

R E D R E S S

ZIMBABWE: THE FACE OF TORTURE AND ORGANISED VIOLENCE

**Torture and Organised Violence
in the run-up to the 31 March 2005
General Parliamentary Election**

THE REDRESS TRUST
MARCH 2005

REDRESS

Seeking Reparation for Torture Survivors

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Parliamentary Election**

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1. Introduction

For the past five years Zimbabwe has been racked by an economic, social, political and human rights crisis, which no one inside or outside of the country has been able to reverse. The European Union, the United States of America and other Western nations have applied selective financial and travel sanctions against President Mugabe and other Zanu-PF leaders, and some of these powers have also made unsuccessful attempts to challenge Zimbabwe's human rights record in international fora, including the UN General Assembly and the UN Commission on Human Rights. These actions have had little discernible effect. Certain African Governments, led by South Africa's President Mbeki, continue to rally around the Zimbabwe Government, apparently finding sympathy with Mugabe's argument that some Western nations, led by the United Kingdom, have tried to isolate him and his Government because of the radical land distribution exercise launched in 2000.¹ Even as Zimbabwe prepares for the 31 March 2005 general parliamentary election the *official* Zanu-PF campaign is simply and overtly "anti-Blair": the rhetoric is that a vote against Zanu-PF is a vote for re-colonisation, the Movement for Democratic Change (MDC) being portrayed as nothing more than a front for Western, especially UK, interests.

Human rights groups, on the other hand, have consistently pointed to the widespread organised political violence, including the use of torture, which marred the June 2000 parliamentary elections and the March 2002 presidential election, and which have also been a marked feature of subsequent mayoral, local government and by-elections. Over the past five years there have been numerous national and international reports by reputable organisations which have documented these abuses and concluded that the vast majority of the perpetrators of this violence and torture have been persons and structures under the control of the Mugabe Government: the police, the army and the Central Intelligence Organisation (CIO), the youth militias, the so-called war veterans, and Zanu-PF party structures.² In the face of these reports, including one from the African Commission on Human and Peoples' Rights (ACHPR), some of Mugabe's external allies have gradually tried to nudge him towards staying in power through "free and fair elections." The South African Government in particular seems keen for the 31 March 2005 result to be accepted as one freely and fairly arrived at. What both it and the

¹ Zanu-PF denies that the land reform programme was suddenly implemented in 2000 as a pretext and method for staying in power. However, the violent and widespread invasions of commercial farms began in early March 2000, a fortnight after the Government lost the Constitutional Referendum which would have entrenched its position, and a few months before the June 2000 general parliamentary elections in which it faced a real challenge in the shape of the Movement for Democratic Change (MDC). The MDC, only formed in September 1999, had been one of the main bodies leading the call for a "No" vote in the Referendum. Faced with almost certain defeat at the polls in a free and fair June election, Zanu-PF unleashed the campaign of terror that continues to this day. All serious players in Zimbabwe recognize the need for land reform, which nevertheless was racially manipulated in early 2000 as a crude populist issue and used to physically attack all those opposed to Zanu-PF hegemony. In the process the rule of law has been destroyed.

² See REDRESS: *ZIMBABWE: Tortuous Patterns Destined to Repeat Themselves in Upcoming Election Campaign*, London, November 2004: <http://www.redress.org/publications/ZimbabweNov2004.PDF>. For a comprehensive survey and analysis of Zimbabwe from the perspective of torture survivors see REDRESS: *Reparation for Torture: A Survey of the Law and Practice of Torture in 30 Countries: Zimbabwe Country Study*, London, March 2003: <http://www.redress.org/publications/Audit/Zimbabwe.pdf>.

Zimbabwe Government are seeking is an end to the isolation of Zanu-PF. There is an increasingly bitter and violent intra-Zanu-PF struggle for Mugabe's successor, and the solution for Mugabe and Mbeki is seen to be a controlled handover of power to somebody in Zanu-PF who can turn the economy around, re-build the country's tarnished image and gradually restore the rule of law and a semblance of democratic governance.

The fundamental question is whether it is possible to have a free and fair election at this time in Zimbabwe's history, given both the scale and intensity of previous abuses, the extent to which these abuses have damaged the structures necessary for such a democratic exercise, and the ever-lurking threat of violence and torture which breaks out periodically as the election date approaches. In November 2004 the Redress Trust (REDRESS) issued a report on the trends and patterns of organised violence and torture in Zimbabwe, detailing their associations with elections and showing clearly and graphically that in recent years organised violence and torture were most closely associated with elections.³ The current report expands on this, examines developments in 2004, and produces additional material on human rights violations in Zimbabwe. Also included are selected case studies on torture in recent years, some relating directly to political activity and others not. The purpose of these case studies is to illustrate the range of torture victims and the methods of torture employed. A recent trend is its use against Zanu-PF supporters themselves, so deeply is it ingrained in certain sections of the police but particularly within the Central Intelligence Organisation (CIO).

As Zimbabwe moves towards these elections it is important for all those concerned with the result to more fully understand the reality of the state of human rights in that country. Although the polling day itself may be relatively peaceful it has been repeatedly made clear, and it is indeed trite, that the democratic process for the holding of a free and fair election is a *process* and not an *event*. To ignore or minimise what has led up to the election requires brushing aside not only developments in more recent months but also what the whole social and political fabric of Zimbabwe has endured over the past several years. This paper is intended as a contribution to that better understanding.

³ See REDRESS: *ZIMBABWE: Tortuous Patterns Destined to Repeat Themselves in Upcoming Election Campaign*, London, November 2004.

CASE STUDY ONE

In **November 1995** an Eritrean national, **Solomon Ghebre Haile Michael** (40), was arrested in the exclusive Harare suburb of Gunhill near the villa of the deposed Ethiopian dictator **Mengistu Haile Mariam**, and subsequently charged with offences relating to an alleged plot to kill Mengistu. Solomon Michael had been shot and captured by Mengistu's bodyguards; his alleged accomplice, another Eritrean man named **Abrahama Goietom Joseph Kinfe** (35), was arrested the following day.

*At Solomon Michael's trial in **July 1996**, he told the court that after he had been shot he was taken to Mengistu's house where the former dictator told him that he would personally execute him unless he confessed to having planned an assassination; he was brutally tortured – including blows to his right arm where he had been shot - and taken to a civilian hospital, where the torture continued, including beatings, while he was refused medical treatment except for being placed on a drip. He was then told that he was being taken away to be executed, but was deposited in a military hospital where he was chained to a bed and threatened with an injection with blood tainted with the virus HIV. Solomon Michael was sentenced to 5 years imprisonment for illegal weapons possession. Abrahama Kinfe was sentenced to 10 years for conspiracy to murder. In mitigation, he had said that he had come to Harare to kill Mengistu and avenge the deaths of his family who had been killed by him and his security men; he had himself been put up against a wall in Mengistu's palace in the Seventies and severely wounded by gunmen taking pot shots at him. Like Solomon Michael, Abrahama Kinfe also said the police had severely tortured him after his arrest in Zimbabwe.*

On appeal in **April 1998**, the Supreme Court upheld the convictions but cut the men's jail terms to two years each; as they had already served more than this the court ordered their immediate release. The sentences were reduced because of the "highly mitigatory features" of the case: both men and their families had suffered torture under Mengistu's rule in Ethiopia and it was not disputed at their trial that they were the victims of a brutal dictatorship that "killed thousands of people in order to break their will and wipe out any resistance" to Mengistu. *The Supreme Court also accepted that both men had been severely tortured after their arrest in Zimbabwe.*

[Sources: Sapa 16 November 1995; Sapa-AFP 8 July 1996; Sapa-AP 24 April 1998: S v Michael S-59-98; S v Kinfe S-60-98.]

