



Organised Violence and Torture and Elections in Zimbabwe



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the Research & Advocacy Unit Trust (RAU)
for the VOTAER Consortium

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Introduction¹

It seems clear in retrospect that the days of the autocrats and one-party regimes were numbered following the collapse of the Soviet Union and the end of the Cold War. The change in the international order meant that liberal democracy became the default arrangement for most countries, leading to the optimism of the “Third Wave” of democracy, and the new emphasis on elections and alternations in power, even in Africa.² In fact, there was an enormous shift in Africa towards multi-party democracy, and the holding of regular elections, but it also became clear that elections were no panacea: too many countries realised that elections could be a very low bar for maintaining international credibility.³

Whether described as living under “competitive authoritarianism”,⁴ “dominant power politics”,⁵ or even a “predatory state”,⁶ the ruling party, ZANU-PF, has remained in power since 1980, confounding all logic and political science theory.⁷ The party won every election during the 1990s, mostly against very weak opposition, but the stakes grew much higher with the emergence of the Movement for Democratic Change (MDC), and elections became hugely competitive, and extremely violent. In fact, it is evident that Zimbabwe is the most violent country in SADC when it comes to elections.⁸ From 2000 onwards, the passing grade, usually accorded to Zimbabwe for its elections, changed to a fail, and the combination of violent and flawed elections (together with the problems about property rights that followed the Fast Track Land Reform Programme (FPTP), led to Zimbabwe being placed under restrictive conditions by the EU, and both restrictive conditions and sanctions by the US.

Thus, the relationship between Organised Violence and Torture (OVT) and elections became the new focus for human rights monitoring: not exclusively so, as the challenges to ZANU-PF’s hegemonic power grew with every passing year, both through elections, but also through the growing discontent of the citizenry for its very poor governance. Nonetheless, it was during elections, both in the lead-up and the aftermath of elections, that the greatest frequency of OVT was recorded. It is also worth pointing out that elections prior to 2000 were also marked by significant political violence, but not on the scale seen subsequent to 2000.⁹

Elections since 2000 have been marked also by accusations of electoral irregularities and rigging, and there is a very large literature on all these elections.¹⁰ Whilst rigging and fraud are

¹ Report produced by the Research and Advocacy (RAU) for the Votaer Consortium.

² Posner, D. N., & Young, D. J (2007), The Institutionalization of Political Power in Africa, *Journal of Democracy*, 18, 3, 126-140.

³ Carothers, T. (2000), An End to the Transition Paradigm, *Journal of Democracy*. 13, 1: 5-21; see also Diamond, L. (2008), The Democratic Rollback: The Resurgence of the Predatory State. *Foreign Affairs* 82, 2, 36-48.

⁴ Levitsky, S., & Way, L. A (2002), Elections without Democracy. The Rise of Competitive Authoritarianism, (*Journal of Democracy*, 13:2, 51-65

⁵ Carothers, T. (2000), An End to the Transition Paradigm, *Op Cit*

⁶ Reeler, A. P (2014), *On Power in Zimbabwe*. September 2014. Harare: Research & Advocacy Unit.

⁷ RAU (2012), *Bucking the Trend: Africa, Zimbabwe, Demand for Democracy, and Elections*. May 2012. Harare: Research & Advocacy Unit.

⁸ RAU (2016), *Are former liberation movements inherently violent as governments?* February 2016. Harare: Research & Advocacy Unit.

⁹ Compagnon, D., & Makumbe, J. M (2000), *Behind the Smokescreen: The Politics of Zimbabwe’s 1995 General Elections*, Harare: University of Zimbabwe Press; Moyo, J. N (1992), *Voting for Democracy: A Study of Electoral Politics in Zimbabwe*, UZ Publications, Harare.

¹⁰ See especially Moyo, J (2020), *EXCELGATE. How Zimbabwe’s 2018 Presidential Election was Stolen*. Harare: SAPes Books.

obviously very serious issues, here we will concentrate on the aspects of all these elections in which OVT was documented.

OVT during Elections

Since 2000, every election has been violent, documented by both local human rights groups as well as those from the international arena.

Table 1: Number of reports on OVT during elections

[Source: A bibliography on Organised Violence and Torture in Zimbabwe. 2021]

Organisation	No. of reports on Elections
Amnesty International	3
Amani Trust	8
CCJP	0
Human Rights Watch	5
International Rehabilitation Council for Torture victims (IRCT)	2
Idasa	1
Physicians for Human Rights	3
Redress Trust	2
Research & Advocacy Unit (RAU)	7
Solidarity Peace Trust (SPT)	2
Zimbabwe Peace Trust (ZPP)	26
Zimbabwe Human Rights NGO Forum (ZHRNGOF)	36
ZimRights	1
Total:	96

Zimbabwe has held five elections and two referendums since 2000, and not all have been violent, especially the referendums. Thus, it is worth looking at each of the elections from the perspective of OVT, for not all are the same, and the patterns vary, and different to both the Liberation War and Gukurahundi, because OVT since 2000 has been massively documented.

As seen in Table 1, there are at least 96 reports on OVT during elections, which cover the period 2000 to 2018. The majority were produced by Zimbabwean organisations, with the Forum and one of its members, ZPP, producing 65% of all of these reports. Zimbabwean human rights organisations have an enviable record in documenting human right abuses and political violence: Zimbabwean human rights organisations contribute over 70% of all reports on violence in comparison to other countries in SADC, such as Angola, Mozambique, Namibia and South Africa, where most reporting on violent events is produced by the media.¹¹ Of course, reports on OVT are only a small percentage of the total number of reports on OVT generally, about 20%. This is not to minimise the importance of reports on OVT and elections, merely to point out that OVT in Zimbabwe is confined not just to elections.

2000 General Election

The 2000 General Election came on the heels of a long, contested process of producing a new constitution, the creation of broad civic alliance, the National Constitutional Association (NCA) to drive this process, the counter-response of setting up a Constitutional Commission by the government, and the formation of a new political party, the Movement for Democratic Change. The stakes for this election had never been so high, especially after the electorate rejected the government's draft constitution.

¹¹ RAU (2016), *A valedictory for civil society in Zimbabwe*. February 2016. Harare: Research & Advocacy Unit.

It also followed, after a turbulent 1990s, with the Economic Structural Adjustment Programme (ESAP), growing poverty, and the establishment of a powerful trade union movement, the Zimbabwe Congress of Trade Unions (ZCTU), with markedly increased activism in the 1990s (and the huge public sector strike in 1996). The decade ended with the Food Riots in 1998, nation-wide protests against the huge increase in the cost of living caused by gratuitous payouts to war veterans, the collapse of the Zimbabwe Dollar, involvement in the DRC, and the Zimbabwe National Army on the streets of towns for the first time since Independence.¹²

Thus, not only were a vibrant political party, and a strong civic movement, challenging the ZANU-PF government in 2000, there were also very clear signs that the government had lost the trust of the populace as a whole. In fact, there has been minimal political trust in the government since 1999, with rarely more than 30% of citizens expressing strong political trust. Much of this has to do with the use of coercive power by the government, with low trust being associated with political fear, and high political trust associated with rural residence.¹³

In retrospect, it thus easy to see why the land invasions began in earnest after the rejection of the 2000 constitution. Having lost the urban social base, and seeing that there was growing support for the MDC in its own heartland, the three Mashonaland Provinces where ZANU-PF won every single seat (many unopposed) in 1995, the party could take no chances in the 2000 elections. Organised violence and torture commenced in a very big way in February 2000 as hundreds of farms were invaded. It was immediately apparent that political loyalty was an issue during the invasions. The attacks on commercial farm workers were not random, and those commercial farmers singled out for brutal attacks or murdered were all public supporters of the MDC.¹⁴ The issues around displacements, the land invasions and Operation Murambatsvina, will be dealt with in a separate section, but here it is sufficient to point out the OVT that accompanied the land invasions in 2000 as they formed a central component on an election strategy. A primary goal was neutralising support for the MDC or converting support to ZANU-PF of over 300 000 commercial farmworkers and their families. In real terms, the farm worker vote in ZANU-PF's heartland might amount to nearly one million votes, and the referendum had shown that there was very real possibility of a majority of those votes going to the MDC. There was very real probability that ZANU-PF was going to lose the 2000 elections.

Here it is worth expanding this point, about the numbers of commercial farm workers in the three Mashonaland Provinces. A very high percentage of these "plantation" workers were of Malawian and Mozambican origin, some several generations old, but had no homes outside of the commercial farms on which they worked and lived. Since land restitution was such a major issue in both the constitutional referendum and for the election itself, and land reform could well have affected their livelihoods and homes, the appeal for the MDC was undoubtedly strong for many of these farmworkers.

Chenjerai Hove once wryly commented: "*you can take ZANU-PF out of the bush, but you can't take the bush out of ZANU-PF*". This is exactly what followed in the strategy to hold the rural vote: *pungwes* held at night, *bases* established in nearly every District, *sell-outs* punished by

¹²ZHRNGOF (1998), *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; ZHRNGOF (1999), *A Consolidated Report on the Food Riots 19–23 January 1998*, Harare: Zimbabwe Human Rights NGO Forum.

¹³RAU (2019), *Political Trust in Zimbabwe over time*. August 2019. Harare: Research and Advocacy Unit.

