



GUNS RUN AMOK

A Review of the 1 August 2018 and 14 January 2019
Crackdown on Civilians by the Security Forces



Zimbabwe
HUMAN RIGHTS
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June 2020

Published by

The Zimbabwe Human Rights NGO Forum
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Email: research@hrforum.co.zw

www.hrforumzim.org

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Zimbabwe **HUMAN RIGHTS** NGO Forum

ABOUT THE FORUM

The Zimbabwe Human Rights NGO Forum (the Forum) is a coalition of 20 human rights organisations working towards the realisation of a society that respects all human rights in Zimbabwe.

MEMBERS OF THE FORUM

- Amnesty International-Zimbabwe (AI- Z)
- Catholic Commission for Justice and Peace - Zimbabwe (CCJP- Z)
- Civic Education Network (CIVNET)
- Counselling Services Unit (CSU)
- Gays and Lesbians of Zimbabwe (GALZ)
- Justice for Children (JC)
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- Media Institute of Southern Africa (MISA)
- Media Monitors (MM)
- Research and Advocacy Unit (RAU)
- Transparency International-Zimbabwe (TI- Z)
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- Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender (ZACRO)
- Zimbabwe Association of Doctors for Human Rights (ZADHR)
- Zimbabwe Civic Education Trust (ZIMCET)
- Zimbabwe Human Rights Association (ZIMRIGHTS)
- Zimbabwe Lawyers for Human Rights (ZLHR)
- Zimbabwe Peace Project (ZPP)
- Zimbabwe Women Lawyers Association (ZWLA)



ACKNOWLEDGEMENTS

The Forum acknowledges the assistance it received from its friends and partners in compiling this report. Members of the Forum as well as institutions that are not members of the Forum participated in the provision of data that forms this report. Several individuals gave testimonials regarding their personal experiences from August 2018 to February 2019, as well as information about what they witnessed. These accounts are captured in this report. The Forum is indebted to those individuals. The Forum applauds the Secretariat for managing the process and production of this report. All this work would not have been accomplished without the support from our development partners who invest in the dignity of humanity, and human rights.

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1. EXECUTIVE SUMMARY

The purpose of this report is to analyze the factual framework relating to the August 2018 and January 2019 crackdown on civilians by the State in the context of the legal contours of crimes against humanity. The report discusses and gives an evaluation of whether the two events and the human rights violations that occurred meet the threshold of crimes against humanity. Based on a review of available information from primary data and other secondary reports, it is apparent that State agents used excessive force to quell both demonstrations under discussion. During the 1 August 2018 events, it has been established that the police and the military unleashed a wave of violence characterized by the use of excessive force to suppress the demonstrations. Evidence presented confirmed that in some instances the army and the police used live ammunition targeting unarmed civilians. Given that most of the targeted civilians were unarmed and fleeing the State agents, the use of live ammunition was clearly unjustified and disproportionate. The military also used sjamboks, baton sticks and rifle butts to indiscriminately assault members of the public. Because of the action by State security agents, seven people died from gunshot wounds whilst twenty-three people sustained gunshot injuries.

The second incident and subsequent chain of events in January 2019 arose from the announcement of sharp fuel hikes on 12 January 2019 by President Emmerson Mnangagwa. The announcement was followed by protests that degenerated into violent demonstrations in some of the residential areas in Bulawayo and Harare as the protesters clashed with the police. Following the clashes, the Zimbabwe National Army (ZNA) was deployed onto the streets and suburbs where they orchestrated indiscriminate and violent attacks on residents. Monitoring groups recorded nearly two thousand cases of human rights violations in the space of two weeks of protests. Among the violations were at least 17 cases of extrajudicial killings, 17 cases of rape and sexual-related attacks, 26 abductions, 61 cases of internal displacements, 81 cases of gun-related attacks, at least 586 assaults and torture, inhuman and degrading treatment including dog bites, and nearly 1 000 cases of arbitrary arrests and detention. The findings reveal that in the aftermath of the January/February 2019 disturbances, armed and members of the Zimbabwe National Army and the Zimbabwe Republic Police perpetrated systematic human rights violations that included extra-judicial killings, torture and other forms of inhuman and degrading treatment.

The report concludes that crimes against humanity as defined under international law were committed in both incidents. Firstly, the various acts that are listed as underlying offences of crimes against humanity (including murder, rape, and torture) were committed. Secondly, the acts were committed as part of a widespread attack against a civilian population, having regard to the geographical spread of the attacks. Thirdly, a systematic approach to the attacks can be discerned from the involvement and deployment of different sectors of the security agents, targeting the civilian population.

The report concludes by asserting certain fundamental findings related to human rights principles and presents several recommendations as remedial steps to address the serious human rights violations committed. Some of the findings and recommendations are that:

- The State has an obligation to protect its citizens from any form of harm and must abide by the various binding international instruments entrenching human rights;
- The State should particularly prevent its security agents and third parties from carrying out extra-legal, arbitrary and summary executions;
- The State should ensure that any such egregious acts that rise to the threshold of crimes under international law, such as crimes against humanity are recognized under the domestic criminal laws, and are punishable by appropriate penalties, which take into account the seriousness of the offences.
- The State should have a specific policy and administrative measures that clearly provide a strict protocol of command responsibility for officials responsible for apprehension, arrest, detention, custody and imprisonment, as well as those officials authorized by law to use force and firearms.
- State security agents must be trained in rights-based law enforcement mechanisms focussed on the integrity of human life and human dignity.
- The State must guarantee that persons are not arbitrarily deprived of their liberty, and if they are lawfully detained, this must be in officially recognized detention centres and in accordance with the Constitution and international law.
- The State must take all measures to prevent extra-legal, arbitrary and summary executions.
- The UN human rights mechanisms must work closely with the government of Zimbabwe and investigate reports of human rights violations that include extra-judicial executions and take effective action against such practices.
- The UN human rights mechanisms should exhort the government to fully cooperate with international investigations in accordance with the government's international human rights obligations.

A CASE OF CRIMES AGAINST HUMANITY?

A REVIEW OF THE 1 AUGUST 2018 AND 14 JANUARY 2019 SECURITY FORCES CRACKDOWN

2. INTRODUCTION

Following Emmerson Mnangagwa's election as the second post-independence president of Zimbabwe, there was cautious optimism from some that the country had finally turned a corner as far as the respect for constitutional freedoms and human rights was concerned. Although Mnangagwa had been part of the previous Mugabe regime - notorious for its bad human rights record - he had presented himself as a reformer committed to rule of law and good governance following Mugabe's downfall. There were calls locally and internationally to give him an opportunity to oversee the restoration of democracy, good governance, human rights and the rule of law in Zimbabwe.