Mengistu still has safe-haven in Zimbabwe to this day, nearly 15 years after fleeing Addis Ababa. The Zimbabwe authorities have never taken any steps against the torturers of Solomon Michael and Abrahama Kinfe.

2. Zimbabwe's deteriorating human rights record

Zimbabwe has not always had such an odious reputation as it does today.⁴ The collapse of the Soviet empire, the end of the Cold War, and the arrival of democracy in South Africa, resulted in a new world order which placed a greater emphasis on democracy, good governance, the rule of law, and observance of human rights. In this new order Zimbabwe's deteriorating human rights record in recent years began to come under increasing international scrutiny, reflected in the growth of reporting on Zimbabwe, both from a human rights perspective as well as generally. An examination of reports on Zimbabwe since 1975 shows that every decade since that time saw an increase in the number of such reports compared to the decade before, with an enormous increase since 2000.⁵

This massive increase represents a focus of increased attention: however, in the same way that crime statistics can reflect an increase in policing activities rather than an increase in crime, whether this massive increase in the reporting of human rights violations is partly a result of increased monitoring or not, it is also a reflection of the concern about Zimbabwe, and the clear demonstration on many fronts that the country is in crisis: this is attested to by both local and international commentators and observers. Thus it is erroneous to simply assert, as the Zimbabwe Government frequently does, that the current plethora of reports represents an attempt by Western nations, using Zimbabwean NGOs as their proxies, to vilify Zimbabwe on account of its land policy.⁶

⁴ Although there is a long history of gross human rights violations in the past, including during the colonial and immediate post-colonial eras, these past violations did not draw the widespread attention and opprobrium that the current violations have attracted. This lack of attention partly derived from the policy of reconciliation put in place by Mugabé's Government at Independence in 1980, which earned him an international reputation for tolerance and forgiveness, albeit at the cost of impunity for those responsible for past human rights abuses. In addition, the gross human rights violations during the period known as the Gukurahundi in the immediate aftermath of Independence were obscured and overshadowed by the attention given to the anti-colonial struggles in South Africa and Namibia, as well as the terrible civil wars in Angola and Mozambique. The central role taken by Zimbabwe in the struggle to liberate Namibia and South Africa, as well as the relative political and economic stability of Zimbabwe in the Southern African region, in retrospect appears to have produced a degree of myopia in respect of Zimbabwe's own human rights record.

⁵ A database of reports on Zimbabwe was compiled for this purpose, and as many on human rights and governance generally as could be identified since 1975 were included, and classified according to the type of report. There are virtually no human rights reports on Rhodesia before 1975, when the Catholic Commission for Justice and Peace issued the first in a number of important reports on the human rights violations being committed in Rhodesia. A total of 418 preliminary reports were classified under the following headings: *Organised violence and torture – pre-independence; Organised violence and torture – post-independence; Elections and organised violence and torture; Land and organised violence and torture; Organised violence and torture – psychological and psycho-social; Legal and constitutional considerations; Legislation; Judiciary and criminal justice system; Media and repression; Refugees/migrancy; Social and economic considerations; Food security/agriculture; Gender and human rights considerations; General*. Clearly, reports can be classified under more than one heading, and issues of categorization can be disputed. Hence the classification used was based on an analysis of the total set of reports to provide the most generalised classification: reports were separated according to whether they deal with human rights in the narrow sense (i.e. political and civil rights), or were reports on other aspects of Zimbabwe (including social and economic rights). Table 1 (Appendix I) indicates that over the past four decades each decade shows more reports than the previous one. A breakdown of the data by decade is shown in table 2, 3, 4 and 5 (Appendix II.) There is an enormous increase since 2000, both in terms of the number of human rights reports emerging, as well as the total number of reports on Zimbabwe; human rights reports since 2000 comprise 33% of the total number of reports on Zimbabwe since 1975, and almost half the total issued since 2000. The reports analysed include reports from both national and international organisations.

⁶ As can be seen from Figure 1 (Appendix III), the sheer increase in the number of reports on human rights violations as opposed to other types of reports does not support this view of the Zimbabwe Government, especially since 2000. There have been nearly three times as many reports issued since 2000 than in the whole of the previous three decades; human rights reports issued since 2000 comprise over 33% of all reports, and some 82% of human rights reports, issued since 1975. The onus is on the Zimbabwe Government to provide an adequate refutation of the assertions of gross human rights violations, and not to merely claim a conspiracy, or even worse to attempt to shoot the messengers of this news, as the Zimbabwe government intends to do with the promulgation of the Non-Governmental Organisations Act. This Act was passed by the Zimbabwe Parliament in December 2004 against the recommendations of its own Legal Affairs Committee,

That this was Zanu-PF's response even to the report of the mission of the African Commission illustrates a fundamental refusal to deal in any credible way with the substance of these reports.⁷

3. Torture and organised violence

In the previous REDRESS report we commented:

Taken as a whole, [the] data present a very disturbing picture, and add depth to the numerous reports of human rights violations in Zimbabwe during the period July 2001 to December 2003. The analysis clearly indicates that human rights violations in Zimbabwe over this period cannot be described as random acts of political violence between political parties, nor as clashes due to problems over land. The strongest association is between human rights violations and elections, and this confirms the views of all reports by human rights groups, both Zimbabwean and international. It also confirms the views of the various reputable observer groups: that, elections in Zimbabwe are accompanied by significant levels of violence.⁸

The report showed that there was a very high frequency of Government officers and Zanu-PF supporters amongst the perpetrators, as compared to MDC and other groups. This does not accord with the Government's claim that there was significant inter-party violence, and instead supports the claims that there has been a systematic campaign of organised violence and torture supported by the Government.⁹ Zimbabwe is now heading for a new set of parliamentary elections under a new set of standards adopted by SADC in August 2004 – the SADC Principles and Guidelines Governing Democratic Elections – and under these new standards it is crucial that organised violence and torture are absent for the elections to be declared 'free and fair.'

the report of the Parliamentary Committee on Social Welfare, a mass of representations from most Zimbabwean NGOs, international NGOs, and even the United Nations Development Programme.

⁷ REDRESS commented previously upon the report from the African Commission on Human and Peoples' Rights, which had been submitted to the Executive Council of the African Union – see REDRESS *Zimbabwe: Tortuous Patterns Destined to Repeat Themselves in the Upcoming Election Campaign*, p. 2-3. After desperate attempts by the Zimbabwe Government to delay, block and obfuscate the damning conclusions in the report, which included confirmation of torture and other human rights violations having occurred, particularly in respect of the 2002 presidential election, the AU finally adopted the report in January 2005. The Zimbabwe Government's response does not deal in any credible way with the allegations contained in the report of the Mission of the African Commission. Apart from demeaning the Commission, and thereby the African Union, the response of the Zimbabwe Government contains outlandish assertions and blatant lies. For example, to assert that opposition MPs commit crimes in order the tarnish the reputation of the Government flies in the face of the facts. To claim that all crimes are dealt with, when the cases against Dowa and Mwale, for example, and the many alleged perpetrators in the case-studies, have yet to even reach court, seriously undermines the Government's claim that all crimes are dealt with.

⁸ See REDRESS *Zimbabwe: Tortuous Patterns Destined to Repeat Themselves in the Upcoming Election Campaign* p. 27.