¹⁴ZHRNGOF (2001), *Politically motivated violence in Zimbabwe 2000–2001. A report on the campaign of political repression conducted by the Zimbabwean Government under the guise of carrying out land reform*, Harare: Zimbabwe Human Rights NGO Forum; JAG/RAU (2008), *Reckless Tragedy: Irreversible? A Survey of Human Rights Violations and Losses suffered by Commercial Farmers and Farm Workers from 2000 to 2008*. Report prepared by the Research and Advocacy Unit [RAU]. December 2008.

abduction, torture, and even extra-judicial killings, and almost every rural district (and some urban areas) became “no go” areas for the opposition MDC, and for most civil society organisations as well. The OVT on the commercial farms was extreme, and particularly for the farm workers.¹⁵

Table 2: Human rights violations resulting from political violence during 2000

[Source: ZHRNGOF, 2001]

Type of Violation	Pre-elect	Post-elect	Total	%
Unlawful killing: total	72	8	80	3.0
Zimbabwe Republic Police	(2)	0	(2)	
war vets / Zanu-PF	(40)	(4)	(44)	
other / unknown	(30)	(4)	(34)	
unlawful arrest / detention: ZRP / CIO	18	24	42	1.6
unlawful assault: ZRP / ZNA	1	6	7	0.3
kidnapping / disappearance	>700	99	>799	29.7
torture	>60	>30	>90	3.3
degrading treatment	2	0	2	0.1
rape	>10	0	>10	0.4
firearms offences: total	3	45	48	1.8
ZRP	0	0	0	
other	(3)	(45)	(48)	
death threat	>70	>58	>128	4.8
child sexual abuse	0	10	10	0.4
school closure	>550	3	>553	20.5
property-related	>865	>60	>925	34.3
Total	2351	343	2694	100.2

The scale of the violence was recorded by the Forum and its members, but also by international organisations such as Amnesty International, and the International Council for Torture Victims (IRCT).¹⁶ The Human Rights Forum and the Amani Trust between them produced eight reports on the OVT, including reports on the OVT during the run-up to the elections.¹⁷ In the aftermath of the election, the Forum produced two analyses of what had taken place.¹⁸

The statistics tell a sorry story, but the reports additionally comment on the peculiarity of the focus on the very areas in which ZANUP-PF had held such hegemonic power in the elections in 1995.

As can be seen (Table 2), the Forum recorded 80 deaths (extra-judicial killings), more than 799 cases of abductions or disappearances, and more than 90 cases of torture. The companion report gave detail on the OVT itself, the victims, the perpetrators, and the places where it took place,

¹⁵ GAPWUZ (2009), *If something wrong...The invisible suffering of commercial farm workers and their families due to “land reform”*. Report prepared by the Research & Advocacy Unit and the Justice for Agriculture Trust. November 2009. Harare: General Agricultural 7 Plantation Workers Union of Zimbabwe.

¹⁶ AI (2000), *Zimbabwe: Terror tactics in the run-up to the parliamentary elections*, June 2000, London: Amnesty International; IRCT (2000), *Organised Violence and Torture in Zimbabwe*, 6th June 2000, Copenhagen and Harare, International Rehabilitation Council for Torture Victims & Amani Trust.

¹⁷ ZHRNGOF (2000), *The Unleashing of Violence: A report on violence against peaceful protestors in Harare*. A report compiled by the Zimbabwe Human Rights Non-Governmental Organisations Forum. April 2000, Harare: Zimbabwe Human Rights NGO Forum; ZHRNGOF (2000), *Report on political violence in Bulawayo, Harare, Manicaland, Mashonaland West, Masvingo, Matabeleland North, Matabeleland South and Midlands*, Harare: Zimbabwe Human Rights NGO Forum; ZHRNGOF (2000), *Report on Pre-election Political Violence in Mberengwa*, Harare: Zimbabwe Human Rights NGO Forum.

¹⁸ ZHRNGOF (2000), *Who is responsible? A preliminary analysis of pre-election violence in Zimbabwe*, Harare: Zimbabwe Human Rights NGO Forum; ZHRNGOF (2001), *Human Rights and Zimbabwe’s June 2000 election, Special Report No.1*. Harare: Zimbabwe Human Rights NGO Forum.

identifying 34 “bases: where torture and other abuses took place. It was evident that there had been a major onslaught on the populace in order to ensure an election victory, and ZANU-PF duly gained a majority in parliament, but lost its two-thirds majority.

The MDC immediately disputed the results, mounting 38 election petitions. The international community was divided over the outcome, but the Commonwealth moved to suspend Zimbabwe because of the report of its observer group to the elections, ironically based on the Harare Commonwealth Declaration and its amendments. SADC and the AU noted many irregularities, but minimising the violence. Thus, the election petitions became an important test of the claims about OVT, and all these court cases were monitored closely, the reports of the proceedings eventually transformed into the Political Violence Monthly Reports of the Forum.¹⁹ The Forum produced these reports from June 2001 right up to May 2009, 85 separate reports.

Whilst the petitions were successful in bringing to light, in the courts, the extent of the OVT, the court process was less than successful. The analysis of the outcome of the petitions by the Solidarity Peace Trust (SPT) demonstrated that, of the 38 (39 including one petition brought by ZANU-PF), none were complete by the time of the next election in 2005: every MP who was the subject of a petition served the entire parliamentary term of five years. It is worth summarising the SPT findings:²⁰

Out of the 39 original election petitions:

Five were never set down for hearing by the High Court;

Two were dismissed by the High Court on procedural grounds;

Eleven were withdrawn:

- as a result of intimidation of/violations against the complainant
- or because after years of delay MDC candidates claimed prejudice

Five were not proceeded with, as the ZANU (PF) respondent/s died before the hearing;

Sixteen were heard by the High Court of Zimbabwe.

Out of the 16 petitions heard by the High Court

Seven were ruled in favour of MDC;

Nine were ruled in favour of ZANU (PF).

Out of the 13 petitions presented to the Supreme Court

Three have been heard to date;

Ten have never been heard;

No judgments have been given on the three cases heard.

It is worth bearing in mind that election petitions should be resolved quickly, they are “urgent” as they affect the whole nature of governance and who can govern. That these cases were not treated urgently, resolved quickly and by-elections held quickly was a major subversion of justice and the rule of law.

¹⁹ Amani (2002), *Neither Free nor Fair: High Court decisions on the petitions on the June 2000 General Election*, Harare: Amani Trust.

²⁰ SPT (2005), *Subverting Justice: The role of the Judiciary in denying the will of the Zimbabwe electorate since 2000*. MARCH 2005. Zimbabwe & South Africa: Solidarity Peace Trust.

It was also extremely dangerous for those victims that decided that they would testify in the election petitions.²¹

Table 3: Consequences of testifying in the courts.

[Source: Amani Trust, 2002]

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

This small study showed the risks. A majority of the witnesses from Zvishavane, Mutoko South, Hurungwe East, and Chiredzi North were threatened after testifying, and smaller numbers were attacked (Zvishavane & Chiredzi North). Furthermore, whilst the study also showed that majorities in all constituencies felt that testifying was necessary and satisfying, very few showed any change in their mental health. This is hardly surprising given that most were intimidated subsequently, and the Amani Trust had to provide support to very large numbers of potential witnesses (and their families) who were forced to flee from their homes when it was discovered that they would be testifying in the petitions.

Clearly, the 2000 General Elections resulted in widespread OVT, with the data gathered by human rights organisations representing only a fraction of the affected population. It also indicated that the Presidential Election in 2002 might well generate a similar process.

2002 Presidential Election

As pointed above, the lead-up to the presidential poll was marked by very violent by-elections, documented by human rights organisations and the local press.

The By-elections

The lead up to the 2002 Presidential election was long and violent. The farm invasions increased in the aftermath of the 2000 elections, and every by-election was a violent forerunner of the strategy that ZANU-PF would adopt for the Presidential election. The reason was very simple: the results of the 2000 election showed very clearly that Robert Mugabe had every chance of losing the election to Morgan Tsvangirai. ZANU-PF got 1 207 298 (47.23%) votes, whilst the MDC got 1 166 653 (45.6%), and, with a less than 2% margin between the two parties, there could be no guarantee that Mugabe would win, and it became evident that coercion would be the strategy of choice to change the risk for ZANU-PF.

The strategy was evident in the five by-elections held before March 2002: they were held in Marondera East, Bikita West, Bindura, Makoni West and Chikomba. ZANU-PF won every one of them, including a constituency previously won by the MDC, Bikita West. However, there was significant OVT in every one of the by-elections.²²

²¹ Amani (2002), *Heroism in the Dock: Does testifying help victims of organised violence and torture? A pilot study from Zimbabwe*, Harare: Amani Trust.

²² Amani (2002), *Organised Violence and Torture in the Bye-Elections held in Zimbabwe during 2000 and 2001*, Harare: Amani Trust; ZHRNGOF (2001), *Report on Election-related Political Violence in Chikomba*, HARARE: Harare: Zimbabwe Human Rights NGO Forum.

Table 4: Types of human rights violations in cases seen in by-elections (2000 to 2002)²³.

[Source: Amani Trust, 2002]

Type of Abuse	%
Physical torture	85%
Psychological torture	20%
Abductions	20%
Deaths	1%

The 34 cases referred to the Amani Trust from these by-elections showed an extremely high rate of torture (85%). Many other cases were reported in the national press. Health personnel from the Amani Trust saw all of these victims, and legal practitioners from the Forum. Many required emergency medical treatment, some of whom were witnesses slated to testify in the election petitions.

Table 5: Perpetrators according to case reports from by-elections (2000 to 2002).

[Source: Amani Trust, 2002]

Perpetrator	%
War Veterans	19%
ZANU-PF youth	8%
ZANU-PF supporters	35%
Zimbabwe Republic Police (ZRP)	14%
Central Intelligence Organisation (CIO)	10%
Zimbabwe National Army (ZNA)	1%
Movement for Democratic Change (MDC)	2%
Unknown	11%

It is evident that members of ZANU-PF are the most frequently identified perpetrators, accounting for 42% of the total, but state agents – the police, the army and the CIO – also are a significant number (25%).

An additionally important event was the assault of legal practitioner in the presence of the police. This was yet another example of the failure of the police to uphold the constitution and their duty to protect the public in cases of a political nature.

The Chairperson of Zimbabwe Lawyers for Human Rights (ZLHR) was assaulted along with a witness in the parliamentary election petitions in ZANU (PF) instigated violence in the Chikomba constituency on Saturday, 7 April. Two lawyers working for the Zimbabwe Human Rights NGO Forum narrowly escaped. In a letter to the Commissioner of Police in Harare, Mr. Tawanda Hondora, of ZLHR, stated that members of ZANU (PF) assaulted him while police watched. Mr. Gabriel Shumba and Mr. Godfrey Mupanga, both of the Forum, managed to escape but were threatened with assault when they arrived at the local Sadza Police Station to make a complaint.