The cautious optimism that had characterized his short stint in power since the November 2017 military takeover was quickly put to test with two incidents that occurred within a short space of time from each other in the aftermath of the 30 July 2018 national elections. On 1 August 2018, soon after voting ended, and before all results were announced, a protest for the release of the presidential election results broke out in the Harare city centre. The State deployed the military and police to quell the protests and in the subsequent clashes, the State apparatus targeted many civilians as it sought to disperse the crowds in the city. A consequence of the disturbances was the shooting and killing of at least seven people by the security agents whilst numerous innocent civilians sustained serious injuries from the indiscriminate use of firearms and assaults by the army and police. Barely five months later, the heavy-handedness of the security sector was on full show again. Following the nationwide protests and stay-aways from 14 January 2019, triggered by a sharp increase in fuel prices, the army and police were once again deployed and they carried out sustained and widespread

attacks on civilians resulting in the death of at least 17 people, 17 cases of rape and sexual violence, 26 abductions, 80 gun-related injuries and more than 600 assault and torture cases and other related human rights violations, all perpetrated by the State security agents over a two-week period.

The two incidents above form the basis of the analysis of this report. The report makes an enquiry into whether crimes against humanity were committed by juxtaposing a factual exposition of the 1 August 2018 and January 2019 crackdown on civilians against the legal contours of crimes against humanity. The report firstly gives a factual basis, background and context of the two incidents. An evaluation of the legal contours of crimes against humanity is then undertaken. This is followed by a juxtaposition of the established facts of the two incidents against the legal framework of crimes against humanity. The final section of the report evaluates options available for consideration together with some recommendations to afford some redress to victims.



3. CONTEXT AND BACKGROUND

On 14 November 2017, the Zimbabwe military set in motion various processes to force the removal from power of the then incumbent President Robert Mugabe. The military takeover was dubbed a “soft-coup” because, in part, it was conducted peacefully with no civilian casualties reported. The military takeover also seemed to enjoy the backing of a cross-section of the civilian population across the political divide who complimented the army initiative by maintaining vigils and protests in the main cities of the country calling for Mugabe to step down. To clothe the coup with some measure of legality, several parallel and multiple processes were initiated to exert more pressure on Mugabe to step down. On 19 November, ZANU-PF passed a resolution to remove Mugabe from its party leadership, replacing him with Emmerson Mnangagwa. The party issued a deadline of 20 November for Mugabe to resign the presidency or face impeachment proceedings - a call he ignored.

On 21 November a joint session of Parliament and Senate, supported by parliamentarians across the political divide, was convened to initiate impeachment proceedings. At the same time, behind-the-scenes meetings between the President and the military leadership were going on with a view to pressure the President to step down. Eventually, the cumulative multiple processes initiated by the army left Mugabe cornered with only one card to play. He subsequently submitted his resignation to parliament on 21 November to end his 37-year rule.

There was a general consensus that the resignation of President Mugabe was a welcome step, which presented the country with an opportunity for a fresh political and economic

impetus anchored on principles of democracy and good governance. However, suspicions remained that the nature of the power transition and the role of the army bore bad omens in the near future. There was serious discomfort by observers and commentators alike on the role of the State security in politics, given its role in past political processes in Zimbabwe. The conventional wisdom remained that politics should be confined to civilians while the military and other arms of the security played their constitutional mandate of defending the will of the people and not to undermine it.

The new leader of the State, President Emmerson Mnangagwa was fully aware of the anxieties from within and without he was essentially heading a military government. Upon his installation to

power, Mnangagwa quickly moved to reassure the nation and the international community that elections would be held, and he pledged to restore Zimbabwe to civilian rule. True to his word, Mnangagwa promulgated 31 July 2018 as the election date to put to an end what most observers had called an illegitimate coup-led government.

3.1 The 31 July Election and the August 1 Killings

In accordance with the presidential proclamation, Zimbabwe went to the polls for the presidential, parliamentary and local elections on 30 July 2018. Most observers noted that the period leading up to and the actual polling day was peaceful and largely incident-free. Various reports from Observer missions from the Southern African Development Community (SADC), the African Union (AU), the European Union (EU), as well as from local and other foreign Observer Missions concurred that the election had been conducted peacefully. Unfortunately, it did not take long for the situation in the country to degenerate, and this time the ugly hand of the security forces showed itself in a manner previously feared. With the conclusion of voting and before the full election results had been announced, spontaneous protests broke out on 1 August in Harare's CBD.



The protests seemed to have been triggered by the perceived delays in the announcement of the results, which, according to supporters of the main opposition MDC Alliance party, was a sign that the electoral body, the Zimbabwe Electoral Commission (ZEC) was manipulating the electoral outcome. It was reported that at some stage, the protests became violent with reports of unlawful acts that included tearing down of billboards bearing the portrait of President Mnangagwa; attacking of the ZANU-PF Provincial Headquarters and several buildings with stones; pelting of the police with stones; barricading of roads with various objects; burning of tyres and rubbish, and uprooting of concrete bins as well as traffic signs and lights; and the looting of property and shops.

In response to the demonstrations, the police reactionary unit was deployed to quell the protests.¹ It has been stated that the initial orders given to the police officers were to disperse any gatherings in the Harare CBD, using button sticks, tear smoke and water cannons.² Having failed to bring the situation under control the police subsequently requested the assistance of the army. The Commander of the Defence Forces, General Phillip Valerio Sibanda deployed the military to assist the Police on the order of President Mnangagwa.³ It was the combination of the police and army that ultimately unleashed a wave of excessive force and violence in response to the demonstrations.

1. Report of The Commission Of Inquiry Into the 1st of August 2018 Post-Election Violence, pg. 24, accessed at <http://kubatana.net/wp-content/uploads/2018/12/Final-Report-of-the-Commission-of-Inquiry-18-DEC-18.pdf>

2. Id. Pg. 33

3. Id. Pg. 26

In the aftermath of the disturbances, the heavy-handed response of the security apparatus became clearer. There was overwhelming evidence that the army and the police had used live ammunition targeting unarmed civilians.⁴ Findings have been made that the use of live ammunition directed at people especially when they were fleeing was clearly unjustified and disproportionate.⁵ The military also used sjamboks, baton sticks and rifle butts to assault members of the public indiscriminately and disproportionately.⁶ Overall, seven people died as a result of gunshot wounds whilst twenty-three people were injured as a result of gunshots and hundreds of people were indiscriminately assaulted by the army and police.⁷

3.2 The 14 January-5 February 2019 Crackdown

Following the announcement of sharp fuel price hikes on 12 January 2019 by President Mnangagwa, civic movements, labour bodies and activists called for a national stay-away. The Zimbabwe Congress of Trade Unions (ZCTU) led the stay-away calls, in response to what it called, *“insensitive and provocative increase of fuel prices by the President of Zimbabwe, Emmerson Mnangagwa,”*⁸ The stay-away subsequently evolved into spontaneous protests that degenerated into violent



demonstrations in some of the residential areas in Bulawayo and Harare as the protesters clashed with the police and the army that had been deployed to help quell the protests. Question marks remain on the legality or otherwise of the deployment of the army during these protests. What is however clear is that following its deployment, the army together with other State agents committed widespread human rights violations targeting the civilian population. In the aftermath of the attacks, monitoring groups recorded nearly two thousand cases of human rights violations in the space of two weeks of protests.⁹ Among the violations were at least 17 cases of extra-judicial killings, 17 cases of rape and sexual-related attacks, 26 abductions, 61 cases of internal displacements, 81 cases of gun-related attacks, at least 586 assaults and torture, inhuman and degrading treatment including dog bites, and nearly 1000 cases of arbitrary arrests and detention.¹⁰ The findings reveal that in the aftermath of the January disturbances, armed members of the Zimbabwe National Army (ZNA) and the Zimbabwe Republic Police (ZRP) perpetrated systematic human rights violations that include extra-judicial killings, torture, rapes and other forms of inhuman and degrading treatment.

