

COMMISSION OF INQUIRY OF 1ST OF AUGUST 2018 POST ELECTION VIOLENCE – HARARE PART 1 - 08-11-2018

MEMBERS OF THE COMMISSION

- 1. HONOURABLE KGALEMA MOTLANTLE- FORMER PRESIDENT OF
THE REPUBLIC OF SOUTH AFRICA- CHAIRPERSON.**
- 2. RODNEY THOMAS DIXON QC-BARRISTER UNITED KINGDOM-
COMMISSIONER.**
- 3. CHIEF EMEKA ANYAOKO- FORMER COMMON WEALTH
SECRETARY GENERAL, FEDERAL REPUBLIC OF NIGERIA -
COMMISSIONER.**
- 4. GENERAL DAVIS MWAMUNYANGE- FORMER CHIEF DEFENCE
FORCES OF THE TANZANIA PEOPLE`S DEFENCE FORCE-
COMMISSIONER.**
- 5. PROFESSOR CHARITY MANYERUKE POLITICAL SCIENCE,
UNIVERSITY OF ZIMBABWE- COMMISSIONER.**
- 6. PROFESSOR LOVEMORE MADHUKU- FACULTY OF LAW,
UNIVERSITY OF ZIMBABWE -COMMISSIONER.**
- 7. VIMBAI NYEMBA- FORMER PRESIDENT OF LAW SOCIETY OF
ZIMBABWE - COMMISSIONER**

RECORD OF PROCEEDINGS

PERMANENT SECRETARY INTRODUCTIONS

Good afternoon to you all. Let me start by apologising. We had advertised that the hearing was going to take place much earlier. Infact our time was 11am .However the commission had numerous documents to consider before 11am that is why we delayed in commencing. Thank you very much for your patience.

Ladies and gentleman as you may be aware his Excellency the President through statutory instrument 121 of 2018 appointed a Commission of Inquiry into the posts election violence that took place on the 1st of August 2018. I am happy to announce that the Commission is here and they are ready to hear evidence related to the enquiry. Before we start our hearings let me say it is my honour and privilege to introduce to you the Chairman of the Commission. The Chairman of the Commission as you are all aware I am sure through the media and through the proclamation is the former president of the Republic of South Africa Honourable Kgalema Petros Motlante is here with us. He is also going to introduce his team to you when we commence the hearing. Honourable Kgalema Petros Motlante is the former President of the Republic of South Africa. He was elected by Parliament on 25 September 2008 and he served until 9 May 2009. During his tenure as President of South Africa he was also the Chair of the Southern African Development Community SADC. Mr Motlante assumed the role of Chairperson of the Regional body working in collaboration with other SADC leaders. You also over saw the implementation of Zimbabwe`s Global Political Agreement. So you can see his relationship contribution to our great nation. Ladies and gentleman former President Mohlante also joined other World leaders in the G20 and other multilateral bodies to appropriately respond to the global financial crisis. I will be very brief but I want you to take note that our Chairman is a man of numerous attributes. However in the interest of time, I will also just share with you that he was also former Deputy

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President of the Republic of South Africa and in that capacity he performed numerous tasks that were entrusted upon him by the government of South Africa to enhance the welfare of South Africans. Currently he chairs his Foundation which is mostly on Science and Technology, Education and the general Welfare of South Africans. As you are all aware today he is our Chairman for the Commission for which we are all here present today so I will end here. At this point in time it's my honour again and privilege to call upon you sir to introduce your Commission.

CHAIRPERSON: HIS EXCELLENCY MOTLANTLE

INTRODUCTIONS OF THE MEMBERS OF THE COMMISSION

Thank you very much ladies and gentleman. Good afternoon. Firstly I would like to thank each one of you for making time to be with us this afternoon. Ladies and gentleman this Commission as you know was sworn in the month of September and so I would take this opportunity to introduce my fellow Commissioners who I will be working with in this Commission. They are :

- Chief Emeka Anyaoko- Former Common Wealth Secretary General, Federal Republic of Nigeria to my right here and,
- General Davis Mwamunyange- The Former Chief of Defence Forces of the Tanzania People's Defence Forces. He is to the extreme right there and,
- Mr Rodney Thomas Dixon QC- An International Law Expert from the United Kingdom. Rodney is here to my left and,
- Professor Charity Manyeruke from the Faculty of Social Studies at the University of Zimbabwe right next to my left and,

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- Professor Lovemore Madhuku from the Faculty of Law, at the University of Zimbabwe. He is sanguaged by the General and Chief and,
- Mrs Vimbai Nyemba the Former President of Law Society of Zimbabwe to the extreme left there.

I wish to also indicate that all the Commissioners have taken an oath that they will do their work as diligently as possible. As indicated in the terms of reference of the Commission our tasks will be as follows:

1. To inquire into the circumstances that led to the 1st of August 2018 post election violence.
2. To identify the actors and their leaders, their motives and strategies employed by the protestors during the protest.
3. To inquire into the intervention by the Zimbabwe Republic in the maintenance of Law and Order.
4. To investigate circumstances which necessitated the involvement of the military in assisting the maintenance of Law and order.
5. To consider whether the degree of force used was appropriate to ensuring the threat to public safety law and order.
6. To ascertain the extent of damage and or injury caused.
7. To investigate any other matters which the Commissioners may deem appropriate and relevant to the inquiry.
8. To make suitable recommendations and lastly ,to report to the President in writing the result of the inquiry within a period of three months from the date of our swearing in. Since our swearing in the Commissioners have been seized with the developing of a detailed work plan.

Furthermore we agreed that there will be an evidence leader who will assist witnesses as they submit and present evidence to the Commission. The Commission will also be supported by a diverse and highly professional team of researchers, experts and a Secretariat that will ensure proper recording of proceedings. We have urged all the eye witnesses and all those who may have information that can assist the work of the Commission to please come forward. Those who will be appearing before the Commission are all at liberty to use a language of their choice. Witnesses may also make written submissions. We reiterate that we will listen to the views of all the people of Zimbabwe on what happened in the post election violence and as said before I have full confidence in my fellow Commissioners all of whom are honourable man and women, ready and able to uphold the highest standards of integrity impartiality, ethical and professional conduct in carrying out their duties. We look forward to receiving submissions from all those who can assist the Commission with its work and I thank you for your attention. I now invite the Secretary of the Commission to take us through today`s proceedings.

SECRETARY TO THE COMMISSION: MRS MABHIZA

Thank you Mr Chairperson. At this stage we shall commence the process of hearing evidence. However I would like to make an announcement to members of the media. Soon thereafter we are not going to allow any other camera`s other than what we have agreed on so I am kindly asking those that are supposed to exit or either you retire your camera`s take seats and follow proceedings. At this time I will hand over proceedings to the evidence leader to lead evidence with expecting clearance from the media.

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JOURNALIST

Excuse me ma`am can you explain what you mean. We do not know what you are talking about. We thought this is a public hearing therefore the media is allowed.

SECRETARY TO THE COMMISSION.

Sorry for the sake of not interfering with the proceedings we have our Secretariat outside. You may want to seek clarity quietly as proceedings continue. Thank you.

JOURNALIST

But we are already inside. So you want us to go outside and come back again? Mr Motlantle can you tell us what`s happening because this is a public hearing so why is it that only the ZBC is allowed in here. Why not the independent media. You were in South Africa. Does this happen in South Africa where the public media told to leave and back like this?

HIS EXCELLENCE HONOURABLE MOTLANTLE

No ma`am. We would like all the sessions to be open to everybody but as you can see the camera`s are actually obstructing very people who are supposed to testify here so we would suggest that you agree among yourselves as to whose camera`s would cover the sessions. Other`s you will have to rely on your recorders and you can get footage and feed directly.

JOURNALIST

But we are already present as you can see. The ZBC has been coming in here since morning whilst we have been stuck outside. The independent media has been stuck outside. The ZBC`s Judith Makwanya and others have been in here since morning and I think it`s

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also unfair that you chose such a small room like this to hold such an important event like this and we are now the ones who are going to suffer because we don't have access. Is that fair?

HIS EXCELLENCE HONOURABLE MOTLANTLE

Ma'am if you don't mind, if all the camera's can be at the back because this is a Commission of Inquiry. We want the people who are going to share their testimonies with us to do so comfortably.

JOURNALIST

With all due respect since 9.30 this morning space for media a was supposed to be arranged and now we are left in this situation which is going to be uncomfortable for everyone. I just don't understand why you couldn't set up properly since 09.30 this morning.

HIS EXCELLENCE HONOURABLE MOTLANTLE

That's a mistake on our part we take responsibility for that but practically we have to work together we don't want to impede you in gathering information and reporting on these sessions but we believe that the witnesses, people who are going to testify cannot do so from the backside.

JOURNALIST

That is absolutely clear Sir. Sir can you give us some time to restart our camera's at the back.

HIS EXCELLENCE HONOURABLE MOTLANTLE

No problem. 10 minutes.

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JOURNALIST

Thank you.

HIS EXCELLENCE HONOURABLE MOTLANTLE

The media are you now settled?

JOURNALISTS

Yes.

HIS EXCELLENCE HONOURABLE MOTLANTLE

Can we commence with the work of the Commission.

JOURNALISTS

Not yet.

HIS EXCELLENCE HONOURABLE MOTLANTLE

Ready?

JOURNALISTS

Yes we are.

HIS EXCELLENCE HONOURABLE MOTLANTLE

Aright. Thank you very much. I now invite the Secretary of the Commission to motion to these proceedings.

SECRETARY TO THE COMMISSION.

Thank you Mr Chairman. At this point in time we are going to call upon our first witness to take to the stand and testify. I will hand over to the evidence leader to guide us in those proceedings.

EVIDENCE LEADER : MR THABANI MPOFU

Good afternoon Mr Chairman and members of the Commission. The first witness who has volunteered to give evidence before this Commission is Patricia Ruzawe.

FIRST WITNESS

PATRICIA RUZAWA : SWORN STATEMENT

Q. Ms Ruzawi I would like you to confirm once again in your own words which language you are as comfortable to converse with in these proceedings.

A. I shall use the Shona language.

Q. Ms Ruzawi I have been asked by the Commissioners to convey to you the following questions, that you are here to give your evidence before this Commission freely and that you should be free to testify whatever it is that you find relevant to these proceedings that you think the Commissioners may want to hear.

A. Thank you.

Q. The Commissioners have further asked me to emphasise to you that this is not an inquisition. These are not Court proceedings. There is not fault that is being sought from you or nor will you be subjected to any form of cross examination whatsoever because of your testimony today.

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P. Ruzawe

A. Thank you.

Q. And I would like you to clarify from the onset, have you been persuaded, coerced or asked to present yourself today, to present evidence before the Commissioners.

A. No.

BY INTERPRETER: MR MADZIMUTO THE CHAIRMAN

Q. Maybe through you Mr Chair if she may wait for me since she is using Shona.

A. Ok.

EVIDENCE LEADER (To first witness)

Q. Have you been promised any reward either in money or in any other form by anybody?

A. No I am standing on my own.

Q. Thank you. I will now request you to very briefly introduce yourself, who you are? What Nationality you hold to the Commissioners before you here.

A. I am Patricia Ruzawe. I am a Zimbabwean. I am from Mashonaland East Goromonzi.

Q. Where you in Zimbabwe roughly during the election period. I am talking roughly maybe from about April, May up to soon after the elections August, September thereabout.

A. Confirmed.

Q. Did you participate into the election process?

A. Yes.

Q. I would like to request you at this stage madam to now address the Commissioners and narrate to them what it is that you experienced which you feel is relevant to the reason why you have come to testify here before the Commission.

A. I was accredited as a local observer beginning of July. As a local observer we were moving around checking on how the environment was before the elections. We moved around Goromonzi. There was peace. We proceeded to Uzumba Maramba Pfungwe. There was peace. For a short period I was in Marondera and there was also peace. During the elections I visited all the polling stations.

Q. Sorry are you referring to the actual election day?

A. Yes.

Q. Proceed.

A. We were getting in all polling stations. People were in queues. There was peace also. People were voting. We would get in the polling stations where elderly people were being assisted. Those who were lost were also directed to their respective polling stations. We managed to get in all polling stations where they were registers that we were also signing. From Goromonzi we proceeded to Uzumba. There was peace. We got in polling stations. From there we went to Midlands. When we arrived in Midlands there was peace.

Q. Would you like to clarify to the Commissioners' which part of Midlands you are referring to?

A. Mkoba Command Constituency, Gweru Command Constituency, Provincial Command Constituency which was situated at the government offices. We got inside and sat there. Mrs Mpofu came in. She said we were not supposed to be in there because they were waiting for elections results.

Q. Who is Mrs Mpofu. What context was she addressing the members of the public?

A. In my view she is the one who was in charge at that Command Centre.

Q. Proceed.

A. Two foreign observers arrived. She requested us to leave citing that she wanted to discuss with the two foreign observers.

We then left proceeded to Mkoba Command Constituency. As we were about to turn where there is a ground in Gweru, in Mkoba to be specific. Youth for MDC were gathered celebrating. They were many. We did not stop there.

We proceeded to the Command Centre. As we were seated at the Command Centre youth for MDC came. They were many. They started singing. As they were singing they were requested by the person who was in charge at the command centre to stop singing and also to remove the party regalia that they were wearing. A young man who was wearing an overall and a barrette knelt. He then said, I shall quote in our vernacular and then go on to explain what it means in English, “Pamusoroi President wangu ndavakumbokubvisai, ndanzi hamudiwe.” Meaning to say, “With all due respect my President at the moment I am removing you. It has been said that you are not wanted.” The results had not yet arrived so they were requested to go and seat behind the buildings. After two hours lorries came and some cars with people who

were wearing red clothes. They requested saying why are you still keeping our results you want to rig us. From what they said they indicated that they gathered the information from the polling stations. Phone calls were made to different polling stations trying to check on whether they were through and why they were delaying to bring the results if they were through. They argued but after some time they left with their vehicles.

I then proceeded to Gweru Command Centre. We requested for statics and all the information which was there from the person who was in charge and they said they were now taking the results to Harare. From there we proceeded to the Provincial Command Centre. The Presidential results were subsequently transported to Harare. I arrived in Goromonzi after 4 am. I moved around again because the results were still yet to be collected that is all of them. When we got to polling stations, there was no violence. All the polling agents were still there that is the polling agents who were there during the elections and after the elections. The results were then transported to the place where they were to be counted at. After 12 I left Goromonzi coming to Harare HICC to be specific.

Q. Could you clarify there? The 12th of which date? Was it midnight or midday?

A. It was in the afternoon.

Q. Of which day?

A. I can recall the date but maybe what I can say is the results were delayed to be announced so I only came to Harare on the day when the presidential results were announced.

Q. Prior to this you were narrating the events you were narrating the events of the 30th of July.

A. 31st of July.

Q. These events that you are narrating now, did they occur, after the 31st two days? The Commissioner's want to be clear as to which dates you are specifically speaking about.

A. So it was on the 1st of August when the results were being counted at HICC.

Q. So when you say you left Goromonzi at 12 Midday are you referring to the 1st of August?

A. Yes.

Q. You may proceed.

A. As we were waiting for the results upon our arrival at HICC, we went upstairs where we wrote our names from there we went downstairs we went downstairs where they were others. Outside where Mrs Charamba was being waited for to come and address people. She came after 5pm. She addressed members of the public. We then got inside. We waited upstairs where the results were being counted. After all the results had been counted we were told that there was going to be a break because people from Mashonaland West had not yet brought their results. After some time Morgan Komichi entered. Sibanda also entered. They stood in front where Commissioners were. They went on to say, they were not happy or comfortable with everything that was taking place. Everything that was being said according to them was not true. There was noise. They were then assisted to leave the room by security agents and the

media personnel followed them. After that people settled. They sat on their chairs.

Commissioners then came where they announced the results from Mashonaland West

which had not been announced. President Mnangagwa was declared to be the winner.

If you may pardon me where I mixed up dates. It was on the 31st. During that night there was no violence. Others were celebrating.

So I left Goromonzi at 12.30 the first where there was violence in town. When I got in town as I approached Mohammad Mussa wholesalers. There was a certain lady there.

In my view she is an airtime vendor. She had bottles of beer. Which she was taking out from her bag. Giving to young men who were there. Mixing for them. After walking some distance I also saw a young man who was wearing a red T-Shirt. By then our tags where still displayed outside we had not yet put them inside our dresses.

Q. What tags where these?

A. Tags to show that we were local observers. That young man went on to ask on the purpose of those tags. I then responded telling him that we were observers observing the elections. He started shouting saying you people are from Mnangagwa`s camp you want to rig us. You connived with Chigumba. You are rigging the elections.

Everything that you are saying is not the truth of what is there. I then paused a question to him saying why is it that my brother you are suspecting that the elections were rigged. He responded saying, you know everything that you have been doing but we are not going to allow that. We want to be led by a young leader. I went on and asked him whether they were going to make the same allegations after the announcement of the results where the winner would have been declared also

knowing the loser. He went on to say that he was going to protect his vote until everything was well.

Q. On that date the 1st of August 2018, did you yourself witness any violence whilst you were in town?

A. That is what I was about to say.

Q. Carry on.

A. I was coming from fourth going upwards. I saw a number of young men who were singing. I then realised that the situation was no longer normal.

Q. Where you able to ascertain whether this group of people that were singing were members of any political party or organisation or any group.

A. In my view from what I observed I think they were members of the MDC alliance.

Q. You are aware as an Election Observer that there was more than one MDC during the elections.

A. Yes.

Q. Where you able to ascertain?

A. No. From what they were wearing and also the speeches which were coming from them I can identify them through that.

Q. Yes and what opinion did you form. Can you take us through it?

A. If you may clarify. Are you trying to ascertain on whether I managed to come up with a party they belonged to? Exact party?

Q. Yes you said that you were unable to ascertain which part they belonged to but you were able to form an opinion from what they were wearing and what they were saying. And my question is what is it that they were wearing or saying that made you form the opinion.

A. They were praising Mr Chamisa. I realised that it was not safe to walk from that side and I decided to change my direction. As we were approaching Net One building I realised that the situation was no longer calm in town and I was then assisted by soldiers. The soldiers took us to HICC citing that we were to be at HICC since we were on Duty. To them HICC was a safe place. So as we were passing the Net One building others were throwing bottles and stones at a big poster which is at ZANU Pf Headquarters. That is how we got at HICC. From HICC on my way to Fourth Street there was a motor vehicle which had been burnt at the Provincial offices. That is all which I witnessed. After the observations which I made is it my request or plea that if possible political offices should be removed from the CBD (The Central Business Centre). They should be taken out of it. From what I observed you may see people who will be selling then you conclude that those people are vendors. In actual fact they will not be vending. Even young men who will be standing in town.

From what I observed also it is true that they were many political parties. But not all of them were violent. From other political parties there were members who were influencing those from MDC Alliance including members from ZANU Pf.

I might have forgotten some of the things due to the lapse of time considering that I was also travelling. Thank you.

Q Thank you very much. The Commissioners may want to clarify certain things.

BY EVIDENCE LEADER TO COMMISSIONERS

Q Any questions from members of the panel.

COMMISSIONER MADHUKU TO WITNESS

Q. In your evidence you have indicated that you met some soldiers. I just want you to clarify where you met these soldiers. How many? If you have any recollection of that? You did say something about soldiers.

A. I met two soldiers. One of them did not accompany me. He proceeded to ZEC offices. They identified me through the tag which I had displayed.

Q Did you have any conversation with the soldiers?

A. No. Because when the soldier who accompanied me left me he said he was going back to where there were others. He just accompanied me to a safe place.

Q. Did you come across any members of the Police?

A They were many police officers in town.

COMMISSIONER VIMBAI NYEMBA TO WITNESS

Q. Maybe for clarity of dates. You started on the 30th of July Uzumba, Goromonzi. Is it the same day that you went to Gweru?

A. Yes.

Q Is it the same day that you went back to Goromonzi?

A. When we got in Gweru it was already dark but people where still voting and from the look of things voters where still coming.

Q. So when did you leave Gweru?

A. The following day.

Q. What date was it?

A. On the 31st.

Q. Is it on the 31st that you went to Goromonzi?

A. On the 30th where we were observing polling stations. Then in the morning we then proceeded to Gweru but we had earlier on visited Gweru Command Centre. We started visiting Goromomnzi, from Goromonzi we proceeded to Uzumba. From Uzumba we went to Gweru. We got in Gweru in the evening. Many polling stations were still waiting for the results to be compiled being put together and then brought to Harare.

Q. What I am, trying to do is just to get you to clarify because the dates have been mixed up I think due to lapse of time like you were saying. So on the 30th you were in Gweru. So when did you leave Gweru for Harare?

A. We left Gweru as the results were being transported to Harare so that they could be counted. So we travelled overnight and the results were to be counted the following day. We arrived in the morning. I rested for a short time .From there we visited Command Centres, where we were checking the results.

Q. You also stated, that when the results were being announced, you saw Morgan Komichi and Sibanda who told people that everything that was said was not true,

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would you know what he meant by ‘everything’ or it’s your way of putting it.

Everything that was said was not true. What was that?

- A. From the way they expressed themselves they were in disagreement with the election results.

COMMISSIONER CHARITY MANYERUKE TO WITNESS

- Q. Ok thank you Chairman. Just a couple of questions. You talked of a Mrs Charamba who addressed members of the public at HICC. What was it about? Why is it significant in your presentation?

- A. The significance of Mrs Charamba’s address is members of the public where complaining about the delay of the announcement of the elections results. She advised members of the public to calm down so that everything could be sorted out and the results would be announced.

- Q. The other question Chairman is, you talked of moving from Fourth Street to some certain point upwards. Where exactly where you when you saw people demonstrating?

- A. It was from the direction of Harare Gardens going to Nelson Mandela.

- Q. Another question is you saw that it was not safe to proceed using the route you had planned to use. Why was that direction not safe?

- A. You cannot pass through a place where there will be violent or any activity without knowing exactly what will be taking place at that place.

- Q. What I am trying to establish what was going on in relation to this violence. Is there something you witness that made you think that it's not safe.
- A. Earlier on I indicate that I met a young man who I discussed with. I also alluded to the fact that these people were wearing T-shirts, overalls and others were putting on their casual clothes.
- Q. My last question Chairman is that in your concluding remarks you talked about different political parties or various political parties which you said were encouraging their members to be violent. My question is how you were able to ascertain the membership that you spoke about. To say this one was from this party, this one was from this party. Just a concluding part.
- A. Like what I indicated earlier on when I got closer to Mohammed Mussa wholesalers, there was a certain lady who was distributing beer to some young men who were there. From what they were saying to be specific their words I realised that there were some amongst them who did not want to be known or to come out in the open. In addition before the elections, as we were seeing people campaigning. Those who were campaigning would tell voters to vote for members from different political parties. That is one person voting for members from different political parties.

COMMISSIONER RODNEY THOMAS DIXON QC

- Q. I just want to ask you some questions about the people that you saw throwing stones at vehicles and shop windows. Can you remember how many people it was that you saw during this?

A. I did not manage to count them since there was violence but in my view they were more than 12.

Q. Did you hear them say anything or shouting anything?

A. Yes.

Q. Can you help us with what you can recall you heard?

A. They were saying down with Mnangagwa. They went on to say that they were tired of being rigged so that was not going to happen during the last elections. Because of noise, I did not manage to hear some of the words that were uttered.

Q. Lastly at that time did you see the police or soldiers there when you heard them saying this or when you saw the stones being thrown.

A. I saw police officers who were wearing those hats covering their faces and they had shambocks and also police vehicles, police lorries.

Q I just can't understand. You saw them there at the same time that you saw the stones being thrown. They were at the same place?

A. The police officers were actually coming in. In my view they were trying to calm down the situation in Harare. I am not sure on whether they had already started controlling members of the public or not.

Q. What did you see the police do?

A. Like what I indicated earlier on where there is violence you cannot wait trying to ascertain everything that would be taking place. But from my experience what I know

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when you see police officers wearing such uniforms they will be going to calm some situation maybe there will be violence somewhere.

COMMISSIONER CHIEF EMEKA ANYAOKU TO WITNESS

Q. Did I understand you to say that it was the Army that escorted you away from the violence to HICC which they considered as safe place?

A. I explained that as I was approaching Net One building I saw two soldiers. One of other soldier accompanied me and the other soldier went along the other road which is opposite the one which is next to Net one building.

Q. You were accompanied to the safe place?

A. I went to Rainbow Towers where I said there was no violence.

HIS EXCELLENCE HONOURABLE MOTLANTLE TO THE COMMISSIONERS

Q. Any other questions.

A. No.

HIS EXCELLENCE HONOURABLE MOTLANTLE

Q. Ok ma'am. Thank you very much. You may take leave of us.

WITNESS EXCUSSED

SECOND WITNESS.

EVIDENCE LEADER THABANI MPOFU

Thank you Mr Chairman. I would like to enquire if Nyasha Zenda is here.

NYASHA GIFT TAPFUMANEI ZENDA : SWORN STATEMENT

Q Do you swear that the evidence which you shall lead shall be the truth, the truth only, if you do so, raise your right hand and say, so help me God.

WITNESS UNDER OATH

EVIDENCE LEADER THABANI MPOFU (To witness)

Q Mr Zenda I would like you to speak up so that only the Commissioners hear you but everybody in this room hears what you have to say with us. Do you understand?

A Yes I understand.

Q. I would like you to confirm before the Commissioners that you have elected to speak in English.

A. Yes I have.

Q. I would also like to assure you as I have been informed by the Commissioners that you are free to use whatever language you wish in this Court and that should you at any stage decide you want to change to whatever language or languages you are free to do so.

A. Thank you.

Q. Please just give us a short introduction to the Commissioners and members of the public here. A short introduction of yourself, who you are, your nationality and so forth?

Inquiry

N.G.T.Zenda

A. My name is Nyasha Gift Tapfumanei Zenda. I am 31 years of age. I am a politician and I run a business in mining and Agriculture. I was a candidate for ZANU Pf Ward 6. Harare Central.

Q. I would like you to assure the Commissioners that you are here on your own volition.

A. Yes.

Q. Have you been coerced or promised anything by anybody whatsoever to come and give evidence before this Commission in a manner prescribed by whomsoever?

A. No.

Q. You have volunteered to come and share with the Commission and the public what you observed on the 1st of august 2018?

A. Yes.

Q. I would like you to narrate to the Commissioners, to members of the public exactly what it is that you observed on that day where you were and any information that you think that might be relevant to what this Commission has been set about to achieve.

A. As I said before that I was a candidate for Zanu PF running in Ward 6 Harare Central. On the fateful day I was coming from Workington. I had a business that I was attending there. I was informed by my other comrades that where your bus, there one that I was using to campaigning, where it was parked there was violence that is about to happen there. I started driving towards where my bus was parked. Then when I got in to town at Corner Second Street and Robert Mugabe, the road was blocked so, I stopped. I left my car there. Then I started running towards fourth street parking. On

my way there when I was passing Meikles Hotel close to Speke Avenue I met a group of people and they had identified me as a Councillor for Zanu Pf Ward 6. Then they started shouting, 'There is the Councillor there.' Then I made a U-turn. I wanted to rush back to Meikles Hotel. On my way there, I met two journalists. The other guy was Mashavave. Then he was wearing a cap, and then I asked him if I could have his cap or if he could sell it to me. Then he said no I will give it to you for free. Then he gave me his cap. I started walking back towards the fourth street. No one could identify me. I arrived at the parking lot where my bus was parked but there were people throwing stones there at my bus.

I waited a bit because the police at the Zanu Pf Harare Province had fired warning shots and so many people had dispersed a bit. So that's when I took the opportunity to go to my bus. Then I started my bus. You know these buses they work with hydraulics so they need air so that it starts moving. So during that time I was waiting, there is one guy who came running and said and he wanted to saw me inside the bus. He went back. He called other people and said the Councillor is there he wants to run away with his bus. Then they came back, I think they were around 25-30 there. They were a lot. It's a group of people.

Some others kept on throwing stones at the bus, then the other guy came to the driver's seat then he said. What do you want? Do you want us to burn you inside the bus or you leave? Then I tried to negotiate with him that this is a personal bus this not party property, this is my own property. I bought this bus on my own. Then they started saying you stole these monies. They started saying a lot of things. Then actually, the guy started pulling me outside. Then there is another guy who came through the door. He started putting flammable fluid on the seats. Then the other guy

was holding something like a T-shirt with fire on it. Then he threw it in the bus, then the bus went in flames there and there. These guys when I was outside they started assaulting me. They were three men that just came and started assisting saying no you have already burnt his bus so why are you assaulting him. Then I took the opportunity, and then I ran into the car park. These guys some of them they tried following me but I hid under a car. As I was there some of these guys were looking for me. Then there was this lady who was reversing her car then she saw me under the car and she said, 'aah!'. Then she identified me because I used to hold my rallies there. Then she said these guys are looking for you. If they get you they will kill you. Then I said yeah but I have nowhere to go right now. That's where I can hide only. Then she opened her boot and she said just jump in my boot I will see where I will drop you. Then I just crawled out under the car then I went into her boot then she drove me at Eastlea Haddon Motors. That's when he dropped me. That's how I managed to leave the scene. Basically that is my confession.

Q. These guys as you are calling them. Were you able to ascertain whether they belonged to any political party, grouping?

A. Yes. One of them was actually wearing an MDC T-shirts on the guys who were assaulting me.

Q. Which MDC? Now you refer them to as guys. Is it because they were only men, that there were no women amongst them?

Inquiry

N.G.T.Zenda

A. Yes the ones that attacked me were men. That is why I referred to them as guys.

Q. Did you sustain any injuries due to this assault?

A. Yes there was just a leg injury.

Q. Clarify a bit further. You have said that this was a personal bus?

A. Yes.

Q. Have you any idea why it was burnt?

A. Yes because it was branded with Zanu Pf staff and my face was on it.

Q. And finally for me. What is the value of your property?

A. One hundred thousand United State dollars (USD100 000).

Q. I am going to hand you over now to the Commission. They may be questions or any clarification that they require from you. Thank you.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE TO WITNESS

Q. Thank you very much Honourable Chair. My question is did you report this incident to the police?

A. Yes.

Q. What action did they take?

A. I reported the issue on the following day. Then a docket was opened. Then I think a week later because there were people who were there who were assaulting me, I identified some of them. Then a week later I saw the other guy who was there, then I

Inquiry

N.G.T.Zenda

went to the police then I told them I have identified a person who was there when my bus was burnt. Then he was taken to custody. They took his statement. He was released on bail.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q. Thank you. I want to ask you about what you said about warning shots being fired. Did you know who fired the shots?

A. It was a police officer.

Q. Did you see them being fired or you heard them.

A. I heard them.

Q. Were you able to ascertain whether it was live fire or some other fire?

A. No.

Q. The police you said fired them. Do you know if the military was there at that time?

A. No. It was not there.

Q. Can you help us with what you saw the police doing? I understand it was from your testimony very harrowing time for you, but did you see what the police where doing?

A. I did not see.

Q. You did not approach the police at this stage?

A. During that time I did not approach the police. I saw their truck just passing by the road.

Inquiry

N.G.T.Zenda

Q. Ok thank you.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Mr Chairman I have one question. 25-30 people wanted to burn the bus so you told us. How many more people do you think were around those premises and were sought of involved in this violence?

A. Probably more than a 1000. Because at one point when I was walking from Meikles hotel, the first parking, I was actually in the middle of them. So they were more than 1000.

Q. Mr Chairman, other than the damage that was done to your bus did you see anything else that was damaged in respect to other assets that were around the area where your bus was?

A. The only property that I saw that was damaged was the Zanu Pf offices. The windows were shattered.

COMMISSIONER CHIEF EMEKA ANYAOKU TO WITNESS

Q. You said you reported to the police the next day. Does that mean when this was happening, neither the police nor the army was around?

A. Whilst this was happening, the police was there. I saw their truck actually passing by on the side of the road.

Q. You saw their car passing?

A. Yes.

Q. They did not stop?

A. Yes. They just slowed down and then they went.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU TO WITNESS

Q. You might need to clarify to us your movement. You said from Robert Mugabe and Second Street the road was blocked as you were rushing to get to your bus?

A. Yes.

Q. Did you come across any police officers I mean the whole way you narrated your situation, they were no police officers?

A. They were no police officers.

Q. Then when you said there was a truck, can you clarify the time that your bus was being burnt. At what point was it?

A. The time that I was taken out of the bus, whilst I was being assaulted outside, the police actually passed through Fourth Street whilst I was inside the parking lot.

Q. Was it such that the police were not observing what was happening to you.

A. Yeah, I would say so.

Q. There was no opportunity for you to call for help from the police?

A. No.

Q. And all of this happened around 2pm in the afternoon?

A. Yes.

Inquiry

N.G.T.Zenda

Q. Have you recovered from your injuries?

A. I haven't recovered anything. I am actually losing business because the bus was burnt.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q. I am just following up on the Commissioner's question. You talked of being closed in a boot as a way of escaping?

A. Yes.

Q. How has that affected you psychologically or it has not?

A. It's traumatising. Very traumatising. At times when you think of it, it's just scary. I don't want to lie that I could have died on that day.

Q. Chairman I am just making this question, just a follow up to a Commissioner who is talking about your injuries. Whether you have healed in terms of your leg injuries?

A. Yes.

Q. That is why I am asking about the trauma as well.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (TO WITNESS)

Q. This lady who rescued you by putting you in her boot. Did she ever get to introduce herself?

A. No.

Q. You do not know the registration numbers of the car.

Inquiry

N.G.T.Zenda

A. I have seen her car before inside the parking. I think she works close by so they leave their cars inside there.

Q. I am asking these questions because she is a material witness of the level of danger to your life. So it would have been better if we could have a way of getting to know who she is.

A. Yes.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (TO WITNESS)

Q. So will you be able to provide that sought of detail?

A. Yes. I can look for it.

HIS EXCELLENCE HONOURABLE MOTLANTLE TO COMMISSIONERS

Q. Any other question?

A. None Chairman.

HIS EXCELLENCE HONOURABLE MOTLANTLE TO WITNESS

Q. You may step down sir.

A. Thank you.

EVIDENCE LEADER THABANI MPOFU

Earlier on when we were looking for the witnesses who were scheduled to testify today I was alerted of the fact that one of them was coming from out of town. I have thus far been following a pattern chronological from the top but I propose now to enquire whether witness number 5 Juliet Muchineripi and not number 2 as it should be.

Inquiry

N.G.T.Zenda

Juliet Muchineripi. Is Juliet Muchineripi here by any chance?

BY INTERPRETER

There are some people outside.

HIS EXCELLENCE HONOURABLE MOTLANTLE

Q. Officer please could you just go outside and find out if Juliet Muchineripi is there.

BY POLICE OFFICER

Juliet is not around Sir

Shorai Kachere not there

Wilfred Manjore not available.

WITNESS NUMBER 9

PETER KADZIMBA ZIMOWA : SWORN STATEMENT

EVIDENCE LEADER MR THABANI MPOFU

Q. Mr Zimowa the Chairman of the Commission and the Commission have asked me to assure you that you are free to give evidence before this Commission freely without fear of being victimised. This is not an inquisition, it is not a trial. You are not going to be cross examined and the Commission is grateful that you have volunteered to come and give evidence here. Do you understand?

A. Thank you.

Q. I would like you to confirm again in your own words which language you opt to use

which you are most comfortable with in the Commission during your testimony?

A. I want to use Shona language but since we are living in a global village you will forgive me I will use some English words here and there.

Q. Mr Zimowa have you been promised any reward by anybody for coming to testify here before this Commission in any manner that that person has prescribed?

A. No.

Q. Mr Zimowa could you briefly introduce yourself to the Commission and to the public who you are, where you work and your nationality?

A. I am Peter Kadzimba Zimowa. I am a Zimbabwean who resides here in Harare. I am employed by the ZANU PF Party assigned to Harare Province.

Q. Where do you normally carry out your duties within ZANU PF?

A. I am assigned at ZANU PF Harare Province which is situated at 4th Street.

Q. Mr Zimowa you have come before this Commission to narrate to the public and the Commission what you observed on the 1st of August 2018 in Harare?

A. I was at work on the 1st of August. From what I observed the day had already been declared that it was for Nelson Chamisa who had issues with the results. People who were marching came along Robert Mugabe road. They turned at 1st street facing the northern direction where they are Government buildings. As we were at work we peeped through windows, we saw young men from MDC climbing upwards where they dismounted the banner with the President's portrait which they burnt. There is a big terminus so they were jumping over some roofing sheets where they were also

picking some stones. They went back to the road. As we were upstairs we thought that the demonstrators were passing but when they got to the point where there are traffic lights that is at the intersection of 4th Street and Jason Moyo they turned coming to attack Harare Province offices. I would like to believe that they saw our movements as we were peeping through. They started throwing stones. The police officers who were armed with fire arms, those ones who were manning or protecting our place tried to fire in the air, we were listening we could hear that from our office.

Q. Clarify that, did they try to fire or did they fire?

A. We heard the sounds of gunshots. That is the correct position.

Q. Mr Zimowa you are still under the oath that you took when we commenced.

A. Yes.

Q. You may proceed with your narrations.

A. The young men from MDC proceeded, we ran where we climbed going upstairs trying to check or ascertain how the situation was outside. That is when we realised that they were throwing stones at motor vehicles. As a result of their actions the two officers who were there one of them was armed and the other one was not armed. The one who was not armed first came to our office for refuge then the one who was armed also ran to our offices where he closed the door after getting inside. For some time we were trying to peep through trying to ascertain how the situation was like outside. We saw motor vehicles burning. They was an automatic vehicle which belongs to one of the workers at ZANU PF Harare Provincial offices. It was driven from the premises to the traffic lights. From there, which in my view was a miracle, I

do not know how the vehicle jumped. As it is, it is hanging on the precast wall. As all this was happening, that is the commotion, we were still in our offices. We then realised that these demonstrators were about to set ablaze the building. We started moving out of our offices. We went outside where we realised that a new motor vehicle for our colleague Jani had been set on fire and Provincial vehicle was also on fire and other vehicles had been damaged. After seeing all the properties on fire I would like to believe that to them they said they had accomplished their mission and they left. We had a challenge with police officers. They were saying their gun no longer had bullets so there was no reinforcement that is from their station. I was brave enough to use my vehicle which had been damaged. I drove the police officers to Morris Deport where we saw the District Commanding Officer Edmand Maingire. So that is what transpired at Harare Provincial offices.

Q. You mentioned in your testimony that at one time you saw cars burning. How many cars did you actually see on fire due to the actions of these riotous?

A. On the northern direction there were two vehicles which were burning that is a bus which was across and also that vehicle which I earlier on referred to, that was hanging. It was also burning. At our entrance there were also two vehicles that were in flames. Those were the vehicles that were burnt.

Q. Were you able to ascertain whose vehicles they were? Were they branded any of them?

A. I did not bring the names but maybe the other one belonged to Jani then the other one was a Provincial Party vehicle which was being driven by the PA.

Inquiry

P. K. Zimowa

Q. Were you able to observe the response of the crowd those who were involved in the rioting to the shots that were being fired in the air by the police officer which you referred to earlier on?

A. We did not see how the demonstrators reacted because we were already in the passage.

Q. Thank you very much. The Commissioners and the Chairman may want to seek clarification from you or additional information or have questions for you.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q. When all these things were happening was the Army anywhere near there?

A. We did not see them.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. You spoke about police guns. At some point you said police guns no longer had bullets. Would you know where the bullets had gone to?

A. It is common cause that they were firing in the air because if they were firing to the people it could have been a disaster.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. I wanted to ask you about something you said about the police officers. Just clarify first, they were two police officers I think that is what you said in your statement?

A. Yes.

Q. And they were police officers who were at the headquarters to protect it or they were just in the area?

A. They were protecting the Provincial offices so they were on duty at the Provincial offices.

Q. Were they any other security guards there or just those two police officers?

A. They were only two police officers.

Q. And you said that they retreated into the building?

A. Yes.

Q. I just want to ask, you mentioned in your testimony that they said there were no reinforcements available. How did they know that?

A. No one was coming from their offices and it took time.

Q. Did they make any phone calls to ask that?

A. Yes they did. The first incident only what we gathered was that some of their superiors they complained that we are very few all the police officers are manning the whole Zimbabwe because its phone extension had two officers something like that so at the deport they were no officers, they were on duty.

Q. Can you recall, you said they were out of bullets do you know maybe how many warning shots they fired roughly. I know it's hard to remember but roughly?

A. We had to ask them because we were emotional "why are you standing here, come on

Inquiry

P. K. Zimowa

is there any police, you want us to be killed, so that's why I volunteered to take them because they said there are no bullets so I took them to where they could get bullets.

Q. Can I just push you a bit I am just trying to see if you remember how many warning shots were fired? Maybe that you can't remember but if you can that would help us?

A. That's a problem because we were inside the building and stones never stopped hitting the building so you cannot count the number of shots.

Q. One last question, you said in your statement one of the police officers was injured. Can you explain what you know about the injury?

A. He complained of pain that's when I know he was injured and he handed over the gun to his colleague.

Q. Do you know how he was injured?

A. A brick fell on his leg.

Q. Is that something you saw or he told you?

A. He told me.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. If I understood you correctly you said that there is a car which remained hanging on the durawall and it is still hanging?

A. Yes.

Inquiry

P. K. Zimowa

Q. On the durawall?

A. Yes. I thought this Commission would once upon a time pass through.

Q. I just wanted that confirmation that there is a car which remains hanging on a durawall?

A. Yes it's there.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Just for you to clarify. You made reference to riot police coming at some point?

A. Yes. They did.

Q. Can you just locate them exactly from the whole account you have given at what point the riot came and then when they went away. Was it before or after the burning and so on?

A. I think they were monitoring or they were passing through. Maybe they were passing through.

Q. At what point? Had any damage occurred? Had anything happened at the time that you saw them?

A. The cars were not yet burnt.

Q. These two police officers are they still providing security there or you have different police officers now?

A. They are there.

Q. The two that were there on this day are still providing security?

A. Yes.

Q. So you will be able to know their names and be able to talk to them?

A. If you wish.

Q. I also want you to confirm, you said when you went to Morris Deport you saw this officer Edmand Maingire?

A. Yes.

Q. Did you have any conversation with him?

A. Yes because I could not drive my car back it was around 6 so I asked for a lift and they took me back to the offices.

Q. Who took you back to the offices?

A. One of the police officers who was assigned by the DISPO to take me back to town.

Q. Would it be correct to say that your evidence is to the effect that the police officers who were providing security ran away from the demonstrators?

A. I don't know if I can go deeper on that one because these are trained officers. I don't know whether they were matching or it is part of their training to take cover in return. So I don't have any comment on that one.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Do you know other people who may corroborate your testimony, who may supplement your narration?

A. Yes. This guy whom I say had his car burnt is called Jani was injured on the head by a brick. Our secretary for finance, our secretary for Commissariat they were all in a small toilet. So you can take anyone of them.

EVIDENCE LEADER (To witness)

You may sit down. Thank you very much for coming.

PUBLIC DEFENDER (To Chairman)

Mr Chairman, I am now no longer following the list as it appears. I have just been informed through a note that one of my witnesses who appears on number 11 Walter Mutanga is here so I propose to call him next.

WALTER MUTANGA : SWORN STATEMENT

Q. Mr Mutanga I would want you to confirm in your own words which language you are most comfortable with in your testimony before the Commission?

A. I am comfortable to use Shona.

Q. Mr Mutanga, the Chairman of the Commission have asked me to convey to you unambiguously that you are free to give evidence before this Commission truthfully and that this is not a trial. You are not being examined and you shall not be cross examined but that you will only be asked to tell the Commission what it is that you feel you should share with the Commission and the public. Do you understand that?

Inquiry

W. Mutanga

A. Yes.

Q. And you are free to tell this court as I am going to ask you to whether or not you have been coerced by anybody to come before this Commission or whether you had been offered a reward by anybody to testify in whatever manner prescribed by whosoever to come and testify before this Commission.

A. No one.

Q. Mr Mutanga, as of August you were employed by Zim papers as a security officer?

A. Yes.

Q. Were you in town on the 1st of August 2018, Harare CBD?

A. Confirmed I was in the CBD. I assumed duty at 12 midday.

Q. May you narrate to the Commission and to the members of the public what it is that you observed which in your opinion the Commission and the members of the public wish to hear in view of the task given to them by his Excellence the President?

A. On the 1st of August on a Wednesday I got in town, Market Square at 11.30 when I disembarked from a Commuter Omnibus I saw a group of people who were singing. They were singing as they were walking along Mbuya Nehanda coming to Market Square. I normally take 15 minutes from Market Square to Herald House which is my work place. I proceeded to Herald House. I got there at 12.50. We assumed duty well. Around 14.20 hours we heard voices of people who were singing. We went to 4th floor trying to peep through so that we could see people who were

singing. We saw people whom we identified as MDC members. They were wearing red T-shirt singing political songs. They were coming from Jason Moyo getting into Second Street. They passed through our work place that is Herald House. They got into Nelson Mandela proceeding to the former MDC headquarters Harvest House. For some time they were there maybe for about 15 to 20 minutes. After that they returned singing along Second Street. They got into Jason Moyo going towards 4th Street. After a short space of time we saw some smoke which was an indication that something had been burnt. At the same time we saw a group of people who were singing returning using Jason Moyo. We instructed the security guards to close our entrance which faces Second Street.

Q. From what you observed this group that you are talking about now which came back singing could it have been the same group that you had seen earlier on in the morning?

A. I think so but when they returned the number had increased. As they were returning they got to Herald House, they tried to enter using the entrance which faces Second Street. They realised that we had locked the doors to that entrance so they then started throwing stones which they were picking from flower rockeries. Two stones hit the first floor and two big window panes were subsequently damaged. Some of them proceeded to the entrance which faces George Silundika. When they got there they tried to forcefully enter, however the doors had been locked. One of them picked a big stone which was across the road. Using that big stone he hit the handle of the door. I would like to believe that he thought the door could open after hitting the handle with that big stone. When they realised that they could not open the doors as a group they

went back to Second Street. They returned to Harvest House singing political songs.

After a short space of time we heard them chanting slogans. To us it seemed as if they were chanting slogans for their political party. At 15.45 hours we went to make a police report at a police post which is at First Street. That is all that I can say which transpired on the 1st of August at my work place.

Q. Just a few questions to clarify few issues. You have been mentioning throughout your evidence that this group of people were chanting and singing. Are you able to tell this Commission what it is that they were singing if you heard?

A. Like what I alluded to earlier on, they were singing political songs.

Q. Could you hear what they were singing?

A. Yes I heard some of the songs.

Q. Are you able to share with the Commission?

A. I am not in a position to sing the way they were singing but maybe I just tell the Commission the words of those songs. One of them was leading as they were singing then others were also supporting as they were singing. So their song, “Vechidiki tinoda Chamisa”. Meaning to say the young generation wants Chamisa.

Q. How did they appear to you? Are you able to comment about them how they appeared, sober? How?

A. Some of them were visibly drunk especially those who were leading.

Q. Is there anything else you would want to add?

Inquiry

M. Muwore

A. Nothing else.

Commissioners and the Chairman might have questions for clarifications from you. I now hand you over to them.

NO FURTHER QUESTIONS.

WITNESS EXCUSED.

MILTON MUWORE : SWORN STATEMENT

EVIDENCE LEADER MR THABANI MPOFU

Mr Chairman this witness does not appear on our list of witnesses that are before you. The witnesses that have been scheduled to give evidence before this Commission are unavailable. We have accorded the opportunity to this witness who has approached us and he has indicated that he has evidence that he wishes to share with the Commission.

BY THE WITNESS

My name is Milton Tapindwa Muwore and I reside in Harare and I am self employed. On the day in question on 1 August I remember a colleague who operates as a flea market vendor also as a service provider along Park Street/Nelson Mandela Street. On the day in question I remember an anonymous caller calling me from my phone that, remove your trading tents, because we provide trading tents at flea market which was located along Park Street. It was around 1, then I had to drive from along Simon Mazorodze. It took me about 1 hour since there was congestion. The moment I reached at the flea market my truck which I was driving was branded with posters of President ED Mnangagwa since I was one of the colleagues who was campaigning for Councillor in Ward 4 in Mbare so most of the people

know me from that area. The moment I reached the flea market they were some guys who were chanting the slogans they were saying “ED auya”, then I noticed that there was chaos then I quickly rescued my car to hide it somewhere so that I can rescue the tents which were at the flea market because some of them had been started to be destroyed by some other youths who were chanting some slogans who were saying “ED mumvura, ED Garwe ngaridzokere mumvura” in vernacular. After a moment I had to go hide the car near Girls High just adjacent Park Street/ Samora Machel. I had to put my car into a safe harbour then I had to return back to the flea market so that I can pack my trading wares and my trading tents which were in the flea market. In the momentous time I had seen some youths coming on the flea market chanting those slogans saying “ED Garwe mumvura” and some other youths just manhandled me since I was trying to pack my goods and they started harassing me and they went at the moment of beating me on my back and at some point there was a colleague whom I had assigned to take some photos on the fracas which was happening on the area. I can even show this Commission some of the wounds which I suffered on that day because we were with another colleague who also got beaten in the cross fire. After some moment they set ablaze our trading wares and some other tents and we had to find somewhere to hide so that we can try to rescue our tent/shades which we used for trading whilst we were hiding from sun and sanitation in the market. Some moments time that’s when the police and some other riot police who were in the truck manning the area arrived at the place and then we had to approach them that we are the ones who were operating at this flea market so we just need your assistance so that we can pack our goods and they said no, we were not in a position to keep you safe but we are in a position to keep the whole area. We just persuaded them that we just want to pack our goods so that we can take them safely and they just said no, our position is we can’t just mann you two guys packing your goods. We are on the duty of

manning the whole city so you can just pack your goods at own risk. So we proceeded to pack our goods. I carried the first load and put it on a safe place.

On my return those youths came back. They were hiding on the passages along Construction House as if they are just people watching and they started throwing stones at those police officers. And when we tried to come back to try to pack our goods that's when the soldiers came. They were firing shots in the air and saying no, we don't want to see anyone in the street. We just talked to some soldiers who were there that we are the ones who owned these goods, we just want to pack our goods and take them home for safe keeping since some of the goods had been burnt and they said no you can just do that at owners' risk because our duty is just to clean the town we don't want to see anyone loitering in town. So we had to sacrifice to try to pack our goods even though we had been bruised by those guys who have been harassing us who were just chanting those slogans that's when we managed to take some of the goods and managed to rescue some even though some of the goods had been vandalised by the rowdy youths. That is all I can say to this Commission.

Q. Did you report this to the police?

A. Its unfortunate I did not make a report because it was not the first time this incident happened so some other guys whom I had shared with they just said this was just political violence it just became numerous because it was not the first time this incident happened. It once happened long back when those guys who were called Tajamuka even approached our flea market since it was known as a predominantly ZANU PF owned market. So we just did not take it seriously to make a report but I have got some of the footages on some of my gadgets which occurred on the day in question and even on the pre-election day in question.

Inquiry

M. Muwore

Q. You have footage of all this you have narrated or some of it?

A. Some of it I have the footage and some of the screenshots.

Q. What was the value of the property that you lost?

A. The value of the property which was burnt and stolen was around US\$3500-00.

Q. Do you confirm you did not have a statement recorded before of what you have told this Commission?

A. I never take hid of making any police report I just thought it was unnecessary since it was politically motivated.

The Chairman and members of the Commission may have a few questions for you in clarification or additional information. I now hand you over to them.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Are you in a position to provide our secretary with the footage?

A. Yes I am in a position to do that.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. You called this politically motivated. In your view would be able to tell this

Commission what you think led to the violence which you call political?

A. What led to the violence is when the guy in question called me I was not at the flea market. They called me because they know I am the one who owns the trading tents we normally erect at the flea market so they said you must come and remove your

Inquiry

M. Muwore

tents here because they are being destroyed by some rowdy youths who are claiming that, “takabiridzirwa maelections tirikuzvidira majecha”. So from those statements you can actually know that these statements are coming from the MDC alliance because those are the statements which they normally use whenever they make their attacks. The interpretation was they were saying I am going to distort the whole scenario or the saying “Garwe mumvura” meaning to say the crocodile which resembles the President ED Mnangagwa must fall down. They were saying Garwe ngaridzokere mumvura”, the crocodile must return into the water.

COMMISSIONER RODNEY THOMAS DIXON (To witness)

Q. I wanted to ask you about the soldiers that you said you saw. Do you remember how many soldiers they were?

A. I remember they were two trucks going along Nelson Mandela going westwards with soldiers manning the areas and some others were walking on foot on the street.

Q. You said you spoke to some on the street?

A. Yes I spoke to some two who were in the streets who said we don’t want to see anyone in the street.

Q. And they said it’s our duty to clean the area?

A. They said our duty was to clean the whole town and not to man some individuals or some other private businesses.

Q. And they were firing shots in the air?

Inquiry

M. Muwore

A. I can still recall some soldiers firing shots. What I still recall I witnessed two trucks which were moving with soldiers inside and the other two I witnessed along Park Street.

Q. And you know who was firing the shots in the air?

A. I just heard shots but I did not see any soldier firing shot or any police firing shot.

Q. When the shots were fired you remember what people on the street were doing what the response was?

A. When I heard shots being fired in the air in the surrounding areas I just saw people rushing all around the area.

Q. Did you see the people whom you mentioned who were being aggressive did you see any of them or their response was?

A. Their response was when the shots were being fired they were saying we are already dead so we are not going to retreat.

Q. So they did not retreat from what you could see?

A. They did not retreat because when shots were being fired they were some youths who were going in the direction where there were shots which were being fired.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Would you say that that was because they knew that the shots will not be fired at them because it's human nature to run away from shots being fired but if they believe that

Inquiry

M. Muwore

the shots will be fired only in the air then they would go on marching and say they are already dead?

A. I suggest your opinion is just as good as mine.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. What time was that when you saw the two army trucks would you know exactly what time or approximately what time it was?

A. Around 4/5p.m.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q. Is it possible for you to give us a rough estimate of the people you saw?

A. Nearly groups of about 7 but I couldn't actually locate the number of groups but the maximum number of group which I saw which manhandled us it was around 7 guys who were holding some sticks and some of the poles which we use for erecting our tents at the trading flea market. They were around 7 so we could not make any defence since we were two with my other colleague.

NO FURTHER QUESTIONS

WITNESS EXCUSED

Inquiry

L. Nyanhanda

LAWSON NYANHANDA : SWORN STATEMENT

EVIDENCE LEADER MR THABANI MPOFU

Mr Chairman the witness does not appear on our list. He is another one of those I call walk-ins who volunteered to give testimony from sitting in the gallery.

PUBLIC DEFENDANT (To witness)

Q. Mr Nyanhanda, the Chairman and the Commissioners want you to know that you can give your evidence freely. You just need to tell this Commission the truth and this is not a trial, it's not an inquisition you will not be cross examined. Do you understand?

A. Yes.

Q. You volunteered to testify before the Commission on the events of the 1st of August 2018?

A. Yes.

Q. Please go right ahead and do that.

A. I am Lawson Nyanhanda. I stay here in Harare. I am 32 years of age. On the fateful day I was driving from Karoi so I got into town around 16.30 hours. I got into town through Second Street driving down eastwards towards Robert Mugabe. When I got to the intersection to the traffic robots at Second Street and Jason Moyo I discovered that the town was semi deserted. There were no usual traffic of people in town. I would just see groups of people just running around. When I got at the intersection of Second Street/Jason Moyo two soldiers approached me. Literally I was the only vehicle driving intending to turn into Jason Moyo at that time. These guys stopped

me. They instructed me to get out of the car. I got out of the car. They asked me why I was driving in town. My girlfriend had told me that she was coming from Bulawayo and she had dropped off close to HICC and the situation was horrible so I was intending to go up there and pick her from there. So when I got there I told them I am actually coming from Karoi. I intend to turn into Jason Moyo and go down town and they said don't you know what's happening in town. And then I said what's happening. The other guy thought I was actually trying to make fun out of it and then he said we will beat you if you try to be rude. I then said I am really honest guys. So I was driving a vehicle which was branded Command Agriculture so they then said find somewhere you can leave the car because the situation is tough in town. So I turned into Jason Moyo. I drove and when I got into the intersection of Jason Moyo and First Street I saw a lot of soldiers running this side and then across the street they were other people who were also running so I stopped the car. While I stopped there they was a soldier who was running down First Street and then they were people who were trying to take cover where these people plied by preachers who usually preach. There was a group of people who were there so the soldier was running to get to them and they was an army armoured vehicle which was parked just by Batanai Gardens building just after First Street. While I was standing there another soldier came with a button stick and then he hit the car that I was driving to say move, move, move. Then I moved. I drove past Jason Moyo and when I got to Jason Moyo/Chitungwiza road that is when the drama started. Soldiers were coming from the opposite direction in a funny car. It's some army car which I cannot describe. So they came there and my passenger window was not opened so the other soldier opened the door of my passenger side and got into the car. The other ones were coming this side and they

instructed me to get out of the car. I tried to switch off the ignition. They instructed me to leave it like that and get out of the car. I was made to get out of the car. I went out of the car and they instructed me to lie down then I lied down. There was no one there but they were soldiers. Another group started running from Samora Machel going down the Chitungwiza road. They saved me because when they started running they disturbed everything and most of the soldiers started following those guys. The other soldier who was there, I explained to him I don't even know what's happening I am coming for something from Karoi so I am intending to turn into Joina City parkade so that I can park my car and then I go wherever I want. Then he said go and park your car. I went there and I parked my car and I left my car there. It was now safe. So I walked out. I was wearing a suit. I removed my tie. I was wearing Command Agriculture T/shirt inside I left in that and then I took some tekkies which I had in the car and then I wore some tekkies because I had actually seen this thing can turn into something horrible. So I was now in a casual gear and then I put on a sun hat which was branded Fossil Agro. I left the basement. I walk up going towards Netone building because I intended to go and pick my girlfriend who was somewhere up there. So I walked there.

While I was walking I saw a group of people running downwards and then I saw the situation is very bad so I turned into the road which passes in front of Construction road that is Leopold Takawira and then I ran into Agribank. I went there and I stopped, some soldiers and policemen were passing. While I intended to go up another group of soldiers was coming that side and some army vehicles were also around there so I turned heading towards Coppa Cabbanna and that is where everything was.

For my first time as an adult I peed myself. I never heard a gunshot. A gun went off just like that. In trying to take cover I knelt there and then ah, something happened there. The soldiers were not very far away from where I was. The soldiers fired these shots, when a gun is fired in the air if it's your first time you wouldn't know whether it's fired towards you, in the air or which direction. That gunshot paralysed me then I realised I am alive then I proceeded. I ran and then when I got to Rotten Row at the intersection of Rotten Row and this road which goes to where is ZANU PF headquarters there were some journalists. The other one from the Media Commission something like that and some white guy. His name is Farai. I just went there and we then started talking to the guys. They was a rowdy group also which came from this road coming from ZEC offices. The intersection was actually barricaded. Rotten Row and the road which goes to HICC was actually barricaded. I talked to those guys and then they said lets cross over and go somewhere where it's safe. We crossed over and then we started walking towards HICC and then there were cannons which were by this gate which is actually the road which crosses Rotten Row and then straight into Rotten Row so that gate was barricaded and it was closed. So we had to run and use the other entrance which is the other road which is this side. So we got in there and then people started running. They were people who were just running and the policemen who were by the fence at HICC they started throwing teargas at those people who were actually running away from town going to wherever they were going but they were actually firing teargas at them. Some other policemen came and said no these guys are actually leaving town don't fire teargas at them because the smoke was actually coming to us who were inside the HICC parameter and we were actually affected by the smoke. Afterwards around 7, we stayed there up until around

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L. Nyanhanda

7 and then it was now normal. The person that I wanted to pick there I had actually seen her so we tried to get back to Joina City to get the car but these boom gates could not open. Even after making your payment the boom gates could not open so we left the car there and then we walked to Forth Street but at Fourth Street there were no Combis and then we had to get a taxi and then I came home. I stay in Highlands. That was the ordeal of the 1st of August.

EVIDENCE LEADER MR THABANI MPOFU

Thank you very much I now hand you over to the Commissioners they may have more questions for you.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Did you see any policemen?

A. I did. A lot of them.

Q. How did they relate to the army?

A. These guys, I never saw the police and the army together. Where I would see the police they was the police alone. Where I would see the soldiers they were the soldiers alone. They were never together. On all incidents where I saw these security forces they were never together. Its either you would meet the army and they would deal with you there and then you meet the police and the police would not say anything to you they would just leave you and go wherever you are going. Just that but the people who had everything to do with you on that particular day were the

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L. Nyanhanda

soldiers. The police, they wouldn't even ask me anything but were the soldiers making all sorts of funny things.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to ask whether you witnessed any shooting.

A. I did not witness a shooting because witnessing a shooting is actually seeing someone being shot but I heard gunshots.

Q. Can you tell where it was from?

A. It was from soldiers. There was a group of soldiers around 6 or so and then one of the guys was shooting but I could not look at them because this was my first time to hear a gunshot and I was really in shock.

Q. When you heard the gunshot, I am just thinking that maybe you saw the after of the gunshots?

A. People continued just running because they were people who were running, a group of people maybe 30 or so who were running and they just kept on running after the gunshots because the gunshots were around 3 or 4 but they kept on running after the shots had been fired.

Q. Around the area which you are describing were there people who then lay on the Ground because of the gun shots or people continued with their business?

A. I would not know. It wasn't business as usually so they was no one who could continue with business because there was no business whatsoever. People were

Inquiry

L. Nyanhanda

actually concerned with taking cover and running because from the time I got into town around 1630 hours it actually took me more than 45 minutes from Jason Moyo/Second Street to Rotten Row it took me an ordeal of a total of close to 45 minutes because I got there around 25 minutes after the hour of 5.

Q. At which point did you hear the gunshots?

A. When I was turning, what is this road which is behind Construction House not the one in front. In Park Street.

Q. How many gunshots did you hear?

A. Three or four.

COMMISSIONER RHODNEY THOMAS DIXON (To witness)

Q. Could I ask about the people who were running away? You said the soldiers were there. Were they from what you could see chasing them?

A. Yes the soldiers were chasing after these people.

Q. How were they doing that? Did they have their guns out at that point?

A. Yes they had their guns and they were chasing a smaller group. When the group which was coming from the direction where the soldiers were chasing them from met the other group which was coming downwards Nelson Mandela I think, when they met just like there is Agribank here and then there is an intersection so they was a group which was coming this side. The soldiers were chasing another group which was coming this side. So they started shooting when they saw that the number has risen.

Inquiry

L. Nyanhanda

Q. But you didn't see any of that shooting? I am just trying to understand what you know?

A. I did not see the aftermath of the shooting but what I know is I saw and I heard the shooting.

Q. When they were chasing them did you see what they were doing with their guns?

A. No it was scary you wouldn't have time to go to the nitty gritty of what are they doing. We were actually concerned about making sure that you are safe.

Q. How many soldiers if you can remember were doing the chasing?

A. They were quite a number, 5 or 7 somewhere there.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. How would you characterise the people being chased by the army. Did they look like political activists or just passersby? How would you describe them?

A. The people who were running away they were mixed if I can say. You could actually tell this one might be a political activist but this one definitely is not. So the people were mixed you could actually tell this one is an activist but this one is someone who is just caught in the cross fire. Because they were some women like where I took cover I ended up walking from there with other two ladies and these two ladies you could actually tell that these ladies are not into political activism or so. The other one was having a plastic bag with some wares from Pick and Pay and her hand bag and

Inquiry

L. Nyanhanda

then the other one you could actually tell that these people were going about their normal businesses.

COMMISSIONER LOVEMEORE MADHUKU (To witness)

Q. Can you just tell me again what was the exact place where you were when you heard the gunshot in terms of describing the streets?

A. Nelson Mandela and Park Street but I was this side of Nelson Mandela towards Construction house heading towards Coppa Cabbana bus terminus that's where I heard the gunshots.

Q. We have Jason Moyo here so it's between in Park Street?

A. No. You know where Agribank is? What's the street which goes in front of Agribank? There is Nelson Mandela here and then Park Street this side. So there is an intersection I was around this area of the intersection.

Q. So you would be near the intersection of Nelson Mandela and Park Street?

A. Yes.

Q. Where were the soldiers that you saw?

A. They were coming from along Park Street coming from Samora Machel.

Q. So the soldiers would be between Nelson Mandela and Samora Machel in Park Street?

A. Yes.

Q. Did you witness any of these people resisting the police or resisting the army?

Inquiry

L. Nyanhanda

A. No, running away is a sure sign of fear.

Q. So your evidence is to the effect that all you saw about other people other than the security they were just running away?

A. They were just running away from the security forces just like I was doing also.

Q. So at the point of the gunshot you did say that they were seeing that the numbers were more?

A. Yes they were people who were actually running downwards Nelson Mandela so when the soldiers saw that that is when they started shooting.

Q. So it was more people running away?

A. Yes,

COMMISSIONER CHARITY MANYURUKE (To witness)

Q. The chasing of the soldiers can you explain what you really saw on the chasing? What is the soldier doing when they are chasing. Where is the gun, where is the body? I am saying to the other extent the images that you saw?

A. I wouldn't want to lie on that but what I saw is the soldiers were after a group of people. Looking at where their guns were was another story but I saw them running after a group of people but I never took into consideration where their guns, how they were holding them and all sorts I never looked at that.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Would it be your evidence then that the soldiers were in different places just

patrolling town, you said you saw two of them at some point and then you talked about 5 or 6 at some point. Would it be correct to say you could see pockets of soldiers all over town?

A. Yes soldiers were actually scattered all over town because I had an encounter with two the other ones who made me to lie down, the other ones I explained to them and they made me to turn. They were soldiers. I also saw some along First Street going after the people who were at that square where people normally conduct services.

Q. You did say that you never saw the soldiers and the police together is that the evidence you are insisting on?

A. Yes.

Q. Are you in a position to say in terms of numbers would it be correct that they were more police officers than members of the army or they were more army people at least from your interactions are you in a position to say it?

A. Police officers were more than soldiers but they seemed to be relaxed. They seemed to be more friendly.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. More friendly they were not chasing anybody?

A. No they would just tell you get out of town no funny issues like lie down, leave your car running, everything.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. You need to answer that more specifically you used the word chasing. Would it then be correct that soldiers were chasing, the police were not chasing anyone? Would that be correct if I use that language?

A. I never heard an interaction with the police all my interactions were with soldiers so I wouldn't be in a position to comment on what really the policemen were doing because I actually perceived them from a distance.

Q. But you got the distinct impression that the army was in control?

A. Yes the army was in total control of the events.

COMMISSIONER DAVIS MWAMUNYANGE (To witness)

Q. Were there any announcements that were made by the military as well as the police. Any announcement?

A. None that I heard.

Q. When initially you were asked by the soldiers to lie down did they explain to you why you had to lie down?

A. No they didn't. Actually the other one was already in my car and then the other one made me to get out of my car so I tried to switch off the ignition and they said leave it like that.

Q. But these soldiers who ordered you to leave your car idling didn't try to drive away the car?

Inquiry

L. Nyanhanda

A. No they never tried to move the car.

Q. At what point did they allow you to drive away?

A. A group of people started running down the road so they then concentrated on those. And then they were three soldiers who were remaining then I talked to the other guy and then he said okay turn because I was almost at that intersection which I am talking about, it is actually less than 50m to the entrance of the parkade that I intended to get into. So I actually explained, let me just get into Joina City parkade where my car would be safe. So one of the soldiers then allowed me to drive my car into the parkade.

CHAIRMAN KGALEM MOTHANTLE (To witness)

Q. So they were reasonable soldiers?

A. No.

Q. I am just saying at least this one soldier listened to your plea and allowed you to drive off in your car to safety because they were interested in the larger number or group of people who were running?

A. Yes and if it were not for that group it was going to be a different story. Maybe I was going to be canned or something like that.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to understand what drove you outside the parkade in terms of your safety. You had witnessed according to my account about two different sets of soldiers but you proceeded you still wanted to go out?

Inquiry

L. Nyanhanda

A. Yes I really wanted because my girlfriend was out there. I did everything which was necessary to ensure that I am safe so that I go. I removed formal shoes, take on some tackies, a t/shirt, removed a jacket and tie and then went out. So they was someone important who I wanted to go and rescue.

Thank you very much.

WITNESS EXCUSED

BY THE CHAIRMAN

While on that note we have come to the end of today's session but if they are people who are not on the list please do get in touch with the Secretariat to give your details if you were present like Lawson's harrowing experience. We would really dearly want to hear your version of what you witnessed on that day. Once again thank you for coming the Commission continues tomorrow for now we adjourn. Thank you.

ADJOURNED

RESUMED

Inquiry

Rules

17/10/18

BY PERMANENT SECRETARY MRS MABHIZA

RULES

Firstly all phones must be on silent or switched off. Moving in and out of the venue should not be done in a disruptive manner. We are all kindly required to respect the Commission. We also suggest that any contributions that will improve the results of the meeting are most welcome through the secretariat to the Commission. Members of the public including the press shall not address the Commission directly without any indication to do so by either the Chairman or the Commission or the Secretary to the Commission. Any disruptive behaviour by any member of the public including the press shall result in their immediate ejection from the proceedings or arrest depending on the gravity of the conduct displayed.

Thank you very much. We look forward to smooth proceedings. The Commissioners are about to come.

Inquiry

J. Makesure Dizai

EVIDENCE LEADER FORTUNE CHIMBARU

FIRST WITNESS

JOHN MAKESURE DIZAI : SWORN STATEMENT

Mr Dizai I would like to inform you that this is not a court. It's a Commission of Inquiry. You will not be cross examined but you are required to tell the truth of what you know.

Q. Do you confirm you reside at number 8 Kentle Road, Bluff hill?

A. Yes.

Q. And you confirm you are employed by Edgars Shop, First Street branch?

A. Yes.

Q. What is that you do at Edgars?

A. I am a security officer there.

Q. You confirm that on the 1st of August this year you were on duty at Edgars?

A. Yes.

Q. Would you please tell this Commission and the members of public what transpired on the day in question that which relates to this inquiry?

A. On the 1st of August I went to work in the morning. I opened the shop at 8.30am.

When we opened the shop we sold the items as usual but when we were coming from home we realised in the road they were many police officers. Along Nelson Mandela they were some police officers and also some group of people who were gathered at

Angwa/Nelson Mandela. At around 3p.m that is when we saw a group of people who were singing. They were holding some stones and also some logs. Upon seeing that we then rushed and closed the shop. At our shop we have ground floor and also top floor. We ordered everyone to go upstairs. When we had done so and I think in a period of about 2 minutes we then heard some window panes being smashed. About 6 windows were smashed and the value of the damaged property \$2327-00. Two Neon signs were also damaged on the day in question and the damaged property is worth \$862-50. We phoned Harare Central when we heard that the window panes and the Neon signs were being damaged so that they would come to our rescue. We were told to wait inside and they were going to see what they were going to do for us.

When it was around 16.40 we opened the doors so as to see outside. We noticed that they were no people in town so it is at that juncture when we then dismissed people. That is all what transpired.

Q. You said you heard people singing, did you see these people or you just heard these people singing?

A. Yes we saw the people and we even saw them coming but its only that things were not good. That is when we rushed to close the doors but I did not manage to see the colour or the clothes which these people were wearing.

Q. Roughly in your own estimation how many people do you say they were, as a rough estimate if you say?

A. They were many people and even the general public was now running away.

Q. Would you know what they were singing about? Did you hear rather what they were singing about?

A. According to what I heard they were like saying their votes had been stolen.

Q. You said you saw them coming. Where were they coming from?

A. They were walking along First Street. They were coming from Reserve Bank side coming downwards where we were and others were also coming from Kwame Nkurumah road.

Q. You said when you were coming from home you saw a lot of police officers. At Edgars shop at the time when these things were happening were there any police officers nearby or you had just seen them on your way to work?

A. At the shop there were no police officers.

Q. Or where these people who were singing did you see any police officers?

A. There were no police officers who were wearing their uniforms amongst this group but they were just many people who were singing and they had some stones.

Q. In the morning when you say you saw police officers along the way, were there any other security officers other than the police officers that you saw?

A. They were just police officers. Some were even sitting in cars.

Q. It is common cause that members of the army also came on this day. Did you see any

Inquiry

J. Makesure Dizai

yourself?

A. We saw them when we were now going home.

Q. Where did you see them?

A. They were along the roads when were going out of town and they were also telling people not to come to town.

Q. Did you later make a report to the police of the damages that occurred at Edgars Shop?

A. Yes but it was not on that day, we did not manage to report on that day but on the following day we then managed to file a report.

Q. What was the total damage suffered?

A. It was \$3189-50.

Q. If I may take you back a bit, you said your glasses were smashed. Did you see the people smashing or you only heard the sound of smashing glass?

A. We were already upstairs since we ran away and there were just passing by the shops when the said glasses were being smashed. So we just heard the noise.

Thank you very much Mr Disai. Honourable Chair and Commissioners I will hand over your witness. You may be asked questions by the honourable Chairman and the Commissioners.

CHAIRMAN KGALEMA MOTLANTLE (To Witness)

Q. So this Edgars shop is located very close to Harvest house?

A. Yes.

Q. Was it your first experience to see as you say in your statement that some MDC supporters were being addressed by someone you didn't quite identify? Was it your first time since you are so close to Harvest House that you observed MDC supporters being outside Harvest house being addressed?

A. No it was not for the first time.

Q. But this time you saw these police trucks parked close to Harvest House?

A. Yes.

Q. So you opened store and nothing happened until later in the afternoon at 3pm or something like that?

A. Yes.

Q. Meaning that the MDC supporters dispersed or what happened to them?

A. I would not know since I was now inside the shop working so I would not know if they were still outside or they had dispersed.

Q. Later this mob that was singing which was armed with stones and rods was it the same crowd in your view or was this now a different crowd of people?

A. In my view they maybe the same people since they were not wearing any uniforms so you would not distinguish if they were the first group or another group.

Q. But certainly the second group as they were coming through armed with stones and so on, looked quite menacing that is why you closed the doors of the store?

Inquiry

J. Makesure Dizai

A. Yes, because from the side where they were coming from, we would hear some smashes of some window panes.

Q. The police trucks were now no longer there?

A. We did not manage to check if they were still there.

Q. But the police never came to the store even after you had phoned them? They only advised you to stay indoors?

A. Yes, police officers did not come, they just instructed us to stay indoors.

NO FURTHER QUESTIONS

WITNESS EXCUSED

EVIDENCE LEADER FORTUNE CHIMBARU

I will call upon our second witness for the day Mr Adrian Munjere. Honourable Chairman and Commissioners if you may note that he is not on our witness list and we do not have a recorded statement from him. Apparently he said he was in hospital at the time the Commission was inviting for statements.

SECOND WITNESS

ADRIAN MUNJERE : SWORN STATEMENT

Mr Munjere I wish to inform you that this is not a court. It is a Commission of inquiry so you are required to narrate to this Commission that which you know which you witnessed on the day in question which you think might assist the Commission and you are also expected to tell the truth of what you know.

Inquiry

A. Munjere

Q. Mr Munjere how old are you?

A. I am 31.

Q. Where do you reside?

A. I stay in Mabvuku here in Harare.

Q. I notice you have an injury on your arm, are you comfortable speaking while you are standing or rather be sitted?

A. I can give evidence while standing.

Q. Can you tell this Commission that which you know which transpired on the 1st of August 2018?

A. On the 1st I was at Zimex Mall along Angwa Street. That is when we heard a group of people singing. They were carrying some logs. When we saw them coming we ran away and we went into the Post Office building. When they had left we were then told by the people who work there to go outside. We saw some police trucks moving around. Since we were at work we then decided to continue with our work. We then realised that that mob had gathered at Angwa/Nelson Mandela. They had some speakers and they were like people who were celebrating. We just thought that maybe things had calmed down. Suddenly we saw that group approach us as they were running. We did not join them but we kept on standing at the place where we were. We then heard some gunshots. We thought that maybe they were just blank shots or some warning shot to disperse the mob. After some time that is when I heard something on my hand and I did not know what was transpiring. I checked on my

arm and I saw some blood oozing. It is at that juncture when I panicked and I then started running. During that time everyone was running amok. At one stage we were running along Jason Moyo and we then went into Julius Nyerere. Everyone was using that road when we were running heading Chitungwiza flyover. That is when I started to feel dizzy and I could not breathe properly. I told my workmates to continue since I was now powerless. I then ran into Central Police station. I told them that I had been shot. They phoned an ambulance. It took about 2 hours or so before I got assistance. I also saw a certain lady who was brought to Harare Central and she had been shot on her chest. We were then ferried to Parirenyatwa and at that time I was now unconscious. When we went to Parirenyatwa that is when I was then attended to. It is on the following day when I was then operated on. I was admitted in that hospital for a week. I was then told that I was operated on and when I went home the hand was still painful. Since then I had been going to hospital in and out. Last week I was even at the hospital. I got operated again. It is this Saturday when I came back from the hospital and I saw this advert that is why I then decided to come here today. That is all.

Q. Were you told the nature of injuries that you suffered on your arm?

A. Yes it was explained.

Q. Can you please explain to the Commission the nature of injuries that you suffered?

A. It is being alleged that when I was shot. The bullet got inside through the front part of the arm. I sustained some fractures inside the bone and the bullet was not inside the arm. I was also told that they put me a half plaster back slab on the arm and they had also to join the bones. When that plaster was removed I realised that I could not move the arm that is to open the palm or to turn the arm. That is when I went to see a

Inquiry

A. Munjere

specialist. I was told that they wanted to operate it again since the operation was not done properly.

Q. So has it been operated again or you still have to?

A. Yes I was operated last week on Wednesday.

Q. Did you get a medical report?

A. Yes and also some X-ray reports.

Q. As of now how are you feeling?

A. I am still in much pain but it's now better as compared to last time.

Q. All this time that you had been getting treatment who was paying for the medical bills?

A. Initially my workmates were assisting me and I then I met people from Zimbabwe Doctors' Human Rights. So they are the ones who were paying for the medical bills and also the second operation.

Q. Would you know so far how much the medical bills have been?

A. I am very sure of the amounts where I was admitted on Monday last week up to Saturday.

Q. How much is it?

A. For the operation only it was \$5 200-00, then with detention bills its now amounting to \$6 000-00.

Q. This is the amount that you say was paid by Zimbabwe Doctors for Human Rights?

Inquiry

A. Munjere

A. Yes.

Q. If I may take you back to where you started. You said you were at your work place at Zimex Mall. What kind of work do you do?

A. I am self employed. I buy cell phones and also sell cell phones.

Q. You said whilst you were there you saw a group of people singing and you ran into the Post Office building?

A. Yes.

Q. What were these people singing about or were you able to tell who these people were?

A. I could tell that they were MDC supporters because of the songs and also what they were wearing.

Q. What were they wearing?

A. Some were wearing some helmets and Chamisa's picture was on the said helmets and also a sign of a palm and they instructed us to leave our work place.

Q. Are you able to tell what they were singing about?

A. I just recall that they were saying "Chisa mbama" which is an MDC slogan.

Q. How far were you from this group when you saw them and when they were instructing you to leave your work?

A. I think they was a distance of about 200m.

Inquiry

A. Munjere

Q. So you said you then came out of the Post Office building when you thought it had calmed down, is that correct?

A. Yes and we were told to go outside since they intended to close their building. The people from Post Office they were afraid and they told us to leave.

Q. And when you went out you continued with your business?

A. I cannot say we continued with our business per say but we were now packing our things.

Q. That is when you then saw this second group now?

A. Yes that is when I saw the mob which was running and they were running towards the direction which we were from Harvest House.

Q. Would you say this was the same group that you had seen earlier or it was different?

A. In my view it was the same group.

Q. Did you see any police officers around?

A. We saw a truck which was passing by and it was heading to Central.

Q. At which stage did you see this police truck?

A. When people were running amok that is when I saw this police truck.

Q. Did they take any action or you simply saw the truck passing going towards Central?

A. They did not take any action.

Q. Coming back to the time that you say you then felt something enter your hand, did you see how you were injured or you simply felt the pain?

Inquiry

A. Munjere

A. I saw an army truck but I did not know where it was coming from so I just assumed that maybe they were the ones who shot me because they were some continuous gunshots. I panicked and I could not even turn back so I did not know what was taking place. I do not know what happened to my wares or the items which I was selling because I was now afraid and I was just running away.

Q. Would you know the value of the items?

A. I think it was around \$800-00 bond.

Q. What were the items?

A. I had about \$150-00 cash and also four cell phones which I was selling.

Q. When you said you were running away were there any people who were pursuing you or you were simply running away from the commotion?

A. I was not the only person who was running. Everyone was just running and we were going to the same direction and there were some people who were following.

Q. When you then finally stopped like you said you were not feeling well you then decided to stop did you see any of those who were following, who were pursuing you?

A. I did not manage to turn back and I did not see anyone but I could still hear some gunshots.

Q. Thank you very much I will hand you over now to the Commission if they have any questions.

COMMISSIONER CHIEF AMEKA ONYAUKO (To witness)

Q. Did I understand you to say that you are not very sure of who shot you?

A. I am quite sure that the person was from the army group but I cannot point as to who exactly did that.

Q. You were not part of the group that were protesting?

A. Yes it is very correct, I do not associate with those people.

Q. I did not quite understand the distance between you and the group that were protesting?

A. There was a distance of about 200m because when I was shot I was at Angwa/ George Silundika which is about 100m away from Nelson Mandela and Angwa Street. Our work place is near Harvest House.

Q. Did you think of why you were shot if you were not part of the protesting group?

A. When this group of people was running away they passed through where we were. We did not run away. We remained standing there. When this group had just passed that is when we saw the army truck coming.

Q. That is when you were shot?

A. Yes but I think it was just a cross fire. From that area where I was shot they were several gunshots which were made and even some sign posts there are some holes to show that they were some bullets which went through.

Inquiry

A. Munjere

Q. Did you ever receive any expression of a regret or apology, any from the authorities?

A. No I did not.

COMMISSIONER RODNEY THOMAS DIXON (To witness)

Q. I have some question just about the time when you were shot. When that happened or just before that did you see anyone confronting the army or the military going towards them?

A. I noticed that this group of people was against the army.

Q. What do you mean by they were against the army? Were they doing anything towards them, throwing stones at them, anything like that that you can remember?

A. I am saying so because the army went to where these people were gathered and that is when the said people ran away. Before the gunshots they were resisting.

Q. Can you help us with that, how were they resisting. What were they doing?

A. They were advancing to where the soldiers were.

Q. Were they doing anything towards the soldiers, throwing any stones at the them, advancing at them in any way?

A. I did not see that.

Q. Did you hear the soldiers say anything to those people who were there?

A. We were far away from them so we did not hear anything.

Inquiry

A. Munjere

Q. You said people were running away. This is very important. Can you remember if you heard any warning shots being fired or couldn't you tell the difference?

A. At first we assumed that there were warning shots but it was after a few moments when I was then shot.

Q. Why did you assume they were warning shots? Is there something that happened that made you think that?

A. We did not run away since we thought that they were just warning shots and that maybe they just wanted to disperse the mob.

Q. Regarding your injury, from what the doctors had told you do you know whether the bullet was from a rifle or a hand gun?

A. They said it was an AK47 rifle.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. When you were shot or when you were hearing the gunshots and you remembering the visuals for the soldiers, were they in a shooting position? Did you see them in a shooting position?

A. Yes in my view I think they were in a shooting position.

Q. What exactly do you mean?

A. I saw some of them pointing the guns. They were pointing the guns to where the crowd was.

Inquiry

A. Munjere

Q. Would you be able to tell us if it is up, vertical or horizontal or which angle?

A. Some were pointing the said guns vertical but some it was horizontal and they were less than seven.

Q. How many from what you remember were pointing in the horizontal direction?

A. It was just one.

Q. Do you think you saw a bullet coming from the one that was pointing in the horizontal direction?

A. When I saw this person that is when some gunshots started so we then started to run away.

Q. When you were hurt and you saw blood oozing from your hand did it appear to you or did it come to your mind that you should seek medical help?

A. Yes.

Q. How long did it take you to then seek medical help after you were injured?

A. It was after 3 hours.

Q. Why did you take so long to look for medical help?

A. It took me about 10 to 15 minutes to run to Central police station after I was shot so it is the ambulance which delayed to come.

Q. To my recollection you also once said that you continued running bleeding until at a point when you then discovered you were running out of oxygen and getting dizzy

Inquiry

A. Munjere

and you continued running with the others until at that point. This is why I am trying to figure out how long it took you then to make that decision to go to the police?

A. When we were running away they were also many people who were running away and we were using the same direction so it was at a later stage when I realised that if I was going to continue maybe I was going to die. My friends were assisting me. They were holding me when we were running away.

Q. When the doctors told you that the bullet is likely to be from an AK47 did you check from them whether they are talking from their medical point of view or from a forensic specialist?

A. I would not know maybe it was their observation because myself I thought I had just a single wound but they told me that the wounds were two, the entry point and the exit point.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Mr Munjere you don't work from inside a building you work from outside?

A. Correct.

Q. You said you saw the police passing by through Inez Terrace and they did not take action. What did you expect them to do?

A. We expected them to stop the crowd since we wanted to continue with our business.

Q. You also said in your testimony that you saw an army truck and you think that they are the ones who shot you. At what stage did they get out of the truck? Were they shooting from the truck or from outside?

Inquiry

A. Munjere

A. There was a big truck which was just moving around and they were about 7 or so soldiers who were walking outside but they were in front of that truck and that truck was moving following them.

Q. From your narration it appears that the bullet hit you from the front to the back of the elbow?

A. Yes that is the explanation I got from the doctors.

Q. Would it then not suggest that you were shot from the front? Did you hear it coming through front or through the back?

A. I did not hear anything but it was just a movement which I heard and it was at a later stage when I saw blood.

Q. So where you were advancing to they were no people carrying guns?

A. We were just curious of what was happening so we were just packing our goods whilst we were at corner Angwa.

Q. I just wanted you to explain because you said you were shot when you were already running?

A. I started running when I got shot.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. The ambulance came to pick you at some sport. Was it called by the friends who were helping you as you were running away?

A. Police officers from Harare Central phoned the ambulance.

Q. And at some point did you pass out. As you were running you felt dizzy and weak, did you lose consciousness at some point?

A. When my friends had gone I went through a sanitary lane which is between Robson Manyika and Julius Nyerere. The security guard who was there opened the gate for me. I met some ladies some tailors who saw me staggering and they took some cloth which they then tied my arm with. I was now dehydrated so they gave me water to drink. When they had tied my arm so as to stop the bleeding they then assisted me to sneak into Harare Central. They were some Riot members of police who were surrounding Harare Central. Out of pity they then created a way for me since I was now confused. That is how I then managed to go to Harare Central.

Q. So the ambulance picked you up at Harare Central?

A. Yes police officers called for an ambulance but it came late.

Q. And they took you to Parirenyatwa hospital?

A. Yes.

Q. And were you operated upon arrival or a day later?

A. It was on the following day when I was being operated.

Q. Having being operated how long were you kept in the hospital?

A. On the first occasion I was admitted for 6 or 7 days.

Q. At what point did the doctors for Human Rights examine your wound and determine that mistakes were made in the first operation?

A. It was a month after the plaster had been removed.

Inquiry

A. Munjere

Q. So they examined the wound and felt that the first operation was not quite correctly handled?

A. They assisted me with the payment and I was referred to a specialist.

Q. So it's the specialist who made the determination?

S. Yes.

Q. And advised that second procedure must be performed?

A. Yes.

NO FURTHER QUESTION

WITNESS EXCUSED.

EVIDENCE LEADER THABANI MPOFU

If I may call our third witness for the day Mrs Stella Matsengarwodzi. She is witness number 2 on today's list.

STELLA MATSENGARWODZI : SWORN STATEMENT

Q. Mrs Stella Matsengarwodzi are you employed?

A. Yes I am.

Q. Where?

A. ZANU PF Provincial headquarters.

Q. Were you on duty on the 1st of August 2018?

A. Yes.

Q. Can you please narrate to this Commission that which you witnessed on that 1st day of August which relates to the business of the Commission?

A. On the 1st of August 2018 and at around 2pm we saw a mob which was at Engen. When we saw them they were being addressed. There was a green vehicle so I called my workmates to come and see that. There was also a young man who was wearing a red T-shirt. They started to sing some songs where they were saying we want Chamisa and we do not want Mnangagwa since he is a thief. That young man who was wearing a red T-shirt went and removed the banner which had the portrait of the President. After a short time that is when they started to throw some stones at us. We sustained some lacerations because of the glass particles all over our bodies. They threw some stones at the office and it was for more than 2 hours and no one came to our rescue. I could hear some other people crying from the other office and we were also crying while we were in our office. We then crawled and went under the tables to hide. After sometime that is when we started to hear some sounds and we could not figure out if they were bombs or what. We then started to suffocate because of the smoke which was coming from outside. That is when two members of army came and they asked if there are any people inside. They said the office was now on fire and also the vehicles which were outside were now burning. When I was going outside I saw a police officer who was in his police uniform hiding at a corner. We were then assisted by those members of army. Outside there were some people who were armed with metal objects and also some knives and stones. When we were leaving the office they were saying that they were trained to kill. That is all what I saw.

Q. You said they were at Engen garage. How far is this place you refer as Engen, how far is it from where you were?

A. Its not far it's very near.

Q. Can you estimate?

A. There is just a road in between.

Q. How big was this group that initially gathered at Engen?

A. They were many.

Q. And you said you then started hearing the sound of stones being thrown at your windows. Did this group advance or they were throwing from across the road?

A. They came running so they were surrounding the office.

Q. Was your office downstairs or upstairs?

A. Upstairs.

Q. Which floor?

A. 1st floor.

Q. You said you sustained injuries on your body is that correct?

A. Yes it's true I even sustained some injuries in my eyes. They were some glass particles and I am having some difficulties I cannot turn back and my back is still in pain.

Q. Did you seek medical attention?

A. We were not treated. We thought that maybe Human Rights personnel were going to assist us but they did not.

Inquiry

S. Matsengarwodzi

Q. When were you then attended to, you said some glass particles were removed from your eyes is that correct?

A. Yes. It was at Red Cross Society.

Q. So was it on that very day when you got medical attention from Red Cross Society?

A. Yes.

Q. Did you get a medical report for these injuries or you did not?

A. When I was now at home I went for some X-rays but I was never assisted by any members.

Q. In this room where you say you were in how many were you when you sustained injuries?

A. I was with a certain young man by the name Tapiwa.

Q. Were there any other people who sustained injuries at this building on the day in question?

A. Yes many people sustained injuries and they are going to come and testify.

Q. And on the cars, you said they were cars that were burnt outside?

A. Yes many cars were burnt.

Q. How many were there?

A. The one for Provincial administrator, Roy Jani's vehicle, Mrs Magadu, my vehicle, private vehicle to the PA and also Mugwara's vehicle was burnt. With all due respect

Inquiry

S. Matsengarwodzi

we would want the Commission to come and see what took place at the office. They was also a bus which was burnt which belongs to the Chairperson for the youth.

Q. What was the value of your vehicle that was burnt on this day in question? What value would you put on it?

A. Many vehicles were burnt and each and everyone gave a report to the damages. The damages were different and some of the vehicles are still being repaired.

Q. But your vehicle?

A. Mine is at the garage and its being repaired.

Q. What value would you say the damage is?

A. I think its \$3 000-00.

Q. I have no further questions for you but the Commission will now be asking you some questions if any. Are you composed enough to continue giving evidence?

A. Yes I am composed.

Honourable Chairman and the Commissioners your witness.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (to witness)

Q. Apart from the two soldiers who came into the office and the policeman who was hiding somewhere did you notice the presence of any other soldiers or police in the area?

A. I did not see anyone who came to our rescue during that time except for those two soldiers who came and said the office was now burning.

Inquiry

S. Matsengarwodzi

Q. The two soldiers said your office was burning?

A. We were told to go outside since it was most likely that the office would then burn because the tanks were bursting outside.

Q. Did the fire ambulance come to put off the fire? Did they come to the office?

A. Nothing up to date.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Would you like to confirm to us what I see in your written submission that you saw Tendai Biti and Jim Kunaka addressing the mob to attack you?

A. They were at the scene and Tendai Biti's vehicle was there and the doors were wide open and the vehicle was in front of the mob.

Q. What sort of time elapsed between address to the mob and the mob attacking you and the others?

A. After the address Biti's vehicle left and the young people who were there started to run and they were shouting that we want Chamisa and down with Mnangagwa who is a thief.

Q. So their attack was immediately after the address by these two people?

A. It was within seconds not minutes since we were near them.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Are you able to do your duties at work now?

Inquiry

S. Matsengarwodzi

A. I am finding it difficult since I cannot sit for a long time because I was hit on my back with some stone. I am also having some difficulties with my sight since I sustained some injuries in my eyes.

Q. Does your mind trouble you?

A. Yes I am troubled in my mind. Even when a plate is thrown on the floor I just get scared and I would be shivering.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much Stella we appreciate your testimony and we will arrange for the Commission to do an inspection in loco at some point.

BRIEF ADJOURNMENT

RESUMED

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Our next witness is not on the list of today`s witness she is a family representative of one of the casualties of the 1st of August incident. Marian Chidamba. She is not part of the list. No statement was recorded from her.

MARIAN CHIDAMBA : SWORN STATEMENT

Q Mrs Chidamba you confirm you are a sister to the late Sylvia Maphosa?

A Confirmed.

Q And it is correct that she passed on the 1st of August 2018?

A Confirmed. That is the correct position.

Q Can you tell this Commission that which you want them to know pertaining to the death of Sylvia?

A Sylvia Maphosa was a church leader at Artcone .On the 1st of August I was at work. I am employed as a registered general nurse. As I was at work I cannot recall the exact time but in a whatsapp group I saw messages to the effect that they were people who had been shot in town. I viewed a whatsapp picture where I managed to identify the now deceased Sylvia who was lying on her tummy. I called my uncle Mr Maphosa. I also managed to identify her through the dress that she was wearing. I called my brother in-law Mr Maphosa citing that there was a possibility that she was at Parirenyatwa hospital or Intensive Care Unit (ICU) at Parirenyatwa Hospital. I drove from my work place that is in Glen view. I used Beatrice Road. The road was blocked by soldiers. Those soldiers did not stop me since I was speeding. I then proceeded to Parirenyatwa Group of Hospitals. I was wearing my uniform. At Parirenyatwa I proceeded to the casualty, Mortuary and also the Intensive Care Unit.

I enquired from the matron. I also enquired from the mortuary but they said they had not yet received any body. My brother in-law arrived together we proceeded to Harare Central Police Station. We saw the officer who was on duty. It was after 6.

The officer on duty requested us to give a description of our relative. I explained the dress that she was wearing, the name of the now deceased that is when we received the sad news that she died on the spot. I requested to see the body of the now deceased however we were referred back to Parirenyatwa group of hospitals. We were to wait for the body at Parirenyatwa hospital. We proceeded to Parirenyatwa hospital

where we waited at the entrance to the mortuary. First two bodies arrived. We checked on those two bodies after being allowed to do so by the hospital personnel but that was not one of our relatives whom we were looking for. Those ones were bodies for male persons.

The young sister had joined meaning to say we were three by then. For an hour we waited. A truck with the body arrived. When the body arrived she was lying in a coffin. She had been made to lie on her tummy. She was taken out of the coffin where we observed a wound from her chest to her back.

The dress that she was wearing had been torn. I washed that dress. From the look of things it seemed as if something entered thereby tearing the dress.

According to my brother in law, my late sister left her car in the morning because it could not start. When she phoned him after three she told him not to come to town because there was violence. The reporters indicated that she had a shop. I want to put the record straight. That is not the correct position. I own a shop. However we look alike.

A certain person came to see us. From that person's version our sister was shot by a soldier whilst she was holding her handbag. She was shot from a close range. She tried to plead with the same soldier who shot her. That is all.

Q. How old was Sylvia?

A. She was 56.

Q. You confirmed that she was coming from her work place. Where was her work place?

Inquiry

M. Chidamba

A. She was employed at ZINWA which is situated at Old Mutual Building.

Q. Do you have the name of the person who said she witnessed the shooting?

A. Yes I can bring the information.

Q. And be able to provide it to the Secretariat after your testimony?

A. I will do so.

Q. I have no further questions for you but I will hand you over to the Commission if they have any questions for you.

HIS EXCELLENCE HONOURABLE MOTLANTLE

Thank you very much. Commissioners any questions.

COMMISSIONER PROFESSOR CHARITY MANYERUKE TO WITNESS

Q. Were you able to talk to the doctors, the pathologists?

A. I did not go to Parirenyatwa hospital. But as they were at Parirenyatwa , they sent me a picture. On that picture it was a death certificate. The cause of death was as a result of a stabbed wound.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU TO THE COMMISSIONERS

Maybe if I may advise the Commission that the post mortem report is actually in the file but towards the end unfortunately it's not numbered.

COMMISSIONER PROFESSOR CHARITY MANYERUKE TO WITNESS

Q. Was any member of the family able to talk to the doctors about the post mortem?

Inquiry

M. Chidamba

A. Yes members of the family spoke to the doctors. Doctors of human rights also intervened because to us we were going to have difficulties if we accepted post mortem report which indicated that the cause of death was s a result of a stab.

Q. What did the doctors say to the family was the cause of death?

A. The cause of death was corrected and they indicated that she died as a result of a gunshot wound.

Q. Were there any further investigations that were conveyed to you which happened after that death certificate was issued?

A. Nothing was communicated to us.

Q. Thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO TO WITNESS

Q. Let me convey my personal condolences to you. Was your sister a member of a political party?

A. No.

Q. As far as I could ascertain was she part of the protesting group when she was shot?

A. No.

Q. Why do you think she was shot if she was not part of the protesting group?

A. They acted out of cruelty. It was just being cruel. Checking with her age, she was not in that age group where she could have demonstrated. She was big.

Thank you.

COMMISSIONER RODNEY THOMAS DIXON QC TO WITNESS

Q. Thank you very much for your testimony. I know how extremely difficult this must be. You just have to try and assist us. The death certificate that was filled incorrectly with the stab wound, do you know who filled that or who authorised it to be filled in that way.

A. There is a signature on the death certificate. That same doctor was on duty on that day in question.

Q. Was it that doctor who then changed it once you challenged it?

A. Yes.

Q. Did he give any reason why he had made a mistake in the first place when you challenged him?

A. From the look of things, the doctor was getting instructions from higher offices. He was not acting as a professional doctor.

Q. Did he tell you that?

A. At first after he indicated that the cause of death was a stabbed wound, the family challenged him. He cancelled and indicated just slightly above where he indicated that it was as a result of a gunshot. We even challenged him again saying it was not proper for such documents to be cancelled.

Q. You mentioned higher officials, did he give you the real name of the person who told him to do that?

A. The doctor did not disclose the names of those people who instructed him or her but when doctors for human rights later came with the intention of conducting the post mortem on their own, that doctor then did the proper thing.

Q. Do you know the streets where the shooting took place. The street, outside which shop?

A. Behind TM there is that road which I can recall its name which is just in front of railways. It's Kenneth Kaunda and Innez Terrace as you will be coming from Harare Central Police station. We visited the scene where we found those young men who wash vehicles spreading some soil just to cover some blood.

Q. It could assist if you are able to point that answer on a map which can be done with the Secretariat so we know exactly what that was and we might go there as well to see the scene.

A. Yes I can.

Q. You heard that fateful shot was fired at very close range. Is that what you were told?

A. Confirmed.

Q. You know if it was one shots, or two shots or how many?

A. From my experience, what I have seen before in relation to gunshot wounds, I only saw one wound from the chest to the back.

Q. Thank you very much for your testimony and your time. This would have been difficulty for you to deal with you but we thank you enormously for your evidence today.

COMMISSIONER PROFESSOR CHARITY MANYERUKE TO WITNESS

Q. Just a follow up question. Where the doctors able to explain to you between the stab wound and the gunshot wound.

A. No.

Q. Thank you very much for your response.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU TO WITNESS

Q. My condolences to what happened. I just wanted you to assure us of one thing. To be sure that you appreciate the importance of us having that person who said to you they saw what was happening.

A. Yes I am seeing the importance of that person.

Q. And just to confirm that you have said that you will do everything possible to assist us to get to that person and possible to have them give us evidence.

A. I will assist.

Q. Thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO TO WITNESS

Q. Just a follow up question. Who did you say was covering the blood on the spot where this thing happened?

A. Those young men who clean vehicles in town. Car washers.

Q. You think they were doing that out of a motive or they were just doing that in the course of washing cars?

Inquiry

M. Chidamba

A. The were emotionally disturbed with the incident that is the reason why they were covering the blood.

Q Thank you.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE TO WITNESS

Q. I also wish to extend my profound condolences. Those people you found covering blood with soil, those who wash cars, if you happen to meet them again will you be able to recognise them.

A. No.

Q. Thank you.

CHAIRPERSON HIS EXCELLENCE HONOURABLE MOTLANTLE TO WITNESS

Q. Mrs Chidamba our condolences to you and your family. Thank you very much for your readiness to furnish the Secretariat with the name of the eye witnesses. The person who witnessed this tragic indecent. It would help us a great deal if you could also furnish us with names of the person the family was dealing with from among the doctors for Human Rights as well as the name of the pathologist who did the first post mortem report.

A. I will do.

Q. Thank you very much. You may step down.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU TO THE COMMISSIONERS

We call upon our next witness Mr Johannes Mutanda. He is witness number 7 on

Inquiry

J. R. Mutanda

today`s list.

JOANNES RAIRE MUTANDA : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU TO THE WITNESS

Q. Mr Mutanda you confirm that you are employed as driver at Zanu Pf Provincial Head Quarters.

A. Confirmed.

Q. And is it correct that you were on duty of the 1st of August 2018?

A. Quite confirmed.

Q. Can you please tell this Commission that which you witnessed on this day pertaining to the issues that are before the Commission?

A. On the 1st of August 2018, I went to work as usual. We worked well since morning to around 2pm. That period between lunch our 1 and 2pm. As we were in our offices we saw MDC supporters. They were marching from engine getting into the rank armed with metal objects and stones. They climbed on a bill board banner where there was a portrait of His Excellency the President. They removed that portrait and burnt it. We were seeing them from our office which is in the first floor. Through the windows we could see them. After burning the President`s portrait they advanced to our offices. They started throwing stones. Others scaled over the pre-cast wall. A police officer who manns our offices tried to scare them away by firing warning shots. Others ran away but they later returned. They kept on throwing stones. There was nothing that we could do. We called for help. Our superiors that is the PA tried to

raise the police head quarters together with the officers who were at our premises so that more officers could come. Within a short space of time I attempted to escape from the building out of fear because the young man who were part of the demonstrators were saying let us set ablaze the building.

When I tried to leave the offices I realised that it was not possible for me to do so. We returned to our offices where our colleagues were hiding. After some time a police vehicle from Support Unit came. It was stopped at our gate. We thought we were going to be assisted. The MDC supporters stopped pelting us with stones . We thought the police officers were going to disembark from the police vehicle but they remained in their vehicle then one of the officers, I would like to believe he was the one who was in charge, disembarked.

That officer went on the roof of that vehicle which they were using. That is a police vehicle. He indicated to the supports by demonstrating using his hand. “saying taking it easy. The protesters to be specific the MDC supporter then realised that there was nothing which was being done to them by the police officers. Some of the protesters climbed on the same vehicle waving with open palms. Had it been that the police officer disembarked or acted our vehicles were not going to be burnt. There was no destruction which was going to be done.

The police vehicle was driven away from our gate. After that the protesters then charged towards our offices. As all this was taking place, I was at the door. Our door is made out of strong material so some of the stones could hit the door but I could manage to peep through seeing what was taking place.

After sometime water Cannon for police officers came. It was spraying water. The protesters slightly dispersed. I seized that opportunity. To me it was a chance to escape. I left our offices going down stairs whilst I was running. In a bid to do so I was hit slightly below my ribs. (*The witness has indicated touching below his right ribs*). I managed to get in my vehicle which I drove off. I tried to leave using the eastern side. They were many protesters covering the road. When I tried to return to the office by way of reversing other supporters, those protesters who were on the other side then blocked the road again, meaning to say, the road was now blocked ahead for me and behind me.

I engaged my gear. Infact I stopped realising that there was nothing that I could do, he engaged my gear. We decided to drive straight towards where they were. When they saw the vehicle approaching they ran away thereby dispersing. That is how I managed to disperse them. I took the vehicle to a safe place. I returned to the offices. I told myself that I had to go and check how they were. I was at the area which is closer to bakers Inn, which is a distance of about 50 or so metres from our offices where I could see what was taking place at our offices. I saw young men who had set ablaze the vehicles which were parked at our offices so those vehicles were burning. Those vehicles were burnt to ashes.

After a short space of time soldiers arrived and the protesters subsequently ran away. When the soldiers arrived I returned to our offices that is when our colleagues who were in the offices these ones who could not escape managed to leave the offices. They were assisted. That is what I witnessed.

Q. You said this group where MDC protestors, why do you say so?

A. Some of the youths were wearing T-shirts with Chamisa's portrait. They were also chanting slogan saying, 'Chisa mbama chisa.'

Q. How big was that group, rough estimation?

A. They were many. Covering all the yards surrounding the area. I think around three hundred.

Q. Were you in the same office with Mrs Stella the witness who gave evidence just before the break?

A. We entered many offices. At one point we entered in her office that is the previous witness's office. Her office faces engine directly opposite engine, so we entered in her office.

Q. Other than the burnt vehicle and the bill board that you say was set ablaze, was there any other damage to the building that you witnessed yourself?

A. All our office windows were smashed, computers were destroyed, boards partitioning were also damaged. I am happy because I had the Commissioners citing that they will conduct an inspection in loco. So they will see some off these things on their own because some of the boards have not yet been repaired. Only window panes were repaired.

Q. Would you know the value of the damage to the property or it's not within your rank?

A. I do not know. The P/A is in a better position to answer to your questions.

Q. Who is the P/A?

A. Comrade Muzanhenhamo.

Inquiry

J. R. Mutanda

Q. Did you seek any medical attention since you said you were hit by a stone below a rib cage?

A. Just opposite our offices, there are offices for Red Cross so when the situation calmed down the personnel from Red Cross came to assist us. They gave us some medication.

Q. Where there any other people who sustained injuries that you saw on the day in question?

A. Comrade Roy Jani was hit on the head. He heard some stitches on his head. Mrs Matsenga was also hit on her back and she was also injured on her leg.

Q. Is Mrs Matsenga the witness who testified before the break?

A. Correct.

Q. Thank you very much. I have no further questions for you but I will hand you over to the Commission for any questions.

CHAIRMAN: HIS EXCELLENCE HONOURABLE MOTLANTLE

Thank you very much. Commissioners any questions. Yes General.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE TO WITNESS

Q. You said the soldiers finally arrived?

A. Confirmed.

Q. What did they do upon their arrival?

A. As soon as they arrived at our offices the protesters ran away then the soldiers came to our offices assisting workers to leave the offices.

Inquiry

J. R. Mutanda

Q. Did they use their weapons in any way?

A. Not at our offices.

Q. Thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q. You said when the police came, the person who thought was their leader climbed on top of the vehicle trying to pacify the protest and that some of the protesters then climbed on the same vehicle. Did they climb at the same time?

A. Yes he was still there.

Q. So he and the protesters were together on top of the vehicle?

A. That is what transpired.

COMMISSIONER VIMBAI NYEMBA

Q. Why do you think the protesters ran away when they saw the soldiers and they did not run away when the police came?

A. I think that question can be answered or responded to by the protesters. They are in a better position to explain why they fled after seeing the soldiers.

Q. If the police did not take action, why do you think they had come to your place to do?

A. We honestly do not know. To us it was better for them not to come because they did not assist.

Q. And you had not been given any assistance by the police who manned your premises as well?

Inquiry

J. R. Mutanda

- A. There was one police who was manning our premises. He tried by firing warning shots. They would disperse after he had fired warning shots but they would return again.

COMMISSIONER RODNEY THOMAS DIXON QC TO WITNESS

- Q. On questions arising from that. You said the police also used water Canon?

- A. There was a police vehicle which passed through spraying water.

- Q. Did the demonstrators disperse when that happened from what you saw?

- A. Very few dispersed. That vehicle passed through that road which is closer to Road Port. So those ones few protestors who were on that site ran away but those ones who were on the other side did not run away.

- Q. And you said the warning shots did work. It made people disperse but they may come back. Did they fire more warning shots then?

- A. Maybe specify. Warning shots from the officer who was manning our premises or?

- Q. From that officer who fired shots once and they went away. Was it done again?

- A. The officer who was manning our premises fired warning shots several times up to a point where he said he was running out of bullets.

- Q. Each time people dispersed but then they came back again is that what you are saying?

- A. That is what they were doing.

- Q. Thank you.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (TO WITNESS)

Q. My question is a follow up question to what Commissioner has raised. The issue of water Canons. If you can remember visualise what was happening with this water, was it just water, pure water?

A. In my view it was just pure water. Had it been that it had some chemical the protestors could have dispersed.

Q. Can I also check the force of the water from your point of view is it water which was like very light showers. Did it have the force of dispersing people or was with low force.

A. The water which was sprayed from the water Canons had no force. I once witnessed where the same water was sprayed, people can even fall.

Q. My last question chairman. Were you able then or even know to identify anybody who was amongst the demonstrating crowd?

A. I did not manage to identify any one member from the protestors?

Q. Thank you very much.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q. At what time approximately did you as the office workers fell under threat?

A. Soon after burning that banner with the President`s portrait as they were climbing over the durawall into our offices.

Q. Approximately what time of the day was it?

A. Around 2pm.

Q. And the police who were in the vehicle who were already outside?

A. No they came at a later stage.

Q. Approximately what time?

A. I think it was after an hour or so because for about an hour we were being attacked at our offices.

Q The water Canon which gave you the opportunity to leave the office around what time was it? Remember the water Canon started spraying water and some of the demonstrators dispersed and Mr Mutanda got a chance to sneak out of the office. More or less what time was it?

A I think it was after an hour or so again.

Q. After an hour of the arrival of the police or after an hour of the commencement of the attack?

A. After the arrival of the police officers who were at the gate. The police officers who came to the gate where the ones who first arrived and this truck then came at a later stage.

Q. Now the soldiers who eventually arrived and got the demonstrators dispersed what time was it?

A. If my memory serves me well it was between 4 and 5.

Q. So it is correct to say that the office was under siege for 3 to 4 hours?

Inquiry

J. R. Mutanda

A. Yes.

Q. Did you ever observe the soldiers liaising and consulting with the police or the police liaising and consulting with the soldiers?

A. I did not witness anything of that nature.

Q. So by the time the soldiers arrived the police had already left?

A. Yes they had already left. It was actually after some time.

Q. Thank you very much Mr Mutanda for availing yourself to testify before the Commission. There is no further questions. You are free to step down.

A. Thank you.

ADJOURNED FOR LUNCH BREAK 13.20

RESUMED AT 14.00

EVIDENCE LEADER: MRS FORTUNE CHIMBARU TO THE COMMISSIONERS

Q Good afternoon Commissioners. Well come back. If we may proceed to call our 7th witness for the day Mr Peter Makani.

PETER MAKANI : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Peter Makani is witness number 9 on today`s list.

EVIDENCE LEADER MRS FORTUNE CHIMBARU (TO THE WITNESS)

Q Mr Makani where do you reside?

A. I reside at number 2196A Epworth.

Q. Can you tell this Commission that which you know happened on the 1st of August relating to the business of the Commission?

A. Yes.

Q. Can you proceed?

A. Firstly there is a man by the name Etherege Kureva who belong to MDC Alliance. I was travelling with them as a member for MDC Alliance also. Before going for general elections during primary elections. Etherege Kureva exhibited to us that he is of violence disposition. We rebuked him when we held primary elections our Member of Parliament that is within the party. We had to rebuke him after he attempted to vote but according to our regulations or rules within the party only registered members, those who would have produced that voter's slip were allowed to vote during the primary elections. He secretly produced a fire arm in his pocket which he showed to members of the public. All the people insisted that he was not to vote. Because of that we did not proceed to conduct the primary elections. He mentioned my name and Adam Kazembe's name. He indicated that we caused all that and he was going to deal with us. After a short space of time, Youngman by the name Newker and Edmus went to Kazembe's house where they were throwing stones whilst Kazembe was in the house, he went to make a report. They went to Court with those two gentlemen.

Before the lapse of the week towards the elections on the 30th I was assaulted by Edmus whilst he was with his colleagues so they assaulted me together. I made a

police report. *(The witness has produced a small, paper here. The RRB. It's RRB3605060 which was written in room number 2.)*

Q You said it's RRB what? If you may repeat the number?

A. RRB36050060 underneath it's written room number 2.

Q. Which Police Station is that?

A. Epworth police station. All this transpired before the general elections.

Q. On the 1st we already knew who won in the Parliamentary elections and also the successful candidates in respect of councillors.

A. I was then approached by Etherege Kureva who said you were saying I was not going to win. A meeting was convened at Matthew's place of residence. I do not know the room number but we are neighbours.

Q. He came where he explained to the people who were at the meeting that they had not yet won the elections. To them they wanted to win the presidential elections. They wanted their candidate to win so he instructed people to put on red T-shirts and proceeded to town. Those who were leading was Etherege Kureva and Elias Sithole who won in ward 5. The meeting was convened in Ward 5 at Matthew's Sithole's place of residence. He gave \$2 to each individual when I arrived. As all this was taking place there is tuck-shop at our place of residence and there is a distance of about 110m from where the meeting was being convened at. There is also a snooker at our place of residence. So all those who attended the meeting passed through our place of residence. We would talk to them since we live in the same neighbour

wood. I consider them as my relatives. I am one of them in the party. We meet discussing, planning on what we are supposed to plan.

I was not involved in the meeting because according to Etherage. I think he still had issues with me since I insisted that he was not supposed to vote since he had no voter's slip. He chased a number of people not myself only saying that group was indentifying with me so we were not supposed to be in that meeting. The meeting was convened at 10 o'clock . Members who were present were given \$2 each and the they were advised to go. There was a number so about 200 people. Some of those people did not go to town. Some remained. We were even playing snooker with them during the day.

Joseph Kangoma who was an uncle to Challenge Tauro who was dread locked he also died at the spot. His uncle refused to go but Challenge proceeded to town. We remained. I was called by my brother who wanted to pay for utility bills at council offices. After paying for the utility bill he then said we were to go and wash our vehicle and also look for food. As we were eating the person with an office at the car wash called us where he was seeing through a television what was taking place in town. From the televisions I saw police officers who had mounted a block. People where throwing stones and several objects but police officers could not do anything because those people were charging towards them. That is what've I witnessed on the screen. My brother answered to a phone call where he said had it not been for soldiers they could have managed to control the people who were demonstrating.

So that is all I can say. I have started at the end but coming back to Etherage Kureva.

It clearly shows that he had plans before the elections which were then manifested after the elections. That is all.

Q Are you a card carrying member of the MDC Alliance?

A. Yes.

Q. And all these other people you were mentioning Edmund and the others, they were all members of the party.

A. Yes they are members of our party. We would be together during meetings even after meetings.

Q. Do you know this Challenge Tauro the dread locked man you said died on the spot?

A. Yes I knew him we were leaving in the same neighbourhood. In a high Density suburb, where from each stand you go to the other one. The houses are closely packed. His uncle is also my friend. His uncle is a member of the party. Etherage was also a member of the party. Challenge was buried in Mazowe not in Epworth. Etherage send some people to gather information. They wanted to assist at Challenge`s funeral. They were saying they were from pressure groups which were aligned to MDC Alliance. They wanted to assist victims so they were checking on whether we knew some people who were affected. No-one assisted at his funeral. Even his uncle was mourning. He can come and give evidence. That is the uncle to the late Challenge.

Q. When you say he died on the spot you mean to say he died when they come to town during the violence?

- A. Confirmed. To a normal person, if you see people who will be demonstrating were there will be violence. You do not go there. You find another way trying to avoid that place that place where people will be demonstrating at.
- Q. Do you know the cause of death?
- A. He was shot because I had seen him in the morning whilst he was walking so only to see his name from the list of the people who had been shot.
- Q. Other than Challenge was there other person who was shot from the group that you saw coming from Epworth?
- A. There is one person who was injured. He refused to come and give evidence. I think if it comes to him that there is this inquiry he will then disappear.
- Q. Do you knows his name?
- A. He is an elderly man known as Madzibaba. I do not know his name. You know with elderly people.
- Q. You said form what then happened it showed that Etherage had a plan which later manifested on this day. What was this plan in your view?
- A. What happens is when you go for primary election, you will not be a single candidate, there will be other candidates who you will be contesting against. There was Jeremiah Bamu, Togarepi Zivai Mhetu. And other candidates who were contesting. They were about 15 candidates. So that is when he was fighting with these other contesting candidates. He made people to assault me. On the day he produced a gun I actually saw a gun , because if you produce a pen I can tell , I can tell that this

is a pen but on that day it was a gun which I saw. This was done on different date in different wards. The way he was threatening people producing firearm and I am one of those people who was threatened. After causing you to be assaulted and also threatening you, if you make a police report, he will engage legal practitioners so that those people will be released.

You can even confirm with the police. After making a police report, police officers from the law and order section would come to arrest those who would have committed the offence but after two or three days the same people, will be walking scot free. So from that we were afraid even of making a police report against him considering that we are also family men. We have dependants. We were afraid that our children could be affected. Which is the reason why I did not pursue my matter after making a police report. I knew that if something happened he would come and attack me. The Commission if possible can come. There is evidence on the ground where they will see when these matters were reported and also what I am saying.

Q. So in other words you just describe him as a violent person?

A. Correct.

Q. In your view what caused the events of the 1st of August. Did you hear the mission that was given to the group before they left for town?

A. Had it been that these party members which I referred to that is the member of Parliament and the Councillor remained at their place of residence since they won their position they were contesting for there was not going to be violence in town but in this case they were after the position of the president. They wanted to remove the President.

Inquiry

P. Makani

Q. Which President?

A. The current President. His Excellency Emerson Mnangagwa. Lastly I would like to say what was done by Kureva that is bringing money which he gave to people. Coming for that meeting where he encouraged people to go to town, there was not going to be violence in town and no-one would have died.

Q. Thank you very much. I have no further questions but I will now hand you over to the Commission if they have any questions.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q. Thank you very much. Any further questions.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU TO WITNESS

Q. Just if you may clarify. Etherage Kureva is he an MP or a Counsellor?

A. He is the current MP even on the 1st of August he already knew that he was the MP.

Q. So is that correct that this is the person you are saying was responsible for organising people to go to town?

A. Confirmed.

COMMISSIONER VIMBAI NYEMBA

Q. If you could clarify sir. You spoke about a certain Madzibaba whom you said he would not even come here for some fears. Would you want to elaborate who he is and what fears he would have to come to the Commission?

A. I cannot say it is out fear no, but since he was there he knew that was against everything that transpired. He could have come and also gave his evidence.

Q. What part did Madzibaba play?

A. Madzibaba myself and other members for the MDC Alliance they convened a meeting. If they wanted that meeting to be an in-house thing it was maybe going to be convened in a building or a house but in this case it was done outside .We had ample opportunity even to those who were passing by to also participate.

Q. Did everybody who was given the \$2 get into town on that particular day?

A. Many people where given the \$2 each. Some proceeded to town but others spend the money like what I am saying.

Q. If Etherege was the organiser of that why did he not accompany the people into town? Why didn't he stay behind?

A. He decided to send other people because he knew that he was already part of the government so he decided to hide acting behind the scenes.

COMMISSIONER RODNEY THOMAS DIXON QC TO WITNESS

Q. Could I please or ask you sir, you have said you believe it's Mr Etherege's role. Wasn't it? But I am interested to know as well as all the Commissioners what was the role police or the army as far as you might have known facts but if you know anything you can help us with that. We would appreciate your views.

A. I have no comment on the actions of the police because I was only seeing this through the television . I have told this Commission what I know.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q. No further questions. Thank you Sir.

Inquiry

P. Mavenga

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

May I call the next witness Precious Mavenga.

PRECIOUS MAVENGA : SWORN STATEMENT

Q. Correct you reside at number 39 Castern Road Belvedere Harare?

A Yes.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU TO MEMBERS OF THE
COMMISSION.

Sorry honourable Chair and Commissioners if you may note that Precious was scheduled for tomorrow. She is on tomorrow`s list the 19th. It`s not even tomorrow it`s the day after tomorrow the 9th. But she said she is only available today that is why we have slotted her in.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (TO WITNESS)

Q. Precious confirm you were in town on the 1st of August 2018?

A. Confirmed.

Q. Can you tell this Commission that which happened on that day that relates to the business of this Commission?

A. Yes.

Q. Can you please proceed?

A. I am a vendor conducting my business along Nelson Mandela between Angwa and First Street on the side where there is TV Sales. On the day in question I had come as

usual to conduct my vending business. People were singing dancing celebrating at MDC headquarters. I was selling my wares at TV Sales until around 1pm. When I realised that the number of people had increased speakers had been taken outside. Those people were singing and dancing. I decided to take my bibles to my clients where I normally supply them at. I took my boxes outside that is at Roselyn where I called a taxi driver to come and pick. The taxi was supposed to simply reverse from OK shop to Roselyn where I would then take my bibles and go. I saw soldiers who were running from 1st street going towards Nelson Mandela where people had gathered. I was nearly a spectator since there was no violence doing my business which brought me to town. I was not afraid because I was doing my business I remained at my place where I conduct my business at. They kept on calling out whilst they were armed with items maybe I can say they were like shamboks. They had guns also which they were carrying. As they were coming from 1st street initially I thought they were only after those people who were singing demonstrating but I later realised that they were dealing with everybody who came on their way as they were approaching. (I will retake that again instead of using the term demonstrators she said those who were singing, dancing and celebrating.) When I realised that they were assaulting everybody using the shamboks which they had, I left my bibles where I had put them in boxes and the other boxes were on top of the other. I then ran along Nelson Mandela facing Angwa Street. I could not outpace them. As I approached MDC offices at that place, I was running on the pavement since I was on a pavement where my bibles were also. Because of the impact which I felt on my back, I thought that I had been pushed, I hit against the ground. Four soldiers who were wearing army uniform came. All the four soldiers started assaulting me using the Shamboks

which they were armed with. As they were assaulting me they were saying, ‘What are you looking for in town?’ I told them that I am merely a vendor. I wanted to take my bibles to Methodist church along 3rd street at Methodist headquarters. They went on to say we are looking for you vendors. You are misleading us that you are vendors merely for conducting business whilst you are MDC members.

They went on to say with the person whom they made the leader he was going to make sure that the town was cleansed. I had a cellphone which hit against the ground and it was subsequently damaged.

If you were reading newspapers local and foreign papers I was the person who came out on the front page wearing blacks clothes. I was putting on a black trousers , cream jacket, and also beige shoes as I was lying on the pavement being assaulted. I tried to talk to them, so that they could set me free in order for me to take my bibles where I was supposed to take them. They kept on assaulting me. From there they instructed, me to stand up and take the direction going towards Angwa leaving my bibles where I left them.

That is what happened on the day in question. I later managed to walk. They were no commuter omnibus in town. I only got a committer omnibus when I was closer to OK Marimba. I proceeded home. I later managed to talk to someone telling him that I sustained injuries I was feeling some pain from my heard and that person advised me to go to CSU. I proceeded there the following day in the morning to get assistance.

Q. CSU is it Counselling Services Unit?

A. Yes. At CSU I was advised that it was possible for me to go and make a police report.

Q. Did you make a police report?

A. Yes I later made a police report not right there since people were still being assaulted.

Q. When did you make a police report?

A. If I may check from my document. On the 9th of October.

Q. Did you get any assistance from Zimbabwe Human Rights?

A. They were the ones who accompanied me to the police where I lodged a police report because I had indicated that I was not going to the police on my own. I was saying so because from where I conduct business at maybe just giving an example lastly week I was arrested by the police officers because of my business of vending. They took all the wares that I was selling inclusive of 6 bibles but all those items did not get to the police station. So they did not take the bibles to the station. Only the small items were taken to the station. If they take your wares, that is the wares that we will be selling, if you identify yourself as the vendor who will be selling those items , it becomes an issue with them. They start assaulting you at the spot. Few people are coming but as it is , vendors are being assaulted getting injured. Which reminds me what I was told on the 1st of August I was being assaulted. On the 1st of August I just thought they were just saying it since they were on duty.

Q. Did you sustain any injuries as a result of this assault?

A. Yes I did.

Q. Can you describe them to the Commission?

A. My head was swollen. As a result of the assault my body was swollen. For some days I could not sit since I was also hit on my buttocks. I fell head wards facing on the ground. I have medical evidence which is at CSU. This is a letter for request for medical report.

Q. You got that from the police?

A. Yes after being accompanied to the police where I lodged a formal report at Central.

Q. Did you see any police around on this day when the celebrations was going on?

A. Yes police officers where there with their police vehicles.

Q. What were they doing?

A. Some where in their vehicles. Somewhere on the ground.

Q. The spot where you were selling your wares, you said it`s by TV sales?

A. Yes.

Q. Is it anywhere close to Edgars?

A. Edgars is on the other side that is First Street and I was conducting my business along Mandela.

Q. Did you see any property being destroyed in town you simply saw the soldiers coming running and taking everyone with them?