The 2002 Election

It is commonplace to refer to the election in 2008 as the most violent election in Zimbabwe's history. This notion, that 2008 was the most violent, seems predicated on a number of issues that have made it more memorable in the national psyche. Firstly, Robert Mugabe and ZANU-PF actually lost the first round of the election in 2008, a previously unimaginable result. Secondly, the lead-up to the first round was generally very peaceful by Zimbabwean standards, seemingly because ZANU-PF was complacent, but, as later facts emerged, because ZANU-PF

²³ The percentages reported do not sum to 100% as they are the result of overlapping categories. For example, a victim may have been abducted and tortured. Additionally, the percentage of psychological torture is obviously low, but represents cases where no physical torture occurred. In general, it is extremely rare for victims who have been physically tortured not to have been psychologically tortured too.

split and also because, Mugabe at least, was de-campaigned by his own party. Thirdly, the violence that occurred during the re-run for the presidency was extreme, national in application, and seemingly unexpected by most. It was extreme OVT for certain, with the Forum recording 8 403 separate incidents of OVT between January and June 2008, which was 20% of all violations reported to the Forum from July 2001 to May 2009. There can be no argument, therefore, that 2008 was not extremely violent.

However, those that were privy to the violence in 2002 were not shocked. The Forum recorded 4 482 separate incidents from June 2001 to March 2002, which was 11% of the 41 206 separate incidents reported to the Forum, recorded in the Political Violence Monthly Reports. Statistically, 2008 is the most violent election, but the statistics for 2002, and the lead-up, do not convent very important qualitative differences: it is like comparing a short, sharp shock with a long painful illness.

Table 6: Human rights violations [June 2001 to March 2002]
[Source: ZHRNGOF Political Violence Monthly Reports]

	No.	%
Abduction	324	7.2
Arrest & detention	918	20.5
Disappearance	28	0.6
Freedoms (association/expression/movement)	12	0.3
Murder	84	1.9
Political discrimination/intimidation/victimisation	417	9.3
Property violation	770	17.2
Rape	5	0.1
School Closure	41	0.9
Torture	1883	42.0
Total:	4482	

Firstly, the stakes were incredibly high in 2002. ZANU-PF had lost its two-thirds majority in 2000, and thus the ability to manipulate parliament at will. Secondly, the loss of the immense power of the Executive Presidency would have meant the effective loss of all political power. Thirdly, Zimbabwe was under immense international scrutiny like never before, with pressure from the Commonwealth, the EU and the US. Thirdly, the lead-up to the 2002 poll was very lengthy, with the ongoing violent, violent farm occupations and beginning with the first by-election, Marondera West in November 2000. The lead up to the 2002 poll stretched over nearly 18 months, and right around the country. Thus, it was evident from both the farm invasions and the by-elections that this would be more violent than the parliamentary elections, and so it was.

One very important aspect connected to the 2002 elections was the creation of the National Youth Training Scheme.²⁴ The notion behind this scheme was publicly to follow what in many countries is a period of public service for youth, but, after being established in August 2001 with an initial intake of 1 000 young persons, it rapidly became evident that the system was aimed at creating a “youth militia”.

²⁴ SPT (2003), *National youth service training – “shaping youths in a truly Zimbabwean manner”*. An overview of youth militia training and activities in Zimbabwe, October 2000 – August 2003. 5 September 2003. Zimbabwe & South Africa: Solidarity Peace Trust.

By the time that the election process began in earnest, with the MDC alleging that there were an estimated 146 militia bases set up around the country, and between 20 000 to 50 000 youths deployed to these camps. Multiple reports implicated these youth, derisively called “Green Bombers” by the public and the press, in murder, torture, beatings, rape, abductions, property destruction, theft, and intimidation.²⁵

Table 7: Alleged Perpetrators in 2002 [n=707]

[Source: ZHRNGOF, 2002]

Alleged Perpetrator	%
ZRP	1.3
War Veteran	14.3
ZNA	0.3
ZANU-PF supporter	77.1
State official	3.7
MDC	0.3
Unknown	3.1

The youth militia are described in a report from the Amani Trust on the same election. It can be seen in Table 8 that youth militia comprise 29% of the alleged perpetrators, but also that youth militia and ZNU-PF supporters jointly comprise 75% of the total, a figure not so different from the Forum’s statistic of 77% for ZANU-PF supporters.

The Forum report on the 2002 election makes no mention of youth militia, but these are presumably included in either the numbers of ZANU-PF supporters or state officials. However, the report does have a very large number of identified perpetrators (708), and ZANU-PF supporters are in the vast majority.

Table 8: Perpetrators identified by victims

[n=180].

[Source: Amani 2002]

Perpetrator	Percentage
ZANU-PF supporters	46%
Youth militia	29%
ZRP	12%
MDC	5%
War veterans	4%
ZNA	2%
Unknown	2%

The difference seems easy to explain. The Forum statistics came from multiple sources, legal statements given to the Legal Unit of the Forum and reports given members of the Forum, whilst the Amani Trust data came from victims that gave both statements and examined by medical personnel, and hence the data was more comprehensive. However, both sets of data clearly implicate the role of non-state actors in perpetrating OVT during the elections.

The Forum report points out that only 1.4% of the victims had affiliation to ZANU-PF, accounting for the very low prevalence of MDC supporters mentioned as perpetrators. MDC supporters were 51% of the total number of victims, whilst 47% described themselves as non-aligned or apolitical. Here the point seems to be that only explicit affiliation to ZANU-PF could act as deterrent to being subjected to OVT. The Forum also recorded 86 murders, of which 55 were members of the MDC, but also 16 were either members/supporters of ZANU-PF or war veterans.

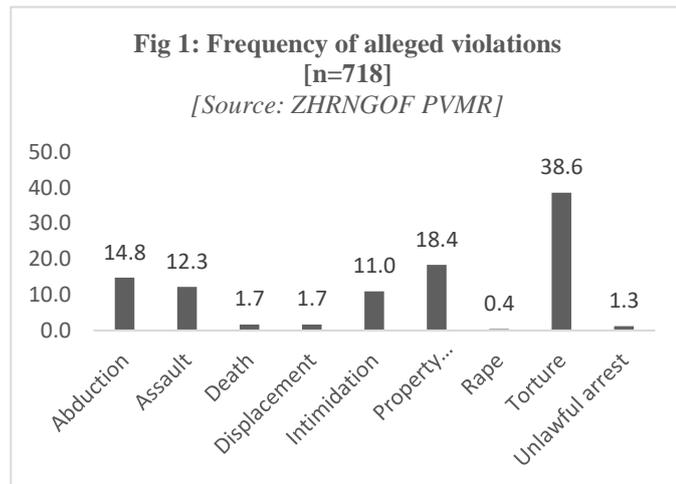
²⁵ For a detailed report on the youth militia, see again SPT (2003), *National youth service training – “shaping youths in a truly Zimbabwean manner”*. An overview of youth militia training and activities in Zimbabwe, October 2000 – August 2003. 5 September 2003. Zimbabwe & South Africa: Solidarity Peace Trust.

Table 9: Positioning of militia bases in Parliamentary [2000] and Presidential Elections [2002].

[Source: ZHRNGOF (2001) & ZHRNGOF (2002)]²⁶

	Schools	Official building	Public building	Farm
2000	0	22%	61%	17%
2002	41%	18%	19%	22%

The MDC alleged that there were 146 “bases” around the country, whilst the Forum documented 121. Ninety-seven (97) were established by ZANU-PF supporters or youth militia, and 24 by war veterans. Many were in close to proximity to polling stations, and many using public facilities. Comparing the use of public facilities as bases between 2000 and 2002, there is a very dramatic shift to using school in 2002. It is obvious that none of these public facilities can be used without condonation by the state, and hence condonation of the OVT.



This is important when describing the types of violations, and these are very serious indeed. Nearly 40% (38.6%) of the victims described torture, with a further 15% reporting assaults: thus, physical abuse was extremely high. Abductions were significant, and usually associated with taken to a “base”. So were property violations, which included both thefts and destruction of property, frequently arson attacks on victims’ houses. All of these are obviously crimes, but properly described as gross human rights violations.

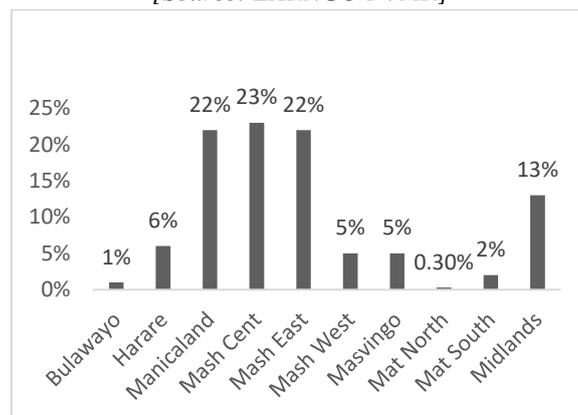
It is worth commenting at this point that all of this violence could well be termed “crimes against humanity”, since they conform the definition in the Rome Statute of the International Criminal Court, “...acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”²⁷

²⁶ Compiled in Reeler, A.P. (2003), *The Perpetrators of Gross Human Rights Violations in Zimbabwe from February 2000 to March 2003*, Paper presented to “Civil Society and Justice in Zimbabwe: A Symposium”, organised by the Zimbabwe Human Rights NGO Forum, Themba Le Sizwe and the International Bar Association, Holiday Inn, Johannesburg, 11-13 August 2003.

²⁷ Article 7 of the Rome Statute, which includes murder, torture, rape, persecution, and any other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Fig 2: Distribution of violations in 2002

[Source: ZHRNGO PVMR]



The assertion that 2002 involved crimes against humanity is given added strength by the data showing that the OVT was widespread, as seen in Figure 2, as well as by the systematic nature, mostly directed at members of the MDC or those not showing positive affiliation to ZANU-PF. This notion about crimes against humanity did not get any traction in 2002, but the OVT did result in Zimbabwe suspended from the Commonwealth, as well as having restrictive conditions and sanctions applied to the country.

The consequences for the victims were not trivial, as can be seen in Table 10.

Table 10: Percentage occurrence of various forms of injury associated with torture [n=180]

[Source: Amani 2002]

INJURY	%
Beatings	97%
Falanga	19%
Requiring hospital admission	19%
Skeletal injuries	7%
Burns	7%
Stab wounds	6%
Ruptured ear drums	5%

Nearly 20% required hospital admission for their injuries. 19% reported *falanga* (beatings to the soles of the feet) that can result in permanent disability, and many experienced severe pain and suffering. This data does not capture the likely psychological damage, and a later study indicated that 21% would be likely to have significant psychological impairment as a consequence.²⁸

Therefore, that there is little merit in trying to decide which has been the worst election, 2008 or 2002. The contexts are very different in so many ways. However, there one important point to make in respect of 2002, and this relates to the very lengthy lead up to the poll, as well as to the fact that OVT did not stop after the poll. Given that Robert Mugabe had allegedly won the election with the handsome margin of around 400,000 votes more than Morgan Tsvangirai had, it was curious that the violence continued, and this was interpreted by many that in fact Mugabe had not won, but had been rigged into power. Since so much of the post-election OVT took place in the rural areas, where the vote claimed overwhelming support for Mugabe, it suggested that ZANU-PF had actually lost significant rural support, or at least Robert Mugabe had.