4. Id. Pg. 47

5. Id. Pg. 47

6. Id. Pg. 47

7. For a full account of the army and police crackdown see generally, the Zimbabwe Human Rights NGO Forum, Post-Election Violence Monitoring Report, 01-22 August 2018 accessed at <http://www.hrforumzim.org/publications/reports-on-political-violence/2018-post-election-violence-monitoring-report-01-09-august-2018>.

8. Statement issued by the ZCTU President Peter Mutasa, <https://www.zimbabwesituation.com/news/economic-crisis-workers-govt-draw-daggers/> 19 January 2019

9. See generally, the Zimbabwe Human Rights NGO Forum, Post-Election Violence Monitoring Report, 01-22 August 2018 accessed at <http://www.hrforumzim.org/publications/reports-on-political-violence/2018-post-election-violence-monitoring-report-01-09-august-2018>

10. See the Zimbabwe Human Rights NGO Forum report, On the Days of Darkness in Zimbabwe, January 2019, page 4, available at <http://www.hrforumzim.org/news/on-the-days-of-darkness-in-zimbabwe/>

The clearly organised approach by the various State agents suggests that the attacks on the civilian population were not just random, isolated attacks but part of a systematic approach coordinated from the superior ranks, to quell the protests.

Various reports noted that some civilians committed acts of violence that included damaging a police station-Makoni police station, and burning of police vehicles and shops and the placement of barricades on roads to stop people from going to work. However, the reaction by the State should be considered excessive given that these disturbances were isolated incidents confined to a few suburban areas. The reaction by the military and police was disproportionate and unlawful. There could not have been any justification of torture of citizens by the security forces as the right to freedom from torture is one that cannot be derogated from under any circumstances. The indiscriminate and severe beating of civilians is not characteristic of any recognised policing methods.

The brutal crackdown by the security apparatus inevitably gives rise to critical questions around the State's responsibility to uphold human rights and principles of accountability viz the protection of physical integrity and dignity of its citizens. More specific to this report a key question to be addressed is whether the conduct by the State apparatus through its security agents meets the threshold of crimes against humanity.

HUMAN RIGHTS VIOLATIONS

At least 17 Cases of Extra-Judicial Killings

17 Cases of Rape and Sexual-related Attacks

26 Abductions

61 Cases of Internal Displacements

81 Cases of Gun-related Attacks

At least 586 Assaults and Torture, Inhuman and Degrading Treatment including Dog bites

Nearly 1000 Cases of Arbitrary Arrests and Detention

“

“The military also used sjamboks, baton sticks and rifle butts to assault members of the public indiscriminately and disproportionately”.

4. THE LEGAL CONTOURS OF CRIMES AGAINST HUMANITY

Crimes against humanity are some of the few offences that enjoy universal consensus and recognition of the status of international crimes. A crime against humanity has been said to be one of, *“serious character and likely to embitter the life of a human person, to degrade him and cause him great physical or moral suffering.”*¹¹ Crimes against humanity have also been described as inhumane acts of a very serious nature that are of concern to the whole world.¹² Article 7 of the Rome Statute of the International Criminal Court (ICC), in the main, codifies the conceptual and definitional ambit of this crime under international customary law. It defines crimes against humanity as follows:

“For the purpose of this Statute, ‘*crime against humanity*’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- a) Murder;
- b) Extermination;
- c) Enslavement;
- d) Deportation or forcible transfer of population;
- e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- f) Torture;
- g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other recognized grounds;
- i) Enforced disappearance of persons;
- j) The crime of apartheid;
- k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”

As appears from the definition above, crimes against humanity by their nature are those crimes that are so serious as to shock the conscience of mankind and warrant the concern of the international community. Conceptually these crimes are not just isolated, random acts of individuals but rather result from a deliberate coordinated and organised policy to target a civilian population. Invariably, the crimes must reveal the hand of the State or a quasi-State entity and the individual acts must be committed within the theatre of the wider organised attacks, hence the *“widespread or systematic”* requirement.



11. Attorney General of the State of Israel v. Yehezkel Ben Alish Enigster, District Court of Tel Aviv, 5 January 1952, para. 541

12. See Article 5 of the Rome Statute of the International Criminal Court



5. WERE CRIMES AGAINST HUMANITY COMMITTED IN THE ZIMBABWE CONTEXT?

To summarise what has been stated above, for an offence to constitute a crime against humanity, it must, firstly, consist of at least one of the singular acts listed under section 7(1) of the Rome Statute. It is, however, not enough of its own that any of these singular acts are proven. One must look at the context within which such a crime has been committed in order to evaluate whether a crime against humanity has been committed. The test is this: has the singular act referred to above been committed as part of a widespread or systematic attack against any civilian population? Thus, the following elements that constitute crimes against humanity must be proven:

- A specific act listed under section 7(1) of the Rome Statute;
- An attack;
- The act of the perpetrator must be part of the attack;
- The attack must be directed against any civilian population;
- The attack must be widespread or systematic;

An analysis of the two events under discussion leaves one with no doubt that all the elements of crimes against humanity were satisfied as will be discussed below.

5.1 The Specific Acts

5.1.1 Extra-Judicial Killings

August 2018 Shootings

From the information available relating to the 1 August 2018 shootings, there is overwhelming documented evidence that point to the killing of

civilians by the State security agents - both the police and army - outside the parameters of any lawful authority. Following the disturbances on 1 August 2018, the President of Zimbabwe, Emmerson Mnangagwa, established a Commission of Inquiry, chaired by the former President of South Africa Kgalema Motlanthe, to inquire into the disturbances.¹³

13. In terms of section 2(1) of the Commissions of Inquiry Act [Chapter 10:07] through Proclamation Number 6 of 2018 published in Statutory Instrument 181 of 2018,

More specifically, the Commission of enquiry was mandated to enquire into the circumstances leading up to the post-election violence; to identify the actors and their leaders, their motive and strategies employed in the protests; to inquire into the intervention by the Zimbabwe Republic Police in the maintenance of law and order and its conduct in trying to contain the violence, and to enquire into the involvement of the Army in assisting the Police, and whether the force used was proportionate in the circumstances.¹⁴ Following extensive hearings and investigations, the Commission made several findings, which, among others, concluded that the police and the army used excessive force which was not justified under the circumstances and resulted in deaths and serious injuries to members of the civilian population.¹⁵ The Motlanthe Commission received extensive evidence that proved that the army and the police fired live ammunition at civilians. The Commission conclusively established and named six people that had died from gunshot injuries, namely:

- Gavin Dean Charles
- Silvia Maphosa
- Ishmael Kumire
- Jealous Chikandira
- Brian Zhuwawo
- Challenge Tauro

In its report, the Commission noted that of the six victims who died, four had been shot from the back and two in the front.¹⁶ This points to the fact that these shootings targeted people that posed no danger to the shooters and were tantamount to summary executions that are clearly impermissible at law. Unsurprisingly, in its conclusion the

Motlanthe Commission made the following specific finding:

“The use of live ammunition directed at people especially when they were fleeing was clearly unjustified and disproportionate. The use of sjamboks, baton sticks and rifle butts to assault members of the public indiscriminately was also disproportionate.”¹⁷

The army and police-led extra-judicial killings were also confirmed in the Zimbabwe Human Rights NGO Forum report which documented seven gun-related deaths in its report produced in the aftermath of the August 2018 disturbances.¹⁸

January 2019 Shootings

The use of excessive and unjustified force was once again on show in the January 2019 disturbances after the police and the army were deployed to quell the demonstrations triggered by the sharp increases in fuel prices. The Zimbabwe Human Rights NGO Forum recorded at least seventeen extra-judicial killings, as the security forces once again resorted to the use of excessive force to quell the mass protests.¹⁹

13. In terms of section 2(1) of the Commissions of Inquiry Act [Chapter 10:07] through Proclamation Number 6 of 2018 published in Statutory Instrument 181 of 2018,

14. Report of The Commission Of Inquiry Into the 1st of August 2018 Post-Election Violence, pg. 2, accessed at <http://kubatana.net/wp-content/uploads/2018/12/Final-Report-of-the-Commission-of-Inquiry-18-DEC-18.pdf>

15. Id. Pg. 48

16. Id. Pg. 32

17. Ibid. page 61

18. See generally, the Zimbabwe Human Rights NGO Forum, Post-Election Violence Monitoring Report, 01-22 August 2018 accessed at <http://www.hrforumzim.org/publications/reports-on-political-violence/2018-post-election-violence-monitoring-report-01-09-august-2018/>

19. See the Zimbabwe Human Rights NGO Forum report, On the Days of Darkness in Zimbabwe, January 2019, page 12, available at <http://www.hrforumzim.org/publications/reports-on-political-violence/2018-post-election-violence-monitoring-report-01-09-august-2018>

The killings at the instance of the police and army were also confirmed in the Zimbabwe Human Rights Commission report.²⁰ Commenting on the police's appetite to use excessive and unwarranted force, the Commission noted that,

“

“They seem to resort to use of brute, excessive and disproportionate force in most circumstances thereby causing avoidable loss of life and worsening the situation.”²¹

SOME OF THE PROFILES OF THE DECEASED

The victims below died as a result of extra-judicial killings during the January 2019 protests.

Victim 1: TN, a male adult aged 36 was killed having gone to a neighbour's place. His wife was in her home cooking when the incident occurred. His wife heard that a police officer called Mutisi from Mbare Police Station was the one who shot her husband. The deceased is survived by his wife and son. His death certificate shows that he died from a gunshot injury in the neck on 14 January 2019.

Victim 2: ES, a male adult aged 27 died from a gunshot on 14 January 2019. ES was shot when he went outside his home to try and assist a child who was struggling to breathe from the teargas sprayed by the police. He was shot under his chest on the left side and pronounced dead upon reaching the police station. It is alleged that a report was made to the police regarding his death.

Victim 3: SN, a male adult was shot by a ZRP officer whilst checking if everything was ok at his small shop in Marondera. His post-mortem report was done at Parirenyatwa, Hospital. He is survived by two minor children.

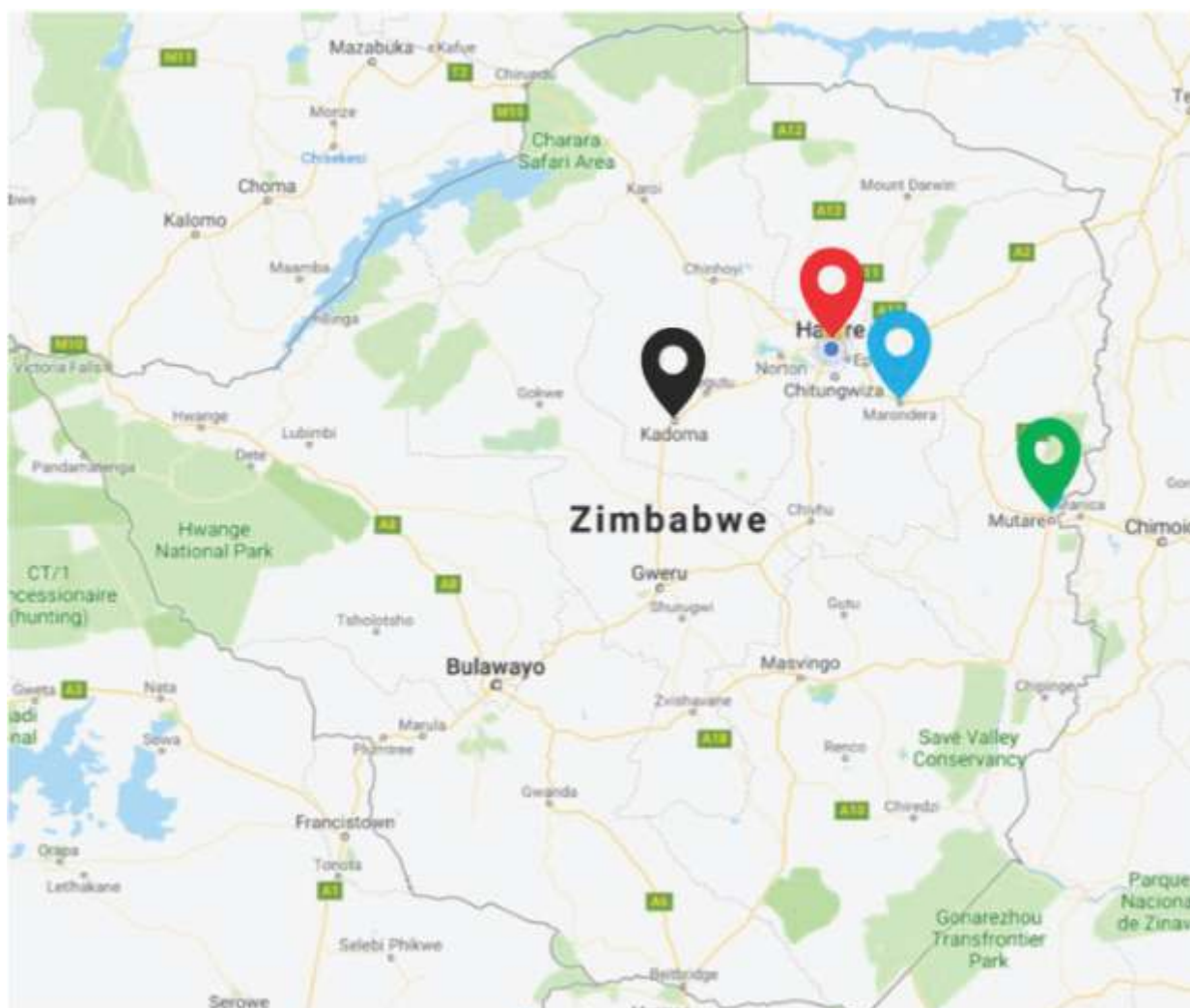
Victim 4: EZ, a 26-year-old female died as a result of being shot 14 January 2019. She was shot in the head while covering the #ZimShutDown protests. She was buried in Marondera.