⁹ Furthermore, the range of Government supporters and agents was comprehensive, with hardly a group missing: MPs, the police, the CIO, "war veterans" from the ZNLWVA, Zanu-PF youth, Zanu-PF officials, Zanu-PF supporters, and even government officials being implicated in the reports received.

CASE STUDY TWO

January 1999 saw court challenges and public confrontations with the Zimbabwe Government over torture, following an independent newspaper's report that 23 army officers had been arrested after a coup plot. On 10 January 1999 *The Standard* wrote in its front page story that the officers were disgruntled with Zimbabwe's military involvement in the war in the Democratic Republic of the Congo, as well as Mugabe's mismanagement of the economy. As a consequence of the report (which the Government branded as lies), two local journalists were unlawfully detained and severely tortured.

*The military picked up **Mark Chavunduka**, *The Standard* editor, within two days of the story, and allegedly tortured him on and off for the next eight days until his release on 21 January. **Ray Choto**, who had written the report and initially gone into hiding, and being unaware of precisely what was happening to his editor then reported to the police, was promptly handed over to the persons who were apparently torturing Chavunduka, and he is said to have suffered the same fate. Both men were apparently stripped naked, blindfolded, shackled in leg irons and handcuffed, and severely beaten with planks on the bare soles of the feet and on the buttocks, slapped, kicked and punched, subjected to water immersion torture (suffocation in water bags tied around the neck), and given powerful electric shocks to different parts of their bodies. The torture apparently went on for hours as the torturers, soldiers as well as CIO personnel, demanded to know the source of the story. The two men were also reportedly made to roll naked on the tarmac in the rain while being kicked, punched and slapped, and were told that they were going to be killed. The torture apparently took place in the CIO's notorious underground torture-chambers at Goromonzi outside of Harare, as well as Cranborne Barracks, an army base in the capital.*

The Zimbabwe military, which has no jurisdiction over civilians, ignored all the urgently obtained court orders for Chavunduka's and then Choto's release, but eventually handed them over to the police who released them. The episode led to unprecedented public protests, including from the judiciary who addressed an open letter to Mugabe calling upon him to restore the rule of law, and a peaceful human rights march on Parliament led by lawyers in court regalia. Mugabe's response was to threaten the judges and to justify the army's and CIO's actions, while the riot squad stopped the march on Parliament using dogs, tear-gas and batons. An urgent meeting of human rights NGOs and the Law Society with **Attorney-General Patrick Chinamasa**, later made Minister of Justice, drew his assurance that he would direct **Police Commissioner Augustine Chihuri** to investigate the torture. Chinamasa soon reneged on this assurance and accused civil society of having a political agenda.

In **2000**, after the two journalists made an application to the Supreme Court, the then Chief Justice Anthony Gubbay ordered the police to investigate the torture, but they never have. More than six years after the event no identification parade has ever been held, no arrests have been made nor a single perpetrator ever brought to court. Instead the two journalists were prosecuted for publishing a false story likely to cause fear, alarm and despondency, but the Supreme Court declared the charge unconstitutional. Contempt of court proceedings brought on the two men's behalf in the High Court against those responsible for ignoring the court orders for their release from military custody, including against the Minister of Defence, effectively came to naught before the then Judge President, **Godfrey Chidyausiku**. He was promoted to Chief Justice when Gubbay was forced out in **2001**. One of the complainants, Mark Chavunduka, died in

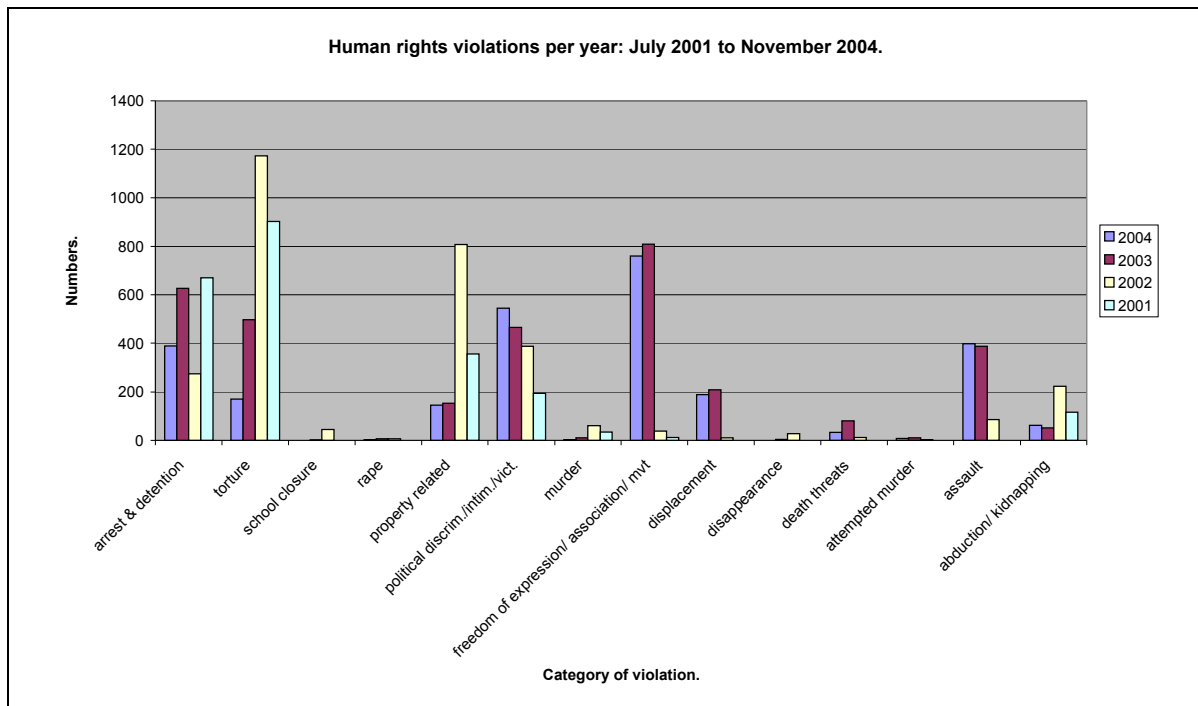
October 2002, while Ray Choto later went into exile. In **February 2005** a Zimbabwe internet news service based in South Africa reported that the Zimbabwe Government had paid Choto and the late Chavunduka’s estate a combined total of Z\$24 million (about US\$3000) civil damages for the torture and unlawful detention.

[Sources: Wilson v Minister of Defence and Others 1999 (1) ZLR 144 (H); Chavunduka and Another v Commissioner of Police and Another 2000 (1) ZLR 418 (S); Chavunduka and Another v Minister of Home Affairs and Another 2000 (1) ZLR 552 (S); Legal Forum (Harare), Volume 11, Number 1, March 1999; Zimbabwe Online (SA) 21 February 2005]

This incident marked a significant stage in the collapse of the rule of law, a full year before the unlawful land invasions began in February 2000. It intimated that even an independent Supreme Court was virtually powerless to protect individuals against torture, as it was soon to prove powerless to protect freedom of expression, freedom of assembly, property rights and all other basic human rights.

It is evident from Figure A below that torture *per se* has been reported less frequently in 2004 than in other years.

Figure A



Nevertheless, torture remains the single largest category of gross human rights violations since 2001, comprising 24% of all types of violation reported: 2,742 allegations of torture were made over this forty month period (figures for December 2004 have not been included.) This is illustrated in Table A below. It is also significant that the **total** number of human rights violations (including **all** abuses, as shown in the table) reported to the Human Rights Forum since July 2001 now stands at 11,456. This is not a trivial number, and, in respect of the point made at the beginning of this paper, indicates just why there is enormous concern about Zimbabwe, the crisis, and Zimbabwe’s human rights record. It must also be pointed out that this figure of 11,456 should be seen as only an indication

of the scale of human rights violations and one recent report put the figure as high as 300,000 since 2001¹⁰.