²⁸ See again RAU & CSU (2020), *Severity of Violence and the Long-term Effects: Comparison of Survivors of the Liberation War (1972 to 1980) with Survivors of Political Violence (2000 to 2002)*. October 2020. Harare: Research & Advocacy Unit.

Perhaps the most important consequence of the 2000 to 2002 elections was the creation of widespread political fear in the country, and this has had profound long-term consequences. For example, ordinary Zimbabweans went from being “risk takers” in 1999 to “risk averse” by 2003, and dramatically so. Whereas only 6% of Zimbabweans were as “risk averse” in 1999, 87% were so by 2005.²⁹ Briefly, “risk aversion” was measured by whether Zimbabweans talked about politics with family or friends, were interested in public affairs, and were careful about what they said about politics. These questions from the Afrobarometer were combined to give a score of “risk aversion”, and, incidentally, 43% of Zimbabweans were still “risk averse” in 2017.³⁰

Additionally, the political fear created through the frequent resort to OVT has led to a sustained lack of political trust in the government for over three decades,³¹ and inexorably to Zimbabwe being one of the most politically polarised countries in Africa.³² In the Round 2 (2002/2003) Afrobarometer survey, most Zimbabweans (83%) were *always* or *often* careful about what they say about politics, whether urban (84%) or rural (82%).³³ Furthermore, 50% were unwilling to disclose a political party affiliation. Clearly, the OVT had had a significant impact on the citizenry.

It is often forgotten that the South African President, Thabo Mbeki, sent his own personal envoys to observe the 2002 election, and the report of the 2 judges was immediately suppressed by the South African government. It took 12 years and concerted legal action for releasing this report, and it corroborated every assertion of the Zimbabwean human rights reports at the time.³⁴

2005 General Election

The three years leading up to the 2005 general election were turbulent. Zimbabwe had become an international pariah, withdrawn from the Commonwealth (probably to avoid humiliation through expulsion), was facing yet another election petition, and civil society and human rights groups were becoming more and more assertive. Zimbabwe was challenged even in Africa, through applications to the African Commission on Human and People’s Rights (ACHPR) and, more seriously, at the SADC tribunal, where cases were mounted about torture and the racist basis on Zimbabwe’s Fast Track Land Reform Programme (FTLRP).

The pressure on Zimbabwe resulted in SADC starting to try to deal with the problem through the agency of Thabo Mbeki, President of South Africa, using, as he put it, “quiet diplomacy”. He received support from the US President, George Bush,³⁵ but he added the complication of also being part of the troika appointed by the Commonwealth to resolve the issue around Zimbabwe’s suspension. Mbeki, together with President of Nigeria, Olusegun Obasanjo, and

²⁹ Masunungure, E., Reeler, A., Kokera, R., Mususa, D., Ndoma, S. & Koga, H (2016), *Are Zimbabweans Revolting?* March 2017. Mass Public Opinion Institute & Research and Advocacy Unit.

³⁰ RAU & MPOI (2017), *Risk Taking in 2017: Preliminary findings*. November 2017. Mass Public Opinion Institute & Research and Advocacy Unit.

³¹ RAU (2019), *Political Trust in Zimbabwe over time*. August 2019. Harare: Research and Advocacy Unit.

³² Bratton, M. & Masunungure, E (2018), *Heal the beloved country: Zimbabwe’s polarized electorate*. Afrobarometer Policy Paper No. 49. September 2018.

³³ Afrobarometer online data for Round 2 (2002/2003).

³⁴ *Analysis: The Khampepe Report, a crushing blow to SA’s diplomatic credibility*, Simon Allison. *Daily Maverick*, 17 November 2014 [<https://www.dailymaverick.co.za/article/2014-11-17-analysis-the-khampepe-report-a-crushing-blow-to-sas-diplomatic-credibility/>].

³⁵ *Bush backs Mbeki on Zimbabwe*. *The Guardian*, 10 July 2003 [<https://www.theguardian.com/world/2003/jul/10/zimbabwe.rorycarroll>]

Australian Prime Minister, John Howard. In the event, the troika were unable to get any serious response from Zimbabwe, and Robert Mugabe unilaterally withdrew Zimbabwe on 7 December 2003.

The effect of the withdrawal, and the conflict with the EU and the US, meant that it was improbable in the extreme that the Commonwealth and the other countries would be able to observe the 2005 elections, as was the case in the end.

Whilst there was in 2002 some optimism that international observers would act as a restraint on political violence, this was not going to be the case in 2005, and hence many observers were convinced that this election also would be violent.³⁶

Table 11: Human rights violations during the 2005 election.

[Source: ZHRNGOF Political Violence Monthly Reports]

	2004 (August to December)	2005 (January to March)	Total	%
Unlawful arrest and detention	308	285	593	25.6
Torture	21	7	28	1.2
Property-related violations	65	0	65	2.8
Political discrimination and intimidation	208	132	340	14.7
Murder	0	1	1	0.0
Freedom of expression, association and movement	356	316	672	29.1
Displacement	21	137	158	6.8
Death threats	2	7	9	0.4
Assault	260	157	417	18.0
Abduction/kidnapping	19	11	30	1.3
Total:	1260	1053	2313	

The fears about violence became the great preoccupation for the election, and, to some extent, moved the heat away from the other less observable aspects of electoral manipulation. This in fact created a very low bar: a good election in Zimbabwe became a non-violent election, not one in which the critical features for a real audit became important.³⁷ It was also a problem that the election petitions from both 2000 and 2002 were completed, and hence little evidence available of what else might have adversely affected the elections. This meant that violence became the major benchmark for judging the 2005 election. ZANU-PF did win the election, and with the two-thirds majority restored, as demanded by Robert Mugabe when launching the election campaign. ZANU-PF won 78 seats, the MDC lost 17 to end up with 41, and Jonathan Moyo won one seat as an independent.

Was the election any less violent? On the other hand, was the violence different in character, bearing in mind an oft-quoted saying in Zimbabwe about the long-term effects of all the previous five years of political violence: “when you’ve burned down the house once, you only have to shake the box of matches”? International organisations felt that the levels of violence

³⁶ Redress Trust (2004), *Zimbabwe. Tortuous Patterns Destined to Repeat Themselves in Upcoming Election Campaign: Preliminary Study of Trends and Associations in the Pattern of Torture and Organised Violence in Zimbabwe, July 2001 - December 2003*, London: Redress Trust.

³⁷ In order for anyone to declare an election valid, there must be a clear audit trail starting with delimitation, the printing and distribution of the ballots, tabulation, verification and announcement of results. All these steps should be transparent and independently observed. However, there are multiple ways in which this process can be subverted. Here, see Schedler, A (2002), The Menu of Manipulation, *Journal of Democracy*, 13:2, 36-50.

were unacceptable,³⁸ and Zimbabwean organisations detailed an uncomfortable frequency of gross human rights violations

The documentation that was provided by Zimbabwean human rights organisations certainly showed that the 2005 election was much less violent than 2002, but violence was not absent (Table 12). The data provided by the Forum showed a total 2 313 incidents from August 2004 to March 2005 (8 months), as opposed to 4 448 between June 2001 and March 2002 (10 months). This suggests a monthly average for 2001 to 2002 of 448 incidents per month, and only 289 incidents for the period August 2004 to March 2005.

**Table 12: Violations during 2005 Election
(November 2004 to March 2005)**

[Source: [Source: ZPP Monthly Monitoring Reports]

	Number	%
Murder	8	0.2
Rape	4	0.1
Abduction/kidnapping	52	1.4
Assault	1309	34.6
Theft/looting	75	2.0
Arson	18	0.5
Malicious injury to property	91	2.4
Torture	21	0.6
Unlawful detention	31	0.8
Harassment/intimidation	2011	53.2
Displacement	163	4.3
Total:	3783	

The Zimbabwe Peace Project (ZPP) data compliments that from the Forum. As can be seen from Table 16, ZPP recorded 3 783 separate violations, and average of 756 violations for the five months. This would suggest that 2005 was more violent, but this is perhaps misleading. The one point to make here quickly is, firstly, that documentation has got better with each election, and, secondly, that different reports use different methods: the Forum data is direct witness statement, whilst ZPP tends to use community-based observer reports. Thus, fewer cases from the community referred in for assistance, and, to use a health example, here are always more cases in the community than at health centres.

However, differences apart, it is evident that ZPP documented much more violence than is acceptable in a “free and fair election”. SADC observers could claim that things were getting better, but human rights organisations were arguing that there should be NO violations at all. However, it still mattered that the violations recorded were of a serious nature, and clearly crimes in Zimbabwean law, and gross human rights at that.

³⁸ Redress (2005), *Zimbabwe: the Face of Torture and Organised Violence. Torture and Organised Violence in the run-up to the 31 March 2005 General Parliamentary Election*. London: Redress Trust; AI (2005), *Zimbabwe An assessment of human rights violations in the run-up to the March 2005 parliamentary elections*. London: Amnesty International.

Table 16: Victims identified (November 2004 to March 2005)

[Source: ZPP Monthly Monitoring Reports]

Victim	Number	%
MDC	1724	51
ZANU-PF	602	18
State	2	0.1
Others	1042	31
Total:	3370	

It is evident that the trends seen in 2000 and 2002 continued in 2005. MDC supporters were once again in the majority of the victims, but there are an appreciably larger number of supporters of ZANU-PF documented. However, it is still the case that very large numbers of victims do not have any political affiliation identified.

The many “unidentified” victims are always a problem for analysis. The point made in respect of previous elections is that this group is victimised because of a lack of positive affiliation to ZANU-PF, and whilst this is a credible assumption in the light of the general direction of the violence, it obviously cannot be asserted with full confidence. However, it is still the case that this group was composed of victims of OVT, clearly unacceptable in an election that claims to be free and fair.

The assumption that the “unidentified” are targeted because of lack of positive affiliation to ZANU-PF, has greater credence when examining the perpetrators. ZANU-PF supporters are in the huge majority in 2005, as was the case in 2000 and 2002. Furthermore, there are an enormous number of perpetrators identified.