Victim 5: EM, a male adult aged 25 was shot by a police officer from the back while trying to assist a child suffocating from tear gas on 14 January 2019.





20. See the Zimbabwe Human Rights Commission (ZHRC) Monitoring Report: In the Aftermath of the 14 January to 16 January 2019 “Stay Away” and Subsequent Disturbances, page 5, available at <http://kubatana.net/2019/01/22/monitoring-report-aftermath-14-january-16-january-2019-stay-away-subsequent-disturbances/>

21. *Id.*

The diagram below represent the geographical areas where extrajudicial killings during the #ZimShutDown period were reported



KEY

-  Kadoma: 1 Victim
-  Harare: 12 Victims
-  Marondera: 2 Victims
-  Mutare: 1 Victim

5.1.2 Other Acts Constituting Crimes against Humanity

While there is a particular focus in this report on the extrajudicial killings set out above, it must be noted that there are other human rights violations and acts which could also be deemed to be crimes against humanity as envisaged under international law, that were documented during the August 2018 and January 2019 disturbances.²² Various reports document the following underlying offences having been committed during the disturbances:

- Rape and sexual assault
- Abductions
- Gunshot assaults
- Severe assaults, torture, inhuman and degrading treatment
- Arbitrary arrests and detention

5.2 The Attack

A number of decided cases from the International Criminal Court (ICC) and the ad hoc tribunals of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda



(ICTR) clearly delineate the legal contours of what constitutes an attack under international law.²³ An “attack” may be defined as a course of conduct involving the commission of acts of violence or serious mistreatment of the civilian population.²⁴ Thus, the attack is not limited to the use of force, but encompasses any mistreatment of the civilian population.²⁵ It is beyond doubt that the two incidents under discussion constitute “an attack” as contemplated by international law. There is massive evidence pointing towards a violent campaign and serious cases of mistreatment of the civilian population during the police and military patrols in the two events under consideration. There is a plethora of recorded cases of soldiers and police visiting homes of innocent civilians starting from the evening of Monday 14 January 2019.²⁶ During the crackdown, cases of indiscriminate and severe beatings were recorded. In a report produced by the Zimbabwe Human Rights Commission (ZHRC),²⁷ cases of torture, assaults and grievous bodily harm to civilians were documented. It was noted, in the report that the modus operandi was the same in all the communities assessed by the Commission.

22. See the Zimbabwe Human Rights NGO Forum report, *On the Days of Darkness in Zimbabwe, January 2019*, page 3-4 available at <http://kubatana.net/wp-content/uploads/2019/02/Shutdown-Atrocities-Report-6-February-2019.pdf>; See also the Amnesty Report: ‘Open for business, closed for dissent crackdown in Zimbabwe during the national stay-away 14-16 January 2019’, page 11, available at <https://www.amnesty.org/download/Documents/AFR4698242019ENGLISH.pdf>

23. See for example] Kunarac et al. (IT-96-23 & 23/1) Trial Judgment, para. 415, *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, ICC-01/09-01/11, Feidinand Nahimana et al v. The Prosecutor Case No. ICTR-99-52-A

24.] Kunarac et al. (IT-96-23 & 23/1) Trial Judgement, para. 415

25. *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Judgment (TC), 30 May 2013, para. 962:

26. See for example the Amnesty Report: ‘Open for business, closed for dissent crackdown in Zimbabwe during the national stay-away 14-16 January 2019’, available at <https://www.amnesty.org/download/Documents/AFR4698242019ENGLISH.pdf>; See also generally, the Zimbabwe Human Rights Commission Monitoring Report: *In the Aftermath of the 14 January to 16 January 2019 “Stay Away and subsequent disturbances* accessible at <http://kubatana.net/2019/01/22/monitoring-report-aftermath-14-january-16-january-2019-stay-away-subsequent-disturbances>

27. See generally, the Zimbabwe Human Rights Commission Monitoring Report: *In the Aftermath of the 14 January to 16 January 2019 Stay Away” and subsequent disturbances* accessible at <http://kubatana.net/2019/01/22/monitoring-report-aftermath-14-january-16-january-2019-stay-away-subsequent-disturbances/>

According to the ZHRC's report,²⁸ the security members would arrive at people's houses at night or in the early hours of the day and ask all men to go outside and lie on the ground:

*"They would then beat up all the men, including boys as young as 11 years, and then ask them to run or arrest them. It was also noted that they targeted those who live in shared residences where there would be different families in one house with more than one male per house. They would also target men and boys who live in houses that are near areas where looting took place or where barricades were set up and just make dragnet arrests without investigating. It was also stated that the police were letting loose their dogs to attack those whom they suspected to have caused mayhem. Some residents reported losing their valuables such as cell phones to the soldiers and the police during their searches of peoples' homes and their property such as doors and windows were destroyed. Some members of the public highlighted that they were scared of reporting the cases to the police as the nearby police stations were barricaded by the army and they also feared that the police would victimize them. Others managed to make reports but were turned away."*²⁹

In its report regarding the August 2018 disturbances, the Motlanthe Commission made findings that the State through the army and the police committed a number of acts,³⁰ which act would constitute an attack as an element of crimes against humanity. For example, the Commission made a finding that six people died while thirty-five suffered injuries as a direct result of the actions of the military and the police.³¹

There is conclusive evidence that the State through its agencies carried out multiple attacks targeting the civilian population in the two incidents under discussion.