Table A
Numbers and percentages
of human rights violations reported between July 2001 and November 2004.

	2001 to 2003		2001 to 2004	
	No.	%	No.	%
Torture	2572	29	2742	24
Arrest & detention	1571	18	1960	17
Property intimidation	1316	15	1461	13
Political discrimination	1048	12	1593	14
Freedom of expression/association	860	10	1620	14
Assault	474	5	873	8
Abduction/kidnapping	391	5	453	4
Displacement	219	3	408	4
Murder	105	1	108	1
Death threats	92	1	125	1
School closure	46	0.5	46	0.4
Disappearance	32	0.4	32	0.3
Rape	13	0.2	15	0.1
Attempted murder	12	0.1	20	0.2
Totals:	8751		11456	

The effect of adding the 2004 figures to the overall totals changes some of the rankings of the various categories of human rights violations. As can be seen from the Table above, political discrimination and abuses of the freedom of expression and association rise to become joint third in the rankings, whilst murder has dropped: there were 10 documented murders in 2003 and only three in 2004. There was, however, a significant increase in assaults: there were 399 assaults in 2004 alone as opposed to 474 during the whole previous three year period. The importance of torture cannot be minimised, as we pointed out in our previous report, and remains the largest single category even though the number of cases in 2004 reduced the overall percentage from 29% to 24%.

4. Torture, organised violence and elections

The evidence cited for the period July 2001 to December 2003 clearly indicated that torture and other human rights violations were most strongly related to elections. It is significant that even though 2004 saw a drop in the number of torture allegations this pattern remains, and the overall conclusion reached in the previous report still holds: at least in overall magnitude, human rights violations increase with elections, and this is still notable in the case of torture. Of the 11,456 human rights violations reported in the period July 2001 to November 2004, 6,030 (53%) are in months in which there were elections; furthermore, this number of 6,030 is generated in only 14 months, whilst the balance is derived from nearly twice that number of months: non-election months generated 5,426 cases from 27 months. In short, over half the cases reported came from only a third of the months in the period reviewed – election months. This clear pattern is illustrated in Figure B below.

¹⁰ See *Solidarity Peace Trust (2004), "NO WAR IN ZIMBABWE". An account of the exodus of a nation's people, November 2004, HARARE & SOUTH AFRICA: SOLIDARITY PEACE TRUST.*





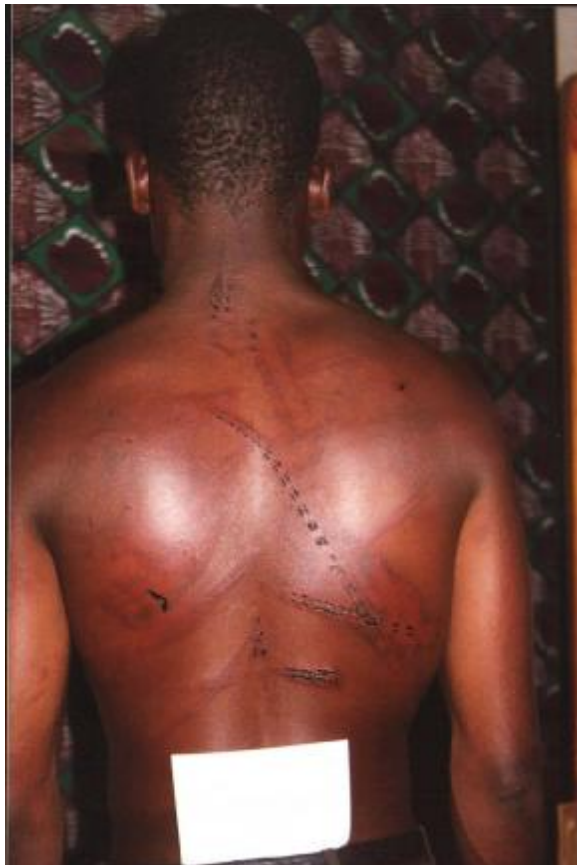
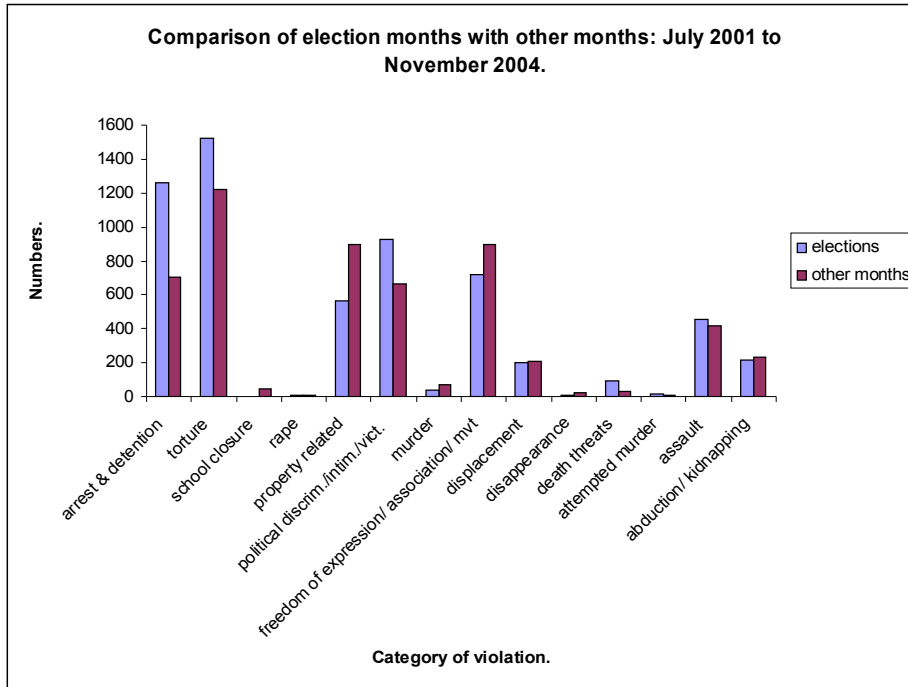


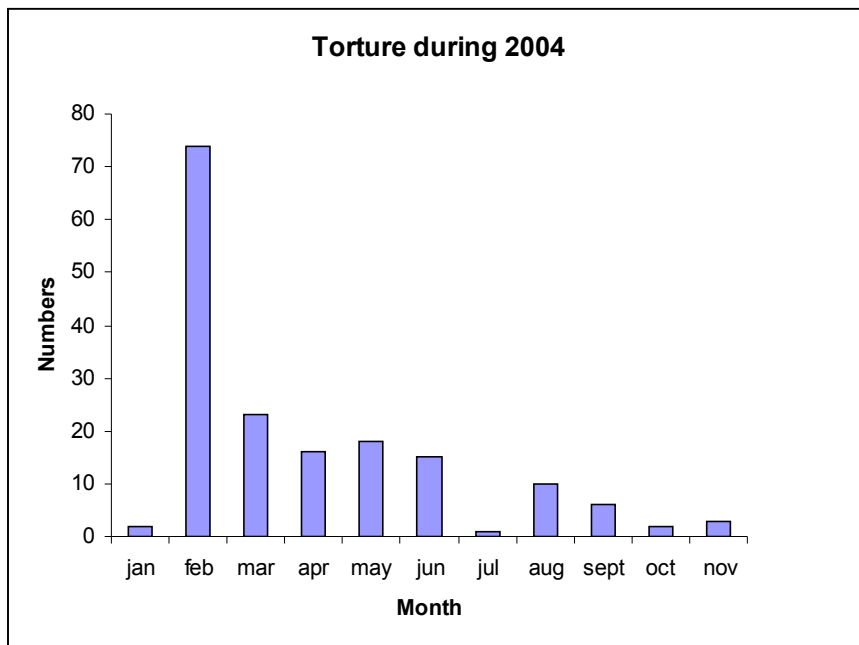


Figure B



As can be seen from Figure C below, the worst month for torture in 2004 was February, during which there was the violent disruption of a demonstration of the National Constitutional Assembly, and extreme violence on Charleswood Estate, the property of the MDC MP, Mr Roy Bennett. If this month is excluded from the analysis then torture was once again higher during months when by-elections took place.