A. From where I was conducting business, that is my vending business, nothing was destroyed or damaged. No-one was fighting or even showing signs of fighting with anyone.

Inquiry

P. Mavenga

Q. Did you hear any gunshots?

A. I only heard gunshots after, infact as I was being assaulted were I was instructed to leave town going home.

Q. Did the soldiers do anything to the crowd that was gathering because you said you were running going where the people were celebrating or they just concentrated on assaulting you?

A. They were many soldiers but I was assaulted by 4 soldiers only so some were spread all over so I did not see what was done to other people who were running away.

Q. Thank you very much I have no further questions for you but I will now leave you to the Commission if they have any questions.

COMMISSIONER PROFESSOR CHARITY MANYERUKE TO WITNESS

Q. I have about two questions. The first questions is when you went home, did you feel the pain?

A. Yes.

Q. Did you look for medical help?

A. I did not immediately seek for medical attention because I had no money.

I lost my money when I fell. I was only left with a coin which I used when going home.

Q. What is the distance between your house and the local clinic?

A. It`s quiet a distance. It`s a long distance.

Q. Would you have attempted to seek medical help from the clinic with that pain or it was pain that you could postpone to urgently seek medical help.

A. Had it been easy meaning to say when you get to a clinic, the medical personnel would immediately attend to you, I would not have slept, but now knowing the system and also considering the distance walking from my place of residence to the clinic which is at Kirkman Road, it was not worth it.

Q. Did it even occur to you that, from what you are saying, would it seem better to die than to attempt to go to the clinic?

A. Considering what I witness as I was coming from Angwa Street on my way home as I was trying to go home it was far much better to go home.

A certain man had been short. *The witness has demonstrated by touching on the upper palm of her left hand.* Helicopters were hovering in the air at times coming down. I kept on going along Nelson Mandela intending to get to Coppa Cabbana where I get transport to go home.

As I was at a garage which is closer to Choppies, we met many people who were coming from different places. There were two ladies who were coming from work, that is what they said. Those ladies asked on whether the gunshots they had bullets or they were just threatening people to disperse them so that they could go out. That man then showed us saying look I have been shot. He was asked on what he had done to them because he could not have been just shot whilst he was just walking.

Another man then showed us about six bullets which were in his palm. He said, 'People are being shot.'

A white pickup, from that white truck, that is where people who were shooting were. In that white truck. Those who were not believing that innocent people where being shot they were also shocked after seeing that. So considering what I witnessed from Angwa to the point where I was assaulted , all that I witnessed, to me it was better to go home.

Q. Did it become safer the following day when you sought medical help?

A. I cannot say it was safe per say but considering the direction where I come from as I will be going to the medical centre I did not encounter anything but when I got there the gate that is to the medical centre or clinic , they were locked.

At that medical centre they were operating whilst the gates were locked. There was a point when we were told that it had started in town. They told us to go home.

Q. The second issue is to do with the police report. When did you make your police report?

A. On the 9th of October that is when I managed to lodge a police report.

Q. Did you feel you should report earlier to the police?

A. Seeing the way vendors are treated by the police, with my little knowledge of the law it is City Council which arrest vendors, but we are being arrested by police officers or people who will be wearing police uniforms.

Q. From the 1st of August did you ever feel that you have been violated?

A. Very.

Inquiry

P. Mavenga

Q. I am trying to ascertain what you went through every day until, you went to report the police?

A. I am receiving counselling at CSU because as it is just seeing a person wearing the police uniform or army camouflage I will not be settled.

Q. Thank you very much.

COMMISSIONER CHIEF EMEKA ANYAOKO TO WITNESS

Q. May I just lead up on the what the Commissioner has just asked you. You were beaten or you were assaulted on the 1st of August and on the 2nd of August you went and reported that your superiors advised you to go and report to the police and it took you up to the 9th of October to go and make a report to make a statement is that correct understanding on what you put down in your submissions.

A. Maybe if you may clarify on what you mean by my superiors.

Q. Well I am just going by what I have before me. It's an affidavit by Precious Nembavare.

A. (Precious Mabhenga. This one is a different Precious.)

Q. Oh that's a different Precious. I am so sorry it's a different Precious that I was leading, but then my other question is when you were being assaulted by 4 soldiers, was there any police man inside? Did you see any police? Did they come around?

A. Since I was being assaulted, you know when I was being assaulted, I could not turn around to check. The situation will be terrible. So I did not see anyone.

Q. When they asked you to get up and you got up you didn't see any police?

Inquiry

P. Mavenga

- A. I only saw reporters who were at a corner soon after Harvest house, before Angwa. They were equally shivering.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU TO WITNESS

- Q. Confirm that where you were selling your items, how many metres would that be from the people that were celebrating?
- A. It might be difficult for me to put the distance in metres but if you know the place from Harvest house to TV sales closer to the traffic lights at Nelson Mandela and First street.
- Q. From our knowledge that will be a few metres. It`s not much isn`t it?
- A. Yes.
- Q. Will you be able to confirm that since you said these people were peaceful they were just celebrating? The police were there. There is nothing that the police did to these people. Is that your evidence?
- A. Maybe I am getting confused. Is there anything which should be done to people who will be celebrating in a jovial mood?
- Q. Not at all. What I wanted you to confirm was that when the celebrations were taking place the police were there?
- A. Yes they were there in their numbers with their vehicles standing outside and inside.
- Q. They did not disturb these people that were celebrating?
- A. They did not.

Inquiry

P. Mavenga

Q. Is it therefore your evidence that those people dispersed when the soldiers come?

A. Yes people were singing celebrating. When soldiers come from the direction of First Street those people who were gathered at Nelson Mandela then dispersed.

Q. Would you know whether they disappeared at the point when you were being assaulted or they started disappearing when the soldiers where insight?

A. I would like to believe that initially they were thinking like what I was also thinking that these solders where there to make sure that there was peace to protect us but after seeing people being assaulted that is when they realised that the issue was not about keeping peace but they were after an individual.

Q. Would it be correct to say that when you were being assaulted and in view of the position that you were, the police were, they would have seen you being assaulted by the soldiers? The police would have seen you being assaulted by the soldiers?

A. That is if they remained where they were because I did not see them after that.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE TO WITNESS

Q. Among the people that you saw singing, celebrating were there any ladies?

A. It was a mixed crowd inclusive of children.

Q. If you do not mind. Can I ask you? Do you belong to any political party?

A. I will respond to your question but I am afraid considering where we conduct business at. If you are arrested by the police they will say you 'machinja are causing problems in town.' To me by labelling us 'machinja' I assume they will be saying we are members of the MDC.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE TO WITNESS

Q. Madam the question that was asked about the date of the event and the date of reporting, what you become motivation? What motivated you to report on the 9th of October? What encouraged you?

A. When I was treated at CSU I left my details that are inclusive of my phone number. I was then called by Human Right Lawyers where they explained to me that my rights were violated. I simply responded but to me it's a norm that our rights as vendors especially where we conduct business at, our rights are always being violated.

Q. In your narration you stated that there is man who had bullets in his hands. Was he a civilian, was he a police officer, was he a soldier?

A. I am not in a position to tell whether he was a civilian or not but he was putting on civilian clothes.

Q. Did he say anything about where he was getting bullets from?

A. I think he was asked by those ladies when he said where he picked those bullets but I did not follow that, I did not ask him since I was in pain.

Q. You also spoke of a white truck. They were people in a white truck and they were shooting. Did the white truck belong to the police, to the ZRP or to the army.

A. The white truck had no number plates. Registration numbers. There were soldiers in the van of that truck. In front somewhere. Two were wearing civilian clothes. Then all the others were wearing Army uniforms.

Inquiry

P. Mavenga

Q. Do you think people who were in that white truck were soldiers or they could be just other civilians who had put on soldiers uniforms just to distract?

A. I cannot say those people were civilians who were putting on army uniforms because at one point even if you were wearing a T-shirt with colours resembling the army colour you will be arrested because of that.

Q. No we are not talking at some other moment, we are talking at that time when things were almost like upside inside out. There have been a possibility that anybody could have paraded as a soldier.

A. There were zero chances that those people were civilians.

Q. Why do you say so?

A. Have you ever come across such a situation? With that situation as it was, you have the guts to go and look for army camouflage to put on? Remember that incident did not take a year.

Q. No further questions.

COMMISSIONER RODNEY THOMAS DIXON QC TO WITNESS

Q. You said you were on the front page of a newspaper's picture of you being assaulted by the army. Do you have that picture?

A. I can produce.

Q. You said in your statement that you have pictures. Did you have more than one picture of the people who did it?

Inquiry

P. Mavenga

A. There are two pictures on the News day from different angles. If you goggle from News Day website in relation to the violence of that day you will see it.

If you see a woman lying with a black trousers, beige shoes, and also a whitish jacket. That lady who will be lying on the pavement with a phone on the other side, that lady it's me.

Q. If you have those photographs it will be very useful if we could receive them to the secretariat or we will obtain them in some other way but it will be very helpful to have those photographs that were taken at the time.

A. As a vendor I might have difficulties to get data bundles but if you direct me to a place where I will get wifi.

Q. I was just speaking if you have them with you as separate photographs, otherwise we will obtain them.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU TO WITNESS

Q. But you can confirm with our Secretariat even before you leave. I think they can do it just now. We need those photographs.

A. Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q. Thank you. Thank you Precious you may step down.

A. Am I allowed to make a request to the Commission?

Q. Yes please.

Inquiry

P. Mavenga

A. Are you in a position to assist us as vendors so that police may stop to brutalise us. If we commit an offence as vendors we are supposed to be tried receiving justice. We thought the new dispensation would bring or restore the rule of order but we are being continuously harassed and also respect of human rights. We were expecting that from the new dispensation.

Q. Ok we take note of your request ma'am but we have to, at the end of all hearings, write a report and make all recommendations which we will present to the President.

A. Thank you.

Q. Thank you. You may step down.

ADJOURNED FOR A 10-15 MINUTES BREAK

RESUMED

ROY EKERO JANHI : OATH ADMINISTERED

EVIDENCE LEADER: MRS FORTUNE CHIMBARU TO THE WITNESS

Q. Mr Janhi are you comfortable to give your evidence whilst standing or you would rather be seated.

A. I will try to give evidence whilst standing at the moment.

Q. You confirm you work at Zanu PF Provincial headquarters here in Harare.

A. I have been working there for the past 21 years.

Q. What are you employed there as?

Inquiry

R.E. Janhi

A. Harare has 6 administrative offices so I am one of the district coordinators specifically for Zone 3. Administrative District 3.

Q. Confirm that on the 1st of August you were at your work place at Zanu Pf Headquarters?

A. Confirmed.

Q. Can you please tell this Commission that which you saw on this day?

A. I am in a position to tell the Commission. Firstly it was the second day after the elections. Like what I indicated that, this is my job, I had come to the office with the constituency report for my Zone. I have the reports with me here. After submitting those reports, since it was at command centre, for some time we were listening to results which were coming from the various constituencies.

After that when we decided to leave, when I went out, I want to confine myself to the area where I was. I do not want to say all other things. When I left the Command Centre intending to go and buy food at the gate at corner Jason Moyo and Simon Muzenda I realised that I could not go there because there was a group of people. They were wearing clothes which we identify with a known political part in Zimbabwe. This is the MDC Alliance. When we sensed danger, I was using my personal vehicle. At one point I thought of retuning to the yard so that I could take my vehicle and leave but then this was too late because the officer who was there firing , he was firing in the air not firing at people.

Those people would run away when the officer fired the firearm. Those people were armed with stones and logs. What would happen is , after he had fired as he would

be preparing to fire again , they would also charge towards him, actually pelting him with stones. So eventual they, moved from the corner of Simon Muzenda to the offices. When that happened they started throwing stones at court offices.

Not knowing that we were being attacked, I decided to go to the office to take cover.

As soon as I went upstairs', going up the stairs that are at our offices , I was hit with a stone. I was subsequently injured on my head. I have pictures (*which the witness is taking out*) and also pictures of the destroyed personal car.

That `s the head injury you can see. And these are the X-rays because I went to see the doctors after wards.

Q. Did you get a medical report which describe the injuries?

A. The person who gave me transport from town, he was also afraid of his life. He took me to Surbaburn. They indicated that they would only treat me but they do not compile medicals reports but I have documents indicating that I was treated showing also what I spend including that X-ray of the scalp. That is what happened for us now to enquire to see whether I received medical attention after being injured.

Q. The Secretariat would ask to photocopy some of the reports that you have after this.

A. I will give you with pleasure. I want to tell this Commission that it`s s really painful. I was at my workplace. Like what I indicated earlier on where I told this Commission that I have worked at that place for how long, I will not repeat that. That is where the vehicle which is on the pictures which I have shown you was totally destroyed.

My question is that was a personal vehicle. It had no party label or any label for anything but it was destroyed. What really pains me is these occurred 52 days after the death of my wife on the 10th of June. If anyone doubts that I have the death certificate with me. I have a quotation to show how I had just repaired the vehicle. The tyres which were on the vehicle that was burnt I had not used them more than two weeks. What boggles the mind is we went for elections which were said to be peaceful, conducted well, then my property was destroyed. What makes the matter worse is that I did not contest as a Presidential candidate. My personal property, personal life, personal health even my brain , my trauma was affected in that manner. As it is, as I am giving evidence I have nothing to use for transport. As you can see I walk with a walking aid. I cannot use public transport. I have to hire a tax from home going to work. I do not want to pre-empt the decisions of the Commission, but I think I should get some form of compensation from the person who did this in my life.

Thank you. If there is any other question we can proceed.

Q. What type of a motor vehicle was it?

A. It was a Toyota Allion 2litre. As I am saying so let me also highlight this to the Commission , that same vehicle had comprehensive insurance cover. It was insured 6 March 2019. It was a loss. I communicated with the insurance they said that they do not cover for the loss which would have been incurred as a result of political violence.

Q. What was the value of the vehicle?

- A. According to the insurance company, its value was \$7000. But according to improvement which I had made on the vehicle I had incurred some expenses which are also \$7000 at the time the vehicle was burnt.
- Q. In your statement the value was given as \$9500 would you think it's a fair value?
- A. Yes the value went to that figure because I have considered the items which were burnt. Those items which were in the vehicle that is \$100, fuel coupons, my I.D`s.
- Q. When you were injured where there any police officers around , other than the one who mann the area?
- A. There were police officers who manns our office. They were equally victims like us. That is where we are. Were we are moving. I am still feeling the effects of that day because as it is I have no transport to use.
- Q. How much did you incur in medical expenses?
- A. I did not enquire with my medical aid on how much they were charged but on top of the amount which was covered by my medical aid , I used something like \$100 because at hospital they normal write a prescription where you then go and buy some medicine, so I used something like \$100.
- Q. You said the Police officers that mann your office were held hostage together with you. How were you the rescued?
- A. It will be prudent for the Commission conduct an inspection in loco at our offices but coming to how we were rescued, we were only told that someone came who fired a firearm. I do not k now where exactly he was pointing at .That is how we were

rescued. But when I went out as I was standing at the stairs my vehicle had been set ablaze so it was still burning. You could see the other part where you can see the colour of the vehicle. Whilst looking at that to me it was like I was dreaming. I could not believe what I was seeing.

I would not know whether this is evidence or not but I want to highlight this to the Commission that I saw a number of videos where people were saying that if they do not win, they will proceed to the road. The videos were available.

I later heard people who were complaining saying we were shot by soldiers but in this country, there is what we call maintenance of law and order. Saw I do not know what should be taken by people who will be going out to maintain law and order. What they would go out with.

Q. Alright, I guess the police when they come they shall explain that.

A. Thank you. I would not know on whether this is evidence or not but I want to highlight this to the Commission that I saw a number of videos where people were saying that if they do not win they were to proceed to the roads. The videos are available. I later heard people who were complaining saying we were shot by soldiers, but in this country there is what we call Law and Order maintenance so I do not know what should be taken by people who will be going out to maintain law and order. What they should go out with.

Q. I hope when the police come they shall explain that. We heard Mr Mutanda said that you received some sutures on your head is that correct?

A. Yes.

Q. How many?

A. Four stitches. The papers that I have here I think will explain that. The healed scar is still visible. [He has indicated showing his right upper side of his head].

Q. So you sought medical attention on that very day or it was the following day?

A. I remained at the office until 7.30 pm where I was then picked. I only went to Surbaburn at 11.30 the same day. That is when the stitches were then stitched in my head and X-rays were also conducted on the very day.

Q. On that day did you see any members of the army?

A. I saw two soldiers after our vehicles have been burnt to ashes like what you can see on the pictures. As we were discussing we asked them saying, young men where were you as we were being attacked.

Thank you very much I no longer have questions for you. I hand you over to the Commission if they any questions.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. You said that the police interventions saved your lives?

A. If the police intervened on time our vehicles were not going to be damaged to that level. So I can say police delayed to come or to intervene.

Q. They came after the damage to your cars?

A. The vehicles had been damaged, our offices damaged, we had been attacked, when they came we were actually going to see what transpired outside.

Q. The army was nowhere near you?

A. Like what I alluded to earlier on that I will confine myself to what took place at our offices. I did not see any soldier save for the two soldiers whom we later saw as we were also observing the damage that had been done.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. If you may clarify your account. Did you first get in contact with the people that you were describing outside the offices and then later at the offices. Is that what you said?

A. I want the Commission to know this, we were at work. We were not expecting any violence so at the point when I decided to go out that is when I then realised that there was violence outside.

Q. So are you saying you then never went out?

A. Maybe if you may clarify by saying you then never went out, are you referring to leaving the offices or leaving the premises that is going the gate.

Q. I just want to be clear as to what you are saying? From the way you were narrating it appeared to me that you had left your Provincial office and you had gone into town and between the corner of Jason Moyo and another road?

A. That is the reason why I had earlier on made a request for an inspection in loco so that the Commissioners could see themselves. From the place where I am referring to that is at the gate where we stood at, from that gate to the intersection of Jason Moyo and Simon Muzenda there is only a distance of about 50m. So from that gate as one

Inquiry

R.E. Janhi

would be at that gate you will be seeing everything which will be taking place at that intersection. Because of that short distance I could not get into my vehicle and escape.

Q. I think you need to know that all I am wanting is just to get to the truth. We have a statement that is prepared on your behalf that does not mention that point you were mentioning in your evidence. What I have here simply starts from the fact that from 2pm you heard noise and people were stoning your office. There is no mention of the detail that you gave so I wanted you to clarify which exactly is the version we should take?

A. Like what I indicated earlier on that I want to confine myself to the event of this day. I always try to be consistent especially if I give a statement to the police I try to make sure that there is coherence with what I will be saying when giving evidence. So if that part was omitted of citing that I was hit with a stone as I was coming from the gate going back to the offices meaning to say the person who was recording omitted to include important information.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. You stated in your evidence that someone who fired a fire arm rescued you but you didn't state who it was. Would you know who it was?

A. Like what I had been advised to do that is to tell the Commission what I witnessed I tried to confine myself to that. But coming to this case, I did not see the person who fired the fire arm. I later heard that a firearm was discharged but I did not see the person myself.

Q. Did you hear the sound?

A. I heard three sounds before I went upstairs as all this was taking place whilst we were trying to get assistance I had been injured. All my clothes were blood stained. Had it been that I knew I was going to give evidence before the Commissioners, I would not have washed those clothes I could have shown you so that you would see the blood stains. But I believe that the medical reports including the X-ray report, what you are also seeing the dressed head that is enough evidence to show the degree of injuries which I sustained.

Q. So the first three bullets that were fired and you heard the sound those did not rescue you?

A. That did not assist. In fact this happened during the early stages. I would like to believe that those people knew that the person who was firing, was firing in the air so they were not afraid.

Q. Do you know who was firing those three?

A. Yes I knew. That was the officer who was manning our premises. He was on duty so he would only knock off at 6 pm but I would like to believe that he was transferred. I cannot remember his name.

NO FURTHER QUESTIONS.

Inquiry

R.E. Janhi

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Thank you very much Mr Roy Jani for your testimony. If you could just save our secretariat with copies of the reports that you have in your possession that would be very helpful.

WITNESS EXCUSED

EVIDENCE LEADER

Our next witness is Fortunate Kangombe. She was on tomorrow's list the 18th October but she said she had been here since yesterday. But she appears on tomorrow's list.

FORTUNATE KANGOMBE : SWORN STATEMENT

Q. You confirm you are also employed at ZANU PF Provincial headquarters?

A. Confirmed.

Q. What are you employed as?

A. As a clerk and also a typist.

Q. You confirm that on the 1st of August you were at your work place?

A. Confirmed.

Q. Can you please tell this Commission that which happened on this day that which you witnessed yourself?

A. It was on the 1st of August which was on a Wednesday around 2pm. We were at the offices. From the first floor we were able to see what was talking place in the rank. We heard noise from people who were in the rank. We were in an office which could

allow us to see what was taking place in the rank. When I checked outside I saw young men who had climbed on a bill board with a banner with Cde Mnangagwa's portrait. They started removing the banner. As a woman I was afraid so I acted as if I had gone to the other office. Within a short space of time we heard windows breaking. When I heard the window braking I took cover underneath a desk which was in the office that I had entered in. As I was hiding underneath that table stones and metal objects were being thrown. Our superior was calling other people from high offices and other police officers so that they could come. For about an hour I was hiding underneath that desk. There was noise outside. At some point it seemed as if the situation had calmed so my boss who was in another office then instructed me to leave the office where I was hiding so that I could go where they were in a toilet. I did not manage to walk to the toilet because they started throwing stones again. I did not kneel down so that I could crawl because there were pieces of glasses on the floor. Since I am short I managed to bend down. From that position as I was bending down I then walked away. When I got in the toilet it seemed as if more stones were being thrown. Since I had been affected or touched by what was taking place, what I could only do was to cry. After some time I think it was getting dark that is the time when we finally managed to go outside, there was darkness outside. A certain individual standing from the passage called out saying leave the offices the building can be burnt whilst you are in the offices. When I went outside some of the vehicles had already been burnt. Outside that is where we saw two soldiers. That is all.

Q. Did you sustain any injuries?

A. No.

Q. And these people you said group of people that you were seeing in the terminus were you able to tell who they were?

A. Yes.

Q. Who were they?

A. Supporters for MDC Alliance.

Q. Why do you say so?

A. I managed to identify them through the red T/shirts that some of them were putting on. Some of them were putting on their casual clothes and also the songs that they were singing. They were singing saying we want Nelson Chamisa, "Tinoda Nelson Chamisa".

Q. Did you see any police officers nearby as all this was happening?

A. Since I was inside I did not see any police officer.

I have no further questions for you. Thank you very much. I will hand you over to the Commission if they have any questions.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. How many people were in the toilet?

A. Let me count them. If my memory serves me well they were about 6 or 7 people.

Q. You mentioned that you were crying when you were in the toilet what were the others doing?

Inquiry

F. Kangombe

A. To be honest all the ladies who were in the toilet were crying.

Q. What about the men?

A. They were trying to contain themselves but one could tell that they had also been affected.

NO FURTHER QUESTIONS.

WITNESS EXCUSED.

EVIDENCE LEADER

We call upon Mr Wellington Mushoshoma.

If you may note that Wellington Mushoshoma is witness number 10 on second day list for the 17th of October.

WELLINGTON MUSHOSHOMA : SWORN STATEMENT

Q. You confirm you are employed at ZANU PF Harare Province?

A. Confirmed.

Q. And its correct you were at work on the 1st of August with the rest of the other witnesses who have since testified?

A. Confirmed.

Q. Can you in your own version just give in brief that which you witnessed on that day?

A. On the 1st of August 2018 I reported for duty as usual like my colleagues. We were thinking of following the results from the elections which had been just been

conducted. We never anticipated to witness the incident which we witnessed towards lunch. People whom we would see those ones who were moving in town they were moving freely save for around 1345 hours that is when we saw a group of more than 200 people. I am not in a position to give the exact number. Since we were waiting to hear the election results we were not concerned or interested in what they were doing. We were only surprised to see one of the young men climbing on a bill board where there was a banner with the President's portrait. By then we were in a pickup truck for the Party where we could see what was taking place in the rank. I then informed my colleague saying, man, I do not think that these people will end with what they are doing. Let us inform our colleagues from the offices to find out on whether they had also witnessed the same. My colleague whom I work with, we were in his car before we got in the truck which belongs to the Party. In that vehicle that is where the jacket for this trouser that I am putting on right now was burnt. When the young men who had climbed on the bill board had successfully removed it, thrown it on the ground, others set fire on it. We then saw a group of people running towards our offices. Within a short space of time they were stones that were being thrown. We were not aware that others were on the other side that is the side of Simon Muzenda Street. Stones were first thrown from 4th street. From the way those stones were being thrown we did not manage to see or to know who was throwing those stones. To us we thought almost everybody from the rank was throwing stones to us. Within a short space of time I heard gunshots. I tried to go to the exit point where we go down stairs if we want to leave our offices. I realised that one could not go downstairs maybe going outside because they have surrounded our offices and also the durawall where they were tearing papers. I tried to look for an office where I could take cover from,

but from the way those stones were being thrown they could actually pierce through or perforate going through. Some of our doors are made out of chip boards so the stones would go through. I got in an office where we placed papers which were left after primary elections but I realised that if I remained in that office I could have been burnt from that office. Within a short space of time I saw Mr Jani crying, he was complaining of his vehicle saying let me rush so that I will see my vehicle, check on it. As I followed him trying to pull him back saying it was better for the vehicle to be burnt if we are to consider his life. I then saw him returning whilst holding his head. He had been hit on his head. He had taken something I am not sure maybe it was his shirt or whatever to cover that point where blood was flowing from. His shirt was blood stained. I got in an office of one of the ladies whom we work with. I had realised that police officers were also running away. So with that situation there was a possibility that the protesters could come and apprehend us whilst we could not defend ourselves just like a helpless chicken. Using a desk I used to close the door. I sat leaning against the door whilst underneath a table. I took a chair which I used to cover my face because all the windows had been damaged so there was a possibility that stones could come directly to where I was. I then heard the sound of an alarm for our PA's vehicle from outside. I thought it was a siren from a police vehicle which had come outside. Out of fear together with the ladies whom we were with who were trying to call some relatives so that we could be assisted. I was greatly frightened. As of today I am still emotionally and psychologically disturbed but as a man I decided not to act the same way those ladies were acting so that at least I would be in a position to control them. I heard someone who was calling but I do not know who this person was. That person was saying police have come. At that moment those who

were throwing stones stopped. At the point when police officers had arrived, had it been that they managed to disperse the crowd that is those MDC protesters vehicles could have not been burnt. Properties could not have been damaged and no one was going to be shot, but like what others indicated earlier on that police officers were simply saying take it easy they were not assisting in any way. Real war started when police officers drove off that is when we were assaulted. I returned to that office that is when I was then told that the vehicles outside had been set ablaze. From there I could only hear what was being said I did not see anything. The police vehicle was stationery at the traffic lights at that point. We were rescued by two soldiers who then said men, you can now go outside there is peace outside. We waited for some time; I think we left the offices after 6 or around 7 somewhere there.

The soldiers which I heard others talking of, I also met them as I was with my colleague that is the same colleague whose vehicle was burnt and in his vehicle my jacket was also burnt. From what I observed from the orders which were coming from those soldiers, they did not want to see more than four people. So they were simply saying you can proceed wherever you are going as long you are leaving town. They said to us, you old men run. But we told them, no look, we cannot run away. We are tired. We are equally victims. We then approached them and we spoke to them. They understood us and they even felt pity for us. They then instructed us to go where we would get commuter omnibus. To them they said they did not want to see commuter omnibus in town. From my statement I had not indicted that my jacket was burnt. To me I thought that I could not mention a jacket considering that one of our colleagues had his vehicle burnt. So to me I could not mention a jacket.

Q. How many vehicles were burnt on that day those that you saw?

Inquiry

W. Mushoshoma

A. The PA's vehicle, that one it was a Party vehicle which was branded ZANU PF. Two vehicles which were burnt to ashes, Jani's vehicle and my workmate's vehicle. That vehicle which was hanging on the durawall. From Easy Park car park which is adjacent to our offices, a bus with stickers/posters of President was burnt and also two vehicles. In our premises they were also some vehicles which were affected by the fire even though they were not burnt per say. We managed to remove those vehicles when the soldiers came instructing us to leave the premises. I might have heard some of the other things which I did not witness but I did not say those things. I only told this Commission what I witnessed.

Q. Did you sustain any injuries?

A. I was not injured.

Thank you very much for your evidence I will now hand you over to the Commission if they have any questions for you.

Honourable Chairperson and Commissioners, your witness.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To Witness)

Q. The gunshots that you heard were they sporadic or continuous for a certain period of time?

A. The officer would fire then those people would run away. During that period when he was not firing they would charge towards our offices again. After firing they would disperse. So they actually had the opportunity to come and drive the vehicle which was finally burnt whilst it was hanging on the durawall. It was made to go on some bricks for it to end up on the durawall. We are kindly requesting the Commission to

Inquiry

W. Mushoshoma

come and conduct an inspection in loco at our offices so that the Commissioners would see that we were not lying but we simply told them what happened.

Q. Were you able to notice the kind or the nature of materials which they used to put the vehicles on fire?

A. No I only saw the vehicles as they were already burning.

COMMISSIONER RODNEY THOMAS DIXON (To witness)

Q. Soldiers that came to rescue you, did you see what the soldiers did in relation to the people who were outside, who were threatening you?

A. I do not know how the soldiers were brought or were dropped off but as I was coming down stairs leaving our offices, members of the public had dispersed. So maybe members of the public ran away after seeing the soldiers, maybe the way they were brought in. I would not know.

Q. Did you hear the soldiers firing any shots, live ammunition?

A. No, I think I only heard three gunshots from a police officer who was trying to threaten that group of demonstrators so that they could run away.

Q. That was before the soldiers came, just want to get the time right?

A. Confirmed.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Thank you very much for your testimony. You may step down.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call upon Esther Keresia Magadu. Honourable Chair and Commissioners if you may notice that I don't have her statement though she has indicated that her statement was recorded but I notice it's not part of the file that is before you.

ESTHER KERESIA MAGADU : SWORN STATEMENT

Q. You confirm you are employed at ZANU PF Provincial Headquarters?

A. Confirmed.

Q. And you confirm on the 1st of August you were at work?

A. Yes.

Q. May you tell this Commission what happened on the 1st of August in view of the time and the fact that you have heard what others said? If you may, maybe concentrate on those things that you think were not mentioned.

A. On the 1st of August around 2, I heard some noise from my office from where I was Sitted and I stood up. Through the window I saw people who were removing President Mnangagwa's banner. As I was looking through the window I saw a young man who was chasing after another person whilst he had a switch. At the same time as I was standing a stone hit on the wall just next to the window I was standing. I actually heard the sound. As a result of that I immediately sat down. Another stone was thrown where it hit on the window where I was. I had to crawl leaving that office leaving to the next office. At that time PA entered. I told him that you will be hit do not get in this office. He rushed and stood at the corner. I left that office where I

proceeded to my office. I went underneath a table. As I got in my office they had already surrounded our office, I do not know how they did that so when I was in my office they were throwing stones from this direction, [The witness has just indicated pointing this direction]. As I was underneath a table I was with Fortue, the one who had just testified and two others so we were four. As we were underneath that table windows were being hit and those pieces of glasses now were splitting coming to where we were.

Q. By Fortue you are referring to Fortunate Kangombe who came as witness number 9?

A. Yes. In that office they were ladies only and we were crying. The PA had left the office that he had entered into earlier on. I would not know on whether he proceeded into another office or what, I would not know. As we were doing so I heard a gunshot. Fear increased. There was silence when we heard that gunshot. The PA returned where he slightly opened the door and instructed us to leave, saying leave. As we tried to leave they had started throwing stones again so we could not leave that office. There was a gunshot again outside. Again there was silence. We managed to get out of that office. We proceeded to the toilet. We entered in a gents toilet. The good thing with that toilet was it had no window. There was only a window on the other side so we had to take cover from where there is a shower where they normally take bath where there is a sink. At that point we could hear that they were hitting on the walls throwing stones on the walls. We called our superiors. With my phones I could not get through. I only managed to get through to one number. Maybe it was out of fear I don't know. I called our boss Dzvora from HQ. Our boss Dzvora then said Mrs Magadu remain where you are. Maybe try to keep on looking for police. He went on to indicate that they tried to call the police because they were also under siege. We

Inquiry

E.K. Magadu

waited, the police did not come. I did not hear anything else. I was simply saying God help me. From there I did not see anything. I did not hear anything up to a point where we were told by two young men to come out of the offices where they indicated that there was peace outside. I then saw two soldiers. When we finally came out of the offices the vehicles had already been burnt because we were in the offices for some hours. That is what I witnessed.

Q. Did you sustain any injuries?

A. I was not physically injured but I was greatly affected by the noise that as it is I do not want to hear anyone making noise. That is how I was affected.

Thank you very much for your evidence. I no longer have any questions for you but I will hand you over to the Commission if they have any questions.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Mrs Magadhu thank you very much for coming forward to testify about what you observed on the fateful day. You may step down. Thank you.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Our last witness for the day is General Cephas Chinhamhora Chikuru. Honourable Chair and Commissioners if you may note that we don't have a statement recorded from this witness and he also is not a witness who was in town on the fateful day but he says following the advert he thought he may assist the Commission with reasons that lead to this.

GENERAL CEPHAS CHINHAMHORA CHIKURU : SWORN STATEMENT

Q. If I may confirm, General is it your name or it's a title?

Inquiry

General C.C.Chikuru

A. General means the late National Hero Dr. Joshua Mqabuko Nyongolo Nkomo is my leader and also Lookout Masuku.

Q. Are you a War Veteran?

A. Confirmed.

Q. How old are you?

A. I am aged 70 but after birth I was thrown in water by my mother so for 10 years I was underneath water in a lake. I was being fed by a mermaid in Zambezi River.

BY CHAIRMAN

Please may we have silence please so that we can all hear what the General is sharing with us.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Q. You confirm to me that you are a spirit medium is that correct?

A. Yes.

Q. And you confirm that as a result when you saw this advert inviting witnesses that's when you decided to come to give evidence?

A. Before that I was seen at Concourt where I indicated that police officers lied by indicating that they arrested the people who burst or blast a bomb in Bulawayo.

Q. The bomb in Bulawayo you mean the one that occurred at rally at White City Stadium?

A. At White City Stadium.

Q. Can you now tell us that which you said you know is the reason that led to this, you confirm on the 1st of August you did not witness the events is that correct?

A. Before that transpired, at my place of residence a tenant came in on 27th of July during that period. On the 29th his children and visitors in the morning they were all putting MDC Alliance regalia. When I proceeded to the shops that is at Zindoga I met a group of youths. Some know me as Comrade. They started uttering words which to me they were actually despising me saying your cigarettes will not work, our candidate is Chamisa. If he is not declared the winner we are ready to die. I told them that you are still young, you do not know anything. I went on to tell them that what was done by the former President Robert Gabriel Mugabe that is joining Dumiso Dabengwa and Chamisa that was going to cause their defeat that is how they were defeated. I went on to tell them that Dumiso who is an elderly man could not join Chamisa who is still young. Even members of the public were not going to vote for Chamisa who was supposed to win because of Mugabe who destroyed the country. I went on to tell them that real war was fought from the rural areas. In the rural areas they bear many children unlike here in urban areas where people take contraceptive tablets. I told them that one man from the rural areas can sire even 50 children. I told them that one woman can bear children to a point where she cannot bear children anymore. I told them that ZANU PF would win through the rural vote where the ZANU PF Party is supported by War Veterans and Chiefs. So in respect of War Veterans and Chiefs they do not use whatsapp. Their whatsapp is the moon and they will be also dancing. In the rural areas they take too much sadza, one would need a

fork lift to lift that plate but here in town the situation is different. I told them that they were going to cause their death on their own because they were insisting that they were going to rule but I told them that that was not possible. After saying so they insulted me saying “voosek” (pfutseki). I returned home where I told that man whom I earlier on referred to saying, why are you not concentrating on the well being of your children. If violence erupts, let’s say you are killed, who will support your children? Who will take care of them? He responded saying I have heard about you. You are the one who have been causing MDC to lose all these years. I inquired on who told him that, he said all people from the area told him that I placed Tsvangirai in a curve. I told them that that was true. Tsvangirai was my brother- in-law. I was married to Pare’s mother, Susan Mlambo. As I was paying lobola the go between, that is the person who was facilitating assisting us to pay lobola advised us to go to Richard Tsvangirai who was leading a Trade Union in Harare. I then heard them referring to each other with their totem “Save” which is the totem for the Mlambo Clan.

- Q. If I may stop you a bit. Like I had indicated to you earlier on in view of the time, maybe if you may get to the point to what you say were the causes of the violence that occurred?
- A. What is of paramount importance is all the prophets from these churches in Harare they belong to MDC T. Our government and also ZTV where they would be screening money which would be in drums that is the same money which was used to sponsor MDC. That is where they were promised that he was going to win because ZANU PF was saying that the opposition had no money.

Inquiry

General C.C.Chikuru

Q. So by this money in drums you meant the money that is raised at churches?

A. Yes from churches. Those monies which were being referred to by the former President saying those Prophets were telling lies, that was true.

Q. So in other words you are saying the promises that they were given by these prophets are the ones which led to this?

A. That is the reason why they were attacking me saying all sorts of words indicating that I am a spirit medium. They do not want to hear what I say.

Q. You as a spirit medium like you and you keep referring to “bute”, meaning snuff in other words?

A. Yes.

Q. Were you helping any political Party as a Spirit Medium?

A. During the liberation struggle we would rely on spirit mediums. The likes of Mbuya Nehanda.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. Once again, thank you very much General for enlightening the Commission on causes Of the tragic day of the 1st of August.

A. Thank you so much I would also want to meet the President so that I would tell him some of the things that he does not know.

Inquiry

General C.C.Chikuru

We note the request we will convey that to the President. Thank you.

WITNESS EXCUSED.

ADJOURNED

RESUMED AT 10.00AM

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Good morning honourable Chairman and members of the Commission. I will now call upon our first witness for the day Rubinsten Elizabeth. You will note she is not on today's list of witnesses but was scheduled for the 24th of July as a relative of one of the deceased persons.

RUBINSTEN ELIZABETH : SWORN STATEMENT

Q. Correct you reside at number 25 Dark road in Pomona?

A, Yes.

Q. Confirm you are a blood sister to the late Gavin Charles?

A. That's right.

Q. Can you please tell this Commission that which you want them to know in connection with your brother's death?

A, My brother has been staying at my sister's temporarily because my mom wasn't well. On the 1st of August I went into town I had a few errands to run. On my way back I met up with Gavin. He was going into town. So he asked me, is there any trouble in

town and I said no it was quite. It was still early around 9 to 9.30. He said that I have got a few errands to run I will see you later. That was the last time I saw him.

At around 5.30 my brother-in-law and my sister banged on my gate to say that he had been shot. With shock I got off the bed and I walked crazy to Central police station. Everybody was running down Seke road. It was crazy, they were people screaming and running. I was actually walking up to Central police station. When I arrived at Central police station they refused me entry. They told me I did not have an identity card because the gates were locked. There was a lot of police milling about but they refused me entry because I wanted to find out about my brother. I left Central and I went back home. From there my daughter took over to distribute through the social media a lot of pictures were posted and we managed to identify my brother. But at the time we didn't know that he was dead because my sister's maid had a phone call from police to say that Dread was in hospital, because he had dreadlocks. The maid called my sister where he was staying at the time. So we were not sure what's the condition he was in until later on my daughter identified him on social media and we went to Parirenyatwa to identify him. He had been shot twice, once in the arm once in a pelvic then the pelvic shot is what killed him. He was in fourth street at the time. My daughter identified him and everything has been crazy.

Q. We are so sorry about the death. To your knowledge was he participating in the demonstration? Group

A. No, but he wasn't happy with the way he was living. From my knowledge group he

never had a chance to get a job and he was a bit frustrated he was 48 years old and being Rastafarian he believed in God and his life wasn't so good for him at the time. He couldn't get a job though he had qualifications so I think maybe he went out of curiosity to see because from November the 18th he had wonderful days he thought things would be better, things will change and obviously it didn't.

Q. Is there anything else that you wish this Commission to know in relation to the deceased?

A. Gavin was born 7 months premature. I was 8 years old when he came home. We were all gently around him to see. He grew up a gentle. He did ... and he just wanted a better life. He was harmless and to be shot twice unarmed and he was like the rest of the participants. They all have something to say. He was just part of that and, the pain is indescribable. My mom who is not well, she had a stroke 5 years ago and she never recovered. She is not aware of his death because if we tell her it will kill her. I am not ready for another funeral so my family and I have suffered on our own. It has been very difficult.

Q. Did you get any assistance in any way like at his funeral cover?

A. I didn't do any other running around. My daughter did. A \$1000-00 was given for burial and I think that's about all. Most of the other monies came from well wishers. His friend who makes caskets donated the casket and paid for the parlour and the transport and I really had to place a pine history for my mom which he used. But ever since then we haven't had anything or any details about his killing.

Q. The \$1000-00 that you refer to was it from the State?

A. I think it was from the State.

Q. Did he have any dependants?

A. He has a daughter. She is 13. She is the one child.

Q. Unless you still have something that you still wish the Commission to know, I have no further questions for you.

A. I find what happened to him was brutal and it caused indescribable pain to my family. I need space towards justice.

Honourable Chair I have no further questions for the witness I will hand her over to you for any questions.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Ms Elizabeth please accept our condolences as Commissioners to your family particularly the daughter of your late brother. I will now invite my colleagues to see if they have any questions for clarification.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

May I underscore what our Chairman has said in terms of conveying our condolence to you.

Q. As far as you could gather, was he part of the protest?

A. No he wasn't. I think he got caught up in the crowd, he did say to me he wouldn't be long it will only be about an hour in town because he thought they would be trouble.

Q. He was just caught up?

A. Yes.

Q. Did he belong to any political Party?

A. As a minority group we don't normally get involved in politics. So no, he doesn't belong to any political party. He just wanted a better life and after November the 18th he was laughing and dancing everybody else in the streets expected a different life. He didn't realise that a few years later the same people could gun him down.

Q. Were you able subsequently to identify the spot where this happened?

A. No. that's not something I would like to do. My daughter identified him and she did everything for me and at the time I just couldn't deal with it.

COMMISSIONER RODNEY THOMAS DIXON (To witness)

If I can echo the condolences of the Chair and I don't want to trouble you I know it's extremely difficult but we are trying to get to the bottom of things so as much as you are able to help us with we greatly appreciate even though it's very, very difficult.

Q. I just wanted to ask if you had had anything about the circumstances of his death.

Whether through making inquiries, anyone speaking to you? This could provide leads for us to investigate as well.

A. Social media played a big part because they took photos. Some recognised him on the photos and they sent them to family. The police initially did phone the maid to say that he was in hospital and wasn't speaking so we were not sure yet what was wrong until we got pictures from social media and it was obvious that he was gone. My daughter went to Parirenyatwa it took her quite a while to get there were a lot of cars

burning in the street in Enterprise road so she was given directions by police officer to go right round Harare drive to get to Parirenyatwa and she identified my brother.

Q. Do you have those pictures that you could provide us with?

A. I talk to social media so a lot of my family have pictures I don't.

Q. We could make inquiries to get them?

A. Yes.

Q. Did you find anything about who had done this awful act?

A. A lady came to the funeral to the ...and said she was with my brother at the time after he shot a lady in the back and my brother turned around to say but my brother what are you doing and he turned and he shot my brother twice.

Q. Do you know the name of this other lady?

A. No I didn't speak with her at all. I was over hurt. My sister, my family asked the name ...

Q. If you can give us any names of anyone who was there or saw anything, if you can't do it now you can write later that would be very helpful.

A. I am sure I could do that when I finish.

Q. If you could and pass it on to the Secretariat.

A. I will do.

Q. You mentioned the need for justice, we have to make recommendations we are having

as wide a cross section of people as possible. What would you as a family member of one of the victims see as justice in this situation if you are able to help us with that?

- A. Actually the army soldier that shot him needs to be brought to justice even if he was working under orders you don't shot anybody who is not armed. Especially helpless people that are protesting for the way they live they didn't have any arms on them. So I don't understand why he did that and anybody that shots a person unarmed should be brought to justice.

Thank you very much again for your testimony in this very difficult time.

COMMISSIONER CHARITY MANYERUKE (To witness)

My sincere condolences of what happened to your family and also the loss of you brother.

- Q. I want to seek a clarification from what you heard from that lady who was with your brother. There is a point when you mentioned that someone had been shot, I am not very clear, and then there was a question posed and then your brother was shot. Can you just repeat that a bit?

- A, The lady said that there was a lady shot in her back I think she was pregnant.

- Q. Was it at that spot?

- A. It was in 4th street. My brother was shot not far away from where this lady was. Apparently he said to the soldier, my brother what are you doing, and that's when he got shot. Just for asking a simple question. That's what the lady said. And that the only person that actually came forward and say they were there. I didn't speak with her.

Q. So most probably the lady who was shot and your brother probably were shot by the same soldier?

A. By the same soldier that's right.

Q. In the same area, same spot?

A. Yes.

Q. 4th Street?

A. Yes.

Q. I am really sorry that's the clarification I wanted.

COMMISSIONER VIMBAI NYEMBA (TO WITNESS)

So sorry Elizabeth.

Q. I just want you to clarify. Did you have an opportunity to look at your brother's body before he was buried?

A. No. I saw him at the parlour that is the only time. My daughter is ...

Q. So you wouldn't know how many shots or what wounds he sustained?

A. She saw them and it's on his death certificate that he had gunshots wounds but my daughter saw it. I never saw it I am not strong enough for that kind of shock. I waited for him he said he was coming home.

Q. Do you think he was part of the protesters?

A. No. if he was, there were a lot of people on the street that they could have been caught up in the crowd because some footages he is just binging in the crowd he is not

protesting or screaming or shouting, he is very gentle and I don't think that he was actually screaming, shouting, or throwing stones, ... it wasn't like that.

COMMISSIONER RODNEY THOMAS DIXON (To witness)

Q. Could I have this one follow-up question, you said there was some footage of him in the crowd, do you have that available?

A. A lot of people have the footage. As I said I don't do social media but my family does and have knowledge of the footage. I haven't looked at it because it's not something I would like to see.

Q. If any of that can be provided through your family that would be very helpful for us to be able to get contemporaneous material from the time, it's very important.

A. Yes.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I just have a follow-up question trying to understand the circumstances. I want to understand, was he employed, was he doing something?

A. He was unemployed, he was looking after the house of a friend in Norton.

BY MEMBER

My apology, if I may interrupt. We are requesting the witness to kindly face the mic because what she is saying is not been recorded.

A. He wasn't employed now, he couldn't find a job. He was a driver he had got all these licence, defensive driving and everything but nobody would give him a job. That is the way it was.

Q. You said he was looking after the house?

A. He was looking after the house for a friend of his in the UK and that's how he survived. He rented out the spare rooms that were there to get some income. That's how he survived.

Q. If you don't mind where was the house?

A. In Norton.

Q. You told us about remembering how he was jovial on the 18th of November?

A. Of November, the day of the march he was hopeful, he was jovial, he praised God that everybody could come together and everybody was so happy. We were all full of hope. He was smiling taking photos with the army and everything and it was a wonderful day for all of us. And just a few months later he is gunned down by the same people he took photos with and I find it so unfair, brutal.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Thank you very much for agreeing to testify to this Commission. I just want to ask you one question.

Q. Have you seen the post mortem report?

A. No I just got a death certificate. The post mortem initially they went wrong. It was a

bit of monkey business I would call it. They tried to say he had stab wounds but we had a Human Rights Lawyer at the hospital that made him re-do the whole autopsy and I got his death certificate to see how he actually died but initially they tried to say it was stab wounds that killed him.

Q. So they were two post mortem reports, initial one?

A. The initial one was stab wounds and then they had to re-do it and it came out as gun shot.

COMMISSIONER LOVEMORE MADHUKU (TO WITNESS)

Q. One clarification. You made reference to a lady woman who was shot alongside your brother?

A. Yes.

Q. Do you know the name of that person?

A. No.

Q. But the fact you are putting across is that this soldier shot two people?

A. Yes the lady, apparently there was a lady that did come to the whack and she said that's what happened she was actually there. I didn't speak with her so I am not sure but she did say that he had shot this woman and my brother asked him why he did it and he shot my brother.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (TO WITNESS)

Q. Can you kindly tell us the name of at least one of your deceased brother's very close

friend?

A. He had lots of friends.

Q. Can you just mention one of them?

A. There was the guy that actually gave him the casket, his name is William. I have forgotten his surname. The guy the house he was looking after was Bruce Diabre who lives in the UK, he had lots of friends. That's basically how he survived. His friends would help him with what they could and he rented out rooms in the house. It's a big 4 bed roomed house. He only took one room and he rented out other rooms so that he could get income and that's how he survived. He did have a lot of friends and he had a family that cared about him. I have another brother and I have two sisters besides my mom and he has got a 13 year old daughter.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. Thank you very much Ms Elizabeth for your cooperation. We have no further questions. You are excused.

A. The other information who do I give it to when I get it, information requested who do I give?

Q. The secretariat she will give you the contact numbers. Thank you very much.

WITNESS EXCUSED.

TINEYI ZHUWAWO : SWORN STATEMENT

Q. Mr Zhiwawo I will kindly ask you if you can, to speak a bit loud and also slowly so that everything that you are going to say will be recorded.

A. I have taken note of that.

Q. Correct you reside at 1675, Overspill in Epworth?

A. Confirmed.

Q. And you were the young brother to the late Brian Zhuwao?

A. Confirmed.

Q. You were staying with him and his family is that correct?

A. Yes.

Q. Would you know why he was in town on the 1st of August?

A. Yes.

Q. Can you please tell the Commission how he was in town and all that which you would want the Commission to know about your late brother?

A. My brother was a vendor in town selling chargers, modulators, power banks and airtime also. Those were the items he was selling. I left home that was on the 1st of August early in the morning proceeding to Tafara. I am in the business of digging wells. I left after 6 am. My brother remained at home. After working during the day I returned home in the evening it was 1900 hours. When I got home I inquired from my sister-in-law on whether my brother had returned from work. She responded saying he had not yet arrived. I advised her to wait so that we could wait until 8 finding on whether he would not have arrived. At 8p.m he had not yet arrived. We retired to bed. I woke up after 2 am. I went to knock at my sister-in-law's door inquiring on whether my brother had returned and she said he had not yet returned. I went back to my

room where I slept. Before 4a.m I woke up and knocked at my uncle's door informing him that my brother had not returned. He inquired on the way forward. I then suggested that we were to wake up early in the morning, proceed to Harare Central in town. We proceeded to Harare Central and we saw the officers in charge there who were present. They opened files for suspects who had been arrested. We checked for my brother's name but we could not find it. They then told us that he was not brought to Harare Central Police Station. They referred us to Parirenyatwa hospital citing that they were people who were injured so there was a possibility that we could find him there. At Parirenyatwa we checked from the list of people who had been injured but his name was not there. We were referred to Harare Hospital after they told us that some of the people who were injured had been referred to Harare Hospital. Again at Harare Hospital we checked from the list of people who had been injured but we did not find his name. They referred us again to a mortuary at Harare Hospital where we proceeded to. We inquired from those who were in charge at the mortuary. They told us that they only received one body. They asked for my phone which they used to call the personnel at Parirenyatwa mortuary. The personnel at Parirenyatwa mortuary then confirmed that they received 6 bodies. Out of those 6 bodies 4 had been identified and the remaining two had not yet been identified. We proceeded to Parirenyatwa hospital and we were given a place to sit where we sat. After a short space of time we were allowed to get into the mortuary and check to identify from the two bodies trying to check on whether my brother was amongst those bodies. We checked on the bodies and we realised that one of the bodies was for my late brother Brian Zhuwao. That is what happened.

Q. Did you have an opportunity to see the nature of injuries he had sustained?

Inquiry

T.Zhuwawo

A. Yes I got the opportunity but I did not take much time because of what happened. As

I examined his body they was a small hole or wound on his right pelvic here at the waist and he was an open wound in the inner part of his right thigh. That is what I observed after examining his body.

Q. Did you get any information as to where exactly your brother was when he was shot?

A. What I can say is the shooting incident occurred in town but I would not want to mislead the Commission. I do not know the exact place because I was not there.

Q. Did he have a specific spot in town where he used to carry out his business? If you know that you may tell the Commission where this spot was?

A. Yes.

Q. Where was this?

A. At the traffic lights which are at the intersection of Samora Machel and Julius Nyerere closer to Karigamombe building.

Thank you very much I have no further questions. I will hand you over to the Commission who may have some questions for clarification from you.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Firstly let me convey our heartfelt condolences as Commissioners to your family for the loss of your brother Brian. I will now invite my fellow Commissioners to posse some clarity seeking questions from you.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (TO WITNESS)

Please accept my deep sympathy for the loss of your brother.

Q. Can you just tell us, after you had seen the body of your late brother what happened next. What action did you take?

A. We proceeded to Makombe building where we were assisted by Mr Nkomo. He assisted us with \$1 000-00. We made arrangements for us to collect the body. With that \$1 000-00 we used it during the funeral up to the point of burial where we buried the now deceased.

Q. Did you go to the police?

A. We went to the police in the morning as we were still looking for the body of the now deceased.

COMMISSIONER LOVEMORE MADHUKU (TO WITNESS)

Q. I think we also want to know whether after discovering that your brother had died and you had seen the body did you go to the police any time thereafter apart from going to Makombe?

A. We were assisted by the police from Parirenyatwa hospital.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

My condolence for the loss of your brother.

Inquiry

T.Zhuwawo

Q. I didn't quite get who gave you the \$1 000-00. What is the relationship between you and him or how?

A. We are not related in any way with Mr Nkomo but it was a form of assistance which was forwarded to us and we were not the only beneficiaries. All those who lost their relatives were assisted.

Q. By the same man?

A. Yes.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Maybe if I may clarify to the Commission. This was State assistance that was being given to all the relatives of the deceased at Makombe building where the office is.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Was your brother in politics, what was his political leaning?

A. He was not in politics.

Q. But he had political views as you talked?

A. Yes.

Q. Do you think he was part of the protesters?

A. No.

Q. Did you try to find out afterwards how he got shot, in what circumstance he got shot?

A. I would not want to mislead the Commission. After identifying his body, to me it was

Inquiry

T.Zhuwawo

my first time to come across such a situation.

Q. So you would not know if he was part of the protesters?

A. We grew up in our rural home that is in Mrehwa. Our Party which we also inherited from our parents was ZANU PF.

Q. You had no idea of the spot where he was shot?

A. I do not know.

COMMISSIONER LOVEMORE MADHUKU (TO WITNESS)

Q. Did you get to know that there was something written in the post mortem relating to where he was shot?

A. Yes.

Q. Is that correct that the place is written as Coppa Cabanna?

A. Yes.

Q. This was different from the place where he would be selling his items, would that be correct?

A. Yes.

Q. That would be some distance from there isn't it?

A. Yes.

Q. From the question you were asked by the Commissioner the Chief, as a family you didn't get to find out what would have happened whether he was part of those people fleeing away. We have been told that people were running away from the army or from the police, you didn't get to hear about that?

A. From what we gathered he was running away after the violence which took place in town.

Q. From the evidence we have also heard it would appear that there is also another person from Epworth Challenge Tauro who was also killed in town. Would you have any information or do you know anything about the fact that there is another person from Epworth who died on the same day?

A. No.

COMMISSIONER RODNEY THOMAS DIXON (To witness)

Thank you Sir for having the courage to come today to speak so publicly about this very distressing situation.

Q. You said that what we gathered was that your brother was running away when he was Shot, are you able to help us how did you find that out?

A. We got the information from other vendors whom he was operating with.

Q. Were they there at the time as eye witnesses?

A. From their version they separated as they were running away after violence started in town so they separated each taking his or her direction.

Q. If there is anyone who saw him running away or saw him being shot if you could tell us who that person is. Even if you can't do it now but you could tell us later that could be very helpful so we could get that information from them.

A. I got the information from his best friend. We were neighbours. According to him, when violence started they separated each one taking his direction as they were running away.

Q. It could be very useful to us if we could have the name of that person so we could get information from them if they will prefer to speak to us? You could tell the secretariat you don't have to do it in public.

A. I will do so.

Q. Let me ask this question, I know this is very difficult but when you looked at the wounds on your brother's body could you tell whether he had been shot from the front or from the back?

A. I could not ascertain but what I can say is at the back the wound was small but here on the right thigh in front the wound was open.

Q. That was the only wound that you saw?

A. Yes.

Q. Did they tell you what was the cause of death?

Inquiry

T.Zhuwawo

A. Yes.

Q. What did they say it was?

A. They informed us that he was shot together with other people who were shot in town during the time when there was violence in town.

Q. Did they put that on the death certificate that they gave you?

A. I did not check.

Q. Did I understand you correctly that your late brother was a member or supporter of ZANU PF?

A. He was a ZANU PF supporter.

Q. And this Mr Nkomo, that you mentioned he gave you the money, do you recall what he said to you?

A. Yes, I recall.

Q. Can you tell us please?

A. From what he said after assisting us with the money, he said if we encountered any problem we were free to get in contact with them.

Q. And he gave you a number or a way of contacting him?

A. Yes he gave us his number.

Q. What is it that you are requesting us as the Commissioners to do? We are listening to many people as to what they request of. I would like to know from you if you could

Inquiry

T.Zhuwawo

tell the Commissioners what would you be asking us to do?

A, My plea/request is if we may be assisted especially in relation to the family that was left by the now deceased.

Q, How would you want to be assisted?

A, Assistance inform of food, clothes and any other form of assistance.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Did your brother have wife and children?

A. He was married and he had one child.

COMMISSIONER CHARITY MANYERUKE (To witness)

I am really sorry. My sincere condolences about the passing on of your brother. I just want to seek some clarification on what you have said earlier on.

Q. What was the assistance you got from the police at Parirenyatwa?

A. They assisted us, they were actually facilitating the processing of the documentation so that we could get the body of the now deceased.

Q. Do you remember that process? If you remember you can share with us what actually happened?

A, A post mortem was conducted.

BY THE INTERPRETER

The witness, I think made a mistake he had indicated something like post mortem.

A. After post mortem we were shown the body of the now deceased. The burial order was processed. We were then given the body.

Q. Did you have an opportunity to talk to the doctors who did the post mortem?

A. I was emotionally disturbed so I did not get the opportunity to talk to the doctors.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. Tinei, in your testimony now you indicated that your brother's injury entry point of the bullet at the back and where it exited in front you seem to indicate that it was the right side of his body but the post mortem report and drawing seem to suggest that it was the left side. I just want to be ascertained so that it can be put on record that it's just an error of failing memory.

A. I could not ascertain on whether the injuries were on the left or right leg but what I can confirm is the point exactly where the injuries were.

That's perfectly in order and understandable. Thank you very much for coming and our condolences to the family. You may step down.

WITNESS EXCUSED.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call upon our third witness Dadirai Madombwe. It appears the witness is no longer available though she was available in the morning. May be I will proceed to call upon

Inquiry

R.T. Bingandadi

Justice Mbabvu. I will call Tapiwa Bingandadi who appears to be sited. The others were in but I don't know how they left the room. He is witness number 6 on today's list the 18th.

RAYON TAPIWA BINGANDADI : SWORN STATEMENT

Q. Mr Bingandadi do you confirm that you are employed at the protein shop along Park Street?

A. Yes.

Q. You confirm on the 1st of August you were on duty in this shop along Park Street here in Harare?

A. Yes.

Q. Can you please tell this Commission that which happened on the 1st of August in relation to the issues that are before the Commission that which you know?

A. On the 1st of August we started our work as usual at around 8 o'clock. We knocked off at around 6 o'clock if my memory serves me well. We left everything in order by that time when we went home. We closed the shop we went home. On the 2nd of August we were informed by one of our security guard from Guard Alert who normally comes at work at 8 o'clock that two of our windows were smashed. We came into town on the 3rd that was at around 8 o'clock then we saw two of our windows they were smashed. We got into the shop. We checked everything was well nothing was stolen. I personally had to go to Harare Central police station then I had to report the case that we had our windows shattered but nothing was stolen.

Inquiry

R.T. Bingandadi

Q. Would you know who smashed the windows or you didn't get to know what had happened?

A. I didn't get to know what happened. That's something that happened after we left because when we left everything was in order.

Q. At the time you left your shop were there any riotous in that area or you didn't see any on the 1st of August.

A. No I didn't see any.

Q. What was the value of the broken windows?

A. That was \$534-00 because we did the quotation with PG so that was \$534-00 worth of property.

Q. Do you think it was as a result of the riots or it was just some other criminal activities?

A. I might not quite finger to say it was the riotous, it was the thieves I cannot really say what it was.

Thank you very much I have no further questions for you I will hand you over to the Commission if they any questions.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to ask that your shop, who are your neighbours, are they other guards around

your shop?

- A. We have got CABS that is just close to us, we have got some other shops but they don't have like the guards that patrol during the night. I am sure they use alarms and just close, they are no guards.

Q. You talked of a one guard who reported the matter to you?

A. Yes,

Q. Was there a night guard?

- A. No we don't have a night guard, we only have a system whereby when we lock our doors we put the alarm system and we lock our doors. So whenever there is something that happens if the alarm rings there is the Guard Alert to rush to the incident if it happens that the alarm rings.

Q. Did you make any attempt to check the neighbourhood if they saw anything particularly if they saw the attackers?

A. No we did not make that attempt.

Q. Is it normal that no attempt is made to check who smashed the windows?

A. I actually did that by going to the police to report that to the police.

Q. You never thought of checking?

A. I never thought of going to the neighbours but when that happens we normally go to

Inquiry

R.T. Bingandadi

the police and make the reports. I never thought of going to the neighbours and asking if they had got something to say.

Q. Would they be a shop which was open or a garage nearby which was open during that time?

A. There wouldn't be, like I said before there is CABS that is close to us it closed at 3.30 and we have got some pharmacies that are close, they close at around 7.

Q. Is there a 24 hour garage nearby?

A. There is not a garage nearby.

NO FURTHER QUESTIONS

WITNESS EXCUSED.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call upon Ms Yolanda Masocha. She is the second witness on today's list the 18th of October.

YOLANDA TATENDA MASOCHA : SWORN STATEMENT

Q. Is it correct you work at Harare Province, ZANU PF office?

A. Confirmed.

Q. Maybe if I may let you know that the Commission have heard several witnesses from the office and they are now aware of what transpired at the office on the day in question.

A. I have taken note of that.

Q. In your statement you talked of an attempt by the police to rescue you, is that correct?

A. Correct.

Q. How did the police try to rescue the people at your office on the day in question?

A. Since we were on duty and we were also in our offices. We did not manage to see most of the things which took place. What I managed to observe was, a police vehicle canon with water came spraying the water trying to disperse the crowd. As they were spraying the water, the protesters would run away but the police officers failed to completely disperse the crowd. So when the police officers with water cannon left the protesters increased now to throw stones at the offices. The situation actually worsened. After some time members from the Zimbabwe National Army came and they rescued us.

Q. Are you able to explain to this Commission how you were then rescued by the members of the Army?

A, I have nothing much to say but what I can only say is we were hiding in our offices so after some time we were then told to leave our offices and the protesters were no longer there.

Q. Did you sustain any injuries yourself?

A, We sustained minor injuries as we were crawling to the ladies toilet where we finally took refuge in so the injuries were also sustained by my colleagues whom I was with.

Inquiry

Y.T. Masocha

Thank you very much I have no further questions for you. I may hand you over to the Commission.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (TO WITNESS)

Q. You have said that after the police had left then members of the Zimbabwe Defence Forces arrived. Can you tell us what did those members of the military do upon their arrival? How did they rescue you?

A. Like what I intimated earlier on, I did not see the method that they used to disperse the crowd which was outside. We were hiding in our offices but when they finally came, that is the members of the ZNA, instructing us to leave the offices, Mr Jani had been injured in his head, vehicles were also burning outside within the yard.

COMMISSIONER VIMBAI NYEMBA (TO WITNESS)

Q. Maybe if she could clarify. She is the only person who has not told us who this group of aggressive people were. Are you able to tell us who they were, where they were coming from?

A, We were in our offices like what I indicated earlier on but at the end of the day we later managed to know that those people were MDC supporters. At first they were demonstrating in town damaging buildings so as they were running away from town they then came to our offices. They were aggressive. The other reason why I am cock sure that these members were from the opposition is, they removed a banner with the President Emerson Mnangagwa's portrait. They attacked our offices, they were also

Inquiry

Y.T. Masocha

attacking us. So if you look at it, all these properties and also people who were being attacked were from ZANU PF.

NO FURTHER QUESTIONS

WITNESS EXCUSED.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Maybe at this juncture honourable Chairman I would ask that we have a brief adjournment so that we verify which witness is available with your permission.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

We will afford you the opportunity 5 to 10 minutes but we will just stay put, but if any members of the public want to go and have a cup of coffee or pay taxes to the revenue offices. You are free to do so. 10 minutes.

BRIEF ADJOURNMENT

RESUMED

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Honourable Chair and Commissioners thank you for the break. We are now ready to proceed. We have a number of witnesses who came in without their statements but they are prepared to assist the Commission with the information. If I may call upon Mr Islum Madosi.

ISLUM MADOSI : SWORN STATEMENT

Q. Correct you responded to the call to assist the Commission with information, is that correct?

A. Yes.

Q. Would you please now proceed to tell the Commission that which you think may assist the commission in its business.

A. Yes. Thank you very much. I did respond to the call from the Commission on the basis of the duties and functions that I was carrying out as from 18 September 2017 when Zimbabwe was having a biometric voter registration exercise until the Concourt day when judgment was passed as to who had clinched the votes. My designation during that time on the said day that is the 1st of August when common decency was thrown out of the window and regrettably replaced by political thuggery and murder in our beloved country. I felt that I could not fail to come and testify for the good of the only country that I happen to be a citizen by birth and descend. I was the Chief Election Agent of Advocate Nelson Chamisa for Harare Province including Epworth as well as Chitungwiza. But my testimony is on the basis of being the elections director of this particular political Stake Holder that I have alluded to. On that very sad day that is the 1st of August I was busy moving around all the Constituencies of Harare to find out if our polling agents had actually done what we had taught them, to be present on the day of voting to conduct parallel vote tabulation with the guidance of the presiding officers at various particular polling stations hence at the time there were some disturbances in the CBD whereby innocent civilians were shot and maimed as well as being killed, some of them yet they were giving their back to the perpetrators of the shooting. I witnessed those things then I felt that I should actually make it clear to the entire world as to what I witnessed as well as to elaborate or to say that this so called Commission as well as the appointing authority of this

Commission I think they are taking Zimbabweans for a joke. They are certain issues which deserve a Commission and the Commissioners they should be people who are clean who are not compromised because from the appointing authority up to the Zimbabwean contingent of Commissioners here I think they do not deserve to participate in this particular exercise because they are compromised. Why do I say so? The appointing authority was an actor in the 30th July lad sight and by virtue of being a contestant and the Commander in chief of the Defence Forces who actually fired shots and killed civilians I think he should have delegated someone else to actually constitute or institute a Commission of Inquiry like what happened down South. I think the Chairperson Mr Motlante can be a testimony. The Kagla issue, Mushinawami did not actually constitute the Commission of Inquiry because he was somehow guilty or he was somehow compromised. So in this case I feel that the commander in chief who was there by that time was not supposed to institute a Commission of inquiry.

BY MEMBER

Sorry honourable Chair, if I may interject. It is my considered view that this witness's submissions are misplaced. This is not the right platform to challenge the appointment and the authority of this Commission and the authority of the appointee. The appointment of the establishing of this Commission is Honorable Chair in terms of the laws of Zimbabwe. It is clear from the Commission of Inquiries Act that the President of the country has the powers to establish the Commission like this. This is perfect in terms of the laws. If the witness is to challenge the establishment and composition they are other lawful avenues and not before this Commission. I am sure he was called to give an account of what

Inquiry

Islum Madosi

transpired on the 1st of August not to challenge the appointment of this Commission. I submit, honourable Chair.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Mr Madosi, thank you for coming forward to share with us your own understanding of what transpired on the fateful day 1st of August and the issues you have raised are substantive issues and I think it would have being only too fair that you made a written submission so that as a Commission we could refer those to the powers that be to guide us as Commissioners but also to respond to the substantive issues you are raising. So if you can, because I thought you were giving context. If you can cut to the chase and share with us what you observed on the fateful day that would really be very helpful to us as a Commission.

A, I am going there with a background of my understanding that when a Commission is being established it should be a Commission which is very independent. I am not challenging its constitution or its institution but I am simply making it clear that I should have confidence in the Commission that I am submitting my information that I observed hence I need to be accorded the opportunity. I didn't challenge the appointing authority but I am simply pointing out some glaring anomalies. I think with due respect we have to say the truth. This is a very serious matter where human life was lost.

Before I was cut short I was also going to talk about the terms of reference that I am not very much as an observed pleased to find out that human life was lost. In the terms of reference we are not being given the opportunity to talk about how many lives were lost and who actually caused these to happen to lose live. It's very necessary, its human life that was lost. It was people trying to achieve this country

who went to the liberation struggle for, universal suffrage and they expected the results to come out and they were using parallel voter tabulation to see that there was no winner here. So I think that back ground it ought to be said that the Commissioners like some of you amidst you they are members of a political organisation whose appointing authority managed to institute. Will they give an adverse report from the witnesses like myself when you say it?

Madam Manyeruke, are you not a member of ZANU PF which is led by President ED. Will you say something against your boss? I have my brother Professor Lovemore Madhuku. He was an actor in the played sight of the 30th of July and after this sad day, black day, a day or two days after he mentioned that the blame should be apportioned to MDC Alliance and right now he is sitted there. Do you think he is going to change his judgment because we have provided information here? We have madam Mabhiza. A very long time Permanent Secretary for the President. The appointing authority. Are we likely to get a fair detail of what transpired?

I think the majority , the Zimbabwean delegation like I have said , they aren't according to me fit to be sitting there, they should have recused themselves and we should have an independent as well as a credible composition of people who were not part and parcel of the game. They were part and parcel of the game. Even if you refer back to the compact constitution , I think if my memory serves me very well madam Manyeruke was in the thematic committee of COPAC representing Zanu Pf which happens to have the President who has appointed this. Do you think they will disappoint their principal? What are you saying they are certain issues which did require an instigation or a Commission of Inquiry like what took place on the 28th of July in white city stadium where the army again which happen to have access to

ammunition , a bomb detonated there . The Commander in Chief was there, the Generals where there. People died, somewhere injured and we are saying no Commission of inquiry was done. Do we inquire something which is in the public media because we want to chlorinate ourselves so as to join the Common Wealth. Do you think the composition will take what we are saying to the appointing authority and we say it was fair? No it wasn't.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q But with all due respect sir, all I am saying to you, we will very much love to hear your testimony on your account but you are raising, basically, issues that are not within the reach of this Commission and I am, saying to you don't you think the best way is to commit that to writing so that if you want to use this Commission as a channel we can then convey that to the relevant authorities because we are not here to adjudicate over elections. We are here to inquire into the post election violence and you correctly pointed out that lives were lost and so that is what we came to listen to. I think you can help us a great deal if you work out how best to convey this because your views about what happened on the first of August that will be very helpful to us and that we are all ears actual. As your view and your opinion about the Commissioners, these Commissioners took an oath. They were sworn in and they are here to perform those duties in accordance with the oath they took. So all I am pleading for is please help us understand the post election violence. We are all ears.

A Thank you very much. I think that is what I am doing and I did elaborate saying that I had to give what I observed with a back ground and I did give that back ground . I

wanted it to be known that in as much as people did take an oath but they are compromised. I am now going to where you want me to explain.

- A. Thank you very much. That is lives were lost. In as much as people may want to say we are not here about elections but people they died because of elections. It was because of elections that is what made them to be killed because they wanted the results of elections so we cannot say we are no here to talk about elections. We are talking about elections because that is why lives were lost because people they wanted results of elections. And we are saying some of the judges they were participants in those elections which you are saying let's not talk about and they are sitting here to get information from us yet they were players and referees. It should be known because it is going to be known all the whole that the composition of this particular Commission how was it like. Had it any modicum of credibility.

So what I witnessed as I was now moving around trying to check with polling agents of the movement for democratic change is that I saw people around the fourth street. They were singing ordinarily that the results be released as they were singing and dancing 'toi toi' I don't know if it is correct English. The police officers who are mandated to maintain peace and order they were there and there was no friction and commotion with those that who were demanding results to be announced since they had another source. What they were simply waiting for was the official announcement by the election mother electoral mother board with mandate of releasing the results. I failed to understand where those who are supposed to protect the citizens of the country, that is the national army and they started firing guns. I had to take cover in one of the buildings along Nelson Mandela because I was running away from fourth street then we later also saw the

video or the footage or a man in military fatigue that is what made me to conclude that it is the army firing. I think by the name Kanyonga and I felt that it was just a matter of asking the line commander as to who ordered these people and I think it goes up and I think the bark it stops at the Chief. Commander in Chief of the Zimbabwe Defence Forces that he ordered ordinary civilians who were not armed who were giving their back to the army to kill, like what they were saying during that campaigning that the coup was not made in order to make this boy Chamisa to rule and that we cannot allow that Mukhupe did say that one of the losing candidates in Harare East. So Mr Motlantle that is what I observed on that bad day where common decency was thrown and regrettably replaced by political thuggery and murder by people in military fatigue and those that are sitting side by side with you some of them the Zimbabwean contingent I think they should have done the noble thing to recuse themselves and the fact that we want to join common wealth, I do not think we should waste resources in order to chlorinate something which is already dirty and I am speaking as a citizen of this particular country.

Q. Mr Madosi thank you very much. I do not have any questions for you. I will hand you over to the Commission if they have any questions for clarification.

COMMISSIONER VIMBAI NYEMBA TO WITNESS

Q. Mr Madosi you said you saw people along fourth street or around fourth street singing. Were you able to identify what group of people where they?

A. I could not identify them.

Q. What were they saying in their singing?

A. They were saying, 'Ndinoda vote yangu.' They were after the results to be announced.

In actual fact they were saying how come we have results in Chiredzi being in announced yet results in Harare have not yet been announced were we happen to have the national head office of ZEC.

Q. What else did these people you saw do apart from singing?

A. Like I have elaborated eloquently, I said that they were singing as well toing and I asked Mr Briton whether it is correct English. Nothing more nothing less.

Q. What time of day was it along Fourth Street?

A. I would be very very economical with the truth if I say it was this hour. It was around midday. I did not have any checking with the chronometer.

Q. And you also saw a man you named Kanyonga?

A. On the video footage.

Q. Not in person?

A. On the video footage which went viral even the British MP Hoy said that there is no need for a Commission for something which is in the public domain.

Q. No further questions.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE TO WITNESS

Q. What was the police doing?

A. They were watching those who were singing and dancing.

Q. Were they armed the police?

A. I do not know if they had live ammunition but I saw that they had guns, whether they were tear smoke gas I could not distinguish as I am not a military personnel.

Q. Did you see them doing anything?

A. The police they did not do anything.

Q. Did you know about a water Canon being used by the police?

A. I did not see that happening.

Q. Did you hear any warning shots?

A. I did not see any warning shots. I simply saw men in military fatigue. As for the police enforcement agents nothing showed that they were at disagreement with those that who were singing.

Q. Did you see people throwing any stones or breaking any windows?

A. I did not see people throwing any stones, singing and dancing that is what I saw.

Q. That was just on Fourth Street?

A. Yes they were in Fourth Street and then when these people came in military that is when people started running in all directions.

Q. How many people were in military fatigue?

A. It's a matter of estimation. I saw about around a dozen.

Q. Thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO TO WITNESS

Q. I must say your eloquence is very impressive but my question is that that day did you see the people dancing and toi toing?

A. There more or less of jogging but here we say toi toi.

Q. Did you see any damages being done to shops?

A. I think I have already answered that I said I did not see that. I saw people dancing as well as singing nothing more nothing less.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE TO WITNESS

Q. I think the Chief has apprehended my question maybe in the best of clarity according to the testimonies that we have received so far from previous witnesses, they told us that there was a lot of damage to the property within the city of Harare. Do you have any idea as to what, who is responsible for that damage. Despite the fact that you did not see the damage yourself but according to the testimony there was damage. Damage occurred. It did take place. Do you have any idea? Can you guess who is responsible for that damage?

A. Issues of this magnitude does not require one to apportion blame as a matter of conjecture. That is the eloquence that you were talking about. It is being brewed by my hip and back ache that I am having. After testifying here I am going to see a radiologist in order to have myself examined.

Q. Was it a result of the 1st of August?

A. It wasn't. I am not economic with the truth. I made a swearing before God.

EVIDENCE LEADER: MRS FORTUNE CHINGWARU

Maybe if the witness can be advised that should he want to sit down he can. He has that option.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU TO WITNESS

Q. I just want to make a follow up on a question that has been paused earlier. It remains, the version you gave to what you saw was happening to the evidence that has already been represented to us. Time would be quite of essence. I think one of the Commissioners Zinyemba there has asked you. Would you be able to say you are able to say within, which you have seen people in fourth street mid morning up to maybe 1500 hours.

A. Like I said it's a question of estimating I did not have the time check the exactness of time because chasing our agents in order to find out whether they have managed to get the election results forms or the V11 forms.

Q. Would that be correct that you are saying up to about three that is when everything else was happening up to the time that you got the army to intervening.

A. I also had to turn away as I was now afraid of the gunshot. I had to take hibernation in one of the buildings like I have said. So this time issue to me it was not very crucial. What was crucial was to save my precious life which we only live once.

Q. The reason why I am asking is just for clarity that the Commission had already had evidence. So there would be conflicting evidence that has been presented and what you may present which relates whether or not there was any damage at that place so when we try and resolve the conflict we would obviously need to look at time.

Inquiry

Islum Madosi

- A. There is bound to be conflict especially if people are partisan but as for me I am a nationalist I do not give a damn if there is time conflict but what we are talking about is that life was lost.

COMMISSIONER PROFESSOR CHARITY MANYERUKE TO WITNESS

- Q. Thank you Chairman. You mentioned that you saw a video with a name Kanyonga. Would you have the full names?

- A. I do not have the full names.

- Q. Would you have any knowledge of the Kanyonga in the footage?

- A. I do not have especially when he was in military fatigue. I do not associate with people of that calibre.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

- Q. Mr Madosi these people who were singing in Fourth and demand that the results be released, to whom were these demands directed?

- A. They were directing to the electoral mother board ZECX although the mother board representatives were not there because they didn't see them because the majority of them, I happen to know because I work with them very closely.

- Q. And so would you know if they submitted a memorandum of demand or something anywhere?

- A. I am not privy to that.

Inquiry

Islum Madosi

Q. So their demands could not have been conveyed to the mother board of overseeing the elections?

A. I am not aware.

Q. I am just having a bit of difficulty in understanding how people can congregate and make demands that are directed at an established authority and not have a channel of communicating that.

A. I think the wounded and the injured can best answer that question as to why they were congregating or they were just caught in cross fire. As for me I had business to find out whether my polling agents had actually complied with the section of the electoral Act whereby we should have V11 forms completed.

Q. How did you establish that infact this was their demand .Where they chanting?

A. They were singing and chanting. They were singing, '*Toda vote yedu.*' It means we want our vote the results. It was in vernacular shona. That is what they were saying.

Q. Thank you very much. No further questions. You may step down sir.

A. Thank you.

EVIDENCE LEADER MRS FORTUNE CHINGWARU

If I may call Artwell Garanehama. It appears he is no longer available.

Mr Zakeyo Mutimutema. If you may please take the witness stand.

ZAKEYO MUTIMUTEMA : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHINGWARU TO THE WITNESS

Q. Mr Zakeyo. Did you submit a statement to the police?

A. No.

Q. And you confirm that you said that you were a victim on the day in question?

A. Yes.

Q. Would you please tell the Commission that which you saw on the 1st of August 2018.

A. Thank you very much for the opportunity. I am Zakeyo Mutimutema I am the legal adviser of the Zimbabwe Congress of Trade Union. My testimony is concerning the events that happened at Jason Moyo and Harare street, at the back of that street there is Kaguvi street. Our offices are just opposite the Zimbabwe Electoral Commission Offices. So I work in the 3rd floor a building called Golon Housie . That is my work place. So on the 1st of August I was at work at the ZTCU office doing my usual work. Drafting document, analysing documents. At around 10am between 10 and 11, I heard some noise coming from town because our place is at the other end of the two so they were people running coming from town along Jason Moyo Street and Nelson Mandela street coming to ZEC. So a group of about three hundred, my estimation. They were about three hundred to five hundred people, come running around Jason Moyo , converged at the Zimbabwe Electoral Commission offices. I was actually seeing them when I was in the 3rd floor looking at our windows. My office windows are of big glasses .There are no walls like this one .You could actual see

what is happening there. At the ZEC offices it's along Kaguvi street and Jason Moyo. There was a construction vehicle which were doing some resurfacing of the road at ZEC along ZEC. The construction vehicle was driven close to Jason Moyo and barricaded the road . Then a group of police officers in riot gear were there. They also stood barricading the place. This group of demonstrators converged there. They were dancing and singing and shouting then in about 15 or so minutes they left. They went back to town. Then after some while say about between 11 and 12 they came back, the demonstrators. The number had a bit increased. I think it was more about 500 or more. They converged again at ZEC offices and they spend quite sometimes there. When it was towards lunch time I left for lunch. There is some distance to Queens Hotel. There is a take away at Queens Hotel I had my lunch there. So after lunch I came back to my office. I went upstairs. These people were there. What I saw amazed me now because there were police officers and the demonstrators. There was no friction. Police officers just barricade the entrance to ZEC and the demonstrators were in the road along Jason Moyo. I went to my office. I spent some time there. I think between 2.30 to 3pm that is when I heard sounds of guns shots. I just ignored, I thought these were police officers maybe they are dispersing the crowd so I did not bother much about the guns shots. Then the gunshots were fired again, I heard the sounds. I then checked through my window. I saw people were running into town. Then I sat on my chair, whilst I was seated on my chair I tried to check my emails from maybe laptop that is when I heard glass shatter on my window direct where I we seated. Some glass windows were hit and in my view I thought these were bullets because I was hearing sound sofa gunshots. So the glass that broke from the window

hit on my face and some fell on my table. I then had to sit down that is when I realised that I was under attack. So I had to sit down.

Later on some few minutes I had to check what's going on. Why is it that I am attacked. I peeped through the window. I saw people in army uniform holding guns moving into town, shooting. That is when I saw oh maybe it's the army that is firing the bullets because in this country it's actually a criminal offence to wear army uniform of you are a civilian. So in my mind I said these are the army now who are firing the shots. So later, I think it was after three there was some little bit of quietness. The gunshots where no longer as they were doing so I said ah, let me go out. As I was going out from the office on our second floor there were some colleagues in our reception area who were also making noise.

I went there to check, what's wrong. I asked, 'Have you heard the gunshots?' They said, 'Yes and bullets also hit our ceiling.' I said, 'Oh what are you telling me.' I saw one of our guys called Joseph Tshuma he is our security officer was hit in the head by broken glasses that hit on his head and he was bleeding .So we converged there and said what can we do to our colleague who was injured.

As we were talking I said but I was shivering because I was thinking of how those bullets missed my head in my office. So I said ah but I think I need to go home so I left some colleagues attending to Joseph then I got out . It was more quite people had dispersed. So I walked to collect my car. I left for home. That was on a Wednesday. The following day it was a Thursday. I did not report for duty I was scared. The next day was a Friday I did not report for duty I was scared and it got into

the weekend. But at home on Sunday I started feeling like if I look at an object I will see like it's covered by mist. So I started to feel some reactions.

On the Monday, I had the same problem so , I went back at work, then I said I have to see a doctor to check what`s wrong with my eyes because they usual don`t react like this. So I went to an optician doctor Patel along Angwa street, just opposite the rank for Chitungwiza and the police. They checked my eyes. They said they are observing fine particles of glass embedded in my eyes so the optician said we need to go for flushing. They took me in one of their surgeries. They started a process which they do to flush the glasses so glass particles were flushed in my eyes.

There after they brought me a prescription to buy some medicine to use. I bought the medicine called Mastro another one called Mosel and I was given also Tetra citric. They said you have to apply this at least three times per day. So I started using those medical solutions. I will say even up to now I am still even undergoing that process. I have the mediocre that I use 3-4 times every day from the day I was checked by the doctor up to present and I know have problems working with documents especially if I do a lot of reading because my work requires analysing a lot of documents , to an extent of drafting documents.

I am having challenges when I am doing my work as a results of that incident to an extent that between 14 and 21 September I am in the International Labour Organisation Committee that reviews International Labour Standards. I was in Geneva from the 14th to 21st of September. That Committee review International Labour Standards. I was struggling to do the reading because there is a lot of documents that you have to go through, analyse those documents and make

comments. I was struggling while I was in Geneva. I had to request for medical assistance. So ILO took me to their clinic. The nurses there checked me and said , no the extent of damage requires a specialist so they recommended that I go for a specialist. Unfortunately my medical aid could not cover for the cost in Geneva so they said if you can afford we will refer you. If you can't afford then you have to go back to your country. So I came back and still want to my specialist who checked again .Now there is some improvement but the wounds will take time to heal. So I am saying to you now I am still undergoing that medical process. I have difficulties especial if I look at the laptop to work looking on the laptop. I have difficulties at the present moment. And also watching television has become problem for me. If I keep on looking on the television my eyes start to react and at times they become red if I keep looking on documents , looking on the television or on the laptop so this is how this incident affected me and I am pleading to the honourable Commission to say I think matters of this nature I request you to make a recommendations that people must be compensated . I am just thinking of the long term effects of my eyes. Is this going to end now or I have developed a long term problem especially when you are in the business of analysing documents and drafting and making quite a number of submissions that are required so I think this has an impact to my life as a whole so I am saying we need a just system in which the perpetrators can be dealt with, conduct a thorough investigation , get hold of the perpetrators and ensure that justice is done.

Also I think to say , if I look on that incident , my own observations was , there was no need at all to sue firearms against defenceless citizens who were actually when I saw them they were running away from where the gunshots were coming. So if

somebody is running away from you why do you have to shoot? Why do you have to keep on firing if somebody is running away so I saw people running into town .

Running away from where the gunshots where coming from.

My observation was, the police who were at that place, were capable to handle that matter. They had their water cannons. They had their usual tear gases. If the situation deserved the use of such I think a better way , a better approach could have been applied than the one that was applied in which we hear gunshots fire and up to this I ask myself , but what have I done to these people . I was not among the demonstrators. I was in the office in the 3rd floor. Why do bullets have to hit the 3rd floor? There were no people running into the 3rd floor. And thanks to my God at the time of the shots if I dared to stand at the window watching I think I could have been hit by one of the bullets, but what happened is I was seated on then chair and something that came into my mind to say, ‘Can you check you emails. ‘The moment I tilted my head that is when glasses fell on my table and hit my face, so Commissioners, Chairperson this is what happened to me and this what I saw at that place . Thank you.

Q. I just need a few clarifications. Wouldn't you know the value of the damaged property at your offices?

A. We have not assessed the value yet and I heard the Commission is likely to have an inspection in loco definitely I will request you to visit our offices and see for yourself the extent of damage that was effect at the ZCTU offices. My office`s window was damaged. The second floor which is our reception , the windows were damaged and our ceiling has pores of bullets that hit that ceiling but to quantify it into monetary

terms we have not yet done that and we have not repaired those windows thinking that investigations will be done, the police would like to see and gather such evidence because my employer went to police and reported the incident, so we are actually waiting for the police to come and do their work as usual.

Q. And your medical expenses for now are you able to quantify?

A. I have not quantified them but they can be checked because I use an employment medical aid. So I am under a first mutual medical aid. I think they can ascertain that cost. What I did was to use my medical aid to go to the optician to check my eyes.

Q. Finally you said when these demonstrators were gathered there you saw some police officers. Would you know what happened to the police officers when the army came in or you were no longer watching?

A. I did not check what later happened. I had gunshots. I was working on my document. So when my office window was hit and glasses falling on my table that is when I had to sit down. So when I later had to check outside what's going on, then I didn't see police officers all what I saw were people running and getting into town.

Q. Thank you very much. I no longer have any questions for you. I will hand you over to the Commission if they have any questions for clarification.

COMMISSIONER CHIEF EMEKA ANYAOKO TO WITNESS

Q Just a little clarification. You said you saw people running. Why do you think they were running. What reason do you think they were running?

Inquiry

Z. Mutimutema

- A. When they were gunshots and I checked I saw people where running. I think they were running away from the gunshots because we heard sounds of gunshots being fired then you on the window you see people are running so I assume that they were running away from those gunshots that were fired.

COMMISSIONER VIMBAI NYEMBA

- Q Mr Mutimutema you said you saw about 400-500 people who were coming converging at ZEC offices. Where you able to identify what group of people where?

- A. No I do not know who they were. What I saw was a group of people who converged at ZEC and then I saw police officers also there.

- Q. What were those people doing?

- A These people where singing and shouting.

- Q What where they singing and shouting.

- A I no longer remember the songs which they were singing and shouting. But just heard them saying is ZEC is stealing our votes.

- Q You said you saw a construction vehicle being moved so that it could barricade the road?

- A. Yes.

- Q. And then you also so the police assisting. Is that correct?

- A. I saw police also barricading the road to ZEC so they actually built a wall like , police was lining first at Jason Moyo where the demonstrators were.

Q. What was your perception of the situation after the police had barricaded ZEC and the people kept on signing and saying whatever they were saying. And you are saying there was harmony between the police and the people.

A. Yes I saw a co-existence of the demonstrators exercising their right and the police. And I was also surprised because I know the behaviour of the Zimbabwe Republic Police when it comes to unsanctioned protest actions so when I saw that co-existence I said now our police know how to make peace because I work for an organisation, for you information my organisation and a history of people being beaten by police of demonstrations and it's actually captured in the ILO Commission of Inquiry of 2009. That report is there online if you google and just last week on Thursday my Secretary General and my President were beaten by police at our offices for an intention to do a demonstration. This last week on the 11th on October 2018. So on the 1st when I saw police had made a barrier demonstrators were signing on that other side. No-one was attacking each other, I said. 'Oh this is what I call policing now. This is good co-existence between the demonstrators and they law enforcement agents.'

Q You said they were shouting and saying ZEC is stealing our vote. Whose vote?

A. I do not know. I did not ask them.

COMMISSIONER RODNEY THOMAS DIXON QC TO WITNESS

Q. Sir thank you very much can I ask, your Trade Union Organisation is it independent of political parties?

A. Yes.

Q Which Union just roughly for back ground does it represent?

A The Zimbabwe Congress of Trade Unions'. It represent workers who belong to different political parties. These workers belong to their own industrial unions. these unions when they come together they are 35 of them .35 Unions coming together to form the Zimbabwe Congress of Trade Unions . The membership comes from different political parties. Even when we have our union meetings we usually emphasize that here we are doing Union business. If you have got issues to do with politics go to your political party not in the Union business.

Q. We are trying to get to the bottom of the sequence of events. Can I ask you some questions about what you said about the first time you heard gunshots which you said didn't really alarm you very much. There was a set of gun shots just to clarify. You weren't not concerned and then the gunshots stopped. Is that right?

A. That the gunshots?

Q. Stopped. So there was a first set?

A Yes.

Q And then there was a pause of time and then more gunshots afterwards. I am just trying to understand that sequence if you can as far as you can remember reconstruct that for us.

A. Having observed the co-existence which was between the police and the demonstrators I never bothered about what was happening downstairs . When I heard the guns shots I just thought maybe it's the police and the demonstrators . I think they are trying to disperse them and maybe they were just firing empty things. I

later realised that this was real when my office window was then now hit and broken glasses were falling on my table and I said ah this thing is serious . So that is what I still recall.

Q Suggest then to clarify there was some initial gunshots you were not concerned about. The initial gunshots which you were not concerned about , was there a pause then after that they were more later or they just continued?

A. There was a little bit of a pause but continuing.

Q. How long was that pause?

A. Less than 2 minutes.

Q. Up until 2minutes it could be as long as that.

A Yeah. I will think so.

Q Can you help us not necessary 1,2 3, . I mean was it a lot, an overwhelming amount or not so much. I am trying to get a sense of what happened that day.

A It was quite a lot. You know when you have been, your office has been hit, glasses falling down. You are concerned about how much was happening? You are now concerned about yourself. I said, 'Oh, I am lucky let me take cover.' So I could just here some gun shots going on in town. So that is when I said let me check because the movement has passed our building. That is when I said no let me check then I saw people in army uniform grabbing guns pointing everywhere. Going into town.

Q. Roughly how many people did you see doing that?

A Roughly about 5.

Inquiry

Z. Mutimutema

Q How is your office window looking down?

A That is the last floor of that building the 3rd floor.

Q Did you see more damage to shops on the street below or any vehicles.

A At our building there are shops on the ground floor. All the shops were closed. People closed their shops. Some locked themselves inside and I did not do the assessment to see whether there were some damaged or broken windows to the shops underground.

Q Did you hear about other things that were damaged.

A Nobody talked about it. All what we heard was this place was dangerous on this day.

Q And then the 300,400,500 people that you saw. Did you see them from your window?

A If you have the opportunity to go to my office you can actually see how glaring it is because Jaison Moyo street is like here and my office is just like here and my window are big glassed you can just actually see what is going along that street.

Q What time did you have to witness them? Was it about an hour longer than that?

A The whole incident or the gunshots?

Q The whole incident.

A The whole incident I think it started around between 10 and 11 up to about 3 and or half 3 approximate time.

Inquiry

Z. Mutimutema

Q You said with time then group grew bigger. Did its manner change in what they were doing that they become more aggressive or it was the same through?

A It was the same throughout.

Q When you saw the police with them , was it throughout the entire time right up until when the gunshots started ?

A That was before the gunshots were fired. There were police at ZEC office who had barricaded the road such the people will not pass through.

Q So the police where stopping people getting in.

A Yes.

Q Do you known if they tried to get in at all or advanced on the building ?

A What I saw were people along Jaison Moyo and police where barricading . Where they were trying get in didn`t observe much to that.

Q Thank you very much for you answer.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (TO WITNESS)

Q When you had your windows shattered, where you able to see the objects which hit the window.

A I did not see the object. I tried to check in my office. I couldn't see anything.

Q You talked of some other offices which are downstairs which were also shattered. Did you see any objects that hit those windows?

A Yes there were some objects in that office.

Inquiry

Z. Mutimutema

Q Can you tell us about the objects that hit the second floor window. Yes there were some objects like , some were saying these were cartridges .

A I do not know whether these are cartridges or not. But I think they were about two that fall into that office.

Q If I may follow up on that. What happened to the cartridges?

A I have to check with the Secretary General of our office when he went to report to the police . Whether they were submitted to the police.

Q Yes that information would be of interest to the Commission whether they are still with you or with the police or even rather how they were removed from those offices will be very grateful if you give that information to the Secretariat .

A Alright.

Q Where there any other objects, any stones, any bullets?

A We did not see any.

Q In your office?

A Nothing except shattered glasses.

Q In the yard?

A There was nothing.

Q So what you have are the two cartridges?

A Yes.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (TO WITNESS)

Q Just a follow up to the last questions. The cartridges that you saw, in your office, how big where they?

A 10-15cm or so.

Q Cartridges?

A That is what some people were saying. I do not know whether the cartridges or not. Some are saying it was just an object.

Q But you have also said that they were some bullets. Some bullets are also seen.

A When something is hit and then especially if it's the ceiling and the wall . You can see that something is hit here. This motor which covers it has been removed as well as the paint which is there.

Q So all you saw was the cartridges?

A In the office?

Q In the office yes.

A Yes.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (TO WITNESS)

Q I just wanted you to clarify the time lines. I am interested in that you said this group came first and then they left, they went away and then came back. Would you know the time gap between their first appearance and then going away . Then later coming back. The time period between that?

Inquiry

Z. Mutimutema

A Be it could be around like 30minutes. Something like 30 minutes.

Q So the second coming back would be around what time?

A They come around between 10.30 to 11 then they left for a while and came back that was between 12 and 1. That one started well after lunch. It was after lunch I think around had 2-3 something like that.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE TO WITNESS

Q Thank you very much for you testimony. I hope you do actually find a solution to your eye problem because you need that. That is part your ability to read documents and so on. It`s your line of work.

My question really relates to the position of the window in your office that got shattered and the offices the below where these object hit the ceiling on the wall. Are they on the same roof?

A Yes it`s the same building. I am on the far western side. This reception is on the second floor at the middle. So we are like somebody`s on that window at that side. So it`s quite a distant.

Q So the possibility exists that the project tile that caused the window to your office to be shattered is different from the ones that most likely shatter the offices below.

A Yes I will assume so.

Q And you said the police never came even after the matter was reported. The police never came to investigate and therefore protect the scene.

A We haven`t seen them.

Inquiry

Z. Mutimutema

Q Thanks you very much. No further questions.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE TO EVIDENCE LEADER

Q How many people are here to testify now.

A They are 6 more.

Q 6 more. 5 were the walk in and 1 was on the list.

A But one on the list is the one that I called out the other time and he did not respond.

Q Could you establish with them if it is ok to come back tomorrow because we are about to adjourn for lunch and after lunch the Commissioners will go on a inspection in loco of where all this happens were taking place so chances are that we will not be back in time for us to continue with the remaining witnesses.

A So maybe if I may have their names to see if they are around.

EVIDENCE LEADER: MRS FORTUNE CHINGWARU (TO THE WITNESSES)

Q Lovemore Chinoputsa, Innocent Ngwechai, Smart boy Musimo, James Saidi, Artwell Garanehama, Lyody Zhou, Makomborero Haruziveishe. Would you be able to come back tomorrow?

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

A Comrade President we would have loved to give our inputs today because we cannot guarantee that we may come back tomorrow. Especially that we have put our names there.

Inquiry

Z. Mutimutema

Q Ok. Lets agree that we will adjourn for lunch now and Commissioners will really try and get out through the lunch quickly so that we go out because you see those of us who are not residents of Harare we do not know names of the streets . People were running down George Silundika street or any other street or Park street and so on. And it's difficult to draw a mental picture of the locations and so on. That is why we want to see the layout of the land so to speak and then we would be armed with maps so that as people testify we are able to plot exactly the spots where things could have taken place . So that we may take a bit of time . We commit to be back here earliest by 4.30 so we can continue and then we can take the rest of your testimonies . is that Ok.

A It's okay sir but if you don't see us something would have happened.

ANOTHER WITNESS

A I do not agree with what he is saying. I am prepared to give my testimony tomorrow.

Q But of course we would be back at earliest 4.30 to continue so if you are around please we will be ready to hear you.

ANOTHER WITNESS

Q Sorry Mr President. We have spent the day here since 8 o'clock . We have other commitments. So for us to come back again, I think it will be unfair. We have got other things to do. You know the economic situation in the country. You can't spend the whole day waiting to be heard. We thought they could say, they could adjourn their inspection and continue . With the proceedings.

Inquiry

James Saidi

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q. May I have your attention? We have just heard our own cocus here and we believe that it's only fair that we continue with hearing now. We will do the inspection in loco a bit later after having heard all of you. Now of course either facts those of you who are used to having lunch at specific times of the day but we sympathise with . For us to make progress we have to sacrifice something. All of us will have lunch later. Let`s carry on.

EVIDENCE LEADER: MRS FORTUNE CHINGWARU (TO THE WITNESS)

I will call upon Mr James Saidi

JAMES SAIDI : SWORN IN

Q. Mr Saidi did you give a statement to the police.

A. Yes I did.

Q. Actually I put it wrong. Did you give your statement to the Commission?

A. No yet.

Q. But you gave your statement to the police. What was it in connection with?

A The same thing that we are gathered here for.

Q Just a brief back ground . I run a small business in town. Small hardware in town. On the first of August I was walking. I parked my car at the easy park car park that is

Jason Moyo and George Silundika Avenue. So I was walking along fourth street up from Farm and City . I had gone to buy some goods there then I found the shop closed. As I was crossing Robert Mugabe I saw people running coming from the direction of Robert Mugabe. So everyone was in a panic mode and everyone was running in all directions. There was a group of people coming from Eastgate going toward fourth street bus rank .These people were singing and chanting . Some of them had iron bars. Some of them, had stones. They crossed fourth street and we took shelter at Engine Garage at fourth street. They went into the rank. I do not know what transpired there. They came out of there running coming back into the fourth street. As I was about to cross Speke Avenue , the group came from 4th street Rank and they were singing going up along fourth street then suddenly there was a Range Rover discovery 4 . Green in colour that came from the direction of Meikles Hotel. They were two occupants in that car. The car stopped right in the middle of the road. Of the two occupants that were there, without fear or favour I can mention their names. There was Jim Kunaka on the passenger side and there was Tendai Biti driving the said vehicle. They parked the vehicle right in the middle of the road and he chanted the slogan, ‘Ahoi ma comrades, Ahoi. Everyone came to the car. Then Jim Kunaka got out of the car and he instructed some guys to say can one or two of you guys climb up that bill board. Tear it down. We don’t want things like this in the country. Within two minutes two guys had gone up the bill board . They took down the bill board with ED’s picture and they burnt it. From then on Jim Kunaka instructed the said group to say let’s go to the Zanu Pf offices now approximately it’s about 500 metres away from there.

Then when they went there on the parameter walls of the Zanu Pf Provincial Headquarters there were some vendors there and those vendors tried to resist. They didn't know what was happening and there was skirmish between the vendors and the demonstrators then they retreated , then the next thing somebody shouted that no there is a police man with a gun. Jim Kunaka gave instructions to say no, there is only one policeman there and he has got only one gun. I know the place . I have been there before. That started everything. All hell broke loose. People started throwing stones. Somewhere climbing over the perimeter wall. The next thing because I was fearing for my life also , I took refuge at Bakers' in Jason which is about 20 metres away from where the group was gathered. The next thing that I saw was smoke coming from the Zanu Pf Provincial offices. Then in the car park adjacent to the Provincial offices, there was also smoke again . Fearing for the safety of my car , I ran in there. Into the park. Fortunately they did not touch my car. My car was not part of the property that was damaged but there was a bus that was on fire and two vehicles parked across to the park. From there onwards there were gun shots coming from the Provincial offices. People retreated first then they came back. Then there were two police water Canons that came and three police trucks but what happened to my surprise , instead of ten police attending to the scene they chose to divert their route. Two police water Canon turned left in George Silundika and went towards Railton Sports clubs. The three army trucks remained stationary opposite Premier Medical Clinic that is far away where the group was gathered . The next thing , the water Canons came back along Nelson Mandela and turned again back into fourth street and went straight . We all thought or going towards were the fire

was but instead they made a u-turn at Jason Moyo and fourth street . On the truck tried to spray some water but I think he must have used it somewhere else. There was no water. You could tell that there was no water coming of the sprinklers. So from there onwards the next thing that I heard was helicopter. A helicopter flew past going straight along fourth street and we all took a ran for safety. Jumped into my car and I drove out of the city straight away.

Q Roughly what time of the day was it?

A Between 2 and 2.30 in the afternoon. that`s when it started but the Helicopter I think I came around after 3.

Q Other than the helicopter did you see any soldiers around?

A That I cannot say because I already feared for my life because of what was happening. The situation had deteriorated to such an extent even bystanders were becoming victims of this group so we all had to run for our safety.

Q What was this group doing to the bystanders?

A Either I witnessed two incidents .People of course they were trying to take videos. The next thing the phones were taken away and those people received a very good hiding.

Q Where you able to see whether this group of people belonged to any political party?

A The slogan that they were using and the address that was done by the other leader of the MDC alliance. And also to make matters worse Jim Kunaka was putting on a red barret with an MDC label and a plain red T-shirt.

Inquiry

James Saidi

Q Do you also belong to a political party?

A Yes but that is my secret.

Q That is fine. I no longer have any questions to put to you. I will hand you over to the Commission for any clarification that they may have.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (TO WITNESS)

Q I think that secret you need to tell us. It`s necessary for purposes of our enquiry. Just to ensure that your evidence is complete. You need to tell us which party you belong to. I think it`s necessary.

A To make you happy Mr Madhuku I belong NCA.

Q I thought you said you belong to Zanu Pf that`s why.

A I never said that. I think you must have been taken a nap when I was talking because I never said I belonged to Zanu Pf.

A I think you need to understand. It`s important if you really want to assist us. That will be an important piece of information to the executive party you belong. It will be useful for us please.

Q The truth is I am a member of the NCA. You can check your records. My name is there.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (TO WITNESS)

Q Just a questions to do with the helicopter. Where you able to see the direction in which the helicopter was either coming from or going to or where it was positioned at point in which you heard about the helicopter?

Inquiry

James Saidi

A I was standing at update house that is between fourth and George Silundika . Just right opposite the car park and the helicopter just came from nowhere but it was flying towards Samora Machel on fourth street where it came from , I cannot tell. Did you observe any activity around the helicopter?

A No.

Q Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q Thank you very much James for your testimony. I think there are no further questions. You can step down.

EVIDENCE LEADER: MRS FORTUNE CHINGWARU (TO THE WITNESS)

I will call upon our 8th witness it`s Lovemore Chinoputsa.

LOVEMORE CHINOPUTSA : WITNESS ADMONISHED

Q Mr Chinoputsa you confirm that you did not give any written statement ?

A Yes I did not give and it was deliberate.

Q But you are able to assist this Commission with information?

A Yes.

Q Can you please proceed to tell the Commission that which you think will assist the Commission?

A Yaeh maybe before I proceed if I may ask from the Chairperson Comrade President to be able to guarantee that nothing will happen to me after I have given

Inquiry

Lovemore Chonoputsa

my evidence because in Zimbabwe there is freedom to speak but freedom after speech is never guaranteed so I wanted to check if I can be free to give my information knowing very much that I will be protected nothing will happen to my person as far as this issue is concerned

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q Yes. As far as the Commission processes are concerned you are protected. If anything happens to you it would be classic laboratory case.

A Thank you very much Comrade President.

EVIDENCE LEADER: MRS FORTUNE CHINGWARU TO THE WITNESS

Q Now you can proceed to give evidence.

A Thank you very much madam. As it has been said my name is Lovemore Chinoputsa. I am a Zimbabwean citizen and I am here to give my evidence as a citizen of Zimbabwe but I also thought it's important that I also tell who I am in other spaces so that it can also be clear. Whilst I am here I am representing myself but I also belong to the MDC Alliance as led by Advocate Nelson Chamisa where I serve also there as the Youth National Youth Secretary General of the MDC Alliance and I contested in the last election as a member of Parliament for Zaka Central where I did not make it for other reasons that are not necessary for this platform. Comrade Chair and Comrade President I think I want to also highlight before I get to my evidence that I believe in bureaucracy that we suffered in our attempts give this information is disheartening to say the least. The level of bureaucracy that we suffered

in our attempt to give this information is disheartening to say the list. It has not been an easy job to be here to be able to be finally giving my testimony. It had to take a lot of courage and a lot of pushing because we were being taken from one office to the other . If it happened to me I think it`s happening to a lot of Zimbabweans so I also thought if you can assist members of the Secretariat to be able to make sure that they expedite the process of people who are wanting to give evidence I think a lot of people are being left out there. You were attempting to gag a member who came here before who was attempting to give background but I also want to take you slightly backwards to the background issues around this very important. Issue s which we are aware for.

When you look at the unfortunate events of 1st August 2018 Comrade President , you will realise that a lot of things transpired on the day but the most important element to it is that people were shot and people were killed by people wearing army uniforms. And this is a sad chapter in the history of our country but it has some back ground to it comrade President because you realise that November 17, 2017 in this country there was an operation that took place that was led and assisted by the military of this country . And ever since that, Professor Madhuku knows ,I have fought the Mugabe regime ever since I was a teenager but the beauty of the Mugabe regime was that you would know that you would be beaten up, you would go to jail, you would go to court. The concept of people dying and concept of the military being involved, he would use the police but we are in for a new rude awakening. The new boys in town are literally the military people of this country and they have defined their own way of doing things. If you look at what happened to Itai Dzamara you will see that there is man who is called Itai Dzamara who disappeared

in this country and all indications indicate that this was the work of the military intelligence department. I have no evidence to that effect. We then see the military that removed a powerful man in the name of Robert Mugabe.

Q Sorry if I may interject you a bit I am advised by the recorder maybe if you move a bit slightly and give a distance between you and the mic so that everything captured properly.

A I am just giving you background of how powerful the military has become in this country and how they are being used to make life difficult especially for anyone who does not agree with the current regime so we see Robert Mugabe's powerful and strong as he is being removed whether you could call it a coup or soft coup otherwise but the fact with military remains that it was the military that played the critical role. And now we have the military has now begun to form part of the government of the day. Some have just left, literary left their uniform this day tomorrow they are already in government. So there is no distinction with regard to whether they have really left the barracks or they are still in the barracks and when you are in a situation where you then have on the 1st of August the military or people wearing military uniform, coming in to kill people who are supposedly protesting then I think we have a problem there. So I just thought probably I could highlight that. I have on the first of August 2018, I was coming from Masvingo specifically Zaka where I was the candidate which is about 320 Km away from Harare so I arrived in Harare around I think past 12 thereabout. When I arrived in Harare I had the notorious V11 forms that I had collected from my constituency which I wanted to handover to the election department at Harvest House. This was the key evidence

where we wanted to show the world how the election had been rigged and how the vote of the people of Zimbabwe had been stolen.

I went to Harvest house. I went to the elections department which is at fourth floor. I think past 12 to 1 there about. When I was getting into town from Beatrice road I saw people who were protesting, whom I didn't recognise and I just checked for myself if there was a demonstration in town because when there are demonstrations especially led by the MDC Alliance I am one of the first people to know. I am 3rd in command in the Youth Structure of the MDC so if there was any demonstration that was being led by the MDC I would have definitely known, so as I was confused as I was moving on, I saw people protesting I didn't care and I also didn't know the people because they were not people that I have seen before but I also noticed that there was a camaraderie of some sort between the police and the protestors. It's very rare in Zimbabwe to find protestors protesting and then you have the police there just barricade, I think I used Rotten Row road to get into town you would see that whilst these protestors were doing whatever they were doing but the police where there, they were not harassing people as I know them for doing. They were just there watching what was happening. I passed and then I went to harvest house. I drove my V11 forms, then it just came into my mind that I needed to check my emails because I was in the rural areas for a long time so I went in to my office which is on the 3rd floor. I think I was there for about 2 hours checking my emails and you know also these social media things. It was during this time I think between 1 and 3 there about I am not sure of the time that I began then heard a loud voice that was telling people to leave to move away. It was a very loud voice full of command. Then I peeped through the window because my office is to the side of

Nelson Mandela. Then when I peeped outside the window I saw that there was a group of soldiers who were coming in. Probably numbering 8, 9 thereabout. I think they were now at first and Nelson Mandela who were giving that instruction that people needed to move away then I saw also another truck of the military dropping people just adjacent to the parliament entrance that is in Nelson Mandela and also between 2nd and 3rd. That was also dropping soldiers. So this guys the other ones where carrying whips and the ones were carrying their guns advancing to the few people that were in Nelson Mandela but then they went to Angwa Street. So when these people where going, I then left my office went into my car, that was parked at the basement and then I drove off.

As I was driving of before I even go , I stay in Greendale, before I even got to Greendale I then began to hear stories about people having been shot by people in the military fatigue I didn't personally witness anyone being shot but I then saw it on the videos that people had been shot, then I realised that I had seen soldiers who had guns so I just thought that so it's those soldiers that I had seen who were carrying guns that could have basically be the one that did that. This is my story to the Commission.

And just to add and finish off and say, Comrade President, we have confidence, or rather I have confidence as an individual in your capacities but I want to speak to my fears as an ordinary Zimbabwean about the composition of your Commission Comrade President. Whilst I find it very encouraging that a President nevertheless the fact that some of us are contesting this Presidency and we continue to contest it, but the fact that the powers that be has decided to put a Commission, what needed to be done as far as I am concerned was to then say, the President is a confluted individual.

The vice president, the first Vice President is directly coming from the Army. I thought those two people were supposed to move aside and allow probably the second vice President or the outgoing speaker of Parliament who was there to constitute this kind of Commission. It could have added to the legitimacy that is required for a Commission of this magnitude to be able to do its work.

Then you look at the Secretary of this Commission, the Secretary is a former Permanent Secretary of the President. Someone who is very close to the President in terms of having worked together. When you have such a person there administering on who is supposed to come and give evidence, will she be able to then say this information can nail my President, can I leave it or I will remove it. I do not know. I am, not casting doubt on her.

We have my sister, my beautiful sister here, Madam Nyemba. Beautiful, hard working everything. But now she has become the only darling of the new boys in town. Every other board you find her there. She is now in this other sensitive board, I don't know what its name. Procurement what, what, what, what. I don't even know whether she really agreed or she was forced by the boys in town to come to this Commission.

That's another side, but I am saying that's why is it that she is the only one who is too intelligent or knowledgeable enough to be able to deal with these issues.

My Friend Professor Manyeruke, she is my friend, but we agreed to differ on a lot of issues. She is a member of the Zanu Pf Women's League if I am not mistaken. She should have been Provincial Administrator at some point. Provincial Secretary some point. But her love, her admiration and her support for Zanu Pf is unquestionable. It's

there for everybody to see. Will my friend be able to then say , I can go this far in exposing what really happened or I will protect the party which I love dearly which I belong to.

Professor Madhuku we have done so many demonstrations before together. You know very well for a fact that whenever you led us in demonstrations, the demonstrations that the poor democratic movement in this candidate always done, are never violent. I have attended several demonstrations from the ANC, I led several demonstrations from the MDC we have never done demonstrations and go and attack Zanu Pf Headquarters. We have never done that in our lifetime. I want to give the same kudos to Zanu Pf itself. It has held several demonstrations. Million Marches and everything but they have never dared to come to MDC headquarters. They don't. There is an agreement in unwritten agreement that we don't need to antagonise each other in such a way because when we demonstrate in doesn't mean that Zanu Pf does not have a right to demonstrate also. So if you demonstrate and go and destroy Zanu Pf offices what it means basically the next morning when Zanu Pf demonstrates they will equally come to our offices. What is the point that I am driving to, the point that I am driving to is if there was any violence that happened to Zanu Pf Headquarters this could have been done by a 3rd force that wants to create a challenge between Zanu Pf and MDC. I also said that as far as I am concerned and as far as I know the demonstrations of the 1st of August was never led by MDC. We do demonstrations sanctioned and unsanctioned and when we do them they are always in the public domain. So this mentality of wanting chlorinate ourselves by putting the dirty on key opposition leaders wrong. It's not a good foundation for a people that wants to start on a so called new dispensation.

What I would have loved the Commission to do Comrade President as I finish off, is to say the facts are there. The facts on the matter are that, there are soldiers, there are people who were in the military uniform who came and shot and unfortunately killed people. Who gave that command? I know I am not a lawyer, but I know that for any deployment of the military the Commander in Chief needs to know what is happening. Is he not the one who gives the instruction? I want to believe that he knows what happened. Instead of swearing in you, what the President should have done, to you President was to say, Comrade Motlante my boys went overboard and did 1,2,3,4 how do we correct this. It's of no use coming to me, I have no link, just like many Zimbabweans in here, they have no link as to know where do we keep military equipment in this country. I want to put it to you Comrade President to say that the answers as to who shot people in the streets of Zimbabwe is there for all in sundry to see and it is the military. Who gave instructions to the military, it's their line of command. Let's go to President Mnangagwa today and say President Mnangagwa, with all the arsenal that you have, I know the military intelligent in this country is superb, they should be bled to point who gave that instruction. If President Mnangagwa is not in control because of a situation whereby at one point Mugabe was not in control, if President Mnangagwa is not in control let be known that he is not in control and there is someone who is doing all this. So you can't go around. The fact of the matter is that people are continuing to die, you will live us today, you will leave us after 3 months President but that is not going to change the situation in Zimbabwe. You will leave us with whatever recommendations that you are going to make. So many Commission s have come and gone but it is the security of the ordinary man and women in this country that we need to protect. We

Inquiry

Lovemore Chonoputsa

need not to be worried about whether the government of the day was going to get into the common wealth. What is important is , your legacy around this issue, you were the man and the women that were able to protect the sanctity of life and the security of the people of Zimbabwe. Comrade Thambo Mbeki came to Zimbabwe and messed up big time. I respect you Comrade President I have confidence in you. I have followed you ever since your days in the Trade Union Movement . I have confidence in you Comrade President that once and for all you are going to deal with the issue of Zimbabwe and the security of every Zimbabwean is going to be realised. The security of every Zimbabwean is going to be guaranteed and will leave happily thereafter I want to thank you Comrade President .

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Thank you.

EVIDENCE LEADER: MRS FORTUNE CHINGWARU “TO THE WITNESS “

Thank you Mr Chinopusta I don`t think I have any question top put to you. I will hand you over to the Commission for any clarification.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (TO WITNESS)

Q Thank you very much for your very insightful testimony. I just wish to know in view of the very high opposition, relatively high position that you hold within your party`s hierarchy. Are there any procedures which need to be followed, which have to be followed before your supporters go to the street for any demonstration or for any meeting before they participate in any political rally. Are there many procedures which need to be followed?

A With the police I am not a lawyer but I know that we are supposed to inform the police that we want to hold our demonstrations and I think that is what we do so whether the police gives us the nod or they don't what is important as far as we are concerned is that we communicate with them that , this is what we intent to do and as far as we are concerned , nothing of that sought happened and also with our structures when we want to hold a demonstration , we have a clear channel of communication that we do with them were we send messages that tomorrow at this point in time , you are supposed to come , you are supposed to have a demonstration that starts here and ends here. The agenda of this demonstration is 1,2,3,4 . We are going hand a petition. We try to opens lines of communication with the powers that be. That is basically what we do.

Q Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (TO WITNESS)

Q Would you confirm, I think yes for purposes of the Commission, knowing that as secretary general of the youth you would sit in your top most body of your party and in the national Council.

A In the National Council I do sit.

Q. You sit in the National Council.

A. In the national executive.

Q. So you can confirm, it will be correct for the Commission to describe you as a really senior member?

A. If you decide to do so, yes. But like I said....

Q. That's all we need.

A. No, no I am coming here as an individual. I am a father, I am a citizen of this country. I am a social worker by profession. I am coming here to speak. I know that my part can make a decision whether to appear or not appear before this Commission but I also thought as an individual I owe it to myself and to my kids to be able to come and explain to the Commission and to Cde. President what I feel needs to be done about this country going forward.

Q. Yes, that makes sense. I just wanted that to be clear. If our secretariat were to describe you as a senior leader that would be correct?

A. I am very senior.

Q. That is correct?

A. Yes.

Q. I think that's all I needed for purposes of our clarity.

COMMISSIONER VIMBAI NYEMBA (TO WITNESS)

Q. You said the violence that happened had nothing to do with MDC. It would be good for the Commissioners here to know who in particular would you think was behind the demonstrations that happened?

A. This can only be speculation because I don't have evidence. What I said was that, as far as we are concerned, the MDC had not planned a demonstration, the MDC had not called for a demonstration on the day in question and the MDC did not participate in

that demonstration. But considering what then happened later where they was a demonstration and force had to be used to contain the people, something that had never happened before and especially when the MDC is demonstrating. I want to believe and speculate that this could have been a hand of a third force that wanted to justify why they had to clear the streets, so they probably began to burn the cars, they probably began to stone building so that they would justify the entry of the military. So I wouldn't know really who did that. But I think they could be evidence, they should be videos about people that were captured during this demonstration and so far our police has not arrested anyone in connection with having being seen or captured on camera in these demonstrations, number one. Number 2, if you look at the people who died, I think they should be seven although they are officially said to be six, if you look at all the seven people that died they have no link to the MDC. What does it mean? It probably means that either these people were just innocent bystanders that were captured or they actually didn't belong to the MDC. So I don't know how people got killed but I know that people got killed. So I don't among the six if they was any who was part of the demonstrators but I know that they were others who were not part of the demonstrators but I am not sure if all of them were not part of the demonstrators. But again on all of them, they is no one who can be linked or traced to the MDC that's why I would insist that there is nothing from the MDC that point to the fact that we participated in these demonstrations.

COMMISSIONER RODNEY THOMAS DIXON (To witness)

Thank you very much for your testimony. I do want to emphasise that anyone is free to come and testify before the Commission and that is not for the Permanent Secretary to

decide on it but for us as the Commission to do. I must underline that and I can give you my reassurances of that.

Q. I just want to understand your testimony because its quite important we have to assess the evidence independently. Is it your position that the demonstrators we have heard they were 4-500 of them, maybe more, had nothing at all to do with MDC?

A. When you say nothing at all what does that mean? Because people don't move around being asked whether they belong to ZANU PF or the MDC.

Q. We have heard evidence, to be fair to you, we hear evidence that many people had MDC t/shirts on them and they were claiming to be members, they were singing songs that aligned themselves with your party and I am just trying to my head to work it out for you as an official to be saying that you had nothing to do with that at all. Is that really your evidence or what exactly are you saying?

A. It remains my evidence that the MDC alliance had nothing to do with this demonstration, why, because, number 1, the MDC didn't call for this demonstration. And I was clear to you that for the past 6-7 years all the demonstrations that had happened, I may not be participating but I would know that at this point there is going to be a demonstration so at that point I know for a fact that we didn't organise a demonstration. The MDC didn't call publicly or otherwise for the demonstration to happen. They were 23 contestants in this election and the results had not yet come to show that this race was a two men horse race. Why is it that now when people are clamouring for their votes to be announced, why is it that becomes a fact that obviously these people were from the MDC Alliance and the other 21 minus ZANU PF, they should be another 21 political parties that participated in this election. So

when people clamour for their votes to be released they are not saying make Chamisa President. They are saying let us hear the correct results so I don't know where, and why and how then people begin to lump the MDC together with the demonstrators. Yes we may identify with what the people were demonstrating for because knowing your vote is very important but the MDC had not called for a demonstration and the MDC and its leadership didn't participate in this demonstration. We don't fear to call for demonstration. If we want to call for demonstrations like we are going to be doing very soon, we call for demonstration at any point in time so we don't shy away when we call for demonstrations. We don't. People were killed in 2007. Professor Madhuku, when we were beaten up by the Mugabe regime you know very much. We were clear that we were calling for a demonstration. We even did some of the worst things like calling for the removal of Mugabe in 2003 and we stand by what we were doing but it's unfair to then say we organised this demonstration when we didn't organise this demonstration. If the people decide to demonstrate, who is the MDC, who is Chamisa to stop these people from demonstrating? They had no link, they had no instruction, they had no command, and they had no authority from the MDC to demonstrate. It doesn't mean that when the MDC doesn't say people demonstrate it doesn't mean people will not demonstrate. People will demonstrate whether the MDC likes it or it doesn't like it.

Q. So you accept they were some MDC supporters?

A. I don't know because I didn't see them.

Q. You said you were there, you saw people there?

A. I saw people that I don't know, because I didn't know that at some point they will have to be shot and I will have to come to such a Commission I would have applied my mind very well to then probably really look around to say who is here, who is not here. So I would be lying to say I really looked around the 4-500 people and say they is no MDC person or I saw MDC people. I will be lying to you.

Q. Did you see any red t/shirts in the amongst of people?

A. Red t/shirt so or red colour?

Q. Yes.

A. I would lie. This is 1 August and this is October. I would lie.

Q. Your evidence therefore that it happens spontaneously entirely?

A. I am not sure. It could have been organised, it could have been spontaneously but what I am saying is the MDC Alliance did not organise. That's how far I can go to speak in terms of that.

Q. Just clarify again because I just need to assess this afterwards. So said that the attacks on the ZANU PF headquarters and the vehicles and other attacks that we heard evidence of without prejudging I am just saying we have heard evidence of that, that could have been done deliberately in order to justify the military to come?

A. Yes.

Q. On what basis do you make that assumption?

A. Because one, we have never had the military coming when people are demonstrating in this country. Two, because when we look at, the second point is what I said that the

character and nature of this demonstration is not something that we have seen, not only the MDC but with all the pre-democratic movements in this country when they demonstrate, when fighting for a new constitution, when people were fighting for gender equity in this country. Several demonstrations had been held in this country but the nature and character of this demonstration on the 1st of August to the character of the MDC and the pro-democratic movement.

Q. Who could this 3rd force be? Have you got any idea? You put that word out?

A. I am speculating I wish I had the intelligence personnel with me to be able to do investigations around that but I don't.

Q. Since the fateful day of the 1st of August have you or your party been able to find out who was responsible for any of the damage that was caused? Is it something that you have looked into?

A. We are more worried about life than really going around as to what could have happened. What we have ascertained for a fact is that from the videos that everybody has seen is that there were soldiers. Some of which, I think there were names that were being thrown all over the social media of a soldier who was kneeling and trying to aim at people. What we have ascertained is that the military came, shot at people and unfortunately killed people.

Q. We are focusing on that very much Sir, but I am just trying to find out about the damage if you know what could have caused that?