5.3 The Civilian Population as the Target

It is an established principle that for the offence of crimes against humanity to be sustained, the attack in question must be directed against a civilian population.³² The phrase "*directed against*" has been interpreted to mean that the civilian population must constitute the primary target of the attack.³³ The attack does not have to be directed against the civilian population of the entire area relevant to the indictment.³⁴ The term "*civilian population*" is used to distinguish all persons who are civilians as opposed to members of the armed forces and other legitimate combatants.³⁵ For purposes of the crime against humanity, a population is considered a civilian population if it is predominantly civilian in nature.³⁶ Thus, an attack can be considered to have been directed against a civilian population if the civilian population was the "*primary rather than an incidental target of the attack*".³⁷ Further, the term "population" does not mean that the entire population of a particular geographical

28. Ibid

29. Ibid. pg. 4

30. Report of The Commission Of Inquiry Into the 1st of August 2018 Post-Election Violence, pages 45-48, accessed at <http://kubatana.net/wp-content/uploads/2018/12/Final-Report-of-the-Commission-of-Inquiry-18-DEC-18.pdf>

31. i.d. page 48

32. See for example, Prosecutor v. Jadranko Prlić, Case No. IT-04-74-T, Judgement (TC), 29 May 2013,

33. Prosecutor v. Jadranko Prlić, Case No. IT-04-74-T, Judgement (TC), 29 May 2013, para. 36

34. Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. IT-03-69-T, Judgement (TC), 30 May 2013, paras. 964-965:

35. Kunarac et al. (IT-96-23 & 23/1) Trial Judgement, para. 425

36. Prosecutor v. Radovan Karadzic, Case No. IT-95-5/18-T, Judgement Issued on 24 March 2016 – Volume I of IV (TC), 24 March 2016, paras. 474-476:

37. Kunarac et al. (IT-96-23 & 23/1) Trial Judgement, para. 425

entity in which the attack is occurring must be subject to the attack. However, the attack must have targeted more than, “a limited and randomly selected number of individuals within the population.”³⁸ Thus, the “population” element is intended to show that the crime is of a collective nature and thus exclude single or isolated acts, which, although constituting crimes in national penal legislation, may not rise to the level of crimes against humanity.

There is no doubt that the attacks perpetrated in the two incidents under consideration targeted a civilian population as contemplated by international law in line with the holdings cited above. For both incidents, the attacks were carried out in various residential zones, primarily in Harare and Bulawayo. In the January 2019 disturbances, attacks on civilians and widespread human rights violations were documented across the country’s two major cities, namely Harare and Bulawayo. In Harare, cases of attacks on civilians were recorded in the Harare CBD, Epworth, Chitungwiza, Dzivarasekwa, Kuwadzana, Epworth, Budiriro, Glen View, Glen Norah, Southlea Park, Mabvuku, and Tafara and slightly out of Harare, Domboshava. In Bulawayo, attacks on civilians were recorded in Bulawayo CBD, Nketa, Nkulumane, Entumbane and Hillside.³⁹ The geographical pattern of the January 2019 disturbances largely mirror the August 2018 incidents, with the two major cities being the epicentres of the attacks.⁴⁰ The following residential areas had the highest numbers of civilian victims of the attacks: Domboshava,

Bulawayo city centre, Nketa, Nkulumane, Entumbane, Hillside Kuwadzana, Glen View, Dzivarasekwa, Highfield, Hopley, Sunningdale, Mbare, Mabvuku, Tafara, Epworth, Chitungwiza, Emakhandeni, Tshabalala, Cowdray Park, Nketa and Mpopoma. It is submitted that the “civilian population” requirement is satisfied given the exposition above.

5.4 The Policy Framework

Another material element of crimes against humanity is that the attack must be executed pursuant to or in furtherance of a State or organisational policy.⁴¹ States or organised state-like entities generally have the capacity to commit mass atrocities that meet the threshold of crimes against humanity.⁴² In order to organize the commission of heinous crimes against a civilian population on a large scale, significant resources are needed. Traditionally the State would have the means and resources to carry out serious atrocities on a large scale directed against a civilian population. There is, therefore, a recognition that crimes against humanity are especially evident where a State using segments of the State apparatus, under the guise of some policy, orchestrates mass crimes targeting the civilian population.

Based on the factual analysis above it is apparent that both incidents under discussion were systematically organised and coordinated by the State. There is evidence of a coordinated policy and decision-making process central to both operations at command level of both the army and the police in the deployment of personnel

38. Prosecutor v. Kunarac, Kovac and Vukovic, “Appeals Judgement”, IT-96-23-T and IT-96-23/1-A, 12 June 2001, para. 90; ICTY, Prosecutor v. Stakić, “Judgement”, IT-97-24-T, 31 July 2003, para. 623

39. See the Zimbabwe Human Rights NGO Forum report, On the Days of Darkness in Zimbabwe, January 2019, page 12 available at <http://kubatana.net/wp-content/uploads/2019/02/Shutdown-Atrocities-Report-6-February-2019.pdf>

40. The Zimbabwe Human Rights NGO Forum report, Post-election violence monitoring report1 01-09 august 2018, <http://www.hrforumzim.org/wp-content/uploads/2018/08/Report-on-the-Post-elections-violations-.pdf>

41. Article 7(2) (a) of the Rome Statute of the International Criminal Court. See also The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui, ICC-01/04-01/07 OA 8, International Criminal Court (ICC), 25 September 2009, para 1117, available at: <https://www.refworld.org/cases/ICC/4ac9dd592.html>

42. See Prosecutor v. Tadic, Case No. IT-94-1-T, Judgment, ¶ 653 (Int’l Crim.Trib. for the Former Yugoslavia May 7, 1997) accessed at, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

on the ground. In relation to the January 2019 incidents, it is not apparent on whose authority the military was deployed to assist the police to maintain peace and order. It should be noted that only the President has powers to deploy soldiers to support police officers in the maintenance of public order.⁴³ In the present case, there is no clear evidence that the President gave such authority. However, what is clear is that there was some level of organisation and coordination and the significant investment of resources in the deployment of the army and the police to quell the protests. According to one report, *“Soldiers were actively involved in law enforcement operations, including carrying out arrests in the name of investigating alleged crimes in violation of the Constitution and the Criminal Procedure and Evidence Act.”*⁴⁴

With regards to the August 2018 disturbances, the Kgalema Motlanthe Commission report reveals that the deployment of both the army and police, involved the cooperation, involvement and decision making at the highest levels within the security structures and the political offices.⁴⁵ In his evidence before the Kgalema Motlanthe Commission, the Commander of the Defence Forces, General Philip Valerio Sibanda, testified that he had been advised by the Vice President and Minister of Defence, General Constantino Chiwenga, that President Emmerson Mnangagwa had authorised the deployment of the military in terms of the Constitution.⁴⁶ It was on that basis that he gave orders for the deployment of the military to assist the police. The deployment of the military in August 2018 was therefore authorised at the highest governmental

level. Conclusively, in both the August 2018 and the January 2019 incidents, there is evidence of a command structure and an organised and well-coordinated deployment of the military and the police by the commanders of the security agencies. The deployments were also backed by the political leadership within the relevant governmental structures. The existence of State policy in the attacks on civilians is apparent.