Table 17: Perpetrators identified (November 2004 to March 2005)

[Source: ZPP Monthly Monitoring Reports]

Perpetrator	Number	%
MDC	290	7
ZANU-PF	10155	96
State	123	1.2
Others	22	0.2
Total:	10590	

Finally, and dealing with the general observation by those observer groups that this election was acceptable because it was less “violent”, a monitoring exercise carried by the National Constitutional Association (NCA) gave the lie to this assertion.³⁹ As the NCA concluded:

There can be little doubt that there was sustained and illegal pressure applied to political parties and the citizens of Zimbabwe in an effort, overwhelmingly by Zanu-PF and its supporters, to influence the vote. As we have demonstrated above, this pressure can even be understood to have produced the changes in voting patterns observed. While the analysis of the elections will undoubtedly continue in the coming months, both in the courts and elsewhere, the overall conclusion is unlikely to change: the elections were flawed, unfree, and unfair! No other conclusion is possible. (NCA. 2005. P20)

Using the data collected during the NCA’s monitoring process, it was evident that there had been a very sophisticated campaign of intimidation.⁴⁰

³⁹ National Constitutional Assembly, 2005. *The 2005 Parliamentary Election: Flawed, Unfree, and Unfair!* April 2005. Harare: National Constitutional Assembly.

⁴⁰ Reeler, A.P., & Chitsike, K.C (2005), *Trick or Treat? The effects of the pre-election climate on the poll in the 2005 Zimbabwe Parliamentary Elections*. June 2005. Pretoria: Idasa.

Table 18: Logistic Analysis of measures (Variable & indicators)*[Source: Reeler & Chitsike. 2005]*

Variable	Indicator	Regression coefficient	Significance
Freedom of association	• State agencies action	1.95	0.003
	• Political use of food	0.93	0.006
Freedom of assembly	Militia presence	1.03	0.018
Freedom of movement	Political violence	1.33	0.004
Political violence	• No voter education	-1.08	0.011
	• Forced attendance at meetings	0.91	0.03
Political use of food	Militia base	1.22	0.005

It was evident that the violence and other forms of intimidation were concealed carefully from official observer groups, who were only from African and other “friendly” groups. Correlations between the measures indicated that all the violence and the violations of freedoms – association, assembly, and movement – correlated with times when no voter education was taking place, which were mostly times when observers were present or civic groups undertaking such education (Table 18). This demonstrated a careful attempt to keep the violence and intimidation from the eyes of official observers such as the AU, SADC, or South African parliamentarians. More important was the analysis comparing the measures between seats won or lost by the MDC in the 2000 parliamentary elections, for, as Table 19 shows, all violations were significantly more frequent for the seats that the MDC had won in 2000.

Table 19: Electoral irregularities compared against seats won or lost by MDC in 2000 (% of reports mentioning irregularity)

	2000 (seats won) <i>n</i> =212	2000 (seats lost) <i>N</i> =86
Unable to wear insignia	82%	55%
Unable to put up posters	82%	49%
Forced to attend political meetings	68%	55%
Interference with travel (in)	77%	30%
Interference with travel (out)	67%	27%
Presence of ‘new residents’	43%	15%
Afraid to express views openly	89%	76%
Afraid to read newspaper openly	72%	27%
Forced to chant slogans	67%	46%
Political violence	70%	24%
Gender-based violence	60%	12%
Intimidation	75%	67%
Presence of militia	63%	39%
Inter-party violence	55%	27%
Intra-party violence	62%	52%
Electoral disagreements	57%	24%
No voter education	19%	27%
Political use of food	81%	67%

It is, therefore, not possible to accept that the 2005 parliamentary election was free from OVT, but also to see that the government had learned the costs of very open OVT from 2000 and 2002. By eliminating “hostile” observer groups, relying on “friendly” observers, undertaking

careful process of screening these latter observers from witnessing violence and evidence of intimidation, the government was able to oppose the claims of Zimbabwean civil society with the claims of the observers. Unfortunately, the improved monitoring of civil society was matched by the greater sophistication of the government in hiding the violence and intimidation, and the comment about “shaking boxes of matches” proved true.

The international community was not convinced that the election was “free and fair”, and Zimbabwe remained under restrictive measures and sanctions, and, more so, when Operation Murambatsvina took place. This is discussed later in the section on Displacements.

2008 Harmonised Election

In the interim between the 2005 and 2008 elections, there was a serious mediation process undertaken by South Africa on behalf of SADC. President Thabo Mbeki was the lynchpin in this mediation, and multiple meetings held between the MDC and ZANU-PF. This was complicated by the split in the MDC, and the creation of two MDCs, one (the original) headed by Morgan Tsvangirai and the other eventually by Arthur Mutambara. The importance of this mediation for elections was an agreement that elections in 2008 would be “harmonised”; that is, all elections – Presidential, Parliamentary and Local Government – are held at the same time in the future. This was a gambit to reduce the intense competition for the most important of these, the presidential election, important because of the immense powers of the executive presidency.

This seemed to work. The run-up to the 2008 elections was more peaceful than the three previous, but, once again, excluded “hostile” observers.⁴¹ However, SADC, 10 African countries, 10 Eurasian and Latin American countries and a wide variety of organisations and political bodies were invited. Presumably, the numbers invited would counteract the exclusions, but it is well known that the EU mounts the most comprehensive observer missions.

Perhaps ZANU-PF was complacent, and thought that the divisions in the MDCs would mean votes would split so that they would not mount a serious challenge, but the result was earth shattering. Morgan Tsvangirai defeated Robert Mugabe, and the MDCs between them commended a majority in parliament. This was announced prematurely by the MDC, and the country and the world held its breath for slightly more than a month before the official results were released. This was transparently in violation of both the constitution and the electoral law.⁴²

The big question for all Zimbabweans was what was going to happen in the run-off for the second round between Mugabe and Tsvangirai: the answer was not long in coming, and the country convulsed in OVT on a scale not seen since 2002. Eventually Morgan Tsvangirai withdrew, citing the need to protect the citizens from further violence, and Mugabe elected by a landslide, 2.2 million (86%) votes to 233 000 for a candidate no longer in the race. It was ironic that Mugabe was not elected unopposed, but presumably he had memories of the 1996 poll and the withdrawal of Sithole and Muzorewa when he won with 93% of the vote in a paltry 30% turnout. In 2008, the turnout for the re-run was largely the same as the substantive one, 42.4% for the re-run as opposed to 42.8% for the first round, if the result for the re-run is believed.

⁴¹ EISA (2010), *Zimbabwe: 2008 Election observer missions and statements*. [<https://www.eisa.org/wep/zim2008eom.htm>]

⁴² Matyszak, D. (2008), *How to lose an election and stay in power*. June 2008. Harare: Research & Advocacy Unit.

The violence, however, was unacceptable to everyone, and even the attempt to stack the observer ranks failed when the African Union refused to endorse Mugabe's presidency. Thabo Mbeki was forced into mediating, for the problem was now acute: ZANU-PF held the presidency, but the opposition held the majority in the legislature. How could the country be governed even if Mugabe appointed a minority government through the presidency's powers of appointment?

The result was the Global Political Agreement (GPA), negotiated by Mbeki with the three political parties, and establishing the Inclusive Government (IG) that was sworn in on 13 February 2009.

There remained the extensive OVT to explain and deal with. The OVT was documented extensively by multiple human rights organisations, leading to, once again, the plausible argument about crimes against humanity, particularly because there was good evidence about the organisation of the violence.⁴³ In addition, there other reports reporting on the violence, from various human rights organisations,⁴⁴ but here we wish to concentrate on the actual data collected by the Zimbabwean human rights organisations.

Table 20: Human rights violations during the 2005 election.
 [Source: ZHRNGOF Political Violence Monthly Reports]

Violation	Number	%
Assault	1638	19.5
Abduction	111	1.3
Attempted murder	6	0.1
Death Threats	44	0.5
Displacement	627	7.5
Violations of freedoms (association, expression & movement)	2106	25.1
Murder	84	1.0
Political discrimination	2290	27.3
Property violation (arson & theft)	366	4.4
Rape	6	0.1
School closure	26	0.3
Torture	689	8.2
Unlawful arrest & detention	410	4.9
Total:	8403	

The first point to make is about the extent of the violence, 2008 was twice as violent as 2002: according the data from the Human Rights Forum, 8 403 incidents in 2008 as opposed to 4 448 in 2002. Here, remember the OVT in 2008 occurred mostly in three months, April to June 2008. The numbers were high, and the violations were extreme, as can be seen in Table 21 (over).

⁴³ See, for example, Sokwanele (2010), *The Anatomy of Terror*, [http://archive.kubatana.net/docs/demgg/sokwanele_anatomy_of_terror_110612.pdf]

⁴⁴ HRW (2008), *All Over Again. Human Rights Abuses and Flawed Electoral Conditions in Zimbabwe's Coming General Elections*. A Human Rights Watch Briefing Paper. March 2008. New York: Human Rights Watch; AI (2008), *Zimbabwe. Time for Accountability*. London: Amnesty International; CSVR (2009), *Subliminal Terror? Human rights violations and torture in Zimbabwe during 2008*. June 2009. Johannesburg: Centre for Study of Violence and Reconciliation.

Table 21: Alleged perpetrators in 2008 Elections*[Source: SPT. 2008]*

Perpetrator	April to		Total	%
	April	June		
War veterans	173	730	903	18.8
ZANU-PF Youth	439	1599	2038	42.4
ZANU-PF supporter	257	600	857	17.8
ZRP	140	230	370	7.7
ZNA	188	304	492	10.2
CIO	18	57	75	1.6
MDC/other	30	44	74	1.5
Total:	1245	3564	4809	

Whilst *political discrimination* and *violations of freedoms* accounted for over 50% (52.4%) of all recorded incidents, there is considerable overlap between the various types of violations. For example, in one notorious incident, at Chaona Catholic church in Mazowe North, the victims were tortured, six murdered, and others intimidated by being forced to witness the abuses, and all after having being forced (abducted?) to attend. This one incident clearly involved more than single victims, and, thus, as noted previously, 8 403 incidents involves an unknown number of victims. The SPT report observes that, of the victims seen, 20% were under the age of 20 years, with 10% less than 10.