A. I am not speaking on behalf of the Party but I know that the Party does not have the capacity to investigate in terms of who could have instigated because we are also not

involved. We thought that it's the responsibility of the police. It's not really our responsibility to go around checking who has destroyed whose property, where and how?

Q. If we go out to the killings, the number is I think 7 we are investigating all of this; do you have any specific evidence as to who was responsible for that? Either something that you have seen or something that you found out afterwards. I am looking for hard facts that can help us?

A. If there is no hard fact that surpasses the fact that there was a military man kneeling, aiming, throwing bullets all over the place such that one of the commanders had to tape him on the back to say please stop it, I think we will never get any other evidence that is required. I don't know if you were asking this especially from the families of the victims because I think it would be really unfair on the part of victims because I am also a victim because I am Zimbabwean and I saw lives being lost. I think it's also being unfair on that part of you asking us Zimbabweans to be able to get the facts and evidence around which gun was used to kill this one. The fact of the matter remains that someone died. Some people died. Seven of them died and the people that killed them were in military. That's why I was saying if we were serious this Commission should have been focusing on the members of the military to then say who deployed that day. Simple.

Q. That's what I am asking you. Do you know that? Maybe you don't but I am trying to find it out?

A. But my point is, come here, you went to the street, who send you, they will be able to refer you to the next person until you get to the end. If you don't get to the end

because someone decided that he wanted to be a President of this country they have to be responsible. If you cannot get along the line command, if you cannot get, the back stops to the President of the country.

Q. Can I just ask, we have the victims I am trying to find out from you if there is anything that you know? You have mentioned this commander taping somebody on the shoulder. Is that on video?

A. Yes. It's on video.

Q. You can provide that to us?

A. Yes I think I can provide that.

Q. That's what I mean by looking for hard facts. If there is anything like that we want to know because we are trying to get to the bottom of it.

A. I actually have it.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Do I understand you to admit that MDC as a party could have given authorisation on demonstration but that MDC members could have willingly organised the demonstration with or without as you said MDC leadership could not have done anything to stop that?

A. When one becomes a member of the MDC it doesn't mean that any other affiliations in their thinking capacity is made because they are a member of the MDC. So if someone sees something that they think they identify with and they go to a certain church it's all up to them. We don't stand in the way. What I am saying is within the

organised structures of the MDC, there is nothing of that sort that happened, but we would not be, just like the party has decided not to come before this Commission but I am here because I have my rights as an individual at the end of the day. So my belonging to this party does not necessarily mean that I suspend everything and I follow to the loyal spirit of everything that the Party says. So if they were there I wouldn't know because I have never bothered to check. The issue that we want to correct that I also feel that as a Zimbabwean I need to correct is that the MDC had anything to do with these demonstrations. If anything I think that these are people that are trying to remove the blame squarely on their face and on their table. The MDC does not control the military. At least there is a government, they is a President. Whether he is there by hook or crooks that is another thing but he has to face the reality that he calls himself the President of this country.

COMMISSIONER LOVEMORE MADHUKU (TO WITNESS)

- Q. I think that just to follow up on that question, there was evidence given to the Commission you might need to check it and then at your convenience you could either further assist. There was evidence given that one of the deceased persons that we have on record is Challenge Tauro from Epworth, Chinamano Extension. This person was one of the persons killed among those persons that were killed whether 6 or 7 as we get to find out. The evidence we were given yesterday is that Challenge was part of a meeting of the MDC Alliance that was convened around 10 am in Epworth, and that that meeting was convened by the Member of Parliament for Epworth, who were given the name as Earthrage Kureva. The person who gave evidence to the Commission Mr Peter Masanhi was actually said to be a member, he said he is a member of the MDC. He said there was a meeting organised by the then

successful member of Parliament and that people were given \$2-00 to get to town and that the purpose was, so from the evidence you have given us it is very clear that, I think we have understood it. You are saying that the MDC Alliance had at that level never organised any protest.

A. Yes.

Q. So as you get on that you might need to check whether Challenge Tauro is your member. He is deceased already.

A. I have seen the evidence and if this kind of misinformation that also made me as an individual to want to be part of this process. I have also checked. I am the custodian of the documents in the MDC youth assembly, that Peter, I can't remember the surname, seized to be our member when our former vice president Thokhozani Khupe left the Party. He left with vice president Khupe so he is no longer a member of our Party. Honourable Earthrage Kureva is a treasury general in the Youth board that I sit in so he is my subordinate. That's why I was saying I am very senior. So there is no way that honourable Kureva could have organised a meeting of that magnitude and fail to communicate to the authorities that be. If anything I understand that honourable Kureva is actually in the process of suing that guy for defamation because I think he went overboard. People should be able to learn that you can only go this far in terms of presenting facts. So I am not sure whether he has been able, in the morning he was saying he wanted to go to the lawyers to check if it can be sueable, I don't know if 'sueable' is the correct English. So what I am just saying is that the information that was given by that Peter could have been, remember Peter stays in Epworth. We are just coming from an election and honourable Kureva is one of the people that were

contesting and I know for a fact that Peter was supporting another candidate from former vice president Khupe. So it could be an issue of sour grapes there, but I think at their level they are going to be able to deal with each in terms of who was saying the truth and who was not saying the truth. But as far as I am concerned that meeting never took place because we don't have it in our records that such a meeting took place and if honourable Kureva did anything, he didn't do it with the blessing of the Party. Which I doubt because he has already communicated to the Party that he didn't do anything of that sort that's why he is taking up this issue of this Peter guy.

Q. Have you checked Challenge Tauro the deceased would that be a member?

A. I will have to check whether he was a member but he would not have been a position holder that much I am certain. But being a member he could have been but he is not a position holder whether at ward branch or whatever level he is not.

Q. Its very helpful for us because when we get this kind of evidence before us ordinarily all fairness we must hear the other side. And then the other information, you were sitting here. I think the witness who came just after your colleague did say that he saw Tendai Biti and Jim Kunaka, I think you heard that coming. You may not need to answer for them but it would be helpful to the Commission given this sort of evidence coming before us but if there is a strong feeling of in fact the conviction that that never happened. It might be useful for us to get that counter evidence. I hope you will be able to assist.

A. I have not checked with Cde. Jim Kunaka but I know that for a fact that honourable Tendai Biti was no way near 4th street. I think its one of the basis of his arguments in court where he is accused of all these things. But I also want to bring this issue to give

it a political context to say when you look at Harare East and when you look at Epworth, these are two populace constituencies in Harare and ZANU PF has always had an interest in these two constituencies. So without doubt I would want to put straight that ZANU PF is trying to target honourable Kureva and honourable Biti so that they can convict these people and be able to call for a bi-election in these areas and attempt to reclaim these two constituencies. Now Cde. Tendai Biti's issue has been going around all this time and now we only have honourable Kureva being brought in now. I think they have targeted certain constituencies that they want to nail people and then they will be able to do bi-elections and be able to penetrate into Harare because the people of Harare definitely refused to be led by ZANU PF.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Thank you for your presentation. I want to ask about on your way from dropping the V11 forms from the Party, whether you witnessed around that vicinity any usual or unusual gathering?

A. Unusually in terms of many people or?

Q. Usual or unusual. It depends how to you, is it usual or unusual?

A. I am used to seeing a lot of people demonstrating. Like I have said I have led demonstrations before so it's a usual fight as far as I am concerned to see people demonstrating but when I was leaving, like I said I used Kwame Nkurumah because my car was on the other side of town, so I used Kwame Nkurumah into 4th I actually passed the Defence House, brave as I was on that day I passed through on my way to Greendale but where I saw a lot of people were down there where there was ZEC that's where they were a lot of people and that were doing whatever they were doing.

But this other side of town because I also didn't go closer to the 4th street bus terminus where there is ZANU PF so I wouldn't really know what was happening there. I would be lying.

Q. Just to elaborate on my usual or unusual gatherings I am talking about whether people were in celebration or protesting, whatever. Did you see any around the vicinity on your way whether celebrating or not?

A. They were not celebrating but they were asking for their votes. So I think when people are asking for their vote I don't think they would be really celebrating. Just clear that they wanted to hear the results so I think they were in an anxious moment of some sort, then say how did we fare as NCA, how did we fare as PDP, how did we fare as all the other parties, as the MDC, as ZANU PF. I didn't wait to really check on the emotion and their standing and what was happening and their body languages, I didn't wait to do that, so I would lie.

Q. The reason why I am asking is because we had a witness here who actually talked of a celebration which took place around MDC offices, the Harvest house. I was trying to check if they was a celebration or just gathering. I am just trying to check that evidence that was presented if you witnessed any gathering around the vicinity?

A. No I didn't.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Thank you Lovemore for your testimony and thanks for assuring us that you will forward a copy of the video that went viral to the Secretariat. I think it's an important piece of evidence.

Q. You said there was camaraderie between the police and the demonstrators, if we shall call them that and they wasn't any sign of conflict between them. Was the army there? At what point does the army feature?

A. At that point the army was not there. It was around past 12 to 1 when they appeared and there about. I think the army then, I am not sure if they were the first ones to be in town but the ones that I saw, I saw them around 3 p.m. I am not sure if they were the first ones to get in town, when you use Rotten Row and then come with Jason Moyo very close to the ZEC offices, you would see they were demonstrators there and the police were just barricading. And it's unusual in our situation in Zimbabwe where we have the police doing their work there and not really disturbing the demonstrators in terms of removing them. We are in a new dispensation for sure because the police were just doing their duties. I think, I can't speak on behalf of them but I think they were also reading the mood within the crowd to then say I think this is manageable or whatever. But there was no direct, I have seen where people have had direct confrontation with the police or the police having confrontation with the protestors in this country. But this was not the case on the day in question.

Q. So by the time of this video which records this soldier taking aim at people there is no sign of the police there?

A. I didn't see any. On the video I didn't see its just capturing on a small part so I wouldn't know if they were police officers around that place or not. It's just something that I have set my eyes on. I am shocked that until this point you haven't seen such a video.

Q. We haven't, we are heading up slowly towards that point.

Inquiry

Mavis Makiwa

Thank you very much.

Witness excused.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Good morning honourable Chair and Commissioners. With your indulgence Chair if we may proceed to start today's business.

I will call upon my first witness for the day Mavis Makiwa. She is witness number 9 on today's list.

MAVIS MAKIWA : SWORN STATEMENT

EVIDENCE LEADER MRS FORTUNE CHIMBARU (To witness)

Q. You confirm you reside at number 20342 in New Stands Ridge Kuwadzana Extension?

A. Confirmed.

Q. And you are self employed?

A. Yes.

Q. On the 1st of August 2018 were you at your work place in town?

A. Yes.

Q. Can you please tell this Commission that which happened on this day when you were at your work place?

A. I started work at my work place as usual. I was selling my items like what I normally do on daily basis, then in the afternoon two young men entered in my shop. They

entered as if they were prospective buyers as if they wanted to buy some televisions where they inquired about the televisions. They inquired on the prices of the televisions. I told them. Before they asked for the prices for the televisions I had not noticed that the two young men were armed with some stones. After inquiring for the prices of the televisions, they started hitting the same televisions with the stones that they were armed with. Initially I had not suspected that the two young men wanted to destroy the televisions. After seeing what they were doing I then closed doors. In fact before closing the doors I saw a group of people that was coming towards our shop they were arguing saying why is it that your shop is open. They were singing. As they were singing I closed the doors to my shop. After closing the shop we were standing outside and that group of people then said join us let us go together but we did not join them and they left. After they left it was some time. We then opened the shop. We realised that 5 television sets had been destroyed and also a television stand. They took two gas tanks and other items which were in the shop.

Q. Where is this shop?

A. The shop is situated along Mbuya Nehanda.

Q. You say these people were singing did you get to hear what they were singing about?

A, I did not hear exactly what they were singing about. They were just singing I could not understand what they were singing about.

Q. Were you able to identify who these people were?

Inquiry

Mavis Makiwa

A. I could not identify even a single person. They were even taking items which vendors were selling. They would even eat some of their items, throwing away some of their items.

Q. How many people would you say were in this group that you saw?

A. They were many people.

Q. What is the value of the property that was destroyed in your shop and that which was also stolen?

A. Around 2.2.

Q. What do you mean when you say 2.2?

A. \$2 200-00.

Thank you very much. I have no further questions for you. I will hand you over to the Commission if they have any questions for clarification.

BY WITNESS (To Commissioners)

I am not yet through. I want to say out everything which I recorded. After reopening the shop we later closed it. That is when we received the news that a certain lady had been shot. (The witness has demonstrated showing directions) That lady was shot at the area around First Street. We were conducting our business down town along Mbuya Nehanda road. That is all.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (TO WITNESS)

Q. Did you report the incident to the police?

Inquiry

Mavis Makiwa

A. At first I was afraid to go and make a police report but I later heard others who were saying let us go and make a police report. So I made a police report after a few days.

Q. How did the police respond?

A. I made the report at Harare Central Police, two detectives came to the shop trying to ascertain finding out the items which were destroyed. They then called me where they advised me to come to Cresta Lodge so it is my second day to come to this place.

COMMISSIONER VIMBAI NYEMBA (TO WITNESS)

Q. You said you were afraid to report to the police. Why would you have been afraid?

A. I have never had cases which are handled by the police so I was afraid to go to the police.

Q. You said you could not identify these people, you mean you could not identify their names?

A. I could not even identify them facially.

Q. Would you have been able to identify them as a group as to where they belong?

A. I might have an idea of where they belong to because from their songs they were singing songs which had something to do with votes.

Q. Let's hear the idea?

A. They were singing songs that had something to do with votes.

Q. Do you remember exactly what they were saying about votes or what happened to votes?

Inquiry

Mavis Makiwa

- A. They were singing this song which I will quote in vernacular, “ndizvo here, ndikarangarira vote yangu”. Meaning to say is it so, if I think of my vote.

COMMISSIONER RODNEY THOMAS DIXON (To witness)

- Q. You mentioned that one person was shot, a woman. Did you see this person?

- A. I only heard about it I didn't see her, because if you hear about guns you will also be filled with fear.

- Q. Did you hear about gunshots?

- A. Yes. I heard gunshots.

- Q. Can you remember how many gunshots or for how long you heard them?

- A. I only heard one gunshot.

- Q. So just a single gunshot you heard nothing else?

- A. Nothing else.

- Q. The people who came in to your shop do you remember what they were wearing. Was there anything distinctive?

- A. There was nothing distinctive on them they were putting on their usual clothes.

- Q. Did any of them have any political party insignia or badges on them that you remember?

- A. They had nothing on them.

NO FURTHER QUESTIONS.

Inquiry

M. Haruzivi Ishe

WITNESS EXCUSED.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call upon our second witness Makomborero Haruzivi Ishe. If you may note that we don't have a recorded statement from this witness.

MAKOMBORERO HARUZIVI ISHE : SWORN STATEMENT

EVIDENCE LEADER MRS FORTUNE CHIMBARU (To witness)

Q. You confirm you responded to the call to come and give evidence before this Commission?

A. Yes.

Q. Where do you reside?

A. I reside in Damafalls, Harare.

Q. Do you wish to tell this Commission that which you want it to know that would assist it in its business?

A. The 1st of August was a very sad day. I was in town. At Angwa Street there was a cafeteria there I was having lunch, late lunch. That's when I started to hear bullets and people running away and saying they are soldiers in the streets killing people. That's when I came out. What I saw actually it was something that was foretold that it will happen. We have been told time and time again by senior government officials, senior government authorities, members of the cabinet about what I then saw happening that day. If you go back to 15 December in 2017, the then advisor to the President of ZANU PF and Zimbabwe Mr Emerson Mnangagwa, it was Christopher

Mutsvangwa. He said at a ZANU PF function on the day we will mobilize people and working with military to ensure that we win 2018 elections. He said, “We want to win 2018 elections with a bigger margin than 1980. He emphasised that they will mobilize and work heavily with the army to ensure his victory”. This was in the presence of Emerson Mnangagwa. For me that was sort of inappropriate to include the army within politics as it is civilian space but the President did not do anything to reprimand his advisor or to try to distal the nation that the military will be involved. So 1 August for me to run back that no, in December this was said then fast forward to around 22 May in 2018 whilst commissioning him to Chiredzi. And then a Minister of State Josiah Hungwe explicitly said, “Our leader Mnangagwa is a soldier and you know that a soldier is always equipped with a gun to do whatever he wants. If you want to run away from him he can shoot you so you should always take note of that”. He said it was also reported in Masvingo Mirror a newspaper based in Masvingo province, the way he was commissioning the cleaning. Again we did not hear or I did not hear President Mnangagwa trying to dispel the notions that the army and that he is a soldier, and can shoot people running away. And when I saw on the 1st of August people being shot on the back, the pictures of all the people I saw were shot in the back implying that they were fleeing, they were running away. This was so much in line with what the then Minister of State for Masvingo Province Mr Josiah Hungwe had said in May back there. In the same month of May the honourable Terence Mukupe was ZANU PF Member of Parliament for Harare East and also the deputy Minister of Finance. He had a live video on his face book page. I have the videos if need be I can play to you Mr Chair, saying that,” the army which practically snatched the country from Mugabe cannot let a toddler Nelson Chamisa to run the country. The

army did not go to all those lengths so that we can give the country to Chamisa”. So when 1 August played out, this was something that had been foretold by senior government officials, by the deputy Minister of Finance, the honourable Member of Parliament, he has legislature. And again we did not hear either the army distancing itself from participation in politics. I did not hear President Mnangagwa reprimanding his appointee because this person was appointed by President Mnangagwa to be his deputy Minister of Finance. We did not hear him reprimanding him despite it being totally out of order and totally illegal and unconstitutional. So when I saw people, when I heard that soldiers were in town it was more dejavu that it was told only we did not know which day these things would happen. And then in July 2018, we have the Vice President of Zimbabwe, former commander of the Defence Forces, Constantine Guvheya Chiwenga address a rally in an area near Tafara called kwaBobo. It was captured live and he was saying the operation restore legacy which removed Mugabe it was a military intervention in November 2017. He said the operation restore legacy will end on July the 30th when they make sure that President Emerson Dambudzo Mnangagwa is made President again after voting. And we all know November 2017 operation restore legacy. It was largely a military operation. Soldiers participated in that and the process of snatching the country that was referred to by the then deputy Minister of Finance Terence Mukupe happened seeing tanks and canons, we saw tanks.

So when saying so it was also a blood shading declaration that yes we are going to elections but then that statement reduced the whole thing into one military operation which started in November 2017. So when soldiers came shooting people it was something that which seemed the sequence of messages to show that this was

something which was planned well before and it had to happen. So what was left was just maybe it happening or maybe justification per say to say.

So coming on what was this day, when I heard people running away and gunshots, I came out of Angwa City where I was having my lunch, actually I left my lunch and saw people running. One had a wound on his leg that's the first blood that I saw and soldiers were firing what appeared to be live ammunition because people were dying. I saw one just at corner Angwa Street and Nelson Mandela and soldiers were pursuing following them with shjamboks beating up people. They is a lady I saw who was also severely brutally crushed using a shjambock by a soldier. She was holding handbags and paper bags maybe she was coming from shopping somewhere in the CBD. In my instinct I then joined in the run but running across town seemed soldiers were everywhere and they were gunshots almost everywhere, military tanks were everywhere because in a few moments it was like Harare has been turned into Cuba or Mogadishu or something because these are things that I used to see on the television happening live in areas where they are terrorists. So when I heard that there is a Commission, first and foremost I said I have to go and also give my side of the story of what I saw. But what I believed in mostly was, this Commission, yes, we are here we are participating but the real answer lies within President Emerson Mnangagwa's office because our Constitution is clear in Zimbabwe that only the President, Commander in Chief of the Defence Forces and armed forces is the only one who has got the power to deploy the army for whatever explanation be it for external campaign, in town or for whatever exercise or charity exercise, it cannot happen in town if the President knows. So the military coming shooting people, killing people, for me I concluded with line of our Constitution that the President knows and has

sanctioned this. Because common sense states that, had he not been aware of such a thing, which is most likely impossible considering that in Zimbabwe, these people, very disciplined, we don't have a record as far as I was born, I was born in 1992, I have never seen military undressed where soldiers just go and do whatever they want. The only incident where soldiers we have heard that they did not maybe were deployed without the knowledge was in November 2017 when operation restore legacy which the now vice President Guvheya Chiwenga said it will end with the successful installation of President Mnangagwa after July 30 elections. And back then President Mnangagwa had run away when that deployment happened, he was not around. So had he also not known that, had he not sanctioned the deployment of the military, natural and common sense also tells me that he should also have run away as interim President? He had previously run away from the country, running away from a statement of expulsion which was read by Simon Kaya Moyo. Now soldiers coming in, had he not known, I am sure a state of emergency or something should have been declared by the President but nothing of that sort happened.

They are videos that I later on saw by end of the day. I also saw a soldier along Nelson Mandela called Myson Kanyongo who was shooting in kneeling position. Shooting people who were running away. He was not in any danger and there was no violence that was happening in that place but he was in a kneeling position shooting people. We have never heard of those arrests, which is also worrying that the people who killed are known. One of them had been clearly identified and these soldiers clearly came to kill because I have seen also in December, I am one of those who saw soldiers being deployed in November 2017. They came, they had appearance which signify they had come from barracks. But on this fateful day 1 August soldiers were

covered in uglier faces. They had rag material which they used to cover their faces and masks which with me was unlike when they came first on November 17 events because these are the two instances where I witnessed myself seeing soldiers directly participating in political issues or operating in open spaces. They clearly had an intention to kill until they killed. So the long and short of it is my submission of whatever happened on the 1st of August it was something that was known by authorities.

It was foretold by members of the cabinet. It was told by the presidium by virtue of General Constantine Guvheya Chiwenga being part of the presidium. It was told by the Minister of Masvingo Province who is an appointee of the current President who was also present at that time and what he said about people being shot and even if they run away they will be shot. It also happened. Mr Chair, I also am really worried about the ongoing of this thing because when most people referred to one another with figures that are saying people were killed. These were someone's money; this was someone's sister, someone's parent, someone's breadwinner. People lost their loved ones and as such what I expected was, it's my personal view that this matter could have at least been dealt with a more fair approach rather than having President Mnangagwa himself who clearly had an interest, who clearly benefitted from this, who his lieutenant, his appointee clearly declared that this would happen. With soldiers that we know participated one of them Myson Kanyongo still roaming free. We have never heard of him being arrested but we have seen some people actually being arrested. I know one who was shot in First Street and when attempted to go and report he was actually preferred with charges of trying to incite violence. Other people who were just arrested as read in the media that they had been actually been preferred

Inquiry

M. Haruzivi Ishe

with criminal charges which are also pending before the courts. So also having President Mnangagwa as a citizen, Mr Chair, appointing a Commission, the idea of a Commission yes its known but him who is clearly an interested party in all these things. For me in terms of acquiring justice which the Commission I believe is pursuing, I doubt if those means will be achieved because him personally Mr Mnangagwa, Vice President

EVIDENCE LEADER MRS FORTUNE CHIMBARU (To witness)

Q. Sorry, if I may interrupt, you have already said that unless you want to say something else. I thought you have already said that you believe that Vice President Chiwenga and others were the ones who were promised that they was going to be this. Unless it's a different point maybe I will have to interject on that point. But if you still have something new that you wish the Commission to know you may proceed.

A, My new point is about the President not having to come up with shenanigans to try and cover up something, the brutal killing of people which he has done. Because when I got of the Commission, I am a researcher by profession, simple research and you see one of the Commissioners here Mr Dixon, when I visited your website Sir, I discovered that yes you are a lawyer but it's also mentioned that you speak on behalf of government's political leaders, military commanders and got me really worried that the problem we have here it involves military commanders who commanded soldiers to go and kill people. So are you here not to speak on their behalf again since its part of your job description. You say you speak on behalf of politicians and here a politician Mr Mnangagwa appointed a Commission. Are you not here to also speak on his behalf. It's one of my concerns Sir. Cde. Chair in your pursuit of justice as the

Chair of the Commission to the 1 August shootings. And then I also noticed that one of the Commissioners President Lovemore Madhuku of the NCA, from the testimony I have heard and what I saw on 1 August I saw people in the streets some seemed to be celebrating victory, others seemed to be grumbled and disgruntled because as I was running I was meeting different people. So his presence in the Commission, were amongst the people, were they not some of his supporters who were actually crying foul that he has been rigged. Were they not some of the supporters who were celebrating in street?

Q. Sorry, maybe on that point I would say its them sitting as the Commission they would not be able to judge themselves maybe that is an application that you can also make somewhere else like the High Court or so challenging the composition of the Commission.

A. One of my worries is someone was traumatised on 1 August, someone who wants justice to be pursued and achieved so I am raising this, I don't want them to answer me. I am not asking them. I am raising these issues with the Chair of the Commission so that he takes note of my worries. If he can actually assure me that.

Q. I think that the point that you are challenging the composition I would want to think that it has been noted that you challenge the composition of the Commission.

A. One last point, one of the Commissioners Professor Lovemore Madhuku had actually made conclusion about 1 August. I have the video I can submit it to you where he was already blaming the MDC Alliance led by Advocate Nelson Chamisa so will that not compromise his participation and his contributions also in the Commission. Also big and that the person was already blaming Mr Chamisa, President Chamisa. He has had

a political fume with one of his comrades within the MDC Party and Professor Lovemore is actually a lawyer to that other party who is competing against Mr Chamisa. So it's a worry that I have as a citizen, someone was traumatised on 1 August, someone who wants justice to be made.

Q. I will seek few clarifications from you. Before you went for lunch had you seen any demonstrators or you only became aware of it when you got out of the café where you were having your lunch?

A. During the election week everyday they were people in town either coming from a rally, going to a rally, so I think the two weeks towards elections a lot of things were happening. People were in the streets. Politics has identified most especially literary politics by mobilisation and we had over 20 parties committee so outside political era the numbers were not normal but in a context of this electro month the people who were in town were more.

Q. When you got out did you see any police officers, any members of the police?

A. Yes they were parked because I think from the day after election that was 1 August in the morning they were police vehicles which were parked especially in Nelson Mandela and Angwa Street. They were there and when I was out they had moved somewhere, they were going along Julius Nyerere but there was one which was parked just by Angwa Street.

Q. You also said that you saw a lot of soldiers in the streets when you came out. Was the police still around when you were seeing these soldiers? Would you say they were both the police and the Army in the streets?

A. Yes they were both the police and the army and the police were like more of bystanders, the army was now doing their shooting. The police were there and they were more of bystanders and the army were shooting and I was actually shocked, when I came to have my lunch the police were there and they were people and all of a sudden I was shocked when I heard that they were shooting. At first I thought they were police, actually when I came out that's when I saw that they were actually soldiers.

Q. And these people that you saw in town would you say they belonged to any particular political party or they were just ordinary people in the streets in your view?

A. In my view they were ordinary people but obviously they had voted and voted for certain parties that I cannot ascertain but some of them were celebrating, others were more crying foul so I cannot really put them under one bundle because they were doing different things, celebrating, others crying foul over rigging. So I don't think if it is possible that members of the same party can actually have a multitude of emotions.

Q. It is common cause that from what we have heard so far that they were destructions of property in town. Did you see any such destruction?

A. When I was eating I got into town and when I came back out I was running.

Q. So you didn't witness any such destruction?

A. I saw them the day after when I came back to town that's when I saw that property, glasses smashed and also largely I saw it in the media. It was now in the social media. We saw pictures of everything, soldiers killing people and what actually shocked me

was also they were even some journalists. They looked foreign to me. I saw some being chased with a shjambock by soldiers running away. So I wonder if they had also partaken in whatever destruction if they was destruction or were demonstrating. Also when I heard also the issue of violence I also failed to marry that if they had been violence in a particular road if it were, I expected the army to have actually come and beat up people but people were being chased everywhere up to Mbare because I ended up just getting a taxi and the safety passage was going to Mbare and soldiers followed there.

Q. You also said that you saw someone who was shot in First Street but he ended up having criminal charges preferred against him. You said you know this person, are you at liberty to disclose his name?

A. He is a vendor he operates in town. He sells shoes and he is a cobbler so he once mend my shoe so I am sure if need be I can refer you to him.

Q. Of course I would believe the Commission would surely want also to hear also from such a victim. I have no further clarifications that I would want from you. I will now hand you over to the Commission if they have any questions or clarifications. Mr Chair and honourable members.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (TO WITNESS)

Q. You said that all the people that you saw who had been shot were shot at the back. Is that right? Did I hear you correctly?

Inquiry

M. Haruzivi Ishe

A. Most, the majority of them save for the person who was shot in the hand and one I saw who had a police tag but I am sure he was shot from the back so I think almost all. They were in fleeing mode.

Q. How many of them? How many people were shot?

A. I heard they were seven but I saw pictures, the pictures I saw they are of five people and then the person I saw was that guy who was shot in the leg and the other one on the hand. They are the ones I saw on the street but they were others I saw running I saw in the media. Pictures that I came across because it's not like I had comprehensive information of what happened but the ones that came through my inboxes its pictures which were circulating. Because they was a lady that's the most picture that circulated.

Q. How were you able to tell that they were shot at the back and not from the front?

A. A bullet wound, if a bullet penetrates, because I am saying this from a specific research and information which we later on heard by people who are more versed or were analysing how people were shot, if a bullet enters through your body, the point of entrance, the wound there will be smaller than the point of exit. Also the way they were lying, they were lying on their front so my assumption as a layman is that if a force comes from the back you fall on your front you don't fall backwards.

COMMISSIONER RODNEY THOMAS DIXON (To witness)

I have a few questions, I just wanted to make it clear for the record first that statements that are made in general on a CV don't represent who your actual clients are. In this case I am not instructed by the government, by the military, by the opposition, by the

victim, by anyone, I am sitting as an independent Commissioner and of course if anyone was instructed in any of those capacity there will be a conflict and we couldn't do it which doesn't exist in this case. I just want to make it clear for the record.

Q. I am just trying to work out what you have actually seen yourself as opposed to what you have seen on television or heard because we are going to look at all the videos so I am not concerned about what you have seen on video. We will see those things ourselves its more to find out what you yourself saw. That's very important for us to get to the bottom of what happened. You just said that you saw two people being shot, one in the hand and one in the leg? You saw that with your own eyes?

A. I saw people shot. I can't see a bullet coming and shooting someone. I met someone saying I have been shot, blood dripping downwards. So to actually say I saw a person being shot I can't obviously see a bullet or anything. But I then saw after I saw those people when I was running, I saw one soldier who was then identified as Myson Kanyongo in kneeling position shooting. So when you hear someone saying I have been shot and then down there you see someone in military gear shooting, then you hear the authorities they don't raise any concerns of maybe terrorists in town shooting people and they are silent then it means that the soldiers that killed people the authorities knew. And also when the then Minister of Home Affairs and the Chief police they frowned even at the press saying they don't know, they don't have any suspects in terms of shooting. So I am sure that there is no external intruder who came and shot and they is not an unknown or an unidentified shooter who was working outside the dictates authority or instructions of those in the State power. Then back to the issue you responded me on a CV. It's not actually your CV that gets me worried. It's also your participation in Syrilanka in a Commission which is similar to this one

where people were killed in 2009. And they are actually in Syrilanka when the government released over \$450 million to pay you and others. Are you not in it for the money? How much are you getting paid participating in this? What are you getting out of this? It's what's getting me worried not your CV. It's you participation to cover up because people had been killed there in 2009 by the regime. You went there also to do a mop up exercise which is what's getting me worried Sir that what are you doing here. What's your concern? How much are you getting paid?

Q. Can we focus on my questions please? I was trying to look at what you saw yourself. That will help us most.

A. I think you are of no concern because taxes were just hiked, I am a tax payer because I see you are not here for free. Can you please tell me how much are you paid.

Q. I am trying to ask you questions on what you saw because that's what's going to help us most. If you can just answer what you saw because that will help us get to the truth which we are mandated to find. You said you saw two people lying on the ground?

A. I saw people one shot on the hand, the other on the leg.

Q. And they were lying forward you said in response?

A. On pictures I saw four dead people. They were lying on the ground.

Q. So you didn't see them yourself lying on the ground?

A. Yes, I am not depicting I did not see what was happening. I just wanted to run away and save my life. They are now being treated as deceased but these are someone's relatives, someone's breadwinner.

Q. We have heard from many of the relatives here. I just want to tell from what you saw because this is important to understand what happened on the day. So you didn't yourself see anyone lying on the ground you were running away?

A. Yes and I saw soldiers in the whole place shooting.

Q. That's what I want to ask you about. How many soldiers did you see?

A. They were numerous, they were all over town. Where I was running away from they were soldiers, where I was passing they were soldiers.

Q. How many?

A. I can't, when people are being shot. I have been in the cross of firing. I have only seen movies and in the news live gunshots and I was shocked because the first time I saw soldiers in town it was in November 2017. They were more of a darling of the people but now they literally changed they were shooting and killing people and no one claim, the only person who has that answer is President Mnangagwa. He is the deploying authority he knows how many soldiers he deployed.

Q. Your answer is you saw many people but you can't give us exact number. I understand if you can't but I am just trying to find out what you can tell us.

A. Its impossible. No one can accept the deploying authorities.

Q. You said you saw military tanks on the streets? How many of those did you see?

A. Numerous.

Q. Over ten, over 20, less than that?

A. You know what, I was focussing, everyone was focusing on running with their lives so if you see one tank there and you are running on foot going to Coppa Cabana it has the capacity covering this point to go to another so you end up counting as two tanks when its one. So I don't want to give court wrong things but they were military tanks of different shapes and sizes killing people and soldiers on the ground.

Q. Were the tanks firing at people?

A. They were soldiers inside firing people.

Q. When you saw the soldiers you started to run away. You have mentioned one person who was kneeling down and shooting?

A. Yes Myson Kanyongo.

Q. Can you help us with identifying anyone else?

A. Its impossible. The other person I can identify is probably the Commander of the Defence Forces.

Q. I might not be able to but I am just trying to find out because if we get this information it can help in our report so you have identified one person. I am just asking is there anyone else that you can identify who was there that you saw with your own eyes?

A. They were wearing masks.

Q. They had riot clothes on?

A. Yes.

Q. When you ran away can you help us where you ran to?

A. I was running towards Coppa Cabana to Market Square.

Q. When you got there were they soldiers there as well?

A. Yes they were soldiers.

Q. Were they shooting there as well?

A. Yes.

Q. When you got away from there where did you end up where you were then safe?

A. I got in a taxi and the only direction, the exit point because all other areas were soldiers people were running now in one direction going towards Mbare the other side of the town. It was the only exit point of town so I just got into a taxi and it got away, but we got into Mbare where we further fled because soldiers were hot in pursuit.

Q. We have heard some evidence, you probably heard it before of somebody who was threatened in the shop. Did you see any of that happening on the day?

A. I did not see any of that happening.

Q. Did you hear about that afterwards?

A. I heard of it here now.

Q. So this is the first time that you heard of these allegations?

A. But it's shocking considering that they are new boys in town, it's not shocking that to fulfil the orders of their commanders what the Commander, former commander of the Army Constantine Chiwenga had said about using the army to get power by any means necessary and what the other Ministers said. Obviously they had to find a point

of entry. This is my understanding. And if it happened, there was no way they could just now order soldiers to go and shot without a reason. That's now my assumption as analyst that to do something they have to find justification to deploy. So probably people who did that and I am sure the lady who said that where she works in First Street she has witnessed many demonstrating people in town. They are many demonstrations that happened. I am sure she could have mentioned it happened before. So, that it did not happen before is proof that they were new players, new type of demonstrators who were using new tactics involving getting into TV Sales and Hire with stones and forcing people to demonstrate. But in my entire stay in Harare I have never seen people, they were many demonstrations that I have witnessed, I have never seen people being shot.

Q. So who do you think got those people to go into the shops and take those actions? Do you have any information that can help us?

A. I don't have information but I have an assumption that to fulfil what was said by the Vice President, to fulfil what was said by deputy Minister of finance Terence Mukupe, to fulfil what had been said by Masvingo Province Minister of State Josiah Hungwe that Mnangagwa will shot to kill even if you run away they had to find an exclusive justification. And I am sure some of those people who went into the shop if she could identify them I am sure it would also help to uncover the truth because I am sure, that's my assumption I did not see them. I don't know them.

Q. I know it's an assumption but I just want to see if it's based on anything which we can use?

Inquiry

M. Haruzivi Ishe

A. The real answers are behind the military, behind the President's office, the real answers.

Q. Its just an assumption which you have given so I am just trying to find if there is anything behind the assumption but if you don't have any answer that's also fine. We don't have to have an answer to every question. Thank you for your time.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Where did you eat your lunch?

A. At Chelsea Bar and restaurant.

Q. What time was it?

A. It was after 2p.m well after 2.

Q. Do you remember how you moved from Chelsea out of town?

A. Yes.

Q. Can you describe how you moved?

A. I got of Chelsea and got into Angwa Street then Nelson Mandela, then saw soldiers there going down the street towards Coppa Cabana, then as I went I approached Coppa Cabana, it's a taxi rank. I got a taxi then boarded the taxi to get out.

Q. Okay, because I was going to ask where were you when you saw soldiers everywhere in town?

A. When I got out of Angwa City they were soldiers in Samora and everywhere. Actually the presence of soldiers dictated the direction and route which I took to flee.

They were soldiers that's why I had to come to Angwa. I saw others in Nkwame Nkrumah then going down Angwa when I got to corner Angwa and Nelson Mandela. I saw soldiers up there that's why I had to go downwards then I ran there and I was seeing soldiers everywhere there. Ahead of Coppa Cabana they were some so I then couldn't outrun then I had to take a taxi and the taxi driver went down town.

Q. Were the soldiers moving as individuals or were they in groups?

A. They were in groups.

Q. Groups of how many?

A. I cannot count but I can give an approximation of the group size. Some were six, seven, I can put it around six.

Q. You said you saw a soldier called Myson Kanyongo?

A. Yes.

Q. Where was he?

A. He was in Nelson Mandela and Chinhoyi somewhere there.

Q. Was he putting on a mask?

A. He had to put a mask but it revealed, heavy duty activity had revealed his face. When moving, it moved off because he was now left with the hat which was covering this part but his face was I think about 9/10 had been uncovered.

Q. How do you know his name?

A. I took his picture, went on Google search and saw his profile on face book, an act that I can also do to help identify him and they matched. I saw his name and actually saw

he is a soldier, got pictures where he had shared on his face book account which are identical to the one that had been taken.

Q. What was he doing when you saw him?

A. He was kneeling down shooting.

Q. How many people did he shoot?

A. I could not count madam I was afraid I could get shot myself.

Q. How did you get to a conclusion that he was shooting people?

A. They were people running and the shooting. You are standing there shooting there and I say you are not shooting people. Obviously you are shooting at people.

Q. Did you see people lying down?

A. What do you mean?

Q. On your way to the routes that you followed did you see any people lying down?

A. I am not getting your question. When you say I saw people lying, I saw people lying down in kombis they were lying to avoid bullets. So when you say lying down it's a very wide term. So yes I saw then and when I got into the taxi I also lied down myself.

Q. From Chelsea Restaurant where you were taking your food at, did you see people Who were lying on the tarmac since it was in town?

A. People were running away. I saw people who were running away.

COMMISSIONER VIMBAI NYEMBA (TO WITNESS)

Q. You said in the Mirror newspaper of Masvingo there are utterances made by the then governor, do you think you can avail that to the Commission for consideration, the copy of the mirror.

A. Yes, yes I can. And the name of the journalist who wrote the story who was there present.

Q. I think what we want is The Mirror just for the record. Also you spoke about honourable Mutsvangwa making utterances as well?

A. Yes there is a video.

Q. Okay, can you forward it to Secretariat?

A. Yes. And a video also by Terrence Mukupe and also newspaper written on Vice President Chiwenga saying those utterances it's there.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. Thank you very much for undertaking to forward these videos to us. It's much appreciated Sir. But I just want to clarify my own mind about the video which captures this soldier Myson Kanyongo. You took that yourself?

A. I did not take that myself.

Q. You didn't take that yourself?

A. Yes. It was taken by journalists so as I told you I am a researcher of information, ICT tools, I can also help you to identify the cheapest coordinates where the person was,

Inquiry

M. Haruzivi Ishe

the dates and time. Actually I can collect a number of pictures and assist you with that evidence.

Q. Please do that. Thank you very much.

WITNESS EXCUSED.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call the third witness Mr Tauro Maxwell. We have Mr Maxwell's statement, he is the father to one of the deceased, for one Challenge Tauro.

MAXWELL TAURO : SWORN STATEMENT

EVIDENCE LEADER MRS FORTUNE CHIMBARU (To witness)

Q. Mr Tauro correct you reside at New Valley, Chitanga farm in Mazowe?

A. Confirmed.

Q. And its correct you are the father to the late Challenge Tauro?

A, Yes.

Q. I would ask you to narrate to this Commission that which you want them to know in connection with the death of your son Challenge.

A. I am emotionally disturbed. Challenge was my son. I was staying with Challenge in Mazowe at Chitamba farm. As usual Challenge left home in the morning going to work. He was operating at Gulf complex selling memory cards, installing whatsapp applications and loading music. There was violence in the afternoon but I was not

aware of what was taking place in town considering where I was. After some time I then heard others saying people died in town. It was after 3 when I received that message. Within a short space of time I was then called by someone whom I regard as my child who resides in Epworth, her mother can assist with the name.

Q. Is she the one who is referred to as maiNgoni in your statement?

A. I am referring to the daughter to Ngoni's mother. When she called she inquired on whether the boys had returned home. I responded informing her that they had not yet returned and I was to call them. I phoned Challenge but I could not get through. After some time I was then phoned where I was informed by the caller who indicated that he/she heard that Challenge had been shot on the leg. After about some time I was phoned again where I was told that Challenge had been shot in the chest and he subsequently passed on. I felt dizzy I could not appreciate or understand what was taking place. What I was trying to do was to go and see the place where he died at. They advised me that there was still violence in town, one could not move in town. I took hide of that where I had to wait.

After sunset that was around 7p.m I received a phone call from Harare Hospital from a nurse. That nurse told me that Challenge was alive but he was shot. The nurse went on to inform me to hurriedly go to Harare hospital as the father. After receiving such disturbing information, I took my sister-in-law a young sister to my wife so that we could proceed to town together. We managed to communicate with the transporter at around 2100 hours where we agreed to meet at around 2200 hours. We were assisted to get into town. When we got into town they were no people. There was no one in town. We got to Harare Hospital. I was in a state of confusion so in that state I

proceeded to the Intensive Care Unit without being informed or receiving any information that I was supposed to go there. I would like to appreciate what was done by the security guard whom I saw, the security guard understood me. He then referred me to the emergency room. As soon as I entered in the emergency room I saw my son lying on a bed. I uncovered the blanket which had been used to cover him. They were two pipes which were inserted at his left breast. Those pipes were draining blood from his stomach. On his face, (he has demonstrated touching somewhere near his nose) he had something which was assisting him to breath which he has referred to as a mask. I tried to talk to him he also tried to say something but what he could only do was to raise his hand and the hand subsequently fell going down. From there he did not say anything else. So the nurse told us they assisted the now deceased in the way that we also witnessed but they cannot do anything further than that. They wanted him to be assisted by specialists from Parirenyatwa. The nurse went on to say that was the reason why they invited me to hurriedly come to the hospital so that I could find a way on how he could be transported. According to the nurse their ambulances had no machinery which was needed to transport a person who was in that condition. The nurse gave us a paper with a list of ambulances those ones who provide services so I was looking for a cheaper ambulance. So from the list the ambulance which was cheaper to me was going for \$50-00. So we transferred the now deceased from Harare Hospital to Parirenyatwa hospital. When we got to Parirenyatwa I was following the ambulance crew who took him to the first room at Parirenyatwa hospital. They instructed me to sit outside and I complied. After some time they then requested me to come in so that we could assist each other.

I will take you back, we arrived at Parirenyatwa between 1 and 2 am. Around 4 am we then took him out where they said he was to go for an X-ray. We went with him for an X-ray and that process was conducted. I inquired from the person who was in the X-ray room on the condition on whether everything was right and he/she confirmed that is well. I realised that that person was simply calming me. My son had a big wound here at the back. From the X-ray room we took him back to the room that we first entered in at Parirenyatwa hospital. They said they were admitting him so we took him to room B8 where he got a bed number 12A. I did not leave that room. I remained in that room thinking that I would talk to him but I could not do so. He was merely sobbing. He then gave a sign. To me that sign meant that he wanted water to drink. I told the nurse who was there that he wanted some water to drink. The nurse gave him water from the hospital to drink. He was shaking his head he wanted bottled water so I came to know that he wanted bottled water from his demonstrations as he was doing it through signs that he wanted bottled water. I bought two containers of bottled water. When I returned I realised that one of the bottles had been opened and half of the water had already been taken. The other container had not yet been opened. They told me that the now deceased was to be taken to the theatre. Others came around 11 am by then I had gone to meet them so that I could inform them that we were not allowed to get in that room where he was as a group.

His elder brother entered first with his colleague, he then said get in early/faster, if you delay to do so he will be taken for theatre. When we finally got in the room he was no longer on the bed. I enquired on what happened and I was told that he had been taken for theatre like what they had earlier on said. I went on to enquire on how

long the process was going on whilst he was at theatre. They said the process would only take only two hours. We waited. After two hours we re-entered but he had not yet been brought back. We kept on coming back to that room until around 6 p.m but he was still at the theatre. Around 7, it was before 7 he was taken from the theatre room. As they were taking him out of the theatre room we were instructed to get in a certain room. They actually pointed to a room. I refused to get in that room. I remained standing at the door seeing them as they were taking him out. As they were leaving the theatre room if my memory serves me well they were about five doctors and they were in a hurry. He was on the bed in a hurry taking him to ICU. I did not appraise or inform my colleagues that from what I saw the situation or the condition was not good.

A certain doctor came out. I cannot remember his name since I was emotionally disturbed. That doctor told me that the now deceased's intestines were affected after being shot so they were trying to bring them together. I went on to ask on whether the now deceased could survive in that condition and he said yes, he could survive. He said he had done what he was supposed to do and he was leaving, those who were still inside were the ones now who were assisting the now deceased.

Around past 7 thereabout, a doctor came and he called me. He said he wanted two people. People who entered were my daughter in-law the wife to the now deceased and myself. As I entered I cast my eyes in the ward where he was. I saw him, he no longer had all those things which he had (the witness has demonstrated showing something on the face). They told us not to sit on this other side (he indicated showing his right side but they were to sit on the left side). The reason why we were told not to sit there was for us not to see what was in the ward where the now deceased was because from that office we could see him.

They started comforting us sharing with us about the bible. I asked the doctor on whether everything was well. The doctor responded saying ah, yes everything is well. He then told me that they took him for theatre and his heart was no longer beating. They attended to him but for the second time his heart stopped beating. Again they attended to him the heart started pumping blood but for the third time it stopped beating again. After that according to the doctor he said they tried all what they could do but it was in vein nothing came out of all those processes. I did not wait to be told to proceed into that room. I proceeded to the bed where he was. I got hold of his body. I uncovered him but I was told not to do so. So the blanket was only covering from the upper part of his chest to this part slightly above his knees. That was the only part which was covered.

When I uncovered him I realised that the two tubes which were on his chest, (*the witness has indicated pointing at his left breast*) so those two tubes were cut so only shorter part of the tube were still protruding. And also the tube which was in his mouth, which had been inserted in his mouth had been cut. It was no longer connected to the oxygen tanks. I took out my cellphone. I uncovered him again. My intention was to shoot a photo but I was told not to do so. So what I managed to do was to get hold of him then at the back but on the far left there was a big open wound then on the chest there were two wounds.

After being instructed not to uncover him, I then took my colleagues whom I informed that the now deceased had passed on.

From there I did not go to the police. What was in my mind was to get home because people at home at least were happy that Challenge was still alive. The following day

we returned. We then proceeded to the police. We heard others saying those who lost their relatives were going to Makombe building 7th floor. We went to Makombe building where we were assisted with some money for funeral expenses. From there we then arranged for the burial. I went back to the police where statements were recorded.

The now deceased was shot on the 1st and he subsequently passed on on the 2nd. We processed all the burial papers on the 3rd. We collected the body on the fourth. From there we went through Gulf area where he would do his business with his colleagues along Bank Street opposite Chicken Inn saying to his colleagues, here is your colleague.

They came, they gave us some money which we used to top up to buy some food. We then proceed home. We finally buried him on the 5th at Chitamba farm in Mazowe.

That is all.

Q Thanking you. We just want to seek certain clarifications. You said he was married. Did he have any children?

A No. By the time of his death he had no children.

Q You confirm that on the day in question he came from Chitamba farm in Mazowe coming to town?

A Confirmed that is what he used to do on daily basis.

Q You know why I asked that question, this Commission had evidence that he came from Epworth on the day in question. Was he dreadlocked?

Inquiry

Maxwell Tauro

A Yes he was dread locked.

Q He did not come from Epworth on the day in question?

A No. From his work place he accompanied his brother, he got in a commuter omnibus, then from there as he intended to get in a commuter omnibus he then got in the cross fire.

Q Thank you very much I no longer have any questions or clarification for you. I will hand you over to the Commission if they have any questions. Honourable Chair, your witness.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q Thank you very much Mr Maxwell please accept the condolences from the Commissioners for your loss and please convey that to the rest of the family.

A Thank you.

Q What do you suggest that the Commission should recommend to the government in order to bring closure to the family?

A Yes all these other things can be done but I valued his life and also the assistance which he could render to me. I am not employed.

Q Thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO TO WITNESS

Q I would like to add to what the chairman has said and thanking you of the courage that you have shown in narrating to us the detailed graphic account in the hospital. We

Inquiry

Maxwell Tauro

would like to thank you for that and we underscore the condolences which our Chairman has expressed to you.

A Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q Thank you very much. You may step down sir.

11.00 AM. ADJOURNED FOR TEA BREAK

RESUMED AT 1120

IGNANITIUS NESHAVA : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

This witness there was no statement that was recorded from him but was brought by the relatives of the deceased person. He told them that he witnessed one of the shooting.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Confirm you came here as a result of what you witnessed on the 1st August 2018 in town?

A Yes.

Q Can you please tell this Commission the relevant part of that which you think the Commission should know?

A The now deceased Ishmael Kumire was my brother in-law. A brother to my wife. They were working together. They were in the business of vending together. Selling fruits and also cooking in town. I got in town around 11 on the 1st of August. I told

my brother in-law that I had a cellphone , the same cellphone which I have now which was malfunctioning so I wanted it to be fixed. He went on to enquire on where I wanted to repair it. I told him that I knew someone at ZIMEX who was in the business of repairing cellphones. We proceeded together, that is to ZIMEX Mall. At ZIMEX mall we saw some young men, from the look of things they were sought of demonstrating so my phone was repaired. There were closing their shops that is around that area where there is ZIMEX Mall that is where the demonstrators were.

My brother in-law then said let us return to Coppa Cabbana that is Cnr Speke and Cameroon where we were to tell those people who had prepared sadza to close the pots. They were already selling the sadza. He told them to wait selling the sadza. They were only to do so after the protestors had passed. They delayed to get back to Coppa Cabana area, that is corner Speke and Cameroon. Those who were selling sadza kept on serving the sadza. Around 12 they closed their pots because by then the protestors were in that area where they were setting fire on card board boxes along the roads. Those who were serving sadza were instructed to take all the pots to Mbare . We remained in town with my brother in-law. So my wife and our niece proceeded to Mbare. That is where they left all the pots and other items.

My brother in-law had his market stall at Cnr Jason Moyo and Cameroon. He was selling fruits in bulk. Wholesale. I think he had ordered fruits which were valued at about \$900. So he had his vehicle which had a trailer. So he then said we were to put the fruits loading them in the vehicle citing that with what was taking place there was a possibility that the fruits could end up being taken. After putting our items in the vehicle, he drove the vehicle where he parked it opposite food express. That shop used to be food world but it was later closed.

So we went and stand at Cnr Speke and Cameroon, people were running in town. So the fruits had been covered so we were monitoring from a distance. We were waiting for my wife and niece to return so that we could leave town. Around 14.50 hours my brother in law suggested that we were to stand closer to our vehicle so soldiers by then were getting closer in the area of Coppa Cabana. So they had just got into town. I told my brother in law that I thought the soldiers were nearly dispersing people so to me by then I was not aware that they were firing live bullets so to me they were just firing just to chase away people as a way of threatening.

So they were dropped off at that area around Speke so people were running away towards Leopold Takawira. We were not aware that on the other side that is the side of Leopold Takawira they were soldiers also who were chasing away people and those people were coming towards where we were. So those people who were running away returned where they followed Cameroon going towards Jason Moyo. So as the soldiers got closer to where we were standing maybe a distance of about from where the witness is standing to the camera's at the back. I saw my brother in law falling. He actually fell on my leg. We were closer to each other.

The other soldier was actually calling out saying, 'Leave, come out of town and I said we are leaving boss. When he fell I thought that probably he had been hit on the legs, tripped to the ground since people were running or maybe he was bumped into by people who were running away. He fell head wards so when I turned him, I saw a cartridge which I then put in my pocket. A number of about 9 soldiers arrived one of them pointed at me with a gun saying you want to support this person lying on the tar mark. I responded to that soldier telling him that person who was lying on the tar mark was my brother in law.

So when he pointed at me with the gun he was actually ready to fire. I then said if you want to shoot me you can do so. It was out of anger considering what had just happened. Other soldiers arrived they said leave him are you not seeing that he is saying that the person who is lying on the tar mark is his brother in-law. Out of shock I started crying because my brother in-law could not respond after I had called him by his name.

Members of the public had fled. They had not remained at the scene. I had covered him with his shirt which I actually removed, covering where he had been hit on the left side. He was profusely bleeding. So soldiers got into Jason Moyo and they took that direction. As soon as after my brother in law had been shot, the soldiers who were in the vicinity those ones who were walking by foot actually jumped into their motor vehicle and they left. So we struggled to have transport. People were afraid. The now deceased was bleeding. So from the way he was bleeding the blood was sort of gushing out like water. We only got transport after 15-20 minutes. Members had re-gathered and the soldiers had left. Very few people returned. We got an open truck which took us to Parirenyatwa. We paid \$20. At Parirenyatwa hospital he was taken into the intensive care. Using cotton they were removing blood from him as I was standing. We had been instructed to leave the room but I refused to do so. When I refused to leave the room they had to call the police officers who were there and those police officers then called me and I finally left.

Without permission again I re-entered the room. By then the now deceased was still alive. He simply said take my wallet and phone and call. I did not see the cell phone. I only managed to take the wallet where I then called my wife. I called my wife whilst I was in the intensive care. They told me that I was not allowed to make a phone call

from that room. I phoned my wife that my brother- in law had been shot but I rushed him to Parirenyatwa hospital. I then called my mother in law in Ballentine Borrowdale. They drove from Ballentine Borrowdale.

When they got to Borrowdale I phoned them for the second time informing them of the death of the now deceased. I also made a phone call to Domboshava passing on the same message. People gathered at Parirenyatwa hospital. They were mourning. I was also mourning. That is how my brother in law passed on. The family was not happy with what was announced during news time where it was said that only 3 people passed on. The truth of the matter is 6 people passed on. 6 people passed on in town. 8 bodies were put on the intensive care that was on the first day. Because of what was being published or announced that only 3 people passed on, some people those relatives of people who had been killed refused to go and get assistance because they were arguing that the correct number of people who passed on was not being stated as it was, there was a possibility that the matter could not be handled properly.

The following day during news time we heard the 6 people passed on. All those were lies. The family was not happy also with what was initially recorded on the post mortem report. At first they had indicated that shot injuries where they later record gunshots. We queried with them because we were arguing saying they were simply saying shot injuries. Were they trying to insinuate that the now deceased had been shot with a catapult? Their response was the person who recorded the post mortem report was from Cuba but on the post mortem report there was a signature for

Masango. We then queried with them asking that is Masango from Cuba? My brother in law then said if that was the situation they were to bury the now deceased at Parirenyatwa hospital.

The police officers from Support Unit came. It was after we queried with the way the officials at the hospital were handling the matter. But the truth of the matter is we did not cause violence, we did not even want to fight with anyone.

The now deceased had no funeral policy so we had to look for money that is for the injection which is used for dead body and also for coffin and the vehicle to transfer the corpse to Domboshava for burial. He was finally buried after 4-to 5 days because there were disagreements on the post-mortem report which was to be signed.

Q Did you finally accept the State funeral assistance?

A We were told that relative of those who had been killed were given some money at Makombe building so we proceeded there. At first the relatives had turned down the offer but we finally received the money.

Q Did you at anytime join those people who were running or demonstrating or you were simply standing watching over the vehicle fruits?

A What pains me madam is when my brother in law was shot he was actually wearing a Zanu Pf T-shirt. I am surprised to hear that those people were MDC members.

Q I have no further questions to you now. I will hand you over to the Commission if they have any questions for clarification.

Honourable Chair and Commissioners.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much. Before I invite fellow Commissioners to ask any clarifying seeking questions I want to convey our condolences to your family for the tragic loss of your brother in law.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Did I understand you to say that your brother in-law was shot while at your vending place?

A Some few metres from our vending place from where the witness is standing to the far corner of this conference room.

Q Was he doing anything to suggest that he was part of the demonstrators?

A He could not have been one of the protestors considering that he was a Zanu Pf member and from what I heard those who were protesting were MDC members. The deceased who was my brother in law started the vending business in 1996. He had a Zanu Pf card. He never worked for any other company they were serving from vending they were actually pioneers of vending.

Q The Zanu Pf shirt that he was wearing was it obvious for anybody to see, could the soldiers have seen that he was wearing Zanu PF t-shirt.

A Yes one could easily see that he was wearing a Zanu Pf t-shirt because these knew t-shirts are so bright. I was actually shocked when he fell. I thought he had been bumped into since people were just running.

Q Did you think that the person who shot him, was near enough to you at the time he was shot from a distance?

A In my view the person who shot him was close by so he was shot from a close range because even if you are to check on the pictures the wounds, even if you are to check on the wounds it clearly shows that he was hit from a close range because I was actually trying to cover the blood so that the blood could not keep on bleeding. By then I thought probably he could survive. I think the other reason why he passed on was the other road had been blocked so we had to go along Julius Nyerere. From Julius Nyerere we proceeded to 2nd getting closer to Monomutapa building. After moving a short distance along 2nd street the road was blocked again. We had to use this small road which leads to Fourth Street. I am not sure of the name of that road.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q But how long did it take between him being shot and the soldier who came to threaten you?

A It happened within a short space of time because when he instructed members of the public to leave town I actually responded so we wanted to return to where our fruits were. We did not want to incur a loss. He had purchased fruits which were valued at \$900. When that soldier arrived, I would like to believe that he thought I was just trying to assist a stranger not knowing that we are related. Because he actually said do you want to act like his legal practitioner then I responded saying, 'This person is my brother in law.'

Inquiry

Ignatius Neshava

Another soldier a surgeon came whilst he was running. By then the other soldier was pointing at me with a gun. That surgeon then said leave him that is how I was then left.

Q Thank you.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you for your testimony today. I just want to ask you a few questions if I may. The Zanu Pf shirt, did you take that off there were he was shot? The reason why I am asking is that the personal report we have here says that there was no shirt.

A When finally took him to the hospital we had already removed the t-shirt because we wanted the t-shirt to cover the wound. We had to cut the t-shirt using a knife because other members of the public had arrived and they said let us assist him. Even after the covering the wound that could not help in any way because he kept bleeding.

Q Can I ask you, when you saw Ishmael being shot, did the person who did that say anything? Was anything said by the soldiers?

A The soldiers were simply instructing people to leave town as we did not even see the soldier who shot him. I only saw him as he was on the ground.

Q Was there a lot of other people around, lot`s of demonstrators or protestors around you at the time?

A We did not manage to differentiate those who were demonstrating and members of the public who joined in as they were running away because when my brother in-law

was finally shot members of the public maybe together with the protesters were actually running away so they had dispersed from where we were.

Q So it was a mixed group at that stage?

A Protestors had already gone so these were only members of the public who were running.

Q You said that the army was saying that you need to leave the town. I know it might be hard to remember but can you recall what words exactly they were saying or shouting?

A They were simply saying move out of town.

Q Did they have loud speakers?

A No.

Q When the other soldier came and said that you should be left alone when you were there helping Ishmael do you remember what that soldier's words were?

A The other soldier was pointing at me with a gun ready to shoot. So I said if you want to kill me you can do so because you have already killed my brother-in-law. I said this whilst I was crying.

Q. And then the other soldier came and told him to leave you alone?

A. The other soldiers came and said leave him alone. So for that time I remained with my brother in law the now deceased. People would use the direction or using other roads. Let's say if they realise that soldiers had left using Cameroon then they would come using the other direction.

Q. Did the soldier offer to help in any way?

A. They did not assist. They actually ran away. In my view they thought the now deceased was already dead but by then he was still alive.

Q Thank you very much for your testimony and for being with us today.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Ignatius you did say that when you rolled over your brother`s body as he was lying down, you found a cartridge?

A It was not on the body.

Q But close to the body?

A Yes. I took the cartridge. When I got at Parirenyatwa Hospital, I showed it to a police officer who was there telling that this is the Cartridge. From the look of things it had just been discharged but he was not polite in his response. He said what if you have just picked the cartridge anywhere.

Q What happened to the cartridge?

A After that when he said that there was no evidence to that effect that we got the cartridge closer to the body of the now deceased. We then left it at Parirenyatwa police base.

Q Thank you. No further questions to you.

A We did not make a formal report. We were only surprised to be told that police officers wanted some statement.

Inquiry

Ignatius Neshava

Q Thank you very much for your testimony it has been very helpful. And once again my condolences.

A Thank you sir.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To Commissioners)

Honourable Chair and Commissioners I intended to call upon Terrence Kumire. He is a brother to the late but in view of the fact that the eye witness also turned out to be the relative and you actually have Terrence Kumire's statement I do not know if it's still necessary to have him testify or you will just excuse.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (Mrs Chimbaru)

Q Come gain.

A There is a witness Terrence Kumire whom we had called as a brother to the deceased. But it appears that the last witness also is a relative to the deceased. I do not know if it's still necessary to call upon Terrence Kumire or just have him excused since we have his written statement in our files.

Q Well as a brother I think we should give him a hearing and if he is of the view that the brother in law has covered all that he needs to share with us then that is fine.

TERENCE SHANDUKAI KUMIRE : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Inquiry

Terence S. Kumire

Q Mr Terrence Kumire you confirm you are the blood brother to the late Ishmael Kumire?

A Confirmed.

Q. And you have heard the detailed evidence that has been given by the last witness. Is there anything else that you think you would want this Commission to know?

A. I was not around maybe in everything which transpired? Maybe what you would want to know after this Commission, how are you going to assist the family because he left 4 children and also the wife? That is my question.

Q Thank you very much. In other words there is nothing else that I would want to find from you. I will hand you over to the Commission if they have any questions for you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you Terrence. My condolences. Perhaps what will be of help, let me just know whether these children are of school going age?

A Three are still in primary school then the elder one in is form 1.

Q Well as you know as Commission we are to, at the end put together a report with recommendations and in the recommendations we will definitely take this into account.

A Thank you. That will take how long?

Q We are due to submit the report end of November.

Inquiry

Terence S. Kumire

A He was paying school fees for his son. Buying food for the children. As it is we are considering the current environment. There is no-one who can assist us.

Q Unfortunately we are bound by our terms of reference and that we have no interim measures to apply. So unfortunately we all have to wait for the end of November so that in our final report we make all the recommendations and present them to his Excellency President Mnangagwa.

A. But it is taking time. Children are suffering.

Q I am sure the Secretariat can refer you to a department of welfare for interim measures as I said we can only deal with the final report. We have absolutely no other means here.

SECRETARY: MRS MABHIZA (To witness)

Q Mr Chairman I would like to commit. He could report to my office in my capacity as Justice Secretary on Monday.

A Is it possible for me to get your contact details?

Q You can wait outside.

ZIVANAI MUGWARA : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To Commissioners)

Q Honourable Chair and Commissioners. This witness is the one who gave these indications yesterday when we went for Inspection in loco so we just wanted him to confirm under oath. Otherwise he has already made the indications.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Zivanai Mugwara you confirm that yesterday you made certain indications when the Commission was on Inspection in Loco?

A. Yes.

Q Do you still stand by the evidence you gave yesterday with the indications that you made?

A. Yes.

Q In your indications you did not give the vehicle, the Honda fit that was by the cite valuation.

A At the present moment I think about \$7000.

Q Is there anything else that you want this Commission to know in relation to, if you may proceed to do so.

A Before I start to narrate the ordeal of the 1st of August 2018. I would like to go back before elections. In our country all political parties, they signed a Memorandum of understanding of non violence. Each and every leader was giving an oath saying they are going to urge their members to desist from violence but in that course there is a leader MDC Alliance in Gweru actually saying if he is not going to win the election he was going to throw sand . In Shona he said, 'Ndinokanda mavhu. Jecha ,' and this country will be ungovernable. That is number 1. Number 2 in Gweru again there is a young man from MDC Alliance who was convicted of violence. These are there in Gweru. Court records are there in Gweru after he was found tearing posters of Zanu Pf. Me myself I went to Gutu South where I was stationed for two weeks. When I was in Gutu South, I believe in Gutu South that's the residence are of MDC Alliance President Advocate Nelson Chamisa. In that area I I never threatened anyone but I was beaten by MDC supporters. I reported the matter in Gutu. We never beat anyone, we never threatened anyone in his rural area.

In his rural area that is where I was campaigning. We never threatened anyone but I was bitter and I reported the matter at Gutu Police Station. Up to now after elections that's when I was called by one police officer now asking of the ordeals, asking me of the things but I had already left.

Secondly as Zanu Pf was in power before election, the new leader who came just after the November incident who is President Emerson Mnangagwa saying there is no one who is supposed to do Political violence or even to threaten anyone. I am a worker of Zanu Pf. He actually told us that we should not go and threaten anyone. You should not go and bit anyone. And this is on record, even if you check his twitter account. He is on record saying we do not believe in violence but in one incident you would see another political party who has never stood up against violence, he never uttered any word against violence. He has never said it but he is one of the major political parties who has never stood up against violence. He never uttered any word against violence. He has never said it but he is one of the major political parties which is the MDC Alliance. He actually incited violence. Before I go any further let me go to the ordeals of the 1st of August 2018. We went to cast our votes on the 31st of July it was peaceful. No one was threatened. When I went to cast my vote it was peaceful and the following day I reported at work 07.30. In town it was peaceful. Around 9 o'clock that is when we heard MDC Alliance people, they were singing and our leader who was there our boss at work he said leave them alone. That is democracy at place and then we, we just said that is democracy let them do whatever they are doing but later on around lunch when I left my Honda fit parked in my area of work place long after we had the election results of parliamentary results that is when I decided that let me go and find something to eat.

I left my car. My car had no any poster of Emerson Mnangagwa. My car had not even anything that would tell you it's a Zanu Pf car. It was a private car with yellow registration number plates, which indicates it's a personal car which I bought with my own money .When I was coming from lunch, I was surprised when I was at Runhare house seeing youth charming raising portraits of Nelson Chamisa. They were in regalia some of them they were in black but amongst raising portraits of Nelson Chamisa and they were singing, 'Zvikaramba tinoita zvegidi.' If it fails we are going to use the fire arms as I translate. That is what they were singing. I can sing that song. *'Zvikaramba toita zvegidi, zvikaramba' Witness singing.*

I said to myself, what is going on. Why a war is wrong. Where is the war coming? Where is the war coming from, so as I was surprised at corner Runhare I started observing things because first of all I was looking at my safety? Am I safe?

Unfortunately because I am a worker of Zanu Pf I am not a politician we don't wear regalia we were clothes. So I was at safe side. That's when I saw youth they were holding shopping baskets full of stones. They were holding iron bars. They were holding sticks and they were so rough. I could not tell, they were chanting slogans. I could see they were after something.

All of a sudden when I was at Runhare house Simon Muzenda was flooded. I saw other youths from the road that comes from Harvest house. They all moved coming towards they conjoined at corner Jason and Simon Muzenda that's when I saw some youths climbing the fence of easy park. Those youth they were throwing stones hitting anything that was in their way. Stones were being thrown. They were throwing

stones to anyone. Anyone who opposes them or anyone that they feel is not of them and they were forcing other vendors and money changers to join them. So if you don't join them they were forcing you to join them. That's when I saw my life in danger. I could not run away. Whilst I was thinking what to do that's when I saw the youth jumping over the fence. They went into the fence that's when they lit the bus that was there that was branded with Zanu Pf portrait. They burnt the bus and the fire ignited. I didn't see who was inside or was there anyone inside because I was at a distance that is when I thought I should go and remove my car because these people were already pelting stones at Zanu Pf head office. I would see Zanu Pf head office. I would see they were throwing stones at a distance that is when I had to use another way right round.

As I got there I was shivering and asking myself. What's really going on. When I was at corner 5th and Jason Moyo that's where the durawall at my workplace starts. I stood at the entrance watching what was happening. I would see youths with portraits of Nelson Chamisa saying today we want to kill them. Today we are going to tell our President. That is what they were saying and then I said ah, what is going on. They were pelting stones until I saw a police van. It was a lorry that came from Simon Muzenda. It went straight to the entrance of our gate.

When the riot lorry came, that is when I decided that it's safe because they have stopped stoning. They stopped whatever they were doing because they saw the riot and they were in riot gear, so I thought it's safe now the police has come to disperse this road, youth and young women who were there.

After some time I rushed where the police was. I stood by the lorry. When I stood by the lorry that is when one of the police officers who was in front, he got out of that van. They did not notice me because I am a worker. I was not in regalia. I was in plain clothes. That is when he came out. He went on top of the lorry and then he said in Shona raising his palm, '*Itai low low machinda*' meaning to say do it low, low guys. In Zimbabwe the political sign when I raise my hand you know that I belong to this political party. When I open my palm like this it already shows that I belong to another political party. So when he does that the rioters started to say, yoooo these are ours. They are on our side so they are supporting us. That is why they started pelting the stones, throwing stones heavily and that is when I saw Jim Kunaka, Mabhubhu and Majoni. I saw them amongst the crowd. And how did I positively identify them? They were once members of Zanu Pf. I think this honourable Commission has to know the characters of Jim Kunaka. He is one of the notorious guys who was chased from Zanu Pf because of violence behaviour. He was chased away and he is now a member of the opposition. He really knew the things around our office. He knew the security, he knew everything. He was instructing one of the guys who is Mabhubhu and Majoni who were holding stones throwing at us. I saw him with my eyes. That is when he identified me. That is when I saw my life was in danger. And they said it as he identified me. I had to seek refuge inside and the lorry of the riot police officers started to move around.

The police who were in that van they did nothing. They remained seated holding their shields. Holding their button sticks and no one moved despite the calling that was being done by another police officer who manned at our premises who was busy saying guys come. He was telling them please come help me to disperse these guys

but they remained seated until we got inside. The lorry of the police officers left. That is when hell broke loose. For your own information it was traumatising. The sounds that were being done. I don't know I have never heard them because when they were pelting stones, when they were throwing stones there were sounds, if I would say it's gunshots I don't know because it was like noise, popopo. It was chaotic.

We never retaliated despite the fact that myself and those at our office we could have done something but because of the words that his Excellence Mnangagwa has said, 'We need peace. Do not retaliate. Do not engage yourself in violence activities.' I myself I have never beaten anyone. I myself have never seen anyone being beaten by the Zanu Pf supporters since these elections have started a campaign period and after the campaign period. But I have witnessed MDC supporters fighting. I have witnessed hooliganism. I think this honourable Commission has to take this note. Up to now I cannot wear my party regalia.

I was in Nelson Mandela and 1st street. I was beaten there because I am wearing Zanu Pf regalia. The hooliganism is there but the media is not reporting it. I was beaten when I crossed with my branded car. They will whistle at me. They would pelt stones at me. Right now if it's the opposition part that was there, if police go there they are in friendship. They say there is no human rights and I myself my car was destroyed. There is not even one human rights lawyer who came and assisted me because I am a Zanu Pf member. And for your own information, when these rioters were pelting stones at our offices. I saw a white guy journalist amongst them in front taking pictures. He never reported what was happening. I never saw his report. The next thing I heard was the soldiers, they pointed the gun at me, because I positively identified him. He was amongst the rioters but he was saying that the soldiers had pointed the gun at me. I stayed in the office. I saw this guy, I think I handed him to the police. Who burnt my car?

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I was in Nelson Mandela and 1st street. I was beaten there because I am wearing Zanu Pf regalia. The hooliganism is there but the media is not reporting it. I was beaten when I crossed with my branded car. They would whistle at me. They would pelt stones at me. Right now if it's the opposition part that was there. If police go there they are in friendship. They say there is no human rights and I myself my car was destroyed. There is not even one human right lawyer who came and assisted me because I am a Zanu Pf member. And for your own information, when these rioters were pelting stones at our offices. I saw a white guy journalist amongst them in front taking pictures. He never reported what was happening. I never saw his report. The next thing I heard was the soldiers, they pointed the gun at me, because I positively identified him. He was amongst the rioters but he was saying that the soldiers had

pointed the gun at me. I stayed in the office. I saw this guy, I think I handed him to the police. Who burnt my car?

For your own information this was a well planned thing. Why would I say it was a well planned thing? There is no way a mere person could be able to break in car and start it without a key. If you want me to bring the keys of my car I can bring them. They started my car. They went with it facing the pre-cast wall. I don't know how they managed to do it. It means they are well trained people. They knew what their intention was. They were able to make the car face the building and it jumped. Their intention was, it has to jump and hit the building so that the building will lit up, but no one reported. And then I come after that I saw the guy, he was wearing a t-shirt that was written 'Weso, weso'.

Then for your information after the first the 1st of August I managed to see the same guy. I apprehended the same guy. I took him to the police, but up to now nothing has been done. I am a Zanu Pf supporter. If I was an MDC supporter they would have said you have been lying. For your own information when I apprehended the guy I saw Human Rights Lawyers representing the same guy who burnt my car. Whom I am saying this one burnt my car. And they were human rights lawyers. Defending a criminal. 'We are defending human rights.' Who is supposed to be defended by human rights? I have a family that I am looking after. I saved my money worse if you look at the car. That is a Honda fit car. It's not a car that is that expensive. It shows that I am not at that level of moving with 'S' cars or whatever executive cars. It's an economic car but they are burnt it.

Two of these guys they really knew who works at Zanu Pf and who doesn't work at Zanu Pf. Why would I say so? They were cars that were parked in our car park there. Some of them they were cars that were written Zanu Pf. They were removed. They were never attacked. They attacked selecting cars of workers. Merely saying it's a well planned thing, people who knew this guy is coming out, is using this and they would know what they wanted to do.

Soon after the violence, there is this presidential candidate who was a presidential candidate b that time, I need this Commission to know what led the rioters to behave the way they had behaved. It's because early in the morning I woke up to a tweet of Nelson Chamisa proclaiming himself as the winner of the Presidential election. And we were surprised and when we were at work there was no name or even one name of Zanu Pf supporter who was there. We were only workers. We were 18 workers at work and we were saying that is it true. Let's wait and hear the official result because we were not in light of what was happening. We needed those results. That's when they started to say the election results have delayed. According to the Constitution of this country election result have to be announced after 5 days. If it last five days it means they have delayed but by that time I think we had only less than 48 hours after the election. So if they were saying we need the election were they confining themselves to the law or they had become the law themselves. We cannot leave in a country where there is no government, where there is no law. We have to wait and patiently wait for those who are in authority.

For your information this Inquiry has to know. There is a headline of a newspaper right now that is saying this board of inquiry, this board of Commission is a junta Commission before even if they avail anything, they are already saying you are biased

to this. Before they even hear your side of the story, the comments of you, you have already been portrayed to a certain person. They have already said you belong to the army. It's there. The daily news. It's something that is there. What kind of reporting is that? Are we putting the country forward or we are pushing the country backwards.

Another thing. I have heard many people complaining about the army. On this very day when I was inside the building, the people or the police. Woman at our place are from the Police Protection Unit. It's a department in ZRP within our police force. And when they call their superiors that they need back up because we were under attack from 2 o'clock to 5 o'clock, we were under attack. When they called their superior they were told no, because of elections, I heard because he put his phone on louder the police officer, he was told, because of elections, every polling station, had four to five police officers manning those polling stations. So we have less number of police officers who can come and assist you. Can you call to Central Police station. For back up from Central police station. When we called Central Police station he was told ah, even us our members are on duty as you know we are just coming from elections. That shows these people had well planned. They knew the security forces were busy manning the polling stations that was the major. That was a critical point to man. It was useless to see police officers, manning in town leaving the polling stations out. The main agenda was on the polling station. It was not in the town and we never thought there is going to be violence of such nature.

I saw the army when the army intervened, truly to me I have seen in America. If a police says stop, if you fail stop, if he says hands up if you fail to put your hands up they use fire arms. It's well known over the world. How could we deal with someone who is holding on a weapon, burning properties because when I later come out the

office when I was going home , I saw chicken inn was destroyed. I saw buildings were destroyed. What kind of environment is that? Can we let them do whatever they want because they are saying we have human rights. To what extent do human rights has to end. The army they acted , according to me , some they were saying they were violent. When I left my office , I had no name tag, I had nothing. I just told them I am coming from work. I am going home. They actually said oh you are coming from work, use this street. Go that way. Don't go that way because we do not want anyone in town as you are seeing.

Buildings have been destroyed. Everything has been destroyed. That is all I can say for now. I thank you.

Q Thank you very much. I have no question for you. I will hand you over to the Commission if they have any question for clarification.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q How did you come to identify the white chap who burned your car.

A Because my car was my life I want to tell you that the only thing that I had seen when the rioters were doing whatever they were doing, I was watching by the window if they had dispersed so that I can remove my vehicle. That is when surprisingly I saw the guy who drove my car outside my premises. I didn't see him. But the guy who burnt it, I saw him. And the container that he used, we handed it to the police that had petrol inside. I saw him spraying petrol inside my car. He used matches to lit it upon. I saw him with his face because he was looking at me without seeing because everyone was celebrating and the same t-shirt that he was wearing, the day I caught up with him , that was the t-shirt he was wearing. So it was very easy to

identify him and later on I saw him being published in newspapers, I think H -metro, holding some fliers and then I confirmed to myself that this is the real guy.

Q How did you get him to the police?

A You know whenever your property is being destroyed, I tried to alert the police officers who man at our place. They told me, 'No that is not my duty. We are from PPU. We protect you and the premise. Go into the Central and make a report. Then it reminded me that in Zimbabwe there is what we call Citizen arrest. I am allowed to apprehend the criminal and hand him to the police. And for your own information, that guy I never beat him. Despite all that has happened, I never bit him. I just took him to the police so that the law can take its course. And I am waiting patiently.

Q When you got up to take him to the police he did not resist?

A He was just saying I was there but I didn't do anything. It's other guys. I will tell you who are they but I said I saw you. That is my evidence.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I just want you to get to the point relating to the role of the police. We will have a lot of interest in what the police did and what they did not do. You indicated that when the police vehicle arrived and the police, whoever was leading them made some signs. Is it correct that your evidence is that the stoning that was intensive after that, took place in the presence of the police?

A I will say that's very correct. Why would I say so? The van or the lorry that come to the entrance of our premise was not the only police vehicle that I saw. They were two lorries, the one that remained over our street. You came for inspection in loco. You

see that opposite, there was a lorry, a bigger one. With police officers that was there. They never did anything. What they were doing was to, what you call it, the car that splashes water, the water cannon. Instead of firing the water to the protestors, they were firing the water in the tarred road.

Q I want you to just focus on this thing. We were there yesterday. We saw the amount of damage, but I will be interested in knowing which aspects took place in the presence of the police and which aspects took place after the departure of the police. Just for you to understand the question. We saw that the bus had been burnt and so forth. Can you have the sequence to say, at this point, I am sure when the police, the leading this group with the riot squad who was making those signs, that there had not yet been any burning at that time. Would that be correct?

A No that is not correct.

Q What exactly. Just tell me again, in relation to the presence of the police. What happened before the police and what happened in the presence of the police?

A Before I saw the police like I said earlier on. I said when I was at Runhare house that is when I saw those MDC supporters singing and chanting. That is when I saw them jumping over the fence going into easy park and the burnt the bus. That was the point when the bus was burnt. So the time, I think it was a long time because I took me to go right round. I didn't go through the easy park. I had to go right round, with that road going to the 5th street coming through Jason Moyo where our office is located. When I was there, the bus was already burning and the cars that were beside the bus, were burning again, because the one that was burning was the bus because of the flames it spreads to the nearby bus.

When the police arrived at the entrance of our work place, the only damage that I saw the party vehicle that was branded, the Provincial Administrator's car that he was using had five stones. It had been hit by 5 stones on its windscreen but there was no any car that was damaged. Even my car was still injured.

Q The bus had already been burnt?

A. The bus was already burning. At that point the bus was already burning. When the police arrived, the bus was already burning. The cars had not yet burned. The bus was already burning. When the police came only that vehicle had 5 stones on its windscreen.

Q Which means when the police was giving whatever the signals to the persons there, the protestors, to say don't do it that way. Do it low, low. They were already aware that the buses and this car were burning. That is what your evidence is.

A They were seeing it because where they were and the bus they were facing. It's very visible. They were seeing everything and the sound of the burning and the heat, actually the heat of the burning fire was reaching where they were parking so it's something that they were seeing and they are aware of it.

Q You would be prepared to stand by that evidence when the police come because we are going to ask the police in respect of that aspect. It's a serious important issue whether the police were able to see that and still went away without doing anything. We would need to examine that. So just be aware that we will focus on that, in case they deny that sought of version.

Inquiry

Zivanai Mugwara

A No I am ready to stand. That shows my partiality I have no side. I will tell them the truth because I was there. I witnessed that.

Q Thank you.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q I just want to ask some questions about the army. We have heard about the police. Can you tell us if you able to remember what time you got there as this must be important?

A Exact time I cannot tell but what I can tell is after my car was burnt, I was emotionally attacked and I had to sit down. I had to crawl to another office. What I wanted serve had already been destroyed. After I think 2 hours of continuous attack that is when I heard the police officer calling his superiors talking . That is the period. The police officer had been injured. He had been hit by a stone. So he was not able to hold his fire arm and I think by their work code , they are not allowed to hand over a fire arm to anyone. So he was by his firearm sitting down.

Q You said that you were under attack from about 2 o'clock to 5pm so would it have been around 5pm or just 4 or was it earlier than that. This is the army?

A Under attack of our office it was around 2 but when I went inside, because it took me time outside but now my colleagues were already inside when I witness this whole thing. I myself I went inside I think after an hour around 3 that is when I went inside because I was outside.

Q Did you see the army when they come? We need to know if yourself saw what they did or if you heard something then tell us. Just make it clear that, that is what you heard.

A What I saw is when we were hiding inside the building that is when we heard a guy who called out saying, everyone out, the building might catch fire any time soon because they were sounds, burning sounds of cars. That is when we heard we had a guy who called out saying everyone out. The building might catch fire anytime soon because there were burning sounds of cars when they are burning. The loud blast that come from the cars. That is when I rushed out. When I rushed out that is when I saw an army vehicle. The army vehicle was parked just outside our premises. In the army vehicle at first I just saw two soldiers.

They enquired if there was any fraternity. They enquired if there was anyone who was wounded. That is when they said they are coming back and when we went out that is when we saw the Red Cross members. They come to attend some inquires that was within our working place. Somewhere hit by a stone in the head, Mr Janhi. Some were crying. You know ladies they cry lord. Some were not able to walk properly so you know I could not ascertain the damage of injuries because I am not a medical practitioner.

Q Do you know how the army got people to disperse because clearly you were able to come out? The siege was over. Do you know how that happened? Did you see the fire weapons?

A At our workplace, what we heard was a helicopter. When we were inside we would hear the sound of helicopters. It was so low that we thought it was hovering outside.

When I went out we later saw it still in the sky just taking some rounds looking if there was still violence.

Q Did you hear the army or see the army fire in their weapons?

A I did not hear the army fire any weapons.

Q Did you see any of the protestors there who were injured? Who were getting looked after or who were lying there.

A What I witnessed when I was at Runhare house, I witnessed a dreadlocked guy that they were saying, he has been injured, he has been injured. They ferried him like there were going to PSMAS clinic and I thought that is where they are going. I never looked because I was feeling that my life is in danger.

Q But when you come out after about 5 o'clock when the siege was over, did you see who injured people outside. We were also looking into this where anyone was shot there or any allegations of that but I am trying to see if anyone from you recollection was injured outside or had they just left?

A No-one was injured outside. What I saw was when the army vehicle returned, at first time they said we are coming and when they returned, when they opened the back of their van that is when I saw two personnel. Police personnel. They were together in that vehicle but it was an army vehicle.

Q So both the army and police where there working together when you come out.

A When I come out I didn't see but inside their van, when they went out they said we are coming there. They would do their rounds. They come back. That is when they

opened the back of their van. That is when we saw police. At first we saw soldiers coming out. Then we saw again police officers coming out of the same vehicle.

Q So we could get the time. When was that? Was it towards the end of the siege or earlier?

A It was at the end of the siege.

Q That is what I thought. Thank you. I just have one last question. You mentioned a white journalist who was there. Do you know the name of the person? Do you have a report? You said that there was some report where this journalist said the police, the military had pointed a gun on him.

A When I later on saw him in some comments on media on how the elections had been done that is when I recognised him because from that he was a white guy. I just saw him in front taking pictures with the rioters retreating. That is when I realised that this is the guy but I think I can search for that guy.

Q Yes if you can please. If we have his report that could be helpful because that might provide us with more evidence so that could be provided to the Secretariat.

Thank you very much.

A Even videos of Nelson Chamisa making his utterance on violence. I can avail them. They are on public domain. Even after the tweet he deleted them but still we have captured it when he said I had won yet the official result has not been proclaimed to everyone. Even his video when he was saying they might be my supports but I do not know about them. We have the video. It's on public domain.

Inquiry

Zivanai Mugwara

Q We are getting all the available videos of what everyone was doing. The military, the police everything that is being screened so anything else that you have will become useful because we can look at everything that is out there. Thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q I would particularly like to know which news organisation the white chap was representing?

A If I am not mistaken is it BBC or Sky news. Between these two.

NO FURTHER QUESTIONS

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Thank you, thank you. No further questions sir. You may step down.

ADJOURNED FOR LUNCH.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU HANDING OVER TO MR THABANI MPOFU

Mr Chairman I do not have any particular order but there is a handwritten list that I have been provided here by my colleague containing what are now know as walk ins from whom we do not have any statement. With your permission I will call them and perhaps try and guide the evidence towards what may be known since as you have been since you have been sitting hearing it all for the last 3 days. I will start with Tendai Chirau. Is Tendai here?

TENDAI CHIRAU : SWORN STATEMENT

EVIDENCE LEADER: MR THABANI MPOFU (To witness)

Q Mr Chirau you have been following these proceedings since they started on Tuesday. You are aware of the evidence that is before these Commissioners. Evidence that was given by others. Now it's your testimony going to be centred on what you saw on the 1st of August or other evidence that you feel is necessary at this stage.

A My evidence is in two parts. The first one is what I saw. The other is what was reported to me.

Q Bearing in mind what you have heard, that has been said in this court already, I would like you to favour the Commissioners and the public with your narration. Sticking to those issues that you feel might not have been given to the Commissioners already or those where you want to elaborate but mindful of the fact that they have already had a lot of evidence from diverse witnesses from different back grounds. Thank you.

A Thank you very much. I am the Secretary for administration for the Zanu Pf youth league. I am based at Zanu Pf head quarters that is corner Penny Father and Rotten Row. I am mentioning my post in particular that there won't be any speculation whatsoever so that I become clear but I am cognisant of the fact that my position that I hold is not anywhere influencing what I am saying here today because I am giving an account of what I saw and also the information that was given by my supporters.

On the 31st of July as a party we were at the Zanu Pf headquarters. As we were at the Zanu Pf headquarters we were awaiting to hear the election results since ZEC had announced that the full batch of results is going to be announced after 5 days so

results were trickling in from the command centre which was at the Harare International Conference Centre the Rainbow Towers.

Q Could you just clarify the word headquarters is being used interchangeably throughout these proceedings? There is the headquarters in Fourth Street and then the main headquarters known as the Jongwe house if I am not mistaken.

A I am referring to the main headquarters which is at Cnr Rotten Row and Penny Father. That is the Zanu Pf main head quarters an equivalent of Mtuli house of ANC just to give an example.

Q You may proceed.

A So on the 31st of July we were gathered at the HQ following the results as they were coming out. We were cognisant of the fact that the results are supposed to be announced within 5 days. So what then happened was that we had indications from the social media that there is an intention by some youth to come to Harare to the Command Centre on the 1st of August. So what then happened was that on the 1st of August I then came to the office as a normal working day at the Zanu Pf HQ. I work in the 9th floor of the party HQ. So I could see everything that was transpiring outside because my window faces the Penny Father road. So I saw a group of youths who were wearing red party regalia and whatever they were saying was horrible in terms of the songs and music because they were in a great number because I cannot specifically state what number they were but it was clear that these people belong to the MDC Alliance. On top of that there was also a vehicle, I saw a Hammer vehicle, that very big vehicle and also I saw another truck which some youth who were in

there which had the MDC Alliance singing. That vehicle was actually off loading the youth along Penny father road. What then happened as they were singing they went towards the Harare International Conference Centre? I could see this because I was in the 9th floor. So I could see because it's clear from that office to see whatever is transpiring. So as they went towards the Rainbow Towers they were destroying the concrete beams along Penny Father road that is close to Rowen Martin. So they were vandalising concrete beams putting them on the street and some of them went about to take some tyres. I do not know where the tyres came from because I was watching from a distance and heavy fire started burning along the way.

Q You were witnessing these general scenes of violence. The Commissioners have been favoured with a lot of those but I would like you, if you do not mind go to now perhaps, tell the Commissioners, did you at that time see either the police or members of the army (The soldiers) at what stage.

A I saw the soldiers later. At that point there were police canons, I think they are grey in colour with a symbol of a crow. I think in our vernacular we call it 'gondo.' A black crow and also some few police details that were there but it was clear that they were not able to control this marauding crowd.

Q Why do you say they were not able to contain them?

A Because they left them doing whatever they wanted. As the vehicle came to try to disperse them to stop them from burning fire they remained doing what they were doing.

Q Proceed.

A So as that happened and we then started disembarking from the 9th floor because my car was parked in the parking area that is provided for the party so I went there to make sure that my car is safe. As I got into the car park that is when the stones started raining all over the car park. I was nearly stoned and after that we went back to where the crowd was because other party workers were actually watching helplessly at what was happening because they could not go and take their vehicle. The crowd had now retreated from the main centre of the Harare International Centre coming back towards the HQ because they were now attacking everything that had Zanu Pf insignia on it. They started by taking the bunting which was on the perimeter fence. The plastic bunting. That some of the things that they were actually using to burn. They also threw some stones at the big banner which was facing towards Reikai Tangwena which was prescribed # ED has my vote and they were throwing stones and some of them attempted even to get inside the perimeter and they were singing different songs. One song that I recall is that *Zvakaramba toita zve violence (This is vernacular)*. They said that we will use force if what we wish is not subscribed to. And also at that time they were also saying that they want to burn the Zanu Pf headquarters. They said '*Toipisa*'. We will burn the Zanu Pf Headquarters. So we were held with fear to the extent that we then went back inside the room trying to call and find rescue.

Q Did you see the members of the army at any stage there that afternoon?

A I think as the situation was now escalating, as I indicated earlier on that those stones were coming inside the perimeter of the fence and vehicles were being stoned including a party truck which was inscribed ED has my vote and also other private

vehicles which were parked inside the premise. I also got the evidence to show the value of the damage which was done to the vehicles there because after the event we managed to compile that information. Before the army came the situation had reached a level that everyone within the party was afraid. Most of the people were full of fear. That is at the same time that we also got a call from the provincial offices that there was Nyasha Zenda and Rosemary Masariromba who called me specifically and said to me our leader we are facing a problem here. We are actually inside the party building because there are people outside threatening to burn this building. They were telling me on the phone. So at that point I felt that it's important that we have got to defend our head quarters or our provincial offices so I consulted with some of my leaders that can I call the youth from Harare and other places to come and defend this building because these youths who are from the opposition want to cause disorder here.

Then I was instructed that please don't do that because even when we are provoked you need to make sure that you maintain peace because the President has indicated that we need to be peaceful. So as we were inside the party HQ through the window, I then saw the military vehicles which were coming from the western side where there is Rekai Tangwena. They were going towards the direction towards where the protestors were.

Initially the protestors were actually resisting a bit. They didn't want to go after they saw the vehicles but the moment that they saw the 3rd military vehicle they dispersed and though initially they wanted to make sure that they actually stone these military vehicles which had come. So that is when I saw the soldiers.

Q And then what happened after the soldiers arrived?

A When the soldiers arrived the number of the youths started to go back towards the road close to Netone but I could not see what then was happening after that because we could not see much because there are many buildings. They actually reduce visibility.

Q Were any gunshots fired?

A I didn't hear any gunshots because maybe because of the fire which was burning and also the singing by the youth.

Q Did you witness anything else that day that the Commissioners may want to hear after the soldiers had come and people had dispersed into town?

A What we just saw after they had been contained we went down the party HQ towards the perimeter centre and we saw the decrease of the material which had been used. We saw very big stones. We also saw some containers that we believe they are containers for dangerous substances, alcohol substances that were also there and also the tyres that were burnt and some steel material. That's what we saw.

Q Is there anything else that you want to tell the Commissioners?

A I also have some pictures that were taken by one of our staff members who went there without wearing regalia and she took some pictures that I am able to present to the Commission signifying that these people, what they were wearing, we also if possible on request, we can also bring the video evidence to show that the people that

Actually led and started this violence, this was planned by a certain political party and that political party is the MDC Alliance.

Q Do you have the pictures there with you?

A Some of the pictures I handed over them. Those are some of the steel pictures that I have. Some of them were taken by our colleagues. Some of the pictures we got them through the social media.

Q Are these the pictures you were talking about?

A Can I see? These are the pictures and I will start by this one. This is the one which the youths were throwing stones.

Q What I can assure you is that along with pictures there will be other evidence presented to the Commissioners. So if you can just put it aside. At an opportune time they will be handed over.

Is there anything else that you want to tell to the Commissioners before I hand you over?

A Maybe I just want to say that this issue of violence was brewed up because why do I say that because at one point it was indicated by the MDC in particular it said that if ZEC announces any election result which is not favourable to them, they will make sure that this country becomes ungovernable.

Embedded to that it was also mentioned in one of the speeches where Nelson Chamisa said that if he doesn't win also he would buy a number of youths beer so that they would come into the CBD and cause disharmony. To us we do believe that this was a

built up exercise and it is important that the Commissioners re-visit the period before the elections and statements that were said so that they can actually be able to ascertain what actually happened. Those are my submissions.

Q Thank you very much I now hand you over to the Commission. They may have questions or clarifications they may want to seek from you.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q I just have one question to Mr Chirau. You said you saw the military vehicles coming and as soon as the mob saw the vehicle they went away? What did the police do to disperse them?

A The police?

Q The army?

A I think the issue of just seeing the vehicle because possible they saw them in great numbers and they just dispersed.

Q They are were no gunshots which were fired?

A I didn't hear them and I didn't see any rifle.

Q Did you see any causality other than the cars?

A. No.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Could I just do a follow up to that question? What time it was as far as you can remember in the afternoon?

A The disturbance started around 12 or 1 thereabout. Then I received a call from Harare Province at around 3. That is the time that I can stand. The army came possibly around 3.30pm.

Q Around 3.30pm you saw them outside the building?

A Yes.

Q Ok thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q We have heard from you and some other witnesses that before the elections there were statements to the fact that if the election did not go a particular way there would be trouble. Do you have any view on how they planned to effect the trouble in the event that the election did not go their way.

A. Any view on that?

Q When such statements are said we are bound to interpret in them in that context and our view is that, my personal view is to the fact that when someone talks about that they want to buy youths certain beer so that they can come into town, it means that the only avenue there that they want to use is violence.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Just one question about the military vehicles. What did they look like the military vehicles that you saw?

- A As someone who is a civilian , who is not well versed with military I would say that I just saw the camouflage car and for me to say that this was the type of the vehicle I would be economic with the truth. So you can easily differentiate between a truck and an armoured vehicle or a tank but it was not a Datsun vehicle or any other vehicle, it was a truck which had camouflaged the car.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

- Q You said that they were coming from the western side. Can you be specific which road they were using?
- A They were coming from Samora Machel down to Rekai Tangwena. The direction where there is Samora Machel where they are going towards Rotten Row. In Samora Machel there is the Rotten Row road. That is where they were coming from. The side of Harare Polytechnic.
- Q That is where they were coming from ok. Do you confirm from the pictures that have circulated that not everyone there is wearing red. That there were many people without red?
- A Yes it was. They were mixed. They were some that were wearing red but some were not wearing regalia.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

- Q In one of the pictures that you provided, if I am not mistaken I have seen that it is at the gate of HICC. There is someone lying on the ground. Do you have any idea why that person was lying on the ground?

A Thank you. I got that as a picture from one of our staff members. As I have indicated. I then later asked them what was happening on that picture and she said that there was a certain woman who was sitting on the tar saying that she was not going anywhere until, Chamisa has been announced a winner.

Q There are two different pictures. There is another one where a lady is lying (*akarara pa gedhi ipapo*)

A I think that is the same lady. She was acting. I am told that there is a video also as she was saying she was not going anywhere until the exact time that Nelson had won the elections.

Q Thank you for the clarification.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Mr Chirawe I think you may step down sir. No further questions.

A Thank you very much. Can I just leave a list of the vehicles that were damaged?

Q Yes.

A Thank you very much.

Q Thank you Sir.

VIVID GWEDE : SWORN STATEMENT

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q To Commissioners. This is one of walk in witnesses as well. I do not have a statement from him. Mr Gwede you have been following these proceedings since they started on Tuesday. You have been sitting in this room listening to other evidence?

A Yes.

Q Are you going to give testimony on what transpired on the 1st of August?

A Yes.

Q Thank you. I would like you to take cognisance and be aware of the fact that the Commission has listened to a lot of evidence. You will be the judge of it. You will know the evidence that has been given. I would like you to concentrate on those events that you feel the Commission needs to hear from you because they haven't heard or they may want it from the angle that you want to give. Do you understand?

A Yes Sir.

Q Proceed.

A Mr Chairman. Let me first of all raise a complaint that I came in the morning. I was told that I was going to speak yesterday and the schedule changed, I came again today in the morning. I was told I was going to speak after two people, and I was delayed again. I asked a lady at break time. She said I was going to speak, I was delayed. So I hope you will protect me so that I speak fully and I hope they won't be any interjections.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q You are protected.

A Thank you Sir.

Witness continues to give evidence

A My name is Vivid Gwede and I have been an observer in these past elections and I work for human rights organisation although I am going to speak on my own behalf as a citizen of Zimbabwe and also as person who witnessed what happened. In this country we are in a process Mr Chairman where we are trying to say we don't even want to have the death for prisoners for instance. This is the kind of President that Comrade Emerson Mnangagwa has been saying that we want to avoid death sentence.

When you say we don't want a life to be taken away from prisoners. Some of them have committed murder but we give that right to soldiers. You people without a court of law, where are we going. What's happened on August 1 has a very traceable history. On May 22 Josiah Hungwe made a public statement as Masvingo Provincial Affairs Minister and that statement appears in The Mirror of 22 May, 24 May where he said that President Emerson Mnangagwa is going to kill and shoot his way to power. This was something that was said as violence in the military which was threatened.

The President as the Commander in Chief is the one who controls the army, did not say anything to say that what Hungwe said was wrong and was not going to happen.

In this country the duty to deploy the military is the duty that has the President and the Commander in Chief. He does that with approval of Parliament. So the elephant in the room about all these things that happened is who deployed the military. Because we have the President, the only President who has that authority but also in consultation with Parliament.

Section 59 of the Zimbabwe Constitution makes clear that citizens have a right to demonstrate. Whether they are demonstrating for election results. Whether they are demonstrating for anything. They have that right as guaranteed in the Constitution and that is the right that is fundamental to Democracy.

When was an observer as I said I was at Holiday Inn around 2 or after 2 because I had late lunch, I walked into the streets of Harare I saw people who were singing. Who were demonstrating? They were saying that the results of course have been delayed. But there is a history also to that because in 2008 our country waited for more than a month for election results and so because on this lack of confidence in the Zimbabwe Electoral Commission, people tend also to start to be suspicious when results are late by one day or two because most people are not aware on the law that we have 5 days or so. We have to understand that context in which Zimbabweans have no confidence in the Commission the Zimbabwe Electoral Commission and because of that when I went into the city I saw people demonstrating.

There was no scene between the demonstrators and the police. Police came with their water cannons and everything was peaceful but later on we heard that soldiers had come into the streets and they shot people. What is known is that the police in the

country have enough power, enough means to stop demonstrations. They had stopped demonstrations before. In 2006 they were many demonstrations in this country and police stopped those demonstrations using water cannons, using tear gas but on this particular day I didn't see any police firing tear gas or firing water canon to justify that they have been overpowered by demonstrators. I don't think so. I don't buy it because I didn't see that when I went to the streets. I didn't see any confrontation amongst you as Commissioners. As a person Professor Lovemore Madhuku, who has been an evidence of the statutes in charge in this country? My iconic picture of Professor Madhuku in my mind is that of him having a bandage on his head. He was a leader of the National Constitutional Assembly and he was brutalised. He was beaten by the State for demonstrating along with iconic Morgan Tsvangirai so I would also like to understand that there is a history in this country of trying to suppress protestors. A history that also violates Section 59. But also we have a history of political violence in this country. In 2008 you would know what happened. Comrade Motlantle Mr Chair you would know what happened in Zimbabwe. You would know that South Africa had to intervene. You would know that there was an election which was inconclusive because people had been violated and that made the international Community to come into Zimbabwe. But also you know that in 2002 Justices Mosineke and Justice Kamutepe came to Zimbabwe and under the Judiciary observation mission and what was discovered in their report which was later released but it was released later, the report speaks about the issue of violence in election related context in Zimbabwe. So this is not a new issue. It is an issue which had a background. It is an issue which I was threatened by Hungwe as I said it is an issue we saw in 2002, it is an issue we saw in 2008. Although in 2002, in 2008 we didn't

see soldiers in the street directly. So these are some of the issues that I want to put on record. But I also I went to Harare, Parirenyatwa hospital after violence had happened and they were family members, I think the guy actually came here and testified. They were issues there when the family were arguing with the hospital officials who were trying to falsify the post mortem reports. We were being told to say, people were stabbed and vice President Chiwenga himself actually saw that narrative, it is there in the media that protestors were stabbed in the back using knives by protestors. There was an attempt to make sure that the issue of the shooting is not received as it is which is a very big problem.

But also I have an issue even in terms of the President because he constituted this Commission, but the Constitution says the President whenever he makes such decisions, he should consult the cabinet. He appointed the Commission without having a cabinet in place. There was no cabinet then and we do not know who he consulted. But also the issue is this, in Zimbabwe we have a Zimbabwean Human Rights Commission , I am not saying anyone should not be there , but amongst the people in this Commission I would expect to see the member or a chairperson of the Zimbabwe Human Rights Commission because it is a Commission which is Constitutional in Zimbabwe . Which was created to investigate Human Rights cases. What justify the exclusion of the entirety of the Zimbabwe Human Rights Commission from this Commission? It is a worry that I also want to register. I would want to leave it there so that we will entertain questions from him and from you.

Q Just point of clarity. Did you witness any violence that you have spoken about yourself on the 1st of August when you went in town?

A When I went in town I didn't see any violence. I said I saw two along Fourth Street and in Jason Moyo where there were two police trucks that went there. Not such as water cannons, they went there and they didn't disperse any protestors. There was no violence between the protestors and the police. Things were peaceful. People were just singing.

A Thank you very much. I will now hand you over to the Commissioners for clarification or questions. Mr Chairman your witness.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Thank you very much Gwede for coming forward to share with the Commission your observation of what transpired. I will now invite my fellow Commissioner to pose any clarity seeking questions that they may have.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. When you arrived at Parirenyatwa which sections of the hospital did you go to?

A. When I arrived at Parirenyatwa what attracted my interest also as an observer during that time was that Nelson Chamisa the President of the MDC Alliance had gone to Parirenyatwa hospital and they were also members of the media and they were trying to see what was happening. I went to the mortuary that's where these things were being said and there is actually media footage around that issue where the relatives were saying they were attempts to falsify post-mortem reports at the hospital.

Q. Did you visit any other department in Parirenyatwa?

A. I didn't visit any other department because the only department that was of interest to me was where the relatives had gone to and also where the bodies of the deceased were being kept.

Q. Did you speak to any hospital official?

A. I did not speak to the officials, I bear witness to discussion within some of the hospital staff and the family members and the President of the MDC Alliance who was there when these issues were raised.

Q. Do you remember any conversation between the hospital official and the family members?

A. I remember the family members who were there, they were discussing the presence of the MDC Alliance President and the hospital official and they were saying that we have been here and the problem is that they have been trying to falsify the post mortem report. They have been saying that these people let's say they had wounds from being stabbed in the back.

Q. Since it was the conversation between the hospital officials and the relatives what did the hospital officials say?

A. In that particular case they didn't respond they were there but they didn't respond to that accusation.

Q. So they kept quite?

A. They kept quite.

Q. Was it a conversation in your view?

A. No it was not, it was a confession, it was not a conversation it was confession of a fact that was actually happening there by the family members about what was happening. The attempts to try to make sure that the truth does not come up in terms of the post mortem reports. So they were making accusations. If the hospital officials had any other counter accusation I suppose they should have said that is not true.

Q. Did you visit any other medical centre?

A. I didn't visit any other medical centre I just went to Parirenyatwa hospital the mortuary section.

Q. Do you remember the time that you visited Parirenyatwa?

A. I think it was in the afternoon or morning I don't remember the exact time but I think from mid morning to afternoon because I was there for a long time.

Q. Which form of transport did you use?

A. I used my car.

Q. Did you park at the mortuary or whereabouts?

A. Yes I did park at the mortuary.

NO FURTHER QUESTIONS.

COMMISSIONER LOVEMORE MADHUKU (TO WITNESS)

Q. When was that, was it on the 1st or?

A. It was not on the 1st it was a day after.

Q. So it would have been on the 2nd?

A. I don't remember exactly whether it was on the 2nd or on the 3rd but it was days after the shooting. The whole incident is actually on public vehicle where the President of MDC was there and where this incident happened.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Can you please tell us for how long you observed the protesters and the police? You said you saw the protesters and the police. Over what period of time did you see them?

A. The whole of the incident that happened on 1 August I was privy to them because as observers, we had our own way of carrying information to each other and we deployed some people who went to the HICC. It was in the morning when the whole protest started and also they are pictures where police and the people were taken some pictures with the police vehicles, with the police water cannons without any signs of conflict but they were simply demanding that we want our results. And then when I actually physically went also into the street it was around between 2 and 3 because I had a late lunch and I was in the street for about an hour or so then I then left.

Q. Did you see any of the protesters carrying stones or iron rods or any similar material? Did you see any of them?

A. I did not see any protesters who had stones at that particular moment.

Q. Because several witnesses who appeared before us have told us that they saw protesters with stones and iron rods and sticks using them to effect some damage and so on. You didn't see any of those?

A. I didn't see anyone with stones and I would want to think that because that is almost the time when the soldiers were deployed and that also would be the time when information started filtering to our station on that people had been killed in the street. That is around the time when soldiers came into the street and I don't see why soldiers had to come in the streets because I had not seen any conflict between the police and the demonstrators or any kind of violence. I might actually think that maybe people began to be violent when they responded to the news that some people had been killed and maybe because of anger they were running away, they could have done that. They could have just caused that violence.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Thank you very much. We don't have any further questions to put to you so thank you for coming forward.

WITNESS EXCUSED

EVIDENCE LEADER

Mr. Chairman I am made to understand that there is an event scheduled for 3.30. I was going to perhaps suggest that might I be allowed 30 more minutes with the witnesses who are here and see how many we cover and then when we break it goes into the extended session.

TAFADZWA MUGWADI : SWORN STATEMENT

Q. I am sure you have been following these proceedings Mr Mugwadi?

A. Yes but not every day.

Q. You will have a rough idea of what the Commissioners have heard. I would like you to give your testimony to the Commissioners bearing in mind that they may have heard things that you want to say. But I will leave it to you to find those aspects of your testimony that you feel the Commission should hear.

A. Thank you very much. May I request permission to present while I am sitting because I have a problem with my leg? My name is Tafadzwa Mugwadi. I am a peace security and mediation researcher by profession and besides that I am also an active participant in the politics of the country. I am also a social and political commentator a very, very vivid one and I am sure I am not a new face to a lot of people. I raise these issues so that once again I don't leave anything to speculate about the person that I am. I have been following this inquiry and the proceedings but not quite often because of other responsibilities now that I am studying but I felt that it was important for me to give my account of events on what happened on 1 August 2018. Secondly I also felt that it is imperative for the Commissioners and this inquiry and the public and the people of Zimbabwe and particularly the international community to live with what I would call a complete appreciation of the political culture in Zimbabwe and bearing in mind that events such as those that took place on 1 August don't just happen for the sake of happening.

I am of a strong conviction that events happen the way they do because they had been preceding processes that have a direct bearing on those events. So in my submission I will tell you firstly and I will seek to vividly say that the MDC Alliance which is an opposition political party in Zimbabwe and by all standards, one of the largest ones, in fact the largest opposition political party that is led by Mr Nelson Chamisa must be brave enough and bear a responsibility of the events that took place on 1 August. That's what I will seek to give evidence about.

Secondly, I will also seek to make it very clear that the Commissioners need to appreciate that there is a full sense of entitlement from the largest opposition group that I have talked about which borders on the fact that when they engage in lawlessness activities within the CBD particularly in Harare where they have a stronghold by support quantitatively so and genuinely so. They feel they have an entitlement to be joined by everyone who is in Harare and that is why I am saying this because in my presentation you will realise that I will raise it vividly that they were people that were frogmarched into those activities, not because they would have wanted to be part of them but the culture by the opposition party that I have talked about is that whenever they are having those events in Harare they think Harare is theirs. This is a perception that I feel Commissioners particularly those that come from Zimbabwe need to have an appreciation about so that they would be able to understand the historicity of events of August 1 as it were.

Thirdly, I would also seek to say that history to the events that took place on August 1, needs to be also referred to especially by way of incidences that have taken place,

by way of proclamations and statements from some of the political players in particular Mr Chamisa and the MDC Alliance.

I will start by taking a bit back particulars the Commissioners that are not from Zimbabwe. I feel genuinely that you need to know some of this information. We have majestic figure in the name of Morgan Tsvangirai who led an opposition party in this country and I am sure you are aware that he is no more and may his soul rest in peace.

On the occasion of the burial of this iconic opposition figure, the burial could not end without incidences. Notwithstanding that it was a burial of what we would have wanted to appreciate as an occasion of death of the same figure because by numbers the MDC Alliance party was burying their leader and they were the majority. I am sure ZANU PF just sent one of their senior colleagues who is Ms Opah Muchinguri to go and also morn with the opposition on the loss of Mr Tsvangirai. But then what happened on that funeral must not go without matching this formation because it has a bearing on the events that took place on 1 August. Why am I saying so? There was violence that is recorded and documented and cases were opened out of the burial of Mr Morgan Tsvangirai. The cases of violence involved a unit within the MDC Youth Assembly that is now known as the Vanguard. The existence of the unit is not in question. And I am sure that in many occasions the MDC itself has acknowledged the existence of that vanguard. The vanguard has marched and imitated security marches, security salutes and refers to Mr Nelson Chamisa as Commander in Chief of the vanguard. He has accepted that owner or whether it's an owner or otherwise that's up to the Commission to judge but he has accepted it. The same vanguard is implicated in the attempted arson on their party members and then former vice President Ms

Thokhozani Khupe, Mr Douglas Monzora who is still the Secretary General of the party and other colleagues that I cannot mention of course for fear of time but they escaped from an attempted arson by the vanguard that I am talking about. It did not only end there. A few weeks later when the contestation for the presidency of the party that I am talking about were happening, they were violent incidences that left some few members of the same party with fractured skull and bruises at the hands of their fellow colleagues within the same party.

I have raised these two events Commissioners, not to take your time unnecessarily but to take you back on the political culture that has preceded this election and the conduct of certain political formations and their leaders so that that will be able then to shape our under appreciation and understanding of the events that happened on August 1 that they were not in any way spontaneous. I have feel to believe that those were spontaneous events on the account that I then saw on the day in question.

But perhaps before I go to my narrative of August 1 events. I will take this opportunity to read to you some special quotes from MDC leaders and particularly Mr Nelson Chamisa ahead of this election that I feel this Commission would be able to understand them. The events had been rehearsed before. The MDC was planning for them and the way they happened was not spontaneous but a complete fulfilment of a strategy that has been in the hatching for far too long.

This is what Mr Nelson Chamisa said in a rally on the occasion of a rally, MDC Alliance rally in Mutoko, July 31, he was referring to what he alleged as “potential election rigging” by the Zimbabwe Election Commission. He said, “We have the numbers and we can close down Harare in a peaceful demonstration against this abuse

of authority. We will not let the election happen if we do not agree on crucial issues like the printing of ballot papers”. My emphasis on this quotation is the statement “we will close down Harare”. From Harare is where I come from. From Harare is where the event of August 1 happened and from Harare is where my eye witness account I shall give then took place. I would have wanted you to take note of this quotation.

On a press conference, the occasion of an MDC Alliance press conference at Harvest House, this is what Mr Nelson Chamisa said, “They are afraid of the capacity that we have. Indeed if we are to say this country is to be ungovernable starting tomorrow Mnangagwa will not be able to control it”. He did not end there. He went on to say, “we have the capacity to control. Young people out there are restless, they are desperate and they are willing to go an extra mile for their freedom. We have the capacity to take instruments of violence but that is not in our daring. If they rig or cheat they will face the music that they must know. It is not a threat but a good promise”.

This quotation that I have just given you doesn’t need me to emphasise anything or explain anything. But perhaps the bulk of every explanation shall come when I talk about the events on 1 August out of an eye witness account. I will not go as far as mentioning the statements that were read by Mr Tendai Biti who was a principal and a core-alliance partner within the MDC Alliance where he said soon after the events that took place on August 1 he went on to say, “The people are already making the country ungovernable, the people are already on the streets, they are marching spontaneously”. My key word here will be the word “spontaneously”. The use of the

word spontaneously on this occasion was meant to wink the international community, the people of Zimbabwe and myself in particular as a concerned citizen that what was happening in Harare was spontaneous and the deliberate use of the word spontaneous was to otherwise sugar coat a deliberate action that had been in the hatching for long but they would have wanted it to be presented as spontaneous' so I raise these issues and bring to your attention these quotations for you then to be able to appreciate the political culture and context within which these events took place.

May I also happen to point out that our society could be polarised in one way or the other. We have colleagues from the Civil Society Organizations, Commissioners let me put this before you. This is what happened in Zimbabwe. I hope it doesn't replay itself anyway. When opposition circles engage in violence, violent demonstrations and protests for that matter, close shops and disturb our business as individuals and particularly my freedom of movement as an individual simply because they are registering a complaint. The civil society organisations that come, I would not want to question their coming here but I will tell you that what happens to them is that when those incidences happen which they sometimes sponsor and I wouldn't want to be provoked to want to speak more but I have got sufficient evidence that they have a hand in it. So for the avoidance of doubt I have been a former student leader and I have led a student organisation that was supporting the opposition for some time. So the historicity of complicity of the civil society organisations in these skirmishes that takes place within the city, I know. I know and I shall not say them for the sake of time until probed further to do so I am available to provide what I would call primary evidence to support my claims. I say this because when the events that took place on

1 August happened and I was watching, they rushed to say, when they are glorifying the events that are taking place you would hear them and even some reporters, some news rooms, this is what happens Commissioners and I feel it's an issue that it's a polarisation. When ZANU PF offices at 4th Street are burnt down, ZANU PF members are beaten in the streets and I was one of them. I was not beaten of course because I had to rush to the Party Headquarters because I was just along Pinfeather Avenue because I was based at the Command centre of the elections. So I am saying when those things happen you see the same civil society organisation that come and shade crocodile tears here and start crying foul, glorifying the events saying an evolution is happening in Zimbabwe, Mnangagwa is going to be history, the citizens have taken it upon themselves. Look ZANU PF office is no more they have destroyed evidence. And that creates stupid excitement within ordinary civilians who have not even an aorta of where this thing is being taken to. It creates an excitement among them to say you can just finish it off. Why have I said this issue? I am trying to bring a cardinal point before this Commission that the events on 1 August were not a peaceful demonstration for results but an attempt on power seizure. And that power seizure was supposed to emanate from the streets. The souls that were being seen and the way people were being beaten from the streets to join the protesters attest completely into that its sufficient evidence. If I had had sufficient time but if called upon to do so I have sufficient video evidence whose credibility are unquestionable on how people were being frog marched to join the demonstration and how people were being asked who are you, who is walking freely and you are going the opposite direction when demonstration are going this side, you must go this side. So this validates my point that the MDC engages in violent activities within the CBD and in the process of doing so they think it is their entitlement that everyone in Harare must

join them because by political representation they have more MPs in Harare, more Counsellors in Harare is an enclave which we control. If you want to live in Harare peacefully you must call talk to the MDC Alliance, of course now alliance but I wouldn't want to say, to imply by that that during the time of Mr Morgan Tsvangirai we ever saw that. And once again I repeat, may his soul rest in peace, I never saw that where people in Harare who belong to the opposite political parties like ZANU PF were ever meant to feel uncomfortable and unsafe the way they are unsafe now.

I will tell you Commissioners my account of the events that happened. I am now coming to my eye witness account. I was at the Command centre the Zimbabwe Electoral Commission Command centre and by the way, besides being a political participant I am also a media practitioner who does that on freelance and I have got my credentials. I just didn't bring them here and I was accredited by the Zimbabwe Electoral Commission for Aventis media. Why do I say that, because what we were doing those days, because I support the ruling party and I Have made that clear on first instance so that I don't leave anything to speculation? We were doing our own media coverage of our events and I was responsible for coordinating those. So I was at the command centre legitimately so as a media practitioner registered as freelance because the Party does not own any media house. I was registered as a freelance. So I was at the command centre. We came, I had my media tag and I still have the t/shirt from the Zimbabwe Media Commission which I was putting on and a cap. We were the three of us with my colleagues. We were not even trying to cover this event because we were covering that side. So some parliamentary elections were about to be announced at the ZEC Command centre but they were delays in the announcement on that particular occasion, so we said we can go back at the party, trying to grab some

food and that's when we met violence. But we had heard about stories happening in town but we thought that the Party is just close by because the Command centre is at Harare International Conference Centre and the Party is just some 400m away. On our way, we were not driving we were walking by foot. We didn't know that protesters have been dismissed from the gate entering into the HICC but we saw some debris there suggesting that they had been there since. On our way back to the party, we saw skirmish happening at the intersection of Rotten Row and Pinfeather where there are traffic lights, they had been vandalised and there was continuous vandalism of the same. Stones were being pelted in every direction. Unfortunately from the direction where we were coming from that's where police officers who were trying to contain the situation were barricading and the protesters were still eager to come back and access the Command Centre of the elections. I started to ask myself what was happening. In general talk which I said this is just one of those things. The gate of getting into the Party Head Office is on the far western side. So at the round about where we wanted to turn to the party they were protesters who were in some of the trees that are around on the right side. They were not in the trees but they were milling around the trees so I was made to advice that they were part of the protesters. They started throwing and pelting stones at us. Then you say ah this is a stone, You know you are just walking you see a stone falls in front of you to show that the stone has missed you. They were just rushed and made an easy excavate into the Party, but then who went at close to the park. On arrival there we found that everyone who was within the bounds of the Party head office were on the far side because including the workers, some were trapped in the building, everyone there was whining at the Party's headquarters where people were saying these protesters are going to come and

enclose us here and the security at the Party had been over powered and they was destruction, the cars had been destroyed in terms of their windscreens and the banner at the HQ bearing the President's face had also been demolished.

EVIDENCE LEADER (To witness)

Q. The Commission has been recipient of the evidence of violence from a number of witnesses. If you do not mind I would like you to move on to whether or not you saw activity between police officers and these protesters and whether or not you saw activity between members of the army, if you did see them and the protesters. If you could just move on to that aspect, if you do not mind.

A. I do not mind. I will hasten to point that the instances that I saw between the police officers and the protesters was that the police officers who were coming from this side and were putting on anti riot gear, that were coming from the Command centre side were trying to drive protesters this side. There was a water canon van that was by the side of the road. The protesters were also burning material they could find from the bins that were around the area and using those poles that holds traffic lights to register their emotions. That's what I was seeing but I was seeing that from the Party HQ because already by now I had gone on to the Party HQ.

Q. Did you witness members of the Zimbabwe National Army on that day?

A. I didn't, for the simple reason that firstly, let's make it this, I did not want to speculate or say if I see that vehicle then I say this is a Zimbabwe National Army. I cannot speculate about that because I am not in charge of those processes so I wouldn't want to give speculative evidence. That's why I clarified my evidence as one that is

historical, the historicity of the event and my eye witness account. Those are the two things that I have sort to give by way of quotations, events and my own eye witness. The things that I have no control over I cannot speculate over them.

Q. Is there anything else that you feel you want to say after what you have said to this Commission relating to what transpired on the 1st of August?

A. Not much than to say the nation may need law peace, our nation deserves peace. It is a responsibility of everyone, as a person who was involved in the campaign of the ruling Party I am telling you for the first time that I never felt safe when I am back in Harare. I was safe when I was all over but when I came back in Harare I was not safe. The responsibility on sure peace in this country is not a one man band. There is need to be reciprocity and everyone must play their party.

Q. Thank you. I will now hand you over to the Commission they might have questions to put to you, clarifications or other issues that they may raise.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. Firstly Mr Mugwadi we would really appreciate if you favour the Secretariat with the video footage that you have.

A. Thank you very much for that.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (TO WITNESS)

Q. Just in the interest of clarity you have said that you saw the presence of the police right?

A. Yes.

Q. How were the police dealing with the protesters? How did they deal with them?

A. Once again I would not want to speculate about that because like what I have said in my earlier submission, I saw debris when I was coming from, a debris that showed that they had been some skirmish between protesters and at the entrance of the Rainbow Tourism premises, at the entrance they had been some burnt tyres and a lot of wet surfaces suggesting that some water cannons could have been in use to drive the protesters. But what I then saw with my eyes is that police officers from that side of the Command centre were trying to drive protesters from accessing the Command Centre.

Q. Did the police fire any gunshots or were there any shots that were fired by police?

A. The difference is that I have never worked in any security organization and the sound of blowing a gun and the sound of a teargas canister when it is thrown I cannot determine. So once again it is on the point that I wouldn't want to speculate on something that I really have no knowledge about. Those that I have knowledge about I have explained and I have tried to the best of my knowledge and my eye witness account to give evidence about.

No further questions. Thank you

COMMISSIONER RODNEY THOMAS DIXON (To witness)

Q. First of all you said that people were forced to join the protestors. Do you know anyone who was forced to do that who we could speak to about the circumstances?

A. Thank you very much. For the first time, it's something that I actually missed in my

explanation but I needed to give you the background of it even before and I would have given you a contemporary version of the same thing happening and then I will give you the name of the person who was being frog marched into joining the demonstration. They are vendors in Harare and the vending stores are so disorganised to the extent that every street has been a vending street for a while until the current cleanup exercise started taking place. But in their idea to resist those clean up campaigns this is what happens. If they start having those running battles, I mean the law enforcement agents and you happen to be on the streets, if you want to maintain your stature as a person who is doing mind in his own business the protesters are referred to pound on you to say why are you ignoring. You don't know what is happening. I am saying this issue so that it must be taken as a serious point. The question is, you must feel the way that I feel because you are in Harare and you must do that. It becomes worse when you are putting on a ZANU PF t/shirt or anything that shows that you are directly or indirectly associated with the Party. But when it comes to the event then my fiancé, my own fiancé, this is what happened when she was on lunch time. She called me to say, ah, have you seen what is happening in town, I am at Construction, and then I said no, it's okay but stay at work. Then she said I am not at work I had actually gone to town to get some lunch but we are having a situation here, the problem is that the protesters as usual, she didn't tell me something that I didn't know about or I have no evidence about. She said the usual and she put it categorically as that. That as usual, they are beating people especially when you look to be smart and you don't want to join them or you don't seem to be concerned with what they are doing and you want to mind your own business it's becoming a crime to be smart or dressed smartly when they are engaging in those demonstrations. That's

what she told me and she had to seek refuge at the Chicken Inn that is at the Construction Centre at the intersection of Leopold Takawira and Nelson Mandela. That's where she found refuge.

Q. If you could give any names to the Secretariat of people whom are like that so we could look to get that evidence and enquire further. Secondly did you see any protesters who were injured outside of the head quarters by the police or by anyone else?