5.5 Contextual elements: Widespread or Systematic Character of the Attack

Another element within the definitional ambit of crimes against humanity is that the act must be, *“part of a widespread or systematic attack.”*⁴⁷ The term *“widespread”* refers to a threshold question.-It refers to the large-scale character of the attack and the number of persons targeted. The assessment of what constitutes *“widespread”* or *“systematic”* is to be conducted on a case by case basis and may take into account the consequences of the attack upon the targeted population, the number of victims, the nature of the acts, the possible participation of officials or authorities, and any identifiable patterns of crimes. The adjective *“widespread”* refers to the attack being conducted on a large scale as well as to the high number of victims it causes, whereas the adjective *“systematic”* emphasizes the organised character of the acts of violence and the improbability of their random occurrence. In the *Musema case*,⁴⁸ it was noted that the term, *“widespread”*, as an element of crimes against humanity, denoted a massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against multiple victims, while *“systematic”* constitutes

43. Section 213 (2)(b) of the Constitution

44. Amnesty Report: ‘Open for business’, closed for dissent crackdown in Zimbabwe during the national stay-away 14-16 January 2019, page 14 accessed at <https://www.amnesty.org/download/Documents/AFR4698242019ENGLISH.pdf>

45. Report of The Commission Of Inquiry Into the 1st of August 2018 Post-Election Violence, pages 43-45, accessed at <http://kubatana.net/wp-content/uploads/2018/12/Final-Report-of-the-Commission-of-Inquiry-18-DEC-18.pdf>

46. Id. Page 26

47. Article 7(1) of the Rome Statute of the ICC

48. The Prosecutor v. Alfred Musema (Judgement and Sentence), ICTR-96-13-T, International Criminal Tribunal for Rwanda (ICTR)

“systematic” constitutes organized action, following a regular pattern, on the basis of a common policy and involves substantial public or private resources.

There is no doubt that the events under discussion satisfy both the “widespread and systematic” nature of the attacks. This is apparent from the number of victims, the nature of the acts, the participation of State agents and arms of the security sector. As argued above the attacks were systematic given the organized nature of the acts of violence, which are indicative of the existence of a plan/policy to orchestrate an attack. Multiple reports on the incidents under discussion demonstrate the width and breadth of these attacks that were spread mainly across the largest cities of the country, Harare and Bulawayo, with more cases documented in Harare and Bulawayo high-density areas.⁴⁹ The nature, *modus operandi* and gravity of the attacks experienced during the two disturbances are indicative of the planned and systematic nature of the violence and the attacks covered wide geographical areas that satisfy the “widespread or systematic” characteristics.

5.6 Nexus between the Acts of the Perpetrator and the Attack

The nexus question has definitively been addressed by case law and the position of the law is that the underlying offence (the accused’s acts) must form part of the attack against a civilian population.⁵⁰ A nexus must exist between the acts of the accused and the attack.⁵¹ The accused must have knowledge there is an attack on the civilian population and that his act is part of the attack. The crime must not, however, be an isolated act far removed from the attack such that it cannot reasonably be said to have been part of the attack.⁵² Regarding the mental element of the crime, it is a requirement that the perpetrator must

have acted with knowledge of the broader context of the attack, and with the knowledge that his acts form part of the widespread or systematic attack against the civilian population.⁵³

In the two incidents under discussion, the following specific underlying crimes were perpetrated during the widespread and systematic attacks on the civilian population:

- Murder;
- Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- Torture;
- Rape, and other forms of sexual violence of comparable gravity;
- Persecution against any identifiable group
- Enforced disappearance of persons;
- Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

The facts presented above demonstrate that a number of acts were committed by individual soldiers and police officers with the full knowledge that the acts formed part of and were related and connected to the widespread or systematic attack on the civilian population.

49. See, the Zimbabwe Human Rights NGO Forum, Post-Election Violence Monitoring Report, 01-22 August 2018, page 3, accessed at <http://www.hrforumzim.org/wp-content/uploads/2018/08/Report-on-the-Post-elections-violations-.pdf>; See also the Zimbabwe Human Rights NGO Forum report, On the Days of Darkness in Zimbabwe, January 2019, page 12, available at <http://kubatana.net/wp-content/uploads/2019/02/Shutdown-Atrocities-Report-6-February-2019.pdf>

50. Prosecutor v. Dusko Tadic, (Appeals Chamber), July 15, 1999, para. 251; Prosecutor v. Vujadin Popovic, Case No. IT-05-88-A, Judgement (AC), 30 January 2015, para 570

51. Prosecutor v. Kunarac, Kovac and Vukovic, “Judgement”, IT-96-23-T & IT-96-23/1-T, 22 February 2001, para. 418

52. Id.

53. Prosecutor v. Augustin Ndindiliyimana, François-Xavier Nzuwonemeye and Innocent Sagahutu, Case No. ICTR-00-56-A, Judgement (AC), 11 February 2014, paras. 260, 262:

6. FINAL REFLECTIONS AND RECOMMENDATIONS ON WAY FORWARD

Because crimes against humanity are designated as an international crime, their commission attracts the attention, not just of the domestic legal system but that of the international community, which has an obligation to ensure that impunity does not go unpunished. This means that there is a complementary duty on domestic and international mechanisms and tribunals to ensure that perpetrators of such crimes are prosecuted and punished. Crimes against humanity may be punished by courts of countries other than where the crime took place, and by international courts. Based on the evaluation done above it has been concluded that there is a strong case that crimes against humanity were committed during the period under consideration. A corollary to this finding is that the perpetrators of these crimes must be held accountable for their actions.

The issues dissected above present complex questions that ought to be carefully addressed and resolved. As will be explained below, the difficult question inevitably becomes what can be done to ensure justice for the victims of the gross human rights violations and address the impunity question by making the perpetrators accountable.

i. Domestic Prosecution of Perpetrators of Crimes against Humanity

Where criminal acts are committed, it is desirable and generally ideal that the domestic mechanisms be set in motion, in accordance with the criminal justice system of the land. Where it is shown that crimes against humanity have been committed, it is expected, and in fact, international law demands that the perpetrators be held criminally responsible for the most serious offences committed. Because the commission of international crimes invariably intersects with the violations of certain fundamental human rights a State also carries a further obligation to take certain measures to address the human rights violations in issue. As stated above, from an international criminal law perspective the State is



obliged to institute criminal proceedings against the perpetrators who commit international crimes. Unfortunately, in the case of Zimbabwe, things are not as straightforward. Firstly, Zimbabwe has not made any provisions for the prosecution of crimes against humanity within its criminal statutes. Zimbabwe is also not party to the Rome Statute that codifies several international crimes including crimes against humanity. The Rome Statute obligates States to create enabling legislation to ensure that crimes against humanity are dealt with. By not ratifying this treaty, Zimbabwe escapes from the clutches of the Treaty's obligations.