Figure C



The previous report also made mention of the lack of investigation by the authorities of alleged human rights violations, and this continues to be the case. There has been no reported action on allegations of torture committed in the run-up to the March 2002 presidential elections by Detective Chief Inspector Henry Dowa in the Law and Order Section of the Criminal Investigation Department of the Zimbabwe Republic Police (ZRP)¹¹. Another ongoing example of the failure to bring to account alleged perpetrators is the case of CIO agent Joseph Mwale in connection with political murders in the lead-up to the June 2000 parliamentary elections. In its response to the African Commission mission report the Zimbabwe Government claimed that all crimes are dealt with, though REDRESS' research has revealed no formal investigation or prosecution.

CASE STUDY THREE

In **March 1999** three American nationals were arrested at Harare International Airport on their way to Switzerland. The men, **Gary Blanchard, John Dixon** and **Joseph Pettijohn**, were subsequently charged with various statutory offences relating to the illegal possession of firearms. Before trial the men brought an urgent application in the Supreme Court not only stating that they had been severely tortured after their arrest, but that the conditions in which they were being held in a maximum security prison pending trial constituted cruel, inhuman or degrading treatment. *Amongst other things it emerged that the men were held in solitary confinement, stripped naked each night and shackled in leg irons to their beds where the lights in their cells were kept on 24 hours a day. This had gone on for about five weeks.* The then Chief Justice **Anthony Gubbay** found against the State which did not deny the allegations, and ordered a halt to the various forms of ill-treatment. As mark of the court's disapproval legal costs were awarded to the men on the higher scale. The court also noted that stripping and keeping a prisoner naked from late afternoon until early morning was in contempt of a Supreme Court ruling several years earlier outlawing the practice, and was aggravated by the use of leg-irons.

Far worse was to emerge at the men's trial in **September 1999**. *In the days after their arrest they were brutally tortured by police officers of the Criminal Investigation Department, which torture included electric shocks to their genitals and beatings to the soles of their feet.* Full details had been given to a magistrate at their first court appearance in March, and their lawyers also sent a detailed report to **Attorney General Patrick Chinamasa**. *At the trial, both State and private doctors gave evidence consistent with what the men had said had happened to them, including blows to the soles of their feet with a blunt instrument. The trial judge concluded that the police had indeed severely tortured the men, and noted that although one **Detective Inspector Matema** had said the State had been investigating the complaints " the only conclusion this court can come to is either nothing is being done about the complaints or if something is being done, clearly incompetence seems to be the situation, because it does not take four months to come up with a completed investigation about this, in which it*

¹¹ See REDRESS. *The Case of Henry Dowa: The United Nations and Zimbabwe under the spotlight, January 2004, LONDON: REDRESS TRUST.* Here it is worth noting that there have been further secondments of members of the ZRP to the United Nations Interim Administration Mission in Kosovo (UNMIK), and it would be interesting to know whether the UN undertook any screening of these policemen. According to Zimbabwean human rights groups the UN made no approach for information in respect of these policemen, which is surprising when UNMIK itself requested that there be an investigation of Dowa by the Zimbabwean authorities.

has been alleged some twenty different persons were involved." While convicting the men, and following the Supreme Court decisions in *S v Michael* and *S v Kinfe*, the trial judge took into account the torture and sentenced each of them to an effective 12 months in prison, back-dated six months to the time of their arrest. Thus after a further six months they were released and deported. The State appealed against the sentences as being too lenient. In **2001**, after they had already been deported, the appeal was heard and the new **Chief Justice Godfrey Chidyausiku** ruled that they ought to have served five years in jail.

[Sources: BBC News 13 September 1999; *Blanchard and Others v Minister of Justice* 1999 (2) ZLR 24 (S); *S v Blanchard and Others* 1999 (2) ZLR 168 (H); *S v Blanchard and Others* 2001 (2) ZLR (S).]

Here, the trial court specifically recorded the failure of the State to properly investigate detailed complaints of torture. Attorney General Chinamasa was soon promoted to Minister of Justice.

CASE STUDY FOUR

A series of incidents involving kidnapping, murder, mob violence, arson, police corruption and torture are associated with the late **Cain Nkala**, beginning a week before the **June 2000** parliamentary elections, when war veterans kidnapped MDC polling agent **Patrick Nabanyama** from his home in Bulawayo. Nabanyama was apparently murdered but his body has never been found. Following a national outcry the kidnappers, whose identities were known, were finally arrested and charged with murder in **2001**. One of the accused was Cain Nkala, a war veteran leader in Bulawayo, and there were signs that he was going to reveal which senior Zanu-PF leaders had ordered the kidnapping and killing. In **November 2001** Nkala himself was kidnapped from his home in circumstances very similar to the disappearance of Nabanyama, but within days several MDC members were arrested and charged. On State television **Vice President Msika** said MP David Coltart was behind the war veteran's kidnapping; Nkala's body was found in a shallow grave a few days later, allegedly as a result of "information" from some of the arrested MDC members who were shown on State television "indicating" the whereabouts of the corpse. The next day a Zanu-PF mob led by former political leader **Dumiso Dabengwa** and escorted by the police marched through the streets of Bulawayo. The MDC offices were burnt down, and the mob stopped the fire brigade from attending the blaze. MDC supporters retaliated, setting fire to a Zanu-PF building and fighting with riot police.

MDC members charged with Nkala's murder included another MP, **Fletcher Dulini-Ncube**, all of whom were kept in custody under poor conditions for many months. The trial of six of them began in **February 2003: Sonny Masera, Army Zulu, Remember Moyo, Kethani Sibanda, Sazini Mpofo and Dulini-Ncube**. *The MP had been denied treatment for his diabetes in custody and as a direct result later had to have an eye surgically removed.* The other arrested war veterans had been tried and acquitted of Nabanyama's murder, claiming that they had indeed kidnapped him but then handed him over to Nkala. Nkala was dead, Nabanyama's body had never been found, and there was no evidence to link them to the latter's death. They were never subsequently charged with kidnapping.

At the Cain Nkala murder trial the six MDC men maintained that the police extracted the evidence against them under torture, and a trial-within-a-trial was held to determine the

admissibility of this evidence. The police denied that any of the men had been ill treated in any way. In **March 2004** the trial judge ruled that the evidence was indeed inadmissible. In her 60-page judgment she meticulously analysed the evidence of police officers involved in the case, contrasting their stories with that of the accused and each other, and including examinations of written statements and confessions, police diaries and logs, video evidence and other exhibits, all of which had emerged in the trial-within-a-trial. She found the police had deliberately made false entries in their records, altered written statements, lied to the court, been evasive in their evidence, and had fundamentally violated the most basic human rights of the men on trial. In uncompromising language she threw out the incriminating statements, indications and even video recordings with the concluding comment: "The evidence of the State witnesses who are police officers is fraught with conflict and inconsistencies. The witnesses conducted themselves in a shameless fashion and displayed utter contempt for the due administration of justice to the extent that they were prepared to indulge in what can only be described as works of fiction...The magnitude of their complicity was such as to put paid [sic] to this court attaching any weight to the truth or accuracy of their statements."