A. It will be completely fallacious for me to say that I didn't see protesters injured but then the question is how did I see them. That's something that I just saw on social media but because I would not have the guts today to go where the scene was happening because I wouldn't want to be associated, one, with lawlessness and secondly with that nonsense that was taking place.

Q. So you only find out about the injuries and everything else later but you didn't see it yourself?

A. My eyes are innocent of that. I didn't see anything.

COMMISSIONER VIMBAI NYEMBA (TO WITNESS)

Q. Is it then your evidence that this demonstration or this protestation was premeditated or very well planned?

A. Let me not leave anything to doubt. This demonstration had been rehearsed before. It was a delayed match if we would want to say, that is how we call a match that we watch after it has been played some two or three days ago. If we want to watch in

Zimbabwe we say we are watching a delayed match. It is my strongly held position and one that is supported by facts that events on 1 August were rehearsed. They were pre-planned and the idea was not to register any complaints against ZEC or any electoral related complaints. It was to spark, according to them it should have been something that would draw the attention of everybody so that the idea that Zimbabwe is becoming ungovernable becomes a reality and that the readiness of people that they have always talked about to take over had started and thirdly, that Mr Mnangagwa would not have control over it and certainly they would have wanted something that the President would not have control over it and no wonder the burning and targeting of Party offices.

Q. Do you have an answer to this question that who do you think funded the demonstration? If it was well organised they must have been some funding unless if people thought in their homes that tomorrow we are going to go?

A. You know, I don't know whether I am allowed to ask questions to Commissioners before I say something.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

If you feel it will help you.

COMMISSIONER VIMBAI NYEMBA (TO WITNESS)

Q. Yes.

A. Are you a Zimbabwean?

Q. Yes I am.

A. I am not asking this question to discriminate but I wanted to see how far I should take her in history to register.

Q. It's for the benefit of all of us not for me.

A. I must not say things or talk about things as if they are happening in another country when they are happening in my back yard and in the country that I call home. So if this Commission of inquiry is supposed to bring to finality the question of August 1 then it must also bring to finality a lot of other issues and so I will talk about a lot of other issues which involves funding and protestors. Some of those are here. They know where the fund comes from. I would not have wanted to take the honorary task of explaining about them, which they know, I know and I have got primary evidence. I am saying this simply because I want the truth to be brought before this Commission so that the Commission makes recommendations on the basis of truth and evidence rather than lies. We can't bring foreigners so that we would be able then to present false evidence before them and in the process of doing so we think they will be finality in the way we engage our politics or the way we polarise each other. It may not be. So because of that and for the love of wanting to see Zimbabwe being taken to another level again in terms of maintaining peace and harmony I will say it now. The demonstrations are funded this way Commissioners. These organisations, I don't hate civil society organisations and I don't bracket all of them. Please let me make this categorically. But there are organizations that are funded directly for programs that they are known to do thereafter funding but to ensure that they maintain and magnify synergies for the main opposition which is MDC Alliance which is the sole political organisation that I have seen so far which benefits from the good will of civil society

funding. I am glad that they are some opposition leaders, in fact from amongst this panel if one day they will have wanted to be truthful and refuse to be economic with the truth they will tell you that themselves as leaders of their opposition parties never received anything from these organisations but they may not have an idea, but they know which competitor of them benefitted from those funds. The civil society get funding for various activities in Zimbabwe but they in turn campaign for the MDC. They have not started now. In 2008 that happened. If I would want to bring again what in Zimbabwe we are now accustomed to call V11 forms as an evidence, some primary evidence, I can bring you a t/shirt of one of the biggest civil society organisations in Zimbabwe that is called Crisis in Zimbabwe Coalition. Please before I do that I am not saying I am implicating them on this. Until called upon to do so then I will give evidence. But I am giving you a reference of 2008. Elections took place on 29 March, they are not conclusive. When it became imminent that they were going to have a run over, they printed a t/shirt that say “angikhathali” “handineti” and at the front it had in memory of 29 March as in my vote counted on 29 March because it accounted for Morgan Tsvangirai’s majority votes over those of President Mugabe but not majority enough to be able then to arrogate him as the President. But the t/shirt was inscribed of that statement which said I voted for Morgan Tsvangirai and because a second election is going to take place I am not going to be tired to vote for Morgan Tsvangirai again. So a new fleet of t/shirts were printed saying “angikhathali” as in I will not be tired to support as it were Morgan Tsvangirai. So this is how the civil society in Zimbabwe, let me put this clearly, openly or covertly support the MDC Alliance, not opposition parties but I said MDC Alliance. And MDC alliance had been the sole beneficiary of the benevolence of civil society funds particularly

because also those who released them to the civil society in Zimbabwe are reckless when they do so.

NO FURTHER QUESTIONS.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I just need clarification. You mentioned that you saw protester or protesters holding poles of traffic lights. Can you elaborate a bit on that?

A. The poles that hold traffic lights at the intersection of Pinfeather and Rotten Row had been vandalised. So because those had been vandalised and part of the debris was lying on the ground, those were the things they were holding and then some of them were road signs. You know those poles of road signs they were holding them and playing their songs holding those poles to signify that perhaps they were ready, I don't know whether the implications was that they were ready to use them to hit somebody or they were just expressing excitement with traffic lights poles. It's for the Commission to judge. I wouldn't want to make conclusions on behalf of the Commission.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. Thank you very much for coming forward. Much appreciated Sir, you may step down.

A. Thank you very much for giving me the opportunity. May I say the video and total evidence, can we make an arrangement on how I can bring it.

Inquiry

Tafadzwa Mugwadi

Q. Yes. Through the Secretariat.

WITNESS EXCUSED.

EVIDENCE LEADER

Mr Chairman I grossly miscalculated the 30 minutes that I asked for. I had hope that we would have two or three witnesses within that short space of time. I notice that it's now 12.50 I will take guidance from the Commission.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Ladies and gentlemen I am advised that we should adjourn right away so that we can have lunch up until 3.30 and thereafter we come back here.

Thank you very much to all those who came we hope that even in future you will not tire as long as they is anything that can be of assistance to the Commission in determining the basis for recommendations so that they is closure on this post election violence issue please don't hastate do come forward. Thank you very much.

ADJOURNED

RESUMED

PRESS CONFERENCE

PERMANENT SECRETARY MRS MABHIZA

Good afternoon Commissioners, honourable Chairman, ladies and gentlemen. We have now reached the stage where we are going to have the media statement by his Excellence, the Chairman of this Commission. May I hand over to you Mr Chairman.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Thank you. Good afternoon ladies and gentlemen. The statement of the Commission reads as follows;

On behalf of the Commission of Inquiry into post-election violence of 1st day of August 2018 in Zimbabwe. I wish to take this opportunity to express out profound gratitude to the people of Zimbabwe for embracing and responding overwhelmingly to the call to participate in the work of the Commission. As you may be aware this Commission was set up by his Excellence the President of the Republic of Zimbabwe Cde. ED. Mnangagwa in terms of the Commissions of Inquiry Act, Chapter 10.7. We were sworn in on the 19th day of September 2018 and we subscribed to an oath that each and every one of us will faithfully, fully, impartially and to the best of our ability discharge the trust and perform the duties to the best of our ability. We therefore want to assure the citizens of Zimbabwe that we will carry out this inquiry in terms of the given law. The Commission is unique especially considering its composition whereby four out of seven Commissioners are eminent members from different countries despite the fact that the inquiry is investigating a serious matter relating to the eternal affairs of Zimbabwe. His Excellence the President of Zimbabwe has

seen it fit in the interest of transparency and impartiality to put in place a Commission of that composition.

We are hearted by the progress the Commission has made that's far in executing its task and we believe we will be able to complete our work within the scheduled three months period. To date the Commission has received 85 written testimonies and has heard 37 oral testimonies from witnesses of different ages and background. It has received written submissions from 11 Organizations. It has received video footage and photographs and it has visited some sites relevant to the inquiry. We sincerely appreciate most profoundly the testimonies of five family representatives of the people who lost their lives in the violence of the 1st of August 2018 who have so far appeared before the Commission. We commend them for their fortitude and we extend our deepest condolences to these families, their relatives and their loved ones. We are also grateful for the testimonies of those who were injured and had their property damaged. We wish to announce that the Commission will today the 19th of October 2018 adjourn its hearing in Harare where after we will conduct hearing on the 26th and 27th of October 2018 in Bulawayo and Gweru respectively.

The Commission plans to visit Mutare and to continue with public hearings in Harare from the 10th of November 2018. We will be hearing especially from the army and the police then.

We once again take this opportunity to call on all Zimbabweans from all walks of life to avail themselves to share evidence that might assist the Commission in its work. We look forward to continuous engagement and cooperation from people of this great nation. I thank you for your attention.

PERMANENT SECRETARY MRS MABHIZA

Thank you very much Mr Chairman. Ladies and gentlemen, the Commissioners will now take questions. They have 15 minutes to do that but however let me say before anyone puts a question across could you kindly identify yourself, where you are coming from and if you represent any organisation be it so. All questions are supposed to be asked through the Chairman and he will respond where necessary. Let us all please note that Commissioners are not expected to answer questions outside their mandate as stipulated in their official terms of reference. So as I mentioned we have limited time so as a result the number of questions to be entertained will depend on the length of the question and the response. So if we are short, precise and to the point we will benefit more in terms of the number of questions that we are going to put across.

QUESTIONS FROM THE GALLERY TO THE COMMISSIONERSCOLUMBUS MAVHUNGA

My name is Columbus Mavhunga. I am a student journalist. I was listening to witnesses since Tuesday. They still to the issue of the credibility of the Commission based on its and also the issue of some members being compromised that they are biased in a way. What is your view to that?

CHAIRMAN KGALEMA MOTLANTLE

We did respond to those who raised those kinds of concerns and to their credit they participated in giving testimony and responding to questions for clarity. So my view is that they raised the concerns and we explained that we didn't set up the Commission. If they want

to pursue that matter they are channels but as I said to their credit they participated in the processes. Thank you.

VIMBAI GONDA I AM AN INDEPENDENT JOURNALIST

I want to find out. You mentioned that in November you will get to hear from the police and the army. My question is, does the Commission have the limitation in terms of who exactly will speak from the army and from the police. For example will you make sure that the Commander of the Defence Forces is brought before the Commission because as you heard from many of the witnesses they were saying the army must have been deployed by someone so surely this would be the perfect opportunity to hear from the horse's mouth? Will you be calling the Commander of the Defence Forces to come before the Commissioner?

CHAIRMAN KGALEMA MOTLANTLE

Q. By Commander of Defence Forces what do you mean?

A. The head of the army.

Q. Who? The Head of State?

A. No the head of the army and also the head of the State because you heard from even the witnesses from today they accused the President Emerson Mnangagwa and also the Vice President Chiwenga, they blamed the presidium. So will the Commission also ask the presidium to come before the panel?

Q. No we will hear from the army as to who they feel, I have no way of knowing beforehand but we will ask all pertinent questions and expect to get pertinent answers

to them. So if whoever is filled and says I don't know, I don't know we will go, will elevate it to the higher level.

A. But surely the Commission has a mandate to actually demand to speak to the leadership.

Q. No, we have no such mandate. We have the mandate to inquiry into the causes and reasons for the post election violence and to the extent that the army was a player in all of that. We will put very pertinent questions to them and based on the testimony of eye witnesses as well as submissions here.

A. Because you were asking the witness to provide evidence in terms of who told them, whatever issues that they brought before you for example the pathologist from the hospital and I remember some of the Commissioners were asking who the name of this pathologist and I think you said you are also going to bring him before the panel so that he can talk about so surely a very important issue as to who deployed the army can only come from the leaders from themselves?

Q. Well, that's your opinion my sister. The point is the law would set out under what circumstances the army is instructed to leave the barrack to go into the streets. No army plays a role in civilian matters. So that's why we will not be presumptuous about these issues. We will follow a very clear process to get to pertinent answer to the pertinent questions that we have and pertinent questions that have been raised by victims and all interested parties here.

OLIVER CHIKUMBO

My name is Oliver Chikumo. I am just here in my own individual capacity so this is

Inquiry

Press Conference

an issue of expression of importance. I have heard from three presenters that was Zivanai Mugwara, Tendai Chirau and Tafadzwa Mugwadi..... they positively identified that the for a certain political party so will that not distort their findings since the Commission is going to get seriously from the facts that they presented. To me I think in a way it will be biased towards certain so I don't know if the findings of the Commission is not going to be distorted since they have confirmed positively that they are from a certain political party.

Thank you

CHAIRMAN KGALEMA MOTLANTLE

Well indeed we did know because the people who testified even those confessed their party affiliation said they were here in their individual capacities as citizens of this country.

PALERT.....

I am a freelance journalist. I understand you said from the 10th of November you will be hearing evidence from the police and the army. My question is how is the evidence from the police and the army going to be represented. Is it going to be in an open public area in a similar manner that we have been seeing or you are going to be in camera?

CHAIRMAN KGALEMA MOTLANTLE

It will be exactly like all the other sessions.

JUDITH MAKWANHYA

I am Judith from the national broadcaster

That's what I wanted to find out how the media are going to operate in the proceedings and I am sure I have been answered.

TANDEKINA

I am Tandekai I am here in my personal capacity. My question is a follow-up to the answer that you gave to Ms Violet. You mentioned something about this Commission wanting to find out what it is that caused the soldiers to be deployed to the street so I wanted to ask that when you do or if you do find out that the soldiers did have cause to be in the streets is this Commission also going to ask if what the soldiers then went and did in the streets was right like let's say yes, they did have to be in the streets. Are you then going to enquire why they were using live ammunition, was there a need to use live ammunition, was they need to use the bionets that were there. Is it just enquiring about why they were there or their conduct once they were in the streets as well?

CHAIRMAN KGALEMA MOTLANTLE

All of what you are asking are part of our terms of reference actually. We will inquire about all of that.

PATRICIA RUZAWA

My name is Patricia Ruzawe I wanted to ask if you are going to then call those people who made people to come in to the street if you are going to bring those guys or those supporters of the MDC which came in Harare to demonstrate so the leaders of the group I

don't think if they are left alone it would be lies. So I think you must bring them here so that they will answer for themselves why they made those people come in the city to demonstrate. I don't know if you are going to call them.

CHAIRMAN KGALEMA MOTLANTLE

We actually issued invitations to everyone and so anyone who believes they possess information that can help the Commission to arrive at the truth are duty bound to come. Those who are implicated of course the implications and the allegations will be communicated to them.

BLESSING MHLANGA

My name is Blessing Mhlanga I am with Newsday. Your Excellence I just want to find out from you. Is your commission only interested in people who come for your time only or you can have to come to a point where you can actually conscript to force someone to paper before the Commission because the Commission is looking at post-election violence which points that it has something to do with elections. When the election players have largely not been part of this so does that give you satisfaction not having those election players coming to be part of this. Do you have any powers for instance to force them to come and appear before you so that they can acquit what the citizens have placed before you?

CHAIRMAN KGALEMA MOTLANTLE

We don't have specific powers but we can summon them.

NYASHA MUKA.....

My name is Nyasha Mu.... I am a freelance journalist. I understand the Commission of inquiry was set up to investigate the shootings of August 1 and that event happened specifically here in Harare and I heard you will be going to other cities like Bulawayo. Is there any need to be going there since the violence specifically happened here?

CHAIRMAN KGALEMA MOTLANTLE

We have to go to these places because we actually don't know whether on that fateful day there was a restriction for movement of Zimbabweans and so there is a possibility that they are Zimbabweans who were in this city and within the theatre of the event on that day but who reside outside of Harare.

Thank you very much we will see you again.

ADJOURNED

COMMISSION OF INQUIRY OF 1ST OF AUGUST 2018 POST ELECTION VIOLENCE BULAWAYO

MEMBERS OF THE COMMISSION

- 8. HONOURABLE KGALEMA MOTLANTLE- FORMER PRESIDENT OF
THE REPUBLIC OF SOUTH AFRICA- CHAIRPERSON.**
- 9. RODNEY THOMAS DIXON QC-BARRISTER UNITED KINGDOM-
COMMISSIONER.**
- 10. CHIEF EMEKA ANYAOKO- FORMER COMMON WEALTH
SECRETARY GENERAL, FEDERAL REPUBLIC OF NIGERIA -
COMMISSIONER.**
- 11. GENERAL DAVIS MWAMUNYANGE- FORMER CHIEF DEFENCE
FORCES OF THE TANZANIA PEOPLE`S DEFENCE FORCE-
COMMISSIONER.**
- 12. PROFESSOR CHARITY MANYERUKE POLITICAL SCIENCE,
UNIVERSITY OF ZIMBABWE- COMMISSIONER.**
- 13. PROFESSOR LOVEMORE MADHUKU- FACULTY OF LAW,
UNIVERSITY OF ZIMBABWE -COMMISSIONER.**
- 14. VIMBAI NYEMBA- FORMER PRESIDENT OF LAW SOCIETY OF
ZIMBABWE - COMMISSIONER**

RECORD OF PROCEEDINGS

PERMANENT SECRETARY INTRODUCTIONS

A very good morning to you all. Welcome to our commission of inquiry into the post election violence that took place on the 1st of August 2018. Our meeting was scheduled to start at 10a.m, however let me apologise for failure to be on time. It was due to a number of logistical challenges that we have to solve before we come to the room of the hearing.

Just by way of brief background I am sure we are all aware that there is this Commission which was put in place by his Excellence the President. The Commission commenced its work on the 19th of September this year. For those that have been following through the media we have been conducting hearing in Harare. Today we are here the City of Kings. Allow me to take this opportunity to introduce you to the Commission.

I will be honoured to start to introduce the Chairman of the Commission, Honourable Kgalema Motlante. I will just in brief say that Honourable Kgalema Motlante, the Chairman of this Commission is the Former President of the Republic of South Africa. I am sure we are all aware of the fact. I will not go into detail to profile Honourable Kgalema Motlante. What I can say is that he is a man of numerous attributes and that is why his Excellence the President saw it fit to appoint him to chair this very important Commission. Honourable Kgalema Motlante will in turn introduce his Commission.

May I kindly request Chairman that you introduce the Commissioners to the audience.

CHAIRPERSON: HIS EXCELLENCY MOTLANTLEINTRODUCTIONS OF THE MEMBERS OF THE COMMISSION

Firstly I would like to thank each one of you for having made time to participate in this morning's proceedings and I would also take this opportunity to introduce my fellow

Commissioners. I will start from Chief Emeka Anyaoku, the former Common Wealth Secretary General who comes from the federal Republic of Nigeria. Next to Chief is Professor Lovemore Madhuku from the faculty of Law at the University of Zimbabwe. To professor Lovemore's right is the General retired Davis Mwamunyange who is the former Chief of Defence Forces of the Tanzania people's defence forces. To my left is professor Charity Manyeruke from the Faculty of Social studies at the University of Zimbabwe. Next to professor Charity is Ms Vimbai Nyemba former President of the law society of Zimbabwe. Later today we will also be joined by Rodney Dixon the Queen's counsel who comes from the United Kingdom. He is likely to join us by 12 to 12.30 and that's the full team that was established by his Excellence President Emerson Dambudzo Mnangagwa.

As the permanent Secretary has explained, the Commission commenced its work in Harare and we have been listening to testimonies from those who lost their loved ones during the events of the 1st August and from those who were injured in the same incident and those who are eye witnesses who were present in Harare as these events were unfolding. We also received written submissions from Stake holders and other formations which had sight of the relevant information that would help the Commission to do its work.

The remit of the Commission in brief is really to look into the events of the 1st of August that is post-election violence and to make recommendations, make a determination first and foremost as to the circumstances that could have led to these events and to make recommendations. In its wisdom the Commission felt that even though the events happened in Harare it makes sense for the Commission to reach out Bulawayo, Gweru And Mutare because there is a possibility that some residents of Bulawayo may have been in Harare on that occasion and also they may have lost relatives or their relatives may have been injured and so on. So the Commission in its wisdom felt that it is important to come to Bulawayo and

hear from the residents of Bulawayo. You may not have been in Harare yourselves and you may not be an eye witnesses but we would want to hear from you. Your own understanding of the circumstances which led to such an outbreak and loss of love. You may also have suggestions as to how in the future going forward, such occurrences should be avoided because in its recommendations the Commission must spell out how peaceful demonstrations which are allowed by the Constitution of Zimbabwe should be conducted and how in upholding the laws and enforcing the laws. the Law Enforcement Unit, meaning the police or the military should conduct themselves. So in brief we are here to hear from you how you read the circumstances which led to the events of the 1st of August and also whatever suggestions that you may wish to share with us. So we once again want to thank you very much for taking the time to come and participate in this session. Thank you very much.

PERMANENT SECRETARY INTRODUCTIONS

Thank you very much Mr Chairman. At this point in time my I ask the evidence leader to proceed and lead evidence from the witnesses who are here.

EVIDENCE LEADER THABNI MPOFU

Mr Chairman, we have an array of witnesses that have volunteered to give evidence before this Commission. The vast majority of them so far have elected to give evidence from the stand. We do not have statements that they have written in advance. We do have eye witnesses and members of different political parties who have all indicated a willingness to testify before this Commission. With that in mind we have felt it appropriate that we, as a first witness we call a member of the public who has indicated that they were an eye witness to the events of the day in questions.

Inquiry

T Kandishaya

I will now call Taurai Kandishaya.

EVIDENCE LEADER THABANI MPOFU (To witness)

TAURAI KANDISHAYA : SWORN STATEMENT

Mr Kandishaya let me take this opportunity to introduce myself by addressing you together with my colleague. My name is Thabani Mpofu I will be your evidence leader this morning. I will be assisted by colleague Mrs Fortune Chimbaru.

I have been asked by the Chairman and the Commissioners to inform you that you are free to give your evidence here free of any inhibitions and that you should not feel discouraged or forced to make or tailor make your evidence towards any influence by anyone whosoever.

BY COMMISSIONER MADHUKU

Excuse me Chairman, I think we might need the Ndebele translation as well.

EVIDENCE LEADER THABANI MPOFU (To Public members)

Q. I am addressing you as members of the public here. Commissioner Madhuku has suggested that it might be necessary to have a Ndebele translation of the evidence that is being given by this witness who is going to be speaking in Shona. Ifelt that this is necessary or are we all comfortable with the languages that are being used?

EVIDENCE LEADER THABANI MPOFU (To witness)

Q. Mr Kandishaya, you have elected to give evidence before this Commission on the events of the 1st of August 2018 which happened in Harare. I now give you the opportunity to address the public and the Commissions.

A. All protocol observed. I Taurai Kandishaya I work in Harare as a taxi driver and I stay here in Nketa 9. The situation was bad, it was terrible so I seek permission from the Commission that I address you whilst I am sitted because I end up shivering due to what I witnessed on the day.

Q. You may sit down. You can proceed.

A. As a taxi driver I usually operated from Rainbow Towers in Harare. They was vast of jobs for us taxi drivers since election observers and journalists were at the place since that is the place where Zimbabwe Electoral Commission had its command centre. I will start on the 31st of July when ZEC had announced election results for only 3 Constituencies. They is a man called Japajapa who represents the civil society and he is also an activist of a certain political party. He exited the conference room and started to address the press just outside the room in which ZEC was announcing results. He said elections are already rigged because the results being announced now are the results that were announced in 2013 and I have the video. He went on to say, since MDC Alliance is rigged, as a leader of the Civic society I am calling for unrest and chaos in this country. I am going to call for Jihad in this country. A certain journalist asked him on why he was saying the MDC Alliance was rigged before election results are finished to be announced? He said elections are rigged. What I know is MDC Alliance was supposed to be leading by now since they were filling stadiums to the bream having 45 000 to 60 000 people attending their rallies so it simply means they were liked by the people and they were supposed to be the leading party. That was his justification.

I will now go to the August 1 when I was at the Rainbow Towers. I heard voices of people singing songs that were more like imposing Nelson Chamisa as the president who has won elections. Their songs were carrying delegatory and hate speech. The police closed the gate and they mounted themselves at the gate. From my estimation the people were less than 50 at the first stage. They wanted to enter into Rainbow Towers and their intention was to proceed to the ZEC Command centre. For what reasons, I don't know. Out of interest I, with other fellow guys walked closer to the gate to see what was happening and what I witnessed they started throwing stones. Very well knowing that stones in the hands of MDC guys are as dead as a gun after witnessing that in 2007 they are guys who are said to have stoned a police officer and inspector and they were charged before the courts of law and the guys were convicted. So we were left with no option but to run for our dear lives out of Rainbow Towers. Rainbow Towers security had closed the main gate and opened the Samora Machel gate. I left my car there because I noticed there was more chaos in town and I decided to go there on foot. I used Samora Machel and later turned into Jason Moyo. Upon crossing Mbuya Nehanda I noticed there was another group of guys. They were walking towards Rainbow Towers. Then we decided with my guys to divert the route. We reached Inez Terrace just after Joina City close to 1st street we also heard voices of other people singing. We turned left as if we were going to Nelson Mandela. There is the headquarters or the head office of the MDC in Nelson Mandela. I witnessed distribution of some banned substances to a group of people.

Q. What banned substances are those?

- A. It was this medicine called brone clear that's the bottle that I witnessed. We proceeded with walking back to Jason Moyo headed to where Zim papers are close to Africa Unit Square because I stayed in Hillside and board my kombis at 4th street.

EVIDENCE LEADER THABANI MPOFU

May I kindly request members of the public to please refrain from making comments?

The Commissioner wants to hear the evidence they have to give. This is not the only witness who is going to testify before this Commission and we kindly request that if you have any comments which we all have to keep themselves until after the proceedings. Thank you. As has been indicated by the Chairman, if they are those amongst you who feel that they want to testify before this Commission you are free to approach members of this secretariat, give your names and you will be, time allowing accorded the opportunity to address. So I kindly ask you Bulawayo residence to show hospitality to our visitors who are coming from outside and let us give decorum to these proceedings. Thank you for your cooperation.

EVIDENCE LEADER THABANI MPOFU (To witness)

- Q. Proceed.
- A. Close to where Zimpapers adjacent to Africa Unity Square I saw a group of people. They were holding ruminants of farm bricks and in CBD there is no factory that moulds farm bricks and to me it made sense that the farm bricks were carried from their respective places. I witnessed them throwing stones at the Zimpapers' office, the Herald House. When I got to 4th street where the rank is there was a burning car at the ZANU PF office. To me it was terrible the situation was getting even worse because they were reinforcements from all walks of town.

There is a point I also witnessed the police trying to disperse the people and they threw teargas canisters. We ran to the other side that we felt was safe and they were other people who were running towards the police who were throwing the canisters. Some roads were barricaded by stones and that deprived people of their right of movement. People could not move and stones were thrown at restaurants such as Chicken Inn whilst enjoying their meals. It happened. Property rights were breached and the level had reached an extent of being a threat to human life because throwing of stones is deadly given that I have given you a back ground that these stones have a bad history. I personally concluded that there was now need for the law enforcement to come and seize the chaos for the benefit of other peace loving citizens. Clearly using my common sense I felt the law enforcement was supposed to override the chaos in order for it to seize. Once the law enforcement was to come with force less than the chaos or force that equates to the chaos. Our country was degenerating into chaos and we could not be where we are.

I also witnessed peace loving citizens living the environment that was chaotic running for their dear lives. And I also witnessed other citizens of Zimbabwe running to where the chaos was. This is what I witnessed and I was left with no option than to say to myself if I was in a position of authority in order to serve the 14 million people of Zimbabwe this situation needs to be controlled. Reasons being that the reasons which these people were demonstrating for it was clear they wanted a certain political party to win. But when you throw a stone, a stone does not have a method to detect whether the person which is going to hit voted for what you want or for the other political party.

Inquiry

T Kandishaya

I am confident to say that these stones or the chaos affected people or MDC Alliance, they affected people of ZANU PF, they also affected those who voted for Violet Mariacha, I mean they affected everyone so it was now an issue of citizens not political parties. That is what I saw with my eyes.

Q. Are you a resident of Bulawayo yourself?

A. Yes. I am.

Q. Mr Kandishaya I will now hand you over to the Commission. They may have questions or clarifications they wish to seek from you.

CHAIRMAN KGALEMA MOTLANTLE

Q. Thank you very much Mr Kandishaya. I just want you to help us understand the sequence of events by indicating times. More or less at what time did you first hear this group which was singing and chanting as it was going towards the Command Centre?

A. I would use precision in terms of time I might not be accurate but when they started it was around 10 to 11 it was around midday.

Q. Please proceed. You then left the precinct of the Command Centre and went into Samora Machel at what time more or less?

A. When we started to see the chaos we could only withstand the chaos for close to 40 minutes because these people were having reinforcements. I said at first they were less than 50.

Q. And more or less at what time did you observe or witness the stone throwing at the Zimpapers?

A. From Rainbow Towers to where Zimpapers is with the way the method we were using to walk in town to avoid meeting these guys after hearing voices there, to change route and stuff I think it took us close to 20 minutes.

Q. So that would be around 11.20?

A. Around that time.

Q. At what time did you see the car that was set alight next to the taxi rank?

A. Mr Chairman Sir, if I keep on trying to figure out on the times I will end up getting lost there was confusion, I was in confusion. I think if you use the time that I have told you from Rainbow Towers to Zim papers you will work around with that one to give us better results.

NO FURTHER QUESTIONS

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q. Taurai thank you for speaking to us. You said you saw the police trying to disperse the first group?

A. Yes. I did.

Q. How near were the military at that point? Did you see the army and how near were they to where you were?

A. When I was at Rainbow Towers there was police only.

Q. So you did not see the military?

A. No I didn't.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I just want to check with your connection with Bulawayo. You are saying you are resident here, you were also working in Harare at the time. Can you just clarify to us what your connections with Bulawayo and Harare are?

A. I work in Harare. My family home is here in Bulawayo.

Q. So are you now back here, in Harare you are not in any way still working in Harare?

A. I work in Harare.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Did you witness any people who were injured or who had died as a result of the crush between the police and the people who were throwing stones?

A. I saw people, in fact I saw a lady who was injured and the injury emanated from the thrown stones that was close to ZANU PF Provincial offices.

Q. Apart from the teargas canisters did the police fire any shot?

A. No, that I never witnessed. An account that I am giving here is an eye witness account. As I have said that I diverted from the Joina City area heading towards Nelson Mandela there was a truck of police officers I think I have the video and the activists the guys who were singing and some even got into the truck of the police. And I had a personal conclusion that maybe the police, the depth of the chaos or the depth of violence the police was now failing to contain it from what I saw.

COMMISSIONER VIMBAI NYEMBA (To witness)

- Q. Taurai when you first gave your evidence you talked about things that happened before and you told us of a certain gentleman whom you called Mr Japajapa an activist who said some utterances before the first of August. Are you therefore suggesting to the Commission that he had a hand in what happened on the 1st of August?
- A. In fact I started in the middle. Since everyone in Zimbabwe has a political interest because our politics determines everyone's life I was also following the trend of political rallies that was happening. I am giving this account not politically inclined to any political party but I am giving an account of what I witnessed so I will be honest to you on what I witnessed during these rallies. As I have said that I usually station myself at Rainbow Towers, before elections there is an open space that is opposite Rainbow Towers it's called Freedom Unit Square. I witnessed ZANU PF youths having what they called a peace match before elections.
- Q. My next question, you saw 50 people at HICC on the 1st about 50 people and they were singing. Are you able to connect them to any political party or to any grouping? Where did they belong to?
- A. I do connect them to the MDC Alliance since they were singing a song in Shona they were saying, "Tinoda Chamisa". Since I had a video in my phone where Nelson Chamisa was saying if I loss election, in Shona he said, "Sadza haridyiki tinoridira jecha". I also connected these people to him. I said to myself this is the process of pouring sand in this sadza.

NO FURTHER QUESTIONS.

COMMISSIONER CHARITY MANYERUKE (To witness)

- Q. I just want to seek some clarifications from you. Looking at the route that you followed from HICC to 4th street where you said you were going to board kombis to your place of residence which is Hillside. I want to understand. Is there an alternative route which you could have used?
- A. From Rainbow Towers there is no other, if the main entrance is opened that is the only route that one can use between Netone building and ZEC you go down, you pass through Joina City then straight to Africa Unit Square, Second Street, East gate, Robert Mugabe.
- Q. I am asking this question because the route that you followed clearly shows that it was chaotic and I wanted to know whether you would have avoided. Is there a place that you thought if you use this route it would be better for you?
- A. The chaos was not all over because as I alluded earlier that they were formations I think I can say they were strategic formations that's why when we reached Mbuya Nehanda we decided to divert but going down we also got back to the same road. We reached Joina City, we also decided to divert.
- Q. I would also want to understand your feelings as you moved, how were you feeling, were you looking forward to get into Hillside or?
- A. The only option as I have said earlier on that when I was growing up I witnessed the impact of a stone thrown especially from an angry or disgruntled person. I really wanted to get home and the only feeling that I was having at that moment is that I want to go home for my safety.

Q. How are you feeling now? I am asking this question because the witness asked to sit down in order to narrate this story and I want to understand, is there a connection of whatever you are feeling to that event?

A. I shiver, the issue is I am telling you what I saw and the feeling gets better on the basis that the situation was contained and in other countries as I heard or as I have been seeing or reading if the chaos was not contained we could be somewhere. They could be no this Rainbow Towers place so that's where my feeling is somehow mitigated and I get somehow comforted by the fact that the chaos was seized and we did not lose much as was the intention or aim of the demonstrators.

Q. My last question is, was any part of your body affected?

A. No, the only part of the body that was affected but temporarily are my legs because I was running.

NO FURTHER QUESTIONS.

CHAIRMAN KGALEMA MOTLANTLE

Q. My last question to you, you said if chaos was not contained the situation could have gotten worse or something?

A. I am getting it from the fact that as I have said earlier I saw less than 50 people at Rainbow Towers. They were signing. Moments later they started throwing stones. When we exited Rainbow Towers going into town the situation was increasing the chaos was increasing. When we got to the gate they were singing, some minutes after they were throwing stones. At Zimpapers they were throwing stones at a building. At

ZANU PF Provincial offices cars were burnt. That tells me that if the situation was not contained it was going to be more chaotic.

Q. And do you have any idea who contained the situation who should be thanked for having contained the situation?

A. I know from my common sense that there is a section of people who have the constitutional mandate of maintaining law and order. However it is every Zimbabweans' duty and responsibility to maintain law and order. So from my understanding it's the law and enforcement agents who contained the situation.

Q. Earlier on in your testimony you did say that the situation spiralled to a level where had it been left to force that equal that situation and or less it would not have been contained and therefore you expressed the view that you expected a force which would be more than the chaos to contain it. Who were you referring to?

A. As I have said they are government established arms that have an overall mandate of maintaining law and order.

Q. By the time you left the city from Hillside your home, was the situation contained?

A. As I have said from the beginning that when I was at Rainbow Towers these guys started by singing wanting to gain entrance into rainbow Towers. When the police mounted themselves to block them after the gate was closed they started throwing stones. So when I was getting in town I saw groups that I thought were reinforcement to the gathered group at Rainbow Towers and the buildings thrown stones and the cars burnt so the situation had gotten worse. Property rights, our constitution provides for property rights and if one owns a car it's his or her property and if the car is destroyed

the next thing is the threat is targeting his or her life so the situation had got into a point that was not good and health.

Q. As you were walking through from Rainbow Towers to where you got into your transport to take you to Hilside and as you were encountering these stone throwing incidents and so on, did you at any point see presence of the military?

A. No, personally I did not see the military.

Thank you very much. You may step down

WITNESS EXCUSED.

EVIDENCE LEADER MR THABANI MPOFU

I am now going to call the next witness but may I remind the members of the public that the Commission is here to hear your evidence, they have elected to come to Bulawayo to hear your evidence. Let us repay them by behaving with the decorum that we are known for as Bulawayo citizens so I ask that you refrain from making any comments or interjections to witnesses who are giving evidence.

FELIX SIBANDA : SWORN STATEMENT

I have been sworn in so I am submitting my oral evidence to the August Commission that is so powerful and so educated that they are going to articulate our problems here particularly Matabeleland. My name as I have stated I am Felix Mafa. I am 71 years old. I have been a member of ZAPU and I have worked since 1965 with ZAPU, 1965, 62, 65-67 I was arrested by Ian W Smith during the UDI on 11th November 1965. And then I was detained at Inyathi because I was a top range I was sent to Gonakudzingwa but because of my age I, Hunzvi and Nziramasanga were

transferred to Hwahwa because of our gage. So my language and education was spoiled by detention. I am in this situation, very sober, I don't want emotions to take place. I have been a victim of successive government since 1890 to 1990. From 2017 to date my great grandfather was butchered at Mbembesi battle and that is where my lineage is of activism. So ladies and gentlemen this Commission is dangerously disturbing Zimbabwe because people have been killed since 1890 to 128 years back when the colonialist came, this part of Zimbabwe Matebelaland has never enjoyed peace even a day. Hence you see the mob people here are not free to express their anger. Why was on the 1st August, according to your questionnaire here you are saying, (b) to identify the actor and their leaders, their motive and strategies employed in the protest. I am going to identify the main culprit. The actor by the name Zimbabwe Electoral Commission. They delayed announcing Harare results yet Harare polling stations were just a stone's throw to the ZEC headquarters. That psychological imposition, disposition, anxiety killed a cat. So people played with the physics of people unnecessary so that it ruptured. This morning, this August Commission delayed by 1hr 30 minutes hence people their emotions erupted. A cat dies because of anxiety. People should keep time. So ZEC is the culprit. They are the actors why this disturbance took place in Harare. Why am I saying so? Results started coming in as far as Beitbridge as far as Gokwe as far as Rushinga. Yet Harare just a stone throw to the ZEC headquarters, results were concealed. A lead was put into indefinitely and those psychological ailments when one is angry the ailments start to watch and hence this was destructive because of ZEC.

The other issue I want to continue with is, our Constitution Section 58 gives people of Zimbabwe freedom of assembly and association. Section 59 gives citizens of Zimbabwe right to demonstrate, to pick and tick and to petition and the last one I will quote here Section 61 is freedom of expression. Demonstrations are fundamental rights of citizens. They have to demonstrate and the Constitution of Zimbabwe does give our people that right. I am so happy that this Commission is composed of high powered academics and my colleague Professor Madhuku helped me to understand the constitutionalism hence I applaud this Commission. If you underrate yourself and if you make mistakes your credibility is at stake so I am happy that this Commission is made of women and men of high calibre therefore we ought to know that.

I want to turn to a Constitutional issue again here on the powers of the functions of the army. I am just making an introduction. This is Chapter 1 Section 212: Function of the defence forces. The function of Defence forces is to protect Zimbabwe, its people, its national security and interest and territorial integrity to uphold this contestation. Who does deploy the military services? According to this you should have even added to say: Who did deploy the security forces but your programme here is not sufficient enough. It has been doctored to miss the point. The question I am adding here is, 'Who deployed the rogue soldiers to kill unarmed civilians in Harare?' So that has to be captured.

The other issue I want to talk about is the defence forces is to protect , Section 121 , 213 deployment of Defence Forces. Subject to the Constitution only the President as the Commander in Chief of the Defence Forces has power to :-

- (a) To authorise the deployment of the Defence forces or has power to determine the operational use of Defence Forces.
- (b) With the authority of the President, the Defence Forces maybe deployed in Zimbabwe for :-

- In defence of Zimbabwe, in support of the police to maintain law and order.
- In support of the police and other civilian authorities in the event of emergency disaster.

Ladies and gentlemen through Mr Chair, the deployment of soldiers in the streets of Harare was unconstitutional. We are still wandering who deployed those soldiers because my honourable his Excellency Mnangagwa as they call him ED has refuted that on record, that he did not deploy those soldiers. So who is the culprit who deployed those rogue soldiers and has to be arrested?

Secondly is this Commission necessary? Yes and no. I would love to have seen that those soldiers should have been arrested , prosecuted before wasting our money because they are known. When they were deployed, their numbers and their commandant were recorded at theory headquarters so had they been arrested, are they scot free? Why are they still enjoying liberty while they murdered innocent civilian people? So that is a question I would love you to understand?

My involvement, I am Felix Mafa. I am a member of MDC. Now MDC Alliance and now MDC. You see politics changes as weather. I am a member of the National Council. I live, I worked in Harare for 31 years and then I came to my home and I have been here since 1997 when I was nearly killed in Harare because of my activism. I am a victim of Gukurahundi. My elder son Kennan Sibanda was murdered. A former ZIPRA was murdered by these soldiers. Up to now our family has never seen his grave. Therefore because of Gukurahundi, a Commission of inquiry was set. I was working under doctor Sikhanyiso Ndlovu as a teacher in the refugee camps intended enough to structure a living curriculum for the victims and refugees. Hence when we come here I was assigned to go and make statements to Chihambakwe Commission. I dared that up to now the Chihambakwe Commission has never been publicised. I thought this new dispensation would now say here is the result. Nothing. I was again delegated to Dhumbuchena Commission to find out what necessitated Gukurahundi and dissident by then. That was catastrophe everything was cooked. But up to day those two fundamental Commission have never put it to public and we don't know why and I wonder whether your Commission former President is going to see the light. Why are we here? But I am happy we have to continue knocking, knocking and until Jesus Christ comes.

I was in Harare after expecting to win as anybody. I went to Harare and they were many political parties as they were 23 and I am happy one of the candidates is here and that makes me happy because he is going to report exactly. All 23 political parties had people in Harare because they were preparing to celebrate. The bigger parties they were, the more gathering they were. Those biggest parties, they had nobody there. But MDC as one of the majority political party natural had more people

in Harare ready to celebrate. Our colleague Zanu Pf they were also there because it's a mass party. They were in Harare. Ready to celebrate but after it had been announced that ED won Zanu Pf did not even believe that. They did not celebrate. You can see the wonders that Africa has. We went there for celebrations. We went there to assist. I went there as a propagandist of the party. I am the spokesperson of Bulawayo publicity a propagandist trained on by the Soviet. I went there so that I help, my colleagues get the data and help these V11 and so forth. At about 10, 11 as I was trying fill up my car just after the parliament there is a garage, just adjacent to parliament. I discovered a mob of people and to identify them that they are from this 'A' party of 'B' party is not true. People were angry because they had delayed to announce Harare results. Therefore emotions, the adrilean come up so I cannot vouch here that I saw Zanu Pf, MDC, when they are 27 parties. Zimbabwe is a democratic party, democratic country. It had many political parties. Why target one or two parties Zanu Pf and MDC. So this Commission should first of all find out who deployed the army.

We should not hit below the belt. When we do boxing we have to know where to punch. Not below the belt. Some of these questions here are immaterial. We want to get the gist of the matter.

Mr Chairman and 11 gentlemen because I don't I want to be told time is up, the truth is that people in Harare where traumatised. People in Bulawayo where traumatised for 128 years. As I tell you my Great grandfather is lying in Mbembesi battle. In Ghadhadhi where they were fighting where men were killed with spears up to today they are lying there dead and today we say we want our freedom.

I need to go to proposals because it's very important. Some of these things are rhetoric. The questions. The question here is they say, to make suitable recommendations, I think that is important as a gentleman. I as a director of Post Independent Survivor Trust, I have many attributes in me. We think violence begets violence. Some people think war brings peace. That is fallacy. War will never bring peace. Rhodes subdued us Ndebele's here in 1893. Up to day there is no peace. It's temporal. Robert Mugabe subdued us during Gukurahundi and a lot of us lost our loved ones. There is no peace. Peace is temporal. ED might subdue us today in these 6 months. It will be temporal and this will never be permanent and therefore I think the rational here is the proposal. Can I move on and put my proposal.

The first one, Bulawayo there is need that government should set out traumatic centres of all these victims in Matebeland to heal genocide, to heal those propel who had been traumatised since 1890. We need those trauma centres so that there is healing than to pretend that there is in healing in Zimbabwe.

The Commission findings, as we are should be made public. That is my second proposal. The 3rd one, ZEC be dismissed fourth with because it has caused violence intentionally in Harare. ZEC should be withdrawn, there and then because it has failed Zimbabwe even its statistics they declared ED 3 positions of numbers. So ZEC started the war and it has to be fired.

Rogue soldiers who participated and killed innocent civilians should be arrested forthwith and charged of genocide or murder. Can I repeat that one? Rogue soldiers under the command of the authority according to Constitution they should be

apprehended and arrested. The authority because I have to choose my words here, you have to protect the President's reputation, that is why I do not want to say the President. The authority that deployed soldiers unconstitutionally should also be censored and arrested for failure to protect the Constitution.

Political parties should be accountable to their members. Violence beget violence. Therefore Zanu Pf should also be tolerant enough to let people demonstrate. What I am saying is in Harare everybody is saying MDC, MDC, they were many political parties there. Brief case political parties had no numbers. But MDC and Zanu Pf they are equally big therefore they should also control their members. Zanu Pf and MDC should talk, talk so that there is tranquillity in this country.

5. The police general Commissioner be investigated as to why his police officers stood akimbo. They failed to operationalize their Constitutional right. They were standing as if it was a statue of Rhodes when people were being butchered. The police Commissioner should be brought to book to ascertain why they did not maintain law and order. Why soldiers come in as spooks and killed innocent women for that matter. As a fighter myself it is a taboo to kill a woman at war. How then is that somebody is shot from the back by a rogue soldier amend that rogue soldier is still in the military right now. That is unheard of in any democracy.

Government must compensate, this is very critical. There should be reoperation here. Government must compensate for the bereaved and more importantly if the bread winner were shot the government should foot the school fees, medical care food because young people who were vendors they were mistaken to be MDC yet they

were just aching to make a faithful living and therefore government should be held responsible because it's soldiers killed innocent bread winners.

Soldiers should never use disproportionate force. I am happy the chairperson was asking this gentleman here who is self eloquent but he says he is a driver. He knows everything. He was being asked hereabout the force. I put it on behalf of MDC and behalf of people of Zimbabwean ,Matabeleland that the force applied by the soldiers was disproportionate to the violence that is in Harare. Mind you I did my education through correspondence. I never had a teacher but I know how to write better. So police and anybody who is in charge of people should never use disproportionate power or disproportionate force. Demonstration is constitutional. Petitioning is constitutional therefore the police and the security forces should never be allowed to double in political activities. I think these rogue soldiers have been politicised so much so that there were now thinking their political party was going to lose the election. It was an pre-emptive strategy in military to say that strikes killing 7 people on spot was a pre-emptive hot pursuit. Those who were living during the Smith day there was pre-emptive hit pursuits going to Zambia. So they knew that they had done something wrong so there was a pre-emptive strike so that Zimbabweans should be subdued. Should never demonstrate. However as Zimbabweans we are prepared to demonstrate for our rights until all of us perish and be killed. So ladies and gentlemen I am saying Zimbabwe need peace not rhetoric. Zimbabwe needs unity not a government of Nationally Unity. Zimbabwe should respect this Constitution. As a party spokesperson I leave you with no doubt that those people in Harare who were shot, were shot because they were enjoying their constitutional right. Those who

killed them should be brought to book before it's too long. It will rapture and it will rapture. More things might come in than if you fail to correct this one. I thank you.

Q Thank you Mafa for your testimony.

A Can I correct? I am Sibanda. My official name Felix Makhalela Sibanda. Mafa is a trade name of popularity.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q. Thank you very much Mr Sibanda. You gave a very useful and eloquent presentation. We really want to thank you for your proposals because that is really why we are here and I thank you for setting a very good example that inspite of all the concerns it's better to inform this Commission because we are in a position to ensure that what you communicate to the Commission will be communicated to the authorities and acted upon so that is a good example. I think all those who have suggestions to make please don't shout from the back. Come over here. We want you to share your views with us in the comfort of this chair and table in front. We are very grateful sir to your proposals.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To Commissioners)

Q Any clarity seeking questions?

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q I would like to join our chairman in thanking you for your eloquent presentation. You have strongly underlined the course of peace in the Matabeleland and in Zimbabwe.

And I think that as the Chairman has indicated, our Commission is very much guided by the desire to bind the points you raised in your presentation, all pointing towards establishment of peace in Matabeleland and in Zimbabwe so thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I think you may allow me to call you Mr Mafa. Firstly will you be able to submit to our Secretariat the proposals that you have indicated. The proceeding here are being recorded but it will be useful to us if we are given a written document or you can even hand in your written notes to them because, why we are saying that you may notice we are taking notes but I have noticed that as I was taking my notes sometimes you were saying 5 when I was at 6. So I might have taken more points or less points. Are you prepared to do that or to give to our Secretariat?

A With due respect my former Chair I will do so.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much. I also wish to thank you immensely for your proposals which you have shared with the Commission and I find them quite pertinent. I would like to ask you if you have any comment, any proposals in relation to the Zimbabwe Electoral Commission. Any observation?

Q Yes I did put in brief Mr Commissioner. I said ZEC be dismissed forthwith for its inefficiency. However I want to further that it is militarised. There are many CIO's. Our children we teach they have been recruited there. When I got there, they tell me 'Baba' don't point me. I know they are CIO's in Bulawayo. I was with my students.

They are my children. It`s a military Commission which is only a window dresser. It`s so militarised. Full of CIO`s at private meeting I can even tell you who they are.

My age has made me not to fear anybody. 72 I am now living in the mercy so all these are my children most of them .I thank you.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you Mr Chairman. I really want to thank you Mr Mafa for a precise presentation which was eloquent, clarity and also that relationship which you deft into in particular to the Constitution of Zimbabwe. I really want to thank you for expressing yourself freely you know, in an orderly manner in particular. I can say I am really happy for that. Thank you.

Thank you very much Mr Sibanda for taking the time to share your understandings and perspectives with the Commission. You may step down.

MBUSO SIBANDA : SWORN STATEMENT

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q Mbuso Sibanda you are a representative of a political party?

A I am in my own capacity as a Citizen of Zimbabwe and I am also representing the political party.

Q You wish to give testimony before this Commission?

A Yes.

Q Where you in Harare on the 1st of August or is your evidence based on other issues that are not necessarily what you saw on the 1st August.

A I was not in Harare but my evidence is gathered from other sources.

Q I will now give you the opportunity to testify before the Commission and the public. You may go ahead.

A I want to give thanks to the Former President of South Africa the Chair. All protocols observed.

Q I want to spell it out clearly and openly. I would want to give my evidence based on violence that I personally perceived and experienced in the offices here in Bulawayo. MDC offices and in Buhera. I was raised and taught that we have to respect a woman or a female person and I was raised by a mother who loved. What happened in Buhera during former President's Tsvangirai`s funeral was more disturbing. I am even disturbed right now. I am seeing things that I never saw in my entire life. I joined the MDC party in 1999. During that that time there was so much peace which was prevailing. It was common cause and it was known that a party which had violence tendencies was Zanu Pf, but then they were overtaken taken by events, it culminated in MDC now MDC Alliance. It become the most violent party starting in Buhera during Tsvangirai`s burial. Some my esquire comrades like Shakespeare commonly known as the Vanguard, they meted violence of extreme nature, at one stage I hid when they wanted to burn the current MDC-T President Doctor Khupe in a hut in Buhera while in the company of one Abdnego Bhebhe who is the Chairman. There was Douglas Mwonzora who is the current Secretary General for MDC Alliance.

The people who were present there were from Mataberland. There was one who uttered a statement that Mwonzora's mother was supposed to be set alive. I do not know whether the haterage was based on tribal grounds or it is because there was no agreement on the female who was to take over the leadership. I used to like MDC before it become MDC Alliance. There is what is referred to as the Vanguard between the Alliance. I do not think the evilness which has the people from the Vanguard can be matched from the Gukurahundi and from those back.

As has been submitted by a speaker before that there substances which were being disturbed to the people who were engaging in violence behaviour, had it not been that it arraigned since there were plans that there were people who were going to be burnt up who were being referred to as dissidents.

I will relate to what transpired in Bulawayo at the MDC offices. There was a meeting which had been convened there as it usually happened. It was being chaired by Doctor Khupe. During the proceedings of the meeting it was about 30-45minutes we then heard that there were noises emanating from outside. There were people who were gathered whom I can refer to as hooligans or thugs who were armed in stones. They were also armed in other weapons but I managed to identify the stones in particular. I have the evidence in my phone as there were motor vehicles which were damaged. There were people who were assaulted and elderly man up to about 75years of age. They were being attacked by members of MDC Alliance youth who are referred to as the Vanguard. That news did not go down with me such that I would

have been arrested had I retaliated because in the meeting I was being conducted above board.

Those people are also members of the party and they actually live together in the community. What really pained me was that the culture of violence has actually being brewed from there and it is actually coming to me as a sunrise on why the violence is now being done by the people of Matabeleland.

There are images that I have with me showing the elderly men who were actually attacked by the youth. Their property which was damaged and their cars were stoned. The insults which were held, which were directed to the women and such insults were degrading. As the events were unfolding the police where there. Nothing was done by them. There was another incident which also took place at the same offices. They were Vanguardians which had been sent and it seems they had been sent from Harare. They were sent from the MDC leadership which is currently in place.

They came and attacked people who were attending the meeting which was above board and people were attending the meeting in peace. The reason why they attacked those people it's because they had different opinions as they were differing in terms of who was supposed to be the leader. The weapon which they used during the attack was stones. I am very much convinced using the stones because they throw them like missiles.

In as much as I was not in Harare in my view I see that there is a culture of violence which had been brewed which could have contributed to the events of the day in

question. I am seeking that the Commissions should consider my submissions and compensations should also be issued to the victims whose property was destroyed.

I am also pleading that you should also consider looking into the Gukurahundi. I have an uncle who placed in a Blair toilet whilst he was alive. He was under instruction that he was to shout at the top of his voice and if he failed to do so he was to be shot. There is a place in Nkai where there were teachers who were actually thrown in the blair toilets. That issue has not been addressed since it has been covered by leaves. It gives me hope that you have initiated this hearing were 6 people lost their lives when there was an incident which happened sometime back and the perpetrators are still alive. I am also seeking that you should seek audience since I have also seen you engaging with Nelson Chamisa that he should respect women because I am not happy with how they interacted with Thokozani Khupe. That is also that I can say in brief.

Q These images that you say you have on your phone are you able to forward them to the Secretariat so that the Commissioners can see them?

A With pleasure.

Q I will now hand you over to the Commissioners they may have clarification questions they might have for you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q It could help us a great delay is you could attach some dates to these meetings you have alluded to. The meetings with violence tendencies were displayed.

A Off head I do not have but I can get them for you.

Q Thank you very much. Favour us with those as soon as you are able to. Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To Commissioners)

Q. Any questions from the Commissioners?

None

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q You may step down sir.

EVIDENCE LEADER: MR THABANI MPOFU (To Chairman)

Q Mr Chairman during the disturbances that we had a while ago. There were two gentleman at the back that we invited to put their names forward. I am going to call one of them who are one of the interjectors to come and officially proffer their evidence before the Commission.

SIPAMANDLA MAFU : SWORN STATEMENT

EVIDENCE LEADER: MR THABANI MPOFU (To Witness)

Q Mr Mafu I am going to ask you to speak loudly because I am sure people at the back want to hear what you have to say.

A I want to thank you for this opportunity that you have given me to the Bulawayo and the Commission. There is a saying which says that the one who has been wronged is the one who cries the most.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To audience)

Q Good afternoon. I just want to make an appeal that we are here as a Commission to listen to you. To hear you out. Whatever is of concern to you and whatever suggestion and proposals and suggestions you want to share with us. We don't want to interfere with anybody's testimony. However we are appealing with you that you must make your points as clearly as forcefully as possibly can without being unnecessarily provocative. Do not use obscene language it doesn't help in making the point clearer. Make the points as clear as possible. But also remember that if you feel provoked please just hold a caucus with yourself and restrain yourself from reacting because those of you who know football rules will know that if you are a player and you get offended by an opposing player and you react the referee gives you a red card. He gives you marching order right away and they give a person who offended you a yellow card amend so your team will be minus one player and it may costs your team the whole day. I want us to understand each other that those who feel that what is being said is on the wrong side please restrain yourself. Don't react. Remember we are presiding over this gathering. If you need protection rather ask for protection from the Chair or the evidence leader rather than for you to react directly. Are we on the same page?

Thank you very much. You may proceed Sir.

EVIDENCE LEADER: MR THABANI MPOFU (To Audience)

Q If I may just add to what the Chairman has just said. To reiterate what was mentioned in the morning that, please let us refrain from interjecting when witnesses are giving

evidence and that those who wish to give evidence would be allowed to do so of course with time allowing.

WITNESS REMINDED STILL UNDER AOTH

WITNESS SPEAKING

Q Before I proceed I want to air that I am not feeling comfortable. I want to put it to the Commission and the Chairperson that there are people who have been arrested and I feel that it is outside the law. I was in the company of a male colleague who was also willing to present his evidence who have been by the police thereby being blocked from giving his evidence by the police and officials from Zanu Pf that I can call out by name. I feel that Zanu Pf is giving the police instructions as their gentlemen who were at the back there who were giving directions to the police open whom to arrest therefore the police are not impartial. I am therefore seeking that the Commission should intervene so that those people are released because they evidence that they want to tell the Commission. Not knowing whether the laws have changed that`s when the party is aggrieved they will be arrested. There was a man who was apprehended by the police.

EVIDENCE LEADER: MR THABANI MPOFU (TO witness)

Q Mr Mafu can I just interject there. Now before I should, we had a list of other people that were ahead of you. We picked you because the Commission specifically asked for testimony from those who were interjecting because it was fair that they had something they wanted to say to the Commission. This is your opportunity because

we also wish to hear evidence from others. You are not being stopped from giving your complaint. You may after you have testified approach any member of the Secretariat and give him the full details of what it is that you observed but I would like to request you because of the time constraints that we have that we come to the gist of evidence . You tell us exactly what it is that you want to share with the Commission before this interjection that happened before lunch.

- A The reason why I am making these submissions is after making my submissions I am going to be arrested as they are waiting for me. As I have been saying, I grew up an orphan. My parents died as a result of Gukurahundi. I was very young. My agreement comes from the fact that in this recent case there were only 6 casualties. Whilst in the later case they were about 20 000 casualties and nothing was done but in this case the International Community has been robbed in. Therefore I want to seek clarity on that are you implying that people from Matabeleland are useful or the people from Mashonaland are much more useful. I am trying to say that, does it imply that people from the Matabeleland region do not matter. They are just people who should not be regarded on the same way as people from other regions like Mashonaland.

The reason why I am saying this is that there was a certain man who has likened the Matabeleland to cockroaches and a few days that followed there were 55 casualties from people who died and he had indicated that there was a chemical by the name DDT which should be used to those people.

The incidences that happened during the period from 1983 to 1987 and to date nothing has been done as compared to these latest incidences where the Commission

has been robbed in immediately. The reason why I am saying this is because the man who was arrested had a fire arm being pointed at him. As such it shows that those people are murderous. I am of the view that the Commission is misplaced. It is because the alleged are somewhere but you have come to the wrong place. The indecencies that happened on the 1st of August where showing the true colours of those people. The people in Matabeleland are living under what is referred to as the 1979 grand plan. The reason why I am referring to that document is that it shows that issues that matter to Matabeleland people are not addressed or rectified. And the incidences are said to have happened in Harare not Bulawayo. Had you been making inquiries about what transpired during the period of 1983 to 1987 were going to assist you better. I want to raise an issue there is a witness who gave his evidence and that same witnesses also submitted in Harare so I am of the view that this is now a play game. How do you want us to feel considering incidences that are happening and recently in Plumtree and a person was killed by the police.

- Q Mr Mafu. Can I stop you? You will notice that you have been given latitude in order to give evidence. You will appreciate that the Commission has a specific mandate. I would like to just remind you that even that latitude has limits . The Commission is desirous to your evidence pertaining it`s core business what it has been asked to do. Whilst this is not an attempt to restrict you to give evidence in a certain way, I would like you to be mindful of that fact. Given the fact that we also have time constraints and there are others who also want to come and give evidence. You appreciate.
- If you feel that what you say is quite voluminous you are free to put it in writing and submit it to the Secretariat and to the Commission and they will look at it at an

appropriate time but right now I would like to please ask you to restrict yourself to evidence that you feel may assist this Commission in doing its work.

A I will still emphasise on our loss of our parents. I therefore urge the Commission to really look into that. It is being said that the army was involved and that it was done deliberately. I am therefore repeating or reiterating that the Commission should really look into our plight since it happened way back and we have not yet heard from those incidences as compared to the minor recent incidences.

Thank you very much. I will now hand you over to the Commissioners. They may have issues they want to clarify.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Siphamanlda we thank you for taking your time to come here. We noted down all your concerns. We will detail them in our report as we will not leave them.

What I wish to point to you is that human life is important. There is no reason to say just because there is no reason to say just because there is loss of 2 lives it is not important . And we say 10 people dies. It is not important . If there is loss of one life does not matter because there are thousands of people who lost their lives beforehand .

As a commission we are saying to Zimbabwean we have reached a point where even if there is loss of one life there should be of concern to the citizens

Inquiry

M Moyo

and the government should also be worried so that way forward even the citizens know that human life is very important.

With these words we thank you for taking your time to say out your grievances .

Before hand Mr Sibanda also alluded to the cat that there are wounds which have been healed.

We have noted down all your concerns. Thanking you can step down.

A My concern is since you have mentioned that all human life is important but there are incidences which happened before but now there are engagement of recent incidences that is why I am asking when we will be the later incidences going to be addressed.

Q We heard you Sir. Siphamandla .

A Thank you Chairman.

Q Thank you sir.

MABUTHO MOYO : SWORN STATEMENT

EVIDENCE LEADER MR THABANI MPOFU (To Chairman)

Q Mr Chairman this witness that has volunteered to testify from who we have no statement.

EVIDENCE LEADER: MR THABANI MPOFU (To witness)

Q Mr Moyo you have volunteered to testify before this Commission?

A Yes sir.

Q Where you in Harare on the 1st of August 2018. Did you witness any of the events that is the subject matter of this Commission amongst or do you wish to testify about other things which you feel are relevant to the Commission?

A I will testify about other things which I feel will be relevant to the Commission. I was not in Harare.

Q You may proceed Mr Moyo.

A Your Excellency the former President of the Republic of South Africa and Chairman of the Commission and Commissioners, ladies and gentleman. My name is Mabuto Moyo. I am 33 years old. I reside here in the city of Bulawayo and I am a member of Zanu Pf and currently holding the position of Deputy Secretary General in the National Executive of the Youth League.

I had prepared a written submissions that I am going just to paraphrase in the interest of time. Just like any other Zimbabwean with emotion and feeling, I was very disturbed by the event of the 1st of August which happened in Harare. This was an event after we had been given hope by the signing of the peace code by at least 20 Presidential candidates on the 26th of June. This was an event that happened after we have been given hope by the signing of the peace code by at least 20 presidential candidates on the 26th of June. However this peace code was violated by certain political players who took part in the 30th of July harmonised elections. My submissions will come in response to the terms of reference of this Commission of

inquiry but I will limit myself to point A, B, and F of the terms. It would be my submission to this Commission that the event that took place in Harare on the 1st of August were pre-planned events which were master minded by not less than four protagonist that I am going to mention in my submissions. Protagonist who hold very high and senior positions in one of the political parties that participated in the 30th of July harmonised elections. Also in my evidence I will be referring to events which were ever propelled, sponsored or driven by some of these protagonist, individuals or collectively. Events which I believe created a feeling and the motion that drove us to what we witnessed in Harare on the 1st of August.

Mr Chairman and Commission I will submit a chronological sequence of at least 12 pieces of evidence in form of activities, utterances, declarations and events which these political actors were involved in from as early as February 2018 right up to the eve of the violent which took place on the 1st of August.

Event number one that I am going to touch on is an event that happened on the 20th of February in 2018 in a village in Buhera at the burial of the former president of the MDC-T party Morgan Tsvangirai. A group within the MDC youth assembly calling themselves by the name vanguard led by Shakespear Mukoyi who happens to be a member of that MDC assembly which is led by 45 year old Happymore Chidziva. These youths attacked and almost attempted to kill Thokozani Khupe and bury her in a hut because she was standing in between their way and the candidate that they wanted to represent the party in the elections. These are youths who were supporting Nelson Chamisa who became the eventually candidate for the MDC Alliance. In the

process they attacked Thokozani Khupe, the party secretary general Douglas Mwonzora and the former Nkayi legislature Abednego Bhebhe.

Mr Chairman, these youths would do anything and they would burn anything that was standing in the way between a Nelson Chamisa presidency and what they wanted. They would die for Chamisa, they would kill for Chamisa, they would burn for Chamisa. So the burning of everything in Harare and the attempt to burn the ZANU PF HQ by these youngsters was not something that was a case of coincidence. It was pre-planned.

My second piece of evidence would be an event that occurred on the 4th of March in 2018 here in Bulawayo. This same militia of youths descended to the MDC Provincial offices here in Bulawayo where they caused havoc where the bitter people where they destroyed property including Thokozani Khupe's vehicle. All these are cases that are on record in the police stations in case the Commission would like to enquire. These two events that I have mentioned so far point to the party's propensity to conduct acts of violence each time they fail to get in their way in the legal route. So the events of the 1st of August were events that were pre-planned and they were seen that their political party and Nelson Chamisa presidency is becoming possibility because parliamentary count of events was pointing to 2/3 majority for ZANU PF.

On the 14th of April, that would be my third piece of evidence in Jerera village in Zaka Masvingo, this is where Nelson Chamisa made a declaration, "If we do not get the results that we want I am not as lenient as my predecessor Morgan Tsvangirai. I will employ mass demonstration to ensure that victory is delivered to my party". And

indeed on the 1st of August we did see Nelson Chamisa doing what he thought was the right path in Harare where he mobilised youths to take to the streets so that they give him that victory. He further said, “This time around the election is going to pronounce outcome which is an MDC victory. Any result other than that we will mobile those from Mbare Musika, I am ready to take power over by vote or other means. And the whole world I am sure saw through the works of the journalists in Harare at the day the other means that he was alluding to.

As piece of evidence number 4, on the 24th of June 2018 at Rimuka stadium ground B, in Kadoma, Nelson Chamisa made yet another declaration and said, “If all election goes and I am not the winner I will dispute that result. On the 30th of July after voting inauguration will follow as I will be already in State house, even if Mnangagwa resists I will persist”. We have all seen what that led to on the 1st of August. The 30th July elections did not matter to Nelson Chamisa, is not an event that he really cared about. What he wanted was what he was planning to do on the 1st of August. To him what matter was a president at whatever cost and I will quote where he spoke to a journalist who works at Zim Eye I think its Paul Nyathi where he said, “inini ndiri kugadzirira ndiri kunetseka mazuva ano every morning ndiri kumuka ndichidzidzira kutarisa guard of honour”. Basically what he was saying is that he cannot wait to be president of Zimbabwe and every morning he has got mock guard of owner that he parades across which shows we were not really dealing with a serious person here we were just dealing with a clown. He had an obsession about certain end without proper preparation if I may say.

As piece of evidence number 5, on the same day the 24th of June at the same venue MDC deputy treasure general Charlton Hwembe also made a similar declaration where he said, “Our party will not take any electoral dispute to court, the street will be the abuttal”. Clearly so far I think you will agree with me that the determination by this party leadership to send people to the streets was constantly being echoed in all conversations with after quarters leading to the 1st of August violence.

Piece of evidence number 6. On the 11th of July 2018 one of the senior members of the alliance one Tendai Biti during the press conference at harvest House declared that, “We the alliance leaders we will be leading from the front, we will be leading in the streets, they will kill us we are prepared to die for a free and fair election”.

Piece of evidence 7. On the 13th of July 2018 during an interview with Face TV the same Tendai Biti said, “If they cheat us they will have to kill us in the streets”. So clearly the command of pushing supporters to the street was part of the MDC alliance campaign message and their form was indeed set and took to the streets.

EVIDENCE LEADER MR THABANI MPOFU

Q. Sorry Mr Moyo, how many more pieces of evidence do you have?

A. I am left with 4 more.

Q. We will not restrict your points but do you feel, I think the Commissioners and the audience have a gist of what you have been saying. Do you feel they are other points which are not related to the others?

A. Yes there are all different points.

Q. That's a written submission, right?

A. Yes.

Q. You will submit it to the Commission?

A. I will give it to you.

Q. Okay go ahead.

A. I will quickly go through them. I was now on piece of evidence 8 because I have got something to say right at the end. On the 15th of July 2018 at a rally in Masvingo, Tendai Biti again repeated the same words when he said we will down the streets I won't emphasise on that.

At number 9. The 21st of July 2018 Nelson Chamisa made yet another declaration where he said, "If we loss we will not bother going to court. What we used to do at the University of Zimbabwe is what we are going to do". Here he was referring to the late 90s known violent riots took place at the University of Zimbabwe where he was a member of ZINASU as a student at Harare Poly. So violence was not something new to these political actors.

I will move to number 10. On the 23rd of July 2018, the MDC National Youth Chairman Happymore Chidziva further made a pronouncement at a campaign rally in Mkoba stadium where he said, "If the election result is not favourable to us youth if we say action its action hokoyo Mnangagwa". Just for the benefit of Commissioners whom might not understand the word "hokoyo" "basically it means beware. And this is a phrase that can only be used by someone who means nothing short of violence.

Piece of evidence 11. At the same campaign gathering when Nelson Chamisa took to the podium he said, after the vote people must go to polling stations and protest, they will not eat the sadza we will pour sand on it. We are not going to leave any stone unturned. We will bring youths from Mbare”. Basically here we are dealing with someone who was prepared to kill as long as he was not going to be declared president.

On the 29th of July during a press conference at Harvest house on the eve of the election, Nelson Chamisa declared that, “we will refuse to accept a Mnangagwa victory because it is a result based on stolen vote and suppression of the will of the people. An outcome that would have Mnangagwa as a victor is not an outcome but fiction. We will not accept scow dagger, shenanigans, corruption or manipulation of elections”. All this while he was motivating his followers and supports to what’s an agenda.

I would like this Commission to realise that these were utterances made by senior leaders within that political party. Opinion leaders, figure heads and the party’s mouth pieces and people who supported MDC alliance were bound to take conviction to such utterances. Clearly these leaders misled their followers. They led them into doing things that they then felt could not dare to do. Tendai Biti was already fleeing after seeing that the blunder did not work he was not ready to die. But who is to blame these supporters. Who would not listen to a party president, a national youth leader, a deputy treasure of the party and a senior alliance partner who also happens to be a lawyer? These were very, very sad events in the history of Zimbabwe. To respond to aim on recommendations I would say in future I think as party members we really need to chew serious people to represent us when it comes to elections.

Because when you see someone who pause themselves it means the agenda is only about them not the movement. I will also want to urge the government to put institutions of political education, voter education especially with serious bias to towards youths. Because in all cases of political violence you will realise that youths are the ones who are always in the forefront used as toys. The MDC alliance strategy is a strategy that they will read in all the Roila Odinga script book. All they wanted was to form an illegal stalemate. So it is my advice to us as leaders in politics to be careful with what we say to our supporters. In leadership you are the master of the word that you are yet to utter and the slave of a word already uttered. These leaders could not find an opportunity to take those words back, their strategy was an old strategy that was used in the liberation struggle. And as one African leader once taught me, the truth of yesterday is not the truth of today. We live in a modern world where dialogue should take presidency. And roll over I want to quote our former president Mr John Nkomo, he said, “peace begins with me, peace begins with you, peace begins with all of us”. Our lives are more precious than our political ambitions. I thank you.

EVIDENCE LEADER MR THABANI MPOFU

It is now time for you to listen to the Commissioners, they may have issues they want to raise with you, questions, clarifications, and I hand you over to the commissioners now.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. You have alluded to several utterances which were made by some leaders prior to the election day, are you aware of any response or statement that was made by any intuitional authority relating to those utterances?

A. Before or after the violence?

Q. Before.

A. I would not have specific date for utterances but I will refer to one source which I am sure everyone listened to towards the runner up to the elections. Our President Comrade Emerson Mnangagwa he preached the gospel of peace to say lets tolerate each other, things have changed in Zimbabwe let's not be violent, and for the record ZANU PF had an internal memo just before the announcement of results to say youths do not be excited and take to the streets which is why you did not see us.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you very much. You have emphasised that it was indeed a very sad day the events that you described we have heard from many of the families of the victims in such victims from all different political parties or victims who were not politically involved at all. What I wanted to ask is, I know you touched on certain aspects of terms of reference for the Commission, do you have any information that could assist us from your position about the role of the army that day and what they saw themselves to be doing in response to the issues that you have described and what in fact they then did on the day?

A. I think as I stated in my submissions I limited myself to first 10 sections because I was not in Harare on the day. I was not an eye witness and I am not an expert when it comes to issues to do with law and order.

Q. Is there any information that you have that could assist us. We are obviously trying to gather information on all aspects?

A. Nothing at the moment.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. From your narration of events from I think as early as February 2018 up until the 26th of July you have been giving us a narration. Is it then your suggestion from that narration that this was the cause of what happened on the 1st and that these were the players?

A. Yes, I am very clear in my submissions that these according to me are the four protagonists who initiated and imbedded an emotion of violence into their supporters. It was constant in every gathering. I only quoted these few for the purposes of time. In every gathering where they addressed their supporters they had this assumption that they are going to loss so when they loss they will take to the streets.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I just want you to respond to the question that has been posed to you by the general here which you then responded by referring us to the statements that were made by the President. The question here I wanted you to assist the Commission to say whether or not our laws were legal system or our institutions have anything to do. You were given these whole several statements that were made in the runner up to the

elections. When those statements were made and were repeated would they not have been an opportunity for the State to react not necessarily the political leadership, the other political contenders. Would they have been in your experience, did you come across any police response to that? In other words if a person makes a statement which says we will do this. Is that not something that can be attended to from an institutional point of view?

- A. I have got nothing specific with regards to the police but I think with regards to the State I think I alluded to the 26th of June event where the National Peace and Reconciliation Commission initiated a peace code that was signed by 20 or the 23 presidential candidates either individual or through their agents.

Q. In other words that would have been the only reaction that you are aware of?

- A. At the moment that's what I am aware of.

Q. So his question really wanted you to, if you have any suggestions or any points to make in that regard, whether in terms of our systems politicians can be allowed to make statements, repeat them, and that there is nothing that can be done. If you really feel, because your evidence is that you feel that it is these statements that led to what happened on the 1st of August. That's my understanding of your evidence. And the question was, is there anything that could have been done to just the making of statements itself?

- A. It would be my suggestion that the events of the 1st of August should be a lesson for us as Zimbabweans and maybe the State would actually enact laws and guide lines as

to what can a political leader say to their supporters in public and what they cannot say because as I put it across in my submissions it was more than once. The issue of taking to the streets until we all saw it happen on the 1st of August. So maybe in future they should be penalties or it should actually be a crime to utter such declarations to your supporters because you need to understand that an election period is a very emotional period. If you are my leader and I so much believe in you anything you tell me I believe that is the direction and unfortunately we all saw what that led to. So I think there should be a law against that.

CHAIRMAN KGALEMA MOTLANTLE

Q. Was this peace accord expected to be upheld by all the parties that signed it and if the statements that you enumerated were uttered in public what was the response of the other signatories to this peace accord?

A. As I alluded to when I mentioned the peace accord I pointed that they were certain players who totally ignored it and when it comes to response I will not speak for other parties because I was not that much involved in them. I was involved to ZANU PF and I know we continued to preach the message of peace even in our voter education, our grass roots we were telling people to be peaceful, to be tolerant because this is a new Zimbabwe. We did not expect to see any violent activities within our party. Just to add on, besides the peace and Reconciliation Commission even those who live there in Bulawayo from all parties we were called at a venue where we signed at grassroots level a peace code to say we are tired of being used as instruments, lets sign this code to say ZANU PF, MDC-T, MDC Alliance and so forth we will not be

instruments of violence. We are going to be tolerant, we are going to be peaceful. So the message of peace was there.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q. So it means this peace of accord was not signed under the aegis of ZEC or the peace and reconciliation Commission. It was an accord signed by these political parties only? Was the intention that they would self regulate themselves. In other words if one party elected to observe the terms of the peace accord in the breach other parties would not raise that concern?

A. Maybe as a way forward since we have learnt a lesson I think it needs only not only to be signed by political parties as to say we are going to be political parties as to say we are going to be peaceful but it should come with terms of reference to say in the event that you are found either promoting violence or being involved in activities of violence there is such a penalty as alluded before or you will be removed from the race. That's my suggestion.

Q. There are in many countries laws that penalise incitement against racial groups, incitement against religious groups, do I understand you to be saying that the electoral laws of Zimbabwe were to include the penalisation of incitement against refusal to accept the results of a freely and fairly conducted elections that's what you would want to advocate? Is that right?

A. Precisely.

CHAIRMAN KGALEMA MOTLANTLE

Inquiry

P .M .Ndlovu

Thank you, no further questions.

EVIDENCE LEADER MR THABANI MPOFU

I will call Patrick Ndlovu.

Mr Chairman I note that the witness is actually 70 years of age and I think the Secretariat owes him an apology. I have only just noticed his advanced age now but this witness has been here. He puts his name down in the morning to come and testify.

PATRIC MTANDAZO NDLOVU : SWORN STATEMENT

Q. Mr Ndlovu the paper that I have here list your age as 74?

A. I said 3 in the morning I don't know where the 4 is coming from.

Q. Are you 73 years old?

A. Yes, certainly.

Q. Mr Ndlovu, on behalf of the Commissioners I would like to extend my apologies for keeping you until this late. I note that your name is down here you have been here since morning and on behalf of the Commission thank you very much for your patience.

A. Its all okay. Patience pays.

Q. You wish to give evidence before the Commission?

A. Yes.

Q. I now accord you this opportunity to do so please go ahead.

A. Thank you so much. To the Chairperson of the Commission, the honourable Commissioners who are sitted before us here, in the first place my sister the lady who is sitted here was supposed to have come here but as we registered in the morning she was told no you go to the social welfare and so forth and I adamantly said no ways because we are coming with a case that involves the State's actions of killing people. This morning, or today I would like to take you back in 1983 of which, of course you have heard of the incidence of 1983. In the first place I would like to thank the happenings although the loss of lives on the 1st of August in Harare, but they have opened a can of worms here.

What transpired is this that, Chairman and your Commissioners, in 1980 the government that had come into place did not have strength to conduct killings say giving orders to the army but instead they was a prepared special army called 5th Brigade "gukurahundi" by the State. What transpired was this; I had a nephew who is the son of my sister here. He had finished his 'O' level examination and he was waiting for results, the government of the day in 1983 under Robert Gabriel Mugabe asked those people who had qualifications of that nature to go and assist in teaching because they was a shortage of teachers here. So Welcome got a place to go and teach through the regional educational offices here in Bulawayo and he was given a school in Muzola. What transpired on the day when he was killed is that a group of soldiers the 5th brigade as we were told by the locals there came and they first shot. Welcome was shot on the elbow and when he said ah, why they were shooting him.

vernacular he said ah, “haasi murungu murove pamusoro” and he was shot point blank on the head. The other party indicated that after he had asked on why are you shooting me, the other one indicated that why not shot him on the head. Just to give you a small briefing, we are bringing this case today because these other commissions which have been formed when we had apposed they had kept silent. We even have evidence that was put on the CCJP and nothing has come out it was just suppressed like that.

EVIDENCE LEADER MR THABANI MPOFU

- Q. Mr Ndlovu can I interrupt you. I do not want to interfere with you evidence but I would like to remind you that the Commission has specific terms of reference to deal with the issue of the 1st of August. So when you give your evidence I would like you to contextualise it to what the Commission is here about because you can give evidence that this Commission will not be able to do anything about.
- A. Early morning the Chairperson of this Commission said they want evidence that will assist so that they should be no future problems. We must go to the route cause if we leave it therefore we don't know what we are doing. Mnangagwa was involved during that time as Minister of CIO and there is a record that he said at that time when they were skirmishes burn all the houses so you want me to keep quiet about this. So please let me say what I want to say. So stop stopping me. I want to give evidence concerning my nephew how he was killed although they are many people who were killed at that time. So Commission I am sorry, this interference is not good during this time.

What I want to continue to say is that after Welcome had been shot the headmaster of that school was told to throw his dead body, you know in the rural area schools there are these pits where children throw papers they sweep in school yards. His body was rolled there for three solid days. He was rolled and he was left in open for three solid days. So after that the poor headmaster there he asked because they had camped, besides that they are other 12 teachers who were killed next to the river just near that school they were asked to dig their own graves and they were killed and left there. That's part of the other evidence that you should know which you did not know. The headmaster was asked to dig a grave. He dug a grave that was almost to the knee and he was told it's enough get out, push him there and he was rolled there and buried there.

At that time it was not easy to move in Zimbabwe if you had no idea and you had to give a reason why you are travelling to the rural area or why you are coming from the rural area to town so we could not go there until after some years when we went to see where my nephew was buried.

It is this sequence of killing people that also generates what we are talking about today or what we have come about today because it starts from there. So if you are to give any remedy or if you are to do any good to Zimbabwe it must reflect the 1980, the early 80s, the killings that took place not only in Matebeleland, in the Midlands.

I also want to give you a highlight why ZANU PF is involved in these killings. In 1985 we had a general election in this country. The late Ruth Chinamano was a candidate at Highfields Constituency beating Robert Gabriel Mugabe, he was the

Prime Minister of Zimbabwe then. She contested and won the elections at Highfield in 1985 against the former President of the country Robert Gabriel Mugabe. The following morning a battalion of soldiers, today we have people who are in hiding because ZANU PF had lost. So therefore I fell coming to the 1990 people were already scared because they were told if you go to election booth they is a TV that will see you or “pasi newe” meaning down with you, really down. Getting underground. They would kill you. That was the slogan of ZANU and it is still there. So my nephew has never been given a descent burial and coming to the other elections it’s all violence. After elections anywhere here in Zimbabwe its violence. Its either ZANU PF is not happy about something or, in the 2000 elections whether it was 2005 elections people had their hands cut off because they had gone to put an X, can you imagine today some people have no arms. So therefore whatever what is being called new dispensation and so forth those are not new things because those were the documents which were stolen from So I would want you to know that its devolution of power. From 1963 I am happy that they is a Tanzanian man he knows that the split was there in Darasalam and he knows the former Dr Julius Nyerere the late supported ZANU like him. Commission I would like to suggest that probably my sister the mother of my nephew would like to speak because I know she is grieved.

I would like to suggest this country has 5 regions. We have Manicaland, Masvingo, Mashonaland, Midlands and Matebeleland regions. These regions prior to the coming of the white people they ran their own affairs. Therefore I would prefer that you

include in your Commission we have our own State of Matebeleland region so that each region will have its own affairs maybe then we can learn to unite at a national level. That's what revolution is all about but some people are misusing it. Those documents which were stolen are not talking about provincial devolutions they were stolen and then now they are being misused because people who stole them don't know. So I would want this Commission that Welcome and many others who were killed during the "gukurahundi" issue that we will not leave hanging we will talk about and go to either shallow graves or deep down graves because nobody will bother to come and apologise. When I talk of it, I will not stop talking about it. We will talk until we go to our graves. I am so much aggrieved. I was going to come to say it soberly and steadily but I have been so much aggrieved by what has transpired all for the 37 years people talk nothing about the lives of people who were mired. We had women who were pregnant who had their babies cut off. Those innocent lives never saw the day but this genocide has just lived quietly because maybe there is a lot of non exchanging hands and so forth because that's where the dirty is. There is a lot of corruption going on. So today I would like to say somebody begins to say we don't want politics we should be developing, development, why is he hiding yesterday's politics and there is no country that can do any economics without politics in it. It's a lie. I want the head of my country Mr Mnangagwa to know that he can't do without politics. He can't head. He should not tell people to be quiet about politics because that's where everything emanates from. So therefore we will talk politics. If then we

are not going to talk politics there should be no elections anymore in Zimbabwe.

What for? And I even add SADC regions and AU don't support these nonsensical suggestions. Understand that politics is there even in Europe there have been there ever since. I would like the Commission to know that we have our own state, we want our State back. The mates are there and all what is there is greediness. We don't mind if somebody comes from Mashonaland, he has got a degree and I don't have it. He can do this job yes he must be taken accordingly but we do not accept where we have to be push over just because this one should do for this one. We are saying no ways.

Mr Motlante, they was also a black Jesus in Zimbabwe during the 5th brigade gukurahundi. This black Jesus today is the Minister of Lands and Agriculture. They were trained like we were trained but they have misused to kill the people who were supporting it during the war. What for? Just because they cannot put a vote on their side. I want you to take it to Mnangagwa we have said, I have said if he wants me as an individual, I have said there is no way he should do that.

Now coming to the fact that my sister is so much aggrieved, the other lady sitted next to her is the sister to the late Welcome. Welcome was killed around when he was about 21. He had come out of this country when he had been recruited during the skirmishes running away from the Smith regime. Although he was not fully military trained they were staying in the refugee camps but he had come to give the ideologies of ZAPU to learn and to teach others but his life was shot lived. Not him alone. I even have talked about these women who had their small babies who did not see the day

and we have groups of women here some whatever they are called the Kabulas and so forth. They are no advocating about women who ahd their children murdered during pregnancies it's so saddening. We have ladies who are so highly educated, ladies who are running around, you have forgotten about those women you can't talk about them because they stay in the rural areas. We are urging the women in commission to look into the loss of lives of unborn babies and what should be done to the mothers who lost their children.

We have a place called Balagwe. Ebalagwe Mr Chairman if you go there it's shameful. I wish after you finish up you take a visit to Balagwe. They are hundreds of people who were thrown in that dark well. When the people of that area wanted to say we want to make a kind of a grave here to respect this place, the government refused. They refused and therefore it means people have got to remain like that. People want to bury their relatives decently. People don't want to be given money because my son was killed or my nephew was killed but we want decent burials because they were human beings and they must be given decent burial. Go to Tsholotsho where there are mass graves, hundreds of people lying in one large grave and somebody tells you, we are dispensing. There is a new dispensation, no fighting, yes he is talking peace but why hide behind the finger. We don't want that. If he wants to come and apologise he has to come and apologise. He should stop making what is called national healing commission which has no teeth. It has only a direction which it takes it from the party, do this, do this but an independent Commission like yours let's hope it's not a toothless bulldog. I believe you are going to put this across. We have been talking

about this thing for years and people say today it is now in Zimbabwe that the people of Zimbabwe who fought for this country is ZANU PF. They are people who died under ZAPU leadership, under ZIPRA command. These people are not remembered they are not known, why? We want this thing to be sorted out once and for all so that the future children who are coming should know that that party fought for this. These people fought for this and eventually they understand each other but we can't because others say others did not do anything. There it's wrong. It's very wrong, go and ask all problems Mr Chairman. Ask Modiso, unfortunate he is late, ask Akim they are late. So therefore we feel we have been very much aggrieved by the 5th brigade actions. Otherwise people could have after Joshua Nkomo had come to 1987 Unit agreement we could, if people were not been secreted but there is thing otherwise people could have after Josdhua Nkomo had come top 1987 Unity agreement. We could, if people have not them segregated but there is this thing of segregation that's why we say now let's have our own side. Let it be debated, let it be said, let's have our own side running our own affairs so that we have our own affairs the others have their own affairs then we meet economically, exchange same things together as such.

Q. The Commissioners will put questions to you.

CHAIRMAN KGALEMA MOTLANTLE

Q. Mr Ndlovu you alluded to the fact that your sister mother to Welcome could have loved to ventilate her own feelings?

A. I can't hear you Sir can you kindly lift up your voice.

Q. I am trying to establish from you whether your sister, Welcome's mother as you said she desired to ventilate her own feelings to the Commission is that correct?

A. Yes.

Q. I suppose Mr Mpofu you extend the invite to her.

EVIDENCE LEADER MR THABANI MPOFU

Yes, if the Commission so direct I will do that immediately if she is here.

CHAIRMAN KGALEMA MOTLANTLE

So you may step down Sir, thank you very much.

EVIDENCE LEADER MR THABANI MPOFU

I will call upon Agnes Moyo.

AGNES MOYO : SWORN STATEMENT

Q. Please ask her to relate to the Commission the information that her brother gave and the fact that he had indicated that she wishes to say something to the Commission and then invite her to go ahead and do that.

A. I am seeking that the Commission should assist me as my husband passed on. I can't see I am blind now. Welcome is my 5th born son. He went to Zambia when he was in Grade 7. In 1980 he came back and I had to enrol him at Khumalo suburb Seventh Day where he was going further with his studies to study Form 3 and Form 4. He then made a request to us the parents that he wanted to proceed further with his studies to do lower 6 and upper 6 and he asked that should he go forward and look for

a place. His father suggested that he did not have any funds anymore so he would rather look for a job by the government and he said he was going to take that upper since the father was also working for the government. He then became a teacher in Lupane at Nhonho. He then started working there in January and on the 25th of February there was the arrival of gukurahundi there in motor vehicles. It was in the evening and they were also other teachers who were there and he was then shot on that evening. He then died on the spot and other people had to run away leaving him behind the line dead. The body remained there up to the following day Saturday. On Sunday the gukurahundi people also came and found his body lying there at the same place.

A People had deserted their homes and there were only a few men who were there and then they dug up a ditch where they lay him inside there. I then went there after 3 weeks. And now there was no free movement as people feared for their lives. The following week my homestead was torched and burnt to the ground and it had 5 rooms. I am heavy hearted as I am relating the incidences of the time because my son was working for government like the father and nothing was done and my husband's house was also torched down which left me homeless and I am also blind now. I am therefore pleading with the Commission and asking on what I am supposed to do now considering my situation.

We have attended so many Commissions and nothing has been brought forward and at one point my son went to Harare and nothing came out of it. I am therefore pleading for the intervention of the Commission because his body still lies along the

way and on some occasions it actually rains. Patrick has already laid the bulk of the evidence.

INTERPRETER TO EVIDENCE LEADER

With respect if it may be noted that she is having an emotional breakdown.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Firstly on behalf of the Commission we would like to convey our belated condolences for the loss of your son and your husband. We also want to thank her for taking her time to share with us her harrowing experience. We have heard her prayer of help. We will use our channels to convey the request she makes for help here. Thank you. She may step down.

A Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To Chairman)

Q Mr Chairman I would like to call two more witnesses. Beginning with Mlungisi Moyo.

EVIDENCE LEADER: MR THABANI MPOFU (to witness)

MLUNGISI MOYO : SWORN STATEMENT

Q Mr Moyo I am going to ask you to speak so that everybody in the room can hear you. You may try and speak to that microphone there, it might help.

A Is it any better now?

Q It is thank you. Mr Moyo you have volunteered to give evidence before this Commission?

A Yes I did.

Q Where you in Harare on the 1st of August 2018 or are you going to give evidence related to it but not necessarily an eye witness account?

A I will give evidence related to it, not an eye witness account because I was not in Harare on the 1st of August.

Q You have been following the proceedings since morning. You are aware that there are issues that have been covered by various witnesses that have come before this Commission. I want you to be mindful of that as you give your evidence. Be mindful of the fact that some evidence has been given before and where you see that the evidence you are about to give has been given I would urge that to move on to other aspects that you feel the Commission may want to hear. This is not restraining your or force you to give evidence in a certain way. You may proceed.

A Your Excellency, the former President of the Republic of South Africa and Your Commission allow me to say all protocol observed. I do realise guided by our director of ceremonies that the testimony that I was going give, the bulk of it has been given by the previous speakers. I would like to direct my submissions as a losing candidate for Zanu Pf where I am standing here, Bulawayo Central and there is a bit of background which had been touched in greater detail by the previous speakers relating to the Commission or wishes of other political parties. On the 30th of July

we partook an election which was historic in my view. An election that allowed people to express themselves in terms of campaigning areas. In terms of speech and freedom of speech.

Basing on the evidence that has been given by the previous speakers on the DNA in the opposition MDC party. I would like to direct my submissions into say, I suspect that the people who part took in the violence of the first of August where directed by the MDC party. Why am I saying that? One speaker submitted there were 4 protagonists who instituted and instigated violence.

- (1) Mr Nelson Chamisa- In his address before the election. Before the election he submitted that he will not accept anything which is not a Nelson Chamisa Victory. I was also a candidate in this just ended election. We though, after the 30th when the counting was going on, it was within the ZEC operational frame work to announce the results within a specified period of time which I felt was adhered to but unfortunately as I was reading my fingers here counting my loses in Bulawayo, we were sadly told that there was an eruption of violence here in Harare. It then made me believe that the because of that violence has nothing to do either the outcome of the elections but it has a lot with what the leaders of the opposition movement where saying because they had made it brazenly clear that they will not accept anything that is not an MDC victory. So I can only give an account on the ceases of the violence because I was not in Harare. That is the reason why I said I will be very brief and precise and state to submission since a lot has been said. Why am I picking out a one particular party from the old 23 political parties that contested? I think one speaker gave very detailed account on the iota of violence in

MDC starting with events from Buhera. The events that was in February and then leading to an unfortunate butchering of other MDC members here in Bulawayo who were led by Thokozani Khupe so that and everything else that I have submitted before makes me believe the violence was instituted by certain individuals. I thank you.

Q Thank you very much. I will hand you over to the Commissioners. They may want to ask you questions or seek your comments on the issues that you have raised or others that they may deem fit.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Could you please tell the Commission what place, what position you contested and lost?

A I was contesting as a Member of Parliament. House of Assembly Bulawayo Central Constituency. This particular Constituency were we are seated right now.

Q Thank you.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you chairman. I want I have a questions for you. I want to understand. How did you feel to lose that election?

A Painful as it were, when I got in there I was prepared one of the two results. A win or lose. Those are the detects of any election anyway.

Q Just a follow up questions. In your mind, could you have done anything about that result. I mean that knowledge that you could either win or lose.

A I am not sure which angle you are coming from but I think as every candidate who participates in any part depending in the environment they are campaigning in, depending on the effort put, depending on the reception from the electorate, they known an election has two possible outcomes. A win or a lose. As much as you all go to win, you must lose in humility. That is my basic understanding of an election.

Q Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much Mr Moyo. No further questions. You may step down sir.

A Thank you.

EVIDENCE LEADER: MR THABANI MPOFU (To Chairperson)

Q Mr Chairperson can I squeeze one more witness?

A Yes go ahead.

ALECK GUMEDE : SWORN STATEMENT

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q Mr Gumede I am going to have to ask you to speak up so that everybody in this room can hear you. You have volunteered to give evidence before this Commission?

A Yes.

Q You have been following proceedings in this Commission?

A Yes.

Q You are therefore aware of the evidence that is being given?

A Yes.

Q I would like you in view of the time that we have, to give your evidence but restricted to those issues which you may feel have not been canvassed or some which you may want to emphasize. This we are doing not to restrict you but because of time constraint and the fact that the Commission heard a lot of evidence today.

A Yes.

Q Proceed.

A Can I proceed?

Q Yes sir.

A I am not going to take too much time because we have been here for quite some time. I will try to be brief. What I have observed or what I heard, what really took place in Salisbury was that (*interjected*).

Q You mean Harare?

A Yes Harare. Sorry, sorry for that. What actually happened in Harare was not a good thing at all because people were killed there. People wanted to demonstrate so that they can show cause they are looking at other things they deem wrong so they demonstrated to the same government that killed, prior decided to shoot these people.

So people died to me that is a very bad thing. I will cry together with the people of Harare but what I ought to put in front of this Commission is that everything that we see happening in this perpetrated by Zanu Pf. Zanu Pf being a party that fought for the liberation of this country has overstayed. Since it has overstayed it had got plans to keep itself in the ruling position. We have seen it happening. Since the time of elections really according to me that was abnormal for a leader of a party to contest a sit whilst he has not given pulled back to sit down so that he can allow to contest thereafter he can come in after the announcement that he has won but he kept at the helm of that position. To me that was an anomaly.

The other thing is I come from Pelandava Mpopoma. I stand here for MDC-T. I am the organising secretary for that. What I observed was that the receipts that were actually given by ZEC, these receipts were to acknowledge that we have registered as a voter. In most cases Zanu Pf big wigs were recording the serial numbers that was a way of trying to win elections so that they can actually have those people, that is an intimidation in other ways because those people that were supposed to give their serial numbers to the, where the people that were actually intimidated. I come from Makhandeni. I witnessed that people were actually lured by means of land, by means of food and these people actually had no other way other than to vote for Zanu Pf because they were lured by food and land. Most of the land that was grabbed from the whites were issued to them so that they could vote. That is intimidation vote buying. That is intimidation on it's own because you cannot tell me that there, there is land. Land must be given to anybody who is supposed to get it in a manner that is

conducive. That is allowed by anybody nearby to fit in that he gets the land, but the way that the land was given was sought of vote buying.

Right my conclusion is this one: We can beat about bushes. People have been slaughtered in this country for quite a long time. We know the Rashiwes they were killed. I witnessed my mother who was slaughtered when I was hiding on top of the tree. We know that. We cannot stop that. Commission I want to urge you that you cannot stop that. All that you can do collect all these things. We have been called to plenty Commission but there were no results of that Commission. What is going to happen is that this Commission is going to do its job but the results are not going to be known.

Fair enough. The only way to deal with this thing to stop everything SADC people feel for us. SADC people feel for us. Whites and Britain, the colonisers for this Country feel for us. The people of Matabeleland have actually got nothing since 1980. They were killed. I don't want to talk much because I heard people talking about it. My suggestion is that please give Matabeleland to the people of Matabeleland. Give Mashonaland to the people of Mashonaland and see whether there will be no togetherness. Thank you for that. Thank.

Q Yes Mr Ndlovu. The Commissioners might want to ask you questions.

A Thank you.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Just one question I wanted to ask about the report you said that we are preparing as the Commission that it wouldn't be made public. I just want to ask you why you were saying that and what you think we should do about that. That's something you fear.

A Yes I am scared of that. Why I say so, there are a quite a number, very important Commissions that passed this one were people were slaughtered just for nothing but those Commissions did not report back to people. So I am sure the same Commission will no report back to people. I am sure that will happen because there are a lot of things that have been put together here that were not are polite by the ruling party that is what I was trying to say.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much Mr Gumede. All I can say is that this Commission has majority of Commissioners coming from outside of Zimbabwe and so we believe that the authorities will make the report public and the recommendations in the public serve as the basis of holding the authorities into account. If they are not implemented the authorities have to give explanations as to why they are not implementing those recommendations.

A Thank you Chairman. If it comes in a similar forum like what we are doing now better. But if it comes in the manner where the newspapers, it's going to be advertised in the newspapers there won't be anything. It will be known by everybody. If it comes in this way then it is ok.

Q Thank you sir. You may step down.

A Thank you very much.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q Mr Chairman because of the time constraints we are unable to carry on with testimony from witnesses. But with your permission may I invite written submissions from those who had not been able to testify. We note that there a lot of witnesses that come out here today. That has not been able to testify or give testimony *viva voce* in this Commission. Because of time constraints we are unable to hear evidence from all the witnesses that are here but have not been able to testify. The chairman has granted me permission to ask you to exercise the option if you so wish of putting written submissions submitted to the Commission via the Secretariat of any evidence that you might want to present to the Commission. The written submissions need not be type written. They may be written in long hand and submitted to members of the Secretariat and the assurance you have is that they will reach the chairman and his Commissioners.

Thank you very much. Unfortunately we will not be able to fire witness questions not from the stand but we are here to answer your question should you saw wish.

THOMPSON NDLOVU

I was not really going to take much of your time but I really wanted to appreciate and make some additions which were going to be of much value to the Commission.

EVIDENCE LEADER: MR THABANI MPOFU (To witness)

Q You do understand though that even if you put in writing you will be writing.

A I won't take much of your time.

Q Very well I will request on your behalf to the Chairman but your time will be restricted to 3 minutes.

A Thank you.

THOMPSON NDLOVU : SWORN STATEMENT.

Q Mr Ndlovu as I indicated when you were still amongst members of the public. You have a very brief moment. 3 minutes to be precise in your own words add value to the process here.

A Thank you sir.

Q I am timing start.

A My plea is that the Zimbabwe Electoral Commission be disbanded because they are compromised. I am then making a recommendation that people who are supposed to be sitting in that Commission are supposed to be retired judges, people from the civic society, church leaders. People of character are different from the people who are currently sitting in that Commission.

In my view ever since this country gained independence we never had an independent board which regularises the elections. I am therefore pleading that we should have an independent electoral Commission which does not comprise of people like Justice Makarau as they are compromised. And Mrs Chigumnba.

Q Thank you very much Mr Ndlovu you have actually gone above 3 minutes.

SENGEZO TSHABANGU : SWORN STATEMENT

EVIDENCE LEADER: MR THABANI MPOFU (To witness)

Q Please could you state your names again for the purpose of the Commissioners to hear.

A Sengezo Tshabangu.

Q You may start Mr Tshabangu.

A Can I go ahead?

Q Yes.

A I would want to first applaud the President for setting such a Commission. It's the first of its kind. President, former President Mohlante I have no doubt at the back of mind that, I am very much convinced that submissions which are going to be led today would not end here. Firstly I want to put it on record about the differences which may come in relation to party and the state. The President want to be assisted in coming out in the open, who gave an order for the killing which happened in the 1st of August. The submissions relating to the events which happened during the Gukurahundi era. But I am a product born out of that era. In 2000 formed what was commonly referred to as green bombers during that time as a way for disguising it as an empowerment programme. They were deployed to each and every province by the state not by the party. But they were deployed by the party. In 2005 the state used it's missionary in

killing people under the disguise of what was referred to as Murambatsvina because they wanted to reduce the power base of the opposition in urban areas. When you displace the powerbase of an opposition they thought they will be successful in 2005.

Q You have disposed your 2minutes.

A Can I go on I have only 5. This is the 2nd one.

Q No. no.

A Wait . Chairman I need your protection. I am just chronicling the events that happened in 2005. The role that the state played. Not the party but the role that the state played. The violence that we are are talking about it was not orchestrated by the party but it was the state machinery. They people who were killed were killed by guns. They were not killed by stones. They were not killed by stones and they want to show you that don`t, they are so many speakers who had portrayed that the opposition had a role in the killing of the people on the 1st of August. No. All that I am trying to put across is that it`s not the oppositions. Chamisa never had a gun but it was the State. Those people were killed by the state. It`s Gukurahandi.

Q Mr Tshbanagu I am not going to make you make an address.

A Chairman I need your protection. I am not talking about politics. I am talking about violence.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q The chronicling of events if you are reading from handwritten notes you can submit those and then give us your conclusion. We hear you very well when you say the State and not then party have a hand in the violence that happened in the past and so on.

A Yes.

Q Why shouting instead of giving us sequence of dates. What happened in 2000, 2005 and so on, that you can submit in support of your conclusion because we are doing this in the interest of time. If you can manage that. You have full protection. We are all ears we are listening.

Witness continues.

A Let me just wrap it up. Again in 2007 chairman, opposition leaders were battered by the State. They were praying for the nations. Morgan Tsvangirai was battered. Professor Lovemore who is a Commissioner here was battered. He almost died. He was not beaten by Zanu Pf but he was beaten by the state agency. In 2008 the political violence that erupted because of the disputed election, the greater part of Mashonaland people lost their lives. And the army was there at the fore front. The state agency were in the fore front of deploying killing people. In 2017 our lovely, who is now the President, he was almost killed in Gwanda with ice cream. Where were the State agency then? President Mnangagwa wants this to be done professionally this is why he put this Commission but they wanted to kill him. These Zanu Pf activist they don't like him. They wanted him dead.

I am seeking that it be investigated on who has suggested as I have a feeling that it is not coming from the President of this country that there be such a Commission and there are incidences which has been narrated that I will relate in brief. He related to an incident where there was a takeover of the power and there was the army which was involved and it was down in peace. There were no incidences which happened. He related to the incident that happened in white city where he is saying that a grenade was used in attempt to take the life of the President and he is emphasizing that the enemies of the state is the state itself. The enemies are inside. There are the one who do not like the President Honourable Mnangagwa. The state machinery is the one which is being used in perpetrating all this violence.

President Motlantle I am not a grand fan of, I have grown and I have been nurtured by the opposition but on this one I have differed with Zanu Pf on many occasions . I have differed with President Robert Gabriel Mugabe. But on this one I give him a thumb up. He wants this thing to be done in a public forum. He wants this thing to be investigated and we should support his initiative. Who, killed, who ordered. In terms of our Constitution it is only the President who can order the Army. So if probable with the support of Parliament, he was not even there. Who ordered? Let's come out openly. He can't know it. He knows him. But who? This Commission really establish. Those people were killed we grieve with them but the truth must be told. The State, the role of the State. What was the role of the State during those incidences in Harare. Had the police failed to contain the situation on the fateful day as today it was witnessed that the police had their ammunition and the tankers outside.

Where in the world have you ever heard army controlling law and order? Those people are trained to kill. All what they know is to kill. The police is there to protect citizens.

Q Mr Thabangu I think I am going to ask you to put everything you want to put in writing. I think we have had a gist of your submission.

A I will, advocate Thabani Mpofu but I was somehow pushed off because you thought I was talking politics.

Q What I am saying is that the Commission has heard, you can write as much as you like. We will not restrict you there.

A Precisely. I thank you Commission. We should support the President.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q. Thank you very much. That was the last speaker.

WITNESS FROM GALLERY

Q. I am seeking that you should have allowed maybe given 3 days because today you came late and right now time has already run out.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Unfortunately we have to complete within very spite time lines so tomorrow we are going to Gweru to again listen to the testimonies of people, suggestions as well as advises. If you have any point you want to add, please write it down. It doesn't have to be typed. You can just write in scrap of paper we will take that into

account but unfortunately we have to say to you we thank you for making the time and for the patience as well as your conduct and we hope that even in future you will make all the submissions that would help the Commission to arrive at the correct determination about these questions and also any suggestions that you want to share with us that will help the Country never ever to slide into this same morass and treat loss of human life as common occurrence .Even one person whose life is terminated prematurely is one too many so once again I want to thank you . Unfortunately have to terminate this Section at this point. Thank you very much.

COMMISSION OF INQUIRY OF 1ST OF AUGUST 2018 POST ELECTION VIOLENCE GWERU

MEMBERS OF THE COMMISSION

**15. HONOURABLE KGALEMA MOTLANTLE- FORMER PRESIDENT OF
THE REPUBLIC OF SOUTH AFRICA- CHAIRPERSON.**

**16. RODNEY THOMAS DIXON QC-BARRISTER UNITED KINGDOM-
COMMISSIONER.**

**17. CHIEF EMEKA ANYAOKO- FORMER COMMON WEALTH
SECRETARY GENERAL, FEDERAL REPUBLIC OF NIGERIA -
COMMISSIONER.**

**18. GENERAL DAVIS MWAMUNYANGE- FORMER CHIEF DEFENCE
FORCES OF THE TANZANIA PEOPLE`S DEFENCE FORCE-
COMMISSIONER.**

**19. PROFESSOR CHARITY MANYERUKE POLITICAL SCIENCE,
UNIVERSITY OF ZIMBABWE- COMMISSIONER.**

**20. PROFESSOR LOVEMORE MADHUKU- FACULTY OF LAW,
UNIVERSITY OF ZIMBABWE -COMMISSIONER.**

**21. VIMBAI NYEMBA- FORMER PRESIDENT OF LAW SOCIETY OF
ZIMBABWE - COMMISSIONER**

RECORD OF PROCEEDINGS

SECRETARY : MRS MABHIZA

GROUND RULES

Members of the public including the press shall not address the Commissioners directly without an invitation to do so by the chairman of the Commission or myself the Secretary to the Commission. You are also prohibited from contributing from the floor without an invitation from the chairman or behaving in any manner which may disturb proceedings. Let me just say any disruptive behaviour may result in ejection from the room by the police or even arrest when it's out of order. Let us behave ourselves. Pay attention to the proceedings. Respect each other's views, not to interrupt witness as they give evidence but listen careful.

Whoever thinks they have got anything to testify you are free to whisper to us the Secretariat. We give you a chance to take to the witness's stand and testify. So the Commission is about to join us let us just sit and wait for them. Thank you very much for your attention.

A very good morning ladies and gentleman I would like to welcome all of you to a Commission of inquiry. I am sure you all know that this is a Commission of inquiry into the post election of violence that happened on the 1st of August this year. Today we are here to lead the probing to the Commission that was appointed by His Excellency to enquire into the matter. Before commence announce our proceedings let me start by introducing myself. My name is Mrs Virginia Mabhiza. I am the Secretary to the Commission. May I also take this opportunity to introduce to you the Chairperson.

I will not introduce to you the entire Commissioners but let me say to you I am honoured to introduce to you the Chairman of the Commission . Our Chairman for this Commission

Inquiry

Introductions

was appointed by his Excellency the President Honourable Mnangagwa on the 19th of September . The appointment was alongside his colleague Commissioners.

As we may all be aware our Chairman, sometimes I can say he need no introduction being the former President of the Republic of South Africa. I am sure we all know Honourable Motlantle. I will not go into detail introducing him but just for you to know that he has been honoured to Chair this Commission His Excellency of the Government of Zimbabwe. At this point in time allow me to call upon Honourable your Excellency Chairman to introduce your fellow Commissioners.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To audience)

Thank you very much for your words of welcome and introduction. Firstly I would like to thank each one of you for having made the time to appear before the Commission. We appreciate your presence here and your participation. We are as already indicated here as a Commission that was established by his Excellency President ED Mnangagwa . I take this opportunity also to introduce my fellow Commissioners. We will start from the right we have:-

- General Davis Mwamunyange- The Former Chief of Defence Forces of the Tanzania People's Defence Forces. Next to him is,
- Professor Lovemore Madhuku from the Faculty of Law, at the University of Zimbabwe. And to my left is,
- Professor Charity Manyeruke from the Faculty of Social Studies at the University of Zimbabwe and next to her is ,

- Mrs Vimbai Nyemba the Former President of Law Society of Zimbabwe and to the extreme left ,
- Mr Rodney Thomas Dixon who is the Queen`s Counsel- An International Law Expert from the United Kingdom. We also have,
- Chief Emeka Anyaoko- Former General Secretary of the Common Wealth, he is from Nigeria. Unfortunately he has had to travel back to Nigeria so he is not with us today. He has extended his apology.

We as a Commission we were established to enquire into the Post Election Violence which happened on the 1st of August 2018 and even though the events of the fateful day where to confined to Harare the Commission in its wisdom felt that it was important than necessary for it to come to Gweru to hear your reading of what could have occasioned the happening of the 1st of August. We believe that it is possible that some of you may have been in Harare on that fateful day or you have relatives who were in Harare on that fateful day and therefore your reading of circumstances which led to the events of that day would be useful to the Commission and also that you may have suggestions and proposals as to what steps need to be taken in order to avoid a repeat of the kinds of events that happen on the 1st of August going forward. As a Commission we feel that we will better feed immense from your insights with regard to these two main issues but if you are also in a position of any information that you believe would help the Commission better understand the happening of the 1st of August, please we are all ears do avail that opportunity to share that with us. With these words I now want to hand over to the evidence leader so we commence with the work of the day. Once again thank you very much for coming.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To Chairman)

Thank you honourable Chair. I will call our first witness of the day Mrs Virginia Mpati. Chair and members of the Commission if you may note that we do not have a recorded statement from any witnesses but so far we have 8 people who have registered to give evidence. It's Virginia Mpasu not Mpati like I had said earlier on.

VIRGINIA MPASU : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Mrs Virginia thank you very much for offering to give evidence to this Commission and like you heard the Chairman reiterating the terms of reference for the Commission May you please confine yourself to the terms of reference and tell this Commission that which you think will assist the Commission.

A I have taken note of that.

Q Yes if you may now start.

A Thank you to the Commissioners and also all the members who are in the gallery. I came in my personal capacity as Virginia Mpasu. As a Zimbabwean citizen. In my view that is in respect of what happened on the 1st of August, from all the political parties which were contesting in the harmonised elections. One of the leaders was speaking of unity.

The other contesting leader from these parties indicated that he was going to take unspecified action that is if he did not win or to spoil the party.

Q Can you just state the names of those leaders you are referring to so that the Commissioners can be assisted?

Inquiry

V Mpasu

A From what I am saying I was following what was being said by political leaders through television and also news. So from what I realised one of the leaders from the contesting political parties was encouraging people to unite. He was calling for peace and the other leader from those political parties was saying if he was not declared to be the winner he would spoil the party which we witness on the 1st of August. To me what happened from the 1st of August that leader was spoiling the party?

Q Which leader was talking of uniting the nation and preaching peace?

A From all the contesting parties it was the leader from Zanu Pf party who spoke of unity and peace. The leader who was talking of violence the one who was threatening to take unspecified action I think it was Nelson Chamisa from MDC Alliance. From his declarations and also considering the results in my view Nelson Chamisa encouraged people to engage into political violence that is my view. I am requesting the Commission maybe to go back and reflect on those clips what was being said and then the action which was taken after the results had been announced. That is all.

Q How old are you Mrs Mpasu if you do not mind?

A I am 59.

Q Thank you very much. I will hand you over to the Commissioner if they have any questions or clarification that they may want from you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q No clarity seeking questions thank you very much. Mrs Mpasu you may step down thank you.

A Thank you.

CORNELIUS MUPEREKI : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Mr Mupereki where are you ordinarily resident?

A I am resident in Kwekwe here in Midlands.

Q With the terms of reference in mind would please tell this honourable Commission that which you think will assist in its business.

A Let me say thank you for according me this opportunity to address and give evidence to the Commission especially centring on the events that happened on the 1st of August 2018. Initially I would say that was not an isolated event. The reason being, during the campaigning period we had political parties which were conducting or holding political rallies putting across their messages to the electorate as alluded to by the first speaker, we had ZANU PF a political party led by Comrade Emmerson Dambudzo Mnangagwa who was preaching, peace, peace and tolerance yet his counterparts in the MDC were talking about. '*Kana zvikaramba toita zvenharo.*' I will chronicle the events that led to that. Just to put the Commission into light as to really what happened.

Firstly I will cite what happened on the 26th of June here in Gweru. These events are recorded. Actually we have some police reports. On the 26th of June in 2018 about 50 MDC-T youth assaulted somebody who is a vendor at Mkoba 6 shopping centre and burnt his stall they believe that he was a ZANU PF member and they assaulted him. I hope he is here to give evidence.

Secondly we heard on the 16th of July members for the MDC-T demonstrated in Kweve on the City Centre and they had running battles with vendors as well and the police which led to the arrest of , by then he was a shadow MP Blessing Chebundo and some of his peers. On the 22nd of July. I really what to centre on this one, 22nd of Gweru, here in Gweru there was a rally here in Mkoba where the MDC youth leader Happymore Chidziva said two things that I would want to quote. Firstly he said, *‘Panyaya yekubiwa kwemavhoti tichapedzarana pamusoro payo. Mnangagwa tiri kumukwekweredza musi wa 30 July. Kana tati chatsva, chatsva.’* Interpreted as, ‘On the issue of stealing the votes, we will deal with that. We are going to drag or deal with Mnangagwa on the 30th of July. If we say, ‘Let us deal with him. We will deal with him.’ To me the part at which he said if we say let`s deal with him we will deal with him. It`s like a code that they would just invoke so that their followers would rise up. That is my opinion. He went on to say, *‘Pakauya result isingatatarisirwe, hokoyo Mnangagwa, hokoyo,hokoyo ZEC hokoyo.’* Interpreted as ,He said, ‘If the results that they do not expect which were not favourable to them were to be announced. He then warned Mnangagwa saying, ‘Be warned Mnangagwa be warned. ZEC be warned.’ That was Happymore Chidziva.

Q Where was it were Happymore Chidziva was saying this?

A At a rally in Mkoba.At the same rally, his ‘President’ or his party’s President Nelson Chamisa declared that, *‘Kana ndikasahwina nyika ino haitongeke.’* He said *‘Hamuitonge.’* I am quoting him verbatim.’ *‘Sadza racho haridiyiwe ndinoridira jecha.’* Translated Nelson Chamisa had to say this, ‘If I do not win, if I am not declared at the winner then you shall not celebrate. I will spoil the party.’

Inquiry

C Mupereki

If you look at those utterances, in my view they were meant to incite the general citizen reaching his followers to rise up against the government which then culminated into the events that happened on the 1st of August. I said earlier on what happened in Harare wasn't isolated. The reason being the same day here in Gweru it happened.

On the 1st of August there was a demonstration here in Gweru where about 60 MDC Alliance demonstrated singing, '*Zvikaramba toita zvenharo.*' The meaning of the song. I shall interpret again the meaning of the song. They were singing saying if we are not declared as the winners we shall use violence or force. During the demonstrations the MDC Alliance members destroyed vendors wares. Their makeshift selling points resulting in panic amongst members of the public. The violence protest ended after the intervention of the Zimbabwe republic police who came with water Canons and Public Disorder Management Personnel.

Q Maybe if I may clarify was this here in Gweru?

A Yes it is here in Gweru.

Q You may continue.

A Thank you. So if you were to look back into the events that happened before the elections, during the elections it was so peaceful, then soon after which is the 1st of August, you can tell that it was a well coordinated and well planned occurrence. Unfortunately. Maybe they did not have the number and following to cause the intended damage. So that the nation could not be governable. That is all I may say for now.

Q To your knowledge was any action ever taken against those that were making those inciting questions .

A I am not too sure if any action was taken but I believe some reports were made. For instance the Kwekwe demonstrations there is a police report that was filed and the suspect were picked up and questioned. I think there are still pending cases there.

Q Thank you very much. I will hand you over to the Commission if they have any questions and clarifications' that they want to make.

A Maybe before you hand me over, I just want to add a little bit concerning the terms of reference of the Commission where, like you said earlier whether it was necessary for the police to intervene and it is my sincere belief that it was in order for the police to intervene because had they not intervened, damage to property and loss for life could have been more than what happened. Here in Gweru there were no losses of life but the potential was there because these youth appeared to be so menacing and violent. Thank you.

Q Thank you.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Mr Mupereki you spoke about demonstrations that happened in Gweru.

A Yes.

Q Where there any causalities, was there any loss of life, damage to property?

A Damage to property yes. Actually vendors lost their wares and some stores were destroyed. Loss of lives no. Not that we have on record.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Did you by any chance see what happened in Harare whether it is T.V or what?

A Yes I saw it on television. Actually I was following it very, very closely.

Q The demonstrations?

A Yes I saw them in television.

Q You talked about demonstrations that happened in Kwekwe and Gweru.

A Yes.

Q Is there anything that is comparable.

A I can safely say actually say yes. There is, they were kind of well co-ordinated. Infact about the Kwekwe thing we have members of the MDC. I can sight one Mabika in Kwekwe who actually went to Harare to join demonstrators and he came back injured. I think somebody in Kwekwe will give that evidence.

Q What else is there? I am looking at anything that you think was similar.

A First the singing, '*kana zvikaramba toita zvenharo.*' That was being sung in Harare and two by virtue of holding the demonstrations simultaneously in Gweru and Harare, it means somebody wanted some spontaneity somewhere.

Q Are you saying that on 1st of August there were also demonstrations in Gweru and Kwekwe?

A No in Gweru and Harare. Kwekwe people were bussed to Harare they didn't demonstrate . Infact they wanted to do it. Unfortunately at a house where they were congregated across the street there stay a member of the Zimbabwe National Army and it so happened coincidentally that he come with an Army truck. I think he was

on routine patrol or whatever. When they saw the truck they jumped through windows and ran away.

Q Jumped through windows from where?

A From the house that they had congregated it's a house that belonged to an MDC Councillor in Mbizo 12. Mbizo 13 sorry. Mbizo 13.

Q Maybe you need to share more light. What happened to the doors?

A What happened is they were assembled there maybe they were planning on going into the street. It's just a supposition because actually they were congregated there, then the army guy brought his truck across the street. When they saw the army truck they then ran away. All of them. We believe that is what diffused the Kwekwe planned demo.

Q What numbers are we talking about at the house?

A The ring leaders. Those were the ones who were congregated there. The were about 13,15.

Q I am trying to see why they used windows.

A Because actually the truck was parked at the gate so they had to go through the window.

Q So that is how they opted windows?

A Yes.

Q There was no door?

A The door was in the front, the truck was in the front.

Q Ok. Thank you.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much for your testimony. Did you see any Zanu Pf supporters staging any demonstrations or taking any action in response to the demonstrators?

A No not at all. Infact our President, who happens to be the President of Zanu PF has been saying, peace, peace so from Zanu Pf we never saw anybody who participated in the demonstrations.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Just two areas of clarification. The first one relates to your stating as a fact that the MDC members demonstrated on the 1st of August in Gweru.

A In Gweru yes.

Q In what basis can you say those people who were demonstrating were MDC members?

A They had their t- shirts. They were wearing their party regalia and some of the leaders. Some of their leaders are identifiable but they were wearing their party regalia.

Q So your evidence is that if you find a person wearing a t-shirt is that the basis upon which you concluding that these are MDC people?

A Actually during the campaign period or post elections like we were on the 1st of August, one will be wearing his own party regalia. it`s rare for somebody to put on the opposition party`s regalia especially when waiting for results. To me it doesn`t make any sense.

Q It`s very important for us in the sense that we have heard evidence from person that have said that people were demonstrating were just people who were unhappy with

the results and that they may have been putting any t-shirt but that doesn't mean it is members of any political . You need to help us more on that.

A Firstly they couldn't have been unhappy with the results because they had not been out yet.

Q Is it your evidence that the police were able to deal with the demonstrations without the assistance of the military?

A Yes they dealt with the violent part. Can I put this again on record? When the police came in, here in Gweru we have some two or three military bases and army trucks, moved from time and again. When the police came through actually some military vehicles were just passing through town and that is when the demonstrators retreated. Remember during the election time, the police had a skeletal staff because most of their members had gone to polling stations. They were manning or running the elections so certainly they needed to be beefed up but fortunately here in Gweru it was just the presence of the army impassively that delivered the blow to the demonstrators.

Q I think Mr Mupereki that it must be a very important area to all of us. You must be aware that terms of reference require us to look at the role of the police and also to look at the circumstances that might have led the military to get involved and the information you are giving us from your evidence shows that you were here in Gweru. There was a demonstration. The police got involved but you are also making some reference to some military. Was that a coincidence that the military were just driving around or your view whether the military were involved because that is important.

- A I do not think they were involved per se. Actually it could have been coincidental. But the one in Harare, in my opinion as a Zimbabwean citizen I believe it was very necessary that the army intervened the reason being if anybody watched what was happening on television you can even see the videos, those crowds were menacing and they were destroying property and victimising innocent citizens. Like I said earlier on, during the election periods the Zimbabwe Republic Police staff was so thin they were participating in the administration for the elections. Not administration per se but in the security in elections. So in my view they needed extra men power.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

- Q Sir thank you for your testimony. The demonstrations here in Gweru how many people were involved in that?
- A They were about 60. It's an estimate that they were around 60.
- Q This was in the centre of the CBD?
- A Yes. In the CBD.
- Q How long had they been before the military came through?
- A Well I cannot say in terms of time. I cannot really say in terms of time. I may need to get my facts right there as in how long they have been but I think they came towards the end of the day around, I stand to be corrected. I will need assistance from somebody from Gweru. Can I?
- Q Yes we want to try and find out what happened so wherever we can information please.

WITNESS TO GALLERY

- Q Anybody from Gweru please?
- A Around 5 the crowd is concurring.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q You said they passed through then did you know whether they did stop or they just drove through?

A Actually I am being told there is a military base righty in town by the ZNA there so 5 o'clock they would be knocking off and certainly they drive past town.

Q Did you see or do you know whether they stopped?

A They did not stop.

Q Do you know if any live ammunition was fired as warning shots?

A No warning shots, no live ammunition. None whatsoever.

Q By the police?

A No gunshots. Actually they had water cannons.

Q That is the last thing I wanted to ask. Did the water cannon help to disperse the demonstrations?

A I suppose so considering the numbers. If I am just taking you back a bit. In the old dispensation, the police had lost a lot of respect with the citizens. The citizens respect the military. If they see a soldier or two passing through, if they were thinking of some misbehaviour, they kind of behave. So by the virtue that they saw those trucks passing through they just then decided to draw back but they had already caused the damage and mayhem in town.

Q That's the finally thing I wanted to check. What is the damage that you saw or read about?

A Like I said earlier on. They were vendors in town. Most of them post of their wares and their stall were turned upside down. That is what they were doing.

Inquiry

S Sungayi

Q Any shop window that was broken or cars attacked?

A Well, note that we noted.

Q Thank you very much Mr Mupereki. There are no further questions you may step down sir.

SHEPHERD SUNGAYI : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Mr Sungai you confirm you are a resident of Gweru.

A Yes. I reside in Gweru town in the CBD?

Q You are a member of the Vendors Association of Gweru?

A Yes I am a member of the Vendors Association. At the same time I am also a vendor.

Q And with the terms of reference of the Commission in mind would you please tell the Commission that which you think may assist the Commissions in it's business? And without necessarily repeating that which you think, the Commission has already been told but you may just confirm it as well.

A Thank you the honourable Chairperson, Commissioners, members from the gallery, like what I alluded to earlier on, I am a Vendor. Coming to the 1st of August the indecent occurred whilst I was in town. Without necessarily going back since some of those things have been already mentioned when I first saw people who were running and those who were singing I was in third street opposite City Council Works yard. After 3 minutes a group of about 10-15 people then emerged whilst they were singing, so they told people who were conducting their business who had market stalls that they were to proceed to Midlands Hotel because to them everything was upside

down. This group they were running singing at the same time. They would talk to those people who they think they knew and others would also join them.

