid. Unlike in ordinary civil cases, the law does not allow a judgment creditor to execute the judgment against State property. The HRLU will continue its efforts to have these damages paid.



Four of the cases involve complaints of assault by the army and one involves a complaint of assault by the police. The last one concerns a young lady who was assaulted by members of both the army and the police. It should be noted here that in all these cases the injuries complained of were fairly minor. Medical records indicate the injuries sustained as bruises and/or abrasions. Below is a brief summary of each of the settled cases.

#### **JG**

She was assaulted by members of the army together with her mother, brother and sister at midnight and sustained minor injuries. The soldiers were responding to a report of theft and wanted to extract information relating to the location of the stolen property. She was not engaged in any unlawful activities or riots at the time of the beating. A settlement was reached before Garwe J on the basis that judgment was entered for the plaintiff in the sum of \$10000.00 together with interest at the prescribed rate from the date of judgment to date of payment in full. The defendants were also ordered to pay costs of suit.

#### **FG**

He is JG's brother and he was assaulted in similar circumstances as those described above. Judgment was entered for him in the sum of \$13000.00 together with interest and costs.

#### **GK**

Members of the army forcibly entered into his bedroom and dragged him outside whereupon they started assaulting him. He sustained bruises and abrasions on his legs and buttocks. By consent the court ordered that judgment be entered for him in the sum of \$10000.00 in respect of general damages plus costs.

#### **TM**

She was assaulted by members of both the police and the army whilst at home. She was accused of having taken part in the riots. She sustained bruises and abrasions on her back and buttock. She was awarded \$14000.00.

#### **GM**

He was assaulted with clenched fists and booted feet by policemen who were investigating the theft and burning of a police motor vehicle. He sustained wounds and bruises on his head, face, back and feet. The police admitted liability and judgment was entered for him for \$10000.00 together with interest and costs.

### **5.2 Withdrawn/Dismissed**

Two cases were withdrawn. In the first one it appears summons had been issued against the police by mistake. The woman, AM, had given a statement to the police after the incident that she had been attacked by a riotous mob whilst driving to work. She had lost consciousness as a result of the attack but prior to that she had not seen any policeman nearby. It was agreed that the matter be withdrawn with no order in respect of costs.

In the other case summons had been issued out at the instance of WD for pain and suffering endured as a result of an assault by the police. He had not seen a doctor and there was no medical evidence. We tendered wasted costs. The Civil Division of the Attorney-General's Office will shortly quantify their costs and advise us.

One case was dismissed at a Pre-Trial Conference. It is the case of MG. She had complained of assault by members of the Zimbabwe National Army. She married and migrated to England with her husband. We have been advised that she and her husband are permanently resident in England. She was not able to travel from England for her case.

### **5.3 Trial**

One trial has been completed and we are waiting for judgment. It is the case of SM who was shot in the stomach by police. He worked as a waiter at a restaurant and had knocked off from work at around 11 pm..

He was dropped off by a commuter bus a few kilometers from his home as the roads had been blocked by rioters. He was caught by a stray bullet as he was passing near a shopping centre in Kuwadzana 4. This case is the high water mark as it will guide us in the other cases involving shooting. Seven other cases were referred to trial in 1999. As at end February 2000, a further 2 cases are set down for trial and another 6 cases for pre-trial conference.

#### **5.4 Missing/Deceased**

In November 1999 an advertisement was placed in the papers for clients we could not locate. Many of them responded. They had all changed their residences and were very happy to know that their claims were still pending in court. We have however not been able to locate AM who we are reliably informed is now staying in Botswana. We have not been able to get information on the whereabouts of one MM who was staying in Mbare during the time of his assault by members of the Zimbabwe Republic Police.

Two of our clients passed away before their cases were concluded. FR was unlawfully assaulted and detained by the army. We were advised by her daughter soon after assuming agency that she passed away in February 1999. Apparently there was no causal link between her death and the assault.

After an advertisement in the newspapers for missing clients, we were advised of the death of JM by his widow and brother.

### **6. Cases from 1999**

During the year we saw a number of cases which fall within the ambit of the international definitions of organized violence and torture. The most notorious case involved the kidnapping and torture of the two Zimbabwe Standard journalists Mark Chavunduka and Ray Choto. This case has been widely reported and all the facts are known (see above). It is however distressing in the extreme that little has been done to bring the perpetrators to book, most particularly when Ray Choto and Basildon Peta received highly credible death threats in November. This was taken very seriously by the State and it was gratifying that approaches to the Minister of Home and the Commissioner of Police by the Human Rights Forum and the Zimbabwe Independent Newspaper produced a supportive response.