The same SPT report gives a very interesting breakdown of the deployment of alleged perpetrators over the 2008 election period. As can be seen from Table 21, the numbers of perpetrators doubles from April onwards; that is, once ZANU-PF realised they had lost the elections, the gloves came off completely and the dogs of war released. Certainly, there were an enormous number of perpetrators identified, and nearly 75% of these during the presidential run-off period.

Non-state actors (War Veterans, ZANUP-PF Youth & ZANU-PF supporters) were 79% of all alleged perpetrators, which is similar to the reports of previous elections. The number of state agents should not be dismissed, however, and the Forum reports indicate that state agents (ZRP, ZNA & CIO) were nearly 30%. In 2002, the Forum estimate was 4%, whilst the Amani Trust reckoned the percentage of state agents to be 14%.

Table 22: Victims of political violence in 2008*[Source: SPT. 2008]*

Victim	Total	%
MDC (member)	324	45.9
MDC (leadership)	135	19.1
NGO/ZCTU	105	14.9
Election Official	37	5.2
Other	105	14.9
Total:	706	

The picture for the victims was little different to previous elections. The MDC, and almost exclusively the faction headed by Morgan Tsvangirai, accounted for 65% of all victims according to the Solidarity Peace Trust (SPT). It was exactly for this reason, the OVT against members of his party, that Morgan Tsvangirai withdrew from the presidential re-run.

It is also worth remembering that the South African President, Thabo Mbeki again sent his personal envoys to Zimbabwe in order to observe the re-run, but this report was not published at the time, never made publicly available.

Table 23: Places where bases identified in 2008
 [Source: *Anatomy of Terror*. 2010]

Place	Number	%
Bush	130	22.6
Business centre	76	13.2
Church	14	2.4
Clinic	13	2.3
Community hall	37	6.4
Farm	38	6.6
Police station	22	3.8
Private home	158	27.5
School	86	15.0
Total:	574	

One key feature in 2008 were the extensive reports of “bases”. The MDC reported that there were 147 bases around the country, but this was just a global figure and did not convey the significance of the bases. A case study of 15 constituencies that affected in 2000 made the significance of bases much clearer, and the association with a planned programme of terror.⁴⁵

Firstly, the places at which bases were found are very varied, and mostly in public places: remote places (where OVT can be hidden), such as the bush or farms, are actually in a minority (29.8%). Furthermore, a significant number take place at the homes of perpetrators, suggesting little fear by the owners of these homes that they might be accountable: many of these “homeowners” were every senior members of ZANU-PF, including MPs and military personnel. The alleged *base commanders* described for each of the 15 constituencies studied, were identified as having 25 military and security personnel, as well as MPs and senior party officials.

An even more extensive list of military personnel deployed in 2008 is provided in Jonathan Moyo’s analysis of the 2018 elections.⁴⁶ The list indicates 78 senior officers deployed to 53 constituencies, with 10 Provincial commands headed by the most senior officers of all. It can be presumed therefore that the two lists together provide a description of a complex hierarchy of command from the centre in each Province, down through the 53 constituency bases to the “command bases”, and thereafter to the operational bases at which, and from which, the actual OVT was instigated. The overall picture is quite clearly a military operation.

Secondly, the Sokwanele report makes a distinction between “ordinary”, or “satellite”, bases, and “command bases”. The latter were found to be responsible for 16 satellite bases on average, and were the points from which all OVT was organised and directed. The alleged “commanders” of these bases are described in the report, and it can be seen that senior government officials, MPs, military personnel, and other security personnel are mentioned by name. Thus, there can be little doubt that the OVT in 2008 was highly organised. Even without this data, human rights had little difficulty in calling the OVT a “crime against humanity”: the OVT, as was the case in 2002 certainly, was widespread and systematic.

There are other equally distressing reports on the OVT, but none more distressingly than about the OVT inflicted on teachers in the rural areas. This has been a feature of previous elections, particularly in 2002.⁴⁷ The rationale for targeting teachers is their obvious education, their influence in the local communities in which they live, and their frequent role as election officers. In 2008, the onslaught against teachers was extreme, as shown in reports compiled

⁴⁵ See, again Sokwanele (2010), *The Anatomy of Terror*, [http://archive.kubatana.net/docs/demgg/sokwanele_anatomy_of_terror_110612.pdf]

⁴⁶ Moyo, J. N (2019), *Excelgate - How Zimbabwe's 2018 Presidential Election was Stolen*. Harare: SAPES Trust.

⁴⁷ ZHRNGOF (2002), *Teaching them a lesson. A report on the attack on Zimbabwean teachers*, Harare: Zimbabwe Human Rights NGO Forum.

after the elections.⁴⁸ The truly shocking finding was that, in a study of 1 086 teachers in a stratified sample of the country, 56% reported an experience of OVT during 2008, and 25% reported that this experience had happened at school, during working hours, and hence witnessed by schoolchildren. This means that very young children were exposed to OVT as the majority of schools in the rural areas are primary schools. It needs little imagination to see the potential ill effects for children's mental health and social development.

As regards the injuries, the Solidarity Peace Trust (SPT), fully corroborated by the Zimbabwe Association of Doctors for Human Rights (ZADHR), reported the following:

- *252 fractures have been treated;*
- *163 cases of falanga – beating on the soles of the feet – have been treated. This is a very serious form of torture with long term health consequences for people, leaving them with sore feet possibly for life;*
- *450 people have reported partial or total loss of their property to political violence;*
- *1798 assaults were reported of which 75% involved the use of weapons, usually sticks, but including iron bars, barbed wire, knives;*
- *420 reports of torture were recorded, including being burnt with burning grass or plastic bags (12); being submerged in water either to induce severe cold and to increase the pain of being assaulted or to induce temporary suffocation (20);*
- *being restrained and/or blindfolded (89);*
- *309 people reported abductions and 109 were detained;*
- *Eight gunshot wounds (GSW) were treated; there were literally thousands of reports of soft tissue damage of different types, including haematomas, welts, bruising, swelling, lacerations and abrasions. These varied from mild injuries to very severe;*
- *There were 205 head injuries treated: all head injuries are potentially serious and can leave long-term damage, including loss of eyesight, minimal brain damage, neck injuries. (SPT. 2008)⁴⁹*

As pointed out above, it takes little difficulty to argue that the OVT in 2008 was a crime against humanity according to the definition in the Rome Statute. The violence was widespread, seen in virtually every constituency around Zimbabwe, even in the peri-urban constituency of Epworth just outside Harare. Additionally, it was systematic, focusing on the support base of the MDC, and targeting the leadership of the MDC, as described by the Solidarity Peace Trust, but it was also aimed at the electorate more generally, since the majority of the electorate had potentially just voted ZANU-PF and Robert Mugabe out of power.

Indeed, they might well have done so, if the SADC and AU leaders had been of a mind to persuade Mugabe and ZANU-PF to concede. Their refusal to do so and to accept the unconscionable delay in releasing the results of the first makes them complicit to some extent in the mass violence that took place. As one commentator put it:

⁴⁸ PTUZ (2012), *Every School has a Story. A Preliminary Report on Teachers Experiences of Elections in Zimbabwe*. Report produced by PTUZ and RAU. February 2012. Harare: Progressive Teachers Union of Zimbabwe; PTUZ (2012), *Political Violence and Intimidation of Zimbabwean Teachers*. May 2012. Report prepared for the Progressive Teachers Union of Zimbabwe [PTUZ] by the Research and Advocacy Unit [RAU]. Harare: Progressive Teachers Union of Zimbabwe.

⁴⁹ SPT (2008), *Punishing Dissent, Silencing Citizens: The Zimbabwe Elections 2008*. 21 May 2008. Johannesburg Solidarity Peace Trust.

“What would have happened if SA, SADC and the international community rejected the delays by ZEC and ZANU PF, demanded the transparent compilation and immediate release of results - and ensured that all parties abided by them? What would have happened if all civil society organisations and democratic parties and politicians had stood firmly behind the MDC government-elect, rather than soliciting for all-inclusive extra-electoral GNU? If more support for the winning party MDC had been expressed, what options then would have remained for elite transitions? Who, then, really enabled ZANU PF’s violent election strategy, sending the defeated party, its leaders and violent supporters inside and outside the state all of the wrong signals in the immediate post-election period? And consequently, whose responsibility now is it to end the violence by terminating discussions about an all-inclusive GNU, and insisting on a government of transition and renewal headed unambiguously by the party elected by the people: the MDC Tsvangirai.” (Kwinjeh. 2008)⁵⁰

2013 Harmonised Election

The brutal 2008 elections were followed very quickly by a mediation by South Africa, the Global Political Agreement (GPA), and the establishment of the Inclusive Government (IG). This power sharing arrangement, enabled by an amendment to the Constitution, was to stay in place until elections in 2013, and included the agreement to produce a new constitution. The whole success of this political arrangement would depend upon the willingness of the political parties, and their bona fide intention to undertake all the reforms inherent in the GPA.

From the outset, the commitment to the rule of law was challenged, beginning with the unconstitutional appointment of five more ministers more than the 31 allowed by the constitution.⁵¹ This illegality was challenged in the High Court, rejected by Justice Chiweshe in a remarkable judgement, appealed to the Supreme Court, and, in common with other contentious cases (like the election petition on the 2002 election), never heard before the life of the IG was over in 2013. This was a very inauspicious start, feeding into heated debates about the merits and demerits of the power sharing arrangement.⁵² No area of discussion was more heated or divisive than that around the development of a new constitution, especially within civil society.

Here it must be remembered that the push for a new constitution in the late 1990s was instrumental in bringing together a broad civil society coalition under the NCA, a coalition that had very large public support. This was not the case during the IG, and civil society. There was division between those that believed in full engagement with the constitution-making process, those that believed that this was futile as the political parties would decide the outcome in a horse-trading process, and those that thought the process should be monitored to merely determine whether the process was genuine or not. In the final event, a draft constitution was agreed, there were nation-wide consultations (after lengthy delays), and the electorate voted overwhelmingly to accept the constitution in a referendum held in March 2013. This was mere

⁵⁰ Kwinjeh. G (2008), *Staring a gift horse in the mouth. Death Spiral in Zimbabwe: Mediation, Violence and the GNU*. 18 June 2008.

⁵¹ Matyszak, D (2010), *Zimbabwe’s New Illegal Unity Government*. March 2010. Harare: Research & Advocacy Unit.