There was an incident where this group turned down two tables. I would not know on whether it was a misunderstanding I do not know. With my colleague we did not bother to find out the reason why those two tables were turned down but we followed them. That is following those people who were running and singing at the same time. As we followed them to those who know the Midlands Capital City which is Gweru as we were approaching Midlands Hotel, that group some of them were singing. We passed through from the side where there is Jet shop going towards OK shop. As we were crossing Main Street, the doors, the roller doors from OK shop were being closed. At the same breath there was a group of people who were singing at the Midlands Hotel. They were saying let us proceed to Choppies shop.

As they were crossing Robert Mugabe workers at Choppies shop realized that they were people who were coming towards their shop and they closed the doors to their shop. From where we were standing, closer to a parcel counter at OK shop, they were also vendors who sell tomatoes, onion and they were actually complaining citing that their fruits and vegetables had been destroyed. One of them was complaining saying that all their bananas that she had, had actually been taken by people who passed through running and singing.

Q Were you able to identify these people? Who were they?

A Personally I did not manage to positively identify anyone because I was seeing them from a distance but I have the names which were being mentioned.

Q I mean were they members of a religious group, where they members of the community, where they members of any political party from what you saw.

A Even though I am not certain, but I am ruling out a possibility that they were maybe nyau dancers or members from a certain church. The reason why I am, saying so is that from the songs which they were singing, those same songs were being sung by MDC members prior to the elections.

Q Where you able to tell why they were demonstrating or were they saying why they were doing what they were doing?

A Yes. Maybe to explain what first took place as we were still seated at 3rd street, after a certain announcement had been made, there was a group of people which ran into town celebrating, saying what they wanted had been fulfilled. The reason why I am saying these people where MDC Alliance supporters is they were singing this song, 'If we do not succeed.If we do not get what we want we shall use force to get what we want.'

Q So after Choppies shop had closed their doors what happened to this group?

A They left .Others were walking and others were singing, where they then met with the group which remained at Midlands hotel. When they gathered at Midlands hotel they were police officers wearing police uniforms who were moving around doing their business as usual. By then as they were gathered at Midlands hotel, from the look of things, they had nothing to do with the police officers, so we were assisting in covering the tomatoes and vegetables which were being sold by vendors which were left there. When water cannon come they showed that they were no longer free to demonstrate so they walked away from the water cannon going towards total service station which is in town Puzey Payne.

- Q Would you link the demonstrations that happened in Gweru with the demonstrations that happened in Gweru on the same day?
- A Yes. Why am I saying so? From the messages which we were seeing. Those messages were being sent from twitter, whatsapp and other social media from the MDC Alliance leader Nelson Chamisa. His message what he was actually inciting the members of the public to do it was the same message which was also witnessed in Gweru and Harare.
- Q Other than the two tables which were turned down and the tomatoes was there any other damage that you witnessed here in Gweru?
- A Property was not destroyed. No casualties in Gweru but maybe I can talk of loss of business as vendors and also the property which we lost. I am saying this now on behalf of other vendors.
- Q Thank you very much. I no longer have any questions for you. I will hand you over to the Commission if they have any questions for clarification that they may require from you.

COMMISSIONER VIMBAI NYEMBA (To witness)

- Q You said there was a certain announcement that was made well after the group started to make noise saying, '*Zvikaramba toita zvenharo.*' What announcement was made and who made the announcement?
- A The person whom we managed to see and also identify came from a rank. Main bus terminus in Gweru. At the same I was following the social media were messages where being sent by Nelson Chamisa and other MDC leaders.
- Q Was this person a member of MDC or a member of Zanu Pf or any other political party?

Inquiry

S Sungayi

A As far as I am concerned, that person is a member of the MDC Alliance so he called out making the announcement as he was coming from the main bus terminus in Gweru.

Q So in your own wisdom and knowledge would you be able to tell us who were the people behind the demonstrations of the 1st of August?

A As I was following this case, however part of the evidence or the information has already been tendered to the Commission, but on several occasions as we were passing at times, words which were inciting violence were actually being uttered. All these words inciting violence were coming from the MDC Alliance leadership.

Q So are you saying it was the MDC-Alliance which was behind the events of 1st of August?

A Without doubt I can confirm that.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q You said that there was water cannon. What happened to this demonstration with the group at the Midlands hotel?

A The protestors together with us, when we saw the vehicle moving slowly closer to Barclays bank. The protestors who were gathered at Midlands hotel, moved towards Puzey & Payne. We took the Western direction going towards the Registrar's office.

Q Did that end the demonstration?

A In a way I can say yes because that group which had gathered actually dispersed.

Inquiry

S Sungayi

Q From your knowledge as a vendor and leader of the vendors did anything else happen after this group had dispersed. Did you then experience any other protests on that day?

A As we were getting closer to a shop known as Pamora then people who were behind us, started calling saying, 'soldiers, soldiers.' We waited for a short space of time were we then saw an army vehicle which was coming slowly. We then turned from that shop which is known as Pamora were we then took the direction to the bus terminus for Commuter omnibus which ply the Mkoba route. We then met those who come using Robert Mugabe. They were going towards Cabs. They told us that there were no more protestors.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much. No further questions. You can step down.

A Thank you.

NUGGET KENNY FARAI MANYIMA : SWORN STATEMENT

Q Mr Manyima where are you ordinarily residence?

A Here in Gweru. Lundi Park.

Q And how old are you?

A 62.

Q With the terms of reference of the Commission would you please tell the Commission that which you think may assist the Commission in its business.

A Thank you very much. I am a retired educationist. I love people living in peace. I love and enjoy to see happy endings .I will give my evidence basically showing the social

aspect of the things that affected the social life of people in Gweru. As I have alluded to, I enjoy seeing people living in peace. I enjoy seeing people living as good neighbourhood. As we were building up to the harmonised election, we had various political parties that were in the field one party I can say the ruling party preached peace, political tolerance, development of the spirit of brotherhood, whilst on the other hand, the other main part that is MDC Alliance, they preached hate, they preached nearly everything destructive. They preached people to go and fight one another and remember as an educationist I have got a calling to make people live together and this actually affected me.

I will start by maybe in my own way showing that violence did not start with the MDC Alliance on the 1st of August. Here in Gweru when they were doing their Primary Elections in Chiundura there, they fell on one another. They fought on their own. There was violence amongst themselves and there is a police report to that effect. In Mutapa again here in Gweru when they were conducting their own primary elections, they got into each other's neck. They fought on their own. There is a police report lodged with the Mutapa Police Station. I have earlier on said we love peace.

We want to live as brothers and sisters. If we say political parties are formal organisations, it follows to say, these political parties as formal organisations they have established and shared norms and values. If I were, as I was a teacher, an old teacher for that matter. If I were to teach my kids to greet elders when they see them, they will just do that because they regard me as a role model. We also go back to the political parties, if the political part of Zanu Pf preached peace, we did not witness violence from this grouping. If the political of the MDC Alliance preached violence,

hatrage , this definitely I'm convinced as a teacher this was going to permeate within the organisation and the end result is what we saw on the first of August.

I also want to say the incidents that happened in Harare on the 1st of August, we cannot take it in isolation. It was a planned thing, well planned because when we say political parties are formal organisations they have got a planning department.

I want to believe this was well planned because of the utterances that were said at Mkoba rally. Those were said by one of our members, one of the contributors here I don't want to go through them but those came from the mouth of the MDC Alliance leadership which in turn as a teacher whatever I teach my children this is exactly what they are going to do. They preached violence at Mkoba rally by the way Mkoba stadium is only a stone throw from here. They preached violence and this is the violence that we witnessed now in Harare a few weeks or a few days later. Method of deduction, the originators of the violence are those that pronounced it clearly during the day at Mkoba stadium. I also want to say I believe in uniting people. I believe in seeing people working as a team. In seeing people working happily as brother as a democratic atmosphere. This is exactly what was preached by the other party yet the other party was preaching the opposite. When we heard of the disturbances that the vendors alluded to as old people, I am a pensioner, I got traumatised. Gweru is a small town. When disturbances were now spreading to Gweru then as pensioners what were we going to do. As pensioners it meant if what they had said at Mkoba stadium that they will make this country ungovernable it means we were no more dismissive.

Inquiry

N .K.F. Manyima

I want to thank the law enforcing agency for the role that they played. I cannot imagine that if it were not for them. Harare scenario would have been repeated here in Gweru.

Q Thank you very much Mr Manyima. Unless you still have something that you think the Commission should know.

A You can now destroy me with questions.

Q In fact you are not going to be cross examined. They will just be asking questions to clarify certain issues.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you very much for your testimony. I wanted to find out from you whether you know anything about the military driving through the town of Gweru on the 1st of August.

A Having seen them or having heard them?

Q Either you saw them or you heard from others. What role they played?

A No. No-one told me about that.

Q And you saw in Harare that the military were there in the streets. Did you hear anything about or any information you can help us with.

A Yes in Harare I saw it on the television. You see my background. I said I am a teacher. I have got a teaching background. Where kids are not behaving well you need to put that correct. Well as a teacher definitely where we have kids not behaving well you go there and exercise discipline.

Q And this in relationship to Gweru it was the police that stopped it and it was successfully.

A I have only heard that the police were in town but we cannot say with certainty that the police were there for that but the police are always moving up and down doing their patrols in town.

Q Thank you for your answers.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Mr Manyima I have only one question. All I want to know is are you aware that prior the elections , the political parties which contested the harmonised elections signed a peace accord and if you are aware of that , do you think it was an enough measure to discourage the kind of speeches and statements that you alluded to, of hatred and violence.

A Yes.I am 100% for the idea that that code meant to put people together, for people to share the same vision about their own country, about our country. We are all Zimbabweans and therefore as Zimbabweans we must view our country from the same perspectives of making it moving forward. It was a common denominator that would bring all the political parties together and address their people using the same languages. Using the same words and whatever that would bring people from all political divides together, from all religious grouping to bring them together but it is now surprising that after signing this accord, a political party leader chooses to relegate what he had told the nation that he was standing for and chose to do the negative. Very disturbing.

Q So this peace accord was left to individual political parties to ensure adherence to. I am sure if one observed the peace code in the breach what was the responsibility and

obligations of the ZEC for instance or the peace and reconciliation for instance. All the other secretaries to the peace accord?

A Political parties when they go towards the elections it's very difficult to control them and the political membership will depend solely on what they get from the political leadership. By the way I am not a politician. I am a retired teacher. The political followers of a particular party will take examples and the way to behave from what their political leader says yet behind them the political leadership were very, very clear that they had sign this political pact which would bring all Zimbabweans together and move as one entity.

Q What I want to establish is whether going forward they believed to have one of the Commissions such as the ones that are based on the Constitution whether they backed self to the reasonability for ensuring that the terms of the peace accord are appeared or not. I am trying to look forward that if you have any suggestions on how to strengthen.

A I would give that responsibility to ZEC. Political parties are formal organisations. They must look after their own people. They must do what the Constitution expects of them. In future there is nothing wrong as we grow into our Democracy, that all the 23 political parties campaign at one gathering. We are capable of doing that as Zimbabweans minus the Alliance.

Q Thank you very much no further questions.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Just a follow up question. I understand that you are a retired who remained a teacher.

A Definitely.

Q I want to establish whether they were any areas outside Gweru but around Gweru were the demonstrations that you talk about that happened in Gweru could have happened and I am thinking of the rural areas.

A Before the elections yes I have stayed in Chiundura when the Alliance was holding their primary elections. They actually fought amongst themselves. They had running battles in a rural set up. Imagine the impact now, the rural fox.

Q Ok.

A Yes that is the only one that I know.

Q Thank you very much.

JOSEPH MADYAGWAI : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Mr Madyagwai where are you ordinarily resident?

A In Gokwe 200 km away from here.

Q May you please proceed to tell the Commission that which you want them to know and in view of our times if you may just be brief and to the point since a lot of people walked in after we started ,we also want them to have a chance to testify.

A First and foremost with regard to the 1st August mishaps I would like to convey my heartfelt condolences to the bereaved families in Harare as well as to the whole nation of Zimbabwe for that mishap. I am very convinced and happy as per terms of

reference that you have given to us honourable chairperson. I am just dashing into the suggestions. My personal recommendations as a law abiding citizen of Zimbabwe that if you can take into consideration my submissions as you make recommendations to the appointing authority I will be a very happy citizen in such a matter that this incident cannot be repeated. The bereaved families of the Commission may take into cognisance the upkeep of the remaining issues, the children, relatives, in any form in which the Commission might consider to be appropriate although I know it very well that there is no compensation for lost lives.

And more so to that effect as part and parcel of my submissions for recommendations, it is within the confinements and dictates of our Constitution of Zimbabwe that no-one should take someone's life either by accident or by whatever nature. So to the perpetrators or to the personnel who accidental or wilfully made that accidental discharge leading to the loss of lives. May the course of law take its course.

It is also my humble submission and recommendations that if the Commission can recommend to everyone in Zimbabwe to adhere and observe the dictates of the Constitution. Why am I saying so? Amongst your terms of reference on the aspect of the deployment of the military to assist the policies the Constitution clearly states that whoever has got the powers it's cited in the Constitution. I am recommending that the Commissioners visits section 213 of national Constitution of Zimbabwe. I do not want to waste much of your time. Mine are submissions and recommendations only because the narrative had been done and part of the narrative from what I saw on ZBC National Television even here Zimbabweans we are very good at dramatising things which are very very serious. It does not need logic for us to dramatise on serious

issues. Amongst my recommendations the Commission can try it's level best to address to the appointed authority that in Midlands we met a citizen who is requesting that as Zimbabweans we demonstrate peace by loving one another although we have different affiliations. It's also given in the Constitution.

This also for the Commission, it's my submission and recommendation to observe Section 214 of the Constitution of Zimbabwe. So is Section 110 (2) paragraph G. It's my request that the Commission if possible takes that into cognisance, they will have most of the answers.

Last but not least it is Section 232 of the independent Commission of our nation whereby we have the Zimbabwean Human Rights Commission, the Zimbabwe Gender Commission. I am very glad that the Commission also comprises of ladies here there including the secretariat. Secretariat I am so impressed, so much that these commissioners, the other last Commission is the National Peace and Reconciliation Commission. Why am I giving such a narration? It's because after the submission of your reports to the appointing authority I look forward as a law abiding citizen to be happy to live in harmony with my neighbours. To be sharing public transport, whatever utilities we might have within our communities. I also lastly recommend that the Commission makes recommendations which can leave Zimbabweans united. Not only the borders of Zimbabwean regionally within the SADC region so that we maintain and increase good rapport as neighbouring states and globally in the global village so much that as we are trying to reengage in to the International Common Wealth or into the international community because we can't live in isolation because if ever this Commission gives a very farfetched negative adverse report we risk even

Inquiry

J Madyagwai

having visitors. I think with those submissions honourable Chair, I think I have done justice to myself as a law abiding citizen. I thank you.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Thank you very much Mr Madyagwai. I will now hand you over to the Commission for any clarifications.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Thank you very much for your testimony and the recommendations that you have shared with the Commission. I would like to know from you if you have any particular advice or recommendation relating to the electoral law itself and the electoral process in Zimbabwe so as to avoid recurrence of violence in future?

A. I would like to thank you for elevating my stay here in the podium. That question really calls for peace, unity and reconciliation. The engagement of these other Commissions which I have already stated before working together with the political parties ironing out all other differences and enacting relevant possible statutes then I think we can possibly forge forward and work harmoniously as Zimbabweans. Let me elaborate, I said that each and every Zimbabwean citizen no one is above the law. We must observe and adhere to the dictates of the law, read it, understand it, study not just merely reading it then avoid dramatizing on sensitive issues which need oneness. Sensitive burning issues for instance fuel shortages, the economy, so we need laws.

Through you Chairperson, if I may be excused I think I have done justice.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Inquiry

J Madyagwai

Maybe if the members of the public may be told to observe the ground rule. Maybe if you may remind the members of the public to observe the ground rules.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I want to take you back to recommendations which are very helpful; you have indicated that you would want the Commission to look at Section 2.12 of the Constitution?

A. Yes Sir.

Q. Do you have anything specific about that section that you have referred to? You said 2.12 you are looking at the deployment of the members of the military?

A. Yes it is a recommendation for the Commission to go through it, to read it and study it and make recommendations not to come from me. That's the recommendation.

Q. Okay, that's what I wanted to understand. I thought you had some specific proposal recommendation but your recommendation that we look at the section.

A. Yes.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much you may step down.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call the next witness Mr Kudakwashe Hove

KUDAKWASHE HOVE : SWORN STATEMENT

Q. Where do you reside?

A. In Mberengwa.

Q. Mr Hove maybe for the benefit of the members of the Commission who are not familiar with some of the places would you tell the Commission how far Mberengwa is from this place?

A. A distance of about 120 km from here. It is about 200km to my home.

Q. Would you now tell this Commission what you think may assist in its business? And also for the benefit of others who still want to testify. May I also remind you to be more brief and to the point so that others will also get a chance to address the Commission.

A. I am a resident of Mberengwa being a retired Headmaster as well. I want to live in peace in my community with other people. On the 10th of July it was announced that there was a rally which was going to be held at Mataga which is the growth point of my place. The rally was being held by MDC Alliance. We had already gathered at the growth point and at around 2 the ones who were to address the rally then arrived. The one who was addressing the rally was one Nelson Chamisa. In his opening address he announced that the MDC Alliance had already won the elections and the people who were gathered there ululated. He announced that if the results were not going to be in favour of ZANU PF they were going to pour sand in the sadza that pollutes translation meaning to say generally, they were going to spoil the party. Considering that sadza is the staple food here in Zimbabwe we became worried on how the sand was going to penetrate the sadza. He went on further to say that ZANU PF had failed the economy

and we should look at the state of the roads in Mberengwa. He went further to elaborate that the roads had been destroyed as well as the rivers and no one was attending to that. He went on to say that if we voted for ZANU PF we were going to languish in poverty and the country was not going to be governable.

They were many youths who were gathered at that rally and he said so many things. There is a whatsapp group which is formed here in Mberengwa, it has so many youths and we were also added into that social platform. We discovered that they were some youths who were present at that rally who were already in Harare. In my view I thought that the rally was announced so that some youths will be led to Harare. I also have the names of the youths who announced that they were already in Harare. That is all.

Q. This social media group you refer to is it for the whole community or for a political party?

A. It has a title of Mberengwa North and they are different people there. Everyone is there.

Q. Would you say these youth members of this social group who were now reporting back on the group that they are now already in Harare would you say they are just ordinary Mberengwa North citizens or they belong to any political party?

A. These are MDC Alliance youth members and they are known by everyone.

Q. But the social group is for everyone even ZANU PF members and all other political party members?

A. As I have alluded that it comprises of every resident of Mberengwa.

Q. Thank you very much I no longer have any questions for you I will now hand you over to the Commission if they have any questions for clarification.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to ask you whether those youths when they returned to Mberengwa were you able to converse with them in relation to what they were doing in Harare.

A. I did not get a chance to talk to them because they are not easy going people and some of them I did not see them when they came back from Harare.

Q. I asked you a question because of the way people live in the rural areas at the growth point they normally gather at those growth points for different reasons either shopping or drinking so I was saying that, was they by any chance that they reported to anybody in any of those social gathering about what happened when they went to Harare. My understanding is that you then said no he didn't. Am I right?

A. Yes.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I just want to establish whether what you are saying to us is that they were young people from Mberengwa who went to Harare and were in Harare on the 1st of August?

A. Yes.

Q. And your basis for that evidence is it what you saw in the whatsapp group or any other form of additional evidence?

A. It's from the whatsapp group.

Q. But would you be able to say with really conviction that not just seeing it on social media but you are sure that they were young people from Mberengwa who were in Harare on the 1st of August?

A. There is one Nation Shoko who was said to be in Harare.

CHAIRMAN KGALEMA MOTLANTLE

No further question. You may step down.

WITNESS EXCUSED.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call upon witness number 7 Mr Erasmus Jaya

ERASMUS JAYA MATIVENGA : SWORN STATEMENT

Q. Mr Jaya where do you ordinarily reside?

A. I reside in Chirumanzu.

Q. Where is that?

A. Eastwards direction from Gweru.

Q. How far is it from Gweru?

A. 120 km from Gweru.

Q. Would you also like to tell this Commission that which you want them to know which relates to their business?

A. On the 5th of July it was announced that they was going to be a meeting which was going to be conducted by MDC Alliance. As a resident of Chirumanzu, my place of residence is close to a soccer stadium so on the day in question I was walking around the area. They were people who arrived at that place who comprised of youths and elderly people. As they were awaiting the arrival of the guest the person who was to come there. At around 4 to 5 then one Chamisa arrived there. Considering that it was 4 to 5 there was not such a big number or turnout of people. At the address of the rally there were machineries which were being used in announcing the information which was being relayed in the form of the speakers which enabled people who were not even at the rally maybe a distance of about 2km to hear what was being addressed. The guest announced that they had already won relating that to the residents of Mvuma. He said they were already in the office as he was addressing that rally and he went on further to say that if their vote was going to be stolen they were going to spoil the party. He went on further to say that in our numbers we were going to go and wrestle Mnangagwa in Harare if I would not been given the chance to take up the office. That was what he said and then he proceeded to another rally. In my view the address seemed to encourage or to persuade that if the outcome was not going to be in their favour they should be ready to take any action. That is all.

Q. You confirm Mvuma is in Chirumanzu?

A. Confirmed.

Q. How far is it from here?

A. 120km.

Q. And this was said on the 5th of July is that correct?

Inquiry

P Mufaro

A. Yes.

Q. I have no further questions for you but I now hand you over to the Commission
should they have any questions for clarity.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Could I just ask whether or not there is a recording of this meeting speech that you mentioned?

A. I did not make any recording since I was not at the place where the announcement was being made as I was at a distance under a mango tree.

Q. How many people attended the meeting? Do you know that?

A. They were not so many people who had attended that meeting they were just few people.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much for your contributions.

NO FURTHER QUESTIONS.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call upon Mr Pomerai Mufaro.

POMERAI MUFARO : SWORN STATEMENT

Q. You say you reside in Zvishavane?

A. Yes.

Q. How far is Zvishavane from here?

A. 111km.

Q. In view of what you have already heard and with the Commissions' terms of reference in mind would you please tell this honourable Commission that which you think they ought to know which relates to their business?

A. As a resident of Zvishavane and considering what happened on the 1st of August putting into context the political parties and people who were contesting I discovered that, whilst ZANU PF was preaching the gospel of peace it was different with MDC as they were preaching the gospel of violence towards the elections. Vice President Chiwenga came addressing on the issue of command livestock, there is one Leopold Mudisi who was candidate for MDC Alliance in Zvishavane as MP. Taking into account on events that took place on the 1st of August I am saying that MDC alliance had shown the signs of wanting violence. We were at a bar when that person chased away people who were clad in ZANU PF regalia and actually opened fire twice in the air. After that that caused those youths to disperse because they did not know maybe he was the owner of that bar for a person from MDC. The police came to the scene and they interviewed us on what had taken place and we told them that it had come to us as a surprise to see him opening fire when he saw ZANU PF youth members who were clad in their regalia. That is all that I can say in relation to what happened on the 1st of August.

Q. Would you remember the date when this incident took place?

A. Sometime in July I do not recall the exact date.

Q. I have no further questions for you but I now hand you over to the Commission should they have any questions for clarity.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to ask you some questions. You talked of a Leopold Mudisi. Do you know him?

A. Yes.

Q. Did you say that he is an MP or he was a candidate I am not sure what?

A. He was a representative of MDC Alliance.

Q. Is he now the MP?

A. He lost out to ZANU PF.

Q. I want to understand the issue of the gun whether you have seen him with the gun or it was on that day?

A. It's a pistol and it is actually registered, he is licensed to possess it.

Q. Did you say that he is licensed or you think that he is licensed?

A. Had he not had that licence the police would have actually arrested him.

Q. Do you know of other people who have guns in that area or it was your first day?

A. Since he is a businessman it was only on that day that I had sight of it.

Inquiry

T Maturure

Q. Would you show by demonstration the size of the gun?

A. (Witness indicates to the Commission). 15 cm.

Q. Did you see where he took it from?

A. From the pocket of his trousers as per indication.

CHAIRMAN KGALEMA MOTLANTLE

No further questions you are excused.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Honourable Chair from the list of witnesses that registered in the morning I will call upon the last one Tariro Maturure.

TARIRO MATURURE : SWORN STATEMENT

Q. Ms Maturure where do you reside?

A. I reside in Bulawayo and my rural home is Midlands. I reside in Bulawayo. I was at the event yesterday and because of the technicalities I was not afforded the time so I made my way to come here. I want to be grateful that I have been given the opportunity to speak.

Q. Thank you. In view of what you heard from yesterday and what you have heard today I would ask you to help this Commission with that information which you think may be helpful to the Commission in view of their mandate and if you can be brief and to the point in view of the time constraints.

- A. First of all I want to acknowledge and appreciate how the Commission handled Bulawayo yesterday. This is what made me come to Gweru and present what I have. What I have is a recommendation and also I believe what I will testify will help the Commission to get the hard evidence that they want and how they will get on to that evidence.

I will start off by saying if the Commission is going to make headway with the what they have to gather with the killings that have taken place in our country the first thing that they have to do is seek the President, ask him to immune the security forces, this is the CIO, the police, the army, ZANU PF employees. Immunise them so that they are able to relate events and testify because the problems that we encounter they are coming in from within systems. I will back this up with my own personal experiences of what I have gone through and what I have experienced practically. This is why I am recommending that the first port of call is for the President given that this Commission has been forward. Before, first time when I heard about it I thought this Commission is just like any other. It was yesterday when Bulawayo was handled and the gukurahundi issue was talked about, the way it was handled by the Chairperson gave me the determination that I would come and speak and speak things as they are. When I give this that I am saying immunisation I am talking from experience. I was invited to work with ZANU PF I as JCI president for Junior Chamber International in 2004. I was also a businessperson and I was invited by ZANU PF to the National Strategic Board as a freelance. This was voluntary work. As I was doing that work we would team up as researchers and we would team up with army officers. I teamed with a General and one thing I know about the Generals, with the generals that I

Inquiry

T Maturure

worked with, when they are given work they do not, if they are told to go right they don't go left they go right. If you are given \$10 and you go and use it for your drink if you buy your drink for 10c or a \$1 they bring back their change \$9 and what they would stipulate is we follow orders. I do not do my own orders. This is the team work that I worked with when I worked, this was my involvement with the army as researcher. One thing I am fully aware of as well in that research, when you go down the army has an intelligence, they know what's on the ground. Right here you would have the officers but you would not know that they are army officers. They will know before an event occurs that this event is going to occur because I was part of that research, and I went down on the ground, they will tell you when the elections are coming that at this position they are so many people. This I went down because of a general and I am talking of a general who is dead. He died in a car accident. We cannot prove that that was violation, that was political but he is dead. But that experience I went through with that general. That is my experience with army. I will speak perfection I was getting emotional but I would want protection from the Chair.

CHAIRMAN KGALEMA MOTLANTLE

Please don't haul.

You are protected. Please proceed.

BY WITNESS

I will come to the police. My experience with police, I have run an NGO when we have an event. You communicate an event prior to the police and when you tell your event to

Inquiry

T Maturure

the police they have people on the ground. They come and they tell you to have that event or not. When you have an event they are on the ground. So I am certain that police get information on the ground of what happens before an event through their intelligence. As JCI I also worked and tagged for CIO. CIO came through and they were tagging. They would come through and ask for information and they would ask whether.....

CHAIRMAN KGALEMA MOTLANTLE (To public)

Please if you continue to haul we will identify you and issue you with a red card.

BY WITNESS

I work with CIO, CIO would come in and ask for events to say what event is taking place and I will tell them it has got an international visitor, it has got events, this is how I would inform them as a citizen of Zimbabwe. I am solid that CIO when events take place they have that information because they are on the ground. Sometimes you have them around you and you don't know them.

I have spoken the security wings in the country and these security wings I am solid that on the day, and the event of the six they had information. They had their ground work and that information the Commission should get first hand. The President has the authority and the power to tell any of the security to give him the report and that report should be given by the security officers. I will go into say why those reports might not come. I have been a victim of abuse by top officials within the party of ZANU PF and I would state this clearly. Why am I saying this, I was invited to take up a job for CIO full time. I was running my business, I had resigned from formal employment to run my businesses I am one of the

businessman and when I refused to take the CIO job all hell broke loose. I was followed, my life was wrecked. Why do I say this, the civilians, the wrecking every person knows and when we say immunise government and State security I know what I am talking about. Those people will save the information but if they are not protected they are other officials within the system who manipulate State apparatus to frustrate individuals. I have been a victim of that. I was frustrated to a point that I went to Botswana and sort for assistance but I told them that I was experiencing the same surveillance the same suspense when I was in my tent. When I was in my tent someone came in I had gone out and someone came and tore the tent and said get out of the tent. But I couldn't prove that this person was politically assaulting me. That evidence I wouldn't have but what I know is when we have the security forces, when you have the people in the police then they will tell you. The people in the CIO they would tell you, the army they would tell you because they are the people that would be instructed. But now it goes to who is chosen. The very top official who invited me to CIO I believe is the very top official who will be instructing. I am talking of a situation where I had gone through back to the party because of the new dispensation and I have said look, I have had this problem. I have tried to report and I will tell you I went with letters to the very ZANU PF headquarters. It took a month, I went back as a follow-up. Those letters from the ZANU PF headquarters, but one thing I will appreciate is within the ZANU PF somebody actually acknowledged that, you know what, what you have gone through you are a victor because they are so many people who have gone through this hell but you are lucky. As I was putting those papers the same top official who was cursing me was taken back into the party so I was stuck. When I went back to follow-up those letters it was different. Everyone was now

telling you that this letter, because once you have a top official manipulating a system no one will help you.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

- Q. In your view you are saying this kind of manipulation could have led to the August 1 violence?
- A. Yes, because you know something, right now we might be getting to the general public and asking them to give evidence; they do not because if you say that we are in a situation almost similar to the post independent. Post independence I was fairly young but what would happen is, we had a situation where you could not tell who the enemy was. Where the liberators could not tell who the enemy was, this is exactly what we have in our country. What we have of the six is just a tip of the ice bag. We have six people who are dead but right now they are so many people who are dying. You will find that right now you are in bars and everything you would have a person being killed because they are wearing maybe a ZANU PF t/shirt then they would ask you, did you even vote for ZANU PF. What I am not sure of is this person who is intimidating you a ZANU PF or is it an MDC person. It's now a mediocre. All I know is as Zimbabweans we are massacring each other and there is going to be mass killing. This is just the beginning, it will not end if it's not sorted out. You know why I am saying this, it will not end because they is a lot of fear and inside.....

Please protect me Chairman.

CHAIRMAN KGALEMA MOTLANTLE

If you continue behaving like this we will hear this witness testimony in camera. You can't stop us from doing that we have the authority to go into a smaller room and listen to her all by ourselves to your exclusion. So if you want to continue being part of this ongoing session don't heckle her. Allow her to say her piece and when she is done you are free if you want to ask questions just raise your hand we will recognise you.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Q. Ms Maturure if I may remind you that the Commission is supposed to break for lunch at 1 o'clock it's now about 12.55 if you could maybe finish off.

A. I was going to now relate how like maybe just putting up the Gukurahundi issue. I am not saying it's an issue that we should discuss but what I am saying is from the 1980 liberation the war was not stopping because they could not identify the enemy. The enemy was within them. I remember my grandmother moving from the rural areas to the urban and stating that this war we don't know how it is going to seize because the enemy is now in there, you cannot tell. Right now to be honest as peace loving Zimbabweans we do not even know who the enemy is when you sit there and the only way that this can be nabbed is if the President immunises so that when we need hard core evidence comes from the security forces because they have it. They is nothing that happens under the sun that they don't touch and we are saying he should immunise them so that that information is brought forward. And if that is done even the Gukurahundi one will be done because you have got even those who were in the Rhodesian forces. If they are immunised they will say what happened and that will clear the air. Some of these things it will help us to continue to go forward. That's

where my case and my issue in terms of immunisation from the President for State security.

Q. Maybe before you finish may you explain what you mean by immunise?

A. Immunise, I would ask that the Commission be allowed to go and interview individuals within like, okay let me give a scenario like the shooting. The shooting we know that there is a gun, they are bullets, those bullets they can tell that it was a bullet from this officer or from this camp and this bullet was from this command depot and the commander is so and so. I told you I worked with a general; they say they don't work on their own initiative they are told by command. So from there they will know who commanded them. But a government employee or a security officer will not come and say out information in a public forum like this because they have certain regulations that they abide by. So given those regulations we are saying the president should immunise. I have a situation from the party headquarters where somebody actually testified to say these officials did a, b, c, d and this is the abusive behaviour. But they cannot come out and say this is what would lead to there.

Q. Thank you very much. I will now hand you over to the Commission if they have any questions for clarification.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you very much. Just a point of clarification which you may want to comment on, my understanding is that anyone who comes and gives evidence before us that evidence cannot be used against him in any way in any subsequent proceedings. So it would not make sense that whatever they tell us or testify to us can now then be used

against them and that point of that is to ensure that everyone feels free to come forward to tell the truth, that's the military, the police, any political party, any citizen so everyone is treated the same across the board. That's my understanding of the situation. You may want to comment on that. Of course it's a separate matter altogether because we have the state we may have official documents make those available and leave the official status of them. But as far as we understand we are here to hear all evidence and there will be no repacations in giving the evidence before us.

- A. Can I also refer back the question to you? Have you heard any police officer, CIO, army officer, ZANU PF employee coming to testify since the beginning of your Commission?

CHAIRMAN KGALEMA MOTLANTLE

- Q. Yes and no, yes in the sense that our work is work in progress and we have heard evidence from ZANU PF staff members and the police and the military have given us their written submissions and they are coming to testify as well.

BY WITNESS

- A. That's perfect. Do you still want me to comment on that?

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

- Q. I was just making the point if there was anything further please say.
- A. No, what I would see is from what I have experienced is you have a lot of things going on and a lot of fear within government sectors, everyone is in fear. Like when

we have the situation with a government employee and it's involving a top official they will throw the papers, they will treat them, they will disappear because they are afraid of victimisation. This is happening let's be honest.

The other thing I also want to mention is when you talk of Zimbabwean issues I don't think I want to be labelled in Bulawayo because I am a Zimbabwean and the freedom we want. I am a Zimbabwean and I believe this Commission is for Zimbabwe besides the location for the Commissions.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to seek some clarification in your submission. Relating to 1 August and your general fears, so do you have personal fears?

A. I don't know whether personal fears as in fear around me or fear as an individual?

Q. It's up to you.

A. To a great extent because of what I have gone through and what I have said and the surveillances that I have been subjected to I do to a great extent because you would find that you cannot give evidence for something that is undercover maybe done or something that you are being probed and maybe you are in a situation where you are being subjected to emotional torture, but you cannot speak it to somebody else that this is what I am going through and they cannot understand it because that will be going through. Maybe that will be the fears that I have. And because I know that other citizens because of the influence of power they are subjected to that but they will not say it. They will just hide behind the finger.

- Q. Mr Chairman, I will make a follow-up. I understand your presentation you talked about other people. I am actually asking about yourself. The fear of yourself?
- A. That's how I answered that I do have those fears because I am subjected to emotional tortures and different tortures about I can't rely them to somebody else because they have been going on for quite some time.
- Q. Further points of clarification, were you tortured on 1 August?
- A. Not in any way but what I was tortured by I was emotionally tortured by seeing a fellow Zimbabwean dying that is torture because its traumatising, we are all supposed to be free. We are all worth of a life and I don't think they is anything that is worth anyone dying for anything, for any reason, it's not worth it.

COMMISSIONER LOVEMORE MADHUKU (To witness)

- Q. Would it be a correct understanding of what you have said I think from taking down the notes, would it be correct to say that you would want the Commission to take into account the possibility of what you are calling an enemy from within, in other words that the events of 1 August may have just simply arisen from the system and we shouldn't look outside of the system. Would that be a correct understanding of your evidence?
- A. It's a very correct understanding. It is actually something that I believe it's from within and at the same time why do I say that, when you look at a situation, I have also had a situation where I have conversed with an MDC MP and in that conversation I was like, you guys are just the same. You have done jerk for the people. You are also instituting violence, and what he said in his own words was we

don't even understand each other within. What it means is within them they also have a force and within the other side there is a force so they will be fighting. This is where I was going back to the liberation struggle where we had the liberators staging a war but because they was a power of the Rhodesian force the Rhodesian force would plant also its own in the liberator so in the end people were being massacred. No one could understand where the ammunition was coming from and this is exactly what is in our country right now. Because you will find that somebody says there was going to be a demonstration, they know that they are protected because they are at the top and when they leave it's the general people that die. Whether you are in an opposition or whether you are in a ruling but when you lead as a leader it's the people on the ground that die, it's the people on the ground that suffer because they had nowhere to go, those are protected by security and they go.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Are you therefore then suggesting that, because you are suggesting that there is a possibility of infiltrations in everything. Does it then follow from what you are saying that they could have been other people within on the 1st who also had a different agenda who may not have been the army and the police?

A. Yes.

Q. Who could have been shooting as well?

A. Okay let me give you my scenario, this is why I was giving practical experiences. I was giving practical experiences of my experience. I refused a CIO job, I was wrecked, I thought ah, if I can be wrecked as an individual, followed as an individual

to this level. If an individual can have so much power over State apparatus then something definitely wrong because I had nowhere to report. I remember going to one top official, they just kept quiet as if I have not spoken. When I was trying to tell them and it was a female, I was trying to relate to say look I am in trouble, what is going on in my life it's been wrecked and then she could not help. All she did was she kept quiet. But if an individual can have such authority within a system then situations like that are definitely bound to come. When you have such a killing you cannot look and say individuals can look and bring that. Its individuals with interest because also what you find is you will not have such a massacre when you are not protecting an interest. You will be protecting an interest of a certain territory. I think you would understand that in politics they are some people with their territories where they have businesses, some have land portion. I have a situation that I know but it might just be wrapped on but if you want me to relate it I would relate further. And some one would protect that. What do they do? They would protect tight through those kind of massacres you cannot take that at face value and say that massacre was just a simple demonstration, no.

Q. So you are saying that it was not as simple demonstration, they were other people with other interest other than the army that we are talking about, the police we are talking about?

A. Yes, because at the end of the day we end up looking at our people Zimbabweans and hating everyone. We will end up labelling the army. I told you I worked with a general who told us that he would not do anything besides command. So we will label them but it's the army that is influencing behind the back that is doing all this.

Inquiry

S Sateko

If the President has opened to say that there is a Commission it means those things should be open because you have opened it for the Commission to be there.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. Thank you very much you may step down. No further questions.

A. May I be allowed to leave because I will be going back to Bulawayo?

Q. Thank you, travel safe.

WITNESS EXCUSED.

CHAIRMAN KGALEMA MOTLANTLE

At this juncture maybe if I may hand over to the Secretary.

PERMANENT SECRETARY MRS MABHIZA

We will be taking adjournment and will resume. We are taking a break now ladies and gentlemen we are coming back at 2 o'clock to finish up the outstanding witnesses. Thank you very much.

ADJOURNED.

RESUMED

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call Lameck Sateko

LAMECK SATEKO : SWORN STATEMENT

Q. Where do you reside?

A. Mkoba 13, Gweru.

Q. May you in a very short time be précis and to the point in telling the Commission that which you want them to know in relation to their business.

A. Thank you, that is the reason why I came here. It is my desire to stick to what transpired on the 1st of August. I was pained due to the loss of lives. What pained me the first thing is those who were behind the incidence of 1st of August have not yet been arrested? I would like to acknowledge the presence of a Constitutional law expert professor Madhuku. Sorry for referring to him by his name. We were told not to put on regalia which is similar to the military uniform in Zimbabwe. On the day when civilians were shot those who were shooting were wearing a uniform which is similar to the Zimbabwean army uniform. It actually disturbs me emotionally. Had it been that this inquiry is being conducted whilst those who committed this offence are already behind bars. As you adjourn it is my desire that those who shot civilians should be arrested. The President of this country Cde. Emerson Mnangagwa was not supposed to appoint a Commission with foreigners before the arrest of those people. We saw these incidences on TV. I am not saying those who were protesting were doing a good thing but they was a way to control them instead of shooting civilians. Lastly Zimbabwe is a small country. Our economy is not performing well. For this Commission to be here it is through the use of the tax payer's money. With all due respect I plead with you, I know that you cannot disappoint the people who sent you but it is my plea that the victims of political violence that is the violence which occurred on the 1st of August should be assisted. People cannot just be killed like that. Without going in circles I am saying the person who shot the civilians be it

Nelson Chamisa, the President Cde. Emerson Mnangagwa or any other person that person should be arrested. I am through.

Q. Thank you very much Mr Sateko I have no questions for you. I will now hand you over to the Commission should they have any questions for clarification.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Mr Sateko you have referred to those who sent the Commission, you said the Commission cannot disappoint, can you clarify what you mean?

A. Firstly I would like to respond as follows, some of the Commissioners it is not their first time to be appointed as Commissioners. They were once appointed out of the jurisdiction of this country. So on this mission I know that they will be paid, they are on pay roll. You cannot disappoint or come out with negative findings. I have come across this situation before. As Zimbabweans we should be open enough and say the truth. I will make reference to what transpired sometime back not the issue at hand. Commissioners can come like in this case but it would be a delayed match meaning to say the results are already there. Maybe I will make reference to the issue of the bond note. It was introduced to us but by then it was already in circulation. We tried to stand against it but it was already too late, water under the bridge. So it is not like I am undermining the Commission but I would like to reiterate that this is a delayed match. The findings are already there. From the 1st of August where we saw people being shot from TVs but from that day up to this day no one has been arrested.

Q. Were you in Harare on the 1st of August?

A. I was in Mkoba viewing television ZBC.

Inquiry

D Sololo

Q. You said people who shot and killed civilians were wearing a uniform which is similar to that of the army, are you saying there was a possibility that the uniforms may have been similar but they were not the army?

A. I cannot say so. The reason why I had to make reference to the Constitutional law expert who is also a Commissioner is according to the Constitution of Zimbabwe civilians are not allowed to put on army uniform which therefore insinuates that those who were behind or who were shooting people were soldiers.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much. No further questions.

WITNESS EXCUSED.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

I will call Ms Dorothy Solole

DOROTHY SOLOLO : SWORN STATEMENT

Q. Ms Solole where do you ordinarily reside?

A. I reside in Manicaland, HondeValley.

Q. What brings you here to Midlands today?

A. I am a student at Midlands State University.

Q. In view of the evidence that has already been before this honourable Commission and

also taking into consideration the terms of reference for the Commission would you please in brief tell the Commission that which you think would be helpful to their business?

- A. According to my own point of view and of what I have seen and what I have read I think the August 1 shooting was caused by some political sabotage that was behind. In my own opinion I think those are sabotage from the opposition parties. One of the opposition parties actually that we have in Zimbabwe and they will be the MDC Alliance. For example I will give reference to when Mr Tendai Biti was inciting violence when he was in Zambia and then when he was seeking an asylum from Zambia. Also I can also support my argument by also citing the case of Mr Nelson Chamisa when he was inciting violence during several of his rallies. For example the one in White City when he was telling people especially the youth under the MDC Alliance they are ready to defend their vote in whatever way and in whichever way. So basically this means that Mr Chamisa was actually expecting to win but then when it came out in some other way it came out wrongly and it came out in a way that the violence that he incited in his people came out to break. Something of that sort.

Also there is also the existence of the vanguard which I believe is more of a uniformed force that is under the MDC. The vanguard I believe that it would also be one of those main causes that caused the August 1 shooting. Probably they were also the ones who were leading this protest that broke out in Harare. I can also say that we wouldn't really blame the military for whatever happened because I, in my own capacity I wouldn't say the military is there to kill people but then the military all they

were doing was just trying to maintain order. In as much as these people were attacking the ZANU PF headquarters by throwing stones, throwing objects.

Also I have a question that I would like to pose to the Commission itself that is here present. I would like to pose a question that aren't you still intimidated by what happened yesterday because in as much as I am concerned and as far as I am concerned from what I witnessed I saw that yesterday these people had bricks that they carried in Bulawayo which means that when they came to this Commission they were already prepared that they wanted to do something. That's my question to the Commission itself.

Q. Thank you very much I believe when they interact with you they will give the answer. I no longer have any questions for you I will now hand you over to the Commission for any clarifications.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I just want to ask you something, you said you are from Midlands State University and you talk about the vanguard uniformed forces, that's what you call them?

A. Yes.

Q. Do they exist in Gweru?

A. Not as far as I am concerned.

Q. Where have you heard about the vanguard?

A. Social media have it and also in Harare.

Q. So what is the link with 1 August?

Inquiry

D Sololo

- A. I think when I emphasised about the vanguard I was saying that it may be possible that these uniformed vanguard people might be likely to be the ones who incited this August 1 shooting that happened.

Thank you.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

- Q. Could I just ask the last point you made about people coming there yesterday with bricks. Where did you get that information from?

- A. Social media Sir.

- Q. Did you see the photographs of that on social media?

- A. Yes.

- Q. People inside with bricks inside?

- A. They were not inside but they were people who had bricks with them.

Thank you.

CHAIRMAN KGALEMA MOTLANTLE

No further questions you may step down. Thank you.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Is Kudakwashe Munengiwa available? Maybe this witness I am continuously calling because he is one witness who really indicated and he was complaining that we are not giving him an opportunity to speak to the Commission. But if he is not here maybe I will proceed to call Kudakwashe Shambare.

KUDAKWASHE MUZIVA SHAMBARE : SWORN STATEMENT

Q. Mr Shambare where do you ordinarily reside?

A In Gweru.

Q. In view of what you have already heard which is now before the Commission would you in brief tell the Commission which you think has not yet been said and you think they ought to have it before them?

A. Thank you. I wish to present to the Commission what I think in my view were the real reasons for the demonstration on the 1st of August. I am cognisant that the Commission has had a lot of testimonies and the historicity of the violent nature of this group of people that demonstrated. I must say that when buses are burnt in the guise of demanding election results which election results by law they is an allowable period of five days to get those results, so when demands are made before the five days lapses and that process, the demand includes the burning of buses. Destruction of infrastructure and looting of vendors' wares it must show us that it is not really demanding election results. Prior to that we will remember that the MDC Alliance is a group of people that does not hesitate to spill blood among themselves. I will make reference to the burial of Morgan Tsvangirai when Thokozani Khupe was almost burnt in a hut. Amongst themselves they will fight and they will fight violently. I will make reference to the 5th of June when there was a demonstration in Harare for a demand for electoral reforms and the alliance leaders took turns to make bellicose threats of violence to say if we do not have reforms they were no elections to talk about. We will make sure that the country is not governable. I am giving this background to say that there was a lot of premeditation to the events of the 1st of

August. They were rehearsals to these events. They were creating an environment that would make the people to be very agitated and we will remember on the 31st July when Tendai Biti illegally proclaimed election results to say, my President, his President Nelson Chamisa has won and we now wait for ZEC to do the honourable thing to announce my president as the President. That excitement, the word excitement now I want to use it together with the word entitlement and give a significance of Harare and Gweru. The elections results had shown that the MDC alliance enjoys a lot of support in Harare. A lot of support in Gweru, so they have a feeling that they are entitled to those two cities. When they start protest, when they start demonstrations they believe that the people of Harare and the people of Gweru would naturally follow the lead which brings me to the reason which I think in my view was the real reason for these demonstrations that is to seize power illegally from the streets. It must have been planned during the campaign period because it was quite clear that the MDC Alliance was not going to make it. Their presidential candidate was not going to make it against President Mnangagwa and so then these means, these ways violent imaginations and the hallucinations seemed to have carried themselves during their campaigns and the point I am making which I am hoping is clear is that these demonstrations were never about election results. You do not bring stones to demand election results. These are thieves stealing vendor's wares, these are hooligans burning busses, these are thugs destroying property and infrastructure and we cannot disguise that as saying we are demanding results. We may have had an approach perhaps which I think was on TV that they actually made their way to the ZEC Command centre at the Rainbow Towers, that would be perhaps be the one group that were probably demanding election results. The rest of them were

destroying property in the CBD and it had nothing to do with the election results. The idea was to create a sense in which the people are entitled to join them to seize power in Harare because they understand that they enjoy a lot of support in Harare. So it was quite disappointing for them when the people did not join that and I want to make that point clear which I think is why I took the stand to say the idea was to seize power and not to demand election results. Thank you

Q. Thank you very much Mr Shambare. I don't have any questions for you I will now hand you over to the Commission should they have any questions for clarification.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Thank you very much for your testimony. In view of what you have said

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q What is your opinion on the preparedness of the security forces? Do think they were ready for the post election violence or they were caught off guard.

A I must acknowledge readiness in those elections are a process that occurs every 5 years. They have been task forces in terms of security apparatus however we will also acknowledge that ZRP had men manning polling stations in more 10 000 polling stations across the country which is a big number and the force they had in Harare was bit skeletal but as to what we have heard in terms of television and social media, the police and rather the security forces were ready to dispel the protestors . They were prepared.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you chairman. I want to seek clarification. You talk of Tendai Biti in Zambia and his utterances. Can you shed light on the utterances. Tendai Biti on July 31 was noted to have remarked that we have collected extrapolated data from V11 forms from polling stations across the Country through either those that we had stuck on the walls of the polling stations or from their polling against at the stations. The point was that they had access to that data and they have collated it according to them according to him Nelson Chamisa had won the elections.

Q Thank you but I still want to ask you, you talked about Tendai Biti in Zambia.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To Commissioner)

If I may correct here. He is not the witness who talked about Zambia. It's the lady.

The lady is the one who spoke about Tendai Biti in Zambia.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To Evidence leader)

Alright thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To panel)

He also made reference to that.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q So let me come to my question.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To Witness)

Q Can he confirm? You made reference to the 31st July announcement by Biti?

A Yes.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To Commissioner)

Not Zambia.

COMMISSIONER PROFESSOR LOVEMORE MADHUKU (To panel)

Not Zambia

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To Commissioner)

Yes.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To Witness)

Q Ok you didn't talk about Zambia?

A Yes.

Q I think I will stop there because I was going to ask in your view is your relationship between his utterances in Zambia and 1 August that was going to be my question but since it has been clarify to me , that you are not the one but probably another witness so I will stop here Chairman.

WITNESS TO CHAIRMAN

It is still an interesting question. So can I?

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Yes go ahead.

A In my view I think that those utterances were meant to incite because there was a general excitement, you know when statements are made by leaders, the people follow that. So when they follow that ok Nelson Chamisa has won, when ZEC has not made the announcement and that it being an illegal process he goes on to run away to

Inquiry

K .M .Shambare

seek asylum . It proved the gravity now that he realized the gravity of his role in the Mayhem

Q Thank you sir you may step down.

KUDAKWASHE MUNENGIWA : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Mr Munengiwa where do you ordinarily reside?

A I ordinarily reside at 2467 Mkoba 14 Gweru.

Q Would you now in brief tell the Commission that which you want them to know which relates to their terms of reference and the reason why they are here?

A Thank you very much madam. I am most indebted to stand before this Commission Chaired by our Former President and people of high esteem that I think they have their credibility at stake to defend so will be brief and to the point . Maybe for avoidance of doubt I would want to say beforehand that I am the Regional Chairperson Congress of Trade Unions which is a Trade Union Federation representing various Trade Unions in the Central Region which is almost appropriate to Midlands Province. I wouldn't to say much or neither do I wish to delve into the politics of the country, but Chairperson I want to say that as a Trade Union Federation we feel unsafe and targeted particularly that on the 1st of August 2018 live ammunition was fired into our offices in Harare at Golon House to be specific

3rd floor were our leader advisor is resident . When clearly we were not part of the demonstration neither did we organise it but we felt that some people chose for their own good reason to associate us with that and then fired live ammunition which could have killed someone. Thank God there was no one *chaparral* was recovered from the same office which could have probably killed or injured someone. We are quite concerned what the motive was or whether we are now considered as an enemy of the State or the Army. I would want to further to say that the right to demonstrate and petition is in enshrined in our Constitution in terms of Section 69 of Court Constitution. The only rider is that the demonstration or petition must be peaceful and if it is not peaceful , I think that we have sufficient mechanisms legal and in terms of human security through our riot police ,anti- rifle police and even the intelligent mechanisms to pre-empt and prevent the violence and if it happens to then apprehend the perpetrators. We are extremely appalled and disappointed by the open gunning of petitioners in a street because many times we also resort to street action and therefore our security is also at risk should the State chose to deploy soldiers as they did on 1 August, it means that one of these days we may be gunned down even if we are raising legitimate issues as we did recently about a week ago we had a protest. We were protesting against the taxation and lack of money in the banks and now the Trade Union Movement feels unsafe and we feel that if this is not appropriately dealt with , if it is excessively politicised without taking remedial action it, means that all protests and all petitioning may cease to exist in this Country which is supposed to be a Constitutional Democracy.

My next point Mr Chairman is that as a citizens of this country, I want to know who issued an order that people should be shot with live bullets. Because I k now

for a fact that any measure even if the crowd was riotous , even if they had been incited by whosoever I know that this country has sufficient many power and expertise to deal with riotous demonstrations which includes water cannons , which includes teargas , which includes rubber bullets. Why live ammunition? In this case when we have bystanders who were probably not participating in the demonstrations and they were shot and I want the Commission in my view to look at the video . To look at the soldier taking shooting position and firing bullets into a defenceless woman who was facing the other side and to answer that question to Zimbabweans to say. ‘Was it correct?’ We don’t need it for political expediency, neither do we need for any legitimacy of anyone who is currently in force but to make sure that never again should in Zimbabwe a person who has taken his lawfully right in the street be shot at and be shot at by an armed state employed soldieries not a rebel, not a Bokoharam operative not an Islamism or not a terrorist but a Constitutionally mandated soldier who is mandated to protect us . Who guards the guard?

So my submissions are that the Commission must be objective and must help us to answer this question and if it is not answered it means that we can have a recurrence of the same. We are here now because we did not answer the Gukurahundi questions , we are here now because we did not answer the 2008 questions . We are here now because we did not answer the Murambitsvina questions. We will be here in 2028 if we don’t answer the question of the day which is who ordered soldiers to shoot unarmed civilians .

You once led a nation I know there are people of impeccable integrity amongst you though there may be some whose integrity has been questioned. I think collectively we can rely on the Commission to say answer these questions . We want to be a peaceful nation. We want to stay in peace. We want our rights to be protected. We want to know that if we petition our government, because the other way the government can hear it's citizens is through petition and petitioning is not war but when you are fired at because you have petitioned , if you are fired at because you have demonstrated because you feel your rights have been violated it means that no-one is safe. It means that your peace is not peace. You have peace out of intimidation. We don't want peace out of coercions. We want real peace. I think these will be my submissions. Thank you so much.

Q Thank you very much Mr Munengwa. I don't have any questions for you. I will now hand you over to the Commission should they have any questions.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q I want to advise you, you may know that your legal advisor testified before us in Harare.

A Yes. I know that.

Q He also explained how things have been damaged by the incident. What I wanted to find out from you might not be able to give it today by that information can be sent and posted to us is, when you say that your offices were shot at deliberately as opposed to accidentally which may also be serious but I am more concerned about

the allegation ‘deliberately’ what information can you provide us that can assist us in investigating that aspect of what you testified us today.

A Thank you so much senior counsel. I know you are from UK I think even from your jurisdiction where you come from we cannot say when you are aiming at people in the street then you accidental shoot a third of a building I think that accident may need further qualifications to call it an accident . We feel deliberately targeted because if our legal advisor or our people were part of the procession and they were shot at and maybe mistakenly we take that but if you target an office that is totally away from the people you are trying to chase away, the people you are shooting at, we take that in our view as deliberate targeted because with all due respect if it was within the vicinity or exactly where the demonstrations was we would say that probably it was accidental but this was totally not, I think you can even do an inspect in loco to see where the building that is Golon House is and where the demonstration was.

Q We did drive past the area we haven't actual been in the building and can't do so. But are you able to help us with how many shots you know were fired and once again if this information can be provided today or it can be sent to us in due course.

A Thank you so much. I think we actually sent you the pics of the shattered windows and shapparal. We will provide that information.

Q Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Would I get it from you that as ZCT you really want us to visit the office, I think we got that when your legal advisor gave evidence. There was a call for you to physical visit. What we did was to drive past when we went close to the ZEC offices. Is it your wish or what to get us to the place?

A Thank you Professor Madhuku, it is up to you whether you drive conclusions from what is being submitted if you want hard evidence because this is not a creation it also good if you saw wish not that I am inviting you because I do not have the power but I am saying if you saw wish to get to the bottom you can come because we do want to create an image because this is an integration panic. We do not want to create an image that we are unsafe when we are safe . So it will be good also for the international experts with you, even if you are able to go there and see because this is not a creation, this is what happened. Live shots were shot into an office of someone and the only conclusion is that you were the target. What would you conclude, people firing shots into your own practise office particularly when you representing some high profile cases and something like that? It would suggest that they are targeting you and that is the suggestion in our mind and I am sorry to say that we believe it that we are now targeted.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q I want to do ask a follow up question Mr Munengiwa. The evidence we got from your legal adviser was that the bullet must have come through the window and then it went through the ceiling. Would you rule out a possibility that this must have been a shot intended for nobody but it was firing up there to avoid firing at people?

A I would not know I think the military experts those who shot the bullet should answer that question but my assessment is why would you use live bullets in a densely populated street in Harare when you have other alternatives . We have seen even in other countries were probably the protestors will be throwing stones and other things and no bullets have been used. Various other alternatives had been looked up at. We don't want this to continue. This is why we are coming here despite that the apparel danger that we may face further this but we are coming here because we never want this to repeat itself to our kids to ourselves. No-one should command because you are in power today tomorrow you may not be in power. No one should shoot at you because they oppose you. This is our view Madam Nyemba. We do not want anyone to shoot at anyone. So even if you were firing wherever why you would bring live ammunition to the street?

Q How many shots were made at your office?

A Like you said that you received evidence from Muti whose office was actually shot at I wouldn't have anything to add on what he said.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q I just want to seek some clarifications from you if you are able to. You talked about a possibility of your offices being targeted and that it was far removed from the demonstrations. Would you know where the demonstrations were?

A I know that the demonstrations were in the street and obviously our office is not the street.

Q Further to that would you tell us what you had happened at you office?

A We are informed that bullets went through the window into the office under , I must say Chairperson why that concern us so much, that office, houses our legal experts who happened to be our legal resource person when we go as ZTCU to ILO and to other International Conferences and he happens to be advisor and he happens to be the Chief of the negotiating forum at the labour cite so we are tempted to think that it's not accidental but probably it's targeted for elimination like luminaries of our various revolution have been targeted.

Q I just want some confirmation here. Can you confirm that you heard that in that street there were no demonstrators?

A I can't confirm that. I don't stay in Harare I wouldn't know the streets by names but what I know for sure is that the demonstrations was not happening at ZCTU office and the demonstration was certainly not happening in his office neither was it organised from there.

Q Thank you Chairman. No further questions.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much for your testimony. Just have one small question. Inspite of all that you have said, do you have any advice, message to the political parties in this country, with regard those they should conduct themselves during elections.

A Thank you so much Chief. We need to demilitarise our political parties. We have to demilitarise the political parties. The political parties must be civilian and those who exercise command authority in military structures they should abandon it when they abandons those offices so that we deal with them as civilians.

Secondly is that maybe we need to find each other and reduce the level of polarisation so that polarisation contestations for political offices must not turn out to be enmity and to the extent of being criminalised, to say if you contest and if you are against me you are a criminal and if you are against me therefore you must be eliminated . We want in my view and particular from the view of the labour group we want our politics to be civil. We want rational disputation were the battle is a battle of ideas not muscles or bullets were the person with better idea should win the elections. Unfortunate we are coming from a very difficult past were we have resorted to cohesive force in order to achieve political ends. I think probably our leaders have a few to learn from other countries like Tanzania were those with cohesive thoughts should not participate in active policies because the default is to say if I am defeated in the civilian politics will revert to my other powers that the other party might not have . So that will defeat the whole essence of having elections. So I think you as the Commission also you must help us particularly in being objective and candid as to who ordered the mechanised if it is the one as we hear to bring live ammunition into the streets and shoot at civilians and that should not be viewed in view of persecution or fault finding but as for taking corrective measures to deal with the command structure to say who is actual the Command of out army because if what we hear in the streets turns out to be truth that probably there were other sides

commands other than from the Commander in Chief we are worried because we may end up having a rogue army that will get instructions from everywhere but I hope it's not the truth because this is hearsay but you need to interrogate first and get to the real bottom as to who give what order to who until we get the real thing so that we are safe as citizens. We don't want to live in fear. Our fathers, our mothers have already died. I think they have paid enough prices in blood. We do not need anyone blood. We now engage. If you win you win if you lose you lose so this is my appeal to political parties that lets be civil let's have rationale engagement let's not try to wipe the emotions because these emotions will cause to turn to each other and they will face each other for coming particularly from the labour side every worker is a worker despite of their political affiliation and we embrace all and we have comrades in our ranks fighting each other over political disputes and eventual they may in the end turn out to be tribal disputes. So we don't want that, that is our advise.

Q Thank you

SHINGAI GAMUCHIRAI TREVOR MABWE : SWORN STATEMENT

Q Confirm you are a student at Midlands State University?

A Yes.

Q And you notice that the Commission has already heard from one of the students would you briefly tell the Commission that which you think has not yet been said and

will assist it in its business. I am doing so in view of the number of people who want to testify thank you.

A In my own capacity as a citizen of Zimbabwe it is my great concern that it is a great travesty of justice to only look at the shootings themselves without actually citing at what caused the shootings themselves.

I believe, before a result there is a causation or rather a cause to that certain result so by saying this I believe the demonstration that took place on the 1st of August had been influenced by a certain factor and naturally or rather logically, the only thing that could have caused this demonstrations was the election result which was allegedly in the favour of Zanu Pf but looking at the fact of the situation these election results had not yet been published, had not yet been known by the public therefore the only logical or rather factor that caused these demonstrations would be the leadership of the opposition party. Why am I saying this because, these people did not just occur in the streets and started demonstrating. I believe there was a group of people rather that influenced these people to get into the streets and demonstrate so I would want to recommend that in analysing when assessing the facts of this issue, the commission should also look at the causing of the shooting, or rather of the demonstrations and intimately the shooting that took place. It is public concern that these shooting should re-occur but the ugly truth is if we do not address the cause of the demonstrations and ultimately the shooting that happened on the 1st of Augusts an event rather or happening of such a nature could just occur so I would like for the Commission to hammer much on the cause and the influence of this

violence demonstrations that took place. Thank you very much Shingai I will now hand you over to the Commission if there is any question of clarifications.

NO FURTHER QUESTIONS

LEONARD BHEBHE : SWORN STATEMENT

Q Mr Bhebhe I will ask you to be in brief and to the point tell the Commission that which you think the Commission ought to know before we get into some other things

A Thank you the Commissioners. First I would like to apologise for I came in a bit late. I came from lower Gweru. I live in lower Gweru so I joined the discussions after lunch. I apologies if I am to raise other issues which could have been already said.

I was happy to hear that the Commission will be in Gweru. On the 1st of August it was a dark day for the Zimbabweans . We thought history is now coming back because what I am saying is since independence the people of Zimbabwe we have not enjoyed peace , freedom of expression . All the peace we have enjoyed is out of fear because history has it that you can be killed and when you are killed the killer would be walking along the streets freely be it from whichever side that what we have in Zimbabwe so when I witnessed a soldier taking a position and someone stopping that person from shooting I said what is happening now in Zimbabwe? I am a father to children and I said are my children going to copy this? And if my children are going to join the military are they going to be taught to do this. What if they would come back and kill me. Then I thought about what could be the cause. What could be behind this then I said, 'I have been watching the television announcement

of results. It is not only those people who were in Harare, I think I could put that I was one of them who was not happy with what was happening. Election announcement. ZEC should be held responsible for all what happened. When it delayed in announcing results to me 5 days was too much even 3 days was too much considering the technology that we were using in our elections. The computers were all over.

All the information actually ZEC was behind the public when ZEC should be ahead of the public. It announced something that was already known. After 3 hours or after 10 hours then we say were was ZEC it's announcing what I have already heard from whatsapp. In Gokwe we have heard so many results. This one has so many results. So when ZEC was delaying in showing results I was also one of those people if not all Zimbabweans, they thought the 2008 has come back where election results are delayed deliberately. So ZEC erred and there is no forgiveness for the delay in announcing results. Then social media it was wreck less, ah, we have seen Chiwenga is with the Commissioner Chigumba. They have got into another room Chiwenga is saying something. ZEC is you see reckless . And then what was happening. People thought that ZEC was now no more announcing what was coming out from the elections.

Q. So you believe the social media played a role in this?

A. It also took a role. People thought the 2008 election result announcement is coming back. It's unfortunate that in Zimbabwe people have got a lot of fear, even myself I was also afraid to speak here because I don't know what may happen now after this but I trust this I am well protected after this. Literacy react in Zimbabwe is very high.

Most of the people in Harare or all over Zimbabwe have reached Form 4 and they is nowhere someone can blame a, b and c to say ah, someone influenced them to do this. No, I am saying I was also disappointed by the delay such that if I were in Harare I would have joined those people to demonstrate to say ZEC may you please be fast to announce the results. I could have been dead of course. So to identify the utterances of certain individuals like other speakers have said have done to me that's being primitive and ignorant. Because if I look at all these people in here they are reasonable enough not to be caused to beat you because of what I would have said. They have got reasons.

Q. Mr Bhebhe if you may now wind up in view of the time I think you should now come to end.

A. So I would wind up and say may this Commission help us to come with a situation where in Zimbabwe they would be no repeating of what transpired because we want peace for us, for ourselves, and we want peace for our children and for our children's children because if this attitude continues where the State abuses its rights to me that's not proper. Thank you.

Q. Thank you very much I have no questions to put to you I will now hand you over to the Commission for any questions they may have.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Just a few points of clarification, do you know the rules pertaining to the number of days when election results must be announced?

A. I was told, I may not know but I was told that it was 5 days. What I am saying is whilst it must be 5 days it should be within 5 days so ZEC should not have deliberately made it more or 5 days when it could have done it within a day or within 2 days.

Q. If you remember the announcement of results when were they announced? After how many days?

A. I think it was after hours not days.

Q. Another point of clarification is on the processes of announcing the results, maybe can you shed light to the processes of announcing results by ZEC if you are aware of any?

A. I am not aware of any processes but what I am saying from Ward to the Constituents it would not have taken days to do the counting.

Q. Thank you. No further questions.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Perhaps as a matter of public knowledge or whatever you would confirm I think you are aware that the results were announced late on the 2nd of August which would make that within 3 days. We voted on the 30th of July so we have 31 July, 1 August then 2nd August that's when they were announced. Which would mean it would be correct that on the 1st of August that was within 2 days of the end of the elections?

A. Yes.

Q. In terms of your evidence is it correct that you are saying that by the 1st which is within the second day it would have been late for ZEC to announce the results? Is that what you are saying for purposes of clarity?

A. Sure because after counting the votes within 5 hours we had known several constituencies what they had scored. I am saying ZEC was not supposed to be behind the public, social media. That's my main concern.

CHAIRMAN KGALEMA MOTLANTLE

Q. Just out of the spirit of the Commission because part of the recommendations will be aimed at ensuring that going forward there is no recurrence of what happened on the 1st of August so this demand for results on the second and the assertion you have just made that ZEC is not supposed to be tailing behind social media. But you see social media deals with unprocessed information and ZEC has the obligation to follow processes of counting and tallying so at the voting stations, party representatives will be present to ensure that they sign also having counted. If any one party representative is unhappy with the counting there, they recount until all of them sign off and they complete the necessary form which must then be collated and tallied at a high level. So ZEC necessarily has to tail behind social media. Are we on the same page?

A. I am, the officials who are running the elections are ZEC so they are the ones who were doing the tallying. So when they do the tally how come that those tallies would come from the social media first before ZEC announces it? That's where my question

is. I am saying ZEC should not be behind social media because it is the one which manufactures the results and when the results from social media are announced there will be actually the same as the social media so it's indicating that ZEC should not make results go out of its offices before announcement.

Q. My understanding is that all electoral commissions tail behind what individual parties are able to do. I tell you why. Because they have to follow the procedures agreed to by all parties and citizens that they will declare results once they have ensured that these results are accurate whereas you see, you might be on a bicycle or motor bike and you drive from one pooling station to another. The results, once the party representatives and the presiding officers at that polling station have agreed and signed off they are posted outside on the board. So anyone can come and take a photo of it with a mobile phone and transmit that to somebody else. You understand the point?

A. Yes.

Q. Whereas ZEC has to ensure that the votes themselves are transmitted and transported to a point where they are going to be tallied but someone who is just armed with a mobile doesn't have that responsibility. This is the point I am trying to convey to you. But do you understand the obligations and responsibilities of an electoral commission as opposed to someone who has no such obligation constitutionally. If ZEC were to release results before declaring them they would cause numerous problems. I just thought I must leave you with that to my over route here. Thank you.

A. You are welcome.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

That would be our last witness for the day, but if the other members of the public in the gallery who would have wanted to give evidence if they may be advised that they can still do their written submissions and submit to the Secretariat who will pass them over to the Commission. The submissions will still be considered for the purposes of the report.

I will now hand over to the Secretary.

PERMANENT SECRETARY MRS MABHIZA

Thank you very much, Mr Chairman and Commissioners. I propose that this marks the end of our hearings in Gweru today and thank you very much to the audience. However I have a further proposal that we immediately go into the press conference that we have advertised to members of the media. So the Chairman will proceed to make a press statement. If there are any questions members are free to put questions through the Chairman. I will be coordinating the questions. We are a bit behind time so we are not going to take many questions. We only have about 10 minutes allocated for this session. So the number of questions that maybe possibly be put across will depend on the lengthy of the questions that we put across. And I also encourage that we have one question each and as you put across your questions would you kindly identify yourself. If you are coming from a media house you also identify the same. That's how we are going to conduct our question and answer session. Thank you very much at this point in time may I kindly hand over to you Mr Chairman.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much. The statement of the Commission reads as follows; On behalf of the Commission of inquiry to the post election violence of the 1st of August 2018 in Zimbabwe. Let me take this opportunity to express our profound gratitude to the people of Bulawayo and Gweru for embracing and responding overwhelmingly to the call to participate in the work of the Commission.

Whilst we are alive to the fact that the events of the 1st of August 2018 happened in Harare we deliberately chose to hold public hearings in Bulawayo, Gweru and we will also be proceeding to Mutare in a bid to gather all the possible evidence and circumstances that led to the 1st of August post-election violence. In Bulawayo 11 witnesses testified and we also received written submissions from individuals and different organisations. We also gathered evidence from 15 witnesses here in Gweru. In an endeavour to cover judicial regions the Commission is going to conduct public hearings in Mutare on the 10th of November 2018 to engage different organisations and individuals on matters related to the mandate of the Commission. The Commission will then continue its hearings in Harare from the 11th to the 13th of November 2018 by receiving evidence from the security sector, professional bodies, institutions, and the general public. We thank you for your active participation and wish to assure you that all your views will be taken into consideration when we come up with our report and recommendations.

We once again take this opportunity to call upon all Zimbabweans from all walks of life to avail themselves or post or email or fax if you are on a fax machine, whatever evidence that might assist us to the Secretariat of the Commission. We thank the media for covering our hearings to date. We look forward to the fruitful engagement and cooperation from all people of this great nation of Zimbabwe. I thank you for your attention.

PERMANENT SECRETARY MRS MABHIZA

Thank you very much Mr. Chairman, ladies and gentlemen, the Commission will now take questions and I once again want to remind you that all questions are directed at the Chairman and that all questions should be relevant to the Commission's mandate and that they be brief and precise. Thank you very much.

QUESTIONSMBONA

My name is Mbona a student Midlands State University. My question to the Chair, we have been hearing from social media when the Commission was appointed by his Excellence, where we have other political parties particularly president of the MDC Alliance saying the so called Commission that has been elected or appointed by the President is somehow captured by the ruling party. From my observations from this session it is not yet. So how do you take such statement from another political party?

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much. We would rather allow the Commission's work and report the final recommendations to speak for themselves because if we were to engage on social media comments we would create a sight show which would take the focus away from the work of the Commission. Thank you.

QUESTION

What I want to ask is why is it someone who has lost election can inaugurate himself as a president, to make matters worse he can create his own presidential guard, swearing him also

as president. Is he not creating another country in a country or is he not again inciting people to understand otherwise. Thank you.

CHAIRMAN KGALEMA MOTLANTLE

I suppose citizens are free to engage in whatever takes their fancy so if he fancy to create a pseudo hierarchy and so on I think he is free to do that as long as it does not impact on the freedom of citizens and the workings of the State. If it in any way impacts meritively on the workings of the State and the freedoms of citizens of Zimbabwe then of course it would be a matter for concern. But for as long as he does and keeps that to himself I think we should grant him the freedom to do so.

QUESTION

Q. But I am surprised when someone has a presidential guard which means he has got security and he can also have ... to protect him, I don't know.

CHAIRMAN KGALEMA MOTLANTLE

No I don't think so because that you are referring to them as presidential guards. Yes presidential guards of a party not of the State. So an owner of a football club might decide that he is the president of the football club and therefore deserves presidential guards. It would be well understood by all citizens that that's not the same as the head of State.

QUESTION

Q. I just have a small question, I was going to say I am glad you came from SADC and you are one of our father luminary .The background of conflict within the region

especially the line of countries like the DRC, the line of the rebellion that happened in Mozambique and the situation that happened of course I am now talking about Africa generally. What happened in Kenya 2007 and barely last year when Raila Odinga swore himself as the so called people's voice and the violence that ensued because it sort of create a situation where they was now a squash presidential establishment on the other side which is not only illegal but also inexistence and trying to impose upon itself .Don't you really think that that should be a recipe for disaster in a country where we have a Commission that is seized with work to heal a nation and fowl sanity and create a harmonious situation in the country for a people that are coming from a situation that you are presiding on. Don't you think that those people who are attending or leading into a person who is self inaugurating himself to some presidency of some sort when they is a legitimate president in the country that may create a situation where some people may have loyalty to a particular individual whom they call president, whom individual we are aware he is not so much associated with responsibility when he opens his mouth. If you say it categorically he has an uncircumcised mouth that says everything that provokes violence. So I am saying then he says tomorrow that I am going to mobilise supporters to do this and he does that in the name of some president don't you think that may create tension or further escalation situation where we have a Commission such as this one. The reason why I arrive in cases of, by now that you are all aware and I am sure the aim stipulates a vibration in order to ensure that it reaches those situations. Renamo started on the demonstrations basically and it has existed they justify its existence on refusal of accepting election results and we know that Mr Dhlakama until he died, sorry I may not say the actual thing but I am saying he existed on the idea to refuse to accept

election results and that's the problem we have. The same is happening in the DRC where uncountable number of rebel movements are in the DRC. You name them Rebels and all those kind of things and the genesis is always been refusal to accept election results and in the process people retreat into the bushes and start armed interventions to seize the third power so don't you really think that this is a serious situation that the Commission may need to look into an order to ensure that our nation heals after this process otherwise we will be in another catch 22 situation because we have a people that are sick and desperately follow the escalation route while others are here to present themselves before the Commission so that the Commission would be able to make recommendations on the basis of the truth. That's where I am coming from and that's why I referred those cases of rebel movement as a result of refusal to accept the results which is a similar situation here and you may know Saviri also existed in the same on the basis of the so that's why I am very worried.

CHAIRMAN KGALEMA MOTLANTLE

Well, you know, history gives us context and lessons. In Malawi, in President Banda's days he did not allow any other institutional entity to have the title of president at all. They was only one president in Malawi. No football club, no football association, no jersey club, nothing. That was not allowed at all. So once we have a situation where each political party has a president, the football association has a president, the Trade Union federation has a president it means you have accepted that you will have these presidents at a different level from an distinct from a head of State, from the president who is head of the State. Ordinarily it does not cause any

confusion in the heads of citizens ordinarily. But of course once the pretences are that a person who is not elected, who is not inaugurated as a head of State then presence himself as a head of State of course that is illegal and the laws of the country have to apply to such a situation. But of course if a person is a president of his own organisation or his own church there is nothing wrong with that. Because you see democracy can only be protected if the rights of citizens are protected fully. So once you get into a situation where you topple away the rights of citizens you never know when to stop. Before you know it some people would be under house arrest and so on and so forth. We know we come from that history and all I am saying, no two countries are exactly the same. The situation in Kenya was a completely different situation and they resolved it. There is no confusion that there are two heads of State. There is only one head of State and it is accepted even by Raila Odinga. So if it raises its head here in Zimbabwe it will have to be resolved within the laws of Zimbabwe.

Thank you very much for your attention.

PERMANENT SECRETARY MRS MABHIZA

Thank you Mr Chairman our time is up. We may adjourn

COMMISSION OF INQUIRY OF 1ST OF AUGUST 2018 POST ELECTION VIOLENCE- MUTARE

MEMBERS OF THE COMMISSION

- 1. HONOURABLE KGALEMA MOTLANTLE- FORMER PRESIDENT OF
THE REPUBLIC OF SOUTH AFRICA- CHAIRPERSON.**
- 2. RODNEY THOMAS DIXON QC-BARRISTER UNITED KINGDOM-
COMMISSIONER.**
- 3. CHIEF EMEKA ANYAOKO- FORMER COMMON WEALTH
SECRETARY GENERAL, FEDERAL REPUBLIC OF NIGERIA -
COMMISSIONER.**
- 4. GENERAL DAVIS MWAMUNYANGE- FORMER CHIEF DEFENCE
FORCES OF THE TANZANIA PEOPLE`S DEFENCE FORCE-
COMMISSIONER.**
- 5. PROFESSOR CHARITY MANYERUKE POLITICAL SCIENCE,
UNIVERSITY OF ZIMBABWE- COMMISSIONER.**
- 6. PROFESSOR LOVEMORE MADHUKU- FACULTY OF LAW,
UNIVERSITY OF ZIMBABWE -COMMISSIONER.**
- 7. VIMBAI NYEMBA- FORMER PRESIDENT OF LAW SOCIETY OF
ZIMBABWE - COMMISSIONER**

RECORD OF PROCEEDINGS

PERMANENT SECRETARY INTRODUCTIONS

Morning ladies and gentlemen. We welcome you here to our commission of inquiry into the post election violence that happened on the 1st of August 2018.

Before we start it is my pleasure to introduce you to the Commissioners who are here before you. I will introduce the Chairman of the Commission Honourable Kgalema Motlante. I am sure we all know honourable Motlante. He is the former head of State for the Republic of South Africa. He is chairing this Commission in accordance with a proclamation that was issued by his Excellence establishing this Commission. Honourable Motlante is working alongside six other Commissioners. You will notice that today we have five other Commissioners. There is one Commissioner who is not yet with us. He may join us or he may not make it to Mutare.

At this point in time I would like to kindly ask the Chairman to introduce the Commissioners who are here today.

CHAIRPERSON HIS EXCELLENCY MOTLANTLEINTRODUCTIONS OF THE MEMBERS OF THE COMMISSION

Good morning. Let me do the honours of introducing my fellow Commissioners. To the right there is Commissioner General retired Davis Mwamunyange from Tanzania. To my right here is Professor Lovemore Madhuku from Zimbabwe. To my left is Professor Charity Manyeruke from Zimbabwe. And to her left is Rodney Dickson, Queen's Counsel from the United Kingdom. To the left there is Ms Vimbai Nyemba from Zimbabwe. She is a former President of the Law Society.

We must tender the apology of Chief Emeka Anyaoko from Nigeria who is a former Secretary General of the Commonwealth. He is arriving this morning and we are hoping that he will be able to make it sometime during the course of today's session. So these are the Commissioners appointed by his Excellency President ED Mnangagwa to inquire into the post election violence. As we all know the violence happened in Harare and so the Commission needs wisdom felt that in spite of where the theatre of the violence was, all Zimbabweans were affected by that. We have heard relatives who were affected in Harare and all that you may share with the Commission your suggestions as to how such occurrences should be avoided going forward. The Commission would be all ears and more than happy to hear your suggestion to that end.

Before I take my seat I think it is only proper that we perhaps rise and observe a moment of silence for the victims of the tragic accident that happened on the road from Harare to Mutare primarily around Rusape. So I think it is in order for us to observe them.

Thank you very much you may be seated.

PERMANENT SECRETARY INTRODUCTIONS

Thank you very much Mr Chairman. Before we start leading evidence let us just remind each other of our ground rules. Some of you who were here earlier were reminded of those rules but I will just repeat for the sake of those that have just arrived. Firstly, all phones must be put on silent or switched off. Movement in and out of the venue during proceedings should not be done in a disruptive manner. We should all respect the Commission and let us also respect each other. Do not interrupt when others are speaking. Any contributions that will improve the results of the meeting are most welcome through our Secretariat. Members of the public including the press shall not address the Commission directly without an

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Introductions

invitation to do so by either the Chairman of the Commission or secretary to the Commission, myself. Members of the public including the press are prohibited from contributing to the proceedings or posing any questions to either the Commissioners or witnesses from the gallery unless called upon to do so. Any disruptive behaviour by any member of the public including the press shall result in their immediate rejection from the proceedings or arrest depending on the gravity of the conduct displayed. Thank you very much these are our ground rules.

Just to add that we shall have a press conference in this room at around 03.15. You are all welcome. At this point in time I would like to hand over to the evidence leader to lead evidence from the witnesses.

EVIDENCE LEADER MR THABANI MPOFU

Good morning Mr Chairman and Commissioners. On behalf of the people of Mutare I would like to welcome you to what is arguably the most beautiful part of the country Mutare in Manicaland. I believe that one of your own Commissioners, one of your members is from this part of the country Professor Madhuku and the people of Mutare and Manicaland warmly welcome you to their city.

I do have a list of witness who gave notice of their appearance here in advance and we have recorded their statements. Some of them will be in your file. In addition to those I have got witnesses whom I shall call walk-ins for want of a better phrase. These are witnesses who have indicated to the Secretariat that they are prepared and they are willing to give statements and make submissions before the Commission.

I propose to call the first witness from one of those. The first witness has indicated to us that he is a journalist and that apart from giving evidence he will also be covering the

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H. Muvhiringi

event in his profession. He has therefore requested that he be given the opportunity to give evidence first so that he can sit amongst other members of the audience and cover the event.

I therefore propose to call Hosea Muvhiringi as the first witness.

HOSEA MUVHIRINGI : SWORN STATEMENT

Q. Mr Muvhiringi you have volunteered to give submissions before this Commission?

A. Yes.

Q. You do realise that this is not a trial, you will not be cross examined and you are free to give your evidence freely without fear of any consequences arising therefore?

A. Yes Sir, thank you.

Q. Proceed with your submissions?

A. Thank you very much Commissioners. First of all I want to give a brief background of myself. My name is Hosea Muvhiringi. I am a resident of Mutare being a journalist. I am an independent media practitioner. I believe most of the media personnel here maybe familiar with me. I am fully accredited with the Zimbabwe Media Commission and also I was fully accredited to cover the elections for 30 July 2018 by the Zimbabwe Electoral Commission. So I was stationed at the National Command Centre at the HICC. I stayed there for 9 days I think from the 28th of July until the 5th of August so I was there full time such that I covered almost every event that happened at the HICC.

As a journalist you will allow me to delve a little bit backwards into history because I think history is very important for us to move forward. I perceive history as a mirror

through which if we look back we can have a full view of where we are going. That's the same way as the rear view mirror helps us to see behind us. I covered all the election campaigns from major political parties in Zimbabwe including the MDC rallies and the ZANU PF rallies. Those to me were the major contenders to the July 30 elections for 2018. I have a few incidences that I may want to quote from that journey when I was covering the elections.

First of all I want to thank the President of Zimbabwe Cde. Emerson Mnangagwa for affording us this opportunity to testify. I never thought I would take a stand here but I believe that as a member of the forth estate which is the media we have a role to play in informing and educating the nation. Historically as I followed the elections proceedings through the campaign season. I noticed a few disturbing incidences where some value messages were coming out from the political leaders. Personally I lived through the traumatic events of the 2008 hyper inflationary era where I believe we almost degenerated into a civil strife. So during that era I understand most people left the country because of fear of violence. I didn't expect anything that threatens violence to erupt again in this life time. So the events of the 1st of August to me were a build up from what I can say a well choreographed sequence of events.

I remember very well when I covered President Emerson Mnangagwa's rallies, he called for peace consistently. Most journalists here are my witnesses. We were covering the events from the forefront like here we were covering events such that even the President of ZANU PF may recognise my face as he recognises the ZBC guys. Even the President of the MDC Alliance Mr Nelson Chamisa may recognise

my face the same he would recognise it. So I will not make up things here. I am not an artist neither am I a drama creator. So from the messages that were coming through, President Mnangagwa preached peace consistently and I give him credit for that. I believe that by convening this Commission of Inquiry he has got nothing to hide. That's from me.

I followed Nelson Chamisa the President of the MDC Alliance throughout his rallies. I have got three incidences that I would try to single out from which I do remember clearly the messages that came out of those meetings. The first one was in Masvingo in Zaka to be specific. You will forgive me because I may not pin point the dates it has been a long time. The consistent messages that I had from Zaka, White City Bulawayo and Sakubva Mutare. The message from Mr Nelson Chamisa was confrontational from the onset. To me he is a man who probably knew his fate beforehand. There is no reason why you would go against the result which is not yet there. There is no way I can say I will refuse to accept a result before a verdict has been made. But from these three incidences that I have mentioned, everybody can witness with me that he consistently issued messages of defiance and refusal to accept whatever electoral verdict that is not in his own favour. To me that is regrettable and makes a very good case of a build up to the events that later manifested on the 1st August.

Coming to the Command Centre where I was based, I remember very well personally in my heart celebrating an event after the presentation of some other results by ZEC. I interviewed a varied cast of guests on the same platform. That was Mr Paul Mangwana from the ZANU PF, Mr Douglas Mwonzora from the MDC Alliance, Linda Masarira from the MDC-T which is led by Mrs Thokozana Khupe. After the

presentation of results all these guys came together and we interviewed them. All of them were very positive that Zimbabwe is moving into better territories in terms of preservation of peace and maintenance of rule of law as concerned. I said to myself if we continue like this then Zimbabwe will be a better nation because I see rear glimpse of unit from political players. Since the old dispensation, the old leadership of Cde. Robert Mugabe and the formation of the MDC Alliance in 1999 Zimbabwe has been characterised by politics of hate, acrimony and vindictiveness. To me it's not a good thing. As political players and as Zimbabwe nationals there is need for us to find a common ground somehow that we can call a point of convergence as nationals because we share one thing which is Zimbabwe the only country that we have. We cannot continue to resist one another. We cannot continue on the path of intolerance. We have to meet somewhere to build our country. That's what I believe. When President Mnangagwa came in I thought we are moving on to a new living. Personally I have enjoyed greatest freedom as a media practitioner so far in this dispensation. I have not seen any restriction. They is a friend, a colleague who is in the media fraternity I don't see her here. Her name is Violet Gonda. She is a popular figure. She likes to assert her rights such that even at State house she can demand to see the identity card for security personnel. That's a certain degree of freedom we have never experienced in Zimbabwe and I am so happy that we are free as the media practitioners. I never thought that we would come to this.

On the fateful day I personally had just finished covering a presentation of the preliminary results for the European Union Election Observer Mission in Zimbabwe. They had just held a press conference in the Jacaranda room at HICC. We have just finished covering that. I remember very well who is that Chief Commissioner of the

EUOM, I raised a question which I believe dissolved a conference at the end. When it was time for questioning I asked them, hey I don't hear anywhere in your report where you are at least capturing the sentiments that you have been holding on. It was just a day or two after Mr Tendai Biti had convened a press conference at the Meikles hotel and a video went viral in which he was defying every other result that would come which was perceived to be not in their favour. To me that was wrong, extremely bad and inciting of violence. So I asked them why do you not capture that because it is an upfront to peace. Constitutionally it is wrong that anybody can declare results before the Zimbabwe Electoral Commission has announced them. But here we are, Mr Tendai Biti has done that, he has threatened to issue violence if the results are not favourable. Why didn't you caption it in your report and he refuse to answer and he dismissed the press conference. If anyone amongst the media practitioners was in there they would remember that because it's not of my own making, that's the truth.

So just after that press conference I decided I have to go to town to look for some cash because I had stayed there for a long time. Just as I walked down to the main entrance gate that's where I met these guys coming in. It was a group probably I could say three quarters of the delegates we are having here. They were singing, they were chanting and by that time they were threatening to stroll down the gate to the HICC because to them they were saying by their own mouths this is where the results are being cooked. Why the delay they are manipulating the results here so we want to burn it. So by that time the police had stationed two water cannons within the yard of the HICC the rainbow Hotel and police were monitoring the event. After about 10 to 15 minutes the crowd dispersed. They went back to town.

During that moment personally I observed a truck which came at high speed. When you are standing at the HICC main gate you can see right through to Jason Moyo through the Net One building and I saw an MDC branded truck full of people. It passed from Samora Machel along Rotten Row towards the magistrates' court. These guys when they went away they came in very shortly, now in a bigger group and within a split of seconds a truck was offloading boulders at the traffic circles along Pinfeather avenue. A truck was offloading boulders. When I am talking of boulders I am talking of big ropes which no one here can lift alone. So to me it shows a sequence of events which were planned and well meditated upon and well funded too because it happened spontaneously. Violence erupted almost everywhere immediately and as they barricaded the whole traffic circle no car could go out, no car could go in. They were trying to scale the fence into the hotel. They were singing political songs. I asked the policemen who were manning those water cannons and I said look here gentlemen, if you leave this for much longer it would gain currency and you may not be able to control them. Before long they were throwing stones and that guard room at the HICC was broken all over all round with stones. I don't know the source of the stones. That place there is no mountain there is no hill, there is no heap of stones or nothing where they could get those stones but they had them, plenty of stones. We could not go out. Tyres were burning everywhere and at ZANU PF HQ unfortunately they were tearing down all the banners, all the advertising banners at ZANU PF which bear the image of the President of Zimbabwe Cde. ED Mnangagwa and we had one big campaign truck which is like one of those they use for road shows and for media campaigns. It was stoned and all windscreens were shattered. Many other small cars in the yard of ZANU PF were attacked.

So during that time we could not even stand the tear of smoke coming from the centre of town. I tried to go out but unfortunately I had left my media vest in the room so I couldn't go there. It was extremely dangerous. So in my mind I thought are we at war. Are we safe as journalists to cover such a thing because we don't know the genesis, we don't know the extent. You would just walk in there and you become a victim. So I tried my best to come out and I was advised that the only entrance that can be used is the back entrance. The one that comes out of Samora Machel on the other side. I rushed there. I tried to go out but I failed. I met a few guys there from the American Embassy who were rushing to try and rescue their officials who were stuck in the hotel. I thought to myself so this is critical because the Embassy staff is coming here to rescue their staff so we could be in danger here. I can assure you my father called me and he was very worried. He said are you safe? I said for now I am safe but we were stuck in there.

I want to also give an account of a previous incident at the HICC Command centre. We interviewed one guy called Paddington Japajapa I am sure I got it right. He has got a video which is there and I have got the video on my phone as hard evidence of the level of incitement that was going on. It was only two days after polling had closed and constitutionally Zimbabwe Electoral Commission has got five days within which to announce and declare results of an election but we were only about 48 hours after polling had closed. But these guys were protesting all over the place. We remember very well the occasion when the MDC officials that included Jameson Timba and the other guy who have become the vice president of MDC now, they stormed the ZEC just as you are sitting there announcing results and they stormed and they grabbed the mic and they started that we will not allow anything that is not in our

favour whilst results were still trickling in. To me that was unacceptable because we should be all mature enough to allow due process to take place and then if any protest the law has got that in the Constitution. It is says within 48 hours of announcement of results any aggrieved party is free to approach the court for recourse and even reopening of ballot boxes. But here we are, we have got a political party which is almost 20 years old disregarding due process and protesting during the course of the processes they are protesting, they are threatening violence. They are telling us that we will not accept anything. We don't believe that elections are won at rallies. Elections are won at the ballot box and if we had allowed our people to vote why don't we respect their will. Why don't we respect the verdict and wait until results have been announced. They did it after people had died now they considered going to court to challenge results. At the court we all know what happened. Thereafter is when I thought if any protest would take place but no protest took place after the Concourt had decided. So to me this was a premeditated case. A well choreographed case. It has got a trail of evidence.

We have got a history of violence in Zimbabwe and we know how the MDC came to be, how Mr Chamisa came to be president of the MDC Alliance. We know historically it is a violent party. That is to me. I report as it is. As I am standing here I will report myself because I am a journalist. I write. I don't have a camera I use my phone. This is my weapon. I take pictures, I write stories and I publish as it is. I will not make up stories but for now this is all I would have to share with you. Thank you so much.

Q. We haven't had anyone receive spontaneous applause. How long have you been a

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H. Muvhiringi

freelance journalist?

A. I have been a freelance journalist for four years.

Q. Are you a resident of Mutare?

A. Yes I am a resident of Mutare but I work in Harare.

Q. You indicated that you have got a video evidence in your phone, are you free to leave it with the Secretariat to be shared with the Commission at a later stage?

A. Yes I am.

Q. Thank you. I will at this stage hand you over to the Commissioners. They may have questions for you or clarification or issues that they may want to raise with you.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I just wanted to clarify the link between, you said you saw some vehicle at some point carrying whatever having MDC things. Was it the same vehicle that you saw offloading stones?

A. No its not. The one that was passing by it was a small truck. From where I was standing I thought it was a Nissan NP300 single cab. It was branded with colours of the MDC alliance.

Inquiry

H. Muvhiringi

Q. You realise that is important because we wanted that to be clear in your evidence. So they are two different vehicles you are referring to one that has the MDC alliance colours and then another one that was offloading stones it had nothing to show which political party it belonged to?

A. Yes. The one that dropped some boulders at the traffic circle was not branded.

Q. Okay that's the clarifications that I wanted.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Thank you very much for your testimony. You have not mentioned anything about the military. Did you notice any presence of the military?

A. Yes, Sir. From where I was standing I saw a military vehicle passing by along Rotten Row. That's the presence of the military that I witnessed. A military truck passed from Samora Machel along Rotten Row towards the Magistrates' court.

Q. What else did the military do apart from just driving through the street? Did they do anything else? Did they make any announcements to the general public?

A. No. definitely they did not make any announcement and from where I was standing no military personnel disembarked from the truck. All I remember is a multitude of people running away along the road and most of them spilling into the other side towards Robert Mugabe square.

Q. Did you hear any shots being fired?

A. No, definitely not. I didn't hear any gun shots.

Q. Thank you.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. What time would you say was that when you saw the military vehicle?

A. It was around after midday.

Q. Were you going to be able to come to Harare if we had not been able to come to Mutare to give your evidence?

A. Excuse me.

Q. You have given us quite a lot and we are getting it here from Mutare. If the Commission had not come here would you have been able to come to Harare to give that evidence that you have given?

A. Unfortunately I have been stuck with my occupation as a journalist. If you remember when you started at Cresta Hotel in Msasa I was there as part of the media fraternity covering the event and also in Bulawayo I was there. But I realised that we need to have a voice from the media fraternity to tell it from where we are. From behind the camera as some of us would say because we are almost the first hand when incidences happen so I decided to come through. I realised my time is up because it could be the last session that you are having so I decided I should come and stand before you.

CHAIRMAN KGALEMA MOTLANTLE

Thank you. No further questions you may step down Sir.

Inquiry

Munetsi A. Nyama

EVIDENCE LEADER : MR THABANI MPOFU

Mr Chairman I propose for Freddy Sithole next. We have made a deliberate decision to call witnesses of more advanced age first and my record shows me that Mr Freddy Sithole is 67 years old hence the patience with him.

I will call upon Munetsi Albert Nyama

MUNETSI ALBERT NYAMA : SWORN STAMEN

Q. Let me clarify your names. Are you Albert Nyama Munetsi or Albert Munetsi Nyama?

A. Albert Nyama Munetsi.

Q. Mr Munetsi the records that I have here state that you are 62 years old?

A. Yes.

Q. You are ordinarily resident in Honde Valley in Mutasa district?

A. Yes.

Q. You have volunteered to make submissions before the Commission?

A. Yes.

Q. According to your records here you are testifying of events that you personally saw on the 1st of August?

A. Yes.

Q. As a resident of Honde valley why had you gone to Harare on the 1st of August?

A. I had gone to see a doctor at Parirenyatwa hospital.

Q. You are actually free to give your evidence seated, would you like to sit down?

A. If I may be allowed to take a seat because of my leg.

Q. Please do. The Chairman and his Commissioners would now like to hear your submissions pertaining to what you observed on the 1st of August. Please proceed?

A. I left Honde Valley which is in Mutasa district on the 31st of July so I spent the night in Waterfalls in Harare at my sister-in-law's place. On the 1st I proceeded to the hospital. After being examined by the doctor on the 1st, by then I was walking with the aid of a clutch. The doctor recommended that I was to continue using the clutch as I was still recovering. My leg was still in the process of recovering. I left the hospital after lunch. I got in a lift which took me to town where I disembarked at Coppa Cabana. At Coppa Cabana I saw people who were singing and others were holding placards which were inscribed Chamisa. I was looking for something to eat. I had not taken anything since morning so in other words I was hungry. That group was a mixture of young men and ladies. They said to me old man where are you going to? Join us as they were singing so that I could go with them. I then said it is not possible I am not in a position to join you. Look at my condition. From that group one of them a male person came and grabbed the walking stick which I was using. He then pushed me together with the walking stick. I subsequently fell. I remained sitted and they passed through. I remained seated at that position I was having difficulties in making any movement from that position. As I was still at the same position police officers and others who were wearing military camouflage passed as they were walking. They were across the road. By then I was thinking of getting transport so

that I can be assisted to get home to Waterfalls. A certain gentleman then arrived and he enquired on what the problem was by saying, “old man what is your problem” and I explained to him. I requested him to assist me to get transport where he got a small vehicle which then took me to Waterfalls. When I arrived in Waterfalls I slept. I returned to Honde Valley on a Friday around 8 in the morning. When I got in Honde Valley after explaining to my sister in-law I would like to believe that by then they already knew what happened in Harare. They then said to me you were fortunate enough considering the events which took place in Harare. Then they said to me let us pray. In a nut shell that is what I observed in Harare. I was actually there in Harare.

Q. What happened to the clutch that was taken away from you?

A. The clutch was taken away from me.

Q. Did you recover it?

A. I have not yet recovered the same clutch as you can see I am walking without the aid of a walking clutch even those who knew me prior to that I think will also know.

Q. What was the value of this clutch?

A. An average price of \$60-00 I actually had two clutches.

Q. But on the day in question only one was taken away from you?

A. Confirmed.

Q. Would you have any recommendations that you want to give to the Chairman on the work that they do?

A. I am equally baffled considering that our President his Excellence President Mnangagwa is always preaching peace but now seeing these events one would be surprised. At the same breath prior to this they were few political parties but now the introduction of multi political parties in Zimbabwe we now have these challenges. In addition I am a War Veteran I fought in the liberation struggle fighting for peace and tranquillity. It pains me if I am to be threatened in a country which I fought for its liberation. I am pleading with the Commissioners that if it is possible they may assist us to resolve these issues so that we will not continue to witness such incidences where they would be violence. We want peace in our country.

Q. Thank you very much I will now hand you over to the Chairman and his Commissioners. They may have questions or clarifications or issues they may want to raise with you.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Mr Nyama Munetsi you said after your clutch had been taken away and you were sitting you saw the police and the army is that correct?

A. Yes.

Q. Where were the police and what were they doing and how many were they?

A. They were walking across the road. If my memory serves me well they were two police officers and two soldiers.

Q. And these were walking together?

A. The police officers were ahead whilst the soldiers were following.

Inquiry

Munetsi A. Nyama

Q. Did you see any of the two groups carrying ammunition?

A. I did not see any weapon.

Q. Did you hear any gunshots being shot?

A. I heard a sound but I could not ascertain where the sound was coming from.

Q. And you are quite sure that the sound was not coming from the two police officers or the two army officers that you had seen walking across?

A. I rule out the possibility of the sound emanating from the two soldiers and the two police officers because as they were walking they were not armed.

NO FURTHER QUESTIONS.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you Mr Munetsi. I just have a few questions. You gave us a statement thank you for that. You said in your statement that you heard the sound of gunshots which went on repeatedly. What did you mean by repeatedly?

A. Maybe to set the record straight, firstly I would like to highlight that I did not personally record the statement. Somebody was recording as I was narrating. So I said I heard a sound then the person who was interviewing me went on to ask on how many times I heard the sound and I said the sound repeated.

Q. That's what I am trying to find out. Are you able to help us with how many gunshots you heard over what period of time?

A. If I am not mistaken I heard the gunshots twice. It was just within a short space of time.

Q. Just clarify, just two gunshots separated or many gunshots then a space then more gunshots?

A. What I can say is I heard a sound. I could not ascertain on whether the sound was of a gunshot because I did not see any gun I could not even ascertain how many times.

Q. You also said that the group that took your clutch away from you were visibly drunk, this was in your statement as well?

A. From their behaviour I concluded that they were drunk because normally if one is drunk that person does not behave well and they were also violent.

Q. Can you just explain how were they violent what were they doing?

A. I am saying so because as they were moving they could destroy everything which they would have come across, hitting walls using their sticks. Even when they got where I was they did not even talk to me they just pushed me, took my walking stick where they went on to ask me to accompany them.

Q. Did you see them threaten the police or the soldiers in any way?

A. I did not witness that part.

Q. Thank you.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Thank you very much. When you were approached by that person who asked you to join the group? Did he explain to you why he wanted you to join the group?

A. No reason or explanation was proffered.

Q. Did he offer anything to you by way of enticing you to join the group like a drink or anything or money?

A. Nothing was offered. He simply said old man let us go. When I refused that is when I was then pushed and my walking clutch was taken away from me.

Q. Thank you very much.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Am I correct in understanding you to be saying that you believe that the reason why they took your clutch is because you had refused to join?

A. I made that conclusion considering that under normal circumstances if you come across somebody who is not feeling well you should actually show compassion instead of taking something which would be assisting that person, in my case taking away my walking stick.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much Mr Munetsi. No further questions you may step down Sir.

Inquiry

Shiela M. Mutsenhu

EVIDENCE LEADER : MR THABANI MPOFU

I propose to call Shiela Munyaradzi Matsenhu. I do not have a pre-recorded statement from this witness. I do have a hand written one she made when she approached the Secretariat and volunteered.

SHEILA MUNYARADZI MUTSENHU : SWORN STATEMENT

EVIDENCE LEADER : MR THABANI MPOFU

Q. You have volunteered to give evidence before the Commission?

A. Yes.

Q. I am going to ask you to please speak loudly so that the person at the back of the hall can actually hear what you are saying. Can you manage that?

A. Okay.

Q. The Commissioners have asked that I indicate to all witnesses including yourself that you are here to give evidence freely and that this is not a trial. You will not be cross examined after it. Do you understand that?

A. Yes I do.

Q. Are you a resident of Mutare?

A. Yes but during that time of the skirmishes I was staying in Harare at Chitungwiza.

Q. You have come to testify on what you actually saw on the day in question the 1st of August?

A. Yes.

Q. Please proceed and do that.

A. My name is Shiela Munyaradzi Mutsenhu. I was a politician for the ruling party ZANU PF till 2014 when I was suspended. I went into church ministry so our church is based at Chitungwiza. When all these campaigns were going on I was not very active. I was doing church business. On that particular day on the 1st of August I went into town for a hair do. I met a former colleague by the name Cde. Shadrek Mashayamombe at his former offices along Kenneth Kaunda just opposite Harare Main Post Office. He greeted me and I greeted him back. But to my surprise he was addressing a lot of people who were putting on MDC regalia. It was a sea of red and he had some guys who were dishing out alcohol or I don't know what it's called in English but in Shona we call "brongo" bron clear. Him and some of his guys were dishing out monies to these MDC people. I proceeded to Ebony salon for my hair do. After a while there was mingle people were just running all over so I had to go out and check what was taking place. When I went out I saw some cars on fire and it was beyond a demonstration. These people in red the MDC people were burning cars. So people were scared, some were running into the saloon somewhere it was confusion all over. So I went out to see out what was happening because we have never seen anything of such a nature in Zimbabwe even during the former dispensation of Comrade Mugabe we have never seen such things.

When I went out I saw Mashayamombe. He was with those people. I did see him there because the Ebony salon is near his former offices. I don't remember the name of the offices but along Kenneth Kaunda. So when I went out I saw him with a group, they were viewing from afar what was happening but I could tell that he was part and parcel of them by the way he was looking at the group and the group had now

subtracted. It was no longer that large group which was there in the morning. He was now with about 10 to 15 people at his office outside the offices. After that I heard some gunshots. There were some army vehicles there. They had to control the situation because it had gone out of hand. People were being choked with that smoke from the burning cars. The greater part of Harare went on smoke so after that I had to find my way home. I left my shoes, my pace to say the least. During that milling my right eye I think a missile hit my right eye. Right now I am struggling to see properly. In my pace there I have got shades I now use shades my vision is now impaired on the right eye. After that I fell down during that time, there was confusion I can't even describe what I saw because in Zimbabwe I have never seen anything of that nature. I fell down, everyone was falling down, everyone was running. There was a stampede. When I got back to the church premises I felt sick then on the 9th of September the situation got worse and I went to Chitungwiza Central hospital for some medical examination. And on my right side, this is the chest X-ray. I was never sick before but after that incident I became sick. I had some full blood count they were trying to see what was happening to me after that incident. Up to now I am not feeling okay. I am here in Mutare because I have taken a sabbatical rest from my pastoral duties because of what happened on the 1st of August.

In conclusion, personally I am not happy of what transpired on the 1st of August.

During the campaign period although I wasn't participating actively in the campaigns but I think and I believe the campaign era was peaceful. The President of this country Cde. Mnangagwa was preaching the gospel of peace with the mantra Zimbabwe is open for business. Little did I know people of Zimbabwe knew that the MDC T with its president Mr Chamisa were advocating, they had another mantra Zimbabwe is

open for gunshot or Zimbabwe is open for fight. So may I through you honourable Chairman and your respected Commissioners ask to tell the true picture of Zimbabwe to portray the good picture of Zimbabwe to the whole world. Zimbabwe is peaceful and I believe Zimbabwe is still open for business. I thank you.

Q. Let me bring you back to your part of the testimony where you mentioned that comrade Mashayamombe was dishing out money and bronco. Did you actually see the money what denominations it was or is it something that you saw from afar?

A. What caught my eye is the mob, the gathering. He greeted me. I saw him and some guys I didn't identify them. They were dishing out monies to the people and bear from cardboard boxes.

Q. Did you see how much the denominations the money were?

A. I didn't. If he had not greeted me I could have just passed. The fact that he greeted me made me to open my eyes.

Q. Thank you very much. I am going to hand you over to the Commissioners they may have questions for you and other issues they may want to raise with you.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you madam for your testimony and your statement which we have as well. I just wanted to ask one question in your statement. You said that you were surprised to hear gunshots. Why were you surprised?

A. I was surprised because since I was born, I was born in 1978 two years before independence. I have never seen anything like that. I am not used to a war type of life. I am not used to guns.

Q. When the crowd was gathering and money was being handed out did you hear anything being said to them or any slogans being shouted? What was being said at the time if you can remember?

A. These guys were already drunk. Some of them were already drunk. They were chanting MDC slogans.

Q. Anything been said to them that you heard about what they should do?

A. I don't know I did not hear that part.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Madam you said your eye is now soar and you have got problems with it. Would you exactly tell us what caused that?

A. A missile was thrown on my right eye.

Q. Are you able to tell us who exactly threw the missile and where it was coming from?

A. I am not able but from the MDC crowd because they were people trying to run away like the public but the MDC were busy, the time they threw that missile at me it was the time they were burning the cars. I cannot tell who did it but I know by the colour red that those were the MDC.

Q. You also said whilst President Mnangagwa was preaching peace the MDC leader was preaching Zimbabwe is open for gunshots. Are you implying that the MDC people could have had fire arms or anything?

A. Can you come again?

Q. I am saying you said the President was preaching peace and Zimbabwe is open for business and the other party MDC was preaching Zimbabwe is open for gunshots. Are you implying that on the group they may have had firearms?

A. I don't think so. But I think these people were provoking the government to react because even prior to elections, after the incident I wanted to know more as I was not actively involved before the elections so I wanted to know more so I had to go to the internet café. I had to ask people what Mr Chamisa was saying. What was Cde. ED Mnangagwa saying and way before the elections Mr Chamisa was already saying if we don't win we will go for war.

Q. You saw cars burning. Where exactly did you see the cars burning?

A. In the CBD this side of Kenneth Kaunda.

Q. This side from which position?

A. I am going to Chitungwiza, this is Post Office, this is Ebony salon, I am on the way here near the MDC offices. I am forgetting the name.

Q. How many cars did you see?

A. There is a distance of about maybe 200m or so. I could not tell how many but I saw cars burning. Not only me, the clients who were in the salon even the hairdressers.

Q. Did you see the Zimbabwe National Army?

A. Yes after the cars were burning I later saw the Zimbabwe National Army.

Q. What were they doing?

A. Trying to control the situation which had gone out of control.

Q. How were they controlling the situation?

A. At first people were asking each other come let's go outside and see what is happening. At first they were just in their cars monitoring the situation but then later these guys started to throw stones and I don't know where they got stones in the CBD.

Q. What was the reaction of the army?

A. The army had to control the situation. I heard some gunshots to disperse the people because they were in danger. The army was in danger. The army didn't have stones they had guns so when stones were being thrown on them they could use what they had to protect themselves and others. If it wasn't for the army it was going to be something else I tell you. We could have lost thousands of innocent lives.

NO FURTHER QUESTIONS.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. You were in the saloon at some point?

A. Yes.

Q. Can you shade light about the behaviour of people in the salon when what is happening outside is happening? We want to understand what was going on inside the saloon.

A. At first as I said before, nobody had ever seen what transpired that day. No one was anticipating that. People were just thinking it's another demonstration which can be controlled. So at first people were just ignoring doing their normal business but when people who were coming from the streets they were coming to seek shelter in shop, seeking shelter in saloons so that's when we said what is happening. It was confusion all over and we could peep from the windows of the saloon. Others were going out to see what was happening from a distance. So later on people started to run for dear life.

Q. How many were in Ebony saloon?

A. Ah, Ebony salon is very big one of the biggest saloons in Harare, I can't. But when the problem started a lot of people flocked there to seek refuge.

Q. Are we talking of 50 people, 60 or 100 in the saloon?

A. Ah, more than that. After the mille it was more than that because people were seeking refuge anywhere nearby but later people started to run for dear life because the situation went beyond control.

Q. Were they any people entering the salon who were hurt or who were talking about what was happening outside the saloon?

A. Yes when the skirmishes started people started to talk.

Inquiry

Shiela M. Mutsenhu

Q. What were they saying?

A. In the salon people were saying there is a demonstration, Mr Chamisa is having a demonstration. But when people started to burn cars, when people started to be rowdy that's when there was this mille and you cannot say what was said, people were afraid. This is what I can use, people were scared, and the mood was scaring.

Q. When they were leaving the salon how many entrances are they in the saloon?

A. They are two entrances, there is one by Kenneth Kaunda, and there is one by Rezende by the park, Mt Pleasant Park.

Q. Was there a stampede in leaving the salon?

A. There was a stampede ma'am but there is a distance from where this was happening about 100 or so because this thing even came near Joina City.

Q. Were any people hurt when leaving the salon?

A. I think so because it was a case of one man for his own life. No one bothered about what was happening to anybody. I was caring for my life. Maybe they gave their testimonies in Harare or Bulawayo or they are here I don't know.

Thank you.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I just want to know where exactly is this salon in terms of the place the exact place?

A. Ebony.

Q. Yes where is it in terms of roads and the address?

A. Its between Rezende and Julius Nyerere the one that goes to Chitungwiza.

Q. Is that the place where you were saying you were seeing cars burning? Where were the cars burning?

A. I can't hear you properly.

Q. Where exactly were you seeing cars, if you could tell us?

A, The side of Kenneth Kaunda.

Q. Kenneth Kaunda or Julius Nyerere?

A. Julius Nyerere, sorry they confuse me. The other side of Julius Nyerere.

Q. Would you be able to locate that place in terms of the addresses? Was Julius Nyerere and some other street where would that be exactly?

A. I am not hearing you properly Sir.

Q. Where would that be? We are more interested in the place where the cars were burning?

A. The place where the cars were burning, the road to the MDC offices.

Q. Would that be Nelson Mandela?

A. Its like there is a T-junction.

Q. Its very important for us because we need to know exactly where that was?

A. The road above Main Post Office.

Q. That is where you saw cars burning?

A. Yaa, me I was opposite Post Office. The salon is opposite Post office but it has two entrances the one overlooking Post office and the one behind at Rezende so we were seeing all this from Julius Nyerere entrance.

Q. The reason why I am asking is the evidence we have heard so far has not indicated cars burning around that place. We have heard cars burning in 4th street at the ZANU PF Provincial headquarters. So we will be interested in exactly whether they were any cars burning and at what place.

A. The road before Main Post Office near the MDC offices. I don't know the road, what's the name of the road?

Q. We have Nelson Mandela, we have Angwa Street more or less I think those are the roads we have.

A. I think it's Nelson if I am not mistaken.

Q. So would it be your evidence that there were cars burning in Nelson Mandela close to the MDC headquarters.

A. What?

Q. Are you telling us that you saw cars burning near the MDC headquarters whichever the place?

A. I mean that road, what I know is the Post office behind Post Office that road I am

Inquiry

Shiela M. Mutsenhu

forgetting the name.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. What message do you have for your fellow Zimbabweans with regard to elections in the future?

A. The message I have for my fellow Zimbabweans is let us unite. Past is past, Zimbabwe is open for business, let us move on, let us send a good picture to the whole world about our nation. We are all Zimbabweans we are not enemies. Zimbabwe has to move on. Now Zimbabwe is stalled there is nothing going on and people think we are fixing the President of ZANU PF. We are fixing ourselves we need to move on. That's my message Cde. Commissioner.

No further questions. You may step down.

EVIDENCE LEADER : MR THABANI MPOFU

I will call upon Dorcas Kanyurira

DORCAS KANYURIRA : SWORN STATEMENT

Q. According to the records that I have here you reside in Rusape?

A. Correct.

Q. Your statement here indicates that you were in Harare on the 1st of August?

A. Correct.

Q. You have volunteered to come and testify before this Commission on what you

Inquiry

Dorcas kanyurira

actually observed on the day in question?

A. Confirmed.

Q. Please go ahead?

A. I am Dorcas Kanyurira.

Q. Ms Kanyurira can I ask that you speak loudly so that people at the back can hear what you are saying.

A. I am Dorcas Kanyurira a mother of three, single mother, self employed in the business of buying and selling. On the 1st of August I left Rusape proceeding to Harare where I intended to purchase curtains and cosmetics for resale. When I disembarked at 4th street I realised that the situation was not normal as usual in Harare. But since I travelled paying for bus fare for me to get into Harare, I wanted to support my family, I just became courageous where I told myself that I was supposed to proceed with my journey. When I got at Angwa I saw some young men who were wearing red regalia. They would call everybody whom they would have met saying come we want to go to HICC. The young men and young ladies were consuming alcohol. I saw them giving each other alcohol so they were getting drunk. I continued with my journey. I wanted to go to Kello's house where I purchase cloths in bulk. When I got to that area where there is Kello's house, some of the shops had been closed. I would like to believe that they were closed because of what was taking place in town the chaos. So I could not purchase the cloths which I intended to purchase. I could not even go to Coppa Cabana where I intended to go. That is what I witnessed in a nut shell.

Q. Did you witness any violence on the day in question?

A. I saw people who were getting drunk, they were drinking, singing their songs. What I

Inquiry

Dorcas kanyurira

witnessed was this incident where those people took a cell phone from a certain Youngman. He was then pushed. I would like to believe that he refused to join them which then prompted them to take that action against him.

Q. Did you hear what these people were singing?

A. Yes I could hear what they were singing.

Q. What were they singing?

A. Their songs were actually using vulgar words so I am not free or at liberty to repeat what they were singing.

Q. Very well we will leave at that. I will now hand you over to the Commissioners. They may have questions for you, clarifications, issues they may want to raise with you?

CHAIRMAN KGALEMA MOTLANTLE

Thank you for your evidence. No further questions.

EVIDENCE LEADER MR THABANI MPOFU (To witness)

I propose to call Johnson Mudzamiri.

JOHNSON MUDZAMIRI : SWORN STATEMENT

Q. Mr Mudzamiri your statement indicates that you are a teacher?

A. Yes I am.

Q. You teach at Buhera village Primary School?

A. That's correct.

Q. How long have you been a teacher Mr Mudzamiri?

A. I have been a teacher for 35 years.

Q. According to the statement that I have here you were not actually in Harare on the 1st?

A. No I wasn't.

Q. You however wish to make submissions before the Commission?

A. I now accord you the opportunity to do so?

A. If I may be allowed to speak whilst sitting down.

Q. Sure.

A. Mr Chairman like I said, my name is Johnson Mudzamiri. I am a teacher, deputy

Headmaster at Buhera Village Primary School some 2 ½ km away from Mr Morgan Tsvangirai's home stead. May his soul rest in peace. I wasn't in Harare for what happened on the 1st but I have a strong feeling that what I know and what I believe and what I have heard may have a bearing on what transpired on the 1st. One other issue is that I am a War Veteran and I fought in the liberation struggle. Two of the fundamental grievances that drove us to war was one, universal suffrage that is one man one vote and the land question. So I feel pained when the one man one vote that I fought for is abused and people end having a Commission because of the elections. The elections were not held, the Africans did not have the franchise to vote up until 1980. Now that we have achieved that and people have been allowed to vote then we have people disregarding the result of the vote that we fought for leaves many questions in my head. I feel very bad. I believe this situation can be traced back maybe to 1999 when a group of disgruntled Trade Unionists married a group of disgruntled university students to form a political party whose aim was to oust not

only constitutionally but by whatever means the government of the day that's where the legacy of violence in politics started in Zimbabwe. I still remember hearing stories that people were beaten up in Mabvuku Tafara for not voting to a constitution that had only clause that made people raise themselves. That clause was that land was going to be taken without compensation. That's for the first time when we found farmers and their workers going to vote. That's for the first time then we found people coming in to intimidate and beat voters. I was one of the victims then. I will not elaborate on that.

I am counting on issues that happened 2008. A group of War Veterans namely Gideon Chimuka, Mpofu and Chisese were beaten up and had their limbs broken down by members of the opposition of the ruling government then. They live in my village and sometimes I would want to give you the Shona so that you really understand what I am trying to say. We were coming from the same village. We live in the same village and under the same headman. If you remember when mai Tsvangirai died and may God rest her soul. Culturally we Zimbabweans forget our differences when they is a funeral. We would want to close ranks. We would want to come together and mourn the bereaved together. But during that occasion we had some people being beaten up by the youths belonging to MDC. I fail to remember the name but they put on something which looks like a military uniform. I don't know whether it is a military uniform. What they did was, we had a Mr Madziturira who was Council Chairperson then who also wanted to be at the funeral and he was beaten up and ended up at Murambinda hospital. I went there in person to see him. We also have Mr Bhunya a War Veteran his tractor was burnt. We also have Mr Matsvaravanda whose homestead was burnt down. I am only citing these events so

that you see the violent nature of some of our political parties that seem to be representing our people.

I will also drive you back again to the death of late Prime Minister honourable Morgan Tsvangirai. Something happened that to me appeared whirled when a vice president of the same party was to have a house torched by the supporters alleging that she had turned against the party. What I am saying it's known.

And also apart from being a War Veteran and apart from being a teacher I participated as a polling officer during the elections. At my polling station that is Buhera village people voted peacefully. Every other, they were about four party agencies in the room when the votes were counted before there were posted on the wall everyone accepted the results, signed for the results and he was given a V11 form as proof to him that what had been done was free and fair. We also had observers from Europe I think a lady and a gentleman, I can't remember the countries. After that the results are put on the wall I said yes the one man one vote that we fought for is now at place. Little did I know that something was brewing in Harare? I only heard over the radio that there was violence in Harare that some people had lost their lives may their souls rest in peace.

It's disturbing Mr Chairman that you spent 7 years in the bush fighting for a cause which a young man of 40 who was not even there at independence would say "toda kuisa sadza iroro majecha". Where the young man would say we want to spoil the party. "We want to pour some sand in the sadza". Just like that. You begin to ask yourself where our humanity is. I am giving you this with a sincere hope that you guys are going to help us and maybe straighten up this issue.

I will go back again. I usually listen to the radio and over the television one day when at one stage the honourable Tsvangirai said “Mugabe either you go peacefully or we will remove you violently”, its coming from the founder of a party. Then feeling that he may not have been out done then the next president comes in and say I will give little kids or young boys and girls because they have no money. Taking advantage of their poverty giving them alcohol to drink so that they go and make demonstrations. That did not go down well with me.

What I am only trying to say is where the rule of law is because I hear these parties talk about rule of law. Somebody goes with an issue to the Supreme Court or the Constitutional Court with a belief that the issue is going to be straightened. Were the elections authentic, the court says yes there are. But the same person who is preaching rule of law goes to Gwanzura stadium and try to get himself inaugurated. Mr Chairman it baffles me but you know what, we are Africans, we have our beliefs. We have our ancestors and we believe in them. What happened, they want to torch then it doesn't, it doesn't catch fire. We want to release those guys they don't move. They even tried to use petrol but they could not ignite the fire. They tried to remove those doves, those doves are a sign of love and peace so those doves could not move away from violent people. So with all this Mr Chairman, mine was maybe to put some light to you so that you would understand what type of creature we are dealing with. What type of animal we are dealing with here. What type of policy that that type of party has. I will be happy if we had elections somebody loses and then takes it. Help us educate our leaders that when you get into an election it's either you lose or you win. Help us also educate them that a war is not won by a battle because sometimes you win the Harare battle seeing so many people voting for you then you believe its

Zimbabwe. No, Harare, Bulawayo are just two provinces. So if you raise a multitude of people following you in Harare it doesn't necessarily mean those people will vote for you anywhere. Also you would find some statements being made to the effect that there are some teachers and some soldiers who did not vote then a question I would ask who told you that those people were going to vote for you? I think my case rest here.

Mine there is no witness of what transpired on the 1st but I was trying to get a background of what could have made that happen because it wasn't spontaneous. It was well organised. Before the elections it was said we will not accept the elections if we don't win. So why do you go for elections if you don't want to lose? If you don't want to lose don't go to elections because election you either come out a winner or a loser. Thank you Sir.

Q. The Chairman and his Commissioners may want to ask you questions. I now hand you over to them.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to understand the violence in Buhera. You talk about incidences where people were beaten up and I think in another example you gave there was a household which was torched?

A. Yes.

Q. Was it on the same day with the burial of Tsvangirai's wife where Khupe was to be torched?

Inquiry

J. Mudzamiri

A. There were two different occasions. The torching of the houses happened on the burial of Susan and the attempted torching of the house in which Cde Khupe was on Tsvangirai's death. So there are two different occasions.

Q. Thanks for that clarification I had not heard you properly there. So on the death of Mai Tsvangirai, may her dear soul rest in peace, I mean on her burial you say how many people were beaten maybe can you repeat that again I didn't hear you clearly?

A. A number, I cannot give you the number but I have given you the example of Mr Madziturura who ended up in hospital.

Q. Why were they beaten and why was that house torched?

A. Because they belonged to the opposition ZANU PF as well as being the Council Chairman Mr Madziturura was the coordinator of ZANU PF then.

Q. Why was deputy president Khupe to be torched in a hut?

A. They said you have sold out. They were accusing her of having sold out.

Q. Thank you very much for the clarification.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much Mr Mudzamiri. There are no further questions so you may step down.

EVIDENCE LEADER MR THABANI MPOFU (To witness)

Mr Chairman I propose to call Layton Limbo next.

LAITON LIMBO : SWORN STATEMENT

Q. Mr Limbo I am going to ask you to speak up so that everybody at the back can hear you including people at the back.

A. Thank you.

Q. Your statement here says that you are a farmer in Headlands?

A. Correct.

Q. Statement also indicates that you signed it on the 8th of November?

A. Confirmed.

Q. Did you come from Headlands today?

A. Yes I came from Headlands early in the morning.

Q. I would like you to just explain to the Commission if you so wish what it is that has motivated you to come and testify before it. I see that you came on the 8th you are back again to come and testify. What is it that has motivated you to do that?

A. It is a good question. As a citizen of Zimbabwe, born in Zimbabwe, growing up in Zimbabwe it is my desire to say out or disclose what is troubling me where I feel that this should be addressed.

EVIDENCE LEADER MR THABANI MPOFU

Mr Chairman, Headlands I believe is over a 100km from here which is why I asked that question.