*As a result the evidence of the accused was accepted, some of which included the following accounts of torture: **Remember Moyo** was hit by a rifle-butt, pushed out of the back of a moving police vehicle while shackled in leg-irons and handcuffs, had his head banged against a car wheel, was held on the ground on his back with his legs-spread eagled while **Detective Superintendent Matira** took running jumps landing on his genitals with booted feet; he bled from his nose and ears, lost consciousness and was so badly injured he could hardly walk; later he was further assaulted in a cell, kept stripped naked, shackled and beaten by more policemen, a former MDC member **Ian Sibanda** and war veterans including **Jabulani Sibanda**, chairman of the Bulawayo War Veterans Association.*

***Khetani Sibanda** was kidnapped by persons unknown, blindfolded and taken to an unknown house where he was detained, assaulted and threatened by men who later revealed themselves as CIO; he was forced to adopt a story implicating other MDC members in Nkala's murder with the express purpose of discrediting the MDC; he was forced to repeat all the details and learn them by heart, his resistance broken by repeated assaults and threats of harm to his relatives, particularly his parents; this went on for three days; at night he was taken to the burial site as part of this fabrication; at one point **D/Supt Matira** pulled out a firearm and threatened to shoot him; at another stage he was taken to Ncema dam near Esigodoni and told that if he didn't co-operate he would be fed to the crocodiles; he was deprived of food, water and sleep. Sibanda was one of those who had been shown on State television "indicating" the place where Nkala's body had been found.*

***Sazini Mporu** was with his girlfriend when arrested and they were both assaulted by being kicked and punched; he was driven around Bulawayo for many hours while being assaulted in and out of the vehicle, and at the police station; all the time he was being forced to implicate others; he was also assaulted before being taken on "indications." He too was shown on State television "revealing" where the dead man had been placed.*

[Sources: The State v Sonny Nicholas Masera and Five Others, HH 50-2004, 2 March 2004, judgement of Mrs Justice Sandra Mungwira; ZWNEWS report 6 March 2004]

None of the torturers have been prosecuted, nor any of the police officers disciplined.

5. The Zanu-PF primary elections and political violence

The internal Zanu-PF elections were held in January 2005, and from published reports in various newspapers there were a number of allegations of intra-party violence in the run-up to these primaries. The police brought charges of public violence against a number of candidates and their supporters. There were also allegations that candidates had been implicated in vote-buying and rigging.¹²

CASE STUDY FIVE

January 2003 saw the brutal torture of an MDC **MP Job Sikhala** and his lawyer **Gabriel Shumba**. This received wide international condemnation as it was seen as a direct attack both on the parliamentary opposition as well as on civil society, Shumba being a human rights defender working for the leading human rights coalition in the country, the Zimbabwe Human Rights NGO Forum.

Both men and three others were arrested while Shumba was advising his client, the MP having faced constant police harassment over many months since the June 2000 parliamentary elections. A combination of State forces were apparently involved in the arrest and subsequent torture, including CIO and military personnel as well as uniformed and plain-clothed police, who were said to have stormed the room in which they were consulting, armed with assault rifles, tear-gas grenades and dogs. Over a three day period both Sikhala and Shumba were separately moved from place to place, deprived of all food and severely tortured.

Shumba was apparently tortured by a group of about fifteen men: he was periodically kicked with booted feet and slapped about his head from the time of arrest, and tightly hooded so that breathing was extremely difficult; threatened with dogs; taken hooded to what was believed to be the CIO underground torture chambers at Goromonzi where he could hear the horrible sounds of screaming in another room, and thrown against the wall before being stripped naked and hands and feet shackled together in the foetal position; assaulted all over his naked body with fists, booted feet and thick planks; hung upside down and beaten on the bare soles of his feet with wooden, rubber and metal truncheons; given severe electric shocks to the feet, ears, tongue and genitals; threatened with acid, crucifixion and needles thrust into the urethra; covered in some unknown chemical substance; having lost control of his bodily functions forced to drink his own urine and lick up his blood and vomit; urinated on by his torturers, who also took photographs of him being tortured; threatened with death.

¹² See ZimOnline, 18 January 2005, where the following was reported:

"Elsewhere across the country, there were allegations of vote rigging and in a few cases police had to be called in to quell violence between rival factions." "In Mashonaland West province, supporters of Francis Matongorere angrily protested after their candidate's name was omitted from the list of aspiring candidates against sitting Member of Parliament, Zacharia Ziyambi." "In Harare's Mufakose constituency, there were scuffles with one faction accusing members of the other of cheating and voting twice. Police had to intervene to restore order." "Anti-riot police had to be summoned twice to break up violent clashes between rival supporters at Dzivarasekwa community hall in Harare, where voting was taking place."

Sikhala was also said to be severely tortured. The men were apparently forced to confess to false allegations, including the burning of a Zanu-PF vehicle and a plot to violently overthrow the Government. Medical examinations after their release were consistent with their allegations, and when they appeared in court the evidence of torture was apparently so clear that all charges were dropped immediately. Shumba later fled to South Africa where he is still working on Zimbabwe human rights issues.

[Sources: Testimony to United States Congress House Committee on International Relations 10 March 2004; Amnesty International Report 26 June 2003; Lawyers Committee for Human Rights Alert 17 January 2003; Zimbabwe Human Right NGO Forum Political Violence Report January 2003.]

None of the allegations of torture have been investigated.

From newspaper reports, including those in the State-controlled daily newspaper the Zimbabwe Herald, the following are alleged to have taken place during the recent Zanu-PF primaries:

- *Allegations of people voting more than once*¹³;
- *Use of undesignated polling stations*¹⁴;
- *Illegal selling of party cards*¹⁵;
- *Violence against other factions*¹⁶;
- *Vote-buying through the use of food*¹⁷.

All of these types of allegations have been levelled previously against the Zanu-PF Government in respect of national elections and by-elections¹⁸ and now have occurred against the background of unprecedented protest by Zanu-PF supporters over the non-acceptance of their candidates by the party's election directorate.¹⁹ None of this supports the view that Zanu-PF esteems democratic procedures. It is perhaps to be expected that the party will resort to the same practices in the much more important processes of representation at national and local government levels.

¹³ See Herald, 22 January 2005, *Undenge springs surprise*.

¹⁴ See again Herald, 22 January 2005, *Undenge springs surprise*.

¹⁵ See Herald, 19 January 2005, *Ban on Ministers removed*.

The story reported the Head of the National Elections Directorate, Eliot Manyika, as follows:

"The National Elections Directorate has suspended Cde Beta for being at the centre of irregularities involving the availability of party membership cards not issued by the Zanu-PF Headquarters," said Cde Manyika, adding that Cde Beta would remain a party member unless and until a properly constituted party disciplinary committee decides that he be suspended.

¹⁶ See Herald, 19 January 2005, *MP removed from remand*.

¹⁷ See Daily News online edition, 21 January 2005, *Made wins, with a little help from GMB*.

¹⁸ See AMANI (2002), *Organised Violence and Torture in the June 2000 General Election in Zimbabwe*, HARARE: AMANI TRUST; AMANI (2002), *Neither Free nor Fair: High Court decisions on the petitions on the June 2000 General Election*, HARARE: AMANI TRUST; AMANI (2002), *Organised Violence and Torture in the Bye-Elections held in Zimbabwe during 2000 and 2001*, HARARE: AMANI TRUST.