Given this challenge, it is obvious that, as presently formulated, there is no domestic scope to try and convict the perpetrators of international crimes alleged to have been committed. The only available option would be to rely on the various crimes under ordinary criminal law as codified by the Criminal Law (Codification and Reform) Act. In this respect, it is possible to charge the perpetrators with crimes such as murder and assault that are provided for within the criminal statute books. This course presents a number of problems from a human rights and international law perspective. Primarily it fails to take into account the gravity and abhorrent nature of these crimes. Applying ordinary criminal law means that the justice system will not be able to address some of the underlying characteristics of such crimes compared to if they were dealt with as international crimes. For example, domestic laws fail to adequately deal with the concepts of command responsibility. International criminal law also, in certain circumstances can circumvent some domestic law defences such as immunity, and in so doing, it can guarantee that all perpetrators in the chain of command are prosecuted.

ii. Utilising International Mechanisms to Prosecute the Crimes against Humanity

Whilst every State has a duty to act when international crimes are committed, most remain reluctant to investigate and prosecute crimes of international nature,

in good faith, as the crimes tend to drag in high-level State representatives and pose complex jurisdictional and sovereignty challenges. It is for this reason that the ICC places emphasis on the complementarity principle which provides that the ICC will only intervene in exceptional circumstances to investigate and prosecute core international crimes when national jurisdictions are unable or unwilling to do so genuinely.⁵⁴ However, as pointed out above there is no automatic jurisdiction of the ICC in the case of Zimbabwe as it is not a member State of the Rome Statute.

There is, however, a way around the jurisdictional barrier created by non-ratification by Zimbabwe. Article 13(b) of the Rome Statute empowers the ICC to exercise its jurisdiction with respect to crimes against humanity if the situation is referred to the Prosecutor by the Security Council acting under Chapter VII of the Charter of the United Nations. While legally this is an available route that can be taken, the possibilities of this actually happening are very slim, given the ongoing geo-political contestations around the ICC and the current revulsion of the ICC, especially by a number of the Security Council permanent members, which makes consensus unlikely within the Security Council on this issue.

iii. Broader Human Rights Obligations on the State

A point has been made throughout this report that the two incidents of 1 August

54. See for example, *The Prosecutor v. William Samoei Ruto and Joshua, Arap Sang*, ICC-01/09-01/11

2018 and January 2019 give rise to the commission of crimes against humanity. Ideally, these crimes should be investigated, prosecuted and where applicable punished. It is, important to note that, beyond the focus on criminal sanctions, the State can consider several other measures in line with its human rights obligations under international law, either in combination with or as an alternative to the criminal sanctions approach. The various international human rights treaties ratified by Zimbabwe prescribe a broad range of obligations on the State, specifically speaking to guaranteeing the citizens' right to physical wellbeing and bodily and mental integrity, and the right to life, among others. Given the circumstances and facts set out above, a number of key considerations should be made, as stated below, in light of the specific protective mandate of the State:

- The State has an obligation to protect its citizens from any form of harm and abide by the various binding international instruments.
- The State should particularly prevent its agents and third parties from carrying out extra-legal, arbitrary and summary executions.
- The State should ensure that any such executions are recognized as offences under criminal law, and are punishable by appropriate penalties, which consider the seriousness of such offences.



- The State should have specific policies and administrative measures that clearly provide a strict protocol of command responsibility for officials responsible for apprehension, arrest, detention,

custody and imprisonment, as well as those officials authorized by law to use force and firearms.

- State security agents must be trained in rights-based law enforcement mechanisms focussed on the integrity of human life and human dignity.
- The State must guarantee that persons are not arbitrarily deprived of their liberty, and if they are lawfully detained this must be in officially recognized detention centres and in accordance with the Constitution and international law.
- The State must take all measures to prevent extra-legal, arbitrary and summary executions.
- The United Nations human rights mechanisms must work closely with the government of Zimbabwe and investigate reports of human rights violations that include extra-judicial executions and take effective action against such practices.
- The UN human rights mechanisms should exhort the government to cooperate fully with international investigations in accordance with its international human rights obligations.

iv. Other General Options for Consideration

- In the case of the August 2018 incidents, the government is exhorted to give effect to the several Motlanthe Commission's recommendations still to be acted upon, including investigating, trying and punishing those responsible for the human rights violations.

- In cases of the January 2019 incidents, the government should consider pursuing investigations through an independent commission. An independent Commission can be given wide powers to enquire into the human rights violations and adopt wide-ranging recommendations that address accountability and justice issues while making forward-looking structural recommendations to guarantee non-repetition and future deterrence.
- The State can utilise the Zimbabwe Human Rights Commission and the National Peace and Reconciliation Commission to oversee a process that investigates root causes of the human rights violations and make recommendations that promote non-repetition and deterrence against such human rights violations.
- Section 210 of the Constitution stipulates that an Act of Parliament must be passed to provide an effective and independent mechanism for receiving and investigating complaints from members of the public about misconduct on the part of members of the security services, and for remedying any harm caused by such misconduct. This provision is precisely meant to deal with the present situations there is impropriety by members of the security services. Unfortunately, no subsidiary legislation has been promulgated to date, to give effect to Section 210 and a gap of alignment of laws with the Constitution remains. It is clear from the above incidents that there is an urgent and present need for the enactment of a law that provides effective remedies to civilians against the security agents in the case of future infractions. There is need for the government to urgently address this gap in law by passing the necessary laws in accordance with the Constitutional demands.



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“Crimes against humanity may be punished by courts of countries other than where the crime took place, and by international courts”

7. CONCLUSION

States bear the primary obligation under domestic and international law to protect the rights of every person within their jurisdiction. This duty extends to ensuring the safety and security of everyone including in times of civil disturbances. Where it becomes necessary for law enforcement agents to enforce law and order, this must be done within the confines of the law. In such circumstances, security agents are obliged to only use minimum force with due regard to constitutionally guaranteed rights.

This report interrogated the circumstances surrounding two incidents in August 2018 and January 2019 that resulted in civil disturbances. In particular, the report analysed the role of security agents in the aftermath of the human rights violations. The report set out the factual framework surrounding the two incidents and discussed the questions of accountability stemming from the human rights violations that characterised the interventions by State agents.



The above analysis conclusively reveals the commission of gross human rights violations orchestrated by the State agents targeting civilians. The factual context juxtaposed against the applicable legal principles leads to the conclusion that the killings, abductions, and torture of civilians, among other acts, by State agents amount to crimes against humanity, given the scope and context under which they were committed. Given that crimes against humanity are some of the most serious crimes of international concern, it becomes important that the State takes clear measures to address questions of accountability. Condoning impunity by perpetrators of such gross human rights violations sends a wrong signal about the States' commitment to upholding human rights

elaborately set out in the Constitution and human rights treaties that are legally binding on Zimbabwe.

To this end, the report proposes several recommendations, particularly focussing on the question of addressing impunity and making sure that perpetrators of the heinous crimes are punished. Ultimately it is hoped that definitive steps are taken, firstly to address the question of accountability and justice for the victims of human rights violations for the two incidents under discussion. Secondly, it is imperative that forward-looking measures, through the law, policy and administrative actions are taken to guarantee non-repetition and deterrence against such abominable human rights violations.



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