EVIDENCE LEADER MR THABANI MPOFU (To witness)

Q. You witnessed events that happened in Harare on the 1st of August?

A. Confirmed I witnessed the events.

Q. May I present to you to tell the Commission and the audience what it is that you saw on that day?

A. I am Lytton Limbo. I am aged 35. I reside in Headlands where I am a farmer. I am a leader of a pressure group which is Headlands Small Scale Farmers Association. So I am a farmer at the same time I am also a vendor so I earn a living from that. I am the Chairperson of NVUZ at Makoni district. (National Vendors Union in Zimbabwe).

I was closely monitoring the previous elections even though I was not actively involved but I was closely monitoring the elections checking even on what would have happened at different rallies. Maybe going back from the year 2000 to around 2008 in Headlands during the election period one was not free. We were full of fear. We did not even know on whether we could do our usual business we talk of farming that we normally do. I was relieved when the former president Robert Gabriel Mugabe stepped down and the current President his Excellence Cde Emerson Mnangagwa took over. I had the opportunity to go through his party election manifesto. I was interested in few words which were in the document where it was said the voice of the people is the voice of God. As a believer after hearing that or going through those words where it was being said the voice of the people is the voice

of God I was actually interested in that. I became eager to know exactly what the President meant by that.

Q. Mr Limbo there will be another opportunity maybe at other forum for you to fully explain that. Right now we have so many witnesses who want to testify so I am going to have to request you to go to the 1st of August and narrate to the Commissioners what it is that you saw. It's a request.

A. I was getting there. I was comparing the two leaders. One of the leaders claims to be a pastor. He was trained theology for him to be a pastor but I heard him at one of his rallies saying it doesn't matter I am a pastor but if there is need for us to fight we will fight. I was not surprised to see Morgan Komichi and his colleagues trying to take the ZEC Chairperson's position so that they could announce the results on their own. The following day honourable Tendai Biti also said out in a press statement that they knew the results already so the results were against their will so they were going to take some form of action which was not specified but in my view what they did was what he meant. During the campaign period towards the elections we were told that everybody, every Zimbabwean was free or at liberty to chose his/her own leader to vote for any candidate who he/she wanted to vote for.

On the 1st of August in the morning I proceeded to Harare where I intended to meet our leader for NVUZ Stanley Zvorwadza. As I was at Headlands intending to board on a bus, the vendors who were at Headlands warned me saying where you are going to you will not return. I was surprised to hear that. I did not have these modern cell phones I was relying on a small phone which they call kambudzi this side. I tried to get information from them since they had these modern phones thinking that maybe

they had information but they said you can go but you will come across what we are talking of. I disembarked from the bus at 4th street. At 4th street soon after disembarking from the bus I became afraid I felt it that something was wrong. On the other side there was a group of people and that group was singing. Two vehicles were burning. I had to change my direction of travel after seeing that. I went on the other side leaving the other side where there were market stores. I then went to Robert Mugabe road since I intended to get to Angwa Street. I walked towards Angwa street. Upon my arrival at Angwa street we in intended to meet Mr Stanley zvorwadza. There was also a group of people on the other side the witness has illustrated using his right hand as one will be going towards Coppa cabbana. From that group others had removed their shirts where they tied them on their waist. I heard them calling out saying. We shall start by quoting, '*Zanu yamama. Zanu yajaira nhasi vano zviona.*' What it simply means using dynamic equivalents now is ZANU PF has (evidence leader interject)

Q Lets just carry on.

A I should leave it like that?

Q Yes.

EVIDENCE LEADER: MR THABANI MPOFU

Q Mr Chairman I am going to seek your permission to let him carry on. I will ask your members who understand vernacular to help you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q Lets proceed. It`s ok.

Witness continues to give evidence

They were singing some songs. Chanting their slogans putting on part t-shirts. Standing from a distance I then told myself that I should not proceed towards that direction. I phoned Mr Stanley Zvorwadza where I told him that there was a possibility that I could be attacked so it was better for me to return home. Using the same direction that I used as I was going there I returned because to me that direction was safe. Without getting enough information on where the vehicle was going I just got in a vehicle. I did not enquire whether that same vehicle was going to Masasa or any other destination. Fortunately that vehicle was going to Marondera. When I got in Marondera I disembarked where I got another lift which took me to headlands. When I arrived at Headlands I was then told you have seen it yourself that the situation is normal where you had gone to. Some people died from the information that we have just received. That is what I was told. I responded saying I had not seen that incident where people died but I witnessed the incident where buildings were being destroyed. Vehicles were being burnt. They went on to say soldiers ended up being involved and I confirmed that there was a possibility that soldiers had to intervene in a bid to assist the police because in my view the police could not control the people whom I saw in town. That is what I witnessed.

Q Thank you very I am going to hand you over now to the Chairman and the Commission they might have questions to you.

NO FURTHER QUESTIONS

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Thank you Chairman. Mr Limbo you in your evidence you indicated that there were too many political party leaders. One was a Pastor who would say it doesn't matter I am a Pastor if you need to fight I can fight. You did not tell us who it was it army be common cause for everyone in here but from fellow Commissioners from outside of Zimbabwe they may not know who it is would you like to tell us who it is for purposes of record.

A It is a good question. Nelson Chamisa the leader from MDC Alliance. I thought it was common cause for everybody.

Q In your own knowledge and belief who do you think this caused commotion?

A Like what I alluded to earlier on where I made reference to what was said by Tendai Biti and also what was said by their leader, so to me it clearly shows that they were prepared to cause violence and its common cause , their part which caused the violence.

SECRETARY FOR THE COMMISSION: MRS MABHIZA to interpreter.

Q I think he mentioned the part didn't he.

A I might have missed that out of abundance of information.

Witness continues

A MDC Alliance.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q The day you left Headlands for Harare the vendors warned you on what was about to happen. Were you able after what happened on the 1st of August to ascertain from them how they knew that there was going to be violence in Harare.

A At headlands just close to the road that is where the sitting counsellor for MDC Alliance is so I thought he already had information which he then circulated to the vendors who communicated to me.

Q I am just trying to ascertain whether you tried to find out yourself how they got to know that there was going to be problem in Harare because about the problem which was going to be in Harare you got to know it before you left even though you didn't quite believe in it but what I am trying to get is whether people from your Chinyika village or you know even amongst the vendors you were able to ascertain without making an assumption. Did they talk about, I mean like where they preparing? How did they get the message? I heard that before the 1st of August these people moved around different constituencies where they were picking up hooligans who would then demonstrate in town.

Q Ok thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I just want you to clarify the facts from what you said and also from the statements we have from you. It seems you are saying that when you arrived it was around 09.30 am or around that time. Is that correct. I said it was between 9 and 10.

Q But it was certainly before noon on the day. Was it before 12. You are certain that it was before 12?

A Yes it was before 12.

Q And that is the time when you saw vehicles already burning is that what you are saying?

A Yes.

Q Where was that?

A At fourth street there is this other road which crosses fourth street where there are market stalls on the right side there at a rank.

Q Do you know where the ZANU Pf Provincial headquarters is?

A I might not know the exact place but what I know is as you will be going to National Sports stadium, so as you will be going the direction of Kuwadzana , going west, that is where the offices are.

Q I want you to know that we have heard evidence as a Commission and every witness has appeared before us and before your evidence and suggested that any burning of vehicles took place after 1 pm your evidence to this Commission is that when you arrived on the first you already saw vehicles burning. You want to be sure that you want to maintain that evidence in the light of what we have been told by others. I might have made a mistake maybe on time but what I can confirm is at that place there were some vehicles that were burning.

Q But when you arrived they were vehicles that were burning?

A Yes when I got in Harare there were vehicles that were burning.

Q Do you realise the importance of what I am asking because we will assess they would be difference if you say that's exactly what happened so you need to be very clear with us so that we know whether this is the truth or not the truth . We are looking for the truth so it's important for us whether you saw vehicles burning before 1pm when you arrived in the light of the evidence that is coming from others that the burning took place after one so I want you to be sure that you tell us what you know to be the truth . Was there any burning of vehicles before 1pm on this particular?

A I might have been mistaken on the exact time as I was giving information to the person who recorded my statement I simply said that it was in the morning. I did not specify saying that it was on 9.30 am.

Q The second issue I want you to clarify relates to the sequence of events. You referred to the incidence where Mr Komichi almost wanted to announce the results. Are you saying in your statement that this was before or after you had gone to Harare?

A Before I went to Harare.

Q But you went to Harare on the 1st August ?

A Yes.

Q Would this be another situation where you might be confusing time. Is this incident of Mr Komichi coming in on the 2nd when the Presidential results were being announced.

A When I gave evidence I was not saying that happened on the 1st of August but I was just trying to explain to the Commission the behaviour of the MDC Alliance leaders.

Inquiry

T DUBE

NO FURTHER QUESTIONS

T DUBE : SWORN STATEMENT

Q Mr Dube am looking at your statement here it says you are 45 years old?

A Yes.

Q And you come from Ziwande village Chimanimani?

A Yes.

Q Your statement indicates that on the 1st of August 2018 you were not in Harare ?

A Yes.

Q You then indicated you were then informed about the violence that occurred in Harare you watched some of it on T.V?

A Yes.

Q The Commission has heard a lot of evidence from a lot of witnesses about the violence that transpired on that day so I would like to restrict you to the part of your statement were you speak about the recommendations that you want to make to the Commission. Do you remember your recommendations or I should give you your statement?

A I can say that.

Q I now give you the opportunity to present your recommendations to the Commission.

A Tatson Dube and being 25 years of age. I was with Nelson Chamisa for 4 years at College I want to put that into light to the Commission and I will also delve into

the recommendations. During the orientation period as student we were given a chance to air or say everything that we wanted. And you could be voted for despite saying the lies or truth or anything. I want to thank the lord that I managed to graduate earlier because I realised that I managed to change from what we were doing then and Nelson Chamisa has not yet changed.

During his election campaign he made a promise that in the event that he loses he was going to pledge his sister to the winner. I am therefore pleading that people should not just say anything but should say meaningful things which are of development.

Q I would like to go back to his recommendations because I think he mentioned about elections. I would like him to repeat those recommendations.

A Candidates should be taught that during an election process it's either you come out as a winner or as a loser. During our tenure in student politics it was either you would win or you would lose there was no way that one was going to lose. I am therefore seeking that the Commission should educate the parties who will be willing to participate that they should accept a win or a lose. And the other recommendation is that the parties should not be insulting people they should tell people what they are going to fulfil which is feasible. I am also telling the Commission that they should tell those that would want to participate that if there are evil spirits we can also pray from them.

Q Thank you. Did you have any other recommendations for the Commission?

A No.

Q I am now handing you over to the Commission.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Do you have any recommendations pertaining to the security forces?

A There was a March which took place which comprised of the police and the army and it was held peaceful and therefore it shows that the incidence which happened later had nothing to do with involvement of the police and the army and it come to me as a surprise about the activities which is said that they engaged in.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you. I do not know whether I heard you correctly Mr Dube that you seem to suggest that if student contest students don't learn how to accept defeat or victory. Is that what you were asserting?

I thought I heard Mr Dube saying there is need for the Commission to ensure that those who contest elections are taught to understand that you enter elections with the view of either having to accept defeat or victory?

A During our student politics it was, there was no other option apart from demonstrating.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Are you saying that in student politics you don't give yourself any option except one option which is what you want?

A Yes. That is why he kept on preaching the mantra that they had already won the elections and he was saying that from the student politics that, that is what is going to be done.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q That sounds very strange . How do students get elected as leaders if they participate for the elections for student representative council for instance?

A It was being emphasized that it was going to be a demonstration or a demonstration. It was going to be a win or a win. No other option was there. It is from that background that he is taking that attitude not to accept defeat.

NO FURTHER QUESTIONS.

INNOCENT MAGUTAKUONA : SWORN STATEMENT

Q You stay in Chiendambuya township?

A You witness the events that occurred in Harare in 2018?

A Yes.

Q You have been sitting here all morning from other witnesses?

A Yes.

Q I would also like to indicate to you that apart from the evidence that you heard the Commissioners have heard evidence from many other witnesses who have spoken about the violence that occurred on the 1st of August 2018. Do you feel that you

have anything that haven't been mentioned this morning to the Commissioners that you would like Commissioners and the audience to hear. If you do this is the opportunity I give you remembering that they have already listened to the evidence of violence and what transpired on that day.

A Yes.

Q Carry on.

A On the 1st of August I left Chiendambuya heading for Harare. I wanted to leave the documents that we were using at Zimbabwe institute and it was working in unison with the European Union. I got in the bus. When I was at headlands I had to check on my phone. From the chats on my phone there was a communication showing that there was a possibility that there maybe violence which was going to take place in Harare. As an agent I had worked I was fearing that if I did not process the documents I was going to lose out on my money so I had to proceed to Harare.

In Marondera there were other men who then boarded inside the bus that I was in. They sat on the dash board. They had a conversation and during their discussion whatever they were saying was against ZANU PF. I did not comment in relations to what they were discussing. Upon arriving at fourth street I then realised that there was an anomaly as the situation was not like as it is normally is. I then decided to go to the pirated taxis to find about where I wanted to go. I became afraid of asking from the touts because of the manner in which they were behaving in. As I thought that I was going to show to them that I was coming from the rural areas because they were saying people from the rural areas were the ones which had voted for ZANU PF. I

then passed through Africa Unit Square where there is a park which is close to a certain hotel. As I was passing there through Nelson Mandela as I wanted to go to the deeds office as I had other documents that I wanted to drop there, as I walking there I met a certain man who is of my age. They were a group of men who were walking there. They were singing a certain song. The song was saying Chamisa change your heart E.D is now suffering from diarrhoea. That man then said that I should join the crowd saying that I maybe one of the people who had voted for ZANU PF that is why I was not joining them and he also asked whether I was not pained with what was happening. Out of fear I then joined the crowd. After having joined the crowd I managed to walk faster so that I would outpace the person who had said I should join them. I then reached NASSA. I managed to leave the crowd as I went towards the direction of NASSA leaving the crowd.

I then boarded a commuter omnibus going towards Mt Pleasant. It seems like the talk of the day was people saying that the people from the rural areas had caused things that they did not like and everyone was saying things which were against ZANU PF. I managed to get to the offices and processed the documents that I wanted to process.

I finished around about in the afternoon though I do not know what exactly the time was. As I was about to leave I was warned not to get in the CBD as they said that there was violence. I boarded a commuter omnibus which made u-turn p at NASSA indicating that there was violence in the CBD it was not safe. I then disembarked at that point. I then saw a group of people in the CBD and the other ran towards the direction where I was. After having seen that there were those skirmishes I boarded a

tax which then dropped me at Samora Machel. I then boarded a commuter omnibus which was going to Mabvuku Tafara.

In the commuter omnibus there were conversations which were being held. There were people who were saying they were victims who were not happy about the disturbances which had taken place in the CBD. I do not know whether they were under the influence of alcohol or not but their vehicle was unacceptable.

A certain man asked them on what had really taken place. They tried to get hold of that man so that they would attack I him. I then asked on what wrong he had done. I was strangled on my throat. The driver indicated that if they were real men they would go back to the CBD. He indicated that he did not want any violence behaviour taking place in the commuter omnibus. They pretended as if they had let go off me. I pleaded with the driver to drop there and I left there. I managed to get another mode of transport at Mabvuku and then find my way back. That is what I witnessed according to the violent activities.

Q Thank you very much I will now hand you over to the chairman.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you very much for you answers today. I just have got a few further questions I wanted to ask you. You said in your statement that you saw two helicopters flying over you.

A I saw the army motor vehicles and the helicopters as I was running.

Q That was is Samora Machel Avenue where you saw then when you were running. Is that right?

A I do not recall since I am not very much familiar with the streets of Harare.

Q You also heard some gunshots?

A I want to withdraw that. I just heard some sound I don't know what type of sound is it.

Q Did it sound like gunshots at the time.

A I do not know what sound was like because I have never heard the sound of fire arm nor can I pinpoint and say that this sound that I heard was of a firearm.

Q The army trucks that you mentioned how many of them were there? Can you remember?

A I do not recall the number of the trucks but what I recall is that I saw the trucks passing.

Q Did you see soldiers with guns inside the trucks.

A They were showing as if there were people who were there.

Q Just about helicopters again was it helicopters that you saw?

A Yes there were helicopters but I was fearing for my life and I was in a state of confusion so I could have not noticed how many helicopters were there

considering that I had been harassed earlier on I was at a loss of what was happening.

Q Yes you said you were running away because you wanted to get away.

A Yes as I did not have anything to do with the violence which was taking place I was only minding my business.

Q Do you remember whether there were a lot of other people running away with you and around you when you were moving away?

A There were so many people who were fearing for their lives to get out of the CBD.

Q When the process strangled you when you were in the bus can you remember whether they were saying anything at that stage about the army or the police?

A They saw me as a person who was supporting the activities which were taking place in the CBD. There was a person who asked on what was really taking place and the other part thought that I was against their plan or whatever was taking place that day.

Q Did anybody try to mention anything about shooting or the police or the army? Any information about those topics?

A To my knowledge the security services provide services of safeguarding that is why I realised that the activities that were taking place were unlawful and I wanted to report the incident but I did not get an opportunity to file a report and I think this is the right forum that we should be protected and people should not engage such a behaviour which affect other innocent citizens .

Q Thank you for your information today.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you for your testimony. I want to seek clarification. You went to the Zimbabwe Institute after you had witnessed some violence taking place in town and you also said that the workers there advised you to avoid going into town. Did they tell you which other route to use, to avoid going into town or did you ask them?

A No. I was only asked whether I was driving or not and I advised them that I was using public transport.

Q Thank you because I am wondering how you could have gone back to town where you had witnessed violence and also whether the Zimbabwe Institute could have told you another route to use.

A The incidences of the skirmishes were happening in the CBD and I managed to find way out to go to NASSA where I then had the transport and on my way back I went back to NASSA.

Q Did you feel that you could have used another road? I am just trying to imagine how you felt when you were travelling between Zimbabwe Institute and NASSA knowing what you had seen. It's like going into fire knowing that there is fire.

A If you may assist if you know where NASSA is located.

Q Yes.

A Considering where I was coming from and they location of NASSA is not in the Central Business District but it is on the bit on the outskirts of the CBD and I was supposed to go back home as I was not supposed not continue being in Harare.

Q In your discussion with the Zimbabwean Institute did they tell you where violence was occurring in town so that maybe that could have given you an idea about the boundaries of the violence.

A I was advised that the skirmishes were taking place next to HICC or at HICC near Zanu Pf headquarters. I then realised that from there where I was I could safely go without encountering any challenges.

Q Thank you very much for your clarification.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Basing yourself on what you saw and the information that you gathered from the people you spoke to, do you have any information on what really triggered the violence on the 1st of August?

A During the campaign period the leader of MDC Alliance Nelson Chamisa was saying that he was supposed to win the elections. He made a declaration that he had already won the elections. As I have indicated before that I support ZANU PF and I have been victim from MDC violence because at one point they came and torched my tobacco bans at Chiendambuya and it looks like it's their culture to promote violence and the they were promoting hate speech and I then came to the conclusion that violence was part of their culture.

Q In your opinion do you think that there is anything that the security forces could have done in a better way to obviate the violence.

A I am not in a position to comment much on that because I do not know their operating procedures.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I just wanted you to clarify to us when you were answering a question by Commissioner Dickson you distanced yourself from the earlier statement recorded that you heard gunshots.

A Yes I said that.

Q Why are you doing that? Are you now no longer sure that you heard gunshots?

A Considering that there are so many things that can produce sounds which can be similar to that of guns considering that there is another process where people could be popping maputi maybe it's the one and I can say that it's a firearm since I did not perceive it.

Q So we should remove that you did not hear gun shots?

A Yes.

Q Do we retain the helicopters and the army trucks?

A I perceived that.

Q Thank you.

INQUIRY

R Banga

COMMISSIONER VIMBAI NYEMBA (To witness)

Q You talk about leaving your papers at Zimbabwe Institute. The papers had they anything to do with elections?

A They had something to do with the elections?

Q Did you say you were the election agent or election observer?

A I was training people from all political back ground which Professor Madhuku is aware of that arrangement which was taking place at that time.

Q Can we say it was a training report or monitoring report that you were now presenting to Zimbabwe Institute?

A It`s a training report.

Q Thank you very much I needed that clarification.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I can confirm that I am aware of the arrangement.

NO FURTHER QUESTIONS

ADJOURNED FOR BREAK

RASHWEL BANGA : SWORN STATEMENT

Q Mrs Banga you have been listening to the proceedings since morning. You have indicated that you have submissions which you wish to present to the Commission which haven't been covered before?

A Totally different. It is important that we tell the truth so that our economy gets better than what it is. Let`s not cover what is bad by trying to cram whatever we were taught to cram by someone else and say something that is not happening. I will start by mentioning an incident where I happened to be in Mr Madhuku`s in-law home. He had a function there. A memorial function. I attended that memorial function. Mr Madhuku was harassed by the police in my presence. If he can remember it. I am not a good historian but he knows it. I am talking about the police.

Secondly there was a man by the name Gift Tandare if anyone can remember. He was shot during day light by the police in Harare. That person was shot by the government. Coming to my own history a certain war veteran, a group of war veteran among which there was a concrete Asthma. He was recently buried at this shrine, provincial shrine. Those who read newspapers can remember that. He came to my place when the MDC appeared to have won the elections. He come to my place and intimidated me. He actually threatened. They actually held a meeting at my residence and they pointed at me. You were one of the persons who had made MDC gunner matter in this constituency and your name is number 2 on the list. This happened. I can prove it. The father my name was number 2. The first name was Aaron Mbekunye who is a business man at Berchnough bridge. We were on the danger list or murder list which was prepared by war veterans who work for the government. Ground down on the murder list after elections if you remember the time when T Juka came into this country. It was post election event when that happened People`s homes were destroyed for voting for opposition. Some people died because they were ill and could not have proper accommodation as they died because of harsh weather conditions

outside the homes. These homes were destroyed by our government. We have had one government since 1980 which is ZANU PF. I do not know whether Mr E.D belongs to that.

Here comes another incident. After the meeting that was held by the war veterans, soldiers came and pitched a tent near my home. I was here in Mutare and my wife called me, do not come back. Home is no longer a going area. Stay where ever you are. I stayed in the bush for 6 months. There after the whole land was raided by soldiers and ZANU PF youth. It was a reign of terror. We are talking about our country Zimbabwe.

Come 2008 elections came. Whatever results were announced, whatever was announced. It was unfortunate I was one of the MDC agents. I noticed what was there. People voted. We wrote on the so popularly known as V11 forms. Every member who was participating in that election was given a V11 form. Even Chamisa has got that. E.D has got that showing what had been said. Someone had said the, 'The voice of people is the voice of God.' I think somehow that was subverted because even in court I heard a new word primary evidence and secondary evidence. This is the evidence that was used to deceive Chamisa. People did not vote for what people are saying.

People voted for something different that is why you see there is no investment in Zimbabwe. Even Zimbabweans they cannot invest in their own country because we are lying to the whole world so that we remain in power. Commissions had been there . Commission after Commission and then this one. What are we getting from

this Commission? I have never get feedback from the government after a Commission. Monies are spent. Government money. This foreign currency which is in shortage in this country is being spend by Commission after Commission. Is this health in the country? Or improving the situation of those whose relatives or parents where shot by the government. When we talk of shooting, in Zimbabwe here if you shoot someone you won't go unnoticed. Maybe one night but the following day you will be caught because the bullet is known where it comes from, the gun is known. The owner of the gun is known. But this time people were buried but there is still this Commission looking for the people who short people in daylight and a lot of people stood up this morning to lie to the whole world . Sorry I am talking too much . Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q You alluded to a number of incidents but you did not give us the dates of when those incidents happened even a year or a month.

A I remember mentioning that I am a poor historian. Dates are a problem to me.

Q Even a year will do. Even a year would help us so that we know whether you are referring to incidences that are linked to the events of August this year or you are referring to historical incidences.

A Right the T Bajuka incident or the Murambatsvina incident I think some of you can help me there I have forgotten the year. When war veterans came to my place it was 2008.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q T Bajuka its 2005.

NO FURTHER QUESTIONS

IRVENE MBENGO : SWORN STATEMENT

Q Mr Mbengo you indicated that you wish to address the Commission on your recommendations and how we should proceed as a country. I am going to ask you to be very brief. We are short of time. If you can just get straight to your recommendations and be as brief as possible.

A Sure. Thank you MC, Chairman and the honourable Commission. Right. I am a war veteran let me state very clearly and very categorically. I am a student with Africa University doing a PHD in Peace Leadership and Governments. I already hold a Masters in the same field of study so whatever I am saying is not from being an activists or an adversary built it also based on knowledge and also very interesting about comrade there is that I am the author of the inclusive government major content and I am glad we have also Mr Montlante and his former colleague Mr Mbeki. These are guys of quiet diplomacy and we hope we are also going to benefit from their coolness expertise. Also I give great honour to the gentlemen and ladies who were accompany you as Commissioners. Already we have seen and heard about the issue of violence being articulated from all angles. However I have realised, somebody said here, he spoke of the economy and also fortunately the current present mantra is that Zimbabwe is open for business and our focus is on the economy.

So with my recommendations I wanted to say briefly that when you see what occurred in Harare on the 1st of August I was saying to myself I would centre on your terms of reference on subsection 1 and subsection 7 which says circumstances reading to and also other matters so I am still focused so that I will then give my recommendations .

Ladies and gentlemen let me say Zimbabwean politics has not been very good and does not match the level of education of its citizens. Let me say that Zimbabwean politics has not been good and also we when we look at it then we tend to ask ourselves as war veterans that what we are doing in the political arena does it worth all those multitudes perished?

We have General Mwamunyange from Tanzania. We have millions of Zimbabweans there, infact thousands. We have others in Zambia, we have others in Mozambique. I ask myself always and by coming here I actually bunked my lessons to come and give testimony today. The only way we can pay tribute to those gallant sons and daughters is to live Zimbabwe which is united, peaceful, prosperous and well governed and governance begins with elections. So on that note, seeing that we have been nurturing a culture against each other for no apparent reason for that matter because enough blood was shed, I am saying we have to do intensive capacity building to educate our people right from kindergarten. Get into the rural areas . Educate people about issue of their basic rights which we fought for which everybody right here is looking at and aiming at. I was also saying to myself that we have this Commission comprising of somebody in South Africa which is a member of SADC somebody from Tanzania

INQUIRY

I Mbengo

also a ,member of SADC and COMESA also from Nigeria a member of ECOWAS and also we have a gentleman from the United Kingdom so I was saying we have also benefits here from Zimbabwe. Let me say when I wrote the inclusive government it was premised on one statement. To nurture and promote national, regional and international unity highlighting the policies of reconciliation. Integrated entry form in the economy and a multi racial society. I am saying so because I am the author. I am going to give you the evidence. I have it which I am also going to present to the Commission so we need others first in Zimbabwe as Zimbabweans. Let me also hasten to say before I forget, engagement as the ZANU PF manifesto I have it here.

Investment does not begin in Davos , it begins in Harare but here is the starting point. And then you go to Davos when you are a united people. You speak with one word. And I appraised ZANU PF manifesto because it is well articulated there that unit, re-engage, create jobs and then develop the country and even the word ZANU PF itself I was saying our politicians are failing to recognise that it says that it say Zimbabwe African National Unity. We need unity ladies and gentleman and until we are united our economy will remnant in the comatose as it is right so we need unity. Yesterday, in the military we say delay is disaster.

Still on that looking at your Commission sir I was saying its mandate sir should be broadened and it must actually must be incorporated. It must encompass some people of United States and even Canada, from Russia, even China and Japan. Make it broader.

Let me also say what will take Zimbabwe right now from the current economic miss it's a nation team. President Mnangagwa, Prime Minister Chamisa then go further, they form a national team and hence we will have the country moving forward. We saw that during the inclusive period. Five years turned around everything for the better of everybody. Hence I am called comrade inclusive '*Ngatidye tese*' We had to eat together, share together.

The second recommendations. Leaders we are also recommending that they be encouraged to hold public debates together. That will sought of develop a culture of openness, transparency and tolerance on and the subordinates and followers will follow suit. There will be no issue of fighting each other.

Q Comrade sorry. You are giving very valued evidence. I am sure it is very well appreciated. You are an academic I can see that. Could I request you make and undertake to put all your recommendations in writing?

A Yes I will and I will give you additional ones.

Q And submit them to the secretariat. Why do I say that? I can see you would have need more time but time is not what we have.

A Ok I am left with two so in 5 minutes I go over.

Q Can you make it 3.

A No problem. Right you will find that the gentleman who spoke recently he spoke about the issue of 2008 and it was in 2008 when I did the blue print of the inclusive

government . Number 2 a people driven Constitution because MDC and ZANU Pf had the draft.

The third reconciliation is the issue of healing and reconciliation. We need a comprehensive undertaking programme of such nurture. Here is my document of evidence and very interesting information. I will give it to Professor Madhuku because I long included him. Which he will share with the rest of the Commission.

I am saying because of too many people who perished in Zimbabwe`s political before independence and after independent we need a comprehensive national healing. Let us get out of the state of denial as Zimbabweans and admit that atrocities were committed.

Then I said the moment this Commission if its tenure is extended , broadened mandate from a government of National , do capacity building to nurture people a culture of unity , a culture of tolerance and even the issue of sanctions will fall away.

I rest my case.

Q Thank you very much sir. The Commission may have questions with.

A With pleasure.

Q Once again your written submissions are quite welcome. You will give them through Secretariat they will get to the Commission.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much for your very good recommendations. Do you have any observations or any proposal recommendation relating to the Zimbabwe electoral Commission such as its Constitution as well as to the electoral law. Do you have many recommendations relating to those two?

A I think when I say the legacy we would like to leave behind even as war veterans , even as a party is a legacy of united , peace prosperous and well governed country and I say governance begins with election. I would say if the law of the electoral Commission are done by a multi stakeholder to ensure that we have an international based practises because there is direct relations between the economy and politics. There is the issue which is one of the determents which right in the middle of liberalism . The issue of legitimacy. Consent of the governed so I think if the electoral roles are done according to the best international practises the better we will be as country.

PATRICIA MPOFU : SWORN STATEMENT

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q You have been listening to proceedings here since we started?

A Yes.

Q I am going to ask you to speak up so that everybody in the room can hear.

You have heard that we want you to restrict your submissions to recommendation before this Commission?

A Yes.

Q Please go ahead.

A Thank you. My recommendations are sought of an appeal to the international community to forward this to the international community and for our government to do something about use of the socially media because as far as I am concerned these two actually are the reasons behind what happened on the 1st of August.

The international community by this I will be referring to organisations such as the European Union, the Commonwealth. It looks like we have opposition parties in this country mainly MDC A who are ready to catch the attention of the international community and when you look at the way things started happening before the first of August, Sibanda who is the spokesman for MDC 'A' commented that the incidences which happened on the white city stadium where President Mnangagwa was almost assassinated demonstrated that Mnangagwa is no longer in control and by that he referred to saying that the police are no longer backing him. From there they went on to urge their support to demonstrate and said the police are behind us now and they are now supporting us and the very moment that they provoked the situation which caused the army to react they then started to say the international community is watching. I would actually urge that this so called international community must watch and investigate thorough incidences on the ground instead of just listening to one party and what it says and then go by it because this actually makes one party to feel that its superior in a country.

Also that note I can also talk about the rule of law in our country. We all agreed including the opposition that on our Constitution it was unanimously voted for but towards the elections we had the MDC 'A' starting to pronounce that they want the Constitution to change overnight and all those statements they were making the international community was supporting them and saying that they were correct. This actually made them to feel that they have the international community backing and thereby urging their supporters.

People in Zimbabwe feel that our economic wars can only be stopped by recognition from the international community so whenever someone goes on the stage and say that, 'I have international community as my backing.' That person is likely to get the attention of the educated people in Zimbabwe and worse still our youth who are now frustrated by employment and they are on the streets.

The other issue I want to say is about the use of social media. In America I am quite sure they curb use of social media in order to curb terrorism. I remember one person saying you cannot mention the word terrorism on social app before the CIO or something gets to you but here in Zimbabwe whenever people talk about curbing the social media its labelled as being undemocratic.

I think it's high time that we look at some of these issues because in a way there is terrorism. If you look at the way social media was used just before this violence it was actually the weapon that was used to organise people in Harare. I live here in Mutare but by the 1st of August I knew what was going to happen through the social media. I am very active on the social media as well. Everything was being stated on social

media that the police will not do anything to you. The army is no longer backing Mnangagwa so we are going to rise and we are going to bring Mnangagwa down and it was on social media. When is social media going to be regarded as terrorisms in Zimbabwe because that should be curbed because it's now seriously abused and it's unfortunate that our army, or if it is our police used light ammunition but the thing they are to use to curb violence protests we must know that if they are not strict, if they treat demonstrators with gloved hands even more lives will be lost. I have been involved in demonstrations myself. I know people who go to a demonstration scene with a wet towel so that they cover their eyes so that they will not be affected by tear gas and will go ahead and throw stones at whoever is blocking their way so to me I feel that when we give these recommendations and start demonising our own government we must try to really think if the government had not intervened in time how many more lives were going to be lost considering that we are talking about rowdy people who were looting and stoning and it's not the first demonstration of such kind. Such demonstrations have happened before and lives have been lost in this country.

My recommendations is this, the international community we might have as Africans a background our forefathers who were not tolerant to political differences but we want a chance. The international community must stop advocating for changes which do not go well with our country. They must also try and investigate some of the allegations they hear instead of starting to support one

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part and that part starts feeling that they are superior to the rule of the country , to the Constitution to everyone including the President.

Thank you

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Thank you very much. No further questions you may step down.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Mr Chairman I propose that with time constraints we may stop at this stage.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

We do not have any more witnesses?

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

I have two more who are itching to speak.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Just give them chance.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Mr chairman I am sorry that one of the last witnesses is not the last witness.

CRISPEN DUBE : SWORN STATEMENT

Q Though it might seem to be a bit unfair I am going to ask you to be very brief because we are chasing time constraints and our Chairman has to travel to day. I know it's going to sound unfair but please be brief.

A Mine is just a small submission actually.

Q Please go ahead.

A Maybe as a victim of this political violence since the election when MDC came into the opposition arena. Maybe to bring you back in 2008 it seems all of us we really want to say because of those deaths which took place in 2018 after the elections were are a little bit avoiding facts to say some of the determinant facts . Who actually shot the people? Everyone knows MDC had no guns, ZANU PF had no guns but the army was on the fore front even that video which was going around we even saw a leader of the army trying to take on the back of the junior person who was opening fire on the people so I think maybe that was the main cause of the incident if we can go back to the Constitution actually if not mistaken Section 213 or 214 or 215 it really spells out that the President is the one who has authority maybe through cabinet to dispatch the army in trying to calm down any revolt in the country so it's well pointed out in the constitution . Who sent the army in the streets . We end up saying according to the Constitution it was the President. First of all we must check who sent the army into the streets then who gave the directive actually to open up fire . I think we have heard war veterans speaking, officers speaking. You have to wait for an order for someone to open the fire so that person

who instructed the army to open up the fire is the one who is really responsible for all these death.

In 2008 to take you aback , 2008 after these elections here in Manicaland all MDC vehicles were taken away . I know it's very difficult for me to mention but some of them there was a big guy in the army by the name Masangu he even captured that young man was the driver for MD Godfrey I don't Godfrey who, they took him here. There was terror. All over terror in Zimbabwe but I am surprised that only 8 people were killed this time and we were saying we wanted a Commission what about the Commissions for 2008 where people like Knowledge Nyamhuka and other people were captured . Itai Dzamara was also captured. If we can go back there was Talent Mabika was killed but there was no Commission. What is the really interest in this Commission. It seems everyone is pointing a finger in MDC. We need to be fair. Say the truth and shame the devil. You heal the nation if we say the truth. The truth is we need to keep the army away from all the civilian things. Let the police do their jobs.

I think that way we can advance without any more problems. And maybe to visit the reforms. If we had good reforms. Regulatory reforms I think we would not have reached such a stage so I really encourage the leaders of the country to try maybe the house of assembly to try and address that so that we won't have this thing maybe since we are having these bi-elections. We end up having all those sought of things if we do not address those things. We totally need to drive the army away from the field. They have to go back to the barracks. Thank you.

Q Thank you.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q About the deployment of the army and support of civil authorities my little understanding informs me that the constitution of Zimbabwe as well as the Public Order and Security Act do stipulate the circumstances under which the army may be hasty to provide needful support to the civil authorities namely the police. So are you implying in your opinion that there is need to amend the Constitution and the Public Order and Security Act so as to prevent future deployment of the army in support of civil authorities? I am not saying I am really against the Constitution as you spell out but I am saying if the police is overwhelmed they cannot even control the situation, that is when the army is directed through the President and Cabinet. It's really spelled out. So why are we saying who killed who? Well I know the army was deployed and they used maximum force instead of trying to control the environment and also to add on the among those people someone mentioned here that I also joined the demonstrators. I am also ZANU PF. That shows that there was a third force again. He has admitted he is a ZANU PF candidate and he has really admitted that he joined those people even he didn't know who those people were. He just thought they were MDC people.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

So you are accepting that there are circumstances in which it may be allowed for the military to get involved but you are saying in this particular case you want the

Commission to establish happened and who ordered what and that is my understanding.

A Yes.

Q You should be assured that this is part of the terms for the Commission and if you follow what the Commission will be doing on Monday and Tuesday the Commission will be hearing evidence from the military and the police so those questions will be answered but at the same time all that we are hearing it's an opportunity to say what you want so all what has been coming from the witnesses is not an indication of what the Commission will establish but certainly you should be assured that that question you posed will be answered by the Commission.

A Thank you very much but maybe to take you aback. I was thorough though. I want to raise something which I saw that the government tried to make a cover up. When those people try to collect their bodies from the mortuaries the statement which was written on the post-mortem form were already totally different. It seems they were screw driver stamped. It seems the cover up have been long. So I think I really understand. I appreciate what you are saying but we are saying maximum force was not supposed to be used.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q You talk of a possibility of a third force amongst the demonstrators. What could a third force mean to you?

A Someone was mentioning the MDC, MDC, MDC and someone was mentioning Mashayamombe Mashayamombe but someone from Chiendambuya Midlands said I also joined so I said how many people. He is from ZANU PF and has joined those people. So already there is a third body there. It seems they were having peaceful demonstration but some other people from ZANU PF who came in now they are the one who incited people for violence.

Q So could you saying a third force is anyone who was outside MDC participating in the demonstrations?

A Yes from the way they have been saying they have been accusing MDC. So I am saying since that person has really admitted here. Gave his submissions here, his evidence here, he even admitted that I joined them but later on I had to run away. What did he do before he ran away? May be he torched the vehicle.

Q Thank you for that clarification.

NO FURTHER QUESTIONS

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

You said there are two people.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

I am sure they are 6.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q Go ahead with your submissions.

A I would like to start by saying Zimbabwe is a very peaceful nation. In my own capacity I would like to say to be about 8 metres from one of the Commissioners who is part of the political and academic luminaries of the region and I am very happy for that. I am very saddened that because we have come together because we are looking at a post election violence. At an enquiry for a post election violence. Of course I am not going to look a lot of things but the incidences of the 1st August. The incident that took place were not spontaneous. These incidences were well planned by political parties. They were well planned by the MDC Alliance. Why I am saying they were well planned you can use palms to smash the vehicles you come with stones, machete whatever which means those incidences were well planned.

This ceased to be a demonstration it was a riotous assembly. We know of demonstrations. We have heard demonstrations here in Mutare about less than 7 months ago we had demonstrations when power was switched off from us and after that demonstration power was restored. There was no violence. So demonstrations were allowed in Zimbabwe for as long as they are peaceful. Now the intention of this riotous assembly it's very disturbing. Why? Because they wanted to disrupt the counting of the ballot. And what would have happened if these people were left to do what they were going to do otherwise they were going to snatch the boxes from those people counting them and what was that going to mean. Maybe they were going to destroy them. After that destruction what was that going to mean. Maybe

we were going to have another election which was going to have a negative effect on the fiscus.

Demonstrations they should come after having exhausted all the positive routes but still those demonstrations should be peaceful. The riotous assembly did not like on the delay of the announcement of the election. We would like the election to learn and know today that if it is delayed that you are a loser you are still a loser. It does not make an difference to say you have been defeated or you have(*you have been defeated*) in slow motion. It doesn't make a difference. If you are defeated you are defeated whether you are told facts, quickly or it has been delayed. The result was later decided in court. These people later went to court. There was no need for a riotous assembly when you know you can still approach the courts so that you can get a positive verdict from the court. Why was that so? The loss of lives was not necessary. Why did the people go to the court when we had been rioted? Did the riot produce the desired results? So next time we must learn as Zimbabweans that it does not pay to be riotous. Today shouting loud and low as to who shot who, who shot who? But what had happened before who was shot. What was happening before there was the riot police and the soldiers? People were talking about what happened T Juka visited here. I was also affected I was leaving 84 Tenderere my shark was also destroyed and after that shark was destroyed I would want to tell you that within a kilometre from this place there is settlement called Garikai were people are proud owners of better houses , better accommodation but you here someone crying today that we were supposed to be in those sharks. I am now a proud owner of a stand. I am now a land lord. Thanks to that demolition that happened during that time.

I would like to conclude by saying that I beg you and relevant authorities to deal with the perpetrators severely and accordingly so that next time these unfortunate incidence like these will not have place in beautiful Zimbabwe next time. Thank you very much.

NO FURTHER QUESTIONS

SECRETARY: MRS MABHIZA

At this point we are looking at our press statement. Let me just remind all of us how we are supposed to conduct ourselves during the press statement. The Chairman will make a statement we are allowed to put questions. We have got very limited time such that the number of questions we are going to put across will entirely depend on how much time we have consumed so let us put questions that are relevant to the Commission. Let us avoid questions where the Commissioners have nothing to do with whatever we are trying to put across. I will ask whoever want to put a question across to raise their hand, identify themselves and put a questions across. The Chairman will answer the questions and I will be guiding the process. Thank you very much. That is after the statement has been given.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To Press Conference)

The statement reads as follows. On behalf of the Commission of inquiry into the post election violence of the first day of August 2018 in Zimbabwe, let me tackle this opportunity to express our gratitude to the people of Mutare and surrounding areas for responding overwhelmingly to the call to participate in the

work of the Commission. As stated in our previous statement in Harare , Bulawayo and Gweru , this Commission was established by the President of the Republic of Zimbabwe His Excellency ED Mnangagwa , in terms of the Commission of enquiry Act Chapter 10 sub section 7. We were sworn in on the 19th day of September 2018 and we subscribe to an oath that each and every one of us will faith fully, impartially and to the best of our ability discharge trust and perform the duties. From the seventh to the 9th of November our Secretariat recorded 4 statements here in Mutare from different witnesses . Today the Commission heard evidence from 13 witnesses. I therefore wish to assure you that all your views will be taken into consideration when we come up with the report and recommendations. The Commission has to date heard a total from 124 witnesses from 3 judicial region that is Harare , Bulawayo, Gweru and Mutare. The Commission would like to assure the nation that no-one should be arrested or intimidated for testifying before the Commission. As we close the Judicial region visit the Commission will be continuing with the hearing in Harare on the 12th and 13th of November to listen to testimonies from the security cluster including ZRP and the Army as well as other individuals , institutions and organisation. We thank all Zimbabweans for an overwhelming responded and support giving to the work of the Commission.

We once again thank the media for continuously covering our hearings to date.

Thank you very much.

SECRETARY FOR THE COMMISSION: MRS MABHIZA

Thank you very much Mr Chairman. Now it's the time to put across questions but once again I want to remind you that we have got very limited time.

ZANU PF YOUTH

As ZANU PF youth we are not happy or comfortable with the prevailing situation especially after the new dispensation where we are now under the leadership of the new President. His Excellency President Emerson Mnangagwa. We are no longer free to express ourselves. At times we are being harassed. So is it proper for us as ZANU PF youth to go and remove a ZANU PF banner at our offices to be specific at the Headquarters.

PANEL TO INTERPRETER.

You got it wrong. It's the other way round. He is asking whether it is proper for other people to go to ZANU PF and remove their banner and as youth they are not happy because the President keep preaching peace and they cannot retaliate.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Shouldn't we take two or three questions before.

SECRETARY FOR THE COMMISSION: MRS MABHIZA

Another question. I will take two more questions but please may you ask things that have to do with this Commission and their terms of reference.

Questions from journalist not audible. They are far from mics.

SECRETARY FOR THE COMMISSION: MRS MABHIZA

Thank you Mr Chairman . Are you answering or should I take one more questions?

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Let me answer the 3 questions .The first one about the gripe of the ZANU PF that they feel constrained by the message of President Mnangagwa calling for peace. I think you are well advised as the ZANU PF youth league not to copy wrong things because you see if you respond to violence or any attack on the banners of ZANU PF by retaliating in kind you must also understand that violence begets violence. There is no wisdom in employing violence to end violence. I think you are well advised to follow the message of President Mnangagwa that as Zimbabweans peace is of the essence because political stability and peace is a pre-condition for economic development if you allow violence to prevail it distracts you as a people and also means a misallocation of resources in putting out fires rather than building the economy and developing the country. The testimonies of people who feel that other testimonies are falsely attributing the causes of the happening of the 1st of August to the MDC is precisely the remit or mandate of this Commission where the Commission at the end of all the testimonies will make a finding about these issues as well as the actions that cost lost of lives so that will be contained in the report as a determination and will be followed or underpinned by recommendations how in future these kinds of events or development should be managed . The court order or court findings as I understand it do not

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pre-empt the work of this Commission the very specific in fact that prayer of those who went to Court was to question the legitimacy of this Commission and all what the court has done was to say that the Commission was established in accordance with the laws of Zimbabwe so the Commission can proceed with its work. It's not pre-empted by that court order.

Thank you.

SECRETARY FOR THE COMMISSION: MRS MABHIZA

One last question.

JOURNALIST

Not audible

The issue at hand apart from what happened who was wrong or whatever I am sure that that the whole process of this Commission is actually appealed to the moral part of us as citizens so that come 2013 probably or other election that will come we know how to handle each other as far political relation is concerned but now I had an observation as legitimacy is concerned like there are people that are saying we did not want the violence all of us know that the number was just so big that it was just not that two or three people that just said let's do this . To me it's seemingly something that was coordinated. So now I am saying it was said more of demonstrations were there. Where are the people to tell us why they were doing that? They have useful information that will help us as a nation how best can we be helped. A Commission has got the most dominated maybe had it been wise maybe it was going to be packed to the car park. How best can we be helped. Some people are not coming up rather we pushed maybe have the time we have little time but

unfortunately other people are showing protest by not coming . How best can we help each other then?

SECRETARY FOR THE COMMISSION: MRS MABHIZA

One last question

BEATRICE TSITSI MAKARUSE

My questions is who ordered the soldiers to leave the barracks so that they could go whilst they were armed to go and shoot unarmed civilians because as far as I am concerned it is through the President the cabinet and the commanders going down who authorise soldiers to go out. They will know even the guns that will be used.

SECRETARY FOR THE COMMISSION: MRS MABHIZA

Thank you. Mr Chairman may you answer the outstanding questions then we close. We are running behind time.

C HAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Thank you very much. Let`s start with the last question as my fellow Commissioner Professor Lovemore Madhuku indicated. We have hearing on Monday and Tuesday were will be listening to the testimonies of the police as well as the army and other individuals and institutions and these very questions will be paused and answered on that session and so at the end when the report of the Commission comes out it will contain answers to these questions as to who called for the army to assist the police . Who subsequent to that gave the order for live ammunition to be used? These questions will be paused and answered

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by the relevant authorities. The Commission is still ongoing if there are, and we continue through the media to invite the Zimbabweans that have information that will help the Commission as well as enrich the recommendations of the Commission to help the country not to have a repeat of these very events. Essential I had one of the participants this afternoon who testified that why a Commission now only 6 or 7 people lost their lives and he was referring to in relative terms to incidents. Historical incidences. The point is Zimbabwe has to get to a point where even the loss of one life must be one too many. That is the point.

SECRETARY FOR THE COMMISSION MRS MABHIZA

Thank you chairman if we may adjourn. We are now taking adjournment. Anyone who has issues that they think the Commission should know you are free to approach us at this desk even immediately.

COMMISSION OF INQUIRY OF 1ST OF AUGUST 2018 POST ELECTION VIOLENCE- HARARE PART B 21-11-18 TO 22-11-2018

MEMBERS OF THE COMMISSION

- 22. HONOURABLE KGALEMA MOTLANTLE- FORMER PRESIDENT OF
THE REPUBLIC OF SOUTH AFRICA- CHAIRPERSON.**
- 23. RODNEY THOMAS DIXON QC-BARRISTER UNITED KINGDOM-
COMMISSIONER.**
- 24. CHIEF EMEKA ANYAOKO- FORMER COMMON WEALTH
SECRETARY GENERAL, FEDERAL REPUBLIC OF NIGERIA -
COMMISSIONER.**
- 25. GENERAL DAVIS MWAMUNYANGE- FORMER CHIEF DEFENCE
FORCES OF THE TANZANIA PEOPLE`S DEFENCE FORCE-
COMMISSIONER.**
- 26. PROFESSOR CHARITY MANYERUKE POLITICAL SCIENCE,
UNIVERSITY OF ZIMBABWE- COMMISSIONER.**
- 27. PROFESSOR LOVEMORE MADHUKU- FACULTY OF LAW,
UNIVERSITY OF ZIMBABWE -COMMISSIONER.**
- 28. VIMBAI NYEMBA- FORMER PRESIDENT OF LAW SOCIETY OF
ZIMBABWE - COMMISSIONER**
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RECORD OF PROCEEDINGS

GROUND RULES

1. All phones must be put on silence and switched off.
2. Movement in and out of the venue during proceedings should not be done in a disruptive manner.
3. Respect the Commission.
4. Let`s have respect for each other.
5. Do not interrupt when others are speaking so we should allow each other to speak. We should not interrupt.
6. Any contributions that will improve the results of the meeting are welcome through the Secretary to the Commission.
7. Members of the public including the press shall not address the Commission directly without an invitation to do so by either Chairman of the Commission or the secretary to the Commission.
8. Members of the public including the press are prohibited from contributing to the proceedings or passing any question to the Commissioners or witness from the gallery.
9. Disruptive behaviour from any member of the pubic shall result in their immediate rejection.

Good morning honourable chair good morning Commissioners. If it pleases the Commission may we continue the Inquiry into the 1st of August violence? I will hand over to the evidence leader Honourable Chimbaru.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Thank you. Good morning honourable Chair and members of the Commission. I will call upon our 1st witness for the day Mr Simbarashe Chikandira. Mr Simbarashe is the first witness on today`s list. He is a relative of one of the deceased in the violence.

SIMBARASHE CHIKANDIRA: SWORN STATEMENT

Q Simbarashe Chikandira where do you reside?

A I reside in Hatcliff.

Q You confirm you are an uncle to the late Julius Chikandira?

A Yes. His name is Jealous.

Q Would you please tell the Commission that which you know in relation to how Jealous met his fate?

A He was a commuter omnibus driver. And he was plying the Mt Pleasant route to CBD.

He then sent a message through the phone advising me that in the event that I was getting in the CBD I should be cautious because there were skirmishes that were happening of the people and the army. I then proceeded as I was ferrying other people into the CBD. I then went back to Mt Pleasant. He did not then manage to follow as this fateful incident had then happened. I then received a phone call from his brother in-law who advised me that I was to proceed to Avenues clinic because it was being said that he had gotten injuries and he was there. I then tried calling his number and it was answered by nurses at Avenues Clinic. I was then asked on who I was to him and I said I was the uncle and I was advised that if I could get there. I then had to rush there upon arriving there I was received well and I was asked if I knew the phone they showed me and I managed to identify it. I then told them that it belonged to my niece. They asked me on whether I was brave and I confirmed that. I was then

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S CHIKANDIRA

advised that it was unfortunate that he was shot by the soldiers along Julius Nyerere in the CBD and he died on the spot. They were carrying yellow carrier bag which had his clothes and they indicated that they wanted to show me where his body was. I saw him lying, on the bed facing upwards and I confirmed that indeed it was him. That is all that happened.

Q Where you advised of the shooting in the CBD where he was shot?

A No I did not get to know that.

Q I thought I heard you say something about Julius Nyerere.

A I got that information from other people.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To Commissioners)

Q Members of the Commission note that the post-mortem report relating to Jealousy is the second from the last one in the files that you have.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Where you able to inspect the injuries that he had sustained or you didn't get to that. He was facing upwards and in my observation I noticed that that he had been shot on the left side of the upper side of the chest.

Q Thank you very much I have no further questions to put to you but I will hand you over to the Commission if they have any questions for clarification. Honourable Chair and member of the Commission your witness.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q The Commissioners would like to know whether you received any assistance from the state or from any other organisation for the funeral of your nephew?

A We received \$1000 which was said to be coming from Social Welfare.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Could I please ask whether or not you were given a copy of the post mortem report . I just want to be clear about that?

A No but he was done the posts mortem procedure.

Q So you have never seen a copy of the report?

A Yes.

Q Where you told by anybody what the cause of death was?

A The nurses said he was shot whilst he was in the CBD.

Q Did the police say anything to you about the cause of death?

A Not to my knowledge.

Q Do you know if they are investigating the case Have you followed that at all?

A I have no idea.

Q One last question. Does the deceased have family? Children? What were the circumstances?

A He only had a surviving sibling. He had no family of his own.

Q Thank you very much for your testimony.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q My sincere condolences of the passing on of your relative. I want to check. You said he was a commuter omnibus driver?

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S CHIKANDIRA

A Yes.

Q Since you said he was actually driving would you know whether he had embarked on the kombi or at which point he was shot. Was it in the kombi when he was driving or walking? Did you hear anything about that?

A He was walking since on that day he did not have a commuter omnibus.

Q Would you know whether he was off duty or he decided not to go to work?

A He was off duty since the motor vehicle had broken down.

Q Thank you no further questions.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Mr Chikandira please receive our condolences for the loss of you nephew. There are no further questions so you can step down.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

You note from our witness list I was supposed to be calling on Mr Joseph Tshuma from ZCTU but it appears when we started he was not yet here so I will proceed to call the 3rd witness. Witness number 3 will now be our 2nd witness.

You not that you did not have a statement in your original files that is one of the statements that was handed over to the members of the Commission this morning.

JULIUS MASHONGANYIKA : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

INQUIRY

J Mashonganyika

Q Mr Julius Mashonganyhika you are a duly attested member of the Zimbabwe Republic Police?

A Yes.

Q And you confirm that on the 1st of August you were manning the ZANU PF Provincial Headquarters?

A Yes.

Q Would you please tell this Honourable Commission what happened on that day when you were on duty at this place?

A On the 1st of August around 7 o'clock I resumed work at ZANU PF Provincial headquarters in the company of my colleagues namely Constable Macheka and Chikwena. I was the most senior personnel between the 3 of us. I had an AK47 fire arm which had a magazine of 30 rounds. Around 10 o'clock I then saw people who were singing and chanting slogan and they were also wearing T-shirts inscribed MDC Alliance. They were walking along Robert Mugabe towards Fourth Street. They then turned left into 5th street. After having turned into 4th street I do not know which direction they took afterwards.

We then went out whilst I was in the company of Constable Chikwena to find out on what their motive was. We saw that they were walking and they were chanting slogans and they were also signing. There was one particular slogan which they were chanting, 'Gukhula izenzo, Chinja Maitoro.' Which mean that they should change their ways. We then went back in the building to wait what was going to happen. At

around 2 pm we also heard the singing again. I then went out with Constable Macheke and Chikwena. I went into the intersection of Jason Moyo and 4 street. I was the one who had the fire arm of the AK 47 which had 30 rounds magazine. We then saw with MDC supporters who were chanting their party slogans and singing whilst they were at the intersection of Robert Mugabe and Fourth Street. They then tore the poster which was erected at corner Robert Mugabe and forth street which had President Mnangagwa there. After having torn the post they then burnt it and others were hitting the commuter omnibuses which were in the vicinity. Some of them were armed with logs and others had iron bars with them. After they had damaged after that poster they started walking towards Jason Moyo and they continued singing and chanting slogans . Myself and my colleagues, constable Macheke and Chikwena were standing at Corner fourth street and Jason Moyo. After we noticed that Protestors were getting close to where we were standing we then went backward a bit. In my view they seemed as if they were heavily drunk.

After having moved backwards the protestors then arrived at fourth street and Jason Moyo. Whilst they were at that intersection they continued singing. Whilst they were singing they started pelting stones to ZANUPF headquarters building. Whilst they were throwing the stones some of them then scaled over the pre-cast were entering into the premises of ZANU PF headquarters. After they had been throwing stones we remained where we were. We saw that we would see what their next moves were.

After I had seen that there were others who had scaled a precast wall I had then, had to fire two shots firing in the air. After having fired the warning shots in the air my intention was to disperse them and they did as if they were moving up backwards.

After having retreated a bit they then retaliated in full force. They were now throwing

stones. They continued throwing the stones. Some of them were directed at us I then fired the warning shots again so as to disperse them. Whilst they were throwing the stones they were chanting that I should open the fire and they were also challenging me to continue coming.

I then told my colleagues that the situation was not well. They then had to surround the building where we were manning. What was happening was that after having fired warning shots in the air they would seem as if they had dispersed and then they would, then re-group and come again and start throwing stones at us.

I then noticed that the situation was getting a bit out of hand so I asked my colleagues to get inside so that they would communicate with our superior to bring in reinforcement whilst I was monitoring the situation. During that time there were other protestors who then found their way outside Easy park where they torched a Yuton Bus. That bus had ZANU PF posters and it came to light to me that it belonged to one Gift Zenda who had his posters inscribed on the bus. I then fired warning shots again but what happened was that they would disperse a bit and they would also re-group again. I then realised that they were not even scared by the warning shots. I then went inside the building so that I would monitor inside the building since I had not worn any protective clothes on my head and I was afraid of injuries from stones. I then fired about 25 warning shots in the air. My aim was to disperse them but what would happen is that they would disperse a bit and re-group again. When I was trying to run to the building I was then hit by a half brick on my left shoulders by one of the protestors. I then managed to flee from there so

that I would give my colleague the firearm so that it would not be in the wrong hands of the MDC protestors. I then handed the AK 47 to Constable Macheke.

Whilst we were inside the building the protestors also torched a motor vehicle Ford ranger twin cab which belonged to ZANU PF. They also torched another motor vehicle Toyota Allion vehicle which belonged to a ZANU PF Cadre Mr Janhi. There was another Mazda B25 which was torched at the head lamps. There was also a Nissan wolf which was also torched on another side. There was another Nissan which was not torched but all the windows were smashed. There was another Mercedes Benz which had all windows smashed. There was another Honda fit which belonged to one of the ZANU PF members which was driven off by one of the protestors and it hit a precast wall and then it burnt up. They continued throwing stones such that all the windows at the ZANU PF building were smashed. These were motor vehicles which were brought for public order vehicles from support unit. They seemed not to be unfazed as they continued protesting and being violent. There were other public motor vehicles namely water cannons which came to the scene which were two from the anti riot police. They did not manage to disperse the protestors because it seemed as if they had run, the water cannons had run out of water since the skirmishes were happening all over the CBD.

There was another person who attempted to torch the water cannons and others were throwing stones and they had to leave the scene. Whilst that was happening we were communicating with our superiors to bring in reinforcement because they continuously threw stones at the building. After sometime we heard firearms were

being shot at fourth street commuter omnibus rank. We then saw that the soldiers who were there in the company of the police from the support unit. We then invited them to come over when they came that is when the protestors managed to disperse. After they dispersed I then went to tell people that sought refuge in the building that it was now safe they can now find their way out.

From there we were accompanied by another ZANU PF person with a motor vehicle which had been smashed but had not been torched together with Constable Macheke to Thomplison depot. After having arrived there I was then assisted by constable Mutseni who then took me to Morris Depot camp hospital. Since I had sustained injuries I was then treated and discharged .After I had got home I then gathered from the social media that there were protestors who were shot in the CBD. That is what I witnessed on this day in question which is in relation to my duties.

Q How big was this group that you were trying to disperse.

A The protestors were more than 500.

Q Why did you have to hand over your firearm to your colleague?

Q After I had been hit on my hand I then realised that since I had sustained injuries they may be a risk that I would be disarmed and the firearm will be used by the wrong people not supposed to be in possession of the firearm .

Q Thank you I have no further questions for you I will hand you over to the Commission should they have any questions for clarification.

INQUIRY

J Mashonganyika

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Mr Julius would you agree that AK47 is essential an assault rifle.

A Yes.

Q Is it a norm for the police to carry an AK 47. Is that normal equipment at the police?

A Yes it is a fire arm that we can use during those circumstances.

Q And you were firing into the air according to your statement. You showed that you fired into the air and your bullets never strayed?

A You did say you were injured. Were you injured what part of your body was injured?

A On my right shoulder with a stone.

Q You were carried to hospital and treated and discharged same day?

A Yes.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I want to follow up on this question. Is it your evidence then that it is normal in this country for the police officers to have AK47?

A I am attached in the police protection and when we are conducting our duties we will be armed with AK 47 and FN rifles in most cases.

Q Is it correct in your evidence you said when some point you saw the soldiers and the Support Unit. In other words the soldiers were armed and the Support Unit as well.

A Yes.

INQUIRY

J Mashonganyika

Q Would that be the same weapon?

A I saw some which were similar to the one that I had.

Q So you would say that when you saw the soldiers and the support unit at Fourth Street both the soldiers and the police had AK 47?

A I only manage to identify the AK 47 . I did not observe the types of firearms the others had with them.

Q But the evidence you are giving is that both the police and the fire arms were armed?

A Yes

Q Thank you.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q If I had understood you correctly you were the only carrying a weapon amongst the three of you.

A Yes.

Q Is it the standard practice for Zimbabwe Republic police?

A It depends with what would be happening. Sometimes it will only be one person who will be armed and others will not be armed. In some instances the whole team will be armed.

Q I see. How long did the reinforcement arrive from the time you had requested it from your superiors .

A It was after about 30-45 minutes when we saw the reinforcement from support unit.

Q Thank you.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q You said the protestors wear around 500. Would you be able to tell this Commission whether the throwing of stones was continuous or it would happen and stop?

A The stones were being thrown continuously. The only time that they would stop is when I would have fired warning shots.

Q Would you know the source of the stones? Would you know whether they were getting them from the CBD?

A I do not know but others had satchels with them and I think that they had carried them.

Q In your own view would you say the conduct of the demonstrators was a direct threat to the public, Law and Order?

A Yes the risk was so high because they were other people in the building and the commuter omnibus which was being thrown stones meant that everyone was in danger.

Q You told us that you asked for reinforcement and the soldiers came. The police unit also came to assist. Would you think the means used to disperse the protestors was commensurate with the threat to public safety?

A Had it not been intervention of the army the situation was really going to go out of hand because the threat was going out of hand. It's unfortunate that during that

process there was loss of life because property was being damaged so in my view the measures taken commensurate to the what was happening there.

Q Thank you.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you sir for your testimony I wanted to ask. You said that you fired 25 rounds into the air and they were only 5 rounds left in the magazine. Can I ask when you fired the warning shots you were firing in accordance with your training on how to how to deal with threats to law and order. Can you state to us what steps you went through your process.

A I operated my firearm following the procedures I do at work because when there are protestors you fire warning shot in the arms. And when the protestors continue charging the instruction is that you have to shoot to disable and not kill. I realised that if I did acted in the manner that I did considering the behaviour of the protestors there was a risk that the loss of life to be higher than where it stands right now.

Q Those operating orders is it something that you were given in writing or is it done orally as part of your training orders that you get to conduct your operations?

A One is taught and undergoes a process of using the firearm and also depending on how to use an firearm with the circumstances.

Q Can I also ask? We got some testimony that there was unity of police in the vehicle near provincial headquarters that was not taking any reaction that was friendly to

the protestors. I don't if you saw that or have any information about evidence that we heard?

A There were police officers from support unit who came to the scene. They were overwhelmed by the numbers of the protestors and considering that the protestors were not moved by the warning shots of the firearms which is much more effective and scary. They only had button sticks with themselves and they had shields and themselves they did not have fire arms they could not content the protestors.

I think they are the ones who requested that the public order vehicles namely the water cannons to be brought which were also brought at the scene and they tried to disperse them. I am not associating myself with the view that the protestors or the police were on the side of the protestors that they come separately and they conducted their duties separately.

Q Thank you. Just one last matter. Were you aware that there were any people who were either shot and injured or shot and killed in the area of the Provincial Headquarters where this whole disturbance was taking place even during the time or when it finally ended.

A I only heard other people saying that there is someone who was shot along Jason Moyo. I did not witness that and its information which I cannot trust since its hearsay. So at the actually Provincial headquarters you did not see anyone there who was shot and injured or shot and killed in that area?

Q At the actually provincial headquarters you did not see anyone that was injured or shot and killed in that immediate area?

A I did not see any.

Q Thank you for your answers.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Just a follow up a question. When you fired in the air the first reaction of the protestors was to move back and then they started coming back shouting huya, huya reach up reach up coming back by which time you had fired 25 round and then handed over to your colleague the 5 remaining round in your AK 47, what did your colleague do with the AK47 in the face of these people coming back? Did he shoot in the air or did he shoot to the people.

A I was the only person who used that firearm and I instructed him not to use it and he would get any instructions from me if there was any need.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much. You are part of the protection Unit and you perform static guard duties?

A Yes.

Q And you say in the day in question there were three of you?

A Yes.

INQUIRY

J Mashonganyika

Q What are your ranks?

A We are all constables being the three of us.

Q And you normally do guard duties at Provincial headquarters?

A Yes.

Q For how long have you been on this static guard duties?

A 10 years?

Q And on the day in questions you were issued with only one rifle?

A Yes.

NO FURTHER QUESTIONS.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Q Thank you. I intended to call our next witness Mr T Chikwena the fellow police officer.

TIMOTHY CHIKWENA : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Mr Chikwena may you please move close to the mic. Mr Chikwena you confirm you are a duly attested member of the Zimbabwe Republic Police?

A Confirmed .

Q You hold the rank of Constable?

INQUIRY

T Chikwena

A Yes.

Q You confirm on the 1st of August you were on duty at ZANU PF headquarters in the company of the last witness?

A Yes.

Q And I believe you were seated here when he was giving his evidence.

A Yes.

Q So maybe without necessarily having to repeat all other details would you tell this honourable Commission that which you observed on the day in question?

A Most of the issue has already been raised.

Q Is it correct that he had to hand over his AK 47 to you?

A He handed it over to Constable Macheka.

Q Ok so maybe I was mistaken I was advised that it was handed over to you so that in case do you have anything else that you want this Commission to know?

A I have nothing much.

Q Members of the Commission I also have the statement for this witness I do not know if they have any questions for clarification otherwise I have nothing , further to clarify on him.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

INQUIRY

T Chikwena

Q Thank you chairman. I need to ask you one point of clarification. We were told by earlier witnesses that they went upstairs. They hid at a certain place. It should be the bathroom. Where were you when the problems started or ensued at that place?

A When violence ensued we were following Constable Mashonganyika who was armed. When the protestors increased throwing stones we would retreat .When we were instructed to call for reinforcement we entered into the building were we then made the call. As we were in the building we could check through the windows trying to find out what was taking place. By the Constable Mashonganyika was downstairs. So stones which were thrown through the windows we would avoid dodging those stones by going to the passage but we would then go back to the window so that we could check.

Q Thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q I think you have answered the question I put to your former colleague about what happened to the remaining firearms because you said the firearms were never fired. Is that correct?

A Yes.

Q You said that you were instructed to call for reinforcement. Who instructed you?

A The Senior member Constable Mashonganyika.

Q There were three of you. You were all at the rank of constables?

A Yes.

INQUIRY

T Chikwena

Q But one of you was the senior man?

A Yes.

Q So it was that senior man who instructed you to call for reinforcement?

A Yes.

Q He did so on his own. He was not asked by anybody?

A Because of the prevailing situation it was him our senior, man who instructed us to call for our superiors so that they could bring reinforcement.

Q So it could be fair for me to attune that when you were going out with the detail your generally instructs you to call for reinforcement if the situation warrants its. Is tahtb so?

A Confirmed.

Q Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q May I confirm. Where you in police uniform the three of you?

A Yes.

Q Would it be correct to say that when you were running away or hiding the protestors would have seen that police officers in uniform were running away or seeking refuge.

A It will not be correct to say that we were running away per say but we were retreating not running away but just moving backwards towards the building.

INQUIRY

T Chikwena

Q But that retreat would be observable by the protestors.

A There is a possibility that other protestors could have seen us. We wanted to go to a safer place since stones were being thrown from all angles.

Q Can I just ask you questions on what you said in your statement . You said that at the fourth street bus terminus you saw soldiers firing shots into the air to disperse the demonstrators that is at the Provincial Headquarters. Could I ask? When you saw them how many soldiers did you see roughly?

A I saw three soldiers who came from where we were.

Q Were they still firing shots in the air?

A We heard gunshots but buy the time we saw them they were no longer firing so we cannot ascertain now on whether all of them were firing or not but we heard gunshots .

Q But just to be clear did you see soldiers firing shots into the air?

A Yes.

Q When these shots were being fired when they were arriving as you said in your statement members of the support unit of the police as well how long did it take for the supports to disperse?

A As soon as they arrived the protestors dispersed so it was within a short space of time.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Inquiry

T Chikwena

Q Did you colleague Julius inform you that there were only 5 rounds left in the AK47 after handing it over to your other colleague Macheka?

A We checked with constable Macheka as the gun was handed over to him so we actually observed that there were 4 rounds left.

Q So you released the magazine and removed the cartridges to count them?

A Yes.

Q Is that part of your training that when a rifle that has been used is handed to over to somebody else the first thing you do is to check the rounds remaining in the magazine?

A If you receive a rifle from a colleague you clean it checking on whether there are no rounds in the chamber.

Q That is standard training.

A We do so, so that I will not negligently discharge the firearm.

Q Thank you very much no further question.

NO FURTHER QUESTIONS

DOCTOR MAXWELL HOVE : SWORN STATEMENT

You will notice that we do not have a statement from this witness but the part of the evidence are the documents that I have just handed over to members of the Commission.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Inquiry

M. Hove

Q Doctor Hove you confirm you are the director pathology services in the Ministry of Health and Child Care?

A Yes.

Q Is it correct that on the 2nd of August bodies of those who were deceased in the August 1 were brought to group of Parirenyatwa group of hospitals ?

A Correct .

Q Would please tell the Commission that which you did in connection with these bodies.

A Yes. Following the disturbance on the 1st of August and the information that was on the media the following morning on the 2nd of August I passed through the hospital just to check as part of my supporting supervision activities.

Q Sorry Doctor. Before that I omitted something. If you could tell the Commission your qualifications.

A Thank you. I am medical doctor. I qualified with a bachelor of medicine and bachelor or surgery degrees with the University of Zimbabwe in 1989. I then proceeded to train as a specialist in pathology , anatomical and clinical pathology in the United States. I was based at the University of Texas medical branch. I qualified as a pathologist in November of 1997 and then practised there until 1999. I came back to Zimbabwe in 2000 and practised at Parirenyatwa group of hospitals and Harare Central Hospital as a consultant pathologist and 2001. Because of my medical activities I enrolled for a law degree with the University of London and I qualified in 2005. In 2008 I become, I was then promoted to the position I am holding. That is 2008 as director pathology services for the Ministry of Health and Child Care.

Q Thank you very much. Now you can proceed to the 2nd of August.

A Yes I had said following the media information on the disturbances that had taken place on the 1st of August normally I wait to be called if there is a problem but on that particular morning on the 2nd of August I just passed through the hospitals to check what was going on and to ensure that the expertise was available and yes indeed there were bodies there at Parirenyatwa hospital . I just inspected the bodies externally and then instructed the pathologist who were on duty to proceed and do the examinations and I then left before that I told them that should there be any challenges I would be available and they can call me at any time and then they proceeded to do the examinations . They managed to do four bodies on that particular day and the other two bodies were then conducted the following day but on that same day after about midday I received phone call to say there was a bit of a challenge with one of the cases. The doctor that had performed the autopsy, ordinarily what happens is that after the actually autopsy examination is a draft collection activity and the standard process is that the doctor is then given full month to synthesise that information to do any further ancillary test that may be required to come up with a final diagnosis which is mainly to get the cause of the identity of the deceased, the cause of death and the manner of death. By manner of death we mean whether the death is natural or unnatural. The standard procedure is that you have a month to then come up with the full report but in our setting the police bring a form called a 231 from which is a request from us and at the back of that form they also have a space for sentence just to put in the major finding so that the relatives of the family can get a burial order from the registrar general.

It was when the doctor was now trying to come up with this major statement or main finding that the doctor was debating between whether this injury was due to a projector ,from a firearm or was actually from a bio net as you can see this was still in the initially stages of assessing the information. I was called to say there was that debate as to whether it was a bio-net or a firing, a projector. I simply asked over the phone the nature of the injuries. Indeed externally injuries were typical, it was difficult to tell but the internal injuries were consistent with a projector because it was actually changing directions inside so that was then resolved and the provisional was then released as a projector from a firearm.

Q Would you know the name of that body which had problems?

A Yes it was a female Sylvia Maphosa.

Q Members of the Commission you already have the post mortem report in your file. I think it is the last one if the order is still the same as mine. It's the last post mortem report in the file.

You said you just responded over the phone you did not go over to the hospital at that time?

A No I did not. I just asked for the information over the phone.

Q Alright you may proceed sorry for the interjection.

A So as I said four bodies where done on that particular day and then the others were done the following day. The reason why the others were done the following day it's because , the other one actually was a patient that had been received alive initially at Harare Central Hospital and I have got a colleague who is around here the

Clinical Director for that hospital. The injuries were so severe that he had to be transferred to Parirenyatwa hospital but because he needed urgent surgery and also Intensive Care Unit, after the surgery, that one came late on the 2nd and then was done the following day. So in total we had six bodies out of , I must say Parirenyatwa hospital received about 13 cases and of those 13 cases four required admission and that 13 cases include the one that was transferred from Harare Central Hospital who eventually demised and is among the six as well and so four persons were admitted and the rest were treated and discharged . Some were discharged on the same day and some were kept in hospital for a few days. The same applies to Harare hospital, there were about 12 cases that were received there. The 12 cases also include the one that eventually died at Parirenyatwa hospital and a couple were admitted there and treated but the rest were treated and discharged the same day. And of all the six bodies the major cause of death was haemorrhagic shock from the bleeding and due to the projectile and the details of the injuries are given in the post-mortem reports .

Q The person who was transferred from Harare hospital would you know his name would it be Challenge Tauro?

A That is correct. Yes.

Q And he later demised at Parirenyatwa hospital.

A Yes after undergoing surgery. The injuries were so extensive and was haemorrhage dynamically unstable. He was taken to the Intensive Care Unit. He collapsed. They managed to resuscitate twice but failed on the third time.

Q If I may take you back to the case of Sylvia Maphosa would you know why initially why there was this confusion over whether what could have caused the injuries?

A Yes as I said the external injuries were typical. Typical in the sense that the entrance wound which was at the back was funnel shaped and this was different from all the others. It was funnel shaped with a coated front and then the exit wound which was on the breasts I believe it was on the right was also semi circular like half moon and that is normal the usual exit wound that you would get on the others and in addition whilst there was a tear in the clothing on the back a slit like transverse tear in the clothing, the front they couldn't locate any tear in the clothing. So the assumption was that maybe when the splint projectile came out somehow it fell within the clothing but when examining the body we could not find it. X-rays were done we could not find any fragments left so that is why there was now that debate to say is this a bullet or is this a projectile but the internal injuries themselves clearly show that this was not a straight wound. When the bullet went in it changed directions. I am just saying bullet because we eventually concluded it to be a projectile. It changed direction and even went up in a fashion and damaged, ruptured the base of the left lung and then on its way up damaged the aortic arch. The aorta is the largest blood vessel in the body. The aortic arch is that portion that comes out of the heart and curves down as the aorta is going behind the chest and the abdomen so that portion was also ruptured and then the right lung was just haemorrhagic. We assumed that was from blast injury you know when the projectile is passing through the tissues there is a lot of kinetic energy that is dissipated to the other tissues around. It even creates what is called a temporary cavity because of

that energy. The lung was congested and hemorrhagic but there was no specific and then the bullet went through the breast.

Q Thank you very much doctor. We have just handed over the post mortem report there one that you were given by the police officer. I noticed there are some pictures at the back. The diagram. May be if you can explain to the members of the Commission the entrance point at the back and the exit wound which you described as if it had inflicted by bionet.

A The entrance wound is the one that is marked 1 on the picture which is on the right. It's just next to the left scapular which is that triangular bone and the exit wound is the one that is on the left picture there. It is marked 2 and just on the right side of the chest and then there is also a bruise that was on the right angle there which was attributed to a fall.

On the next page there are also diagrams there that show that the, there is a diagram on the right of the two that are in the middle there. The open on the right shows that the entrance wound is at the back. Its marked number 1 and then the object going on an oblique and upward direction as it comes out of the breasts on the front.

Q Other than yourself was there anyone else who was instructing these pathologist who were on duty on the day in questions other than yourself as the head of the department ?

A I only know myself because I am the supervisor and it's my core business to support them and supervise them.

Inquiry

M. Hove

Q The evidences led before this Commission to the effect that the initial post-mortem reports indicated that these people had died due to stabbed wounds. What would be your comment to that?

A As I said I was only called for one challenge that is for Sylvia Maphosa. I wasn't aware that there any challenges with the rest of them and as I said on that particular day four bodies had been done, had autopsies conducted and then on the other two were conducted the following day and on that following day I received a phone call to say that there was a challenge.

Q Thank you very much I have no further questions for you but I now hand you to members of the Commission

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Let me start by acknowledge your very impressive training and career record from which you have told us . My question is would it be part of the normal procedure for the doctors who perform the first post mortem to be in consultation with the police who refer the cases to you? Will it be normal for some of sort of consultation to take place between the doctor and the police officer.

A Yes that is the normally practise because as pathologists who actually receive the bodies from the police as consultations to say we have this situation can you please examine this body for a post-mortem ,or autopsy to find out what the cause of death is and all the information we get from that body we given back to the police so that is actually the normal procedure.

Q So it will be possible for the doctor to be influenced by what the police tells them as to the circumstances leading to the death of the person, as to the circumstances leading to the death of the person to be examined.

A The doctor's on duty is to get the information from the police on the circumstances because as you may be aware even in this particular situation the doctors did not actually have access to the scene of the disturbance so the doctors requires some sought of history of the circumstances in which the particular person died so that information is critical for the doctor because the doctor is a scientist who has to put together the circumstances and the physical findings so it is really something we cannot avoid. It is just like a patient. Living patient going to see a doctor. The doctor has got to ask questions. The patient has got to present their problem to the doctor and then the doctor conducts the investigations and treat.

Q Would it be correct to assume that in the one case where you consulted, that was the cause of a disagreement between the relative of the deceased and the doctor who performed the post mortem?

A My understanding is yes that is what was going on.

Q That is what was going on?

A Because the doctor was thinking this could be a bionet because of the typical nature of the external wounds especially the entrance wound and also that they could not find a tear in the clothing adjacent to the exit wound and they could not find the fragments of the spent projector even after performing the x-rays so that

Inquiry

M. Hove

was the issue but of course as I said I then requested as to the injuries through the trajectory of that particular projectile and then we came to a conclusion that it appeared to be a projectile and rather than a bionet

Q And finally would it be fair to then say that you overruled the doctor?

A It's a consultation .It's a discussion because the doctor is giving me the findings and I am also discussing with the doctor to say so, given these kind of injuries what is the most probable weapon. So it's a discussion of experts coming to an agreement.

Q You are proving very diplomatic. I would say you overruled him. Thank you.

A Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Just on that last point. So it would be correct to say as the Chief is putting across that your intervention led to the change of the post mortem report because there is a lot that was said about that report.

A Well my intervention as I said it's my job to support and supervise because of my expertise as well as and so forth and in this business of forensics and forensic pathology , it can be very difficultly. Gathering the data is the easier part. Anybody can do it. Any doctor can gather the information but summing up is a big challenge which is why we then need an extra 5-6 years after qualifying as a medical doctor to be able to come up with those kind of opinions and even at that level you can have 3,4 experts coming up with a different opinion it is normal practise . It's after the experts come together and discuss the base together, that they eventually come with a consensus to say this is the most likely position.

Q So would it be correct for us to say that, we have heard a lot, the evidence that we got and also the issues that were raised were to the effect that the doctors were really part of a scheme to misled the victims and their families. In your evidence how would you characterise it. You were telling us that there was absolutely no basis for that?

A In our practise we are part of Hippocratic oath .We sign to this right at the begin of you profession and if even you are found to deviate you end up going under severe disciplinary proceedings which might sometimes might end up in you being removed from the register so we do not partake in all those kind of activities.

Q Just from a statistical point just to clarify. We would say that from your report 5 people were shot dead in town. They were brought to hospital. After they had already died and then one person died in hospital out of the 6.

A Yes. There is one body that went via a private medical clinic this is Premier Medical Service clinic but when the doctor was about to attend to that victim he was already dead as well so there was no medical attention given to that body.

Q Which would mean that had died on the spot in town?

A That is correct.

Q And than two would have died one at Parirenyatwa and the other one at the Private medical clinic.

A Yes?

Q Would then be any basis to say that there would be more than 6 people that were killed because there is also some conflicting information some were saying 6 some saying 7. Others are even saying that there are more than those. What would you say to us in respect of the numbers?

A As I said it's a consultation from the police. The bodies are brought to us by the police and we saw 6 bodies and those are the ones that we conducted examinations and for those who arrived at the public institutions Parirenyatwa and Harare Central alive, there are also documented in our reports and the ones that were treated and discharged they are all documented so if there is any other extra I wouldn't know about it.

Q Would it be possible to have any extras beyond the 6 that we have from the way which you operate and from the way which the structure of the country are structured . We need to know whether there is any possibility that out of the 1st of August violence we actually lost more people than 6. Would there be that possibility?

A In terms of the system itself it will not be possible unless the police then decided to hide the bodies somewhere.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much for your expert testimony. Do you happen to have any information about the nature of injuries that were sustained by the surviving casualties who had been reported to the hospital and then were discharged . Do you happen to know the nature of the injuries or ailments?

Inquiry

M. Hove

- A Yes I received reports from Harare Central Hospital the Clinical director is here. You can go through his report but for Parirenyatwa group of hospitals the clinical director was unable to be with us but we have got the report but I can go through it if it pleases the Commission.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

- Q Yes doctor. I am looking at those reports and also trying to get those numbers together just so we can get an idea of how many people other than those who were injured by gunshots. It seems on the first list of those that came to Harare Central Hospital if you take off number 7, Challenge Chitauro, there were 11 and then on the 2nd list they were 13 so that is 24 if my maths is correct people injured with gunshots wounds. Is that a correct assessment?

- A There is one case from Harare I think it's the last case on the list from Harare hospital. That case was not, it came around midday the following day and that patient alleged that they were beaten in the high density suburbs with a butt by soldiers. So there was no gunshot wound as such it was blunt injury with resulted in pelvic structure. That is the one that is probably not a gunshot.

- Q And when it says soft tissue injury does not mean a gunshot or can it be something else?

- A For most of the patients that came in, soft tissue injury implies that the bullet went through the soft tissues and not through the bone so there was no fracture

associated with the soft tissue injury . So it was just soft tissues which were damaged.

Q So it is a gunshot?

A It is a gunshot but did not involve the bone.

Q And just on the numbers of people who died the deaths seem to be disconnected which can be sorted out by the police .Have you ever heard of the alleged victim called Dean Bonus who is down on the list as somebody who died but who doesn't appear on your list. Does that name ring bell.

A No. That is not on our list.

Q In respect of the reports about challenges to the autopsy reports did you ever hear that the family of Govern Charles challenged his autopsy report as well?

A I did not but if I recall I have the report here. Govern Charles is the one that had a lateral injury .It went through the arm and then through the abdomen and through on the other side and sustained abdominal injuries yes. Intestines were ruptured and so forth. I did not get any problems with that because it was straight forward that went through the arm first and then through the abdomen .

Q His family has testified that a stabbed wound was also put on his autopsy report . Did you ever hear anything about that they had to challenge for them to change it?

A I did not hear that.

Q If that had happened that would have been a matter of concern to you?

A I would have been concerned because to me that would be a little bit farfetched to think it's a possibility but its farfetched statistically looking at the injuries that saw .

Q So would it be possible to make a mistake like that is you expert opinion?

A I don't think like that in my expert opinion. I think it was doubtful.

Q You never heard anything about them having to change the autopsy report that is the family of Govern Charles.

A No as I said I was only alerted to one because of their typical injuries.

Q Any relations to one Mrs Maphosa . Were you told that the autopsy report had been filled as in stabbed injuries or cause of death had been stabbing. That was actually filled on the form.

A On the 231 form. The police form?

Q On the autopsy report or a similar report. Post mortem report?

A There would be no post mortem report at that stage as explained that the post mortem report takes 30 days to produce but what we normally produce is a sentence on the police request form at the back. It's just a space for a sentence. As I said I was called over the phone that there was that debate and but the doctor did not tell me that they had actually filled in . We just talked it over the phone and concluded to give our opinion.

Q So it wouldn't be normal to fill in what the cause of death was unless that had been finally established.

A It's normal in some cases we do not even write on that space. In some cases we if we have nothing to write we literally say that whatever special investigation that is taking place but just because its only space to indicate a major finding during a post mortem during a post mortem it's a provision statement to allow the relatives to get a burial order.

Q That is what I am just trying to find out. Would it have been normal because we have heard evidence about this of course we have to assess that evidence. Would it be normal to fill in cause of death stabbed wound at that stage having conducted preliminary examination?

A That would be normal. Yes.

Q Filling a form that it was only on a preliminary examination the family would presumably be allowed to offer questions about that as they said .

A That is correct. Once you say you have given a statement, the police is entitled to discuss it with the relatives and if the relatives need any clarification from the doctor in the process the doctor can explain.

Q Just finding out. In you expert opinion in relations to this particular incident, was it possible to be confused about whether it was a stabbed wound or a gunshot wound after conducting an examination?

A It was indeed difficult I said that the external wounds were typical. The entrance wound and exit would usually they have special features and in this particular case we still even now believe that it was different type of weapon or projectile from the others because it was point too sharp as opposed to other were you could just

see contriving ring and bang ring and the projectile disappear under the skin on this one was a funnel shaped and pointed that is why there was that debate.

Q You didn't ask for any further examination to be done, you just looked at the examination that was done already that was underneath you. As I said I just asked over the phone the type of injuries and the internal injuries, the trajectory of the projector that is the one that indicate that it could not have be a stabbed wound because of the different changes in direction that was taking place. In your view those who had worked on it had completely overlooked something that was obvious to you.

A I think they were concentrating on their typical wound and also in addiction as I said the exit wound was semi circular shaped. That is not the usual. Normally you get the rugged type of wound because the bullet energy tears wounds as it get out but it wasn't quite like that in this particular case and in addition they couldn't find a tear in the clothing adjacent to that wound but of course you know after that a lot of manipulation of the body on that may not have been the case but that is why they were now debating whether this was actually a projectile or bionet.

Q But the debate the family making the challenge was right because they had not focused on this particular aspect that you noticed. Would that be fair?

A I think that would be fair if that happened.

Q Thank you for your answers.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Inquiry

M. Hove

Q Just a follow up on Rodney`s questions , wouldn`t it suggest that this victim was shot at close range if the clothing doesn`t even show a tear?

A The tear we are referring to is for the exit wound. On the entrance was a tear and it was slit like in transverse but the wound itself yes it is a counterview but at an angle as they described it . But there was no gunpowder which it implies it was at distance of minimum of at least 50cm away.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Doctor thank you for your report. I want to seek clarification two issues. Now that we received a post mortem report can we say that the report that we have after the full month of investigations?

A That is correct these are the final reports.

Q Can you say that they are conclusive and after the consensus you are talking about?

A That is correct.

Q Is it therefore true that you also looked at the post mortem report since you are the supervisor?

A Yes I did of course because as you can see the names there they are Spanish. I had to ensure that the language is English. Proper English and not spanglish.

Q So you are confirming that what we have is the final?

A Yes.

Q The second point of clarification which I am seeking is whose responsibility it is to discuss the post-mortem report? I don't mean the initial report which you give to the police . I mean this post mortem report because we noticed from the witnesses we received I mean who presented evidence here that some of them mostly are not aware of the post mortem reports?

A That is a good question because the reports are an affidavit in terms of Sections 278 subsection 1 of the Criminal Procedure and Evidence Act so the police consult us and we give them the report back so it is the police investigating officer job to explain because that report is part of the police docket . Once we have given the police that report , it is entirely the police`s responsibly to discuss that report with the relative but if the relatives sometimes there are technical terms that they need and the police is unable to explain what it is, they can ask the doctor to explain those technical terms in the presence of the police man.

Q Ok is it true that the same procedure applies for this finally procedure and that in its final post mortem report and the initial one because that is the sort of procedure you explained earlier on?

A That is correct.

Q In terms of the relatives understanding what is contained in the post mortem it would be the responsibility of the police.

Q Thank you doctor.

NO FURTHER QUESTIONS

Inquiry

M. Hove

A I notice is time p to break for tea but there is one witness doctor Madziva who I indeed to call just purposes of confirm the report of the number of patients that the received at Parirenyatwa hospital that is if its necessary otherwise we may excuse them.

DOCTOR PAMHIDZA PASI : SWORN STATEMENT

EVIDENCE LEADER MRS FORTUNE CHIMBARU (To witness)

Q Doctor Pamhidzapasi may you please tell this Commission what your qualifications are?

A My qualifications are Bachelor of Medicine and Bachelor of Surgery degrees. I also have got a post graduate qualification Masters of Medicine in internal medicine and diploma in tropical medicine and hygiene.

Q What is the position you hold at Harare Central Hospital?

A I am the Clinical Director at Harare Hospital responsible for clinical services.

Q We have presented a report before this Commission which indicated the number of people that visited Harare hospital after skirmishes of the 1st of August 2018. Would you confirm that you also had the list?

A Yes I do have the list here. The number is 12 but one of them on my list number 7 Challenge Tauro we transferred to Parirenyatwa hospital and the last patient Enoce Mutangadura presented to the hospital on the 2nd of August the following days.

Q Patient number 11 Tafadzwa Mutsvandiwoga would you say the injuries according to this report were not caused by gunshots is that correct?

A Yes that is correct. Tafadzwa is a female teenage 14 year old young lady whose injuries were due to trembled down by a fleeing crowd. This was not due to a gunshot injury.

Q Other than Tafadzwa would you say all the injuries for the other 11 were due to gunshot wounds?

A Yes they were.

Q Would you have anything else that you wish to tell the patient that you received after the violence?

A Just to say that for Challenge Chitauro what happened is that our hospital, Harare hospital because he had injuries to his chest we do not have cardiothoracic services at the hospital although obviously intensive we can still provide that is why he had to be transferred to Parirenyatwa because we do not have cardiothoracic services which are available at Parirenyatwa hospital.

Q Thank you very much. I no longer have any questions for you. I will hand you over to the Commission should they have questions for clarification.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Doctor Pasi gave evidence to the fact that patient number 12 who suffered a fracture on the pelvis was not as a result of a gunshot?

A Yes indeed the history that the patient gave is that they were assaulted in Glenview. I think it was in Glenview although their address is Budiriro 4. But they were assaulted

in Glenview. It was at night. They gave the history. That's what they presented the following day that the butt of the rifle was used to bit him and he sustained a ring fracture of the pelvis.

Q I would like you to make a few clarifications the evidence leader asked you initially to confirm that it is only one who did not suffer a gunshot injury. I have a close look at the schedule that has been given to us. I see number 3 soft tissue injuries secondary to trauma. Would you allude that to a gunshot or you can give a clarification.

A The soft tissue injury secondary trauma, most of these what was happening is that some of the way that the information was being recorded in our outpatient's book was such that somebody might write secondary to trauma but when you were then going through this is what we ended up having to write because that is what is written in the casualty book but when I was further questioning the casualty staff most of all these had some lacerations from gunshots but yes what is written there is what I had to extract from the casualty book that secondary to trauma.

Q Should we take this or we take the gunshot?

A I think one will have to take it like this as secondary to trauma because when you then go to the source document and there is nothing written there it become disputable because this is now information that I was sitting down with my team in casualty, that is what exactly happened to this and they were saying most all these

were due to gunshot injuries but I think if you then go to the source document it will just be written secondary to trauma so I think I will leave it like this.

Q But what would be your evidence?

A My evidence is that all these that are soft tissue injuries and all these, these are due to gunshot injuries.

Q No further questions.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you very much. If I could just clarify the list that you have got from Harare Central Hospital. There is another list which just have casualties from the CBD. I want to take it that these person were treated at other hospitals. They are 13 altogether.

A The 12 that are under my schedule were all treated at Harare hospital.

Q The other list that we have maybe we will not be able to testify about them. You don't know where they were treated.

A I will not be able to testify on the other 13 from Parirenyatwa hospital.

Q But the fact is that they must have been treated somewhere else not Harare Central Hospital?

A The only common Patient is number 7 Challenge Tauro who was treated by us and then further referred to Parirenyatwa hospital.

EVIDENCE LEADER MRS FORTUNE CHIMBARU (To Commissioners)

Maybe if I may clarify to the Commission. The 13 were treated at Parirenyatwa hospital.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you Chairman. Thank you Doctor Pasi. I am seeking clarification on your list of patients that you treated. Have you received any further consultation from the patients after you treated them? Has any of them come back to the hospital or has there been follow up. Is it possible to have a follow up?

A It is possible particularly on number four who had a gunshot wound to the fibula and had a fracture. The fibula is a small, bone on the lower neck because that one had a plaster put and therefore had to come back for review. In addition the other one definitely came back because the notes indicated that they were required to come back for review is number 5 who had a gunshot wound to the left ankle and was admitted to the hospital and then number 12 Inoce Mutangadura who then came back for review.

Q What would be their status in terms of the problems that they had encountered?

A At the moment I had no information in terms of their status because normally what happens is that patients take what is called carry home card which then indicates what happening so the information wouldn't be with our hospital but with the patients themselves. I haven't managed to see them so that I can actually say that they fully recovered or disabled in any way.

Q At Harare hospital do you have any structure which allows you to follow up on such patients. Yes we would be able to follow up on such patients.

A We have addresses. Some of them we do have the numbers for their next of kin so it should be possible to follow up however because of sometimes the challenges in economic condition, especially for they maybe a bill that is required later sometimes patients may not give the correct address but it should be possible to follow up.

Q Is it your normal practise to follow up on patients?

A As the clinical director it's not but it's within our normal practise that if the patient is supposed to come for review we usually do not follow then to say why didn't you come for review. We don't do that.

Q Would you know who is paying for the patients? Is it the patients themselves or it could be the state.

Q I do not have that information at hand to say who is paying for who?

A Thank you no further questions.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Doctor Pasi Challenge Tauro could not be treated at Harare hospital and therefore transferred to Parirenyatwa group of hospitals. According to the testimony of his father, Harare hospital decided to transfer they did not provide him with an ambulance and the father said the sister in charge simply pulled out the list of

privately owned ambulances and he called the cheapest to transfer Challenge to Parirenyatwa . Is it according to the norms and standards of Harare Hospital that you transfer critically injured patients without providing for transport?

A That is not the normal practise however in some instances it may happen depending on how critical the patient is because one may need an ambulance that is able to provide critical care between one hospital to the next so outpatient ambulances at the hospital do not have a critical care within them, they would probably just as transporting somebody . So a patient who is as sick as this what we require is an ambulance which is well equipped to be able to handle any eventualities between the hospitals so it may sometime so happen that when we transfer critical ill patients between hospitals will ask for private ambulance that will have that kind of care on board.

Q And the fact that his father was there was a great help because he could get the ambulance. What happens in a case when he brought in by himself? No relatives?

A It can be difficult sometimes what we then end up having to do is to get equipment from our ICU to put in our ambulance and then get one of our critical care doctors to accompany the patient in case there is some resuscitation and other extra care that is required in between so sometimes we do have to then take equipment from our ICU to be able to transfer such kind of a patient.

NO FURTHER QUESTIONS

ADJOURNMENT FOR TEA.

HARARE SECOND SESSION

EVIDENCE LEADER MRS CHIMBARU

I will call Joseph Chuma.

JOSEPH CHUMA : SWORN STATEMENT

Q. Mr Joseph Chuma correct you are employed by ZCTU?

A. Yes.

Q. Confirm you gave indications yesterday when the Commission came for an inspection in loco?

A. Yes.

Q. Do you still stand by the evidence you gave the Commission yesterday?

A. Yes.

Q. Such that we can take still say you stand by that evidence now that you are under oath?

A. Yes.

Q. During the inspection in loco you produced some cartridges which you say you picked at ZCTU premises is that correct?

A. Yes.

Q. You confirm that you kept these cartridges from the day you picked them up to present day?

A. Yes.

Inquiry

Joseph Chuma

Q. Would you please produce the cartridges to the Commission? Maybe just for purposes of the record if you could indicate the place from where you picked the cartridges and the other pointing thing?

A. The pointer which is the bullet head and the cartridge was inside the office. The other cartridge I picked it from outside.

Q. If I may confirm if the cartridge has been handed over to the Commission. We have since recorded the numbers from yesterday's inspection so that maybe if he may just hand over for our purposes. Is there anything else that you wish to tell this Commission?

A. I have nothing more to add from the evidence that I submitted yesterday.

Q. Thank you very much I have no further questions to put to you. I will now hand you over to the Commission if they have any questions for clarifications.

Honourable Chair and members of the Commission, your witness.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you Sir we went yesterday on the inspection. Can I just ask those cartridges which you found outside the building how soon after that was it that you found that?

A. On that same day.

Q. How soon after the firing of the shots did you find that?

A. The situation was now calm as they was no movement of the people around the area though they were other people who were walking around it was no longer chaotic as the situation was calm. I was even checking from the shops which were close by down there to check if they were any damages. That is all.

Inquiry

Joseph Chuma

Q. The cartridge that you found was it one or did you see many there?

A. I only saw those two and the other one which is the bullet head which he is referring to as the pointer.

Q. Just to clarify, these two cartridges we have here you found both of them on the street?

A. No, the other one was just close or near the shops which sell motor vehicle spares.

Q. I just need to try and find exactly what your evidence is? We have two cartridges here so where were they found. One at the shops where was the other one found?

A. I found the other one outside. The other one which had a point was in the office where I was working from.

Q. So one shell outside and one shell inside and the bullet as well, is that the evidence?

A. Yes.

Q. The bullet that we have here yesterday you pointed to us that it was picked just next to a filing cabinet where there was some damage on the wall?

A. Yes.

Thank you for your evidence.

COMMISSIONER CHIEF EMEKA ANYAOKU

Q. Its good to see you again this morning. Would it be correct to say that you had not shown these cartridges to the police?

Inquiry

Joseph Chuma

A. Yes because our anticipation was that after filing a report the police would then follow up at the scene to see the damages. It was at that point when I was going to then show them to the police.

Q. But it's now over a month going to two months and the report to the police and the viewing of the bullets have not taken place why not?

A. I was still awaiting the police to make follow up since we had already filed a report about the incidences then we were waiting for due process to take course.

Thank you.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. The cartridge case that you found outside how far away was it from the building, your office?

A. A distance of about 1½ m from the wall.

Q. Is that the only object that you saw at that location?

A. There were glass particles from the windows which had been damaged and some of the particles were in the office and some of the particles were on the ground.

Thank you.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much you may step down.

EVIDENCE LEADER MRS CHIMBARU

I will call upon our next witness Chief Superintendent Albert Ncube.

Inquiry

Albert Ncube

Honourable Chair and members of the Commission if you note that you have his statement in the original file.

ALBERT NCUBE : SWORN STATEMENT

Q. You confirm you are a duly attested member of the Zimbabwe Republic Police?

A. I do.

Q. And you hold the rank of Chief Superintendent?

A. Yes.

Q. Confirm during the period of 1 August 2018 you were the officer commanding Harare district?

A. Yes.

Q. Would you please tell this honourable Commission how you deployed the police offices on this day per say and all the instructions that they had upon their deployment?

A. On the 1st of August when we had gathered information that there was going to be some demonstration over the announcement of election results, I had to deploy officers although I did not have enough officers under my command because most officers were deployed on election duties. So I had to deploy a few from the PPU who had been seconded to my district for the management of public order and patrols. I also had the support of the Support Unit. So I deployed in what we know as hot spots. Areas like Coppa Cabana bus terminus, Market Square, Harvest house which houses the MDC alliance headquarters. We had some police officers there who were not armed in anything. I also deployed a team of the district reaction group at the

Harare International Conference Centre where the elections results were being announced that is where we had intelligence that demonstrators would want to go and disturb the counting and announcement of results. So at that point I also received some commanders from the Support Unit with whom we discussed and deployed in the areas like the Harvest House that is Nelson Mandela Avenue and the Harare International Conference Centre which was the most area of focus including the ZEC offices, the national headquarters we also deployed to guard against any disturbances.

The instruction was for the members to disperse any demonstrator because the demonstration in terms of the Public Order and Security Act had not been sanctioned by my office. They were supposed to ensure people do not demonstrate but also they were supposed to do this in a non confrontational manner noting that most of them were not armed. So they were supposed to just order the demonstrators away from wherever they were gathering.

Unfortunately as the day unfolded people started gathering in town. I was receiving reports from different teams and intelligence units to say they are people gathering in this point and at that point. Our major focus as I have said was the HICC which where most of these demonstrators at first they gathered there and wanted to get into the gate. Apparently they was a section of the Support Unit there which had also the water cannons.

At one point in time I did visit the area. Apparently they was my boss my senior, an Assistant Commissioner Matsikesimbe was also there with the Support Unit members guarding the gate. The gate was already locked but they were lot of demonstrators trying to push and scale over the fence and the gate but they were kept away by the police teams that were there. We also had a PRG team and another Support Unit team

at the ZEC offices. I did not receive any issues of confrontation there. When I came from the HICC going back to office I went via Market Square. That's when I met a group of demonstrators. They were not a group as such but they were just few teams moving around the terminus armed with some planks and some metal rods. As I passed through I was in a vehicle which had no police colours so I managed to go through up to the police station. When I entered the office I found some members from my headquarters gathering in my office watching through the window and I saw they were a lot of people. The crowd was almost around 400 to 500 now and they was some fire and I thought there was a vehicle burning. I was informed it was the President's banner that they had removed from a building and had set on fire. So they walked along Julius Nyerere and turned into Robert Mugabe. Around that time that's when I contacted the Officer commanding province.

Maybe I should have mentioned that prior to the elections on the 28th of July, having noted that I didn't have manpower and from the utterances that were taking place from the opposition political parties it was evident that in the event of any demonstrations my district could not be in a position to contain the demonstrations so I had to request through the officer commanding. I wrote a letter to the officer commanding province requesting support or assistance from the military the Zimbabwe defence forces so that they would assist in the event that my members are over whelmed.

So on the 1st of August having noted that my members were already overwhelmed because those I had deployed in hot spots Market Square, Coppa Cabana were no way to be found judging from the strength and the mood of the demonstrators the police officers they thought of their safety first. When I spoke to my officer commanding he

was saying cant your men challenge these people. And I said to him Sir, even if I have 200 police officers to confront this crowd I don't think they would win. The next thing I had to communicate to him to say now we would need reinforcement and to write another letter to say can we have assistance of the military. Shortly later he called me, not him as such but an assistant Commissioner Nyazema called me and he said he was at Africa Unit Square together with the officer commanding province and he directed me to get to them. I left office, I had difficulties getting there because the road that I was supposed to use especially at corner Robert Mugabe and 4th street demonstrators were all over and vehicles were now going against one way Robson Manyika towards Enterprise. That's the route I also used, turned left into Enterprise then tried to go down to Africa Unit Square. I was meeting some cars with smashed windows and we were driving all over, the roads were blocked and some roads there were tyres burning and the traffic lights were down. I continued to receive reports to say at the ZANU PF provincial headquarters demonstrators have besieged they have got us. People had already been forced to close shops. A lot of shops were closed and cars were being smashed, traffic lights were being destroyed. By the time I got to the officer commanding province I found him with the other senior officers. The Officer commanding Support Unit was there, her Chief Staff officer operations Senior Assistance Commissioner Dumbura was also there with the other assistant commissioners that it Nyazema, Chogugudza and Masocha. When I got there they didn't tell me anything really. They continued to be on the phone and likes and I continued to receive reports.

Then there was a decision to say to move some support unit POVs from the centre of town to Harvest house to go and reinforce at the Provincial headquarters of ZANU PF

at 4th street. After those trucks and POVs had gone I continued to receive calls and the senior officers left me there and they drove away. I continued to receive calls and radio calls to say the details at the ZANU PF provincial headquarters are calling for reinforcement they are under siege. I had no one to command to say go there now considering that support unit which was the best that we had were already there. I couldn't drive there. Instead I decided to go down to the HICC and try to find out if I could get some sections to go to the ZANU PF headquarters to reinforce and assist the PPU guys who were in that office.

When I was about to get to the HICC I saw two army troop carriers without troops. They were just driving towards Samora Machel along Rotten Row. I went along Samora Machel then into Rekai Tangwena and used the south facing gate of the HICC where the District Reaction Group was positioned. By the time I got to the gate that's when I got some gunshots and I didn't know what was happening. They continued to be some gunshots then we saw people running in that direction towards the showground. We asked what's happening and they said they are soldiers in town, they are ordering people out. So I remained there because I wasn't sure as how to proceed. I stayed there for some time then I received a call from Assistant Commissioner Nyazema to say they were people looting Bhadhela wholesalers and he directed me to take one stitch and get to that place. I did get there. I found they was nothing so I drove back to station. By that time they were very few people in town. People were moving towards the southern direction but they were very few. So by the time I got to the intersection of Julius Nyerere and Kenneth Kaunda I saw about 5 troop carriers parked on different spots then I went into the police station. That's when I learnt that just near the police station they were people gathered there including some police

officers. That's when I learnt that they was a woman who had been shot dead at that point I also got to know that another person had been shot dead and was brought to Premier Service Medical Aid clinic along 4th street but he was pronounced dead. So I had to make arrangement for the bodies to be taken to Parirenyatwa hospital to mortuary. By then those reports I had to get the indulgence of the criminal investigations department law and order who do investigations of such cases. So I seconded my deputy Superintendent Makunike to accompany them in getting the bodies and doing the initial documentation and taking the bodies to the hospital. Later I received another call to say another person who had been brought ill at the avenues hospital has also passed on and I advised the team that was taking the other bodies to go and collect the body again and take it to Parirenyatwa which they did. So by the end of that day I knew of three people who had passed on and two who had been taken to Parirenyatwa hospital in different states because they was a call that people had dumped someone who had died at Parirenyatwa hospital. By the end of the day I knew of five people who had died.

Thereafter I didn't get involved much because it was now a work for the detectives to detect all cases that had been reported. Cases continued to be reported the following day and all cases related to the incident were forwarded or referred to the Criminal investigations department for further investigations. All the figures that I had to get all had to come through the statistics that I had to get later. Number of reports to do with malicious damage to property, they were quite a number of shops that had their windows broken. We had about 51 cases of malicious damage to property and one person reported theft to say it also occurred around on the same day. But no reports continued in my understanding to be made that is at Harare Central police station. I

was not privy at any point to know of the cases that were reported at other police stations which were later referred to CID. That is all I can say.

Q. Thank you for the narration. In total how many police officers did you deploy on the day in question?

A. They were about 167.

Q. What sort of equipment did they have when you deployed these 167 police officers?

A. You have to note that when you talk of support unit they are a specialist unit which I cannot go into further understanding their equipment. I bring them in as specialists who have all their equipment that they know of. So for the support unit I only dealt with the commanders without going into detail as to what special weapons they had. What weapons I know some of them had AK47 rifles but for any other equipment I do not know. But for my district reaction group they were armed with button sticks and shields as well as tear smoke.

Q. From your statement it indicates that some of the officers were not armed is that correct?

A. Yes.

Q. When you say they were not armed do you mean they did not have guns or they had nothing at all not even button sticks.

A. They had neither guns nor buttons sticks.

Q. Of the 167 that you deployed not mentioning the support unit what sort of weapons or items did they have to disperse the rioters?

A. The 167 include support unit but those who were armed outside support unit were

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armed with tear smoke. That is the district reaction group and the police reaction group. They were armed with button sticks, shields, helmets and tear smoke.

Q. You confirm that as the officer commanding Harare district you are also the regulatory authority in terms of the POSA?

A. Yes.

Q. By POSA I refer to the Public Order and Security Act. So as the regulatory authority you confirm that the notice to hold a demonstration ordinarily come to your office?

A. Definitely.

Q. And in this case had you received any?

A. No I did not receive any.

Q. Ordinarily when you get the notification of a demonstration what would be the role of the police officers that you then deploy to move around with the demonstrators?

A. It depends on the outcome or the decision would have made in respect to the demonstration. For example usually when I get a demonstration of such magnitude I would call upon the organiser of the demonstration then we discuss on the modalities what security measures they would have put in place to ensure the demonstrators do it peacefully. We agree and I acknowledge the notification. I would deploy police officers who would also make sure that amongst the demonstrators no one goes on to violate the law and no other people would come in to join the demonstrators and cause some disturbances so it will depend. If I come to the view that the demonstration should not take place again in terms of the Public Order and Security Act it would mean I deploy to make sure the demonstrators do not gather in the first place. Usually

they would be known places where they say we want to gather at such a place then we would send police officers there to say when they gather you warn that the gathering is unlawful.

Q. So your deployment of the 16 officers were purely from the intelligence that you had obtained that they were likely to be riots not that you had been given notification?

A. Yes it was based on the intelligence and incidence prior to the particular day.

Q. So in your view from the intelligence that you had gathered, in your view would you say the 167 did you believe that they would be able to carry these demonstrations?

A. I believed to some extent that they would because I thought the period that we were in, the period of elections, events prior to that did not indicate some violent behaviour much. I think I had cleared two demonstrations or marches from the MDC Alliance previously before the elections which had a lot of people around but they proceeded peacefully so judging from how the elections had been conducted I thought to some extent people may not be interested in going into a violent behaviour considering that they had just asked their votes.

Q. So when they was a call for reinforcement were you able to send some extra members of the police or were you able to send in the reinforcement.

A. Are you referring to the ZANU PF headquarters?

Q. Correct.

A. I couldn't. That is the time when I was trying to scramble around to say maybe I would get some other officers because I said at support unit troops had gone to the same place but the call for reinforcement continued so I had to go to the other side of

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town to try and get some reinforcement. But when I got there that was the time I heard some gunshots and came to know that the military had got into town.

Q. Did you have any other police officers who were not at that time stationed at the so called hot spot that you could have deployed or you were now going to remove some officers from where they were posted?

A. I didn't have any other police officers on reserve to help me. Even going to the HICC it was just some way of trying to scavenge around but I was not even confident because the area continued to be besieged by some demonstrators there. I didn't have any other spare troops to have in reinforcement.

Q. Why did you not have them what was the reason, why were they not available?

A. As I said previously all my manpower, Harare central district being a CBD only has one constituency which is even outside the CBD and the manpower that I had to man the polling stations, most of the polling stations under Harare central constituency are not even within the CBD. So I didn't have the power to say all members in my district I could do whatever I wanted. This was a national event where my leaders, my commanders had a lot of say in terms of manpower distribution to cover the elections.

Q. So they were covering the elections?

A. They were covering the elections some were even outside the city.

Q. And you said you then had to make an application to have the defence forces coming?

A. Yes.

Q. But then you only later heard gunshots, what time was it when you later heard the gunshots?

A. I may not be very precise about the time but it was some time later after 2 maybe around 3 thereabout.

Q. Had you gotten your response for your request by that time?

A. No.

Q. Was the response supposed to be directed to you or to some other superiors?

A. In terms of the said law the response could have just been the coming in of the troops. But when they came I should have met them and gave them what to do on the ground. Brief them on the situation first. That is in terms of the Public Order and Security Act.

Q. What made you call for this help?

A. The situation obtaining on the ground considering that my police officers the few that I had deployed could not in any way no longer try to stop the demonstrators. A lot of destruction of property was happening in town including the setting of fire on motor vehicles. At one time one report that I got which came to be a false one was that the building was on fire at the corner Samora and Julius Nyerere Avenue. It happened that they set on fire the President's banner which was affixed to a building. So when people saw that fire they thought the building was on fire. Efforts were made by those in office to summon the fire brigade and the fire brigade were saying from what is happening on the ground can we have police officers to escort us and I felt we cannot contain the situation. How can we again to be seen to be escorting the fire brigade it means we are already overwhelmed. So the situation on the ground was no longer manageable and my police officers were overwhelmed and I had to seek for some assistance.

Q. You speak of the Fire Brigade. Did the police try to engage the Fire Brigade?

A. They did call the Fire Brigade and the response they were given was that can you send police officers to escort us from the deport to the scene and they were no police officers for such a task.

Q. Of those who deceased you speak of two bodies which were ferried by the police to Parirenyatwa hospital is that correct?

A. Yes.

Q. According to your statement there is a deceased person by the name Dean Bonus but from the six we have here we do not seem to have that name. Would you explain on that?

A. As I said any other record after the 1st of August surely I obtained from those investigating, those who immediately after took over all the documentation so I got only this information from the law and order to say how many reports and who are the people that have passed on and that's when I got these names. So this is only based on records that I obtained from the investigators.

Q. Thank you very much I have no further questions. I will now hand you over to the members of the Commission should they have any questions for clarification.

Honourable Chair and members of the Commission your witness.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Thank you very much for your testimony. When the demonstration and related violence were in progress did you attempt to get in touch with leaders of the political

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parties?

A. No. I did not.

Q. No attempt was made?

A. Yes because I had attempted to engage them prior but I couldn't get any response.

Q. When the reinforcement from the military arrived did you seek any guidance from your superior, did you inform them about the arrival?

A. No I did not because it was like common cause that everyone around was aware that the military were on the ground but I continued to communicate with my superiors that's where they had to summon me to some other places like the wholesaler where they said they was some looting because they also continued to receive calls from other people and say this is what is happening.

Q. Do you have any joint standard operating procedures that had been developed between the police and the military to deal with the situation that occurred in Harare?

A. Yes they is the National Reaction Force but from my level I hardly interact with those because it's chaired from the national command. In the event of them being engaged they are engaged from that level and not my level of a district.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I just want you to be clear on your evidence. First you are saying as the officer commanding Harare district you were not yourself aware, you were not informed about the military coming into town on that particular day?

A. Yes. Besides my request for their coming whether they were coming, they had come I

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was not aware.

Q. So you just discovered that they was a military presence just like any other person in Harare.

A. Yes.

Q. And that is despite you being the district commander?

A. Yes.

Q. Is it also correct that your own relationship with the military will be the letter that you had written earlier on?

A. Yes.

Q. And they was no other interaction, no other information given to you about the military?

A. Yes.

Q. You also confirm that when the military was now in operation they were not operating under your command?

A. Yes.

Q. It appears that you referred to the law that regulates this, are you referring to that Section 37 of the Public Order and Security Act?

A. Yes.

Q. And that in terms of that act if the military were to come under that law they would have to operate under you?

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A. Yes.

Q. But that didn't happen?

A. Yes.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. If someone say it's a little strange that as the officer commanding the Harare district you were not aware of the military coming in, what would be your reaction to that?

A. My reaction would be maybe they had other reasons considering my position in terms of physical location and where the military barracks are, probably they found it prudent to deal with the situation without first driving through town and that is my speculation anywhere. Without driving through town to come to me leaving the town on fire. Maybe they found it prudent to do whatever they did which of course it's not in terms of the law.

Q. Would it not be natural for you having heard and seen the military in your area of the command to inquire how the military has come in?

A. That from my level would not have been easy because surely they have command, I have command. I don't know how far my own commanders have gone in inquiring as to such action. But from my level it would not have been easy.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Chief Superintendent, I understood you to say that you wrote a letter to the military asking for reinforcement?

A. Yes. I wrote to my officer commanding province.

Q. Asking for military intervention?

A. Yes.

Q. So in other words the coming of the military could have been a response although that coming was not communicated to you directly?

A. Yes.

Q. According to your knowledge and understanding the intervention was in accordance with the law?

A. Yes.

Q. According to your experience as a police officer it was necessary to have this intervention?

A. Yes.

Q. And you also confirm that the police had failed to contain the mob?

A. Yes I do.

Q. Would you then say the force that was used by the military was commensurate to the events that were taking place?

A. Without really offending the bereaved families the force on its own would be commensurate although the end results would not be desired by any human being. But that level of force would have the only thing that could have brought normalcy into the city.

Q. Would you be suggesting that the military would have used other means without

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causalities?

A. I wouldn't know much in terms of the type of ammunition at the disposal of the army but loss of life would not be justifiable although it unfortunately did. But the presence of the military was the only way I could find to maybe relief the situation.

Q. So the force used was necessary to deal with the events of the day?

A. Yes.

NO FURTHER QUESTIONS.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Chief Superintendent, can I ask some questions about the assessment you made about the need to bring the army in because it seems from your evidence that you were the one who triggered that it then cascaded up with chain of command but it started with your assessment on the ground is that right?

A. Yes.

Q. How many protesters were there in relation to the number of police that you had at your disposal?

A. At one point I estimated the protesters although they were not at any point in one group. I would put the number to around 5 000. They were never at any time in one group. They were in different parts of town. That is one other thing that made it very difficult to deal with them because they were almost all over town.

Q. And the number of police that you had at your responsible I think you said 167?

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A. Yes.

Q. To 5000?

A. Yes.

Q. From your experience what is that ration tell us about whether you can contain the grouping or does it depend on so many other factors like what they were doing what the conduct is?

A, I think it depends on a lot of back grounds because as I said the police officers most of whom that I deployed in the hot spots are not in the normal duty of policing in terms of dealing directly with the public. They are from the police protection unit where they do mostly State guard duties and dont expect them immediately to deal with protesters armed with all assortment of weapons or something that was very difficult to deal with.

Q. We heard some evidence about police officers actually being attacked at the ZANU PF provincial office. Did you have any other information about police officers being attacked or being in danger?

A, The only information I got was that the police officers guarding the ZANU PF provincial headquarters were under attack and they needed reinforcement.

Q. Just in terms of the timing of your assessment was it soon after what you witnessed at the provincial headquarters that you made the assessment that the army would be needed or was it later?

A. Soon after receiving reports of cars burning at the provincial headquarters this was

following a number of shops that had been stoned, traffic lights being destroyed, and tyres being set on fire blocking the roads. So when I got to know of vehicles including a bus that's when I realised the situation was out of hand.

Q. And just so we have the timing because we heard evidence of events taking place at different parts. Was there also at that stage demonstration at the HICC going on?

A. The demonstration at the HICC never ended. People were scaling down in smaller numbers but they never left the HICC gate throughout the day.

Q. You said in your statement, thank you for the detailed statement which you provided which we will use as well, that order was given of no order to shoot anyone to your police officers?

A. Yes.

Q. Can you just explain how that order was given and what it means in practice?

A. When I briefed the parade it included the commanders. I had commanders from support unit who had personnel armed. The situation we were in was an election period with the issue of the credibility of elections at stake. Observers were all over and we wanted to make sure that whatever comes we would try to contain in the most peaceful way so we didn't want, in my view I didn't want the use of firearms at any point because that would go a long way in discrediting the elections. So I had to be very explicitly about the use of firearms.

Q. What about the firing of warning shots?

- A. The firing of warning shots those usually come depending on the situation on the ground. When we say use of fire arms it may not necessarily mean even warning shots could not be fired when someone was in danger. But as for my details it was no use of firearms is entertained and from those I briefed I have not heard of any who used a firearm even in warning shots.
- Q. We have some evidence of police officers using warning shots including those who are under attack in the provincial headquarters. What I am just trying to find out for our benefit is what would have been the instructions the training in that regard as how to use warning shots?
- A. As they said in their evidence I am sure they are from the police protection unit. They don't at any time report to me or under my command. They have got their command which deploys them on specific duties armed and they guard some of the very sensitive areas including our VI and VVIPs so I don't think they would be having a similar brief to say they should never use a firearm because when someone is now attacking some premises they could be having some instructions at an extent to use the firearms to protect the premises.
- Q. Can I ask you about what you mentioned when you said you should have been introduced or met with the army when they first came in. you have answered some question about that. How about meeting usually takes place could it be done by radio contact or that would have to happen face to face?
- A. The practical situation would not have encouraged radio contact because ordinarily I don't have contact with them over the radio. So the easiest or the most practicable way could have been for them to come be it in office or could have met elsewhere so

that at least I would have shown them where the problem is and how best we could have dealt with it.

Q. You have said it didn't happen in this case we know that. Is that something that you have looked into after the event in a post analysis of what happened on the day?

A. After writing my letter I expected to be summoned at a point to say meet them, be it they come to my office or be it I am told that those people are now around or can you meet them somewhere. I was alive to that requirement.

Q. But you haven't assessed it after the events now deciding what action you could take in future to improve the situation?

A. Sorry?

Q. I said after the events that happened on the 1st August you have identified this meeting having taking place when it should have. Have you have any post mortem of the event and looking at how you can improve things in the future?

A. Yes we have to some extent looked at it to say here are the gaps.

Q. And you identified steps to be taken are you able to share that with us?

A. Yes some of the steps should have been in the event that we realise that they might be need for the military the best way could be, even if they had not yet come could have created a conducive environment of probably commanders being together because we are into this together. We could have already together even before they were authorised to come so that by the time they are authorised we would have been sharing notes and we could easily brief each other and got into the CBD from one understanding of the situation.

Q. Finally in relation to the deaths and injuries you said that this matter has been handed over for investigation. Are you able to assist us with what the investigations have shown so far? Who was responsible for this incident?

A. Definitely I don't have information because detectives are our specialist investigators. Once I hand over a case to them it may not be professional to continuously go back to say what is the position. To some extent yes, I may seek an update but unfortunately for me about two weeks down the line I moved out of the district elsewhere on transfer so I don't know exactly how the investigations are going on.

Q. But you can confirm that they are investigations. Obviously we can follow up that look?

A. Yes because we submitted all the initial documentation involving all the reported cases to the detectives for further investigations.

Q. Just on that you might not be able to help us and this is something that we have to clarify outside of the hearing but in your statement you have mentioned the name of somebody who was mentioned by the examiner Dean Bonus and they wasn't the name Garvin Charles included in your list. Where did you get the information for your statement?

A. I got this information it was quite sometime after, from the detectives. I just said can I have the numbers of cases that we handled and also the names of deceased that's when I came to get this information.

Q. Its obviously important for us as the Commission to get the exact numbers but we have to follow up with the detectives as you because you don't have that?

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A. Yes.

Thank you for your answers.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I have two points that I want to seek clarification. The first one is in your presentation.

You said you think that the military was justified to intervene according to the request that you made and also that the force they used was commensurate with the state of the CBD. And you say that the military was supposed to report in the initial instance. Would you have given a different instruction about the whole operation in relation to what then happened?

A. No instruction to them would have been based on a number of issues again. It would have depend maybe on the type of weapons or whatever tools they have for use. It would also have depended on the numbers that would have come. Maybe my instruction would not have been the last resort as the use of firearms depending on how they came and how they were equipped.

Q. Am I right to say that you said that the final decision in terms of how that operation would have been carried out was supposed to be as a result of the commanders coming to some consensus?

A. Sorry?

Q. Am I right to say that when you were presenting your account you said the final decision on the operation was supposed to come from the commanders agreeing on the way forward picking opinions from the various commanders?

- A. Cause for this one considering that had it been that the military came to me surely they was no more time for us to say commanders above us would have come to make a decision. They would have come, yes we would have sort some guidance but myself and the military we were supposed to make a decision as to how to deal with the case.
- Q. Is that what you mean by commanders should have been together or should have found a place to meet?
- A. Yes the commanders I am talking about is myself and those from the military at our level. We could have been together so that when we receive authority for the military to intervene we would be in touch. We would not start looking for each other when authority was granted. Maybe that's how I view the situation maybe going forward to say when we have such a situation we should anticipate and be in touch. Seek whatever guidance, whatever authority being in close liaison.
- Q. The last one is on use of firearms by the police that when we watched the videos we saw some police also using fire arms. Would you have taken a different decision in relation to that?
- A. Unfortunately I didn't watch any video madam.

Thank you no further questions.

COMMISSIONER LOVEMORE MADHUKU (To witness)

- Q. From the answers you are giving to the questions posed by my fellow Commissioners I just want to be sure that I am understanding you correctly. My understanding of your evidence and what you keep saying is that in terms of Section 37 of the Public

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Order and Security Act any member of the military would have to be under your command as a regulating authority of Harare is that correct?

A. Yes that's what the law says.

Q. That's what the law says. And that's your evidence that that did not happen?

A. Yes.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. You confirm that you did not inquire after those why that they haven't?

A. I did not.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much inspector no further questions.

Witness excused.