¹⁹ Also seen has been the suspension of party officials, Members of Parliament, and even Ministers for their part in the so-called "Tsholotsho" declaration which Mugabe construed as a plot to appoint Emmerson Mnangagwa as vice president instead of his (Mugabe's) chosen favourite Joyce Mujuru. Furthermore, there was the dismissal of whole Provincial and District Co-ordinating Committees for their part in this same event.

6. The forthcoming elections: can they be free and fair?

This update on the previous report demonstrates that the basic trends observed previously continue, and, as discussed above, are even seen in the internal elections for Zanu-PF candidature in the forthcoming general elections. The persistence of gross human rights violations and their heightened prevalence around elections does not augur well for the poll on 31 March and the recently promulgated SADC Principles and Guidelines Governing Democratic Elections. In terms of these Principles and Guidelines the Zimbabwe Government is required, amongst other things, to ensure the following:

- *full participation of the citizens in the political process;*
- *freedom of association;*
- *political tolerance;*
- *equal opportunity for all political parties to access the state media;*
- *impartial electoral institutions;*
- *an independent judiciary.*

At the time of writing none of these requirements can be said to have been complied with.

Furthermore, the SADC Principles and Guidelines also insist that the following should be observed: the safeguarding of human and civil liberties of all citizens, including the freedom of movement, assembly, association, expression, campaigning and access to the media on the part of all stakeholders, during electoral processes.

CASE STUDY SIX

In **September 2004** four Bulawayo youths were kidnapped and allegedly severely tortured. The youngsters, **Mandlenkosi Sibanda, Mandlenkosi Luphahla, Tisunge Botomani** and **Nkosilathi Gama**, were all members of the ruling Zanu-PF party, and were apparently tortured at Magnet House, the headquarters of the Central Intelligence Organisation (CIO) in Matabeleland, in front of Bulawayo CIO boss **Innocent Chibaya**. *They were kidnapped from their homes in the high-density suburb of Emganwini and tortured for over four hours. They were beaten all over their bodies with clubs, belts and electric cables, sustaining broken bones and serious injuries to their genitals.*

The newspaper which broke the story and which generally supports Zanu-PF, said the youths were apparently targeted as a result of intra-party struggles surrounding a notorious war veteran leader, **Jabulani Sibanda**. *The youths apparently named the CIO agents and said that CIO boss Chibaya had witnessed the torture.*

As a result of the publicity Vice President Msika was reported to have ordered an investigation into CIO boss Chibaya as well as the police chief in Bulawayo, **Charles Mufandaizze**. *Later that month the same paper said that two of the CIO persons said to be responsible, **Sylvester Chibango** and **Medicine Furusa**, had been charged and convicted of common assault and fined the equivalent of US\$8 each.*

[Sources: Zimbabwe Financial Gazette 7 and 14 October 2004; Zimbabwe Independent 19 November 2004; Zimbabwe Human Rights NGO Forum, Political Violence Report, September 2004]

7. Conclusion

The reality of Zimbabwe today is that the legacy of organised political violence and torture over the past few years has deeply scarred the political climate of that country, and the legacy endures as each day witnesses new reports of human rights violations as the election draws near.²⁰

In these circumstances, what can the international community do? Clearly, any practical steps which can be taken to monitor the elections should be embraced, despite the manifold obstacles which have been placed in the path of those wishing to do so, and the outright ban on “Western” observers. But the fact remains that what observers arriving in Zimbabwe before the election might not see is the cumulative result of the passed five years: widespread fear, hopelessness and despondency which is likely to lead to a low turnout. This, coupled with a myriad of problems concerning the preparations for the poll, ranging from serious irregularities in voter registration to the manipulation of constituency boundaries, already casts a long shadow over the election. In the words of Zwelinzima Vavi, Secretary General of the Congress of South African Trade Unions (COSATU): “It would take a miracle to save the credibility of the general election to be held in Zimbabwe”.²¹

CASE STUDY SEVEN

The period since **December 2004** has seen dramatic internal Zanu-PF feuding following the party congress held earlier in the month. Information Minister Jonathan Moyo’s political demise began for trying to defy Mugabe’s choice for vice president, but there was soon more to come. State agents kidnapped Zanu-PF **MP Phillip Chiyangwa** on **15 December 2004** as part of an alleged spy-ring selling State secrets to South Africa; others arrested around the same time were banker **Tendai Matambanadzo**, Zanu-PF diplomat **Godfrey Dzvairo**, Zanu-PF functionary **Itai Marchi**, and Zanu-PF’s deputy-director for security **Kenny Karidza**. Also named was diplomat **Erasmus Moyo** said to have been recalled from the embassy in Geneva but who escaped between the departure lounge and takeoff, and whose whereabouts are now unknown. Another alleged spy, notorious torturer and war veteran leader **Jabulani Sibanda**, was said to have fled the country. A South African who allegedly set up the spy-ring and who was arrested inside Zimbabwe has yet to appear in court, but there have been appearances of the five Zimbabweans, and three have already been jailed for breaching the Official Secrets Act: Matambanadzo, Dzvairo and Marchi. Karidza is on trial while Chiyangwa was finally released on bail in late **February 2005**. Most court proceedings have been shrouded in secrecy but so far serious torture allegations have emerged.

²⁰ The Zimbabwe Standard reported on 13 February 2005 that drunken soldiers had beaten up 15 MDC members the previous week in Nyanga, accusing them of holding a rally without permission of the army. An online report on 23 February 2005 (I-Net Bridge (SA)) quoted the MDC as saying that another group of 20 soldiers attacked MDC officials coming from Masvingo where the MDC had launched its election campaign for the general election. A number of MDC candidates were said to have sustained injuries all over their bodies as they were kicked with booted feet and punched. On 28 February 2005 The Standard reported that suspected Zanu-PF activists, including youth militias and “war-veterans” were terrorising people at night in Mutare. Those who failed to produce Zanu-PF membership cards were severely assaulted.

²¹ Cape Times (SA), 25 February 2005

***Chiyangwa** testified that he was kidnapped in the car park of a Harare hotel, a black hood thrown over his head, and driven by a long and circuitous route to an underground location where he was detained in solitary confinement in a completely dark vermin-infested cell for two weeks, with no toilet facilities; here he was interrogated for hours on end, threatened and intimidated until he had a mild stroke, but was denied medical attention; his condition was later confirmed by a Government and private doctor who recommended hospitalisation, but this was refused; he was denied legal representation until brought to court on 30 December 2004.*

***Karidza**, whose trial for spying began on 27 January 2005, was not brought to court sooner as there were reports that he had been so badly tortured that the CIO did not want him seen in public until he had somewhat recovered. More than a month after his arrest sources said he was still unable to walk or talk properly after severe torture, his legs were badly swollen and he was unable to eat.*

*On **8 February 2005** the remaining three men were jailed after a secret trial in which they tried to withdraw guilty pleas made earlier. Their allegations that confessions had been made under duress were rejected. **Dzvairo** was sentenced to six years, while **Marchi** and **Matambanadzo** got five years each.*

There is no news on the detained South African 'spymaster', said to have been arrested first and who revealed the names of his Zimbabwean contacts. A commentator in South Africa said he would not have done so until he had reached his "pain threshold." A South African opposition spokesman went further: "Zimbabwe's security forces, and especially its CIO, have an infamous reputation for severe human rights abuses" and called for a special sitting of Parliament's Joint Standing Committee on Intelligence to address "possible human rights violations against a South African citizen."