The threats were nonetheless very worrying and the AMANI Trust and the Human Rights Forum immediately instituted an urgent appeal for support from international partners. In particular the support from the International Rehabilitation Council for Torture Victims (IRCT) and Amnesty International seemed to provide the kind of pressure necessary to get a good local response.

One other case involved the harassment by government agents of GM who had survived a murderous attack in June 1998. Subsequently he and his family were harassed and threatened by government agents on a regular basis. He was accused of conniving with elements of ZANUPF to make linkages to the labour movement especially the emerging political wing of the ZCTU. He sought the assistance of the Human Rights Forum and was helped to seek asylum outside the country. The harassment of his family continued after his leaving the country with the last reported incident taking place on the eve of the launch of the Movement for Democratic Change. State agents burst into the family home in the early hours of the morning searching for GM, examining documents and even threatening his young son.

#### **JK**

This woman was severely tortured by officers of the ZRP. On very flimsy grounds, she and her husband were arrested on suspicion of having murdered their maid. JK received very severe treatment, including beatings, suspension, electrical shock, and beatings to her genitalia. The Human Rights Forum is following up this case in order to get accurate details, but she and her husband are being assisted by a private lawyer in making charges against the ZRP and claiming damages.

### **BS & AM**

They are brother and sister. BS was arrested by police officers after protesting against the Epworth Local Board for destroying her house and crops. Policemen at Hatfield Police Station struck her with clenched fists, boots and a stick. After hearing of his sister's arrest AM went to the station where he was also detained and beaten with a truncheon under his feet. The Human Rights Legal Unit is now awaiting a Pre-Trial Conference date from the Registrar of the High Court.

### **PZ**

PZ was assaulted by members of the Zimbabwe Republic Police after he had been overheard making comments about alleged corruption by the police. He was dragged off by an armed policeman and then beaten with rifle butts and truncheons, slapped and kicked with boots. The assaults stopped when Security Guards at a shop nearby heard his screams and came to his assistance. The policemen ran away. He made a statement at Matapi Police Station and his statement was corroborated by several witnesses.

### **RM & NZ**

These two gentlemen were taken to Nyamweda Police Station in Mhondoro as suspects in a theft of maize grain case. They were beaten with truncheons, iron bars, plaited electric wires and a hosepipe. NZ apparently received a much more severe beating and died 9 days after being released from police custody. The Death Certificate issued shows that death was caused by injuries to the multiple tissue caused by a blunt object.

### **PM**

He was assaulted on his back, buttocks, under his feet and all over his body by police officers who were investigating a case of theft of money from his employer. He was handcuffed with his hands at the back. His legs were forced between the handcuffs whereupon the policemen started assaulting him with a truncheon under his feet.

### **FN**

He was assaulted on his back, buttocks, under his feet and all over his body by police officers who were investigating a case of theft.

### **MM, RM, EK & LM**

These men are related to each other. They were arrested by police in Bulawayo on allegations of theft of a motor vehicle. They were arrested at different times but they all complained of being locked in a car boot and being assaulted. They were kept at Bulawayo Central Police Station for 5 days. They were later transferred to Harare where they were released without being charged.

### **EL**

He was seen by policemen waiting at a tuckshop in Chitungwiza. He was dragged and shoved into the back of a police van. On the way to the station he was assaulted. He was dragged into a holding cell. He was later released after paying a \$50.00 fine, presumably for loitering.

## **7. Conclusions**

Although gross human rights violations are always a cause for concern the context is always of enormous importance. Gross human rights violations occurring against a background of socio-economic stability and good governance are clearly a very different matter to such events occurring within a conflict situation or in a rapidly destabilising situation. In the latter situation there is usually the prospect of an increase sometimes a massive increase - as in the case of Rwanda or Sierra Leone - and this requires all concerned persons to consider emergency action.