EVIDENCE LEADER MRS CHIMBARU

Members of the commission those would be the eight witnesses we had lined up for this morning. The other witness from the Defence Forces and the police would be coming in at 2 o'clock so at this time we may break for lunch.

EVIDENCE LEADER THABANI MPOFU

I have been informed that the next witness is Ellen Sithole from the Zimbabwe Human Rights Commission. If I could just have a few minutes to organise that and start.

ELLEN SITHOLE : SWORN STATEMENT

EVIDENCE LEADER THABANI MPOFU (To witness)

Q. Dr Sithole good afternoon.

A. Good afternoon.

Q. I am going to request you to speak loudly so that everyone in the room can hear. Dr Sithole you are the Chairman of the Zimbabwe Human Rights Commission?

A. Deputy Chairperson.

Q. You are no doubt familiar to the circumstances that led to the President his Excellence Mnangagwa appointing this Commission to hold the hearings that we are going through at the moment?

A. Yes.

Q. You are acquainted with event of the 1st of August which led to the loss of six lives in the street of Harare?

A. To a limited extent yes.

Q. The Commission would like to hear from you your views, your perspectives as to the events and the incidence of that day or any other information that you may think it's relevant for the Commissioners to hear and to know before they make their determination in terms of their terms of reference. You may go ahead now.

A. Our Commission the Zimbabwe Human Rights Commission had a team in Harare on the 1st of August 2018. Our team was on the streets at one point and they met the demonstrators. At that time the demonstration was peaceful and they were saying that

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they were demonstrating to protect their vote. They were going to go at ZEC offices. They met them in Nelson Mandela Avenue and then our team then decided that they wanted to go to the HICC where the ZEC was announcing results so that they could also monitor in terms of our mandate as the Human Rights Commission so we were observers for the elections, what was going on there. While they were in the vehicle on their way there near the ZANU PF headquarters they heard some shots which sounded like gunshots and they also noticed that people were actually running away from the direction where they were intending to go. So they decided to turn back for security reasons and they were in the office for most of the time until very late in the day when they could safely leave the office to go home. So that is the knowledge that we have as the Human Rights Commission in terms of what happened on that day.

Our views, our concerns, if I may put it as our concern we have expressed them. We have also issued where we have expressed our concern about the violence that erupted but we have also expressed concern about the shooting that took place on that day.

Our concern is that the demonstrators appeared not to have taken measures to ensure that the demonstration did not degenerate into violence. Given that our constitution guarantees the right to demonstrate peacefully it was the view of the Commission that the demonstrators should have taken measures to ensure that the demonstration remained peaceful.

We also expressed concern on the reaction of shooting. We believe that the Zimbabwe republic police are trained to deal with issues of violence by the public unarmed civilians and they should be able to respond appropriately without resorting to use of live ammunition. And that was our concern which we expressed so that is our view and that is what we know. As a Commission we have a mandate to receive

complains on alleged violation of human rights by anybody. We have to date not received any complaint specific to the events of the 1st of August 2018. That is what I can report.

Q. Did any of the members of your team on the day in question witness any violence by any of the parties involved either the demonstrators or anybody else?

A. No they did not. At that time the demonstrators were peaceful.

Q. At what time did your team encounter peaceful demonstrations?

A. It was sometime during the morning of the 1st of August and then when they attempted to go to the HICC it was now around 1400 hours that same day.

Q. After this incident did your Commission engage any of the parties engaged. I am talking about the political parties, the Zimbabwe Republic Police or the Zimbabwe National Army?

A. Prior to the incident we have had engagements because we were as part of our mandate monitored the human rights situation in the country prior to elections and part of our monitoring of the human rights situation was also engaging the actors involved. So we have had some engagement with political parties involved, with the Zimbabwe Republic Police and also with other players in the elections.

Q. What was the nature of the engagement that you had with political parties prior to the 1st of August 2018 and prior to the elections?

A. We were just encouraging them to respect rights and in that regard to be peaceful and we were actually invited to witness some of their primary elections processes for the main parties.

Q. How would you describe your relationship with the different players that you have spoken about prior to the elections. What was your relationship like? Are you able to give? Was it acuminous, were you on good talking terms?

A. It was good. We tried to get them to understand our mandate and they generally understood our mandate and it's in good relationship.

Q. After the violence did you receive and representations from any of the political parties pertaining to the incidence of the 1st August 2018?

A. No.

Q Have you sought to engage the parties yourselves as the Commission?

A. We would have but then this Commission of inquiry was set up and we decided not to pre-empt their work.

Q. The Commission has heard evidence to the effect that property was destroyed on the 1st of August are you able to give your perspective perhaps your reasons, your thoughts as to what would have caused the destruction of property and the violence on the day in question?

A. We wouldn't have personal knowledge but we assume it was the demonstrators who destroyed the property.

Q. You had no evidence or any perspective coming out of the engagement that you have with the parties involved before the elections as to why that might have been. Why violence might have erupted on the 1st of August?

A. No. there was no indication at all. I think for us as a Commission the events of 1st August took us by surprise. We had gone through the whole process and we had seen

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how prior to the elections and on voting day people were very peaceful there were no incidences generally so we were not expecting such an incident to take place so we have no idea why it would have happened the way it happened.

Q. Thank you very much Dr. Sithole I will now hand you over to the Commissioners they may have questions they want to put to you or clarifications they may want to seek.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Dr. Sithole you said that your team were out in the street on the 1st of August?

A. Yes.

Q. What time of the day did it go out to the streets?

A. I don't have the exact time but it was in the morning of the 1st of August.

Q. In the morning?

A. Yes.

Q. Were they in the streets throughout the day?

A. They were as part of their assignment they would just move around to see what's going on. So when they noticed that they were people gathering of course they took interest as to why people were gathering and that's when they enquired and they were told that it was going to be a demonstration to protect the vote as they demonstrate. The people they spoke to said that they were going to march to ZEC offices.

Q. The police you said that they were there during the marches and so on?

A. After having inquired and gotten that information the team then decided to go to the office where they were based at our offices in Samora Machel. From the office they then decided they wanted to go to the ZEC office HICC where ZEC was based and making the announcement results just to see what would happen once these people were there and that's why they then on the way heard the gunshots and saw people running away.

Q. Did they report that they saw destruction of property and so on?

A. No they didn't witness any destruction of property.

Q. They did not witness?

A. Yes they were in a vehicle and on their way to HICC and they heard the shots and immediately they made a U-turn and went back to the office.

Q. So they avoided the streets where properties were being destroyed?

A. For their own safety as part of our training that if it is not safe they should not be there, so for their own safety they went back to the office directly and stayed in the office until they felt it was safe to go out and go home. It was late when they finally managed to get out of the office.

Q. Did you receive any complaints before the elections and what were the nature of the complaints you received?

A. We received a few complaints most of them were to do with food distribution where there was alleged partisan distribution of food aid during the election campaign period.

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Thank you.

Ellen Sithole

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Dr. Sithole thank you for coming. You are coming in your capacity as the deputy
Chairperson of the Zimbabwe Human Rights Commission?

A. Yes.

Q. As far as your organisation is concerned what would you attribute to the post election
violence what would you think would have led to the violence?

A. I wouldn't want to speculate but as I said the team which met some of the
demonstrators they said they were trying to protect their vote and as to why they then
turned violent I wouldn't want to speculate.

Q. You also appreciate that in terms of our laws any demonstration must be sanctioned?

A. Notification of the police yes that's my understanding of the law.

Q. Would you know whether this demonstration had been given a go ahead or not?

A. No I wouldn't know. I am sure our team didn't ask that question either.

Q. As an institution you didn't find it's necessary just to find out these facts?

A. If we were investigating that particular incident it would be part of the information we
would find out but as I said we have not done any investigation about that incident
because we didn't want to pre-empt this Commission.

NO FURTHER QUESTIONS.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Dr Sithole thank you for your presentation. I notice you are aware of the environment before the elections and listen to the speeches during that period because you said that you were invited to attend some of the events by different political parties. Did you witness or heard any hate speeches during the campaign period?

A. I think from our general knowledge there wasn't much of that generally. There were a few incidences I think where people might have used languages which was not acceptable in our view but generally I think it was correct.

Q. Would you share with us what you would consider to be not acceptable?

A. Like in one incident people heard one party singing a song which was saying that "chinja inourayisa" which means if you support this party you will die so to us that was not acceptable.

Q. Is there anything that you would recommend to be done to avoid any such hate speeches in future?

A. Yes, what should be done is to just emphasise the issue which we were emphasising that it's a person's right to make political choices freely and everyone should respect that right and that if that language of tolerance and acceptance of the rights of others is spread throughout the people of Zimbabwe and accept it we will move forward.

Q. Would you think any such hate speech would have contributed to the events of the 1st of August?

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A. Sorry.

Q. Do you think any such hate speech would have contributed to the events of 1 August?

A. I didn't hear and we didn't note anyone who specifically may have encouraged people to be violent as I said the general message seem to be people were encouraging peace and were indeed peaceful until the 1st of August when we experienced what we experienced.

Q. Thank you.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you very much Doctor for testimony. I just want to ask about one matter which concerns human rights. Human rights law has to make a balance between the right to protest, action and the right to public safety and the maintenance of law and order. Taking that into account with your expertise are you able to assist us with what steps could have been taken on the 1st of August to avoid loss of life or injury through the use of live ammunition or any weapons they would help us in making our recommendations.

A. I am not an expert on policing but from previous experiences I think this was not the first time we have had violence during a demonstration in Zimbabwe. The police have been able to contain it using the instruments that they had their tear gas and the water cannons and things that they have to contain. I think this was the first time that we witnessed the use of live ammunition and to us that is rather extreme given that the people were not armed.

Q. Thank you.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Do I understand you correctly to seem to be saying that unarmed civilians may perhaps engage in violence but that is not an excuse for use of live ammunition. Is that the way you are putting it that's what I seem to be taking it?

A. They should not. We don't encourage anyone to engage in violence so we are very clear it's a violation of the rights of others when you destroy property every people have a right but the response should also not be disproportionate to what is happening and as far as possible the right to life must be respected especially if it affects other people who are not participants in the demonstrations. Innocent bystanders lost their lives in the event.

Q. I think I heard that point. My point was I see that you are saying people should not engage in acts of violence if they are demonstrating but should that happen because it happened. Your evidence is that the response must not involve live ammunition. Am I understanding you correctly?

A. Yes that's our view. They should be other means of engaging which should not involve the use of live ammunition. If it does involve then at least they should be protection of innocent bystanders and as far as possible even those involved it should not be shoot to kill mobilise or somewhere.

Q. So even then you say that the use of live ammunition here was extreme. You would say that that is the view of your organisation even with the knowledge of what we now know happened that the Human Rights Commission still thinks it was extreme?

A. Still thinks shoot to kill was extreme.

Q. May I get your comment you may not have been following what was coming before us but we have heard lots of evidence from persons who were saying that the language used by MDC alliance candidates was such that it was out of line. We got some witnesses who were saying that here, Bulawayo, Mutare and Gweru. Would you have any comment as a Human Rights Commission? Did you follow that? It was simply to do with that they will not accept the results of the elections if they didn't go their way and the evidence we have received and the views expressed here by most witnesses of that thinking was that that was the basis for the violence. I don't know whether the Human Rights Commission would share that view or they had not considered them?

A. I don't know whether we can make a deduction from "I will not accept the results to then I will be violent" I am not sure whether that's the logical deduction without any other evidence as to what really was the alternative that he was putting across that if he doesn't accept what will he do. We would not make that conclusion.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Would you say that the demonstrations and protests that occurred on the 31st of July or 1st of August was like previous demonstrations and protests or that it was or less. How would you compare that with the previous demonstrations and protests?

A. I think it depends on how far back we go. In the pre-election environment I think we had a couple of demonstrations which were peaceful that is why the violence came as a surprise because people had had demonstrations before and they had done them peacefully. The November ones which led to the resignation of the former President they were very peaceful and most of people on the street and they was no violence. So

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it was like we have now entered a new phase in Zimbabwe where people demonstrate peacefully and they are no incidence but the 1st of August kind of put us back.

Q. Thank you.

CHAIRMAN KGALEMA MOTLANTLE

There are no further questions Dr. Sithole you may step down. Thank you very much for coming.

Witness excused.

EVIDENCE LEADER THABANI MPOFU

Our next witness is Lilian Chigwedere.

LILIAN CHIGWEDERE : SWORN STATEMENT

Q. You are the deputy Chairperson of the national Peace and Reconciliation Commission?

A. Yes.

Q. For how long have you served in that Commission in that capacity?

A. I was appointed on 24 February 2016.

Q. You are acquainted with events of the 1st of August 2018 in Harare where they was loss of life and violence in the CBD?

A. Yes.

Q. You are acquainted with the fact that his Excellence President Mnangagwa appointed a Commission that you are appearing before to probe into the circumstances surrounding that violence amongst other issues?

A. Yes.

Q. The Chairperson of the Commission has asked me to invite you here to give evidence to this Commission with the regards to your understanding of what transpired on the day in question. The perspective of your Commission and any recommendations that you might have with regards to the same subject of the violence and perhaps other issues that you deem relevant. In that regard I will just ask you to just address the Commission now and give your perspective of these issues that I have just mentioned.

A. Thank you very much. First of all I would like to say that the National Peace and Reconciliation Commission is mandated to ensure peace and also to build sustainable peace for the future. Our mandate has got several functions but with regards to the events of 1st August the Commission looked at just three functions that allow the Commission to facilitate dialogue amongst political parties, amongst different groups, amongst organizations, amongst communities and also to do anything that will help to prevent future conflicts. So it was in light of these two specific functions and third one where we are supposed to just do anything incidental to facilitate peace. Prior to the elections the National Peace and Reconciliation Commission was hoping to have a multi party liaison committee in an effort to ensure that parties resolve their differences in a peaceful manner.

When elections came just before the Commission in an effort to ensure that elections are held in a peaceful environment invited all presidential candidates' parties that

were contesting for the Presidential elections to make a commitment to peace. Just in retrospect, the multi party liaison committee had been walking for quite a number of years before to try and come up with a code of conduct for elections which code of conduct was then signed in the electoral law. So the National Peace and Reconciling Commission wanted to ensure that the political parties, the contesting parties in the harmonised elections first of all were familiar with the code of conduct and also to commit to upholding it. So on the 26th of June we invited all parties that were aspiring for the presidential position to come and make a pledge and out of the 23, 21 of the parties sent their representatives to come and sign the peace pledge. So as a Commission we were encouraged that the parties were serious in upholding peace before, during and after the elections. Not only that, the feeling of that the signing was done at a national level and the parties felt that they needed to educate their supporters and also other members of the parties that were contesting in the elections either for national assembly or for the councils elections. So the peace pledge was cascaded to the province. In all the ten provinces including Harare a peace pledge ceremony was held where the different candidates that were aspiring for the parliamentary seats and local government elections came and we had a function that was very cordial and parties were holding each other hands, they sang together and they pledged for peace. So we were very encouraged and hopeful that the same spirit would prevail during the elections and even after the elections.

So just before the elections again they are nine Commissioners and at that time the Commission had no secretariat. The Commissioners were doing everything and so we decided that as a way of observing the elections then a Commissioner should be responsible for a province. During the election period Commissioners were in their

respective provinces. I happened to be in Harare because that is the province assigned to me.

On the day the 1st of August in the morning I had driven round, I went to Epworth, I went to Mabvuku, and I drove around other suburbs just to see what the situation was like. Around 10 o'clock I had to go to HICC where the observer mission was releasing their election observation reports from the SADC to COMESA to AU and European Union. So that whole morning and part of the afternoon I was at HICC and I was joined by one Commissioner who had come from his province which is Mash Central. So the two of us were at the HICC. I think we were there until about, because all the reports were given at different times so we were moving from one place to the other except the AU, COMESA, SADC they were all in one place. So after the EU report had been issued we were ready to leave the Sheraton. As we got outside of the hotel waiting for our cars to come and pick us up that's when we saw the police water cannons that were parked outside the fence of the hotel and then we were instructed that when going out we were not using the normal gate. We had to use the back gate. So we left through the back gate and as we were leaving we heard what sounded like gun shots from a distance. We didn't see anything because when we left we left going towards the Bulawayo road according to the instructions given by the hotel. So we didn't know what was actually happening in town.

As we left we then drove to ZI Institute which is the Institute that we had been working with the political parties just to get there and understand because now on our social media we were getting reports that the CBD were demonstrators on there, although we didn't see them but we got this through social media. So when we went at ZI to see the director of that institute whom we had been working with to try and

understand what was happening and he also said I have heard that in town there are demonstrations. So in an effort to try and understand what was happening he tried to contact the political liaison that we had been working with but he couldn't get any joy from that because he couldn't get hold of either MDC Chairperson that we had been working with or the liaison for ZANU PF and MDC but at that time we were then joined by Father Mukonori and we got reports that things were not well in town.

Now we were relying on social media because we were not at the scene of the demonstrations and we were hearing also from the media that the soldiers had gone on the streets and they was stampede to get out of the city and demonstrators were there throwing stones and doing whatever they were doing. This is just reporting from the social media because we were not there.

We decided that if the situation is like this we could do as a dialogue platform that had been working all along to try and dialogue on issues. So our first attempt was to get those liaisons together in order to try and understand what the situation was like. When we failed we then managed to get in touch with the secretary for administration for ZANU PF who was Minister of Home Affairs then, Obert Mpofu and we managed to get an appointment for that evening. This was now well after 6 pm then we had been deliberating at ZI as to how we could get more information and understand what was happening. So when we were given the appointment with the Minister who is the administrator for ZANU PF we then drove to ZANU PF headquarters. As we were driving we saw a lot of stones on the streets and even when we got to ZANU PF headquarters they were a lot stones on the ground. We went into the Minister's office and we appraised him of why we had come to see him that we were concerned about whether he was aware that they were demonstrations and then he was quick to say I

saw a sea of people coming along Jason Moyo and throwing stones and some people were trying to climb the fence at the ZANU PF headquarters. He told us that he had actually phoned Chamisa to find out what was happening. He spoke to Chamisa and Chamisa told him that he was going to call him back and he never called him back by the time we got there he had not called him back. We also tried to understand why they were soldiers on the streets and he told us that the Commissioner general of police had called him and said the police are being overpowered by the demonstrators what should he do and he as Minister of Home Affairs told him that you know the procedures of how you normally work when you are overpowered you get in touch with the army. While we were there he emphasised that he was open to talk to Chamisa and I think we left his office around 11p.m thereabout.

The next day we still wanted to talk to the chairperson of MDC who we had been working with in the multi party liaison committee. In the morning ZI had been in touch with MDC Party and Mr Komichi came to ZI and we tried to understand from him what his views were on the demonstrations. He said that the leadership of the party was not aware of those demonstrations and the leadership of the party did not sanction those demonstrations. We indicated that it would be good even if the leadership didn't know anything about it, it would be good if he as the chairperson or somebody of a high rank could just make a statement about no violence since these parties had signed and committed to peace. He said perhaps the best person to speak was the president of the MDC alliance Mr Chamisa himself. So we tried again to call to see if we could have an appointment with Chamisa but to no avail from there we were able to get an appointment with the Commissioner General of police. This was now around in the afternoon and we got there. The police general informed us that

they had been informed by their informant that more demonstrations were coming in the evening and they were buses that were going to come into town to cause even more chaos and the police were preparing for that. The Commissioner General was not happy with the statements that were being made to incite violence by MP Tendai Biti and the police had actually issued a warrant of arrest for him.

The Commission as a Peace Commission that tries to work on prevention we tried to plead with them and say yes you can do your work on the streets, the information that you have we don't have but we will try to mediate and talk and discuss with Tendai Biti and his party and try to dissuade him if indeed he had organised buses to come into town. The police general said yes, but we have issued a warrant of arrest but if you have access to him go and tell him that this is the information that we have and we have issued a warrant of arrest for him.

As part of our mandate we also tried to prevent further conflicts escalating into even more disastrous situation so he said if you are able to go and talk to him, talk to him and I need feedback before 5 p.m otherwise my police will be all over the street waiting for those buses to come. We assured him that we will try if we can find Mr Biti. As a team again through ZI who were our partner in dialogue we managed to get hold of Mr Biti and we talked to him and we said this is the information that the police have that there are these buses coming into town. He flatly refused, he said no, I don't know anything about those buses and I am not even inciting violence in any way. In our own view he looked quite agitated so we had to do a bit of counselling with the Commissioners who were there and we had a priest also father Mukonori was part of us. So we then said if you had any intentions of doing that in the interest of peace it would be good to advice whoever is working with you to make sure that those

buses don't come into town and also quieten your members if you have got that authority so that we maintain the peace that was signed at the peace pledge and then we left it at that with Mr Biti.

The next day we got audience with the Vice President because as a Peace Commission we were trying to understand the unfolding of the events because our mandate is to dialogue and ensure that peace prevails. We were able to get audience with Vice President Chiwenga just before midday at his offices. We went there as a team and when we got there he greeted us and we exchange greeting of the day .We then expressed intention to understand from his side as at that time he was the Vice President and also caretaking the defence I am not sure but we wanted to understand how the events had unfolded.

He said that as a party we have no problems with Chamisa we would want to dialogue with him but if he incites young people to go on the streets then we cannot tolerate that. He advised us, he actually said if you can go and talk to Chamisa you tell him that we are waiting to dialogue with him but he should stop inciting violence because as far as violence is concerned we don't condone violence. We tried to understand how the soldiers got on the streets and he said that they is a standing arrangement whereby if police feel overwhelmed by a situation they can call on the army to come and assist them and when they go they will be under the command of the police and he said this is what happened. I think I have spoken enough.

Q. Thank you for your testimony. You have been referring to ZI who is ZI and what do they do? What does ZI stand for?

- A. ZI is an organisation called Zimbabwe Institute. It's headed by Isaac Maphosa. This is the institute that we had been working with right from before the peace pledge. We were having meetings with all the parties. In fact ZI was kind of acting as a Secretariat for all these parties. That is ZI.
- Q. You spoke about the peace pledge that was signed prior to the elections by 21 of the 23 parties or candidates. Did what had been described as the major parties ZANU PF, the two MDCs did they sign this peace pledge?
- A. The two MDCs and ZANU PF signed the peace pledge. For MDC alliance the peace pledge was signed by the Chairperson Komichi and ZANU PF it was signed by the secretary for administration Obert Mpfu and for MDC it was signed by Welshmen Ncube, the other parties either the candidates came or they sent somebody.
- Q. How do you describe your relationship that is as a Commission between yourselves and major political players prior to the elections?
- A. As I said prior to the elections we have been working through this multi party Committee and the multi party committee in our opinion as the Commission they were actually the leading people that were moving the peace agenda trying to dialogue amongst themselves and the Commission was facilitating so I can say that's the way we were working with him.
- Q. Apart from Komichi of the MDC alliance and MrTendai Biti was there any other political leader that you spoke to after August 1 about this violence in your round so peace?
- A. The other leader we talked to was secretary for administration for ZANU PF. In fact after we met the, I can't remember now whether it was after the police or after we met

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the VP we had intention to meet Nelson Chamisa and we had actually an appointment set for 10 am but at the last minute we were told that he was not coming.

Q. Have you met him since?

A. We are still trying to.

Q. Thank you very much for your testimony. I will now hand you over to the Commissioners they may have questions they want to put to you.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I think from the evidence that you have given we notice that you submitted a report?

A. Yes Sir.

Q. So it would be correct that what you are saying is more or less what you said there?

A. Yes.

CHAIRMAN KGALEMA MOTLANTLE

Q. If any of the parties that signed the peace pledge acted or pronounced in a manner which undermined the very spirit of the peace pledge what remedy would the Human Rights Commission make or was it your responsibility even to hold the signatories to the principles of the pledge?

A. Perhaps I missed something but I will try to answer the way I understood your question. As a National Peace and Reconciliation Commission our mandate is to bring people to dialogue. The mandate doesn't give us prescription to arrest or to do anything but the mandate allow us to bring the parties back to dialogue. I must say that even up to now we are still trying to bring the parties to dialogue even at the highest level.

Q. I understand the mandate to be that. The essence of my question is really this, is there any instrument or channel for ensuring that those who commit to peace pledge leave by its tenants?

A. Perhaps I can answer it another way. The peace pledge like I said 21 of the 23 political parties signed it. They felt it important to come and sign it. What then happened, because the basis of the peace pledge was the code of conduct which is in the electoral law. So when parties break that then the electoral law comes into effect and it moves away from the National Peace and Reconciliation's mandate.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I think you were here when I asked the deputy chairperson of the Human Rights Commission concerning statements that were made during the election campaign. This Commission have heard from quite a significant number of witnesses who believe that the statement that says, "I will not accept results if they do not go my way". That statement it was said not conducive to peace by those witnesses and that they were saying that is what contributed to the violence. We would appreciate your views as the National Peace and Reconciliation Commission. Did you come across those statements, did you make an opinion or did you form an opinion about those statements?

A. It's a pity that our dialogue didn't go further because our investigations were cut short by the appointment of this Commission and our mandate prescribes that when something is under investigation we step back until it's over. But our intention was to continue that multi party dialogue and bring such statements to the table for discussion but we didn't go that far.

- Q. I am referring to, this is not post 1 August, the witnesses who have come before us they have been expressing a very strong view, in fact they gave us evidence of statements that were made as early as May 2018, in June, July, we got a lot of those statements and lot of evidence. The basic point that is made by those witnesses and they are a very big problem for the Commission we have to look at that. Is the argument simple? They are saying that once a candidate says there is only one result and he says that I will not accept any other result. They are saying that, that statement in itself is not conducive to a post election peaceful environment. We would want the views of your Commission that because that is something that has been said over and over again. Did your Commission come across those statements? Did it discuss those statements? Did it form an opinion regarding those statements that's the question?
- A. As for forming an opinion the Commission didn't and we didn't even have a formal platform to discuss them because we were all scattered in the provinces so we couldn't really assemble. Some were in Bulawayo, Matabeleland South, Matabeleland North, Mutare, Masvingo so we could not. Those were utterances that were being made but we didn't come with a position as a Commission.
- Q. But now we know what have happened. We now know what happened on the 1st of August. Now in retrospect you know that those statements were made that this Commission was set up, that they are Zimbabweans who have expressed the view that that was the basis for the violence. Has your Commission looked at that, notwithstanding the formation of the Commission do you think that those statements are relevant to our consideration of the post election violence?
- A. In a way I can say they are relevant but to extrapolate that there is a coronation again I think that requires scientific analysis.

Q. Could I ask you just one clarification? You said in reply to our Chairman's question that your failure to engage the parties in a dialogue was events were overtaken by the appointment for the Commission. The violence occurred on the 1st of August. This Commission was not appointed until I believe to the 10th of September. During that long period what did your Commission do in terms of dealing with the situation?

A. In terms of trying to get dialogue. I think you understand from dialogue and mediation point of view that it's not an easy process and it's not a short term process you have to go through different people before you actually get the principal together. I can say that at the moment there is behind the scene dialogues going on with the different parties with ultimate position to get the principals to get to a dialogue.

Q. Just one follow up question. Did your Commission meet in the second quarter of this year the period before August?

A. As you are aware the act for this Commission was signed on 5 January 2018 and operationally that this the time when we actually started engaging communities and we started off by consultations designed to build up our strategic plan. So from February I think until about March we were again out in the provinces meeting communities to try and understand the issues related to the Commission's mandate and that is what we were busy doing and then after that we met again to try and the way forward while we were still working on our strategic plan. We realised that elections were coming up that is why we came up with election strategy to divide

ourselves into provinces so that we can be able to understand what was happening in each province.

Q. Did your Commission consider the electoral environment in particular these utterances that shows that it's an environmental; issue that was coming out and if there was any actioning by your Commission during that period?

A. As for actioning in terms of?

Q. Your mandate strictly.

A. In terms of our mandate we didn't think that the utterances, we thought they were part of their politicking. Naturally I think elections people say a lot of things so we thought it was part of politicking. We didn't think that it would mean what it meant.

Q. What is your opinion with regards to the utterances as a Commission? Do you think the utterances had any contribution?

A. I think for the utterance to have a contribution it means that whoever made the utterances must have then gone ahead and organised a counter move in the form of a demonstration or something but like I said to put the two on par perhaps you need to dig deeper to see if they are really related but definitely those utterances may in the eyes of the person who made them perhaps he would be the best person to answer what he meant exactly by, "if I don't win these elections won't hold and even if the elections are won ndichakanda jecha" perhaps he is the person to answer that.

COMMISSIONER LOVEMORE MADHUKU (To witness)

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Q. But what you are saying to us which is very important to us as a Commission you took the view that these utterances were near politicking. You didn't think that they were anything that would constitute a threat to a post election peaceful environment?

A. No, as a Commission we didn't.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. In future do you think that your Commission could play a bigger role in scanning the political environment in relation to your mandate to avoid any such violence?

A. I think you are right in saying that the Commission needs to scan the environment and its part of mandate to prevent future conflicts and if the Commission can do anything to bring dialogue before anything happens it is within the Commission's mandate.

CHAIRMAN KGALEMA MOTLANTLE

Q. My last question is, if you as a Commission came to a view that these pronouncement were mere politicking and therefore have no bearing on how the elections were to be conducted would it have been necessary for you to share that with ZEC or not or do you work in silos this is what I want to understand?

A. I think my memory may not hold me up here. I think with ZEC as one of the independent Commission we do consult and I think while the counting was going on we had consultations with them to try and understand from their point of view what was taking place and they simply said as a Commission we were doing our work within or mandate and we don't understand why suddenly started demonstrating.

Q. No further questions. Thank you very much Mrs Chigwedere for coming you may step down.

Thank you Mr Chairman. For the next witness I will defer proceedings with your permission to my fellow examiner.

EVIDENCE LEADER MRS CHIMBARU

Thank you Mr Chairman. I will call our next witness Commissioner General Matanga.

EVIDENCE LEADER MRS CHIMBARU (To witness)

THANDAVANTU GODWIN MATANGA : SWORN STATEMENT

Q. You confirm you are the Commissioner General of the Republic Police?

A. I do.

Q. How many years of experience do you have in the police force?

A. I am doing my 36th year now.

Q. You have come before this Commission to narrate that which you know pertaining to the election period and the event of the 1st of August if you could do so now.

A. Mr Chairman and members of the Commission I am happy to appear before the Commission to give you a narration of what happened on the 1st of August 2018. Of course people have spelt out what they heard, what they saw during that day but from my office I will try to be very much specific as much as possible.

Mr Chairman, the reasons why I appear before the Commission is to clarify on the request which I did of the Zimbabwe Defence Forces to come and help the Zimbabwe Republic Police on that particular day.

In short I would say on the 1st day of August 2018 at around 1300 hours I received communication from the officer commanding Harare province to the effect that there was a violent demonstration in Harare central business district. The demonstrators were setting vehicles on fire, damaging property and blocking roads thereby bringing business to halt. There was chaos in the CBD and the police had been overwhelmed by the increasing numbers of the demonstrators in relation to their manpower levels. The shortage of manpower was as a result of the deployment made during the harmonised elections. On the record Harare province had 1175 polling stations at which 6 325 police officers were deployed.

Chairperson Sir, may I also highlight that in the just ended elections the Zimbabwe Electoral Commission initially delimited 10 895 polling stations which needed to be provided with police security. We deployed not less than 5 police officers at each and every polling station in the country. For the reason that our organization only had a strength of 50 000 myself included, we even ended up augmenting our staff complement with 21 000 members of the special constabulary. To this end we deployed 71 000 officers for this election. 54 475 police officers were manning on the stations whilst the other 16 525 police officers were deployed on other duties which include Charge Offices, general patrols, boarder deployments, VIP protection, support unit and technical duties. Given the deteriorating situation in Harare CBD and the shortage of manpower to contain the situation I then sought assistance from the Zimbabwe Defence Force to quell the violence.

To be clearer on that Chairman, according to the Constitution of Zimbabwe section 213(2) which says deployment of Defence Forces. Subject to this constitution only the President as Commander in Chief of the Defence Forces has power. I will come to

(2)(b) has got power in Zimbabwe to deploy Forces in support of police services in the maintenance of public order and this section is also read with Section 37(1) of the Public Order and Security Act which says when Defence Forces may assist police force under this act, if upon equalled by the Commissioner General police the Minister is satisfied that any regulating authority require the assistance of Defence Forces for the purpose of suppressing any civil commotion or disturbance in any police district he may request the Minister responsible for Defence to authorise the Defence Forces to assist the police in the exercise of their functions under this act in the police district concerned. Having said so Mr Chairman, we are all aware that these two need to be awhined and I am informed that the current parliament will be doing that in due course.

Having said that, I have talked of the events of the 1st of August but well before that and for the record ourselves as the Zimbabwe Republic Police we started preparing for the elections as early as February 2018 and in the process and its common knowledge and its recorded that during the campaign period certain political leaders were inciting violence and in some cases if not all cases the sitting President was preaching peace. On the 1st of August when I heard that Harare was almost on fire it was as a result of some groups of demonstrators trying to burn some filling stations, fortunately they failed. Followed by torching of buses and cars and buildings and from the intelligence from my officers on the ground it was very clear that at the end of the day these demonstrators wanted to end in the State house.

So putting all that into consideration there is also a question of where the Defence Forces were called in to help the police. I still remember on the 1st of August 2018, I appeared with my Minister then Mr Obert Mpofu where I tried to explain to the

journalist when the Defence Forces had come to help the Zimbabwe Republic Police when the situation had gone out of hand I then alerted my then Minister that there was no time to meet and discuss the situation. It was now time for action. Having alerted my Minister he then also invited the assistance I am talking about here from his counterpart the Minister of Defence and War Veterans in the name of Vice President Chiwenga and within a short space of time consultations were made and my Minister called back and said the permission to invite the Zimbabwe Defence Forces had been granted. My Minister asked me to get in touch with the Commander of Zimbabwe Defence Forces in the name Philip Valerio Sibanda who in turn advised me to directly discuss the nitty gritty of the operation with the commander of the national army, Lieutenant General Idzai Chimonya. Of course with a little bit of caution ladies and gentlemen there was no space for discussions.

Fortunately for our people, whilst I was getting some brief from officers on the ground, members of the public were also advising the police headquarters of what was happening on the ground at that particular time. I very clearly indicated to the Commander Zimbabwe National Army that the normal process was not going to be followed because there was no time for that but of course I indicated to him that through our intelligence it was very clear that the demonstrators wanted to raise down the provincial ZANU PF offices along Simon Muzanda street, the ZEC offices, the ZANU PF National Headquarters and Rainbow Towers which was accommodating the Command Centre of the elections where Justice Chigumba was based. Not forgetting that at the Command Centre that's where if I still remember most of the observer team leaders were based and I had upgraded this hotel to be an international centre. Considering that this place was going to be overrun by demonstrators I want

to believe that I was going to lose my job on that particular day. So all put together the army rolled into town and if you look at the processes which were supposed to be followed there was no time for that as I have already alluded to.

So after some hours I then got some feedbacks that some demonstrators were even coming to a point of trying to fight the deployed army and as a result some members of the public as the record shows very clearly, some people died and some got injured in the process.

Mr Chairman I can go on and on I think at this stage maybe I can entertain question where you need me to explain more I am in a position to do that. I thank you.

Q. Did you get to know the number of people who died on this day in question?

A. Yes I do. On the first day I was told, remember I am talking of various sources of information coming to my office but officially I can advise the Commission that on that particular day I was advised that some injured person was dumped at some PSMAS clinic along Simon Muzenda Street and in the process the person died. That was one. Secondly, I was advised that a woman had died as a result of a gunshot that was at cnr Kenneth Kaunda Avenue and Inez Terrace and thirdly, I was told of some person who had been shot at Coppa Cabana and was rushed to Harare Hospital and later on transferred to Parirenyatwa hospital and the information that I have is again that body was dumped at the hospital. That was that for the day.

The following morning, early in the morning I was then advised by our office commanding Harare province Senior assistant Commissioner Mbewe that some dead body had been reported at Avenues clinic. Again maybe this body was taken there by well wishers and they were not brave enough to officially hand over the injured

person to the authorities. Then of course coming to the final count we came up with six dead bodies and as we speak now some people talk of some 14 to 20 people injured. And as a result of this Commission I am told some people are still on their way coming to report to the police. Our doors are open please I am appealing to the people to come forward and report.

Q. Had there been any investigations pertaining to the deaths of these six?

A. All reports received by the police were investigated or would I say those still under investigations they are being investigated and as matter of fact I want to put it on record that when a report is made at the police station in circumstances where we are talking on the 1st of August such cases are normally handed over to our Law and Order section in the CID department to carry out special investigations and I want to assure the Commission that all these cases are being investigated. As a matter of fact I am reliably informed that some investigations have been slowed down because we are still waiting for medical post mortem reports from the health sector. Why they have been these delays I cannot speak on their behalf but as and when we will see them I can assure you that the investigations will continue.

Q. Then finally this Commission heard evidence from Albert Ncube who was the officer commanding Harare district to the effect that he was not then informed of the coming in of the army although he confirmed that he had requested for their involvement. Would you have anything to say in that regard?

A. I don't think he said that as someone who was not alert on his duty. Time did not allow us to follow the normal procedure to advise this officer but I want to assure you that when I got the authority to invite the Defence Forces my deputy in charge of

operations by that time he was aired in by an Air Force helicopter because we also wanted to get reports from someone seeing from the air so I then communicated with my deputy who was airborne and that information filtered down to the officer commanding province. By then most if not all the officers were not in their offices. Some were complaining of the poor network and whatever but that was not really the issue, the issue was to contain the situation on the ground because unfortunately for these demonstrators they were not grouped at one place, they were spread over town. Obviously especially the young ones boys and girls they had taken this bronco and other alcoholic staff and then they were out of their mind so the question of the regulating authority not getting the order direct from me is not misplaced because of the time factor.

- Q. Commissioner General thank you very much I will now hand you over to the Commission should they have questions for clarifications.

Honourable Chair and members of the Commission your witness.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

- Q. Just a few questions. First is there any law that empowers the police to do something about inciting public violence?
- A. The law is there. Fortunately we had a seminar a week before the Election Day which was conducted by the Chairperson of the Zimbabwe Electoral Commission Justice Chigumba at one of our conference rooms and it was very clear and it's still very clear that the Electoral Act did not allow people to incite violence.
- Q. So it's a law on which the police have never acted. Would that be right to say that?

A. Can you come again?

Q. Would it be correct to say that the police have never really acted on this law?

A. Going back to history I borrowed some facts from within the continent where by arresting a leader of the then opposition party could have worsened the situation. I will tell you a clue whereby queer situation where more than a 1000 people died during the election period and to go further it is already known that the lawyer of the main opposition leader in Kenya Roila Odinga by the name Silas Jaracumba if I am not mistaken was in the country to advice our main opposition leader on how to proceed with actions which took place on the 1st of August. When I got that information unfortunately he had left the country on the 31st of July going back to Kenya. So really up to this hour I still feel that it would be very improper for me to arrest the leader of the opposition party in the name of Nelson Chamisa because not too long ago when our State President was in New York attending some conference that he also extended some own relief where he was going to propose to his parliament to open a special office to accommodate the opposition leader. And I still feel today the doors are still open and it will be very improper for me to arrest him. But at the same time I would want to say crime does not rot like meat. The records are there to tell and anytime he can be arrested if the time permits.

Q. The people who died as a result of 1st of August violence have you been able to establish whether they all died from gunshots from the army alone or was there any fatality to police gunshots?

A. Our investigations have not come up with the culprits involved. And for me to say these people were shot by the army it will be very unfair because I was expecting to get evidence in the form of cartridges or bullet heads only to read through the papers

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that there are Zimbabwean citizens who do have these cartridges and through the Commission I am appealing to them to come forward so that investigations can be carried out.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q. Based on the intelligence that you might have collected before 1st of August did you foresee the occurrence and extent of the violence that took place on the 1st of August?

A. Unfortunately from the time of the election date and even before was announced by the State President, people, political leaders were campaigning peacefully to include Nelson Chamisa and his party. And I if I do recall its on record it is the first time when the opposition party was allowed to have their main rally in the Africa Unit Square. According to our plans which we discussed together with the opposition convenors and I want to say and to remain on record that at the end of their rally we did not record any mishap. So with that in mind but of course I was not seating on to say it was peaceful but I can assure you the situation was reasonably comfortable, peaceful up to the end of the ballot dates. So we were then expecting results from ZEC and of course they were fishers that certain individuals wanted to announce the results before the official board ZEC could do it which again is a serious offence. So I want to say before the Commission the situation was very comfortable and considering that the people had voted up to the end peacefully at some point I did not expect the violence which took place on the 1st of August to take place.

Q. When violence erupted on the 1st of August did you make any attempt to contact the leader of the opposition and other institutions?

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- A. I made a lot of attempts to discuss these issues with the opposition leaders. I am on record and other officers in the organisation for giving out statements encouraging peace. I went as far as appealing to leaders of the observer teams to help us in trying to reason with the opposition leaders. Of course they had assured me, unfortunately I did not manage to get a feedback from the time up to this hour.

COMMISSIONER LOVEMORE MADHUKU (To witness)

- Q. Commissioner General I want to take you to the law, I saw that you read the Constitution and the Public Order you circulated. In terms of that constitutional provision you read it says that only the President may deploy members of the Defence Forces is that correct?
- A. My understanding of the Constitution is, it is only the President, according to the Constitution of 2013 amendment 20/2013 it is only the State President who can deploy members of the Defence Forces within and outside Zimbabwe.
- Q. So it is your evidence then you read it alongside the Public Order and Security Act that your understanding after your request to get the army was that the President authorised the deployment?
- A. My understanding of course in similarity that the President did actually approved the deployment of the members of the Defence Forces to come and support all the Zimbabwe Republic Police.
- Q. You have that in writing from the President?
- A. Of course I do.

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Q. Turning to the Public Order and Security Act, after the approval by the President was there any need for the Defence Forces to operate under the regulating authority for Harare?

A. Definitely yes. If it was on a normal operation the members of the Defence Forces were supposed to come down to the regulating authority who was then Chief Superintendent Ncube to be given instructions. Of course a situation which did not take place.

Q. Does that mean there you agree with the witness who came early on the regulating authority for Harare that that section of the law was not complied?

A. Mr Chairman this questions is coming from a specialist in the Constitution.

CHAIRMAN KGALEMA MOTLANTLE

Q. You are protected.

A. He is asking me to spit hell here. It's now here nor there when it comes to law but then of course it was not done but it was not done deliberately. That one I must accept.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I accept that I think I took your words in here. Correct me if it is not correct. Your language says that the normal process could not be followed because they was no time for that process. You are saying again that regard that you couldn't then follow those provisions because there was no time for it?

A. That is surely Mr Chairman if the time was there this channel was going to be followed for sure.

Q. Commissioner you have told this Commission that when your request to get the army to assist was granted they was no time to go back to the regulatory authority so are you telling this gathering that it is you who said the army could go? You gave the last word?

A. Can you come again madam so that I can answer correctly.

Q. I am saying according to procedure it was supposed to be the regulatory authority as stated by Assistant Inspector Ncube that he was then supposed to command the army to go. I am saying since there was no time to go to the authority was it then you who sent the army out, who commanded rather?

A. Mr Chairman I can't run away from the fact it's me.

Q. What was your instruction to the Forces? What did you instruct them to go and do?

A. The deployment of the army like I already indicated was to make sure that these demonstrators were not going to run over the Rainbow Towers which was accommodating the Command Centre, secondly the ZANU PF National Headquarter where in normal circumstances our Ministers are housed. The ZEC officers, the ZEC offices themselves where Justice Chigumba and the rest were accommodated and lastly the ZANU PF provincial headquarters along Simon Muzenda Street. Along the way and it was very clear for me that I would not know what will happen in between because the town was already on fire.

Q. When the town is on fire what would you specifically state to the army that goes? Did you just tell them just go and do what you can do or they was an instruction?

- A. Unfortunately through the Chair it's like I am going through a jungle. I will not be too sure whether one will encounter an elephant, a lion or whatever but only to say please try to be careful the situation is not favourable. Just what I said to the commander of the army.
- Q. So in other words there was an open instruction for them to use their discretion within their training abilities?
- A. I wouldn't say an open instruction because in day to day training program there is what they call military aid to civil power. And there are trained to quail out disturbances of that nature which took place on the 1st of August. And to say it was an open instruction I would not take that. No.
- Q. The reason why I am asking is because we heard all the witnesses coming but it looks like the public want to know who gave instruction, who said what, when the shootings happened who had said go and shoot. That's why I am trying to ask?
- A. Through the Chair, right now I cannot even tell you who were part of the 5000, 4000 demonstrators who were in town. So for me to say they were going to do this at cnr Chitepo and Simon Muzenda Street it was going to be very difficult for me. But as trained officer I would and even right now I would still feel that that was not a situation which they would not be able to quail.
- Q. But in your own assessment was the power or the force used commensurate to the events that were happening?
- A. Depending on what corner we are looking at this situation from. From a civilian point of view for those who were viewing it on television and for those who were going on to the actual ground the assessment will be different but without maybe provoking the

bereaved families I still believe that minimum force was used because I know that our Defence Forces are armed with AKs. If those arms were carelessly used I can assure you we could have counted 1000 bodies in Harare central.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Commissioner General I just need you to clarify this point because I thought I heard you saying loud and clear that there was no space for discussion because of the urgency of the situation. That meant that you couldn't place the Defence Forces that were coming in under your command? They maintained a separate command under the Defence Forces. Am I wrong in that understanding?

A. As I have already said, when authority was granted for me to invite the Forces mostly all the Forces were on the ground and these colleagues of ours also did come to assist us and to say there was this possibility of them meeting to discuss on how to go forward I would lie to the Commission, there was no time for that. Like I have already indicated these demonstrators were not on one place they were all over town and if I remember my officers also were very much in danger the same as maybe those who lost their lives.

Q. So to be clear there you did receive command of both your Forces and the Defence Forces that joined them on the ground.

A. I did because I was getting information from individual offices who were at different corners of the town. So to say I did not I will be lying. I was on top of the situation.

Q. When you take command as my fellow Commissioner asked you you gave orders as to how they should conduct the operations in quailing the demonstrators is that what happened?

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A. Through the Chair, when we get trained you are not told of to give prescribed answers to unforeseen situations. Our commanders would tell appropriate action as and when they get to a situation. And to say to a colleague from the Zimbabwe Defence Forces when you see drunken people shot at them without them provoking them that was going to be very wrong. I would want to stand by the Defence Forces that the commanders who were on the ground if ever they fired, if ever they fired their weapons they did it in good faith.

Q. Was there any order to shot to kill but rather to use weapons to disperse?

A. Lets go back to the rules of handling a weapon. There are things like number one, don't point a weapon at an individual, the other one will be if you are in doubt don't fire and many others to get to ten to make sure you must be certain before you fire a weapon that you are satisfied that when you pull your trigger you will be satisfied that everything will be above board.

Q. You said that there was some information you got that demonstrators were fighting against the deployed army do you have more information about that for the Commissioners?

A. Unfortunately like I have already indicated I was getting information from even members of the public of what was happening on the ground. Unfortunately I am talking of incidences which were not recorded and for me to say this really happened and this did not happen but on that particular day if I still recall on the morning of the 2nd of August you would see stones all over the shops along the streets. An indication that there was stone throwing on the streets.

- Q. Is there any possibility from your investigations so far that individual soldiers acted outside of the law for framework that you have now told us about? They acted as individuals unlawfully is there any possibility of that?
- A. I was told that some members of the ZDF appear on social media in some kneeling position but that is not enough for me to say this is the person who killed that particular person. I am not in that position until investigation is completed.
- Q. I asked about that particular question because we saw the videos of the person kneeling, what we also saw is what appeared to be a commander appearing to be telling the person by hitting on the shoulder to stop shooting. That's why I was asking the question whether there is more information at this stage?
- A. Unfortunately Mr Chairman for that commander to get to that position of restraining his colleague definitely I would want to leave that one to that particular officer otherwise I would say something wrong on his behalf.
- Q. We appreciate the investigations are going on, can you clarify whether or not it's the military doing those investigations or its solely the police. Sometimes there is a difference of jurisdiction?
- A. Whilst I don't want to talk on behalf of the ZDF I know there is a department they call Military Police I want to believe that they could be carrying out their own investigations but in the ZRP for sure my CID department is investigating, the Law and Order department.
- Q. Do you know whether they have interviewed the families of the deceased or those people who were injured yet?

A. Through the Chair that would be part of the investigations system otherwise I would be pocking my nose in their day to day duties.

Q. Okay we will follow up that for them. Thank you very much.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I have two questions for you. We had a pathologist here principle director Dr Hove presenting in the morning about post mortem reports which we now have; we have all the six reports. Our concern seems to be that we want to understand in terms of practice when the post mortem reports the final ones because he told us that they come out after a month after all their clinical investigations they are able to then after a month say this is what killed the deceased. We have those reports and he says that they give those reports to the police. The police who can inform the family of the deceased or if the family request they can also invite the doctor in the presence of the police to explain to the families. Is it common practice that the police call the family of the deceased in particular in a situation like this one where there is a whole concern from across the border because the families also showed concern that they were not shown those reports where they did not request for them?

A. The normal practice when it comes to post mortems, normally a post mortem is carried out in the presence of a police officer and a relative of the deceased so I am not too sure maybe through the Chair at what stage these family members were invited by the police.

Q. From their presentation here it was when they were processing the burial of the deceased that's when some got information, some got concerned others up to now they don't know?

Inquiry

T. G. Matanga

A. So it's because it was conducted outside the post mortem time in a mortuary

Q. Varied I should say but I want to understand that would the police make an effort to contact the families of the deceased to go through the post mortem reports with them? Is it common practice since the families of the deceased are concerned, some have raised concerns some have not. There is a gap in terms of processing. This is what I am trying to say.

A. Mr Chairman with all due respect I have talked of the normal process and if something I am told happened then I appealing to the Commission those investigations will be carried out.

Q. The second issue is that when we visited ZCTU offices they talked about reporting to the police and the concern there is that they have not seen a follow up in terms of their reporting to the police about damages at their offices. I just wanted to check if they are any investigations in place in relation to that report?

A. Maybe through the Chair with all due respect. At times I don't even have the time to check on individual dockets. If there are queries on a particular docket I can assure you that the responsible officers will be directed to make some follow-ups on that but if I got it right maybe they were going for more than two months without also alerting the police of what happened. They could be more to the scene itself. But anywhere thank you very much through the Chair for alerting me.

Q. Thank you Commissioner General I think it's more of alerting you that they queried that they didn't hear or see any further investigations but we did hear you that you said that they are investigation being carried out in various places. We thought we should alert you on this one because it did come to our attention.

NO FURTHER QUESTIONS.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. They are two questions that are rising from the answers you have given to my fellow Commissioners. The first one relates to your understanding which is the position which you operate, is it correct that in fact whenever the army is deployed inside Zimbabwe to support the police it must operate under the command of the police?

A. It is true they are not commanded by their general. When they come to us they will be under my command through my regulating authority who happens to be in this case Chief Superintendent Ncube.

Q. I think we have already accepted that that didn't happen that Chief Superintendent Ncube didn't command these people any assignment. So who was commanding the military from the police?

A. If I got it right but it's not yet officially. I am told that maybe the commanders who were on the ground are going to be invited to this room but to say by name that it was so and so no, I don't want to lie. I am not aware of that one for now.

Q. My question is on your side because the position of the law which we are agreeing is that the military can be deployed inside the country with the approval of the President or whoever has approved but once they are in the country they must operate under the police which you say is correct. My question was who in the police was commanding the military during this operation?

A. Mr Chairman I would not say they were being commanded by a police officer because they was not time for our commander whom Superintendent Ncube was talking about

who was the rightful officer to take over so on their way into town that's when I indicated that please we don't want HICC to be overrun by the demonstrators. And of course that was the trend. Unfortunately this operation did not take a long time. It happened in a very short space of time. Within minutes I am informed people were out of town and that's why these procedures were not followed.

Q. And one of the procedures followed is that the military operated without being commanded by the police?

A. Within the unit which was on standby we had also some police elements within that unit.

Q. Okay then I take you to the second statement you have made I think I am correct, if ever they fired they did it in good faith". Are you making it an issue otherwise that it is in doubt whether the firing was from the police or from someone? Are you saying that as we stand at the moment we do not know who fired?

A. Mr Chairman unfortunately I don't want to pre-empt our investigations. The moment I start pinpointing individuals that would be very wrong in terms of the law. I also want to say through the Chair yes, I invited members of the Defence Forces who were armed and I also want to believe that our business people in town are also armed and in some cases I am reliably informed that within our main opposition party MDC we have what we call Vanguard which we suspected to have been armed at some point but I don't have facts along those lines. So I will leave everything to investigations to come up with the truth.

Q. I am not saying you should tell us which officer. I am not saying that we are wanting us as a Commission to pre-empt your investigations but what I asked is whether you

are making it an issue that in fact the firing that took place on 1st of August may not have been from the military and may not have been from the police. Is that what you are assaying?

A. I will then end open and I will be properly advised by the result of the investigations.

Q. The document you referred to the one that has the written authority for the deployment is it a document that you think can be shared with the Commission or it's something that may not?

A. Very much we can go down with that.

Q. You can share that?

A. Definitely yes.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Just one matter arising. I understand the existence of time you have emphasised. What I wanted to find out though is whether there were any contingency plans for that kind of a situation arising whether before the 1st of August that kind of scenario had ever been envisaged in plans for where you wouldn't have time to go through all the formalities.

A. Thank you Mr Chairman. We have learnt a lot of lessons from this incident of the 1st of August. Right now I have instructed my Planning and Development department to make sure that we closely look at what happened on the 1st and what transpired towards the election day itself so we have drawn a number of lessons from that incident and we are going to improve even in our training programmes to make sure this thing doesn't happen again.

CHAIRMAN KGALEMA MOTLANTLE

Q. Commissioner General, by when do you expect the investigations from your Law and Order section to be concluded more or less?

A. Mr Chairman with all due respect I don't want to give a date because from the time the post mortems were carried out it could be hospital officials who are keeping on postponing the dates of releasing the results, it is until the time when we get the results that investigations can be concluded. As long as the post mortem results are not in the hands of my officers Mr Chairman I am sorry I cannot give a day of finalising the investigations.

Q. By when would the ballistic expert start the work of investigating because this morning we had a witness here who left cartridge cases with us and its surprising that we are now in November and a civilian is still in possession of empty cartridges and they claim to have submitted a report which mentions this to the police but police never followed up on that? All I am saying is they are people who lost their lives and the post mortem reports attribute the loss of life to fired projectiles and one would have imagined that this would be a crucial aspect of investigation conducted by among others a ballistic aspect so that if the weapons used were not a regular issue the police or the army that was involved then we can get that kind of information.

A. Thank you Mr Chairman but also as a senior police officer when someone is still holding on to a cartridge I develop some suspicions why that person had decided to do that. Is this cartridge coming from this scene we are discussing or from somewhere? We need to be directed now by our investigations and maybe through the Commission

Inquiry

T. G. Matanga

I want these people to be encouraged to come forward to the police so that they hand over whatever they have and the investigations will continue.

Q. They left the cartridges to the Secretariat of the Commission so we can gladly pass them on to you Commissioner General.

A. For the same opportune of evidence Mr Chairman I will then instruct the investigators to come and collect the cartridges from yourself or from one of your members because if I do now then I will be seen to be on the wrong side of the law.

Q. No further questions. Thank you very much for coming and you may step down.

WITNESS EXCUSED.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Honourable Chair if at this juncture with your permission if I may hand over to my colleague so that I check on the availability of our other witnesses.

EVIDENCE LEADER MR THABANI MPOFU

I propose to call as the next witness Brigadier General Anselem Sanyatwe

ANSELEM NHAMO SANYATWE : SWORN STATEMENT

Q. Brigadier Anselem Nhamo Sanyatwe, you are the commander of the Presidential guard brigade?

A. Yes Sir.

Q. How long have you held that position?

A. For the past 13 years.

Inquiry

A. N. Sanyatwe

Q. You are also the commander of what is termed as the National Reaction Force or at least that was the case as of July 2018?

A. Yes I was but as a Team Tactical Commander.

Q. Could you explain what that entity is or was, the National Reaction Force?

A. The National Reaction Service is a force that is configured by the sub-national JOC for the purposes of carrying out instructions from Commercial JOC and the National Reaction Force comprises elements for ZRP and in particular Support Unit, there was the Defence Forces, the Army and the Air Force of Zimbabwe not forgetting the element from the President department the CIO that were thus the composition of the National Reaction Force.

Q. Could you explain to this Commission what the task if any of the National Reaction Force was during the period in the run up to the elections and thereafter?

A. The main task of the National Reaction Force before, during and post election was to maintain law and order based in support of the ZRP.

Q. Did you have occasion to activate the National Reaction Force during the past elections July 2018?

A. Yes Sir.

Q. Please outline to the Commission the circumstances surrounding that reactivation or activation of the National Reaction Force and you may go to the period prior to the Election Day and prior to the 1st of August in order for the Commissioners to understand the historical background of your reactivation or activation of this force?

A. Thank you Sir. In fact on the 9th of July 2008 I received a warn order from the sub-national JOC to activate the National Reaction Force. I then went on to issue national orders rather formal orders for the National reaction Force to be on standby on the 10th of July 2018. As the election days were closing on the 23rd of July 2018 intelligence reports that revealed that the MDC alliance were planning to unleash terror in the CBD if it were to loss the harmonised elections. It was also lined by then from the intelligence report that the MDC alliance had some intention to seek government installations and buildings. To name a few the ZEC offices, ZEC command centre, police central station, police general headquarters, Munhumutapa buildings, Rotten Magistrates' court, the Supreme Court and of course High Court. Not forgetting the future of ZEC offices at Cecil house. With that in mind we also set, by the way I am a member of the Provincial JOC and I also sit in the sub-national JOC.

With the intelligence at our hand we sat as a provincial JOC whereupon we discussed and deliberated on the intelligence that was being availed to us. We then decided to deploy in response to the intelligence that was at hand and we all agreed as JOC that we deploy ten armed policemen to provide physical security at these vulnerable static or rather government installations. With that again we had to come up with the establishment of six what we term four teams to collect information to provide accurate information to the commanders of the JOC and we were to go along in resourcing the six teams to monitor the situation. On 26 July 2018 we also met as the provincial JOC to buttress the instruction from the sub national JOC where upon we finalised as a committee on the deployment of the police to cover the CBD.

Particular emphasis was the security of ZEC offices and ZEC command centre at Rainbow Towers. We then went on to establish a reserve from police support unit that was based at police central police station. We had to add on by ensuring that we have POVs stationed at these vulnerable institutions.

Q. What are POVs?

A. Public Order Vehicles from the Support Unit.

Q. You may proceed?

A. All these deployments therefore were to be supported by the National Reaction Force of which I am the tactical commander which was placed on 100% standby. Coming on to the day in question, 1 August...

Q. You have indicated that all this preventative action was taken or measures were taken as a result of intelligence received?

A. Yes Sir.

Q. How credible was it in your assessment without divulging of course what it is?

A. For the past period that I have been with the presidential guard and as well as a member of the provincial JOC not forgetting that as a member of the sub-national JOC the intelligence that was provided to us was in fact hard intelligence. Very credible.

Q. Thank you very much, you may move on to the 1st of August as we were about to do moments ago.

A. On the 1st of August 2018 at around 1430 hours I received an urgent request from a colleague senior Assistant Commissioner Mvere who by that time was the Propol

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Harare province to the effect that he was requesting my hand to assist in restoring law and order in the CBD.

Q. Senior Assistant Commissioner is a member of the ZRP?

A. Yes he was responsible for Harare province before he was moved or assigned elsewhere.

Q. Please proceed?

A. The Senior Assistant Commissioner who is also a member of the Provincial JOC confirmed to me that the situation had deteriorated in the CBD and that the police were unable to contain it. With that in mind it was not in secret because we had to witness that the city was up in flames and we could see huge dark and black smoke and also hearing gunshots being fired from within the CBD whilst none element of the Reaction Force were still stationed in their respective holding areas.

Q. Who are these elements of the National Reactions Force?

A. The elements of the National Reaction Force are members from the Zimbabwe Republic Police and in fact support unit, Zimbabwe National Army and Air force of Zimbabwe not forgetting intelligence requirement president department.

Q. And these are the elements that you say were still in position in *situ* when you heard gunshots from town?

A. Yes Sir.

Q. Proceed?

A. They had a decode I was also summoned as the tactical commander by the sub-national JOC commanders who in fact comprised the Deputy Commissioner

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operations Levy Sibanda, the chief of staff Major General at Army headquarters, Major General Sigauke. On that date we had director operations from Air force of Zimbabwe. They then summoned me to report to Army headquarters Josiah Tongogara Magama but in particular at the civil pitch where the helicopter had landed. I was then briefed of the current situation that had unfolded in the CBD that the situation had gone out of hand by the Deputy Commissioner responsible for operations Levy Sibanda and then I was jointly tasked by the sub-national JOC to deploy and restore law and order in the CBD. The briefing that I got from the deputy Commissioner responsible for operations was in fact confirming the reports that were taken in my operations room at my headquarters suggesting, not suggesting but entailing that the police were indeed unable to contain the situation. I then immediately, I was given these orders at 14.45. I then carried out what we term in military terms a quick deployment estimate whereby I had to box the CBD into three sectors. But before I did that the information that we received or that was given to me by the JOC commanders were in fact enough to enable the National Reaction Force to deploy. Please take note, the National Reaction Force do recruit and receive instructions from the sub National JOC. The detailed briefing is done by the senior strategic level where upon the deployment was then necessitated to clear the riotous who had degenerated from demonstrators to rowdy riotous and then my task was to clear them and restore law and order. I then boxed the CBD into three sectors. Sector A, it had to be refilling the areas between enterprise road and Sam Nunjoma Street that was sector A. For those who are well conversant with the CBD layout. Sector Bravo or the second sector, it was bounded by Sam Nunjoma and Chinhoyi Street. The last sector which I termed Sector Charlie or C was from Chinhoyi Street to Rekai

Tangwena Street. Thereby my main effort therefore was the security the provision or to secure ZEC command centre at Rainbow Towers and of course rescue the siege at ZANU PF headquarters with particular emphasis at ZEC headquarter or ZEC offices. The deployment of the troops therefore I had to give them a line which I maintain this part line and that line or start point was along Herbert Chitepo road or avenue. Then Sector AI then assigned a platoon each to take care of these sectors. Sector A was commanded by lines major who is Major Takawira and sector B was to be commanded that platoon by a lieutenant Colonel Lieutenant Colonel Murambo Sam. Sector C was to be commanded by Lieutenant Colonel Mangezi.

Please take note, I gather I am seeing within the Commission the General from the Tanzanian defence forces though retired. It is unheard of that in military terms you can have a lieutenant Colonel or Major to command a platoon. But because of what was obtaining on the ground I had to deploy experienced senior officers and therefore the three platoons of lines were a rank heavily. The sections in fact comprised of senior corporal, sergeants and staff sergeants. The second in command of those platoons some of them were in fact deputised by a major. I know what was going on the way. Therefore in sector A the platoon started from Chitepo, Simon Muzenda intersection. They then drove down Simon Muzenda and encountered the riotous who had barricaded the road at the intersection of Simon Muzenda and Samora Machel. Upon seeing the military vehicles the riotous flee down Simon Muzenda all the way to 4th street terminus. But along the way at the intersection of Simon Muzenda and Nelson Mandela that's when they came across a bigger number of the riotous and this time the police vehicles support unit were stationed in the vicinity. Then on seeing the military vehicles roll down Simon Muzenda the riotous dispersed. Some went as

far as Simon Muzenda and Robert Mugabe, 4th street terminus and others had to flee due west along Nelson Mandela to Harvest house.

The platoon had to split into two sections of a vehicle each. One followed the riotous at the terminus at 4th street and dispersed them along Robert Mugabe to Enterprise. Some of them were to proceed down to the National Railway Station but they were no longer followed.

The section that went to the terminus whilst at 4th street terminus the section received information on post from the intelligence personnel who were deployed that they were people in the ZANU PF provincial offices at 4th street who were trapped and were locked up those offices and therefore can you come and rescue these people. Then the major who was with that section had to drive back to the offices of Harare provincial ZANU PF offices using the road that is in front of Road Port all the way to the provincial offices. On arrival for sure he had to rescue the people who were trapped in the offices. In fact the riotous wanted to torch them whilst inside the offices. He also witnessed about six vehicles that were torched. Among those six one of them was a mini bus of course belonging to ZANU PF. The seventh one was still burning and then that section had to extinguish the burning vehicle.

Whilst at the ZANU PF provincial offices the section witnessed and saw trails of blood on the tarmac and then they inquired, they were informed that one of the riotous was shot well before the arrival of the National Reaction Services. But they could not see the body.

The section that drove down Nelson Mandela had to drive to Harvest house where the bulky of the riotous were gathered. And again on seeing the approaching vehicle the

riotous dispersed due westwards towards ZEC offices. Immediately after the disposal of the riotous at Harvest house the section immediately joined the platoon commander at Harare ZANU PF provincial headquarters. That was about what my troops or the elements of the National Reaction Force encountered in Sector A. Remember if I am to say it was a platoon accompanied by members of force, ZRP support unit.

The second platoon under the command of the lieutenant colonel Murombo drove all the way along Chitepo Avenue into Sector B. The centre sector. They drove to Harare Street at the intersection of Chitepo and Harare Street. From there they turned down into the CBD along Harare Street. On the way at the intersection of Harare Street and Samora Machel they again witnessed the intersection was blocked. It was barricaded with a sizable number of riotous who were there. On seeing again the approaching vehicle the riotous dispersed they flee towards ZEC offices. But because these platoons could not proceed down Harare Street because of the blockage and bear in mind tyres were burning all ways of these intersections. He then drove along Samora Machel into Rotten Row as that intersection was cleared, earlier on cleared by the elements that were deployed in sector Charlie. He drove all the way down Rotten Row to Jason Moyo intersection with Rotten Row. This is where they came across a rowdy and determined riotous. But before they moved from Samora Machel all the way to Rotten Row the commander of the platoon in sector Charlie Lieutenant Colonel Mangezi had asked for reinforcement because he was unable to handle the situation as the number of riotous had swollen to approximately 4000 to 4500 to 5000 then he had to ask for reinforcement. But because the situation that was coming up from the intelligent teams that were deployed in the CBD revealed that there were or they was little activity in sector B then I subsequently tasked the platoon that I had

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deployed in sector B to reinforce sector Charlie. Then this platoon when it got to Netone it's when this platoon faced disturbing instances. He then ordered his men to debus.

Q. Could you repeat what you have just said?

A. When the platoon that I did task to reinforce sector Charlie as it drove from the intersection of Samora Machel and Harare Street it drove all the way along Samora Machel into Rotten Row and then drove by on the way to the intersection of Rotten Row and Jason Moyo and turned into Jason Moyo wanted to reach ZEC office. Whilst there were in between Netone building and ZEC offices just close to the intersection that's when they met stiff resistance from the riotous who were said to lead even throwing missiles to the troops who had debussed. Some were even chanting MDC alliance slogans and also chanting noise to the effect "pfuti dzavo masoja hadzina mabara endai munodzitora. Batai masoja". Words to that effect.

Q. Could you translate that to English?

A. The utterance which was said translates to that the firearms that the soldiers had were not loaded with any live ammunition. Go and take them.

Q. How many protesters were there at that stage chanting these slogans?

A. They were more than 3000 at ZEC offices.

Q. Proceed with your evidence.

A. Then at that time that's when the platoon had to employ or exercise crowd dispersal drills. Whereupon the platoon commander had to order the troops to fire warning shots in the air. If I am to repeat warning shots in the air which led the riotous to flee.

But however that platoon never witnessed any casualties all the way to Mbare. That was about sector B.

In sector Charlie which was commanded by lieutenant Colonel Mangezi also started from the intersection of Chitepo Avenue and Rotten Row. They drove down Rotten Row and encountered riotous who were singing and chanting MDC alliance slogans at the intersection of Rotten Row and Samora Machel. The intersection was barricaded by boulders. Tyres were burning then they had to clear up those riotous at the intersection but they then faced determined riotous who were attempting to scale up the perimeter fence at ZANU PF headquarters. Also these riotous were throwing missiles inside the premises thereabout damaging some properties and the vehicles. He then, because his primary task was to secure the ZEC command centre as we had information that the riotous wanted to torch the ZEC Command Centre as well as ransacking the entire centre. He then pushed his men leaving others to deal with those riotous at ZANU PF and drove all the way to Rainbow Towers but then he witnessed the bigger number of the riotous of approximately 4500 at the entrance or the guardroom of Rainbow Towers. He immediately dispersed them. He also had the use of the support of the POVs two of them that were stationed inside the premises of Rainbow Towers just by the entrance but inside the main gate. When seeing the approaching vehicles of the National Reaction Force the riotous then dispersed and flee towards the southern direction towards Mbare. When they had dispersed he then received information to the effect that the riotous had also seized ZBC Mbare station. He drove all the way down to ZBC Mbare station and then immediately dispersed the riotous. This platoon also never fired a single shot.

However, the National Reaction Force then restored law and order in the CBD at around 16.30. As they were patrolling the CBD that was virtually abandoned or deserted, I then received information to the effect that there was a dead body of a woman behind Harare Central police station along Kaunda Avenue. I then verified this information with Propol Harare province who in fact confirmed this incident. He further confirmed to me or informed me that a second body was picked up at PSMAS clinic along 4th street or Simon Muzenda Street. He went further to inform me that another body was dumped at the reception of Parirenyatwa hospital by whom to me he said probably by the colleagues. Then the other bodies I only learnt about them through the media in the evening. But when I confirmed he also confirmed the death of six and in fact that's what I can present to this honourable Commission. Thank you.

Q. You have indicated that one of your platoons came across what you termed as rowdy and determined riotous?

A. Yes.

Q. You have also indicated that I think it was in Sector C they were riotous who were throwing stones and then in sector B they were riotous who were saying that these guns have no bullets referring to the fire arms. What would you ascribe in your experience that behaviour to given the fact that these were military personnel driving what you have termed as POVs and armed? What would you ascribe this seemingly illogical behaviour to?

A. In fact the platoon that encountered the determined riotous at Netone near ZEC offices was the platoon that was assigned to clear riotous in sector B. But because there were no reports that were coming to my operations room of any activities in

sector B I then had to task this platoon to assist sector C. So in fact these rowdy and determined riotous were in sector C. However, coming to your question, the behaviour of these riotous with my experience of handling situations in Harare because this was not the first time for the National Reaction Force to be called upon by the police to assist them. It was the behaviour and indication of what we have all along received that the opposition have to an extent a militant organization because knowing by the nature of Zimbabweans they is no civilian who can brave it to storm at a military vehicle. To make matters worse an APC and those soldiers armed with AK assault rifle and therefore these militant groups according to the intelligence that we have are basically members who could have deserted from the army and other institutions because they were advancing bravely even when we shot in the air shouting “bata musoja” that behaviour is a characteristic of a really trained member of the society and not public civilian member, no. There is utterance “bata musoja” which means capture or get hold of the soldier. In fact they went on to say disarm them.

Q. Coming back to the time that you actually deployed your forces what instructions did your members your units have to disperse the crowds that you had been informed were rowdy and violent in terms of the use of the weapons they had?

A. The National Reaction Force participants had very clear rules of engagements instructions. They can only use a firearm when it is extremely necessary and if a firearm was to be used there are standard procedures that we do practice during our training on crowd dispersal that you fire warning shots three times. If the situation continues then you fire well calculated rapid warning shots and these are exactly the drills that were employed by the troops at Netone Building.

Q. Where are these shots fired at?

A. Warning shots are in fact by definition fired in the air.

Q. Brigadier General, on the day in question social media was awash with pictures of military personnel in town and there was one video that captured the attention of many where a member in military fatigues kneels on the ground appears to be firing and then there is another member again in military fatigues who comes behind him and hits him with a cap as if to dissuade him from further action. Have you seen that video?

A. Yes I did saw.

Q. What would be your comment to that? What can you tell the Commissioners about that?

A. Apart from the video itself when the troops got the intersection of Kaguvi and Jaison Moyo where they met stiff resistance missiles being thrown to them, riotous advancing towards the section, the particular soldier that the video you are referring to was taken whilst on kneeling position, yes indeed he took that position because he was avoiding missiles that were being thrown to him. But because of the instructions that warning shots are only to be fired on a standing position this is where the second in commander of that particular platoon observed this particular trooper not necessarily a trooper was in fact a sergeant to say stand up. Don't worry about those stones they don't kill you stand up. So in fact he took remedial actions.

Q. Are you certain or are you aware of where exactly where that incident occurred?

A. Yes Sir.

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Q. Where did the incident occur?

A. Just some few meters form the intersection of Jason Moyo and Kaguvi close to Netone buildings.

Q. Are you aware or have you since received information as to exactly where the bodies who were shot were retrieved in Harare?

A. No. apart from the three that I have mentioned earlier on that the Porpol himself confirmed to me that a body was picked at PSMAS clinic near 4th street and another body was dumped at Parirenyatwa reception and the 3rd one was also reported and confirmed by the Propol that the body or that particular individual passed on at Parirenyatwa hospital. The exact location where the other three bodies were picked not to my knowledge because my troops never came across any dead body neither nor causalities.

Q. To your knowledge were any dead bodies recovered from the environs of that incident I have just referred you to where a soldier was kneeling and firing?

A. No Sir. If you watch that video closely that soldier who took kneeling position was firing, if you check properly military experts that rifle was being fired at an angel of 45⁰ in the air and not direct to the riotous.

Q. You have examined that video?

A. I did.

Q. And that is your assessment?

A. Not my assessment but it's exactly what happened.

Q. Were there any instructions given either by yourself or by your platoon commanders to fire at civilians?

A. It is a rule of thumb that civilians are never fired at especially a person or an individual who does not possess or pretend to threaten anything or to the effects or activities of an armed men. We have no rules of engagement to fire at civilians. Remember they are innocent civilians despite they were rowdy in nature.

Q. This National Reaction Force what was its life span? What dates did you engage it and when did you disband it?

A. I had to activate the National Reaction Force to be ready to stand by ready for the 30 harmonised elections on the 10th of July when I issued the orders to them and we stood them down immediately when the head of State was inaugurated into office.

Q. During the period of the subsistence of the NRF and before the 1st of August 2018 were they are demonstrations in Harare in town?

A. Please come again?

Q. During its life span from the beginning of July up to the time that you stood it down and before the first of August were there any demonstrations in Harare that you were alerted to before the 1st of August?

A. In fact there were a series of some petty demonstrations of the military wheel of the opposition the Tajamukas but not exactly what we witnessed as from the 10th. These petty demonstrations that we witnessed and in fact they used to be dealt with by the police they occurred before the activation of the National Reaction Force.

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Q. What about after the action of the National Reaction Force were there any demonstrations in Harare that you were alerted to before the 1st of August?

A. For now no, not my knowledge.

Q. Thank you very much Brigadier General Sanyatwa. At this stage I shall hand you over to Commission they may have questions, I think that they do have questions that they want to put to you.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q. Thank you very much for your testimony. Can you briefly outline for us the mission statement contained in your operation orders? What did it state? What was the mission of the troops that had deployed?

A. To be precise the mission statement of the participating members of the National Reaction Force who took part in restoring law and order was clear the riotous in the CBD and restore law and order in support of the ZRP.

Q Did you conduct after action review later?

A Infact as a rule of procedure immediately when there are components the military are tasked for any deployment immediately, after the end of that particular operation we neatly carry out what we call a post mortem of what went wrong , what exactly that needs to be improved if at all any. Indeed for sure.

Q And according to the review that you had conducted are there any things which went wrong which you may need to share with us.

A In accordance with the execution of the task that the National Reaction Force members were tasked to undertake there were very little and silent points that we thought or perhaps that come out from the execution part of that particular exercise . To me the execution was handled in a professional manner.

Q Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q There are quite a few things I would want you to clarify but let's start from basics. You are now aware that there are 6 deaths from the 1st of August activities.

A Yes. It's a public domain.

Q Sure you aware that the terms of the finale post-mortem reports for those 6 deaths they all say that each of those person died from gunshots?

A I must say though I was not proved to have a sight of those reports.

Q So you are not aware that those 6 deaths came through gunshots?

A Not to my knowledge.

Q Are you also aware that on this particular day on the 1st of August our two hospitals Parirenyatwa hospital and Harare hospital recorded persons that went there on the basis of gunshots. In one case with the Harare hospital about 12 people were treated some admitted for gun shots and with Parirenyatwa 13 people gunshots .You are not aware of that as well?

A In terms of the people who went to seek medical attention at the two hospitals yes I could read that in the media but for your own information I also came across a victim that had a gunshot wound through his arm who happened to have been injured at Coppa cabana.

Q Why I am asking is this Commission is sitting on unaccepted basis that there were gunshots and people died from gunshots on the 1st of August. In other words there was firing in town. People were shot, people were injured.

A Its true.

Q Now my understanding of the evidence correct me if I am wrong, is that as far as you are concerned members of your National Reaction Team. The teams that you commanded none of those persons shot at any of these people.

A That is correct I can safely say the troops of the platoons that reacted to ZEC offices and that Platoon at ZANU PF headquarters in fact all their actions were indeed well covered by the journalist who by then felt secure at the same time very safe, as journalist were following behind my troops. If at all they will be having any fatalities from my members then that particular scenario should have been equally captured by the journalist who were following my troops.

Q Yes I follow you but I want us to be very clear on what you are saying . In other words you are saying that if there was any gunshot , any person who was shot or injured that would not be from the members of the military?

A To be honest with you the honourable Commission if any gunshot wounds would have been sustained to, it would not be from my men.

Q Would there be another members of the military that were not from your team?

A Not from my knowledge all what I know , the individuals who were in town armed apart from the members of the public who may be armed with weapons for some reasons best known to them were members from the Zimbabwe Republic Police Support Unit.

Q Yes but I think let`s be sure we have to follow. Would there be any member of the military in town who was not coming from your team?

A Infact my brigade is responsible to take care of the activities in support of the ZRP in Harare and there should be no other military details outside my troops who could be deployed in the CBD. Not to my knowledge and infact, if at all they were deployed they were supposed to be arrested and detained.

Q I should then get back to the issue that I wanted to clarify which means that your evidence is that because the only military people in town would have been from your team. The new evidence is that no member of the military shot at anyone, injured any person who got deceased?

A That`s to the best of my knowledge. Members of the National Reaction Force not confining to the military . Remember we deployed together with ,members of the ZRP support Unit integral to the National Reaction Force so to say members of

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the military it's not particularly correct. It was members of the National Reaction Force that deployed.

Q That is a very serious issue because it's what we are sitting to investigate and assumptions coming up from the evidence we have been hearing in the past one months was simply pointing to the fact that the military got involved and in the process of this involvement people were shot. The evidence you are giving us is that yes you were involved but no-one was shot. So I want you to just enlighten me on this point. You accept that you were successful in clearing town.

A Yes because law and order was restored.

Q How would you account for your success because remember that the police had failed and then you were called? You succeeded. But you succeeded without firing at anyone. Without injuring anyone?

A Yes sir.

Q What was your cause of success in your view?

A Remember there are so many factors that led to the success of the National Reaction Force to be able to restore law and order in the CBD. There was a sense of shock actually when the military's vehicles rolled down the streets. That one you cannot just brush it aside.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q May I just pick up what my colleague on my right had said. We have been hearing evidence the facts that 6 people were killed according to the preliminary report of post mortem because of gunshot wounds. I want you to be very clear on what you are telling us. Are you telling us that your teams the National Reaction Force where the only military people on duty on the 1st of August. I want you to be quite clear on that.

A My team that deployed after instructions where the military personnel that was deployed in the CBD.

Q And no other military personnel?

A If at all there were any other military personnel deployed not to my knowledge.

Q And you are quite categorically on that your teams could not have been responsible for the gunshots wound that resulted in fatalities. Is that what you are saying?

A With due respect correct.

Q If we say that, that counter to the bulk of the evidence that we have been hearing over the last one month. What would you advise to us do? How would you want us to speculate or you to speculate as to where the gunshots wounds came from ?

A I am afraid speculation maybe rather tricky but in the CBD in Harare Province we had so many rifles in the custody of civilians for various reason . Others may have those weapons to protect their properties , other weapons may be illegal in possession of individuals . Remember, remember there are so many individuals who may not be under my commands who may be armed by not necessarily from my team.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q I just want to be clear on the fact that the police support unit you say were party of you. Were they armed on the day?

A Rule of thumb any member of the National Reaction Force is supposed to be and it's a must for him to be armed .

Q So you exclude them as well from the people who could have used the ammunition against civilians?

A Correct.

Q You did a very thorough intelligent review before the 1st of August?

A That is correct.

Q And you told us about the perceived threats for the 1st of August?

A Correct.

Q You didn't mention in your analysis that any of those people had weapons? That is right isn't it?

A I never mentioned that but it does not discard them from being armed.

Q Did you have any information on the day? You don't have to go into details that people in the demonstration had arms themselves?

A Yes. The information that I had at that time. There are people who were bussed from Kuwadzana at that time.

Q They were bussed in?

A Yes.

Q Do you have any information that they had arms on the day?

A They were likely to have been armed.

Q So is it may or likely or what?

A It's likely.

Q That is new information we have now received but I just want to explore that because this was mentioned earlier on.

A Did any of the demonstrators use live arms against you and your men?

A No.

Q You never heard any shots coming from the demonstrators?

A When my men were deployed we never heard shots.

Q During the course of your operation did you hear any shots?

A My troops openly heard shots being fired from my platoon that went to ZEC that fired warning shots.

Q Yes you tell us about the warning shots that were fired. Over and over again were very effective according to your evidence that the group dispersed because of the warning shots.

A Yes.

Q I just want to ask about the warning shots because we have seen some videos, in fact the same video where the soldier was kneeling where a soldier appears to be firing into the air but potentially this has to be investigated because at an angle that goes right into a building what training would your troops have got on how to fire warning fires in a building upon area given that they high raised buildings and that bullets could go into the building.

A The training and the rule of procedure: - You fire the warning shots in the air. First you must avoid buildings. Secondly you should fire warning shots precisely when an individual is quite sure that the open space is clear.

Q On the day in question we have the death record. Did you make any enquiries after the event as to why people had died in your area of your command? You mentioned there different areas.

A It was but I do not operate in isolation. It was now the domain of Propol Harare Province to investigate and report back.

Q And in all the grime since then have you not been able to ascertain how people died.

A I wouldn't go that far. That area is handled by the relevant offices of the ZRP.

Q You gave us very detailed information about the information you gathered. I just want to know in that process whether you have gathered any evidence about these death .

A I did not get into that area much in detail but infact I came across a Mr Zvichapera Chibanda who sustained a gunshot wound by the arm, who also revealed to me that he witnessed a victim who could have been shot dead at Coppa Cabna in front of him.

Q Did you ask him who could have done that?

A Yes I did but for now I wouldn't want to speculate.

Q Just one other matter we heard some evidence from a young woman vendor who related that she had been bitten by the armed forces on that day. She wasn't involved but she had been bitten. Did you hear any allegations like that arising?

A She was beaten from where? Sorry Sir.

Q Beaten by the pavement where she was selling her goods.

A To be honest with you when the National Reaction Force was deployed there were no vendors to talk about in town. This is the fact. There was no vending at all in town because the situation had degenerated to a military one. No vending could be done in town by the time that we deployed.

Q My questions is slightly different its whether you heard any allegations made about your forces beating people?

A I only heard speculation in the social media but no formal report was brought to me.

Q No formal matter was brought to your attention?

A Yes sir.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

I have two points of clarification. From the evidence submitted to us earlier on. I remember vividly two victims where we were told by their families that, like one of them I think around Market Square area somewhere there downtown where the victim had a relative and they just saw that he got shot and fell down and he said that he didn't see the person who shot this particular relative. The other one was in First Street to my recollection up there. Somewhere up there. Again in that case the person who came to give evidence said that they didn't see the person who shoot but the person falls down. And from such evidence and you, you are talking about not wanting to speculate, but could there be people in two that had guns and could they have been operating from some building because we have, in two cases people are

falling down they don't see who is shooting them. Since you heard people on the ground could they have witnesses of that sort that is presented to us? People fall. Just and fall but they died. The person who shot is not seen. I am, just checking with your platoons if they witnessed anything of this sort which was presented to this Commission.

A If at all such incidence occurred of individuals being shot at without having full view who shot them, then these incidences could have occurred prior to our deployment. My platoons never reported any incident of that nature but it cannot be ruled out.

Q The second issue is you talk about these people who said, 'Bata musoja. Disarm them. These look like they might be ex-military before of their determination to confront the soldiers. Would it be that any of your troops recognised any of these men is it a possibility that their identities are known?

A We didn't go that far and to us it was not an issue.

Q My interest, I just want to explain to you. My interest is coming from the fact that they are amongst area C which was rowdy and resisting and the issue of identification is critical. Do you think the journalist who could have been following your platoon could be having videos of such people?

A I would want to believe so because normally journalist they do cover areas of their particular interest and if at all journalists this time were carrying out their usual business covering live the military having been deployed, I think their best focus could have been capturing a civilian being shot dead and lying down but I wouldn't want to believe that anyone of those journalist captured that.

Q I would want to say that in the event that you come across a video of especial these ones that are saying, 'bata musoja disarm them' the Commission will be interested to watch the video if there is possibility that it is available to you.

A No we did not have coverage of that nature.

Q Thank you general.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Can I come back to you because from the evidence that you have given which is that the deployment took place after two the evidence we have from most people that were shot, also consider with the time that members of the reaction team were in town?

Are you alive to that fact as well because if we now, given that you are saying that they never shot at anyone and that we have to look elsewhere for the cause of death and so forth but there is information coming from the witnesses who come before us, the times are the same. The only different now is that you are saying is that they never shot at anyone. You are maintaining that position notwithstanding that sought of evidence that this shooting around, all those people that were injured because we can't see the guns. This shooting around, these people falling down is actually exactly within the same time frame were you would have deployed members of your team but still with that you are maintain that they didn't shoot anyone.

A The time when they were deployed, the participating members of the National Reaction Force moved it from their holding areas at 1500 hours and then they

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started from respective starting points or crossing the line of Herbert Chitepo into the CBD.

Q The reason why I am saying that is that we have heard evidence from the officers then commanding Harare District . He came across your members. His evidence he has given here under oath is that he is the person who was commanding Harare District, the regulating authority. His evidence shows that he came across members of the military at a much earlier time than the times that you have given.

It might then require the Commission because this is something that is central to the work we are doing. It will then require us to get that whether some members of the security forces could be lying about getting to see the military in two earlier than the time that you have indicated.

A Can I be honest as a General to respond to your question?

Q Yes.

A The time when we deployed all members of ZRP were held in their particular offices and at the same time including those who were mobile Support Unit armed with weapons they were static in their vehicles and from me to say he saw military vehicles moving whilst he was hold up in his office I did not want to go along with that. I never came across any senior police officer in the CBD apart from the members of the support Unit and others who were standing helplessly also wanting us to rescue them . So to say he witnessed I doubt that.

Q The difficulties that your evidence is creating because of what is happening is that if we go by your evidence at this stage we simply as Commission know that certain people were shot in town on the 1st of August but this was not by the military meaning now we have to go elsewhere . I think it's a lot of work that is required.

A I would recommend that way. Why? If I am to ask a person, if a person was shot by the military who then picked that particular body? Who had to brave it to come and pick a dead body during the evolving of military without us seeing that there is a dead body? Without taking account of who exactly was picking that body? To me all these were shot before we were deployed and this is true. We did not come across any dead body.

Q The evidence we have got is that they were shouting and moving away. There is a one witness who actually says he confronted a soldier why they shot at someone who is infact one of the deceased person, is said to have been shot when he confronted a member of the military at shot range that is the evidence. We got that information here. Evidence was also given under oath.

A If I am to respond to that?

Q Yes.

A We have the evidence that the opposition wanted to drag in the military in order to escalate their campaign during that course. So for one to witness before this Commission this Honourable Commission to say he witnessed soldiers shooting at an individual I think that one should be given a pam pam. That particular person was lying because no-one can brave it when the military deploys. Even yourself you cannot do so.

Q I think I need to get one last issue which has to do with the issues but not asking who would be braving anything. I just want to find out who you report to? This command group. I think you are aware that in terms of our law your deployment must be in accordance with the provisions of the law?

A Correct.

Q If you relate to the law. Where do you stand? How is it done legally before you get deployed either you relate to what the Constitution says that is the President must authorise your deployment. There is also the public order and security act that say before the military comes in and then there must be some discussions between the Minister of Home Affairs and the Minister of Defence. Where do you place yourself in the contest of that?

A May I attempt to answer that? I am aware certain procedures have got to be followed but remember initially I said I do stand here as a tactical commander and all your questions that you are relating to in terms of the Constituency and the act of humanity if I am to put it in shona, 'Zvoto zvine mazera.' (It means that there has to be a protocol which has to be observed in relationship to one's rank to flow a certain route. I am not best qualified to respond to that.

Q So I take it that you are saying you do know at least at your level?

A I do.

Q But you are not best qualified to answer that none of the acts are being committed by your subordinates?

A I know procedures were followed or were supposed to be followed from headquarters at ministerial level, at sub national jock level until it comes down to the tactical level. Remember I am simply talking about the tactical level. For now I am not in a position to get into those details because *zvoto zvine mazera* MR Madhuku.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Brigadier general tell us to whom you report to in your job?

A The way our system operates in peace time we do operate within the confines of the jock system joint operation command and with that in mind all levels from the services are represented at tactical level, at operational level. At strategic level at national jock. And so I do report to the sub national jock headquarters and not to a particular office but to the committee that gives me guidance.

Q Who is the head of that Committee?

A The head of that Committee of the Sub national jock?

Q Yes.

A For now it is based at army headquarters.

Q Would I be correct to say that it is the Chief of the Army staff because the Chief of the army staff is a member of the National Jock ?

A Would it be the Chief of the Defence.

Q The Chief of the Defence is also a member of the national jock. The one that I do report to is Operational of the Chief of Staff Operation and Deputy Director Operation at police headquarters.

A Who chairs your meetings when you meet.

Q For now it is the Chief of staff.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q My question is not technical it's the softer one. When you asked and you then answered there are so many people with guns in the CBD, you referred to business people, you referred to some other people. You also then went to talk about the hard

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core group which was bussed from Kuwadzana to CBD. What would you have been trying to imply?

A I was not intending to imply but it is a matter of fact that people were bussed into the CBD.

Q Who is the hardcore group?

A If I am to answer for them it is their answer for me it is their military wing.

Q Whose military wing?

A The opposition. The militated rather. The DRC's. The Democratic Resistance Committees.

Q Can I go on?

A Now the vanguard.

Q So if it's a military group would it ordinarily have firearms? What is military about them if they don't have firearms?

A Military dictionary meaning is militated. Including its facts.

Q Would they have firearms?

A Likely .

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Just a follow up question. We are coming to end soon. But just one matter. Now that you have heard allegations that have been made against members of your armed forces. Is it a matter of fact you would be prepared to investigate now. What would

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be something that you would be prepared to look into yourself to make sure that none of these are being committed by your subordinates.

A It is a matter of fact that in accordance with our mandate if there is anything fishy that may invite investigations sure we have nothing to hide.

Q And you have your own internal investigations process that you could deploy?

A Yes.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q But you were not in town yourself ? You never went to town yourself during this period?

A The military command set up. Remember I only deployed 62 soldiers and 16 ZRP Support Unit . There was no logic for Brigadier General to be seen running around in the city.

Q Yes I think just for, I think it was for record purposes.

A That is correct. For record purposes the Brigadier General is relying on the reports of those who were actually in town in other words what you have been telling us it's not you being there and saying that no-one is shooting but that the report in terms of your structure is that there was no shooting by your members that is what it means .

A Remember our culture. The Commander is responsible for any action of his subordinates and you don't necessarily have got to be at sight or venue to witness any event . There are systems up and down bearing in mind we have effective communication systems in place of the National Reaction Force to be deployed.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q General I have a follow up question. My colleague Commissioner asked you about the issue of military and militant group the hard core and that they have firearms. My question is that is it within the scope of your group maybe I just want to check whether you have checked whether the firearms are registered.

A The nature of the word militant. I wouldn't want to speculate but they could have been registered not this is why I said the may be likely have been armed.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much Brigadier General. You said you come across someone who was injured on his arm. Could it be the young fellow called Adriane Mujere?

A No.

Q It's not that one?

A No.

Q It's not that one.

A Yes.

Q I have notes here by the testimony of Adriane Mujere who stated that he is self employed . He sells mobile phones at the corner of George Silundikla and Angwa Street and on the 1st of August whilst busy trying to sell his mobile phones a group of people came walking down Angwa street and around that corner where he sells his mobile an army vehicle came driving down Angwa street and shots were fired and he ended up with a gunshot wound just below his elbow and ran Angwa into Julius Nyerere street until he lost consciousness and he was taken to hospital where he was operated up.

The interest I had in this matter is that we went to this corner where he sells his mobile. From then he was able to point at a guard house in a parking lot at the corner of Angwa and George Silundika. There is a guard house there in a parking lot he showed us a stray bullet. How a trajectory of a stray bullet which went through the chip on part of the palliate fence went through the guard house and emerged on the other side . He also mentioned that within that parking street the window screen of a vehicle parked there was also shot at . That is where in other words, that is where he got injured and the evidence of other bullets having discharged there indicates that, because he incited that the doctor`s confirmed that he was short at with an AK 47. He doesn`t know who took him to hospital he had lost consciousness. So I am raising this testimony because I think at some point the authorised investigating section of the police will have to help us with this evidence . It can`t be enough to simply say no shots were fired when they are dead bodies whose post mortem reports attributes their death to gunshots. Somewhere we have to be helped with confirmation of this information and before I say you should step down I have a map here of Harare and I would have because I am not quite familiar with layout of the land. I would appreciate it if you could do the parameters of Section A, Section B, Section C. It could really help one to have a sense of operations.

Q Will you be able to do so?

A I can do so.

Q Thank you very much.

Q It`s a big docket it`s a 1994 map so you will know the old and the new lands.

A I have left my reading glasses. If my colleague can assist me whilst I will be answering.

Q Yes.

A If I may carry on. I do want to dispute the reports that you received from witnesses but for your own information within our training as well as our rules of engagement as we disperse crowds or riotous we do not open fire whilst the vehicle is in motion . We do not as well respond to any situation which may entail using a firearm whilst on board of a vehicle. We have to de-bus, take positions, be it in an extended line, divide that particular section of not anything more than 9 men. In this case my sections were of up to 6 men and then we divide into odds and the ones and twos. And when we say open fire for the purpose of warning, warning shots it is done systematically that way. We do not open fire in discriminatory and also for one to come before this honourable Commission and present to you that shots were fired from a vehicle that could be stage managed and rehearsed evidence.

Q No it's actually being said the shots were fired from a moving vehicle.

A Plus at the same time the Angwa Street and Silundika, vehicles only got to those areas when the CBD was vacated. The troops that were supposed to take care of sector bravo never went as far as the intersection of Angwa and Silundika. This is the platoon that I ordered to reinforce sector Charlie , ZANU PF headquarters ,Rainbow Towers and ZEC offices and the troops that went into sector bravo got as far as Harvest House along Nelson Mandela and went back to join their platoon at 4th street.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q The evidence that the chairperson is referring to is actually when the soldiers were dispersing the crowds at Harvest house . You appreciate that Nelson Mandela and Angwa Street and where this witness was is exactly, the crowd was running away from Harvest house so there is Nelson Mandela , Angwa street coming to where? He was in Angwa and George Silundika . George Silundika is the next street to Nelson Mandela. They are parallel.

A Yes.

Q That is exactly the same place?

A That could have happened but I do not doubt my field officers, that particular platoon that pursued the riotous to harvest house were never even fired a single shot and they got to that place in full view of a truck loaded with ZRP Support Unit that was stationed at Harvest House

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Maybe there General, We are in no doubt as to the rules and regulations that you have been speaking about that guide your people in operations but if I may say jokingly in my part of the world people particularly they speak in proverbs. They may point in proverbs. And one of the proverbs goes like this, that a mother monkey was carrying a child at the back and carrying another one on its bosom

and she was accused of having plucked a fruit . She wisely said I can swear for the one that I am carrying here but I cannot swear for the one on my back . I am impressed that you have been able to be so certain that your people were throughout guided by the rules and regulations you have given them and making no room for the possible mistake by one of them . Maybe let me stress because as our Chairman said we need help to reconcile the evidence we have heard which makes it quite clear that soldiers were associated with some gunshots . And here you are telling us very funny and I must say impressively that you are sure none of your people fired. We need help as our Chairman said.

A The proverb with due respect is possible. Within the rules of procedures were there are some controls measure there may be some loopholes so along those lines I wouldn't want to say adamantly no. They cannot make mistakes. I wouldn't want to mislead this honourable Commission.

GENERAL PHILLIP VALERIO SIBANDA : SWORN STATEMENT

EVIDENCE LEADER: MR THABANI MPOFU (TO witness)

Q General Sibanda you are the Commander of the Defence Forces?

A Yes I am.

Q You are acquainted with the circumstances that led to the appointment of this Commission that you are appearing before?

A Yes.

Q I would like to request you at this stage to begin your testimony, if you can start by giving us a back ground of your understanding of the situation in Zimbabwe particularly during the election campaign period and immediately prior to the elections and then moving on to the 1st of August 2018.

A Thank you. Thank you Mr Chairman and Commissioners we are happy that you have allowed us to come in as Defence to give our views on what happened prior to the 1st of August for the 1st of August . Allow me Chair to read a summary of the statement I have prepared for this Commission and which statement I have distributed. I hope it will be availed to you. Chairman, the campaigning period was general peaceful throughout except for the Bulawayo grenade incident of 23 June 2018 . During this period however it was unfortunate that the MDC Alliance made inflammatory statements during their campaign which incited members of the Alliance and the public at large to reject and to revolt if the MDC Alliance was not declared the ultimate winners of the election. I have forwarded some video clips of the very main video clips that were produced during the campaign period of the MDC Alliance candidates preaching violence during their rallies and these people

they heed testimony to the incitement that was said by Mr Chamisa and his top leadership that included Tendai Biti Morgen Komichi and Happymore Chidziva instigating civil disobedience in the event that ZANU PF won the election. On 23rd July whilst addressing a campaign rally at Mkoba stadium in Gweru Tendai Biti of the MDC Alliance said, 'Post election violence is inevitable if we lose the 30 July 2018 elections. We expect nothing less than victory.'

On the other hand ZANU PF officials preached peace and tolerance throughout their campaign rallies and again I have made available some 6 video clips to this effect. On 31st July 2018 the Parliament election results started trickling in and these showed that some of the MDC alliance National Assembly and local government candidates had lost. It is assessed that it was during this part of the release of the results that the Alliance realised Chamisa might not win the Presidential elections. The MDC Alliance then began to mobilise for country wide riots through social media platforms and party structures. It became clear from this point on that the MDC Alliance was determined to cause violence and make the country ungovernable and would stop at nothing before achieving their objective.

On the 1st of August and towards midday and due to the escalation of the level of violence all over the CBD ZRP become over stretched resulting in the Commissioner General Police through the Minister of Home Affairs invoking Section 37 (i) of the paragraph 1 and 2(b) which empower the police to seek assistance from the military to suppress civil commotion and disturbance. I was then directed by the Minister of Defence after the due processes had been followed to deploy the NRF (That is the National Reaction Force) in support of the Zimbabwe Republic Police. I have also submitted Chair 4 documents which followed the process from the police

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Commissioner General to the Minister of Home Affairs were the Commissioner General requested that if the Minister of Home affairs could approach Defence because the situation in the Central Business District was getting out of hand.

There is then a letter from the Minister of Home affairs to the Minister of Defence also stating the same and then from the Minister of Defence I have a letter which was written to his Excellency the President and then I have a letter which was written by the Minister of Defence to me after sometime I guess there were consultations there that took place directing me now to deploy the NRF.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Mr Chairman I think from the evidence leader we might need those documents up front as he is talking because we need them after his speech.

A The documents will be made available.

Q Yes we need them here as he is going on with his evidence.

SECRETARY: MRS MABHIZA

Q You mean right way?

A Yes we need them I think it's useful that as we go through we need to look at that as he will be giving his evidence.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q Well logistically that will call for a small adjournment.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

They can go on but I think we would want you to make arrangements that by the time he finishes he avails the documents with us.

SECRETARY: MRS MABHIZA

- Q He will certainly avail the documents perhaps after we have challenges with our station supplies so we have to make sufficient copies for all Commissioners. We will definitely make them available.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

May I proceed Mr Chairman?

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Yes.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

- Q Proceed General.

- A Thank you.

- Q After the situation was finally brought under control at around 17 00hours on the same day I was informed that there were some fatalities. This number rose to 6 the following day with 16 others being injured. It is not clear as to who was responsible for the deaths of the 6 that I have mentioned and also the injuries to the 16 others. Suffice to say that they were licensed and unlicensed weapons and the possibilities of business people firing to protect their properties or distraction by hooligans cannot be ruled out. Further the possibility the Vanguard, the militant ground within the MDC youth alliance, the MDC Alliance youths league having weapons and having youth during the disturbances of the day cannot be ruled out. The interventions by the security forces were meant to prevent loss of life and destruction of property and in this vein no orders were given to open fire on the riotous and this is at all levels of command. Had the intervention not occurred and rioting had gone into the night I want to believe that many more lives and a lot more property would have been lost

and damaged or destroyed respectively. Minimum force commensurate with the situation which was applied as the troops first gave verbal warning for the riotous to disperse. After failing to comply the troops used whips and button sticks and only in extreme circumstances fired warning shots. There was never an intention to shoot at the riotous. The loss of life and the injuries suffered by our country men and women on that day is most regretted and we sympathise with all affected.

I thank you chairman.

Q General Sibanda you are of course aware of allegations that have been levelled against members of your army. Mainly on social media and in some respects according to the respect that the people who said they lost their lives on the day in questions were shot by members of the defence forces. What would be your comment to that?

A My comment is that firstly as soldiers we operate on orders. And the orders given on that day were very clear here. You will note on firing the riotous, if there is anyone who has evidence to the effect, that anyone of these 6 and injured could have been shot by soldiers, they can bring that forward. I am aware that there reporters who were following troops when they went into town once they were deployed in town and if there is anyone with that evidence, if they could bring that forward but certainly from where I sit I do not believe that any of the soldiers could have fired. Yes they fired in the air but I do not believe any could have fired, aimed shots at individuals I don't believe so. Thank you.

Q On the 6th of August you issued a joint press statement with the Zimbabwe Republic Police basically outlining the allegations that have been labelled against members of defence forces. Would you like to give a bit background to that and again the Commissioner`s statement would be availed to Commissioners.

A Ok thank you. If you remember after the 1st there were allegations mostly coming through social media to the effect that people, were being harassed in the township and so on. We went out to investigate and we were not able to come with some individuals in fact. Some members even came up and say yes we have got information and we said good can we have that information? We never got it. We then made that press release joint with the ZRP to say anyone who has information pertaining to the assaults that are being alleged if they could come forward and let us know. They can take pictures of the individuals like somebody was able to take pictures of that soldier kneeling in one of the streets in Harare on the 1st of August . I said bring forward the pictures of the soldier themselves or the vehicles that they were using again none such information came through.

Q Now since the day of this unfortunate incident , has your office directly through your members, been given any evidence by whomsoever relating to allegations against members of the Zimbabwe defence forces either involved in the shooting of the 1st of august 2018 or any evidence of misbehaviour and misconduct ?

A Other than what we saw on social media and other than some complaints that came though against various individuals some of them from the political parties and complaining about the defence forces through other people we had not got anything formal .

Q As to misbehaviour by the members of the defence forces I think we ought to be careful there. This misbehaviour could be associated with the 1st of August but there is also misbehaviour that could have happened else and not necessarily associated with the 1st of August .

A On the issue of the 1st of August if there were any misbehaviours then they were part of the complaints that we were getting but like I said we asked members of the public to give us information and to make sure that they have pictures, vehicle number plates of even just a vehicle to say this vehicle was at Makoni Shopping Centre at the night of that day we would have investigated it but that has not happened. As a general misbehaviour well soldiers are soldiers and from time to time they misbehave and we deal with those behaviours but not necessarily as for the 1st of August.

Q You may be aware General that prior to these elections there was an invitation issued by the Presidency His Excellency the President of the Republic of Zimbabwe inviting foreign observers including the EU and other observer mission that hither to not be invited to Zimbabwean elections that was during that period, foreign journalist were invited , has any of those observer missions , embassies , foreign journalists approached you or your office with evidence of your members of the army being involved in the shooting on the 1st of August 2018?

A Nobody has approached us but let me just say before the elections I had three of four groups of observers who came to see me but I am sorry to say but they seem to have been interested in knowing whether to say we would accept Chamisa if he won the elections and I said to them we will be guided by the Constitution. We

disappointed that when the Alliance were talking violence and saw on , very few of these groups actually took the trouble to sit down with him and advise him that what he was doing was wrong. Further Chair I think I want to make this clear, we would have been very foolish as Defence Force to give orders on our troops to open fire on civilians with all these people who were in the country . We still had a lot of observers, we still had a lot of reports and really we would have been out of our minds to give such an order.

Q Are you able to advise the Commission on what sort of weapons the Zimbabwe Defence Forces, the army personnel were carrying and what effect those would have being fired on the public on the crowd of about 300 to 400m hundred people . Sometimes 3000 to 4000 as well as we have been told.

A Yes the troops were carrying AK rifles with them and there were whips and button sticks but to answer your questions to the effect of the AK 47 rifle in a crowded room as we are in here if someone had to come in with an AK rifle with 30 rounds in a magazine would probably had quite a few death here and quite a few injuries . I cannot give you figures because it depends on how he is going to go about it but for people who are in line and if the rounds does not go into where there are bones and it is hitting flesh in here one round can take 6 to 7 people down and that is how effective it can be so in a group it can cause a lot of damage. Just imagine in the US there has been a number of shootings recently and they have been using either any guns which are pistols or small automatic rifles but look at the damage that they have caused in two or three locations where it has happened recently so if there was any aimed fire by the soldiers , into those groups there would have been

also more deaths . A lot, a lot more death. Finally General Sibanda it would be amiss if I didn't draw any attention in a video clip that you referee to in your evidence earlier on. There is the now famous video clip of one of your members kneeling on the grounds and firing. The clip shows another member of the force coming from behind and joined this member of the army as if to dissuade him from further carrying on. Have you received further reports pertaining to what exactly transpired there and what would be your comment to that?

A The report I received is that they were given orders to advance and not to take kneeling position . When that fellow was in a kneeling position he had obviously contradicted the order that was given of advancing and this is why the other one tapped him telling him that what he was doing was not as per the orders .

Q The gun seemed to be discharging quite a lot bullets and judging from your experience if those had been aimed at and again I know this is very difficult and asking you to speculate but if you give us an indication of what sought of damage the rapid fire that you saw on that clip would have done if aimed at then public or civilians who are unarmed ?

A Like I said the damage would have been quite substantial and it's clear that when that fellow had opened fire he must have been warning the riotous because if he had been aimed at them then we would have had more death in that particular area.

Q Is there anything else General that you feel you want to share with the Commissioners and the public at this stage.

A Not now. Thank you.

- Q I will now hand you over to the Commission I am sure they have a number of questions that they want to put to you for some clarification.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

- Q Thank you very much for your testimony. I just wish to know apart from the AK 47 that the National Reaction Forces had carried with them. Did you have any other weapons apart from the AK 47 which were used to control or manage they manage the violence.

- A There were no other weapons which were used apart from the AK 47 except for the whips and buttons . Thank you.

- Q The commander of the National Reaction force did inform the Commission that after action review was carried out. Is it possible for you to share with us some of the findings of that review?

- A Thank you. Through you chair. Yes there was after action review which was conducted at various levels of command. I have my own which we did together with the police and a number of issues come up one of them being that of appropriate equipment . Secondly better coordination , thirdly associated with equipment we need to be able have better quality pictures so that we can actual identify individuals and so on. So there were a number of issues that come up which we have documented and which we are going to be using going forward.

- Q Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q General Sibanda there is ,I am sure you are familiar with terms of reference and I will read to you one of our terms which is critical that is why I am asking you. It requires us as the Commission to consider whether the degree of force was proportionate to Public Safety, Law and Order. Now these terms of reference would require us to determine whether it was the military or the police who fired to the persons who lost their lives . Who fired at those that lost their lives? We can only determine the degree of force if we conclude that that force was actually used by the military or the police. I do not know whether you appreciate that point.

A Yes I do appreciate what you are trying to get at . Let me put it this way. When you do an estimate of a situation in a environment you look at how best you can deal with that situation in the shortest possible time, and in this particular case with minimum damage and loss of life and we looked at that and we believe that the force that was eventually deployed by the Commander of National Reaction Force was appropriate . And the weapon was appropriate in the sense that one cannot deploy a soldier without his equipment . It might not have been appropriate in the sense that you may be carrying an AK as opposed to a weapon that can take rubber bullets but otherwise the force that was used and so on was appropriate in my view and as you notice it was only one and half hours or so and the city was almost back to normal except there were no people because of what had happened .

Q That means that the force you are referring to in your evidence is the force other than shooting at anyone ,if I get your evidence that the army did not shoot at any persons they did not do that? The force you are assessing is the force less than that?

- A I have no reason to believe whatsoever that one of the soldiers could have shot and killed those people. The orders were very clear and I can't see what would have happened . Yes I know there were surrounded by the riotous using stones and various other missiles but I don't think that was enough justification for them to use these weapons to these riotous so I don't believe soldiers opened fire on the riotous . Let me say to the Commission Chair, that from where I sit in my office in town I heard gunfire well before the troops were deployed . I think its wrong for people to just take it for granted that yes just because the soldiers went into town they are the ones who killed the people.
- Q If I may follow up on that point we heard evidence earlier on I think from one of your senior brigadier general . The line taken which was very clear to us and I did think which you gave just confirmed is that there is no basis for saying that they soldiers were responsible for shooting of people of or the deaths I think that line is clear from what you are saying which would mean that all what has happened from your point of view that might have been other people who could have shot because you heard gunshots yourself before the army had been deployed so its the line of the defence forces that because you have no reason that this could have come from the soldiers in other words your position, its someone else because there were injuries coming from gunshots . Will it be correct to saying in your position surely someone else did it who is not the defence forces?
- A I think that is what I want to believe because I really want to rest this I have no reason of putting this name on the military . I have no reason.

Q Which means this Commission may have to help, either it say it doesn't know at the end of the report we report to the President that we were unable to establish who killed people or you would say that because we need assistance we might need to go further and establish because it is the military from the evidence that we were hearing before the army came today, from the evidence everyone said it's the army all we thought we were going to get from you would have been the justification. Even the police officers who came before you, they went so far to say that if the army shot they did it in good faith. They didn't actually exclude the military. It is only now the military, which is excluding itself. Are you appreciating that point? No one else categorically eluded the military. It is only the military that is excluding itself categorically.

A Thank you, yes I do but if there is anyone who saw a soldier shoot a rioter, dropped there and ran bleeding and so on then that person can just come forward. In the absence of that I think it's just too much speculation and generally we have in this country the belief that when something bad happens especially to human beings it sit the military that is wrong.

Q But you do accept that the evidence we got earlier on also accepted that one of the instruction given to soldiers were at least that the line of operation was that you would not kneel if you are shooting in the air and there is public evidence that there was a breach of that rule then now why are you are so sure that there was no breach of other rules because this one from your evidence and from the evidence of the previous witnesses, this particular soldier breached a rule clearly and openly but we

then hear that that was the only rule breached. Other rules were not breached. Why would you be so categorical about it.

A Well the kneeling soldier whatever happened to him he was not supposed to take that position . They were supposed to be moving forward because when you kneel you are also slowing down the process this is why they were told they should not kneel they should advance without kneeling and so that happened and there will always be the things that happen from time to time but I don't believe that there was any soldier who opened fire on these riotous because if that had happened then we would have had more death than the numbers that we are talking about.

Q My final question takes you to the legal position. You have indicated that you have documents. Unfortunately I do not have them I would have wanted to look at them. I will see them when we get them from our secretariat. I guess that will be too late you would have gone, we really need to check that as well. You made reference to Section 37 of the Public Order and Security Act. Is it your evidence then that indeed the process came from the Commissioner of police to the Minister of Home Affairs. From the Minister of Home Affairs to the Minister of Defence. I am not sure whether this is where it ended and then came back to you or was it the other Provisions in the Constitution that says that only the President can deploy members of the Defence Forces? Can you just shed light on the documents which we are going to see after whether they relate to the letters from the Minister was the President involved in the decision to deploy the defence forces.

A Thank you like I said, I have four letters. One from then Commissioner General Police. Two the Minister of Home Affairs indicating that the situation was getting out of hand. The second letter is from the Minister of Home Affairs to the Minister of Defence indicating that the situation was getting out of hand and there was need for troops or support from the military. There is another letter from the Vice President to the President requesting that Authority. What I cannot say is whether that letter was responded to because it did not get to me. The correspondence did not get to merit, would go to the President to the VP and then the VP gives me instructions to go ahead. Whether it was verbal communication I did not know. I can imagine that because of what was happening, it's probable that there were consultations verbally and the go ahead given by the President to the Minister of Defence who was Vice president then to Vice President who then gave me the instructions to deploy so that is what is there.

Q So what we need to know is between the Minister of Defence to yourself, there is no communication among the papers that were going to see the President?

A Like I said there is a letter from the Minister of Defence to the President but I have not seen any response but I took it that they could have discussed and say go ahead verbally and so on. Maybe that is a response that might come from His Excellency himself I don't know.

Q But in terms of the system constitutional position is it your evidence that when the President deploys as indicated in the Constitution that deployment is it done directly to the Commander of the defence forces or it's through the Minister of Defence?

A It is through the Minister of Defence. On very rare occasions do you get the Commander in Chief saying to me directly go do that. Yes it can be done because I

have a direct biller into him and he can also talk to me whenever he wishes so it can be done but it's not done that often.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you very much for attending to testify today. I wanted to just ask a few questions firstly about the investigations you said that you did just after the event on the 1st of August. You say that you conducted investigations which led to a statement and your investigation showed no problems?

A I didn't say it showed no problems, I said we conducted a joint investigation with the police, visited a number of places where assaults have been alleged to have taken place and we came up with nothing. We spoke to a number of observers who were still in the country and I remember some of them went even through the ministry of foreign affairs to say we have got these allegations and so on. The Minister of Foreign Affairs met with us and was also with His Excellency and we investigated these issues and come up with nothing. The other issue is that people want to raise at times are issues between neighbours and so and so on coming to the fore when you have got such an occurrence because then people can take it and say I was beaten by soldiers when in fact it was an issue between two neighbours who have their own grudges but certainly we did conduct investigations and we did not come up with any evidence .

Q How long did that investigation last for?

A It was a very quick one. It was within 2,3 or 4 days.

Q And minutes were closed .You haven`t captured it is that right?

A We haven`t. Then we passed it on to the police and there was another incident later which was also along the same lines again. We conducted investigations and we sought assistance from the public to bring the culprits to book. Please give us pictures, vehicles, individuals and so on and nothing happened. And when you conducted those investigations did you go to the places where it was alleged people and ask them for more information?

A In town or?

Q Yes.

A There was a team that went there but that was very much on the side of investigators not me directly.

Q No you but your team.

A They went and conducted what needed to be conducted whether they were a complete team or not I cannot say but certainly there were investigations that were conducted.

Q We have heard a lot of evidence in the last month about what happened to certain people who were killed and injured I do not know if you followed the proceedings whether you have seen that evidence and whether any of that evidence was brought to your attention at the time?

A Well we have seen proceedings but really I can`t say more than what we have seen heard and so forth. There is very little else that I can go on that area we have left more of it to the police.

Q The evidence that we have. That could be provided to you for further investigations?

- A Well if it is there, we will be happy to have it although we cannot do it on our own we need to do it with the police and the police will take them.
- Q I want to ask if you heard any information from these investigations that the demonstrators were armed with any firearm themselves ?
- A I do not think there was any hard evidence but there is a belief amongst our intelligence operatives and indeed within the jock system, that members of the Vanguard have got some weapons . That belief is there and I am sure we are going to know about it. It's not going to be long before somebody gets arrested and then we can prove this point.
- Q That is what I was trying to reconcile because if there was that information available. Was there an order for your troops to fire in any circumstances because obviously if there were weapons they could be fired at and then you would want your troops to fire back.
- A For soldiers you will not open fire at somebody who is not shooting at you. When somebody shoots at you don't have to go back to your training centre that becomes automatic. That was excluded because we were saying this is not firing. When somebody fires at you then the game begins and then there was no firing in this particular case that anybody talked about from the riotous .
- Q So you were under an impression that they were not using any weapons so there was no need to issues any order to fire as it was unnecessary?
- A My analysis is that if they had any weapon they could have used them elsewhere but not face to face with the troops because that would have brought in a lot of

consequences so if they had the weapons they use them elsewhere but not where the troops could see them.

Q But you said you heard some gunshots before the army was deployed was that not something of concern that would have alerted you the need to inform troops that if they had to defend themselves they should do so?

A There were already police elements on the ground so I am not sure where and there are these key points that are also guarded and we now know that there was firing at the Provincial offices of ZANU Pf that could be part of the gun fires that I heard because this was 30 minutes to an hour before the troops actually got on to the ground.

Q Yes we have heard some evidence for some police officers to say they were firing warning, so the shots you heard could have been from there?

A Possible.

Q I heard you also gave evidence that if the soldiers had fired into the crowds many more would have been killed and we certainly accept that all the soldiers had to fire on the crowd of 4000 to 5000 people they would have been many deaths . But would you agree with me we are trying to look at the evidence we have, that depends very much on how many soldiers fired if they did and how many people were standing in front of them . It's completely depending on factor of circumstances.

A Yes I agree with you I am not saying these fellows were just standing there and so on. They were obviously moving , running and so on changing positions but which

every way you want to look at it, if the fire the soldiers had opened fire with aimed shots then the damage, the death, the injuries would have been a lot more.

Q So do you accept because we have to explore all options under terms of reference that there might have been some civilians who were killed accidentally by some soldiers who were firing in the air? Is that a possibility?

A Let me just say the orders were clear don't fire at the riotous, that was very clear.

Q I understand. What we are just trying to explore as the Commission is this, is that whether there is any possibility that some soldiers even if it's very few acted outside of the orders, made mistakes, you know soldiers around the world under war act according orders. There might be a small number but there is that possibility, is it something that you have looked up to, is it something we should look at.

A Well I cannot say don't look into it. I am sure the Commission has got all the powers. The mandate is there. You can go ahead and do the needful in order to come to the bottom of this but otherwise as far I am concerned the troops stuck to the orders except to that individual who went on to kneel.

Q It's very clear what orders they were given. What I just want to see is whether there is any possibility that something might have gone wrong even in a small aspect on the day and whether there is any information that you might be able to assist us with even now later.

A Right now I do not have. If going upwards we have got information we will bring it to the forum.

Q Just one important information I want you to explore which we mentioned earlier on was the National Union Federation in Jason Moyo if I have got the address right. We heard some evidence that there were shots apparently that went into the windows of their second and third floor and there is some video evidence as well which appears to be a soldier firing randomly into the air in that way. It's a matter to be investigated but I want to know whether that has been brought to your attention because there is a video . We have seen the damage.

A Yes I also listened to the fellow who was giving evidence this morning. It's possible but I want to say if they found a cartridge in one of the offices then it means there must be somebody who was firing from there because a cartridge would not find itself on a second or third floor of a building. It could only be that one was firing a gun at that floor or on that floor or that maybe somebody picked it and went out with it but why could one have done that? No soldiers went upon any buildings .

Q So it is an incident which you are aware of and this is one we are investigating and I take it from what you are saying and that you will also look into this after further evidence if it is there, that is what you are saying?

A Thank you.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q I want to understand this aspect of the issue of force which is one issue we are investigating and from the use of force which was used by the platoons on the ground ,I would understand to understand from your side the type of weapon that

the troops were carrying. Which troops, I am sorry which type of weapons they were carrying?

A They were carrying AK 47 rifles of various variants of the AK 47 and whips and buttons.

Q In the same vein of trying to understand the use of force by the troops on the ground, we heard you and the previous commander talked about the warning shots that were fired. Is there a summary of an ammunition of the number of the warning shots if it is possible that one can have that estimation on the number of warning shots. Visa vee I would want to understand the number of warning shots , if you made that submission , if you have it now you can present it . If you do not have its something that we would want to have to help us understand the aspect of use of force.

A I do not have that information right now but I can avail it to the Commission.

Q Please greatly we would appreciate. It would help us on that aspect .And the other aspect rating to our understanding to the use of force is to check if there are any reports of citizens that could have been affected by the warning shots that were fired medically . Just to enable us to understand on the aspects of the use of force?

A I do not have any information to that effect. Maybe the police would have it but you see when you fire warning shots you are supposed to do it such a manner that the rounds don't hit any structures around or they do not hit any person because they are supposed to be warning shots .

Q By medically I am not excluding harm not for the wounds , other medical issues that could have risen so I was trying to certain whether there was any such reports but from the reports we received in the morning from the two hospitals I should say there are all to do with the gunshots not with the other nature that I am looking at. We are just trying to pursue the issue of use force if any citizens were affected in any other way ?

A Other than the 6 fatalities and the 16 wounded or injured I am not aware of any others.

Q The other issues that I am failing to understand is we have received reports on witnesses on the possible occasion of where people could have died on the spot would you have any idea now about were the 6 people died in the CBD or its still part of the investigations?

A There is information from the police which I am sure you are aware of now as Commission that there was a body somewhere near the PSMAS . There was a lady who died close to somewhere along Kenneth Kaunda close to Kenneth Kaunda behind the police station . There was another body that was found along the Coppa Cabana area. Two bodies were dumped at Parirenyatwa and then there is an individual who was transferred to Parirenyatwa from Harare Hospital and later passed on .

Q My interest in asking these questions is to see without that doubt to mind that they could have been a concentration of people that died at one spot but I heard what you said . The other question is in the morning we heard from Harare Central Hospital about people that were treated there . There is on the list number

12 one Inoce Mutangadura who is said to have been admitted in ward 'A' having been fractured on the pelvis from a beating by a soldier in Glenview. Would you have any knowledge about this particular assault case?

A No I don't have but I suppose this could be one of the many allegations that were made after the first of August that people were being beaten even those who had fights over their own private issues decided to make this fight an issue for the Commission . So you see there were all these allegations that were made.

Q The last issue is to say that when we read your submissions the videos that we have provided, would you make yourself available if there are any questions that the Commission might feel that they want to ask ?

A I will be available.

Q Other issues arising from what you have just said is that we did get some cartridges, received some cartridge which we also looked at. Some investigations about the cartridges are being done. We recovered them in the morning and we are hoping that your office does not leave these place without them so that we are assured of investigation proceedings. Just also want to check if a ballistic expert has been sent, it should be yesterday when we visited the ZTCU offices. We indicated that there was need for an expert to go and make an assessment there. We are not sure whether that report you already have it.

A No I have not seen any report from the Commission or any request that will do something for the Commission other than being called here .

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I might want you to realise that in view of the evidence that has come from you and the former witness the real issue become quiet, if findings have to be concluded by the Commission as to who shot the 6 people and who shot at the other people that were injured which means that the finding would have, and from the evidence that you have given it would mean that if we were to find that for example that the military did, let's say we make that finding as matter of fact, it would really go a long way raising issues about the position that has been taken. Because what it means is that now the Commission has to adopt wherever in terms of reference who actually caused the shooting. Would you appreciate that? That will create serious issues for the military here I think from the evidence that has been given?

A Chair I hear what the Commissioner is saying but the Commission is empowered to investigate to the extent possible. If the Commission comes up and I am able to say yes it is the military then it is my credibility at stake and I hope you will also appreciate that and I would not be saying this if I knew that one of my men actually opened fire on these 6 or 16 people who were injured.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q If my recalling has been wrestling with one of the central perplexing issues that we have to deal with, there is no undeniable fact that 6 people were killed and they died of gunshots. You in your presentation said that in the area they were three possible groups, that may have guns. You talked about people who maybe wanting to protect their properties. You talked about the militants in the opposition party. You talked about hooligans who may have weapons. I might well understand that your suggestion is that some of these dived by gunshots may have come from any of these other groups?

A Yes indeed that is what I am suggesting.

Q That`s what you are suggesting?

A Indeed.

Q That is what the military is telling us because one of the military authority have been speaking the same he was saying he was so sure that no military shot anybody and you yourself just repeated that but you have added the existence of these possible groups that passed and so you are suggesting that the gunshots may have come from those groups that is what you are saying?

A Yes

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Can I again clarify notes to do with this? Just in my notes because I haven't read the documents, just to be sure that what you got yourself from the Minister of Defence was a letter. A letter by the Minister of Defence to the President and then there is no letter from the Minister of Defence to the Commander yourself?

A No I got a verbal instruction immediately after he had done the processes to say proceed with the deployment.