[Sources: New Zimbabwean.com 23 and 30 December 2004, 23 and 29 January 2005, 8 and 10 February 2005; ZimbabweOnLine 6 and 8 January 2005; The Witness 1 February 2005; The Herald 28 January 2005; SABC News 23 January 2005]

The 'spy-scandal' is another example of intra-Zanu-PF fighting in which State agencies are directly involved on one side or another; Chiyangwa and his Zanu-PF colleagues are known to be Emmerson Mnangagwa supporters and have apparently become victims in the succession battle between rival camps following Joyce Mujuru's elevation to the vice presidency. Finally, the torture of Zanu-PF leaders has taken the CIO to further depths, adding another dimension to fear as polling day approaches.

Appendix I

Table 1.
Reports over the decades (1975 to 2004)

Year	1970s	1980s	1990s	2000s	Total
No. of HR Reports	7	10	13	136	166
Total No. of Reports	11	38	59	310	418
percentage over					
each decade	63.6	26.3	22	43.9	
percentage of total	1.67	2.39	3.11	32.5	

Appendix II

Breakdown of reports on Zimbabwe (1975 to 2004)

Table 2
1975 to 1979.

Year	1975	1976	1977	1978	1979
No. of HR Reports	1	2	3	1	0
Total No. of Reports	1	2	4	1	3
percentage over each year	100	100	75	100	0
percentage of total	9.1	18.2	27.3	9.1	0

Table 3
1980 to 1989.

Year	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989
No. of HR Reports	1	0	0	3	0	2	2	0	1	1
Total No. of Reports	3	2	2	4	2	6	10	0	5	4
percentage over each year	33.3	0	0	75	0	33.3	20	0	20	25
percentage of total	2.6	0	0	7.9	0	5.3	5.3	0	2.6	2.6

Table 4
1990 to 1999.

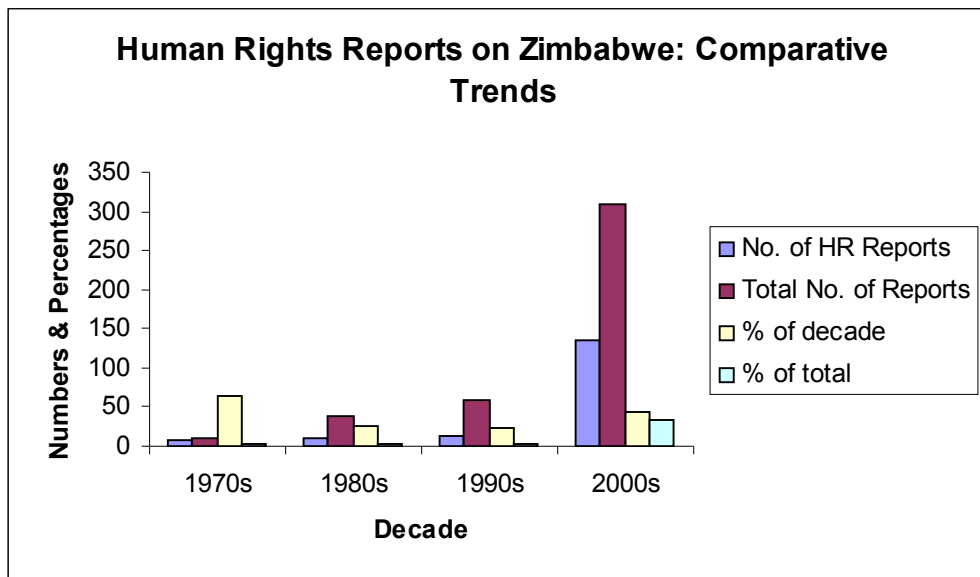
Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
No. of HR Reports	0	0	1	0	0	1	1	3	4	3
Total No. of Reports	5	3	6	5	1	8	4	8	11	8
percentage over each year	0	0	16.7	0	0	12.5	25	37.5	36.4	37.5
percentage of total	0	0	1.7	0	0	1.7	1.7	5.1	6.8	5.18

Table 5
2000 to 2004.

Year	2000	2001	2002	2003	2004
No. of HR Reports	10	22	39	39	26
Total No. of Reports	32	44	81	88	65
percentage over each year	31.3	50	48.1	44.3	40
percentage of total	3.2	7.1	12.6	12.6	8.49

Appendix III

Figure 1.



Appendix IV

Table of significant events each month in 2004
(taken from Human Rights NGO Forum, Monthly Political Violence Reports to November 2004)

January	ZANU PF and MDC inter-party violence: pre Gutu North constituency (Masvingo Province) by-election. Violence in Shamva constituency (Mashonaland Central Province), one person killed, Alexander Chigega (MDC).
February	NCA demonstration to call for a new constitution in Harare Central constituency (Harare Province) reportedly disrupted by ZRP. Violence on Charleswood Estate, Chimanimani (Manicaland Province) belonging to MDC MP for Chimanimani, Roy Bennet. One person killed, Shemi Chimbarara (farm worker).
March	Inter-party violence: Zengeza constituency by-election (Harare Province), majority of victims reportedly MDC supporters/members. One person killed, Francis Chinozvina (MDC).
April	Post Zengeza by-election retribution. Main targets reportedly MDC members. Inter-party violence in Mabvuku constituency (Harare Province). MDC intra-party violence in St Mary's constituency (Harare Province).
May	ZANU PF and MDC inter-party violence: Violence against MDC members in Mbare East constituency (Harare Province) reportedly perpetrated by members of <i>Chipangano</i> . <i>Chipangano</i> is reported to be a ZANU PF youth gang based in Mbare. ZANU PF and MDC inter-party violence: Alleged retribution against those that attended MDC rally in Chendambuya, Makoni North constituency (Manicaland Province).
June	ZRP reportedly disrupts WOZA meeting on 16 June 2004 in Mpopoma constituency (Bulawayo Province). ZRP reportedly stops WOZA demonstration in commemoration of World Refugee Day on 19 June 2004 in Mpopoma constituency (Bulawayo Province).
July	Inter-party violence: ZANU PF youths reportedly attack MDC Provincial Assembly Meeting in Mvurwi, Mazowe West (Mashonaland Central Province).
August	ZANU PF intra-party violence in Makoni North (Manicaland Province) where a senior Government Minister is alleged to have instigated and encouraged his supporters to perpetrate acts of violence against the supporters of a rival candidate from his own party. ZNA reportedly torture civilians in Mabvuku, (Harare Province). ZANU PF and MDC inter-party violence in Hatfield (Harare Province).
September	Porta Farm residents displaced from a farm they have lived at for 14 years. The residents were forcefully evicted by the police and national youth service youths, despite a High Court Order granting them temporary relief from eviction. WOZA women and NCA activists arrested on separate occasions as they demonstrate against the proposed NGO Bill. Political victimization surrounds the MDC 5 th year anniversary celebrations. NCA youth and gender representatives meeting disrupted by the police and national service youths in Chikomba, Sadza T/Ship, Mashonaland East.
October	Political violence surrounds the delivery of the verdict in the treason trial of MDC leader Morgan Tsvangirai on 15 October 2004. NCA activists are arrested as they demonstrate against the NGO Bill; WOZA women and 3 photographers are arrested as the WOZA women hand a petition to the Speaker of Parliament in conclusion of their demonstration against the NGO Bill, which began in late September with a march from Bulawayo to Parliament in Harare
November	NCA members are arrested in Harare city centre as they demonstrate against the NGO Bill.

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