⁵² SPT (2010), *What Options for Zimbabwe?* 31 March 2010. Johannesburg: Solidarity Peace Trust; RAU (2010), *What are the options for Zimbabwe? Dealing with the obvious!* Report produced by the Governance Programme. 4 May 2010. Harare: Research & Advocacy Unit October 2012. Harare: Research & Advocacy Unit.

months before the scheduled harmonised elections, and obviously too late for any of the reforms inherent in the new constitution to have any effect of this election.

The one thorny issue the Inclusive Government had to confront was what to do about all the OVT in 2008. This was dealt with in the GPA under Article VII, *The Promotion of Equality, National Healing, Cohesion and Unity*. This did not provide any explicit acknowledgement of the violence in 2008, as can be seen in the section that mentions victims of political violence, Section 7.1(a):

The Parties hereby agree that the new Government: shall give consideration to the setting up of a mechanism to properly advise on what measures might be necessary and practicable to achieve national healing, cohesion and unity in respect of victims of pre and post-independence political conflicts;

As one commentator pointed out, this was vague, and made no mention of either justice or reconciliation.⁵³ It was also suitably vague about violence, and lumped 2008 into the generality of all political conflicts before and after independence. This is, of course, completely sensible for a transitional justice process in Zimbabwe, all periods will need to be included, as was stated by civil society at the 2003 Symposium, but still avoided the problem of the immediately past violence in 2008. It was, thus, small wonder that the Organ on National Healing, Reconciliation and Integration (ONHRI) had such difficulties in fulfilling its mandate.⁵⁴

The difficulties in deciding upon an appropriate way to deal with not only 2008, but all gross human rights violations, were given greater emphasis by the research carried out by the Forum and others on citizens views on transitional justice. This kind of research was now possible under the necessity by ZANU-PF to honour, no matter how minimally, the GPA and to avoid obvious coercion. This research demonstrated how divided were the citizens about what to do about the history of OVT. Some were only concerned with Gukurahundi, others uninterested in what had happened before independence, and others only concerned with events after 2000.⁵⁵

They were divided also about the merits of justice, truth commissions, amnesties, and compensation. As pointed out above, ONHRI and the consultations opened a debate of considerable heat, which continues to date. This was a period where there was less serious OVT, illustrated by comparing the first five months in 2009 with the similar period in 2008

⁵³ Machakanja, P (2010), *National Healing and Reconciliation in Zimbabwe: Challenges and Opportunities*. Zimbabwe Monograph Series No.1. Cape Town: Institute for Justice & Reconciliation.

⁵⁴ Masunda, O.M, Mousonza, N, & Ehiane, S (2019), *The Travails of the Organ for National Healing, Reconciliation and Integration (ONHRI) as a Strategy for Transitional Justice and Reconciliation in Zimbabwe*. [DOI: [10.31920/2516-5305/2019/16n4a5](https://doi.org/10.31920/2516-5305/2019/16n4a5)]

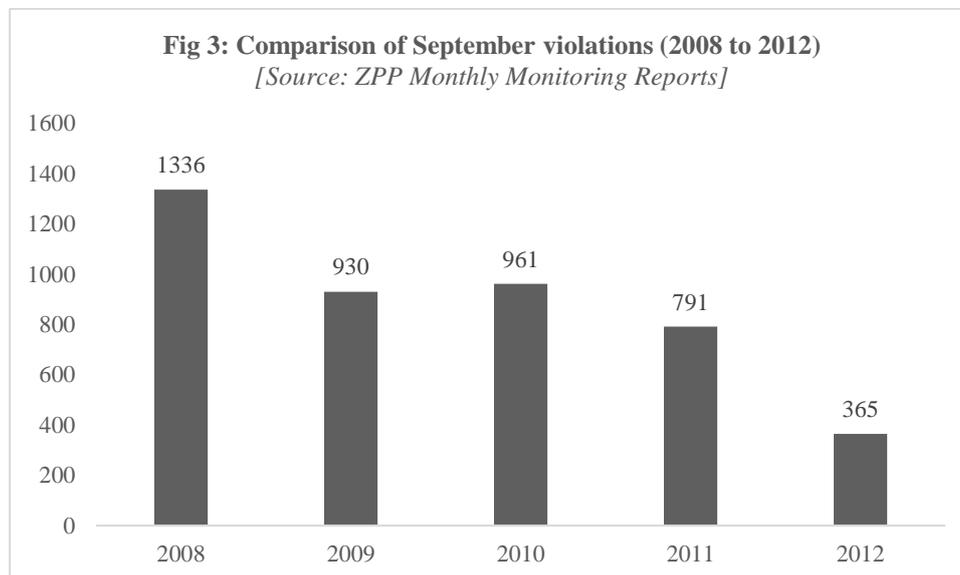
⁵⁵ RAU (2009), *Transitional Justice in Zimbabwe: A pilot survey of the views of activists & victims*. Report produced by the Research & Advocacy Unit. January 2009. Harare: Research & Advocacy Unit; ZHRNGOF (2010), *Taking Transitional Justice to the People. Vol.1*. Harare: Zimbabwe Human Rights NGO Forum; ZHRNGOF (2010), *Taking Transitional Justice to the People. Vol.2*. Harare: Zimbabwe Human Rights NGO Forum; ZHRNGOF (2011), *Transitional Justice National Survey. A Report on the People's Perceptions and Recommendations*. Harare: Zimbabwe Human Rights NGO Forum.

Table 25: Comparison of violations in 2008 and 2009

[Source: HRF Political Violence Monthly reports]

Violation	2009	2008
	(January to May)	(January to May)
Assault	44	1357
Abduction	3	74
Attempted murder	2	5
Death Threats	1	32
Displacement	1	572
Freedoms (association, expression & movement)	179	1924
Murder	1	24
Political discrimination	210	2013
Property violation (arson & theft)	29	284
School closure	2	16
Torture	4	654
Unlawful arrest & detention	396	322
Total:	872	7277

Whilst this comparison is obviously comparing an election with a period in which an election is not occurring, it does nonetheless demonstrate that violations have reduced dramatically, but also that violations still take place. The major difference, apart from the frequency of violations, is in the kinds of violations recorded in 2009: very serious crimes, such as murder, torture, abductions, etc. are absent in 2009.



The Forum discontinued the PVMR system in 2009, but the Zimbabwe Peace Project (ZPP) carried on continuous reporting, and their reports show this decline. For example, the steady decline of violations from 2008 to 2012 is seen in Figure 5.

Table 26: Bases by Constituency (15) and Activity Since 2000

	Currently active	2000	2005	2008	2010
Buhera [11]	6	0	0	11	6
Epworth [14]	3	1	1	14	3
Hurungwe [5]	2	1	2	3	2
Hwedza [6]	0	0	0	4	6
Makoni [7]	2	7	6	6	2
Pfungwe [15]	4	0	9	15	4
Mazoe [4]	3	1	2	4	3
Mt Darwin [7]	4	6	6	6	4
Mudzi [18]	5	1	13	14	6
Muzarabani [16]	11	16	16	16	10
Mwenezi [6]	6	5	5	5	6
Nyanga [6]	3	5	3	5	3
Shamva [9]	7	3	5	5	7
Uzumba [11]	4	3	3	11	4
Zaka [12]	4	8	7	9	4
Number:	64 [43.5%]	57[38.8%]	82[55.8%]	130[88.6%]	64[43.5%]

By the end of the life of the IG, and the lead up to the 2013 elections, OVT reduced markedly, and this gave every expectation that the elections would be peaceful, at least not violent. It was still not clear how much the previous violence would affect participation, and to what extent more subtle forms of intimidation could build on the fear created by all the previous OVT. One worrying sign was the information contained in the Sokwanele report about the number of bases that were active still in 2010.⁵⁶ The continued presence of these bases and this is only in 15 constituencies, was a serious matter in the aftermath of 2008, and suggested several possibilities. The first was that the continued presence on rural communities of the apparatus would be highly intimidatory, a reasonable assumption when there were statements made by ZANU-PF members that the violence would return if the party lost the election.

The possible effects of the fear were analysed in an Afrobarometer report in 2012,⁵⁷ and amplified in a later, more analytical report.⁵⁸ In both these reports, the effects of the previous violence shows in the reluctance of respondents to express their political party affiliations. Furthermore, these studies estimated that the gap between the two main political parties was very close indeed: in the Afrobarometer report, it was estimated that MDC-T had the support of 49% of the electorate and ZANU-PF 45%. In the analysis of the presidential poll, assuming that both “reticents” (those unwilling to disclose their affiliation) and “pretenders” (those claiming false affiliation to ZANU-PF) actually supported Tsvangirai, this would have given Tsvangirai 50.1% of the vote.

The result of the poll astounded everyone. Robert Mugabe won the presidential poll with 2 110 434 votes to Morgan Tsvangirai’s 1 172 349, and ZANU-PF regained its two-thirds majority in parliament. No matter how the results were analysed, it was hard not to conclude that the result was manipulated in favour of Mugabe and ZANU-PF.⁵⁹ The election drew two sets of

⁵⁶ See again Sokwanele (2010), *The Anatomy of Terror*, p6.

⁵⁷ Bratton, M. & Masunungure, E. (2012), *Voting Intentions in Zimbabwe: A Margin of Terror?* Afrobarometer Briefing Paper No. 103.

⁵⁸ Bratton, M, Dulani, B, & Masunungure, E (2016), Detecting manipulation in authoritarian elections: Survey-based methods in Zimbabwe. *Electoral Studies*, 42, 10-21. [<http://dx.doi.org/10.1016/j.electstud.2016.01.006>]

⁵⁹ RAU (2014), "Numbers out of Tune? An examination of the vote in Hamonised July 2013 Election." Full Report. Governance Programme. April 2014, Harare: Research & Advocacy Unit.

conclusions. The first, mainly by SADC and the AU, was that the magnitude of the victory was so great that manipulation would have had no effect, and, hence, the SADC Observer Mission concluded that the election was “generally credible”.⁶⁰ The second view derives from the numbers themselves. Given that nearly a million more citizens voted than in 2008, Robert Mugabe will have won even if 87% of ZANU-PF supporters held back their votes.⁶¹

Whatever the arguments about manipulation, OVT was not a major factor, unless the fear factor is taken into account. The combination of fear due to coercion and manipulation as the fundamental strategy for winning elections by ZANU-PF is made explicit in a detailed analysis of the 2018 election.⁶² The strategy revolves the combination of “anticipatory rigging”, simply coercion (intimidation and violence) and “constructive rigging” (manipulation of the actual processes in an election). Thus, the only question yet to be fully answered about the 2013 elections is what were the contributions of these two forms of rigging.