The situation in Zimbabwe is undoubtedly a cause for major concern. Since the formation of the Human Rights Forum - in the midst of riots and civil disturbance - the socio-political situation has been

deteriorating at an alarming rate. The near-demolition of the Zimbabwean economy has resulted in a huge increase in the number of very poor people and rampant inflation with massive and constant price increases. There seems very little evidence that the ZANU-PF government has any policy in place to deal with these problems. The publication of the Consolidated Report on the Food Riots which was sent to the President and Senior Government Ministers as well as being widely circulated internally in the country produced no official response from government. This is again important since the Human Rights Committee of the United Nations had previously requested an independent commission of inquiry into the Food Riots - a call which government has also ignored. The Consolidated Report particularly stressed the need for open investigation in order to identify the factors leading to civil disturbance and human rights violations. This need for public scrutiny was stated very strongly in the report:

In conclusion, we would wish to point out that it is unacceptable for the Government to avoid any inquiry. The basis of a stable and democratic society requires that all actions of the Government be open to public scrutiny, especially where events have led to loss of life and widespread civil disturbance as is the case in the Food Riots. It is insufficient for Government or any of its agencies to merely assert that the principle of minimum force has been obeyed without testing this assertion in an open and public manner. Zimbabwe is in crisis, and it is incumbent upon the Government to take the steps to reduce both crisis and the conditions for crisis. Government is not the law, nor is it above the law, and it should set the example to the nation of open criticism by public inquiry.<sup>9</sup>

What has been of even greater concern for human rights in Zimbabwe has been the re-mergence of political torture and the government's attitude to this in 1999. In the wake of the kidnapping and torture of Mark Chavunduka and Ray Choto by the Zimbabwe military all civil society made calls to the government to respect the rule of law, condemn this illegal action and ensure that the perpetrators were brought to book. The Government's contempt for the rule of law even forced judges of the Supreme Court and the High Court into the unprecedented move of writing to the President to express their concern. None of these concerted actions had borne any fruit by the end of the year.

The President, the Attorney-General, senior Ministers and members of the Parliament have all made statements condoning the actions of the military and none have publicly retracted these. Thus the Judiciary remain to some extent at loggerheads with the Executive and the Parliament which does not bode well for the future. The perpetrators remain at large with no credible attempt at investigations as far as this can be established. It was gratifying, however, to see that the Minister of Home Affairs and the Commissioner of Police took very seriously the death threats against Ray Choto and Basildon Peta.

The importance of these attitudes of the President and the government to the torture of Chavunduka and Choto must be seen in relation to the other cases seen in 1999 and also to the riots cases. When government itself shows no will to investigate or control state-sponsored violence and torture it is a signal to all state agencies that a degree of practical impunity exists. This is so crucial in Zimbabwe where impunity for genocide and gross human rights violations had been the norm rather than the exception. In 1999 there was no sense that government saw human rights violations in a serious light.

The cases seen by the Human Rights Legal Unit show a worrying trend in the type of torture now being seen. There is an apparent trend towards the police using forms of torture that are more difficult to detect initially. Here the use of electrical shock and "falanga" or beatings on the soles of the feet must be

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<sup>9</sup> See Zimbabwe Human Rights NGO Forum (1999), *A Consolidated Report on the Food Riots, 19th to 23rd January 1999*, Harare: Zimbabwe Human Rights NGO Forum.

highlighted and questions asked. Falanga has not been reported widely before in Zimbabwe<sup>10</sup>, but has been growing in frequency through the 1980s and the 1990s. It has been observed elsewhere that falanga tends to increase as the more obvious methods of torture become detected, or as public pressure against the use of torture grows.

Although it is not possible to estimate the frequency of torture country wide it is enough to point out that sufficient cases exist to cause concern. We must point out that these are not merely allegations of gross human violations and our contention that torture is a problem is supported by both medical evidence and judgements by the courts. Undoubtedly the many years of emergency powers have done little to contribute to a culture of human rights amongst the police a fact which is readily admitted by the Ministry of Home Affairs and the Zimbabwe Republic Police. It is for this reason that the ZRP has been working with the Legal Resources Foundation the Human Rights Research and Documentation Trust and the AMANI Trust to provide human rights training to senior staff trainers of recruits and soon recruits themselves.

However didactic education may by itself be insufficient to wholly change the problem. As Sir Nigel Rodley UN Special Rapporteur on Torture has frequently remarked the problem lies in police stations and not in classrooms and he has even more frequently remarked if police stations were made of glass there would be no torture. Here we would wish to point out that there is an analogy between human rights training for police and medical education. The attitudes of doctors are partly formed by their education in medical school and partly by their experience in hospitals with the role models of practicing doctors. So too will young policemen be influenced by their role models in police stations and there is a pressing need to reform the behaviour in police stations as much as there is need to put human rights in the curriculum of police training.

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<sup>10</sup> See AMANI Trust (1998), *Survivors of Torture and Organised Violence from the 1970s War of Liberation*, Harare: AMANI; See also CCJP/LRF (1997), *Breaking the Silence Building True Peace A Report on the Disturbances in Matabeleland and the Midlands 1980 to 1988*, Harare: Catholic Commission For Justice And Peace & Legal Resources Foundation.