2018 Harmonised Election

The Harmonised Election in 2018 was perhaps the most exciting election since 1980. Robert Mugabe had been removed through a bloodless (almost) coup, and Emmerson Mnangagwa had been sworn in as the interim president, to lead what was called the *Second Republic*, under a “*New Dispensation*”. Promising wide-ranging reforms and opening the country for business, the international community, opposition political parties, and perhaps a majority of the citizenry welcomed the “new” government. The acceptance of a “coup” as a “military-assisted transition” was predicated clearly on the general view that Robert Mugabe was the single blockage to reform in Zimbabwe, but lingering suspicions about the determination of ZANU-PF as a party to accept any loss of political power made this acceptance of the coup conditional on a number of future developments. The first was the need to see credible reforms that supported the rule of law, human rights, and good governance, the pre-conditions that had been the basis for Western re-engagement for two decades. The second revolved around credible economic reforms, and the third had to do with ensuring an election in 2018 that passed all the tests of acceptability.

The election did not pass muster in the final analysis, despite a great improvement in voter registration, a very large turnout for the poll, many improvements in the performance of the Zimbabwe Electoral Commission (ZEC), and a marked lack of violence prior to the poll. However, the observation by Jonathan Moyo that ZANU-PF does not intend to give up political power proved to be true once again.⁶³ ZANU-PF retained its two-thirds majority, but Emmerson Mnangagwa scraped through with a majority of 304 083 votes that gave him 50.8% of the votes to Nelson Chamisa’s 44.93%. However, as had been the case in 2008, the problem was in the counting and the delay in releasing the results. The whole electoral process has been described and analysed in detail in *ExcelGate*, and the interested reader is referred there for the evidence of the “constructive rigging”.⁶⁴ Here we are concerned with the post-election violence that broke out immediately the results were released, with the rapid deployment of the military and the deaths and brutality that took place.

⁶⁰ SADC Deems Zimbabwe Election ‘Generally Credible’, VOA News 2 September 2013.

⁶¹ For a comprehensive analysis of the election results, see again RAU (2014), “*Numbers out of Tune? An examination of the vote in Hamonised July 2013 Election.*” Full Report. Governance Programme. April 2014, Harare: Research & Advocacy Unit.

⁶² Moyo, J. N (2019), *Excelgate - How Zimbabwe's 2018 Presidential Election was Stolen*. Harare: SAPES Trust.

⁶³ *Zanu-PF will never reform itself out of power, Prof Moyo declares*, The Chronicle, 6 September 2016.

⁶⁴ Moyo, J. N (2019), *Excelgate - How Zimbabwe's 2018 Presidential Election was Stolen*. Harare: SAPES Trust.

In understanding the 2018 violence, it is necessary to return to 2017, and a judgement made in the High Court by Justice Chiweshe. The judgement on the deployment of the military in November 2017 essentially stated that this was constitutional despite the deployment instituted by the President, Robert Mugabe.⁶⁵ The argument was that Section 212 of the Constitution empowered the army to intervene to the following:

- *They arrest first respondent's abdication of his constitutional functions, and*
- *They ensure that non-elected individuals do not exercise executive functions which can only be exercised by elected constitutional functionaries”.*

This argument, accepted by consent, basically suggested that the interpretation of Section 212, that *the function of the Defence Forces is to protect Zimbabwe, its people, its national security and interests and its territorial integrity and to uphold this Constitution*, allowed the army to intervene in civilian affairs in order to uphold the Constitution. It also implied that this power was in addition to all the constitutional provisions that require such deployment only by the President, and always seeking immediate confirmation by parliament. This outrageous decision has yet to be tested by either the Supreme or Constitutional Courts, and the one attempt was dismissed on a technicality.

Effectively, the judgement gave *carte blanche* for the army to interfere in civilian affairs, and this confidence may well be the reason for the deployment of the military to deal with the demonstrations in July/August 2018. This was the first time that the army was deployed in a policing role in Harare since the Food Riots, and the violence was once again extreme. Seven people were shot and died, 23 were injured by gunshot wounds, and hundreds assaulted by the soldiers.⁶⁶ There was an immediate outcry, both nationally and internationally, and the President, Emmerson Mnangagwa, responded by putting in place a commission of inquiry that became termed the “*Montlanthe Commission*”. This was interesting in that he chose to do this rather than hand the inquiry to the Zimbabwe Human Rights Commission (ZHRC), the Independent Commission mandated to undertake exactly this task by the Constitution. As Section 243 (1) puts it:

The Zimbabwe Human Rights Commission has the following functions-

(f) to investigate the conduct of any authority or person, where it is alleged that any of the human rights and freedoms set out in the Declaration of Rights has been violated by that authority or person.

Notwithstanding this subterfuge, the Montlanthe Commission did find that there had been disproportionate use of force and recommended immediate investigation of the crimes committed: after killing people is murder in the Zimbabwean criminal law, even if committed by a soldier during his duty in policing. Such investigation has yet to take place.

Overview of Elections

A recent study looking at violence in several SADC countries, those governed by former liberation movements pointed out that Zimbabwe was both the most violent and also that this

⁶⁵ *Joseph Ewurath Sibanda and Leonard Leonard Chikomba v President of the Republic of Zimbabwe – Robert Gabriel Mugabe N.O.; Minister of Defence, Commander of the Defence Forces of Zimbabwe and the Attorney-General of Zimbabwe*. HC 10820/17.

⁶⁶ ZHRNGOF (2020), *Guns Run Amok. A Review of the 1 August 2018 and 14 January 2019 Crackdown on Civilians by the Security Forces*. Harare: Zimbabwe Human Rights NGO Forum.

violence was significantly related to elections.⁶⁷ Forty-six per cent (46%) of all violence reported on Zimbabwe since independence in 1980 related to elections, and only Mozambique (42%) came close to this figure. Eighty-six per cent (86%) of the violence was perpetrated by government forces (23%), or by militia (63%). This is not a surprising finding since the data from which the Armed Conflict Local Event Database (ACLED) derives from the Zimbabwe Human Rights NGO Forum, its partners and the Zimbabwe Peace Project (ZPP).⁶⁸ We use these reports merely to illustrate both the value of the human rights monitoring by Zimbabwean organisations and as a simple summary of all the subsections on elections.

It is abundantly evident that gross human rights violations commonly take place during elections in Zimbabwe, over and above all the allegations about “constructive rigging”. The OVT limits the confidence that any election in Zimbabwe, certainly since 2000, can ever claim to have been “free and fair”: the OVT, documented in considerable detail (and supported in many legal cases in the Zimbabwean courts), destroys this claim. Even when an election does not meet the threshold of a crime against humanity, as in 2002 and 2008, the legacy of fear created by the more violence elections persists, and can render the task of intimidating voters relatively easy.

There seems little value in conversations about the most violent election. The better questions are around the nature of the violence, the complementarity between “anticipatory” and “constructive” rigging, and the political stakes for any given election. Going forward, one single factor will always be present, and this relates to the country having an Executive President, and the immense powers that come with this office. Elections are always competitive, especially when one party is unwilling ever to concede relinquishing political power, but the competition for the presidency will always be combative in the absence of profound reforms.

Conclusions

In the light of this extremely disturbing history about the prevalence of OVT during elections, it is clear that serious steps must be taken to prevent a recurrence in 2023. As we have pointed out, OVT can reach the threshold of crimes against humanity, and it is evident that OVT reaches this threshold when the probability of the ruling party losing political power is very high, especially over the hold on the presidency.

Here it is relevant that the current president, Emmerson Mnangagwa, scraped through in 2018 by the narrowest of margins. Furthermore, and notwithstanding the Covid crisis, the general populace has seen a significant decline in their well-being, a condition for which they may well hold the current government responsible, and likely to support it again in a poll. These are the conditions that increase the probability of the return of OVT, a probability reflected in the warlike rhetoric of ZANU-PF supporters. Hence, we make a number of recommendations.

Recommendations

Accordingly, we make a number of recommendations in order to forestall the occurrence of OVT in the forthcoming elections.

⁶⁷RAU (2016), *Are former liberation movements inherently violent as governments?* February 2016. Harare: Research & Advocacy Unit.

⁶⁸ RAU (2016), *A valedictory for civil society in Zimbabwe.* February 2016. Harare: Research & Advocacy Unit.

To the Government of Zimbabwe:

- It is critical that the pre-election period before 2023 is characterised by a total absence of hate speech, especially by members of the government, and that all persons making such statements are charged under Sections 37(1) (c) and 42(2) of the Criminal Code;
- There must be no deployment of members of the ZNA into the civilian space outside of conditions that approximate a state of public emergency, as indicated in Section 113 of the Constitution, and, if deployed, the provisions of Section 214 of the Constitution be strictly adhered, with full public disclosure;
- It is especially important that ALL cases of public violence, whether by government agents or civilians, be investigated promptly and charges brought expeditiously. This is necessary in order to overcome the frequent allegations of partial application of the law as demonstrated in reports of the Forum;
- The Independent Complaints Commission to deal with the public's complaints against the security forces is fully up and running and sufficiently financed.
- That electoral reforms should include a provision that candidates whose supporters engage in violence should be disqualified from standing or their election can be overturned in an election petition on those grounds.
- It is also desirable that the government establish a multi-lateral team of long-term observers, comprised of professional police from SADC countries, and including domestic observers from Zimbabwean churches and civil society. This monitoring group will allow for the creation of confidence in the electoral process. Also that this team remains in place for a period after elections to ensure retributive violence does not take place.

To SADC:

- It is critical that SADC take an active role in not merely observing the forthcoming elections, but also ensuring that the elections meet the SADC Principles and Guidelines Governing Democratic Elections;
- SADC should apply pressure on the Zimbabwe government to create the multi-lateral, long-term observer team;
- SADC should also ensure that there are no barriers to election observation by any country or international body. The credibility of the forthcoming election will depend on the evaluation of the pre-election period and the election itself.

To the international community:

- Support the role of SADC in ensuring that the conditions for the forthcoming elections conform to the SADC Principles and Guidelines Governing Democratic Elections;
- Ensure adherence to the AU Charter on Democracy, Elections and Governance;
- Provide logistical and material support for long-term monitoring of the pre-election period and the election itself and post elections.