Q In other words what we have in writing is the letter of the Commissioner General of Police to the Minister of Home Affairs and the letter from the Minister of Home Affairs to the Minister of Defence and a letter from the Minister of Defence to the President but there is no letter from the President to the Minister of Defence at least in writing we do not have that from your evidence. And then we also do not have a letter from the Minister of Defence to the Commander of the Defence forces. These are not in writing in other words the deployment was done verbally?

A The request was formal but the order to deploy was done verbally.

Q Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much General Sibanda for availing yourself to the Commission as my colleagues indicated the difficulty that confronts this Commission is that the Principal Director of Pathologist confirmed that all the fatalities were caused by gunshots. They also confirmed that a number of those injuries, they were injured by gunshots and that the one person whose pelvic bone was fractured it was caused by the force of a rifle butt so that is the report that we received from the Principal Director of Pathologist in the Ministry so and of course we are aware that the investigations are in progress. They are work in progress and we have to wait for those investigations to be completed otherwise there will be a huge gap in understanding what actually happened so we hope that you will use your good office to ensure that the process of the investigations is giving the necessary help so that we can come to scientific understanding of what happened.

Thank you all. I don't expect him to give me an answer now. Thank you very much General you may step down.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q Thank you very much Chairman we have reached the end of our proceedings today and we adjourn.

Inquiry

P.M. Chigumba

SECRETARY TO THE COMMISSION: MRS MABHIZA

Morning Chair and Commissioners. At this point in time I will as the evidence leader, take us to the business of the day.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Good morning Honourable Chair and members of the Commission. We are ready to proceed with today's business and our first witness for the day is the ZEC chairperson, Justice Priscilla Chigumba. I have just distributed the statement by the next witness.

JUSTICE PRISCILLA MAKANYARA CHIGUMBA : SWORN STATEMENT

Q Correct you are the Chairperson of the Zimbabwe electoral Commission?

A Yes I am.

Q This is the organisation that was at the helm at the electoral process during the 2018 harmonised elections?

A Yes it is.

Q Would you please now tell this honourable Commission all the electoral processes that you went through and up to the events of the 1st of August 2018.

A Thank you. I just want to start off by giving little background as the Chairman and the Commissioners may not be aware. The Zimbabwe Electoral Commission is one of the Chapter 12 Commission which was set up in terms of the 2013 Constitution. It's independence is entrenched in the Constitution in terms of Section 238. It is guaranteed by section 235 of the same Constitution which provides basically that the Zimbabwe

Electoral Commission is not under the direction or control of anyone. Basically what that means is that in the discharge of its duties it has ultimate discretion. It is accountable to parliament and obviously accountable in terms of judicial oversight. The Commission comprises 9 members myself included who appointed after consultation with the Judicial Service Commission and the Parliamentary Commission on standing rules and orders. We are all appointed by the President from a list of 12 names compiled by the Parliamentary Committee after public interviews for the Commissioners. Our basic function is administrative and is to prepare, conduct and supervise elections to the office of the President, Parliament, Provincial and Metropolitan Councils, local, authorise and members of the National Chief's Council as well as presiding over all referendum. In fulfilling our mandate we are clearly guided by the provisions of the Electoral Act, an subsidiary legislation which lays out the process and procedure to be followed during an election. During the 2018 harmonised elections we set up a National Result Centre at Rainbow Towers Hotel where as always we set up a temporal base for purposes of coordinating the activities relating to the National Results from a central point and for the purposes of keeping the Zimbabwean electorate informed of all issues relating to the election and the election results. The results of the presidential election were coordinated, collated and announced as the National Results Centre, as the whole country is treated as one Constituency for purposes of announcing the results. The results of parliamentary and local Authority Elections were likewise coordinated, collated and announced at constituency and ward levels by positioning outside each polling station and furnish a copy of the results to agency and observers who would have been present during the counting. It is important to

note that the Parliamentary results were nearly published at the National Results for information to the public. In terms of our Electoral Act the results are posted outside the polling station and that is noticed to the whole world. So the reason why we actually the results centre is for information purposes to the public after having fulfilled our legal mandate to announce the results of each polling station by positing it outside polling station. The legal declaration is made by constituency elections officers and ward elections officers at the local level and this is provided for in terms of Section 66 of the Electoral Act so in other words as soon as the Constituency Election Officer announces that the results of an individual; Constituency and post the 23 form outside the polling station, those results are duly announced in terms of our law and we only announced them at the National Results Centre as I have said for information purposes.

The Electoral Act provides in Section 110 that a declaring on the presidential election is to be made by the Chairperson of the Commission or in his or her absence the deputy chairperson and in the absence of both by a Commissioner designated by the Chairperson. The Electoral Act is also clear in Section 110 that such declaration should be made not later than 5 days after polling. However in terms of the same Electoral Act, the Commission is actually at liberty to apply for an extension of that 5 day period for good cause shown so if there were anything untoward that would have prevented us from being able to announce the results within the stipulated 5 day period we could have applied for and got an extension period. In fact therefore the Commission had up to Saturday the 4th of August 2018 to announce the results of the Presidential election because our elections were held on 30 July. We were well within the statutory deadline and confines of the law. On the 1st of

August 2018 when the Commission was still in the process of verifying and collating the Presidential results for announcement to the public it learnt from the media, police details and various independent sources that there were disturbances in the Harare Central Business District. It also learnt that there were attempts by some demonstrators some of who were wearing apparel associated with the MDC Alliance and chanting slogans sympathetic to the MDC Alliance Presidential Candidate to violently force their way into to Rainbow towers Hotel Premises where the National Result Centre was located.

The Commission then started actively following the events as they were covered live by the South African Media House ENCA. The Commission learnt from the coverage that the demonstration had turned violent and that some property had been demanded by the demonstrators and it also turned out that one of our bill Boards was damaged by stoning at our head office you can actually quite clearly see the damage from the stoning.

The Commission also learnt from the same media that roads leading to the Hotel had been barricade and stones were thrown in the streets. It was further learnt that the disturbances had spread to fourth street bus terminus which resulted in the destruction of further property and that certain people had been killed following intervention by the army. The Commission was surprised and taken aback by such development given that all processes leading to the elections and the actual vote had been peace and that the publication of Constituency results for public information were progressing well in our view. The Commission also learnt from the source that the reason for the demonstration was the allegation that it was delaying announcing

the Presidential results and that through the alleged delay it was now manipulating the results or stealing the elections results from the MDC Alliance Presidential candidate. It also learnt from the sources that the demonstration were demanding that the Commission should announce the MDC Alliance Presidential Candidate as the winner. The Commission believe that such action was ill advised as it was only into the second day of the prescribed 5 day period prescribed by law that the demonstration was to force the Commission to announce the results of the Presidential Election was being undertaken as previous stated the election had taken place on 30 July and the last and 5th day in which we could legally announced the results had not been exceeded. We had up to the 4th of August and these demonstrations took place on the 1st of August. It is reiterated that the Commission was well within the statutory deadline and confines of the law to announce the Presidential results.

The shootings and killings of the 1st of August are regrettably and the Commission joins the nation in condemning other use of such force which led to the loss of life. It is the Commission's view that such action could have been avoided if the process of results collation and announcement had been allowed to take its course in accordance with law.

According to the Commission this action can only be attributed to the following things.

Firstly the deliberate disregard of the electoral law by some political parties. The country has a clear legal framework that governs the conduct of elections which provides when the results of the Presidential Election are to be announced.

However in this case, there was clear and deliberate flouting of the law by some parties and some political players who surprising are officers of the court who know the law by who deliberately misled their supporters for political mileage . The Commission often noted that the MDC Alliance leadership even before elections were held all the official result had declared their presidential candidate the winner and openly boasted that that they would announce the results of the election in defiance of provision of Section 66 'A' of Electoral Act which outlaws the purported announcement of elections result or declaration of a winner by any person other than electoral in support of this conclusion which we came as to the Commission I have taken the liberty to attach to my statement for your benefit Chairman and Commissioners copies verified statement made by members of the MDC Alliance and you find them therefore part of the official statement which I will tender.

Prior to the election the MDC Alliance had mobilised its supporters against the Commission which resulted in some its female Commissioners being sexual harassed. Some Commissioners being issued with death threats and derogatory remarks being made against my person in particular.

This conduct did not escape censor from the group of elders led by the late Kofi Anan. Bullying and disrespect shown to the Commission especially the female ones was roundly condemned by the group of elders . It pointed to polarisation and to an attitude of intolerance on the part of one political in particular . It was disrespectful and unacceptable in a democratic state like Zimbabwe. I have also taken the liberty to attach proof and evidence of all the testament that were made against the

Commissioners and myself in particular. The Commission observed that there was no attempt by observers to issue statements against such brazen acts that were clear threats to the independent of the Commission in exercising its Constitutional functions or the smooth conduct of the elections in general. The Commission communicated clearly through Press statements and by dialogue in its multi part liaison Committee the results transmissions procedure . We discharged our duty. We did voter education. Every single Zimbabwean was aware that we had up to 5days within which to announce the presidential elections results. This is a procedure which is set out in terms of the Electoral Act . The Commission is aware that some international observers were of the view that our results transmissions procedure falls short of international standards and the Commission position on that is that prior to the election the Electoral Act is actually amended we held multi part liaison committees were encouraged members of political parties to actual go to Parliament and change the Electoral Act and change whatever it is that they were not happy with.

The other issue and the problem is that the 2013 election has clearly not been brought into line with the electoral act. So there are in gaps in the law. So we were aware that there we were gaps in the law. All the political players were aware that there were gaps in the law however they had the chance to go and change in Parliament. They were unable to go and change the law in Parliament so it is our respectful as a Commission that is was unfair on the part of certain political players to place the blame on the shoulders of the Commission to say, ‘Why do we have a results transmission procedure that says our V11forms and V23 forms are physically transported from Gokwe Nembudziya , from Matebeland, from Mashonaland

Central in little trucks that we hire all the way up to the Command Centre .' They would have preferred a results transmission procedure that was electronic but that is not provided for in our Electoral Act and we were unable to at that point accede to their request having told them that they were at liberty to get the Electoral Act changed and then having failed we strongly feel as a Commission that it was unfair and disingenuous on their part actually to stung their cheek because they knew very well that the result transmission procedure was provided for in terms of the Electoral Act and that we being an administrative board ours was merely to follow the law and not to change it will nilly. We followed the letter of the law and it is our respectful view as the Commission that violent demonstration are not the correct procedure to get that results transmission procedure changed specially by a party , a political part which is dominated by lawyers who are officers of the court and who know the law and who no to get it amended .

Thank you chairman.

Q Thank you very much. I just have one question for clarification. Would the system that you were using would you have been to announce the Presidential Results earlier than you did?

A Oh no because as I have explained the V11 forms which come from each polling station p and the V23 forms which came from the Constituency centres they were physically transported from all the corners of Zimbabwe to the Command Centre and being a Zimbabwean yourself you know how long it takes you to drive from Bubi to Harare. How long it takes you to drive from Mutare to Harare . And so on and so forth. We were waiting for those forms because the

transmission procedure which is set out in terms of the law requires that we have the physical forms at hand for verification processes and for collation purposes we then had a team of people who were then uploading the results onto a computer . We collected the results and then we unannounced them. It wasn't just a question of forms being physically transmitted . It was also a questions of the data being uploaded on to computers and collation done inside the command centre so quite clearly that process can't take 48 hours that unrealistic.

A Thank you very much I will now hand you over to the Commission should they have any questions for clarification.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you Chairman of ZEC. I have a couple of questions for you to seek clarification. The first one is to say that we heard from the witness that come before the Commission about an attempt evade your offices on the 1st of August both the headquarters and the command Centre , but my questions is were there any other such attempts to evade your offices during the election period prior to 1st of August?

A Right there were 2 separate attempts prior to the 1st of August . The first one I must say it was not an attempt to evade our offices as such . We were notified that political party would want to handover invitation to us in relation to I believe at the time there some 10 or 17 demands that were being made to the electoral Commission about our administrative processes. On that 1st occasion in the spirit of inclusivity and in the spirit of transparency which actually had our deputy Chairperson receive members of the political party . He took them into our boardroom. They handed over their petition and discussions were held and after

that particular occasion the Commission actually then responded . Point by point to all the 17 demands and I think the basic underline thread of our response was look these demands that you are making are demands that you are making that we change procedures that are set down in terms of the law as you very well know we don't have law making powers and we can't change the law therefore we will stick to the stipulated procedure so after the initial demands they we were then, the second attempt we were not formally notified . We were informed or advised through social media that the political party concerned was again going to come and picket outside our offices and that they wanted to basically hand over to us the same demands that we had already responded to . So on the second occasion we took a stance as a Commission to say look this was now politicking there was nothing for discussion because the issue at had already been discussed . The positions p was clear . The law was clear and therefore we decided that we were not going to give audience . The political party concerned the MDC Alliance in particular being led by all of its top officials they picketed at our offices. They turned up at the ZEC offices . None of the Commissioners were present as I have said already we felt that there was nothing that we could assist them with . They were politicking and we were not going to participate in those sought of political games so we were absent . They picketed the ZEC offices and actually managed to force their way inside the offices . They got up to reception. I think there are videos on hand which have been handed over to the Commission . A lot of unprintable words were said I think on that particular occasion. Blown up pictures of myself as chairperson of ZEC were paraded around . I was burnt at the stake. There was an effigy. My picture was burnt and unprintable words were paraded about in my

name and on that particular occasion we were not there as a Commission so this is the run up to the actual election on the two occasions.

On the third occasion when the same party the MDC Alliance again through social media let to be known to us that it was their intention again to come and picket outside our offices. On that occasion we sought the assistance of the Zimbabwe Republic police and they availed police and vehicle and I believe for periods of almost 10 days prior to the actual election day we had the street outside directly outside the ZEC offices. It was guarded off by the police there was a heavy presence of riot police officers actually protecting our offices and it was I think prior to the intervention by the Zimbabwe Republic Police we were actually myself, and Commissioners unable to discharge our duties. We were actually not fit to come in and out of the Zimbabwe Election commission Offices until we received that police protection.

Q I thank you for that elaboration. The other point I need clarity on is that I understand there are different types of abuses or violations. I want to understand, would you categorise or classify the type of abuses you may have suffered as individuals within ZEC or ZEC as an institution as a result of the elections.

A Just to give a little bit of historical background I have been Chairperson of the Zimbabwe Electoral Commission since February of this year so I came on board a little late on the day. It was already election year and I understand prior to becoming Chairperson and even now this general sense that the average Zimbabwean doesn't trust the Zimbabwean Electoral Commission because of what has happened in the past and I am sure according to some because of what

has happened in the 2018 elections, the abuse that I would like to place before the Commission and to document really is an abuse by a particular political party not only on the Commission and the Commissioners but also of its supporters. It's not everyone who understands the law so I find it deplorable for lawyers, Officers of the court. Who know the law to deliberately have a rally and mislead an ordinary Zimbabwean walking the streets. Mislead then about what the law says. What does the law say about who should procure ballot paper. Does the law allow political parties to accompany ballot paper from wherever it has been printed to the provinces? The law does not. This is where I am particularly perturbed because we did hold engagements where we encouraged political parties to say look. Get the law changed or alternatively if you can't change the law why don't you build consensus. We have what are called multi party liaison committees where political parties would meet and we say look the law is clear but we can interpret the law in a way which incorporates everybody's concern provided you reach consent. There was no consensus. We would hold political multi party liaison committees you would find a politician jumping on to the table and say this meeting is not going to take place simply because I cannot abide Judge Chigumba's place. She should vacate this room otherwise this meeting is not going to take place. That happened twice. We had attended peace initiative by the National Peace and Reconciliation Commission that was disrupted as well on the basis that the political player involved took offence to my taking the podium and being given a 10 minutes slot to speak on behalf of the electoral Commission. He wasn't going to allow me to speak he didn't want to hear me speak so the abuse that I would like to be documented clearly it's the abuse of social media which was used and we were

unprepared because our country does not have sufficient laws to regulate social media so I will be the first to admit that as a Commission we were unprepared for the impact on social media on how what we were doing will be perceived by the average Zimbabwean. Now I am not going to deliver the point about sexual abuse or abuse of my person I think that has been well documented and I am not going to go into that but what I would like to particularly want to emphasise is to say as I have said at the end of the election period this political parties, those players who have been elected they are in Parliament. They should use this time in Parliament to actually change the law. If it is the will of the Zimbabwean that our law should incorporate such an international standard then only what it takes for parliament to enact the law and we simply administer the law. So would like that understood so that in 2023 this sought of thing, doesn't happened again.

Q My other related questions was going to be, was it a one day abuse or intervals or it was continuous. You have shed light but may be if you want to explain that categorically.

A The abuse was not one day infact the abuse is continuing. We are still, being verbally abused at political rallies. We are still being vilified despite the fact that the whole process went to the Highest Court in the land and that the highest Court in the land made its own findings so not only are we being abused as Commissioners even judges are being abused. The office of the Chief is being vilified by the same political party. The abuse is ongoing. It was relentless during the election periods and its ongoing.

Q The last question probably is do you feel that there were remedies then or even now in terms with dealing with the abuses that you have articulated .

A The remedies are there . The Electoral Act itself provides remedies . I will take a case a case in point and illustrate and example . The Electoral Act provides remedies for anybody who is aggrieved and I will take the issue of the postal vote as an example . The same political party went to disrupt the postal vote as it was taking place in Bulawayo . To cut a long story short there was litigation by that political part to the High Court in Mutare to say can you nullify the postal vote that was conducted by the Zimbabwe Electoral Commission because it was not conducted properly and that court in Mutare the High Court actually issues a written judgment in which it said that the Zimbabwean Electoral Commission conducted the postal vote in accordance with the law . It found nothing untoward . Not only did it find nothing untoward , it went further to say that , particular part involved had not placed sufficient evidence before the court on which the court could make a finding that the electoral process was not conducted properly despite the fact that there was an existing court order by the High Court saying that the postal vote had been conducted properly we were still being abused and are still being abused for not conducting the postal vote properly that t is one case in point .

I could illustrate another case in point with regards to the voter`s role . Similar there is a high court which is extend which exonerated us to say we conducted that in accordance with the law but despite that you still find on social ,media , you still

find the same political part misleading ,members of the public about what it is that the Zimbabwean Electoral Commission did or didn't do.

Q A follow up question. Do you feel that ZEC or any other institution can deal with stopping the abuses that you are giving account of?

A I feel that the Zimbabwean Electoral Commission being a purely electoral administrative board deals with election issues . Yes the abuses arose in an election environment but I feel that perhaps other intervention and other laws , other than the Electoral Act itself should actual be used. The Electoral Act does have remedies in it where and I am sure those of you who have been following the media, there are few individuals whom are being prosecuted for violating the electoral act. One of these things which I am documenting are electoral multi practises. All these parties that I have referred to or not referred to are actually signatories to a code of conduct that was signed by all electoral parties that say that they were not going do that . All political parties singed a code of conduct. They all signed a peace placed. But despite signing a peace the betrayal that is coming at us is shocking in my view.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Thank you very much madam chair for that persuasive presentation if I may so.

A Thank you.

Q I have two questions for you. First I assume that ZEC has a Public Relations or Public Communication Department. If that assumption is correct , how much effort was made by ZEC especially after the elders statement of 22nd July to sustain the

sensitization of the public to the requirement in terms of the appreciation of the public of the role of ZEC is in the elections . That is my first question.

- A Thank you for that question Mr Chairman. The Zimbabwe Electoral Commission indeed does have a Public Relation Department and in conjunction with our Public Relation Department we were doing road shows. We were doing weekly radio shows in all the vernacular languages in fact in all of the provinces in Matabeleland Province, Mashonaland Province some voter education was in shona, some was in Ndebele some was in other languages. We had scripts which are dramas which were designed actually to assist the average Zimbabwean to understand the law. We also had a programme which was called ZEC on Thursday where we would go on National Television every Thursday and talk about topical issue around elections . We had posted banners. We actually improved. We had a website where we would periodically put up all the information. So this results transmission procedure that I am talking about was actually put upon our website so it was actually surprising to us that people on social media are active on social media but they were not accessing our website or they were accessing our website but deliberately choosing to create conflict around something which was set down in terms of the law so on the run out to the election I actually then instituted something which I called the Chairperson's brief where every Monday I would issue a press statement and I would invite members of the Press to the boardroom at the Zimbabwean Electoral and put myself at their disposal . They could ask me anything that they wanted around elections in the hope that this would get them to write positively about elections . We had various interventions

which we took. Which actually scale up attempts to increase our voter education and we did it in all languages.

Q Thank you. My second questions relate to the future because part of our terms of reference is to be concerned with the future to advise on how the unacceptable behaviour of 1st of August could be avoided in the future and listening o to you, would you be willing as ZEC to give us some ideas emanating the lessons you learnt from this last election , some helpful ideas as to how the laws of the elections in this country could be changed or modified in order to avoid the repeat of the unacceptable experience of the 1st of August. Will you be willing to give us some suggestions in that respect?

A Commissioner it will be an honour to me to actually hand you over a report . We have been in the process of introspecting starting from grassroots , starting from outwards to our constituencies . We have I think a first draft actually of recommendations were we sat down as a Commission and we have discussed everything that happened around the elections . We are also incorporated some recommendations made by all the observers whether they were international Regional or Domestic observers and we are going to come up with a document which it will be an honour for me to actual place before you expect that for now its work in progress and I will give you a rough draft because it is our ultimate intention that those recommendations be placed before parliament in our report as I said we are an independent Commission but Parliament and the court have oversight so it will, be an honour I will avail such a copy expect I will apologies

in advance . Its work in progress but I will send our draft recommendations for considerations by the Commission.

Q Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Justice Chigumba I think just to follow up on what the chief has indicated our interest will be to look at possible recommendations. We appreciate that certain things have happened and that we may not be able to undo them. We are focusing on possible changes. Have you considered this questions relating to the tabulation of the Presidential results clearly as the law provides that maximum of whatever 5 days but we have received evidence from various witnesses who appeared before us that there were people who had been perhaps misinformed to think that a delay of 24 hours or even a delay of a few hours was a sufficient basis for the disturbances that occurred in other words the environment was and so they have been a debate or suggestion that one could recommend amendments to the announcement process and get a situation where once ZEC is satisfied at the constituency level with a sufficiently trained or senior person at the constituency level together with various agencies of political parties . If they sign on to a result perhaps at the V23 level then that result can actually be announced at the National Level on a Constituency to constituency basis as results are coming out , would you consider that as a sensible process which would then mean that Presidential results would not wait for all the results you can that start saying two consistencies have been received , this is the tally of the Presidential candidates so that you get the results coming in .Is that something that your Commission has considered or do

you have views or you were going to consider ?It has come to our attention that possibly we may need to look at that. We will be interested in your comment.

- A Exactly something that we are discussing as a Commission as you know as I said initially when I came before the Commission our duty as Commission even though when independent Commission is to administer laws that come from Parliament so I have actively encourage political parties in place and say go to Parliament and come up with a procedure which will satisfy everyone. If parliament comes up with a procedure makes it part of the law our duty is to merely and purely to uphold that law . It is only where it's a gray area and there is no stipulated procedure or the procedure that is there is not in line with the new Constitution because the law has not been aligned to the Constitution it then becomes a slippery slope and it gives out difficulties . Where the law is clear, the procedure is clearly set out. Whether it's an electronic result transmissions procedure that is going to be debated and note and agreed and accepted . Whatever ever message is agreed and accepted will be admitted by us very clearly we as a Commission that in our next election quite clearly that result transmission procedure which as i say is alleged to have triggered those demonstrations although I have my reservations on that, we clearly can't keep it on out books we have to change it and the question is change it to what ? We have recommendation s that we are going to make to parliament through our line Ministry which is the Ministry of Justice and to summarise we are perfectly willing to administer whatever results transmission procedure comes from the will of the Zimbabwean people . That is our duty.

Q So you would be then in agreement that there is one recommendations about results transmission . Some changes may need to be looked at ?

A I am in perfectly agreement to that.

Q Then the second thing that I need to follow up on is that from the document you have submitted and also I think from the evidence you have given and also I think from the evidence you have given and from my own knowledge of what was going on it would appear that there were certain things which ZEC saw which were not conducive to an environment that would provide peaceful election .Was ZEC powerless for example the things that you have put to us , they are things that show some perfectly not acceptable announcement ahead of the elections if I take the example of the August 1 in the morning announcement that a particular candidate had won the presidential election . We would be interested in knowing what really, what ZEC did about that because that was clearly an announcement made everyone heard that on the 31 of July or the 1st of August . We are aware of what you have said that there are criminal prosecutions taking place but here we are in a period where people are waiting for results .ZEC is at its Command Centre but the whole world knows that certain people have claimed victory and in particular way , would you say that well it was not possible for ZEC to do anything or ZEC did something I think we will be interested in that because allegations coming from some of the victims is that the inaction by ZEDC contributed to what happened and also you might need to clear the air on that.

Q Mr Madhuku I think I need clarification on your question . When you say was ZEC Powerless what exactly do you mean . You are aware and its matter of public

record that were recorded the matter to the policeman that individuals concerned apparently being prosecuted in the criminal courts. What other action were you thinking that ZEC could have done this and that ZEC didn't do. There is a code of conduct which political parties agreed to be bound by. There is a peace pledge but those don't have any sanctions for non compliance. What is that in your view you would have liked to see ZEC do in terms of any law and in terms of the moral code or the bible?

A I may know that Justice Chigumba its actually for the Commission. I wanted you to say that I would not say that. We want that information to be available at least from you because allegations coming from some witnesses, you see the evidence will then accuse ZEC of not having done anything because ZEC kept quiet when these announcements were made. It encouragement other people to say we have a candidate that have won the elections and then ZEC is not announcing that candidate so people were unhappy with that. So your answer is clear that you reported to the police.

Q Thank you very much we did take other interventions Mr Madhuku now that I understand your question better. We did issue press statements and condemn and we did advise members of the public that it was an offence it was a mal practise in terms of the Electoral Act. We did try and engage but as I said The Multi Part Liaison Committee which are the committees which are set up in terms of the electoral act were political players are brought to a round table with the Commission for the dialogue. Those were constantly disrupted until we had no choice but to abandon them and we come to the conclusion that there was no

intention on the part of those political parties to dialogue or to reach a consensus . Everybody was after political mirage no one was interested in talking or dialoguing now as you know you can lead a horse to water but you can't force it to drink so that particular intervention we found not so useful as the period in the nearing to the elections closer and closer to the elections . No one wanted to talk . No one wanted to listen. We had the electoral malpractice route which we have taken and people are being prosecuted as we speak and other than that my view will be it will take political will because political players pledged peace and there was no peace. Political players signed a code of conduct that say we are going to conduct ourselves as distinguished gentleman in the conduct of the election and they did not, so again in terms of our introspection we are coming up with recommendation to say in future, because what you are actually alluding to Commissioner Madhuku is that there was a perception that ZEC was a toothless bulldog. We are working on that and we do have recommendations around it.

Q I think that was a point I was making but then toothless we lost ...can actually create moral case . This is why we are here. If someone believes that ZEC ought to have prevented the death of my father or my son that is why we are raising the issue and I think your answer is clear enough.

A Thank Commissioner Madhuku.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you very much Justice for your clear answers it has been very insightful . I just have a few follow up question on what ,my fellow Commissioners have asked.

You mentioned that it was peaceful up until the 1st of August. We have many compelling evidence that there were a number of provocative statements made leading up to that period. Did you and the Commission expect any problems to arise of knowing about this statements or did it came as surprise when witnesses have said that is was a complete surprise . Id o not know the view that you share.

- A Thank you for that question Commissioner I can't say that for us as a Commission it came as a complete surprise because as I said in one of our interactions with all our attempts at dialogue with the political parties we were hitting a brick wall . I will give a case in point . We had some sticky issues around the questions of procurement of ballot paper and I was persuaded that in the interest of transparency and inclusivity we should not be too formalistic with regard to what the law provided that we can come up with interventions to try and reach consensus so this is what we did . We then invited political parties to say come and sit down with so and dialogue we after going to take you the place were the ballot paper is printed so that you can see it in progress because there was a lot of distrust around that issue . The main players or the persons responsible for the degeneration of the situation they never attended any of the law level meetings that we would held. We would hold meetings and we would agree that this is how we would go about it. We met at o'clock , we would go to the premises. They would wait until the intervention was in progress and then they would be a social media shall I say instigation or people would then be told on social in media. We are going to the place were ballot paper is going to be printed and then there would be an altercation at that place. All sought of allegations will made about why are you not allowing us to bring in our cell phones .All sought of silly and stupid things just to scoffer the

process. So we ended up just saying look we are just going to stick to the letter of the law because all the interventions that we have tried is clearly not working . So there were things that were happening between us and the political players which made us as the Commission apprehensive. And clearly some of the issue we were not sharing with member of the public because one can't hold a press conference every time something drops so for us it didn't come as surprise because as I am saying what led to certain individuals announcing results themselves . We actually had our Command Centre invaded by a political player who came in and said this is rubbish . Whatever ZEC is saying they are lying. They are stealing the election. In our own Command Centre we announced results. We took brief break during the break a political player actually went up to the podium and said , 'Hallo there Zimbabweans these people are talking rubbish.'

This actually happened so for we were apprehensive because we knew what was happening behind the scenes . We also had a representatives of that particular political party causing chaos as we were trying to collect the Presidential Election results to say, 'Well you can't announce results until we sign something that say we agree with the results .' There is no law that say that. The law says we should just invite that you so that you are present during our collation process. There was a lot of conflict happening behinds the scene in the command centre . For us that did not come as a surprise. We expected it . They told us enough times that if their own candidate did not win there was going to be chaos .

Q Thank you. That is very helpful because what we as a Commission are trying to get down is what did work . It sounds like whatever you tried was not going to

succeed . What do you think could work in the future given that you have highlighted this historic lack of trust . We can see from the evidence depolarisation . How is it possible to overcome these obstacles . It's a tall order for us as Commission to have to consider any help that we could get from those suggestions. That will be much appreciated.

- A For us purely as an electorate management board as I have said , we are in the process in introspecting and we are coming up with interventions . I have actually consulted . We have something that is called the SADC Electoral Commission Forum . We are trying to learn some lessons from our sister ENB's in the SADC region to say how do they deal with those conflict situations and we are trying to incorporate them and make them part of the recommendations that we are going to make to Parliament to say look in order to avoid such conflict in future this is what you need to do. I will just give a very simple example and during the time when we were having conflict around procurement of ballot paper, we would have a political party saying well, in Zambia in order to avoid conflict they sponsor members of the political parties to go to Dubai and stay in a hotel for 30days whilst the ballot paper is being procured and printed. So I had an occasion to talk to the current chairman of the Zambian Electoral Management Board and I said Chairperson can you tell me how it works . Was it a law? Did you have regulations around it. How did you chose who get to spent a month in Dubai at Tax payers expenses. And he said you said you know what judge we have since swept that because we found it wasn't working in Zambia but during the 2018 elections we had certain players saying we want to do what is done in Zambia . So what I am saying is we are trying to learn from our sister Commission. We are trying to learn

about how they are doing it so that we incorporate it and make recommendations to Parliament so that they comes of the part of the Electoral Act and hopeful misname conflicts around such issues.

Q Turning to the violence of the 1st of August itself you turned very strongly condemned the killings . You gave some causes . I noted them down . They were 3. The first one deliberate disregard for the elections law. Secondly that the MDC was mobilising the Commission in particular targeting women . Thirdly that there should be recommendations that violence should not be used to change the election laws it should operate through parliament. You didn't make any mention about the role of the army or the police . I just want to know whether what they did from what you know or saw complicated your role at all . Did it affect what you did on the day or thereafter.

A Thank you very much for that questions Commissioner. The Zimbabwe Republic Police is a vital part of our electoral management process . I think the Commissioner General of the police gave the numbers of police officers that were actually deployed to assist us during the election period I think we had 5 police officers at every polling station multiply that by 11000 polling station and you can get the level of commitment and deployment in terms of manpower that come to us from the Zimbabwe Republic Police . They assisted us to guard the polling stations. To guard the ballot papers. They were present on polling day. So we rely heavily on the Zimbabwe Republic Police and infact they also even assisted us to guard our premises particularly our head office when we were being overrun. We were picketed. We would call them and they would come . So in fact I find the

presence of the Zimbabwe Republic Police on the contrary actually quite confronting . With regards to the particular events of August the 1st as I said in my statement to the Commission . I was in the command Centre and then we only received reports about what was happening on the streets , so I didn't actual experience it firsthand I was watching it on television sitting inside the comfort of the Command Centre. What I know is that this country has laws around issues of riots and crowd control and that those laws, whether or not those laws were actually flouted or whether they were actually followed I think it's for this Commission to decide but speaking on my own behalf and speaking for myself having been subject to a siege by a rowdy mob I don't want to judge those who were on the ground in the situation and the actions that they took. What I find deplorable perhaps was the fact that in an ideal world perhaps live ammunition could have been used as a last resort but as I said I am not a soldier I am not a policeman I was not on the ground but speaking for myself having been under siege inside the building with a rowdy mob outside burning effigies of you and pictures of you that very frightening.

Q And you said you didn't actually look out and see the police or the army as well?

A I was inside because you understand the Command Centre is closed sought of . I actually went up to the 11th floor and by the o time I got to the 11th floor the side of the street where I could see. I saw a tanker actually moving quite slowly infact . I didn't see any shooting. I saw a tanker chasing people as they were chasing people along the street . It actually was moving slowly and people were running frantically by the side of the road and the tanker was moving along . They

were no soldiers outside the tanker I didn't see the soldiers inside the tanker .

And is aw that from the 11th floor about 10 minutes after the whole, incident started so I didn't see any shootings.

Q Did you hear any shots being fired at that time ?

A Not from the Command Centre where I was I didn't.

Q Thank you very much o for you answers.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Justice Chigumba thank you very much for your narration of events . M y question is on paragraph 14 your affidavit which you have submitted to the Commission .You are indicating that the publication of Constituency was progressing very well. We have got information I think we got from that from one witness in Bulawayo who was vehemently complaining about results from two Constituencies in Harare which had not been received yet those from as far as Muzarabani and Lupane had already been announced may you want to explain that for the benefit of the public and the Commission .

A Thank you very much for that question Commissioner Nyemba . What actually happens in terms of results transmission is that at 7pm doors are closed polling time is over. Each polling station has an obligation to count the votes cast in the ballot boxes but that is not the only thing that they do inside the collection centre . They are also looking at residue. As you know ballot papers are serialised isn't it. So they actually also verify the serial numbers because before polling starts every agent who is inside that polling station would have taken down

the serial numbers of all the ballot papers for accountability to say that we have 20 ballots serialised .1-20 . We had 15 votes , 2 spoiled ones and residue. You understand . So depending on whether or not those who were observing at that particular polling station are in agreement about the serial numbers , are in agreement the number of votes cast. Are in agreement about spoiled votes . Are in agreement about residue . Some polling stations actually take longer to compile their V11 and the procedure is then everyone who is inside the polling station during counting actually sign off on the V11 . By signing or pending signature to the V11 you are stating I agree with everything that has happened inside this polling station . I agree that there were 10 votes. I agree that there were 3 spoiled. I agree that they were 2 residues. You understand. I also agree with the serial numbers so the presiding officer has to give everyone inside that polling station even if they are 18 observers you have to give everyone inside that polling station a chance to verify the serial numbers. Now Harare being Harare ,Harare is the largest Province out of all our 10 electoral Provinces Harare is the largest Province . And Harare being the capital , Harare had the highest number of observers so there was much more conflict in Harare inside the polling stations. It wasn't just the question of , 'Well Harare is within walking distance of the Command Centre.' They were people inside the polling station who were querying every single ballot paper and exercising their right to verify the serial numbers so quite clearly the result for Harare Province actually most of the results for Harare Province came in last . It's bigger . It had more polling stations . It had more observers . It took longer to verify so you cannot compare of instance with Matabeleland North which probably had just a few polling stations those results

would have gotten to us much faster and what we wait for is to say we are going to here if there was any polling station where someone has declined to sign the V11 form on the basis that they don't agree with the results. We never got any such reports of anyone refusing to sign the V11 forms. They all agreed but the process takes time and we are required to give them sufficient time within which to verify.

A It was given to the Commission that when the MDC Alliance were marching they were talking about stealing of the vote. Is it then your evidence that your processes, the way you do your things at ZEC it would be possible to steal a vote or it is possible?

A I would say it is impossible to steal a vote. As I have said I have just gone into detail to explain the procedure to say that everyone who was observing we had international observers remember for the first time in quite a number of years. We had regional observers. We had domestic observers. We had our own staff inside the polling station. Not a single observer refused to sign the V11 forms on the basis that there was something untoward inside that polling station because the reports that we look for administratively is to say at a polling station in Chitungwiza Mrs Nyemba who was an observer said she wasn't happy with the count, she wasn't happy with the serial numbers, there was a ballot paper missing therefore she refused to sign on the V11. Everybody inside each and every polling station signed against the V11 form and this is the original evidence. V11 is evidence of what happened inside each polling station so as far as I am concerned no one exercised their right to challenge what had happened

inside polling stations . As far as I am concerned our administration of polling stations was perfect because they all signed.

Q Lastly in paragraph 13 of your statement the last sentence, ah the last says, let me read, ‘ It was further learnt that the disturbances had spread to fourth street bus terminus which resulted in the destruction of some property again belonging to ZANU PF and that a certain number of people had been killed following the intervention by the army. What was your understanding about the intervention of the Army and the killing of people . What is the relationship there?

A Your question is going to have to be more specific than that Commissioner at the risk going of unattended. What was my reaction ?Did I think that the army had done a good thing ? Did I think that they had followed their procedure. I think you have to be more specific so I can answer.

Q I think I want to find out from you .Do you think the army killed. Your sentence it leaves us wanting to find.... *interrupted* referring in particular Paragraph 13.

A Paragraph 13. “ Further the Commission also learnt from the media that roads leading to the Hotel had been barricaded.’ Your question is?

Q My question is the last sentence will leave somebody with a lot of speculations especially the last line . You were saying you had learnt that a number of people had been killed following the Intervention by the army . What kind of intervention. How is the intervention related to yet killing of the people?

A With all due rest Commissioner Nyemba , it says that I learnt this from the media so I can’t speculate as to whether or not the media was reporting

accurately. I did learn it from the media. I wasn't there. I didn't see so I am not quite sure you are asking me, are you asking me to say whether I think the media was reporting accurately?

Q No, what I want to ask, what I am asking you is what did you hear from the media. Did the media say the army killed?

A Yes the media said the army has killed people and that the army has shot people in the back. This is what was on the media. We all watching it on television.

Q Okay just needed that clarification.

A Thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Thank you very much Justice for your submissions. Can you briefly tell us about the security, about the arrangement that was put in place for transportation of the ballot boxes to ZEC headquarters. Thank you very for that question Commissioner. What we did in the 2018 Harmonised Elections is that we used the same transportation that is used by ZIMSEC to transport exam papers. These are armoured vehicles which are protected from hijacking and have security features. We used those vehicles. We contracted those vehicles. Treasury assisted us with the funds to actually transport. The condemnation around ballot papers was that political parties wanted to be allowed to escort ballot from fidelity where we were printing it all the provinces and they said they wanted to be allowed to do this because they didn't trust the Zimbabwean Electoral Commission they thought were going to fiddle with the ballot papers half way between Harare and Lupane. Now the

reason why we use those armoured vehicles is that you can actually , only open them as they are loaded and then open the at the exit point . So at no point, I can confidently say that at no point was such vehicle parked at the side of the road , opened , tampering because they can be only opened at the end of the journey. We assure them and we told them that the constitution gave us the exclusive mandate to transport the ballot paper and that we can't accede to their request that they be allowed to accompany the ballot paper also when we transport the ballot paper to the provinces we do so under the armed assistance of the Zimbabwe Republic Police . So there will be policeman there. Accompany the ballot papers.

A Thank you.

Q Do you have in possession as I would expect copies of the various observer groups reports ?

Do you think you have all the observers group reports on the elections .Do you have them at ZEC?

A I have all those that have been submitted so far. Yes Commissioner.

Q Would it be possible to make copies of those reports available to us?

A I will certainly do that and I will try and do that by close of business today.

Q Thank you very much.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you Judge Justice Chigumba. Your management of what happens within polling stations from your account it appears to be equal to the task of ensuring

that everything is done properly . My issue is there a ceiling of number of registered voters who are handled by each polling station or the numbers vary in accordance with density of population.

A Thank you very much for that question Honourable Chair. We actually threw the Ministry of justice succeeded in having the Electoral Act amended just before these election to incorporate an addition to the Act to allow us to give a cap and our cap was that we are not going to have more than 1 500 registered voters at each polling station for the simple reason that between the hours of 7 am and 7pm , practically we wanted to avoid long winding queues and what we did in practise is that we then managed to get the member in board at cap of 1500 but in practise what we then did is we created sub polling stations within each polling station and each sub polling station would have something like 700 voters so you would find at a single polling station you would have polling Station ‘A’ and Polling station ‘B’ and in each you would have voter’s roll for ‘A’ and ‘B’ and each would have 750 so that actually assisted greatly in terms of administration to cut long winding queues and actually get a lot more people to vote without waiting for too long in the queues .

Q My reasons for raising the question is informed by the experience of Sierra Leone the Nationally throwing a Commission kept the numbers very low for each polling station handling a maximum of 300 voters. Of course it might apply the numbers of polling centres to 22 0000 but each polling centre, a polling centre could be a school and so each classroom would be a polling station . And so at the polling centre they could have 11 polling stations each handling maximum 300

and it helping to introduce rock chain technology and if anyone queried results they will be specified that it was at such a polling centre and they would just go into a recount. You know everyone can therefore sign on the numbers because what each political could do its own tallying. Once the results are posted outside the polling station so I am just thinking that perhaps in future ZEC could consider this kind of system so that if anybody quires you actual say what? What about if we go and do a recount? And the re-count can be handled within a minimum time .

A That is a point which is well made and Chairman we appreciate it. Infact we may take that on board and make it part of our recommendations and I am really glad that this time around we have sufficient time between and 2013 to put some of these changes in place because I have just explained that the legislation for us to actually put a cap on polling stations came in a bit late . It actually resulted In some conflicts as well round it with some political parties peddling with the falsehood that we had created fake or bogus polling stations were we were alleged to be doing even more vote manipulation but this came about as a result of the fact the legislation came in to close to the election period when we trying to do voter education around educating people on were the polling stations were because our polling stations increased to approximately 11000 which was quite a large figure so we will take that in into consideration for the future election and thank you very Mr Chairman .

Q Thank you very much for you affidavit as well as your lucid explanation of the processes.

Inquiry

N. Katiyo

A Thank you Chairman. Thank you Commissioners.

NEVER KATIYO : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Q Honourable Chair and members of the Commission this witness is from the Ministry of Industry and Commerce but unfortunately we do not have a recorded statement of them.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (witness)

Q Mr Never Katiyo is it correct that you are employed by the Ministry of Industry and Commerce.

A Correct.

Q In what Capacity are you?

A I am employed as a Director Legal Services Ministry of Industry and Commerce or Legal Adviser to the Ministry.

Q What is the mandate of this Ministry?

A The mandate of the Ministry , first of all can I say Ministry of Industry and Commerce is a very key Economic Ministry in the economic history of this Country and its mandate is to promote trade both domestic and international and also to make sure our industry is resuscitated or promoted in this engagement of re-industrialization of Africa which is SADC Motto and the African Union Motto at the moment and protect or consumers as well in the process.

Q Who are your key stakeholders?

A Our key stakeholders are multi faced. We have the Confederation of Zimbabwe Industry which is CZI. We have the ZNCC which is Zimbabwe National Chamber of Commerce. We also have the Zimbabwe Retailers Association. We currently have the some which were also incorporated into our Ministry but they seem to be winned off to the Ministry of Women Affairs and we also have our International partners we deal with and SADC. We are also a member of SADC. We are also a member of COMESA WTO that is World Trade organisation and various other organisations and Multilateral and Bilateral levels.

Q It is now common cause that there were disturbances in the CBD on the 1st of August. Do you know anything about that?

A Indeed this become common cause to every Zimbabwean both the Nationally and those in the Diaspora Internal who witnessed this . Personally I cannot say I was an eye witness to this other than also seeing this arising from the social media and also watching from the televisions as I was hold up in my office busy trying to promote our duties as day to day and we did not anticipate this kind of unfortunate event.

Q In general as Ministry of industry and commerce what would you say on the impact of the Community . Impact of such disturbances?

A Following these disturbances as Industry and Commerce were very concerned and as you are aware Zimbabwe is in the process of re-engagement with the International Community . We suffered some isolation for quite some time and this

had, I mean retrospective in so far as our development is concerned. As result of these disturbances we did actually sit down with the stakeholders such as CZI ,ZNCC and Zimbabwe Retailers Association as much as we did not have indirect effect on our industry or the ZNCC but it really had an impact on the retailers whose business is mainly centred on within the (CBD)that is central Business district . We had major shops p such as KFC, Chicken inn, Chicken Slice, among others and OK which were actually vandalised and some decided to hold themselves to the good chicken which they found in the French fries which are found in those inlets and actually we had such occasion of actually eating that because initially we thought it was demonstration and a demonstration by its nature is constitutional in terms of our Constitution and when it escalated to those levels it become, to me ,it become public violence because there was now a real threat of loss of life and destruction of property which ultimately occurred.

The impact of this on the economy, businesses slowed down. Shops were closed. Consumers, traders could not trade. Some were injured in the process. If your shop was opened from what we gathered you will be put to task, you will be assaulted. Some left their motor vehicles unattended on the road they had inflict of those cars being destroyed and as you aware in terms of the law, if something is destroyed in a public violence or if it's this major that is God's Act you are bound to get compensation unless the insurance company is to kind to you that it may relax such rules and leaving your car unattended and seeing your car being burnt it was very unfortunate and also in the same vein we are in the process of re-engagement as I have said. Zimbabwe had actually add this tag, 'Zimbabwe is open for business.' The understanding was that Zimbabwe is now free and people could

come do business freely and as a result of the events of that particular day we heard some reservations from some stakeholders. I personally had the experienced because I am involved in most of these negotiations regarding the major deals we were clinging to in this country were stakeholders, I was in Turkey recently and China, we were being asked in view of what happened, what is the security of our investment if we are to put in Zimbabwe. Are we secure? Are we stable? Obviously those are difficulty questions to come by in view of such events so we as Zimbabweans it takes us as individuals, our integrity as individuals to ask ourselves possible where do we want to, from where it is right now. Where do we want to see Zimbabwe being next.

The President has put it we want middle income status by 2030. How is that achieved. How do get that milestone? Is it by throwing stones? Is it by burning shops? Is by killing each other? Is it by injuring each other? Certainly not? We need to realign ourselves. It starts with individuals like never Katiyo to see what economic impact will this have on the country because as a negotiator obviously you are faced with this task like some Chinese were asking me as early as Friday this week. Mr Katiyo you have been negotiating everything now we understand this, we actually were in your Country when this happened but we left your Country without notice. We could not even say goodbye to you because of such things. Then I said no, no my brother it was just an event of that particular day. You know please, please things are okay now. You see I am healthy. Nothing happened to me and so I assure you, your security is quite assured.' These are the kind of scenarios we get to encounter. Every investor would ask you this questions. It might be a once off event but the effects and I said in SADC is in the re-

industrialisation mould Zimbabwe is included but what we build in 10 years might be destroyed in 2 hours and it will take another 10 years to rebuild to reconstruct.

That will take tax payers money. It costs money.

We might have political differences but at the end let's refocus ourselves as Zimbabweans and get where we are supposed to get.

Q Do you have any recommendations that you would want to make to this Honourable Commission for its way forward?

A The recommendations obviously are that as we go forward having seen the ugly scene of that particular day, I think when we use our social media we should be responsible. I am not a person who wants to advocate for oppression. I mean freedom of press and whatever not but in other countries where we visit your WhatsApp will not work for some time, for unexplained reasons but when it works it doesn't download even a voice. It doesn't even download a picture. It's just for a message you type but it goes for another 5 hours without working. I do not know whether what is that supposed to mean but going forward and say let's be responsible in the way we transmit our messages because it is this social media where it starts. Everyone has become a journalist so to say. Whatever is created on a particular group is likely to have far-reaching effects especially I am a Director in the Industry and Commerce and whatever I say is likely to carry a lot of weight. I come from a background of being a prosecutor for a long time, a magistrate for a long time, 24 years experience in courts so what I have seen over the years and my experience as a trade lawyer having gone there, I now have a different perspective. I am sure if you are to go out there you see, your country

should always come first ,no neighbour , no friend will give you all what he has in his pocket . He can give you just a chunk to survive for two day so . The other days, the other five days of the week is for you to scout for yourself so if we are not careful we run into a risk of just being beggars. Which is not worth. So going forward lets be responsible . Let's have our integrity as Zimbabweans and also we recommended that is those who want to hold their demonstrations, we are a key Ministry , we are a key stakeholder , inform us so that we also inform our stakeholders so that they prepare for the consequences . Some were caught unaware. Their stores they don't have corrugated doors . They don't have the burglar bars and all those things . They are just glasses which were just broken into so we are saying going forward lets be responsible .Lets work to achieve one thing regardless of you being opposition , the ruling party whoever . We are Zimbabweans at the end of the day . Look at what other countries . They unite when it comes to the interest of their country. They might have their political differences fighting in parliament but when it comes to the issue of their soil, issues of their food, issue of their what , they are one . That is what we are supposed to do . We say we are the most educated people in Africa. That education should transmit to practicality and show by example that we are indeed an educated lot least we dig our own graves .

Q Would you have anything else that you would wish the Commission to know ?

A All I would want to say on behalf of the Ministry of industry and Commerce and Minister , the Secretariat and all the people we really appreciate the setting up of this Commission. We believe this is a very progressive development t in our country.

It has an international outlook with people of high integrity and we believe going forward this should really help. We mustn't pre-empt their findings. Let them do their work let them make their findings based on facts, evidence led before this Commission and come to a just conclusion which everyone should accept. Already if you look at the social media some are already starting to say whatever they are saying but they don't even know what the Commission's findings will be so to me and those of progressive minds I say let's behave maturely so that we give them their mandate as they were given by the President the His excellent of this country.

Q Finally do you have an estimate of the damage caused in the day in question or the impact rather on the economy?

A Not at the moment. We are still in the process of actually gathering those statics and once they available we are happy to handover to the authorities for the use but certainly we are doing something because it's far reaching you know. It's a value chain. It goes through the value one disturbance will lead to another disturbance in the value chain culminating to so many things and given our economic status at the moment, we need a lot of calculations lest we might mix it with current events so we are certainly working towards that. I am sorry we had not yet gathered at the time we came here.

Q Thank you very much I will now hand you over to the Commission. Should they have any questions p for clarification?

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Thank you very much Mr Never Katiyo. My question to you as a person in industry which is very important, I will ask this questions, how much damage was caused to the global image of Zimbabwe by the events of the 1st of August.

A Thank you very much for that question. The exact damage as I have said, you cannot really assess it in isolation. It really needs all stakeholders to come together but as I said my experience in Turkey and my experience in Zambia and another African countries which I visited after these events. After that we anticipate these questions to come and when you anticipate such a question to come you should have an answer. They say we need to know because putting a billion dollars into an investment it means a lot of money so if such things are to happen how am I assured of my security. I have also given them examples of other countries where scenarios do happen but investors still flock to those countries. So in view of that to say so much was damaged, you can't really tell but the perception as you negotiate and you hear from other stakeholders because we move as inter ministerial committees and at various stakeholders we negotiate with other countries so those key Ministries who are involved but from me to really say it was so much but I am happy they understood our position, they are coming back. And we are overwhelmed by these investors coming now so it's a good development. They coming we are negotiating, I believe we are going forward as long as we embrace this unity we are supposed to embrace. Thank you.

Q When you deal with the international community and you have got foreign partners. Was the 1st August 2018 post election violence attributable to foreign interference would you know?

A You know as I have elaborated in my evidence that you know this is about your integrity. If you are to get foreign influence to kill your mother . If you are to get foreign influence to beat your own mother or to destroy your own mother`s car or to do such things then certainly your integrity is questionable . As an individual whenever we get foreign influence , I can`t say really it was foreign influence , I do not have evidence to that effect but as much as our elections attracted a lot interest , both domestically and internationally everyone wanted to be in Zimbabwe watching all the media houses . I heard there were about 250 media houses something unprecedented . I have not heard of that in Africa ever since I become mature and for such hype some could have been subdued by the kind of attention . You known whenever you are face with media at times you are bound to overreact . Whenever you are faced with media at times we are about to lose our selfless in view of publicity and all those things but whether that publicity will be positive or to your country it`s another thing. I am not a politician . I believe I am just a neutral citizen who is there to work for Zimbabwe . I have Zimbabwe at heart . I wish everyone had . So it`s really about how we think as individuals . Even if these foreign influence . How do you assess ? If you are given an idea, is it not for you to sit down and assess that idea to see whether its workable or not? There is my teacher of law seated in front here. He would always this , ‘Have an idea of what you have been taught and think about the media before you put it into action . With or without foreign influence you should be an individual at the end of the day with integrity for your country have positive contribution . So the issue of foreign influence I don`t want to blame that . I want to

blame ourselves for what happened . We are accountable and we should reprimand ourselves and go ahead .

Q Thank you Mr Never Katiyo.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Mr Katiyo we are almost 3 months after the events . When do you think that your Ministry will be able to have a paper on the estimate, on the economic loss of that day and the projections I mean to say obviously on that day it wasn't just that day which was affected .The economy continues to be affected even to date. That economic modelling. When can we expect such a very important paper?

A Thank you very much Commissioner for the question . Let me assure the Honourable Commissioners through Mr Chair that this paper is being worked on and in the next two weeks it should be ready. Can I say by end of this month we will have that paper because we are in the process of working on that paper. It turned out that other issues also arose therefore we had to adjust our figures attributing to their particular categories as we go forward . But we are working on that .

Q Thank you . Let me hasten o to say that this paper is not just important for Commission but for the entire economy .The second issue is the issue of , you did mention retailers association and I am sure related could be other associations , business associations such as vendors association . Has any attempt been made to make account of the real losses . Yesterday we did here the boundaries of this violence particular in the CBD I am sure if I remember well the security ,

particularly the military divided them in Alphah , Bravoo and Charlie and our Chairman did ask for those boundaries to be drawn on paper . This means we have at least some boundaries related to that particular incident and I am looking at obviously the kombis that were affected . That is business. There are vendors affected .There are supermarkets . Counting their losses what are they costing them. Who helps them so that we can actually have real figures . I know that when you are looking at your bigger papers its beyond this issues that I am listing. But whoever association there that you have mentioned, have they made any attempt ?

- A Thank you Commissioner for the question. Certainly whenever such events which disturb the economy take place the various association we do invite them to our ,offices . We do have invite them to have some round table . Trying to analyse. Carryout a post mortem. This had happened. What has been the effect . What are our figures. Going further , how do we assist because some once they encounter such an event they are not able to rise again. That will be the end of them. So if we are to meet such people what it means, they will be destroyed completely in terms of the business and the income so we need to try to help and give them facilities so that they rise again . As you notice this does not only affect the loss of income on the part of vendors even these shops they pay tax. ZIMRA get into debts collections and all those things . So if business stops obviously everyone is affected including government . Including I mean all the Community so we need to sit down with all stakeholders p and see what exactly happened . That is what we always, do so we have done that . We targeted various associations so that we sit down and come up with the quantum of the damage involved and the losses as being asked the commissioners.

Q Thank you very much but I really think that it's a process that should have started given that , that has a cost, a business cost. Not in generalised terms but specific individuals , I think we had one individual who talked about the apples, the fruits that they had procured on that day amounting to thousands of dollars so we have that report but what will be the record of the next person and next person. I understand that , that is your future process but I am just highlighting that it is very important .

A Maybe I can just add to say that I so far especially those vendors and those who do business at very small scale such, those who sell fruits and whatever, we were in the process even before this incident as I say the Ministry of the wing of SME`s has been fused with the Ministry of Industry and Commerce when we become Ministry of Industry and Commerce an enterprise development .We were in the process of linking them with the Agro processing company such as Cairns and those tomato processing companies so that they don't just find themselves producing fruits which has no markets so we had target in that regard so those who had secured their fruits as you are saying as you put it we are in the processing of helping them and that process is still continuing and we had statistics of those who are involved in that business because we are trying to formalise . I mean a we are in the process of formalising this sector which is mostly informal; as you know most of our people in Zimbabwe are engaged in informal sector more than formal sector so government identified that area and started that process of formalisation of the informal sector so that they become registered and also be responsible citizens in the process . So we are actually dealing with them as individuals .

Q Thank you very much .

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you very much for encouraging perspective . I just wanted to ask in light of everything that you have said , I think it's common knowledge this is not even controversial that the alleged existence of the army have played a role in the perspective of those people internally and externally about what the future holds . What business opportunities there will be. I just wanted to know that that's a matter that you had to address directly and what your response are to that . Of course we have to address that matter but we have to know what you have done to counter those allegations which were set out there in respect of the armed forces , still the same . Nothing has changed. That is the allegations. So I just wanted to find out what you have encountered in that regard.

A Sorry Commissioner. The role of the army or?

Q The alleged existence of the army on the 1st August that has been very widely published . It was in the media today. Have you come across that people both internally and internationally asking about that and how to deal with that ?

A Thank you very much Commissioner. You know in my back ground of being a judicial officer I would want to make it as a matter of finding that the army used excessive force or whoever was involved. As I said I was not an eye witness to this and I want to believe we have a professional army. I would also want to believe we have a professional police force who in the circumstances of whatever magnitude of violence be it circumstances they should actually gauge the

amount of force to be used in order to repel the threat or paused by the demonstrators or by whoever is engaged depending on the force being used. It also put to the other side what kind forced to be used . And in this particular case I wouldn't want to say so and so fired shots . So and so didn't fire shots as is aid I was not a witness to this but whoever was there they saw what happened and I am sure you as Commissioners you are still gathering evidence . We have Witnesses to that effect. I am also here to give evidence on the aspect of the economic effect of it so at the end of the Commissioners you will make a finding only when you make a finding I will also be able to commend on that particular aspect and say so and so did so , so and so didn't do so.

Q I don't want you to speculate. At this stage you mentioned the riotous and the effect that they had but on the other side whether or not any people had raised any questions about the military and the use of force and how you dealt with that in business in international, trying to make sure that Zimbabwean is open for business as you said ?

A Certainly. Thank you Certainly as I have answered we have told them that we are still waiting for our Commissioners to come up with conclusions and unless or otherwise these conclusions are availed we cannot say our army did this. Our police did this or the civilian did this. Only after or I will prejudice your findings.

Q I still appreciate. Thanks for passing a ball back to us but what I am trying to found is that is there has anything you can assist with us what we can recommended to re-assure the international Community .

A You can always reassure them that we have a professional army. We have a professional police force. We have professional arms of government whatever was done wrongly either by whoever will be rectified and I am sure the course of justice will take its course but it all depends on you on what you bring out unless you bring out something it will remain speculation. I don't want to be part of the speculators. I just want to wait for the facts like a court judgment coming out with their findings. Given the evidence since we are expected to give evidence on our area of expertise or what you witnessed thereabout. Unless that happens Commissioner you can always assure them that we will always do our best to protect their investment.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q But what is the basis of describing the army and the police as professionally. Is not in your interest not to place these things in the light of what is happening now. We are investigating the loss of life. There is no debate I think the evidence coming it's clear that the army was involved in trying to deal with protesters. The police they were also involved and the outside world, our understanding of the issue is that there are also demonstrations outside of Zimbabwe and they would also be demonstrations in other countries but you don't find people losing life in the way that the August 1 events did. That is why there is this Commission. I think his concern is you should have some views on those kind of issues other than just rushing to say its professional. On what basis are you saying its professional when there is an investigation going on. There is an investigation on the basis that we have lost lives out of the activities of the army and we haven't

lost life in other countries. I think that is where I am coming from. Can you try and help.

- A Yes Commissioner I would want to say we have not really lost life in the other countries. I am sure in the television we have seen various demonstrations and some largely loss whether during or after elections we have seen this happening . In Africa, outside and to say the basis of me saying it's a professional I am sure my reading of the constitution guarantee professionalism on our army so my assumption is also that whoever get there should also be professional in line with Constitution in line with our laws . I wouldn't want to have an army which is not professional as an individual and I don't think we would want to have such an army because the Constitution on the roles of each arm of government . How they should conducted their business . Then on this particular case all am saying is that I wouldn't want to come to a conclusion as to who killed who . Who did what because such evidence I don't have to say that it will be speculative and it might be dangerous so all I am saying is saying unless or otherwise the Commission could Commission itself comes out with such a conclusion then all Zimbabweans and the world will then be made to know who did what based on the evidence . I was not in when other evidence was being read . Given what happened I was in my office as I said . And my view if you ask me I would say no-one was supposed to lose life . Its quite regrettably. No one is supposed to lose life . No-one is supposed to be injured. We should all be free as we do about our business but for me then to say this one did this when I don't have such evidence it will be unprofessional on my side.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Mr Katiyo the Commission led evidence from the senior personnel of the NRF the structure that was deployed on the 1st August. The riots and so forth and implies in their testimony was that business people own guns in order p to protect their properties and stopping traits and the question is will that assertion be confirmed by your own knowledge on consistency or the possession of these guns look at how to protect their property .

A Thank you Mr Chair for the question . This is exactly the danger I was trying to avoid to say the army did this or the place did because if individuals are allowed to carry guns either personal defence or defence of property our laws allow individuals to acquire fire arms for various reason some in cash on transit , personal protection. As a former magistrate I had my own gun maybe I still have so if I happen to have fired it and somebody says it's the army how would people know that ? So really it's about evidence led. Yes individuals do have guns from my own knowledge . Given our laws. Our laws allow that . So if other business people fired such fire arms on the day in questions I cannot tell whose bullet was fatal and which bullet caused the death on various individuals or injuries . So it's only a question when it comes to the conclusion of this inquiry that we all come to know whose gun or who did what then action will be taken .

Q Thank you very much Mr Katiyo there is no further question . You may step down sir.

A Thank you. I wish you well.

EVIDENCE LEADER MRS CHIMBARU

Honourable Chair and members of the Commission if we may continue with our hearing. I will call upon our next witness Edmore Runganga.

EDMORE MUCHINERUPI RUNGANGA : SWORN STATEMENT

EVIDENCE LEADER MRS CHIMBARU (To witness)

Q. Correct you are a dully attested member of the Zimbabwe Republic Police?

A. That is quite correct.

Q. And you hold the rank of Detective Chief Inspector?

A. That is quite correct.

Q. You confirm you are currently stationed with the law and order department?

A. That is correct.

Q. What position do you hold do you within the Law and Order Section?

A. Currently I am the acting officer commanding crime responsible of supervising investigations and I am leading the investigating team in this case.

Q. So it's correct that you are the head of the investigating team that is handling the August 1 event?

A. Correct.

Q. Did you receive any reports pertaining to these events of 1 August?

A. Correct we received reports.

Q. Can you tell this Commission the kind of reports that you received?

A. Through the Chair, we received a report of public violence in which six people had died, 8 motor vehicles were burnt at ZANU PF Harare provincial headquarters. Other 8 cars were damaged at ZANU PF National Headquarters. Other 15 vehicles of different people were damaged in town. Some shops were also damaged and a total of about 48 shops were vandalised during the process.

Q. What investigations have you made so far in relation to those reports that you received?

A. So far we have investigated the assault upon people who reported that they had been assaulted and we also investigated the malicious damage to the property involving various vehicles and shops that have been damaged and we are also investigating the incident in which six people died.

Q. Have you made any arrests so far?

A. That is quite correct. So far we have arrested 41 accused persons in connection with the violence and the damages to the shops and other property.

Q. Have the accused persons appeared before the courts or are you still in the process of investigating?

A. They have already appeared before the courts they are on remand awaiting trial. They were further remanded to 12 November. Initially they were remanded to 12 November and they are still pending trial.

Q. You have alluded to the six deaths. Are these as a result of your investigations or its from the information that is in the public domain?

A. No it is through our investigations and through the scenes that we attended. We established that they are six people who were killed on that day.

Q. Have you made any arrests pertaining in relation to the deaths?

A. Not yet we do not have arrests in relation to the six dead people.

Q. Have you so far managed to establish what could have caused the death of the six?

A. Not yet although we now have post mortem reports which indicate that the death was caused by projectile by firearms.

Q. Ordinarily where firearms are used they are remains such as cartridges, have you managed to recover any such remains?

A. No we never recovered any.

Q. Evidence have been led before this Commission to the effect that more than six people could have died during the skirmishes. What would be your comment to that?

A. No, on record and through the investigations that we have made so far we have established that six people died.

Q. As the police did you recover these bodies from the CBD?

A. As the police we recovered two bodies. One we recovered it from cnr Kenneth

Kaunda and Inez Terrace just close by the police. The deceased is Cynthia Maphosa that was a lady. The other dead body was of Garvin Dean Charles which was recovered at PSMAS along 4th street or Simon Muzenda. The other body which was in town was recovered by the relatives that are of Ishmael Kumire who took it to the hospital.

Q. This body of Ishmael Kumire where was it recovered do you know?

A. It was recovered from Coppa Cabana area by the relatives.

Q. I notice that when you refer to Garvin Dean Charles you had a middle name D?

A. Charles Dean Garvin.

Q. Because they appear to be some confusion yesterday when it appeared that on the list of the deceased that was presented by Chief Inspector Ncube they was a deceased who was referred to as Dean Bonus. Would you know this Dean Bonus?

A. From what I can see it might be an alias or another name that he was using outside but that is Dean Charles Garvin that he was refereeing to.

Q. Thank you for that clarification. Would you have knowledge of where the other people were shot the position in town,. The other three that you did not recover?

A. No. the exact position of shooting has not yet been established because we have no witnesses who have come forward to help us identify the place. Even up to now we are still appealing to anyone with knowledge of the exact place to come and show us.

Q. Some witnesses have testified before this Commission to the effect that after these

skirmishes they made reports to the police pertaining to the damages that had occurred at their offices but up to now police have not followed up on those reports. What would you say to that? In particular the ZCTU?

A. Now that you have particularised that of ZCTU, that one it was not reported to police.

We did not know about that report but we learnt of it through this Commission and we went to the scene yesterday to try and confirm what the scene was and we found no one at the offices. As I speak they are some officers who went again today to confirm the scene so that we reconstruct the scene and investigate it but all other cases that were reported investigations are in progress and we have record of those cases.

Q. How long after the skirmishes did the police start their investigations particularly those relating to the deaths of the six?

A. Investigations commence upon getting the report. Like those three that I said the police attended and took them to the hospital the investigations have already commenced by then. Those other ones which were ferried to the hospital by unidentified individuals or relatives we made follow up and we applied for a post mortem thereabout thereby commencing investigations there and there.

Q. Is it your evidence that up to present day you as the investigating team you have not yet received any cartridges from the CBD?

A. Yes from the CBD we only received those which were handed over by the ZCTU individual through this Commission. We received those ones.

Q. What have you done with those that you received through this Commission?

A. We have already signed for them and since I said we received them yesterday we are already involving our ballistic team to arrange and revisit that scene because they is no way we can conclude that those exhibits were recovered where. We need to take the ZCTU individuals to the scene then we reconstruct the scene. He shows us where he picked up the cartridges then the ballistic will also make their investigations to try and see the position of shoot, the distance where he is going to say he recovered those things. So they are a lot of technical issues that will be following very soon.

Q. Without prejudicing your investigations have you managed to establish how these six could have met their deaths?

A. So far our investigations are still in progress. We have not yet actually established how they met their deaths.

Q. Would you have any other information pertaining to your investigations that you would want the Commission to know? If so you may proceed to tell them?

A. Presently since our investigations are still in the process and we are heading somewhere I cannot divulge how we are going to do it from now because I am still working investigations and our investigations are on a track.

Q. You spoke of the 41 arrests that you made is that correct?

A. That is correct.

Q. Would you be able to say whether these people the 41 were demonstrators or were just people who were in town who committed offences?

A. They were demonstrators who committed crimes in the process of demonstration.

Q. Would you say they belong to any particular grouping?

A. That is quite correct. The majority belong to a political party for example there is Tendai Biti, we know him he is a political figure with a certain political party. They is Jim Kunaka we know he is connected to another political party. So I can conclude that they were from that political party which is MDC alliance.

Q. So these 41 include the arrest of Tendai Biti?

A. That is correct.

Q. Are you at liberty to disclose the charges he is facing?

A. He is facing the charges of public violence then he has also other charges which I think it's on public domain that he wanted to cross the border without formalities. But in this case I am talking about that public violent case.

Q. As the Law and Order section would you be the department that would arrest people for inciting violence?

A. That is correct.

Q. Evidence has been led before this Commission to the effect that they were people who were inciting violence the period before the elections and soon after. Did you make any arrest in that regard?

A. Not yet because we were investigating to try and have concrete evidence as to how they incited and once the investigations are complete they would be definitely charged

for incitement to commit public violence as defined in section 187 as read with section 36 and 37 of the Criminal Law Codification and Reform Act. We will definitely arrest them once we finish gathering our evidence.

Q. Thank you very much I will now hand you over to the Commission if they have any questions for clarification.

Honourable Chair and members of the Commission your witness.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Have you seen the post mortem reports on the six deaths?

A. That is correct.

Q. You have seen them?

A. Yes I saw them.

Q. Have you written any conclusions as to the cause of death as indicated on the final post mortem report and like I said they said it was as a result of projectiles by firearms. That is what is on the post mortem report.

Q. Have you been able to investigate the directions from which the projectiles came?

A. No. we investigated and our technical section they also investigate the issue of directions. Me I only witnessed the injuries and when we took the bodies to the post mortem for that report they concluded that it was result of fire arms which was used but on the issue of direction that one is a technical thing which needs our technical department.

Q. Presumably you were working concede with the technical side of the investigations so that in the end before you charge anybody if you are going to charge anybody you will have drawn some conclusions that taking into account of that?

A. That is correct but on record they have not yet given me their report I am sure they are still compiling their report to cover the issue of those directions that you are asking for.

Q. It wasn't quite clear to me your answer to the evidence leader's question about the nature of the victims whether you concluded they were all political activist or not?

A. On the victims we tried to solicited for information about their political affiliations but some of the people who are relatives who aggrieved because they are the ones who know the activities of their relatives but some we have not yet established that they are political affiliation but since it was on a day in which the town was flooded by demonstrators we presume they might have in part to the MDC family I should say.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Just confirm to me, when you said that you are investigating the death of these six people are you telling us that you have been investigating for the past three months?

A. That is correct.

Q. Does this investigation involve interviewing suspects?

A. That is correct but when investigating a case of this magnitude you need to gather

enough evidence in as far as the technical aspect is concerned. The ballistic reports, the post mortem reports, and in this case you know our post mortem they take time to release the final report so it took almost a month or so for us to get the final report so we are still in the line up to interview anyone who is brought as a suspect or he is mentioned as a suspect we will pick up and interview.

Q. But so far they are no suspects. Would that be correct to say that at the stage at which we are you do not have any suspects? We are not saying name them but just to be sure do we have suspects at the moment?

A. Initially even when we asked those MDC guys who had been arrested when you arrest such people you focus to have them as suspects as well. So we also interviewed them about the shooting and they had no idea but so far we don't have othr suspects to interview.

Q. Are you saying the MDC persons are suspects that they may have shot at these people?

A. No. I am saying when we arrested them in connection with the public violence that happened. We also interviewed about the shooting since they were running around the whole time.

Q. I am referring to the six deaths. Would you have suspects in respect of that?

A. No.

Q. You don't have any suspects?

A. Yes.

Q. What sort of crime is being investigated, do you name crimes or you simply investigate? You are investigating in respect of which offence or which possible offence?

A. Like I said we are investigating this case as a public violence case and in public violence case you will then identify the actions that are taken by certain individuals within that group, someone did this someone did that. But now that we also have the post mortem reports we can also investigate those cases as murder cases.

Q. You are saying you can also, I just want the factual situation? Are you investigating murder as at this stage or you are still considering whether or not to investigate a murder case?

A. Now that we have the post mortem reports we are treating it as murder case.

Q. Since when has it been treated as a murder case?

A. Since the moment we received the post mortem reports we conclude that there was the result of fire arm which was used so we are trying to identify who could have caused that fire arm. Who could have caused the deaths of these people? So we have translated those six cases into murder case considering the seriousness of the issue that death is involved.

Q. Is it possible for us to know when that happened when you really said you are now opening a murder case if that is the case?

A. What we did when the report was received and we ascertained that there were some injuries for the purpose of notifying the Magistrate as per the requirements of our laws

we opened sudden death docket and then we notified the Magistrate and luck enough our Provincial Magistrate on those copies he wrote continue with investigations. Since that time we started investigating them as murder cases.

Q. Are you familiar with the fact that the army was in the city on the day the 1st of August that we had military deployed in town?

A. Yes I learnt about it because I was not in the field but later on I learnt that the army had joined the police as per the requirements of our Constitution. But now that is done by the regulating authority who is in the uniformed department.

Q. Is this part of the investigation whether or not this people may have been shot members of the army or the police?

A. Yes its part of investigations.

Q. Do you have time limits for your investigations?

A. Yes we have time limits but that time limit can be extended depending on the flow of information and gathering of evidence you can extend you cannot give yourself a confined period you can extend.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you officer, you can obviously help us enormously so are you able to assist us with when you think your investigations will be complete, when will you have got to the bottom of the allegations in respect of the six deaths? But also they are a number of injuries as well, 23 we heard from the doctors some from gunshots wounds so

when do you think you will be able to have something that we might be able to look at?

A. At the moment I cannot give a definite date because the injured people like you have said on the number we have received about six medical reports so far then the other medical reports are still outstanding. On the investigations into these deaths I cannot give you a date because our investigations they are still in progress for sure.

Q. Is there any just an estimate that you are aiming for given the high profile nature of this?

A. Its difficult to estimate but we will try to speed up so that we give you something in three months or so.

Q. Even an approximation?

A. Three months or so.

Q. No one is holding at anything but just to have some idea would be helpful. Thanks for that. Can I just check one thing in terms of your investigation, when do say that you got the post mortem reports as the police?

A. Unfortunately I don't have the date here but it was almost two, three weeks ago.

Q. Okay because we got the reports here we have had them for some time and they were conducted on the 3rd of August or around there under police supervision with police stamps on dated early September and these are the final versions we have so did you not have them from then already,. The reason why I am asking this question is there has been some time that passed?

- A. The final one because what happened is we got the initial report which we discussed with doctors, they told us but on the final one it took us some time to receive them.
- Q. We understand we have the final ones here which are dated the beginning of August and stamped September there is a police stamp here 7th of September on this one for example. I don't believe that there are later ones unless there are. But when did you have this information that is my question about what happened as said out in the post mortem reports?
- A. Maybe I have to see them because they might have come to my office and I didn't notice on the dates or something. But we received them like I said and we are using them as part of our investigations.
- Q. And you have noted from it that they do say gunshots but they say from high velocity weapons?
- A. I didn't see that one. I remember they was written from projectiles by firearms. It unfortunate I don't have mine here.
- Q. I am not gonna be able to get time to go through the way with you but take it from me they do say high velocity weapons were used in each of the cases which from my knowledge but you can help us the expert is consistent with riffles is that not being used?
- A. Yes they indicated that it was projectiles from rifles they might have been used.
- Q. Are you making any efforts to investigate which riffles and where they may might have come from?

A. We are making effort to investigate but the challenge that we have is that no cartridges were picked up, not even a bullet head were found even in the bodies of the deceased.

Q. I just want to follow up because as I understand it you are the law enforcement agency, you were on the ground o the 1st of August maintaining law and order. You secure the area, your commander said he is in charge, on that time in that day and thereafter you dint find any cartridges anywhere in the whole area. Is that what your investigations has?

A. Yes that is true.

Q. No cartridges no damage buildings?

A. Damaged building like I heard now that the ZCTU they are saying their building was damaged and we also visited the place although we found no one we could see some windows that were shuttered.

Q. But what about damage from bullets which are obviously relevant for determining which bullets, which guns, which direction, have you found any of those?

A. Have you searched the CBD for those?

A. Yes we did we searched for the cartridges and those buildings that were shot but we couldn't confirm the buildings we never saw any that was corresponding to shooting.

Q. What about video footage we have seen lots of video footage. Have you gone through all of that to try and work out what happened?

A. The video footage there is one that I saw on social media but we do not know who authorised it, where they take that video but I saw one.

Q. As the police didn't you request video material from the day and examine it for its authenticity?

A. Like the video that I saw it was not clear that we can invite video experts to look at it. The one I saw.

Q The one we saw we have watched as few times as the Commissioners which comes from an international broadcaster. Have you have contacted them to get the original of that?

A. No. From the international reporters no.

Q. Once against his would help us because we are trying to get a much video and the original material of course it has to be examined for its authenticity but I was trying to find out if you have got that and you might be able provide it to us.

A. No we don't have that one but now that you have hinted us we may also try to do it the way you are assisting us. Thank you.

Q. There is this one other thing. You mentioned that the 41 people in custody the MDC people you asked them who they thought was responsible for the killings. You questioned them about that?

A. No. not who is responsible for killing but we said you were amongst the people who were running around in town. Did you see what happened? Did you witness what happened because we thought maybe those people who were injured they may be

affiliated to them so you know if your relative is injured or is killed you are definitely going to give evidence so we thought maybe it was going to highlight the actual perpetrators because they were going to do it in the favour of those who had decided to try and help the investigations on their interests because we thought maybe since they were running together they might be connected to those who died so we thought if you ask them they may know because they were running together. You know if I am running with my relative and he is shot definitely I will quickly go to the police and give evidence as it is so that is why we had decided to interview them.

Q. I think I can understand why you would ask them what they saw but you mentioned maybe I have done that wrong but they said they have no idea who was responsible for the killings. Is that what you have recorded in your investigations that they have said they have no idea?

A. They did not see what happened. They did not perceive the shooting.

Q. So they didn't see it, did they give you new ideas about who you should look into investigating?

A. No, like people who were running away from the police and the army we could hear some sentiments that they were linking the shooting to the police or to the army but not that they were definitely saying we witnessed this army or the police shooting.

Q. In terms of eye witnesses you said that you have got none that have come forward so far in all this time?

A. That is true.

Q. What steps have you taken to find eye witnesses?

A. We have started by asking the relatives, we have even appealed to the public even right now as I sit here if anyone has information we are still appealing for them to come forward and help us because no one has come forward to say I witnessed the shooting.

Q. What about the relatives of those who were deceased we have heard from many of them that said they have made reports or wanted to speak to the police, have you got statements from them?

A. Yes. We have because some of the attended the post mortem when it was done and those who recovered the identified bodies to the police they automatically gave statement and during the process of that the statements were recorded.

Q. This is obviously very important we need that evidence as well so are you taking steps now to find eye witnesses it obviously means corrective work but that could certainly be used by the Commission?

A. Yes we are still in the process of hunting for witnesses.

Q. One last thing, the ballistic expert did you have somebody who is looking at the ammunition used, damage if that person could give evidence I understand we are gonna get a ballistic expert but any further information could be very helpful?

A. Like the recovered cartridges that came through this office definitely they are going to be examined by our examiners. But these other incidences now the problem is the missing cartridges and the none availability of this bullet head. Our technical guys

they may also go and look at the places if they are places that were shot but so far we don't have.

Q. With your own officers did you or may arrive back on the 1st of August and ask them to account for what had happened, show you the ammunition, how much ammunition had been used. All of these questions on the day which obviously would be helpful to you and to us. Do you have any information like that?

A. No.

Q. Thank you for your answers.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q. Detective Chief Inspector, thank you very much for your submission. I wish to know who is or what office is responsible for the custody and maintenance of the National Fire Arms Registry?

A. It is the police, they have their own National Armoury for the police then the military I am not sure their system but I also understand they have their own system of keeping their firearms but with the police I know we have our own offices that we call the National Armoury for police.

Q. What about firearms which are possessed by individuals or private companies who maintains the register?

A. It is maintained at CID general headquarters. They have the firearms section that's

were the firearm are registered and the records are maintained there.

Q. Do you happen to know what kind of firearms individuals or private entities are allowed to posses?

A. In Zimbabwe these automatic rifles those 303, F and I4s MAG and others they are no longer registered for individuals. Individuals they posses small arms and shot guns. But these other ones those who had them prior to last year are in possession of those fire arms but now recently we are longer registering for individuals but before last year individuals they had them registered in their personal use. So several individuals they still have them and their licenses are being renewed but since last there is a law that those firearms are no longer bought by individuals although those who had them prior to last year they are allowed to posses them they renew their licences but no more know issues to individuals.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. In your experience as law and order people has there been any problem in CBD of people private individuals using firearms indiscriminately or in any manner has there been a problem in your experience?

A. Not problem as such but they are some incidences here and there where you could hear that an individual has shot somebody trying to protect himself and those incidences they do happen. I think you remember the recent one where somebody was shot near Karigamombe building. It was somebody who was trying to protect his vehicle so those incidences they occur.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I have two questions for you. One is a follow up. You have talked of the individuals who are still in possession of the weapons which you now don't consider as probably safe for them to have them, because you said that they can still keep them and they are renewing them. Do you think that it is serving a purpose?

A. It is serving a purpose because those who have them they are known they are not going to change hands. If the owner dies automatically that firearm is not going to change hands it is handed over to the State so they will be eliminated here and there but issuing new licences it was cancelled.

Q. Is there a possibility of abolishing such ownership at all?

A. I will find out from the firearms registry because I am not in that department but what I have narrated is just the basic that I know from the current experience that I have.

Q. I am asking this question in the spirit of maintaining peace. The second issue is about cartridges. I want to inform you that in the process of hearing our evidence there was a lady who came here who said she was a vendor cnr 1st street and Nelson Mandela when we were seeing CBD I think she also sell some bibles and she talked about I think a newspaper which also published her telling a story of being beaten but the gist of what I want you to know is that she said that when she was either going home or trying to run away she saw a man or woman I can't remember but a person who was holding many, many cartridges in their hands and this person said look, I have picked all these cartridges and I have them and the city is in danger, look I have them. So when cartridges cannot be recovered it occurs to me that the cartridges which were

either used on that day or used to instil fear it depends the purpose of why she was shown the cartridges. We had a witness who testified to that effect. I don't know if you want to respond to that but I thought you should know as the person who is leading investigations on what was happening in the CBD that there was such a testimony.

- A. Thank you very much I have taken note of it. I have noted it and I will try to find out the lady and get more information from her. Thank you very much for the assistance, for the information we will follow it up.

CHAIRMAN KGALEMA MOTLANTLE

- Q. You mentioned that two bodies were picked up. One of a lady and I am sure its Sylvia Maphosa.

- A. That is correct.

- Q. You said this lady was picked up along Kenneth Kaunda?

- A. Yes cnr Kenneth Kaunda and Inez Terrace.

- Q. Her sister testified as follows; she told the Commission that according to an eye witness and she said she could provide the Commission with details of the witness so they is a witness and eye witness. According to the sister to Mrs Maphosa Marian Chitomba a professional nurse by qualification. Her sister Sylvia was shot by a soldier as she was pleading actually with the soldier. So there is a possibility here, what I am saying is for you to get the eye witness in this matter of how Sylvia lost her life.

- A. Okay.

Q, You also mentioned Charles. This is Garvin Charles. Garvin's sister also testified and stated that again she said according to a lady witness the soldier shot at a lady and Garvin turned to ask why the soldier was doing so and that's how Garvin was shot by the same soldier in 4th street. This is the testimony of Garvin's sister and she said its according to an eye witness so once again there is a lead for you to find an eye witness.

A, Okay.

Q. We also heard testimony from a young gentleman who sells mobile phones at the cnr of Angwa and George Silundika and this young person was shot on his arm close to an elbow, he survived fortunately. He underwent through operations. He took us through this cnr of Angwa and George Silundika and showed us a palisade fence perimeter fence around the parking road and showed us where projectiles since were cheeped at one of the bars of the palisade fence and went through a guard house. There is a guard house there. It went through the guard house and there is another hole at that guard house. I am sharing this information with you so that you can send your investigators as well as the ballistic expert to go on to that area. He also said that there is a vehicle which was parked inside the parking lot which ended with a bullet hole in its windscreen. So again there is a witness who can give you leads that are useful in your investigations.

A. Yes Chair I have taken note of the witnesses that you have mentioned but it is unfortunate that those people they do not want to come to the police but they decided to divulge it to this Commission. But definitely we will follow it up. We are not going

to leave any stone unturned. Any information that comes to us we will definitely try to follow it up.

Q. In other words this information I have just alluded to the secretariat of the Commission can provide you with this information so that you have official correspondence from the Commission to go with that. That would also give the witnesses comfort.

A. Thank you.

Q. I want to thank you for coming forward and sharing with us your work in progress we hope you can add some speed because we are eager also to base our report and recommendations on the facts and your investigation is therefore very critical for the work of the Commission.

WITNESS EXCUSED.

EVIDENCE LEADER MRS CHIMBARU

Honourable Chair and members of the Commission our next witness was supposed to be the ballistic expert but I am advised that she is unable to make it today because of the information that we relayed to her yesterday after following our visit to the ZCTU offices. So they are still verifying that. However we have another witness who was on yesterday's list who I have indicated as Gabriel Chaibva and I had indicated him as someone who will be coming from the Zimbabwe Human Rights Commission. He came yesterday but he is now here to testify with the permission of the Commission. If I may call him.

Inquiry

G. Chaibva

PERMANENT SECRETARY MRS MABHIZA

Chairman and Commissioners the next witness has the statement that I have just circulated.

EVIDENCE LEADER MRS CHIMBARU (To witness)

GABRIEL CHAIBVA : SWORN STATEMENT

Q. Mr Chaibva is it correct that you are the Executive Director of an organisation known as Free and Fair Foundation?

A. That is correct.

Q. And you have just handed over your statement to the members of the Commission would you please summarise the contents of your statement for the Commission and tell them that which you feel is relevant for them to know.

A. Thank you Mr Chairman. I must start by saying just a few of words about my statement. I was not aware of what exactly is to constitute a statement and when I was invited to come here I was of the view and opinion that I will expound and expatiate on certain elements that are contained in that statement. It's not entirely exhaustive so that was my view so I had separately made notes to expound on that statement that I have given to you.

CHAIRMAN KGALEMA MOTLANTLE

That's fair enough Sir.

EVIDENCE LEADER MRS CHIMBARU (To witness)

Q. Proceed?

A. Let me start by saying firstly and foremost I aggrieve with the families of the six people who were unfortunately caught up in the mayhem on the 1st of August and my condolences go to their families and also this Commission is in agreement that there were shots which were fired and ostensibly from the military. Those are two fundamental issues that are very clear to everybody else.

Chairperson I felt though my introduction to the statement that you have I have indicated who we are. We are the Free and Fair foundation a non-governmental organisation that has particular interest in electoral matters. Generally matters of democracy, freedom, human rights. We are interested in those things and through processes of training and education we try to concertize our people about what exactly constitute their rights. Whilst we appreciate the financial support from certain of our donors we take no prisoners in that we remain independent and we try as much as we can to be very truthful, to be fair in our assessment to be as objective as we can in the context in the manner we analyse issues. I felt that I need to give a detailed background of who am I, where I am coming from because immediately after making my statement I know they will be a lot of questions, a lot of criticisms some of which you will hear in the newspapers and so forth and so on. So I feel you better hear it from the horse's mouth. Who am I?

My name is of course Gabriel Chaibva and this historical background is very important to give you an insight of the matters that I will be revealing in this

Commission. Let me say I am a former member of the MDC. As a former member of the MDC I was able to rise through the ranks of the party eventually becoming a member of parliament. Subsequently appointed a child Minister by Mr Tsvangirai. I also had the privilege to become the parliamentary administrator of the parliamentary cocas. I was the one who was responsible for coordinating activities between the opposition and the government in respect of parliamentary business in the house and on several occasions I had an opportunity to also act as a Chief Whip.

The MDC was founded on the basis of what they call a social democrat. I have never been able to find out what exactly that means but I think it has something to do with people of poor working class. It was sort of socialistic Marxist Leninist something like that. That was what the party was and more importantly which is what attracted me basically to the party was their police on the land. And let me also take opportunity your Excellence to say it was the land policy that really catapulted MDC to the political matter in Zimbabwe and that what altered some of us to join it.

When the party pronounced itself on the land issue it was quickly hijacked. Politicians with experience especially the white element of our citizens they knew that the land issue was central to the politics of this country so they quickly hijacked that party.

The white commercial farmers started pouring millions and thousands of dollars into the MDC coffers and the financial inflow started coming from the United States, from the UK, from the EU, from the western governments supporting the MDC. But there is no such thing like freelance. There was a conditionally to that. If the MDC was going to be willing to torn done on their rhetoric about the land then in exchange they will receive this massive financial inflows in support of their political activities. And

indeed the MDC toned down their language. They started criticising the land reform programme yet they were, let me put it on record maybe for the first time. It was the MSDC that instigated the fast track land reform program in this country. So what did it use to stand for? They were social democrats, they would say we are non-violent, we are peaceful party seeking to go into government through peaceful means, anything that appears nice and good to the diplomatic world is said by the MDC, and let be pre-emptive to say that is far from the truth. Those are nice words being said but they are far from the truth.

This rhetoric about being peaceful, non-violent if ever you had listened to the leaders of the MDC that is the first thing that would start saying, we are a peaceful party, we a democratic party, we are committed to peaceful means, that's what they say but that's not what they do which is what I intend to expose so that it will lead us to the events of the 1st of August. They were intra party violence within the party dating back from the year 2000 a year after it had been formed and 2002 towards the presidential elections 2002, 2005 some of the incidences involved what is called the Adelaide Acres fracas when the party was holding a provincial congress and one gentleman who eventually became the vice president to the MDC-N led by Professor Ncube now, even Mushoriwa, missed death by a whisker in the 2001 fracas. That's the MDC for you.

In 2005 the party eventually splits and quite notably at the split the late Ambassador Toddy Stevenson may her soul rest in peace. She was matched by the MDC and I am happy that your Commission Chairman consist of Zimbabweans who are familiar with issues I am raising here and they will be maybe in a position to further expatiate

and give clarity on where I may omitted. Of course myself became also a target and many permissions on inquiry committees were conducted by the MDC and none of them were made public. Very notably one gentleman by the name Peter Guhu missed death when a group of MDC youths held him on the 8th floor of the MDC headquarters and tried to throw him across the window and miraculously he survived. He didn't fall he was able to hold back. That's the MDC for you.

They is witness to all these things I am talking about none other than David Coltat the renowned legal practitioner from Bulawayo who was the founding secretary for legal affairs for the MDC. He wrote extensively about the intra party political violence that was taking place within the MDC and eventually when the splits came he did not go with the faction that was led by Mr Tsvangirai. He went with the smaller faction which was to be led ultimately by Professor Mutambara of the MDC which came to be known as the MDC N.

Maybe at this stage Mr Chairman let me say I need to be clear on terminology or knowledge clutter rather. When I am reefing to the MDC now let's be cognisant of the fact that there are many MDCs and I think it will be unfair to appear to be bundling all of them into this whole thing. The MDC eventually splits to MDC T. Which is currently led by Dr Thokozana Khupe. The other faction of the MDC T moved to become the MDC alliance. I just want to make clarity here and exonerate all other MDCs and let me seek your indulgence to say when I referee to the MDC I am referring to from a henceforth the MDC alliance which was the main political contender in the last elections.

During the period of 2002 the MDC unknown to some of us, we used to hear about it. Unknown to some of us we were not aware that a group of youths were being formed into what they called democratic resistance committees, DRCs. The first time I got to know about that this is when a group of youths came to me. I was a member of parliament. They came to me looking for financial recourses to travel somewhere. So I said to them you need to travel somewhere, where and they said no we want some money, some bus fare, some food, we want to go somewhere they never explained so I said well, no explanation, nothing that will come your way until one of the youths came to me and said look here we have been recruited to become part of this MDC DRC. And I said what is it? He said ah, don't you know that a group of youths are being trained militarily. To be honest he said we are being trained and for me that means military training. Subsequently in the newspapers it was awash with white commercial farmers making available their pieces of land at the famers through the MDC youths and this training program was led by Roy Benet and this Toppa Whitehead they are the one who were leading in this camp of training.

In 2004 after the loss of the elections in 2002, in 2004 at about June I think, they organised what they called the finally push. The final push was, I must mention this because I have mentioned about the funding of the MDC, the financial support, financial resources that they were receiving from America, from Europe, from the British government and of course let me say you know how the British government and the Americans operate. It's not like American government will give money directly to the MDC. They have got a various multiplicity of these trusts including the George Sorrows and so forth from which monies are channelled and these monies will come through some none governmental organisations in this country and the money

eventually will come to the coffers of the MDC or to be allocated specifically for a particular project. They organised this final push to say we want to carry out massive demonstrations to overthrow the government. Of course the final push became nothing other than just a pair of shadow of what they thought it could be. It is that period that the DRCs were put into action. They burning of the National Railways of Zimbabwe in Kadoma, there were explosives used, and there were guns used. Several ZUPCO buses, you know ZUPCO is company that operates a State owned company, several of the buses were burnt in Budiriro, in Chitungwiza, in the city centre during that time period and some of us we then started having so many questions about what exactly could have become the objective of the political organisation. But despite all this the party continued to receive unfleeting support from the American government, from the British government, from the European government. They have never seized to make available huge sums of money. Despite the fact that the Americans and their British counterparts will say they are giving assistance in support to the people of Zimbabwe's transiting to democracy its fake that's not correct. They actually seek an overthrow if not in an electro process an overthrow of the government of Zimbabwe. No matter who, what we now know from the transition to the second republic and led on a single occasion and they raise fingers about the violent nature and the disposition of this MDC. The hope was that it will led to some kind of an Arab spring like what happened in Tunisia and like what happened in so of these country so whist publicly the MDC will talk about none violence, peaceful commitment to democratic process to election the truth is they will do the exact opposite of what they preach. In order to assist and to abate the collapse of the government of Zimbabwe I have said these ten

years ago and I will repeat this publicly again before you your excellence Chair person. I said it 10 years ago if not 12 years ago.

At the instigation of the MDC the Americans adopted what is now popular known as the Zimbabwe Democracy and Economic Recovery Act. Let me put it on record, the other time I spoke about it I just said it was the MDC. The draft document was crafted by David Coltart, edited by Tendai Biti, then propagated by the likes of Yvonne Mahlunge, Eddy Cross, Clive Puzzy and many others of the MDC. Tendai Biti today is a senior principle in the MDC alliance. David Coltart he despite all the violence that has taken place within the MDC and being a white man by the way one would have expected like he has always claimed that he is respect to democratic infill to democratic values it would have excepted for him to completely and totally dissociate himself with anything to do with the MDC alliance but now he is a very funny fanatical supporter of Nelson Chamisa despite the violence manner in which he acquire power and that's David Coltart for you. Why would you compromise what we perceived and we saw as your fundamental principles and tenants which bled, why are you compromising them. Because you have an agenda and you are serving particular interests of setting forces of the exterior.

Of course I must say that just in passing to say not all of us in the MDC supported the crafting of ZIDERA and its propagation. They was people like, the other are dead I will mention the one who is alive my good brother Munyaradzi Gwisai. He was very vociferously committed against it and he said and I wish to quote, "where on earth is the imposition of economic sanctions being in the interest of the working class". So they were a couple of us who were opposed to that.

We came to the 2008 inclusive which resulted in the hung parliament. We eventually constituted the government of National Unity and maybe at this stage Mr Chairperson you may be asking where am I? I am still in the MDC I have told you about that founding. You are asking at this stage where am I? In 2008 I was still associating with MDC and it was also the time period that I ended my association with the MDC. What happened? We had a meeting a national executive meeting at the place called Pandari some 2 ½ km from here or maybe more 4km. What do we do after the hung parliament, after the elections what do we do. I looked at my fans they were contributing and I discovered that none of them had a good answer. I said wait, wait. I gave them an example of Malawi. Dr Bakili Muluzi when he won the presidential election and he lost parliamentary majority what did he do. He approached the opposition and said Jakucha Chihara can you be part of the inclusive government so that with your 12 seats we can be able to run government. I will make you a senior minister and he eventually became a deputy president I think. So I gave them that example I said look when a government doesn't have a majority in parliament you can't run the State so let's take advantage and leverage our 47.8 % which Mr Tsvangirai had obtained against former president Mugabe at 43.5% I think. Let's leverage that and avoid the runoff. When we avoid the runoff we will be in a better position to then manipulate our way in the government. It is me. I am not trying to give self praise to myself but that was me and obviously at that time period no one would want to hear about working together with ZANU PF. I said this is what is confronting you, you have no option, you don't have the presidency and neither can you be able to run the government even if you have the majority in parliament. You can't adopt a policy of

scotched earth policy, you can't. So we debated that and nobody listened to me including Mr Chamisa he was there.

I left and I went home dejected then I received a phone call from then secretary general Welshman Ncube a principle in the MDC alliance to say come to my house. I went to his house some 1½ km from here and said explain what you were talking about. I explained to him the principle and he bought the idea. Sold it to Mutambara, sold it to the late Gibson Sibanda who was the vice president and it appeared to have gained traction within that faction of the MDC. So I said what we do. How do we start putting this into action? I said there is no problem, how do we take across to ZANU PF. They tasked me to approach the honourable Chinamasa who was then the secretary for legal affairs of ZANU PF and a chief negotiator and the honourable Nicola Goche. I said go and approach them and start talking to them about how we can start making things move amongst ourselves because I was always against this idea of inviting foreigners to come and try to resolve our issues here. I remember your excellence the Chairperson you once came in 2002 I think in a very brief steady and you went back home very quickly when nothing was moving.

I approached honourable Chinamasa over a phone call and said can you show us something that indicates that you guys are committed. The first thing you need to do is you must attend the inauguration of President Mugabe it was I think of the 28th of June. I went there myself and Mushoriwa were tasked buy professor Ncube to attend the inauguration of the President on the 29th of June 2008. I was then the secretary for information and publicity. So I went there honourable Chinamasa was happy. We spoke this is where we are, he was excited. As I was speaking to him I received a

phone call it was professor Welshman Ncube on the line, “Gabriel you must quickly leave that place, you have no business in dealing with ZANU PF, you must not say anything to the press”. But already I had said to the ministers Chinamasa and Goche I can’t retract, I can’t leave so I ignored him. Then the inauguration happened the members of the press came and this is my statement to the press, “where we are right now there is no doubt in our mind that Robert Mugabe has now being inaugurated as the head of State in government and the Commander in Chief of the Zimbabwe Defence Forces. The title for some Zimbabweans who didn’t know that’s when it originated. As I walked out of State house I received on my phone messages, “you are fired from the party”. That’s how my relation with the MDC was ended. But I said no, it’s unfair I haven’t gone through the process. I have talked about the need for a government of national that’s when I started going public with the public broadcaster to tell that we need a government of national unit. There is no way out. Mr Tsvangirai left.

Fast forward Chair, the government of national unit was then tasked with primary responsibility to craft a new democratic people driven constitution. It was then tasked with engaging an electro reforms, extensive electro reforms which obviously resulted in the establishment of the Zimbabwe Election Commission as a truly independent body that fully is in control of our electro process and in addition to that the broadcasting services which were considered to be restrictive of the free flow of information was to be extensively amended and similarly such other legislations like the Public Order and the Security Act and the access to information and protection of privacy were to be under the government in the belief that the 2013 elections will be considered free, fair, credible and undisputable. The elections in 2003 were free, fair and they were disputed. The MDC went to court, Constitutional Court and before the

end of day they tried to withdraw their court application when they discovered they didn't have any shrewd of evidence about rigging and the use of State resources, anything that could be used to discredit the government, why.

The elections were conducted when you were government. This is some of us now as political analysts. Why are you disputing things which were under your laws? In the normal Mr Tsvangirai had expressed tremendous hope announcing to the people of Zimbabwe appearing on BBC and on CNN to say the elections were free and fair and the huge turnout of the Zimbabweans means that we are now heading for change. Then when the first ballot was counted then he changed his mind at around 9 o'clock to denounce the entirety of the electoral process. Why? You may be asking, scratching heads, the forces of exterior, and the master is now what has become the driving force of the MDC, the agenda of the European Union; the agenda of the American government are not separable. The kith and kin white commercial farmer who were dispossessed of their land here as we speak right now 20 years after our historic land reform program there is still an entertainment of the notion that that land reform can be reversed. I put it on record. And this is why despite the furious and fellows relations the Americans, the European Union, the British government denounced them as a justification of the continued imposition of the diabolic economic sanctions. They must be annotated there but I have heard lawyer say *rastude esdentee* to me it means something like the reason behind the action. They must find a reason behind the action. So the reason behind the action for now the Americans will say or now are listening to the people of Zimbabwe what are they saying. The people of Zimbabwe are saying elections were not free and fair so therefore they are not credible and that is the reason why we have maintained the diabolic economic sanctions in support of the

struggling people of Zimbabwe in their quest for freedom and democracy because there is no democracy. That's their reasoning. In exchange of that huge financial inflows are pumped into the coffers of the MDC.

Mr Chairperson I am not talking about things I have heard, I am not talking about things that is hearsay. I haven't opened my whatsapp page or my twitter or my face book or my instagram, I am talking about things from personal experience as a middle figure within the MDC so you can see we were crashing path in that process.

The Americans on another hand are determined to establish what they call Africo, a military command force of the American government that is centred in central Africa to control the entire region which is currently very poorly located in dry land Botswana, it's not a suitable place, Zimbabwe is strategic. That is why they had permanent interest in our nation.

Fast forward Mr Chairperson, you know it's now historical its now the divisions that went in ZANU PF and when all these divisions which were taking place in ZANU PF from 2013 to 2018 were taking place, the MDC was looking and spectating from the terraces. They were not going out there to mobilise people so that they both can be turned to become their votes, they were busy laughing on whatsapp on email and so forth. They were not doing anything in preparation for the electro process.

Q. Mr Chaibva in view of the time and the fact that your report is before the Commission I may ask you at this stage maybe to summarise because in view of time we are supposed to have taken a break for lunch.

A. Thank you, I was actually going to that that's why I was summarising also. I want to torch on the event of November which eventually led to the ascension of his Excellence President Mnangagwa. Why is it important? This you will forgive me. Why is it important? It's important because they are new allegations about the government even after the elections being a military junta. This is directly linked to the events of the 1st of August. It's a military junta. What does a military junta do? It kills. Was it a coup or was it not a coup where we can debate but I have the pleasure to quote none other than the leader of the opposition Mr Nelson Chamisa who said, it was a popular action by the people of Zimbabwe. When he was asked by Ruvheneko Parirenyatwa twice, was it a coup, not coup? It was not a coup that was simple answer. So that one is answered so this talk about military junta where does it come from. It is an attempt again to give a good face to the event so the 1st August.

I will go to the events. In Harare as the Free and Fair Foundation we deployed 12 of our field officers in Harare alone because we are very heavily crippled financially. So we able to deploy about 12 and personally myself and my assistant we at the National Command Centre at the Rainbow Towers that's we were monitoring issues from.

In the morning of the August I drove from home going by the Registrar General of companies where I wanted to sort out a few papers of my companies there. The Registrar General's office is a street across Harvest House. As I was upstairs sorting out my company papers that's when the MDC youths and the MDC supports started gathering outside. It was just a street away I could actually see them. Those who know Nelson Mandela/Angwa Street, Harvest house its just a street across and I was in the 4th or 3rd floor of the Registrar General's office, registrar of companies. They

started singing there, they gathered there, they made speeches there until Mr Nelson Chamisa and Tendai Biti arrived. So I heard all the statements that they were making and it's a pity I never thought of tape recording. I could have sent one of my guys to do the tape recording but it appears he had challenges with his small cell phone.

We will not accept the elections results other than a victory. Remember this is Tuesday. Even the collection of votes had not been completed. We will not accept anything other than a declaration of a victory from Mr Nelson Chamisa. ZEC is delaying in announcing results. They said it on the 1st at around 10 o'clock in the morning. ZEC is delaying announcing these election results because they want to rig for President Mnangagwa. We must defend our votes, and all sorts of songs were sung denigrating the President, denigrating ZANU PF utterly provocative statements I must say. Even for those of us who are apolitical we were provoked to say you can't do that. Tendai Biti we are talking about is a senior counsel. He is a lawyer senior lawyer like respected Professor Madhuku here we went to school together, senior lawyer, distinguished in the city of Harare or in Zimbabwe rather but he made statement that I had to call him and say Tendai you don't say that. He described President Mnangagwa in a manner which I don't know whether I can repeat that. But I think it's contained in my statements. He is murderer, all sorts of things. Justice Priscilla Chigumba was described in all sorts of manner.

Let me put it on record again, the MDC was criticising the ZEC, let me put it on record. The majority of the 8 Commissioners appointed by parliament were appointed on the recommendation of the MDC including the senior former members of that party who are current Commissioners in the ZEC as we speak. But there you are, they

are turning around to say ZEC is biased in favour of ZANU PF and they are making all inciting statements. Some of them discussed that it was too early then I drove back to the party headquarters to my headquarters which was at the Rainbow Towers where I was stationed. I got some few reports from my field officers. Everything was peaceful no problem, they demonstrated, they sang there the whole day until some of them dropped with hunger and they left. Then the next morning they were given instructions to gather again the next morning the 1st of August.

I don't know what was in my mind because normally I don't get associated in places where there is rioting. I went to the Registrar general's office again because I had not completed my task. Some errors had been committed on some papers I had submitted so I went back there. I saw everything. They gathered and they were agitating each other to walk along to ZEC offices, they walked to ZEC offices there was a police barricade so they left and came back and they were re-strategising, we need to go back there and there was a lot of if not millions of tonnes of beer 'musombidhiya' they call it or I don't know this one which is contained in some little bottle some 500ml, vehicles were coming there dishing out in those white plastic containers beer and of course I saw a lot of smoke going up and I don't think it was our normal Madison it must have been a bit something else. Not shot of marijuana I must say. They went and they came back then by the third time I said ah, no the situation I got phone calls from field officers saying where are you please get out of town. I said what happening things are oaky here, they said no get out of town the MDC is now planning something very bad. Normally we expect some demonstration to happen at Africa Unit square so I asked two of our field officers to be stationed at Africa Unit square and the other one I asked him to go to 4th street and the other one to Market

square, I was now driving back. I was also very foolish I must say for the purposes of my security. I drove my car right to the entrance of Rainbow Towers. It was barricaded. They were youths singing, dancing, chanting all sorts of insults to everybody, to anybody so I decided to drive back as I was driving back along Pinfeather at the roundabout there before you turn left to the ZANU PF headquarters into Rotten Row I turned left because the police had said you were going to use the back entrance. So as I was turning back I saw a military vehicle. The military vehicle was coming from along Samora Machel westwards and it was turning into Rotten Row and it was moving very slowly. As I was driving I almost was passing it those who know the geography of the place I am talking about that's opposite Zim Bank right and I was now turning onto Samora Machel facing Warren Park. While I was doing that I was now joined by one of my field officers and he said look, look, I stopped my vehicle. The army truck which was moving there went under a barras of attack from the MDC youths who were gathered there. Hundreds of stones were flown into the motor vehicle and I remember the other time I had to look where I am going because I was driving and I had literally stopped whether it was safe or not. So when I moved back two soldiers had come down and they were chasing one guy on foot and I said things are bad here you take the car I want to go back. So I just jumped off my car a B1800 which I was driving. I dashed across the road and I followed the commotion which was taking place. Meanwhile another vehicle of the military came and it drove across Jason Moyo and stopped by Net One. There was a news reporter from ENCA from South Africa; he was there Thulani Sizwe that's his name I think. He was shooting pictures, oh no we can't believe that now. An otherwise peaceful election has now been, all the military has now come, and I was following behind

him. I went to the policemen who had blockaded the entrance to ZEC office they blockaded with some graders of caterpillars or something like that in addition to the military and some yellow barristers.

I went there, one of my friends said what are you doing here get out of here. So when the shooting started what happened was the huge numbers of people who were at the Sheraton started moving backwards. I think they were being driven by these water cannons. They started moving backwards. As they were moving backwards and the military people were also on a simultaneously at that intersection as they were moving and there pandemonium. The street was full of people and they dispersed a few people. Others went this other way and the other ones went this other so the road was clear and I was by the police near the ZEC entrance there. When the shooting started it was in my full glear I saw it.

The soldiers as they were running, at first they were shooting in the air quite clearly, no doubt about that. They went to Kaguvi still shooting in the air, two of them and this gentleman was also shooting the film Thulani Sizwe of the ENCA. The other one was shooting in the air the one kneeled in a position. Then I said ah, ah, ah now he is going to kill people. But I noticed from the movement of the gun as it was discharging it was at an upright angle like that. The angle of elevation I could roughly estimate it to be around 45^0 and to suggest that it could have killed somebody who was some 20 – 30 m away. In order for you to be able to shoot anything you need to have been somewhere 2m tall and within a distance of 3m. I am a teacher of mathematics so I happen to know those things and mathematically I can show it form the diagrammatic representation. It was 10 minutes I think it was all over. I enquired

from field officers they were busy now calling me, where are you? Come back and I was busy locked up there.

Thulani Sizwe, I approached him he was interviewing one gentleman some of you saw the picture he was interviewing one young boy who was saying I have been beaten by soldiers. He was oozing with blood and he said what's the problem are you demonstrating and he said yes I am demonstrating I defending my vote. It is on television it appeared on television. So I am not talking something that you didn't also see. I was behind Thulani Sizwe and I said why you don't also interview me for some unknown reason he refused. I said no I also want to be interviewed so that I give you another version but he continues shooting.

As he was continuously shooting he came near Harare Street there is a building where the soldiers were kneeling and the civilians there and it's on record from the ENCA news report the civilians who were there were saying someone is shooting from this building. It is on television from ENCA so I am not creating things from my own mind. Let's go get the original file and you will see he interviewed a couple of people. Are you sure? Yes there is someone who is shooting there and I would want to believe that the gunshots were also coming from the crowd. Why do I say so, as the soldiers were coming this directing the crowd at one point moved backwards towards the soldiers. In normal military operation for those of us who have some little idea you don't do that, to go where there is obvious danger unless the forward is also equally endangered. So in my personal view and in the way I have seen things here could it therefore be possible that the shots that were fired by the military could have killed anybody. I have no problem with that.

I called my field officer whom I had left with the vehicle had joined me. So I said no lets scout this place. I was doing it personally not with anybody else. I was doing it personally. We didn't see any dead bodies and I can estimate that over 50 rounds of ammunition were discharged but I didn't see any dead bodies and we were shocked in the evening when the police Commissioner general gave a statement to the effect that they were some people who had died and the first question that we did ask ourselves is where were the fallen bodies. We dint knows.

So fast forward, we then were preoccupied with this report of people having been shot by the military so our foundations sort to establish the facts. We are the Free and Fair Foundation. We are free in what we do and we are fair in our assessment of events. You may not like our objective analysis but that would be us and we are ready for anyone to challenge that. So what did we do? Where do we start? I am must say and put it on record; we received no cooperation from the police. We received absolutely no cooperation from the police, their setting became so bilocratic, go and see inspector so and so, what we simply wanted to know was how many people had been killed as a fact as to opposed to see it in the newspapers. We didn't get cooperation and we tried the military it seemed to be difficult they seem not to know anything. If you ask them they so go to general so and so, so we just said let's not do that.

We then got to know information from certain elements within the investigating teams they told us. Where were the bodies found? As the foundation we were able to account for the death of three. Unfortunately again whenever I present things I want to have personally done the investigation but being a lame person people may not be

forth coming so I was sending emissaries to go and do the investigations where they left over they will come back and report to me.

The first two people who were said to have been dumped at Parirenyatwa it is consistent with what we observed. Our informant said to us he was there. The MDC youths had a pistol and if you have never fired a pistol or a gun for that matter and you don't know that there is this thing called a ricochet you fire a gun like this, that why when firing a pistol you hold it strong with your two hands. If you are not experienced and you fire as if you are holding a cigarette of Everest it will ricochet and actually shot you. That happens, so these MDC youths in their excitement they were playing with this pistol taking turns to fire it. And it accidentally discharged and shot two of them. They quickly grabbed this person and he was put in a motor vehicle and they drove to Parirenyatwa whether they were still alive, whether they were already dead they just dumped the bodies there. We can't have further evidence for us beyond that except to do an analysis of the events. Is it consistent with what could possibly happen.

The laws in this country begin with you. You cannot resist. I am surprised they were 16 people with gunshot wounds, the laws in this country you will not get medical treatment unless you have a police report. That's what I know with the medical personnel I have worked in the medical field for 8 years myself. That's what happens. You come with a gunshot wound you must produce a police report otherwise you are a robber. Of course they will treat but you need first of all to get hold of it. So who are these people? The good Samaritans if they were. Who are the good Samaritans who would pick a person who has been injured here by who, they don't know and you take

that person to Parirenyatwa being a Good Samaritan and you dump the body and you walk away. No person can do that. It is only people who know who these people were and who were participants and who knew exactly what had occurred to these people is the one who can possibly be able to pick that person up. There is no such person who can do that even if you are a Good Samaritan even you are the second Jesus Christ you won't do that. So for us it accounts for the two bodies and definitely they were not shot by the army.

The first analyse to this Commission to what proceedings was yesterday I have never watched it on television they seem to be serious problems to account as to if this military didn't kill anybody who did? There is an answer for you, Chairperson.

The second one is a businessman who was confronted by a group of youths who wanted to burn his car and he says, again it's unfortunate I was unable to interview him personally but I was sending people to go and investigate and find out and make a proposal whether he can be willing to meet with me. And the moment obviously they mention my name people become scared saying ah, you wanted us arrested and that kind of thing. But the story goes like this, these youths were coercing everybody to join this massive demonstration and he says they came to him and say, if I may speak in Shona. He says *ĩwe mdhara iwe une Mercedes Benz yako iwewe urikutonakirwa nehupenyu muZimbabwe isu vamwe tichitambura joina this demonstration tibvise chihurumende cheZANU PF ichi*". In vernacular they said you old man with your Mercedes Benz you are actually enjoying life whilst we are suffering, join the demonstration so that we remove the ZANU PF government.

So this businessman then said he was then confronted by this rowdy bands of youths coming advancing towards him. He said he panicked so he drew a pistol and by drawing his pistol he was expecting maybe that they would move backwards but no they kept on advancing and they were saying “atori nepfuti”, he has got a gun, he is a CIO, they would call him all sort of name so he said in his panic he discharged some few bullets and he doesn't know whether they killed but he said he discharged some few bullets and he ran away.

Where did this happen. He wasn't very particular but think it somehow explains because this was down town around kaguvi area there, he said he was looking for parts for his car so it was around Kaguvi there. So that gives you a rough estimation as to three people whom we can say properly accounted for in my view and in our investigation.

If this businessman army have discharged his fire arm in the manner he did, what about the backstop this in military they know what backstop is. What was the backstop, they existed there is a possibility that bullets entered into could have then shot some other people in the backstop and normally if you are shot by a bullet you don't die like just there and there. If you had not noticed that you are actually hit you can travel a couple of distances.

We are then told that there was this lady who was found by the Angwa street behind the Harare central and this gentleman our investigator said the discharge happened somewhere in the Kaguvi area. To me it exist the possibility because I am told that when this lady found there was no blood around it suggesting therefore that it's not like she was shot on the spot and she fell on the spot. She must have been shot

somewhere else and she must have walked all this distance and maybe collapsing and dying there. The only biggest challenge we have in accounting of the six dead is the one that is allegedly found at the 4th street near PSMAS. The challenge we have is that when these commotion started and I had two of my field officers who were stationed in Africa Unit square. I directed them to follow the crowd and they were following the crowds across towards 4th street because they was allegation that the MDC wanted to attack the ZANU PF provincial head office at the 4th street. After the commotion died down I said can you look around and see injuries wherever it is. They didn't see anything. And for me it's a surprise that a body was eventually found at cnr 4th and George Silundika where PSMAS is. I don't know whether it's actually this side or the other side across 4th which Simon Muzenda they talk about. Where did this body come from? It missed the attention of my field officers there and I can only but suggest.

Yesterday I was at Chitungwiza hospital. Two bodies came there with bullet wounds. Can I see and infer this is now an inference, a conjecture. There is a possibility that that body could have been dumped there by criminals.

What we wish to make clear your Excellence is that it is my considered view that the events of the August 2018 were clearly engineered by the MDC to produce the kind of results that they produced. They were not looking for anything short of dead bodies. And it is for the reason that they hired killing consultants. How do you hire criminals from Kenya who were responsible for the death of thousands of people in Kenya to do what in a democratic country like Zimbabwe, what for? And these people associate with Odinga for that matter. Wanted by police in Kenya for their killing

activities there which resulted in the death of many people. The thinking within the MDC is that you cause sorrow. They were likening the issues in Kenya with ours. Caused a lot of violence then the international community will intervene and then you will have a government of national unity which is what they have been pressing as an idea as a result of their violent actions that they took on the 1st of August. Normally I would have thought in acceptance of electoral defeat, an acceptance of the election results might make you a companion in a new government because it is harmonious. How do you go and form a government of national unit with those you are saying they are illegitimate. An interesting feature of this whole thing is that Mr Chamisa and his cabal of the MDC they know they lost the elections or late me put it kindly and say they did very well but look at the logic, how do you obtain 30% of the national vote compared to a party that has got 70% and then still claim that you have got more than 50%. How do you do that? Where is your mathematics? As a teacher of mathematics I am baffled by that kind of arithmetic. ZANU PF has got 75% of three quarter majority in parliament and they have barely 30%, 64 against one hundred and fifty some thing of the ZANU PF party in circumstances you still think you won the presidential election. Even in the most remotest of your dreams or nightmare you wouldn't have expected that. You should have been thankful that you did very well. They were some people who actually voted you when they should have voted ZANU PF and worse still out of 1958 local authorities the MDC only managed 458 out of 1947 or 48 they got 457 votes and still dream that they could possibly. So they had a clearly defined agenda and the agenda is to discredit the new government. The agenda is to find excuses for the American to continue their imposition of the diabolic economic sanctions. Thank you Chairperson.

Q. Thank you Mr Chaibva, I just need a few clarifications from you. You indicated in your evidence that at one point they were people who were being interviewed and were saying someone is shooting from this building. Were you able to tell which building they were referring to?

A. I have said it.

Q. The building?

A. Yes.

Q. Which is it I didn't get it?

A. Jason Moyo/ Harare Street just after Kaguvi. It's a bluish sort of.

Q. Okay you didn't say the name of the building?

A. No I don't know the name but I can find it out for you and furnish you.

Q. You also indicated that you did not get cooperation from the police is that correct?

A. Vey correct yes.

Q. But you are willing to give all the information to the police maybe for them to follow up.

A. If they need any information from me I am very much willing to give them but I wanted information from them.

Q. You also indicated that you saw two bodies at Parirenyatwa hospital which were said to have been dumped?

A. I didn't see bodies maám. They are reports that there were two bodies that were

dumped and we sort therefore to establish their origin so my network of field officers were able to stumble through. Remember we know these people so using my investigating techniques we were able to establish that that's what had happened which led to those two bodies being dumped at Parirenyatwa. I didn't see them myself.

Q. But your informers are also able to tell the police because the said the MDC youths were actually confessing that they had discharged a firearm which accidentally shot these two?

A. This is where I would have wanted personally to handle that part of questioning. The challenge is that they are scared. I even asked for the identifications of the informers. They are scared.

Q. Thank you very much I have nothing further for you I will hand you over to the Commission if they have any questions or clarifications. Honourable Chair and members of the Commission, your witness.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Mr Chaibva, there is something that I didn't hear well. Who is scared?

A. Commissioner, the question was are those youths who were giving us information willing to come and testify if I understood my dear lady and I am saying the problem is that they are scared that's why they were not able to also meet with me. So if they are not going to meet with me they are scared obviously the fear they would be

prosecuted or something like that. That's the I am talking about. They were unable even meet with me.

Q. Just to seek clarification again, did you say cnr Harare Street and Jason Moyo they is a blue building where it is alleged that shooting was taking place from there?

A. I may not have been accurate let me go over it again. You are in Jason Moyo, you pass this Net One building and there is Kaguvi, next is Harare Street if I am not mistaken there is a building that is at the corner. The simpler thing is for to just go there and get its actual physical address and most importantly there is evidence in form of of the television clip I was talking about from ENCA which was actually shooting, he was shooting and was interviewing these people saying someone is shooting is from upstairs. So for the purposes of the exact location of that building and its name I am willing to just take a few minutes I will bring the details.

Q. If it possible can you submit that television clip if you are able to recover it. You said it is ENCA.

A. Its ENCA, Thulani Sizwe is one of the reporters.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Would you change your conclusions at all if you had to be told that the post mortem reports of the six bodies done by doctors all concluded that the gunshots wounds were caused by high velocity weapons and there were not hand guns?

A I must confess and say I am not a ballistic expert to know what high velocity is.

It's a word I have heard in mathematics but when it applies to guns with which one is high velocity, is a pistol not high velocity?

Q. What I am asking you to pursuing is that if the reports are correct and we have had evidence of those and we heard a ballistic evidence as well. If the conclusion is that the deaths were all called by rifles would that change your conclusion of your investigation would you be prepared to take that into account?

A. What I know and what I can stick on is that they were people killed by guns whether the gun was high velocity or not high velocity I don't know but what I can confirm is that they were people killed by guns but who killed them. Whether its high velocity of low velocity I was not away that a pistol can be called a low velocity, a submachine gun can be called a low velocity I am not aware of that but what I can confirm is that six people are allegedly killed by gun fire.

Q. Its not allegedly its confirmed that they were killed by gun fire and the expertise which I am saying we are looking to establish says that that's consistence with rifle fire. So if that's true would you be willing to re-access your conclusions?

A. My conclusion is that there were people who were shot by guns in the circumstances I have described. Whether the guns were rifles whether they were pistols I am not alert to that. So I still insist and say people were dead. How did they die, they were shot. What kind of a gun is it? An AK, a bazooka or whatever I have no description.

Q. Just one other matter Jason Moyo the soldier that we have all seen in the video walking first and then kneeling down and shooting obvious the Commission has to take the video evidences categorically that throughout the time that he was walking and shooting and kneeling the gun was pointed at 45⁰ angle into the air.

A. What's your question Commissioner?

Q. Is that your evidence also we just want to make sure?

A. Yes you can replay the video and see.

Q. We played the video and that's why I want to make sure that's your evidence.

A. Commissioners you just and say I was just about 30m away from where he was shooting. Those who ZRC offices and where he was shooting I was just about 30m away.

Q. Your evidence is based in watching the video is it not?

A. No I saw it.

Q. Its based on what you saw?

A. Yes.

Q. Have you looked to the video subsequently?

A. I have looked at the video as well.

Q. What is your evidence about what you saw on the video then?

A. From the video there is a possibility that he could have been shooting the people so

from the video now I was doing some kind of some mathematical calculations trying to calculate the co-sign theta to establish. This is why I was saying you could only at that posture which was at elevation from the ground of about 50m at that position with a 45^0 on an elevation of almost 1/2m you can only be able to shoot anything that is more than two meters and only 3m away from you at that angle.

Q. Just be clear because we just want to know what your evidence is you are saying from watching the video the gun pointed at 45^0 angle throughout?

A. The gentleman kneeled in my view and he fired a few shots before he was stopped so that was the dramatic scene that happened and we were worried the he may have shot people. Our first think was that he may have shot people so we then walked because it was 10 minutes the whole thing was silent total peace. We walked to scout whether they were any people who may have been shot. We scouted the whole and personally with my assistant we walked along Jason Moyo, we went to Chinhoyi, we went to Centenary bridge and we went round and we went to Rezende street, we went to Choppies, we went to Nelson Mandela the guy went along Takawira and I went beyond into Park Lane street and we walked out together at what formerly was the British Counsel. We saw no dead bodies there.

Q. Just to come back to my original question. I think it's just a yes or no. From watching the video are you saying in your evidence to us today that the gun was pointed at 45^0 throughout?

A. I will insist so.

Q. Thank you very much for your answer.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Could I just ask you how long after the soldiers that included the one who knelt down and shot, how long after they passed did you and your assistant go there to inspect what you say you said you inspected?

A. In terms of time span between that period, you see what happened is this thing took about 10 minutes. The crowds and our people are very scared when they heard the guns shots they dispersed like I don't know. Total peace was restored. The military people I think they quickly moved back and moved back and went to their vehicle and they were now patrolling within their vehicles. So the moment there was that calmness that's when we walked down. Of course in fear of that, don't forget the journalist were also there the Thulani Sizwe of the ENC he was actually shooting those things.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Where exactly where you at that time, I didn't get you correctly where exactly ere you physically in terms of when this thing was happening?

A, I was at the ZEC offices. I was explaining that the ZEC entrance was barricaded by some construction vehicles and some yellow staff that they use in road construction so I was at that point there across there.

Q. So were you watching from the ZEC office?

A. No not from the ZEC office.

Q. Were you following the military as they were going because we saw the video as they were going and so forth? Were you going behind them?

A. No, I came from Samora Machel along the building and down along the Jason Moyo by the ZEC office I think that's Kaguvi then I went across the Kaguvi road to the other end of Kaguvi road then I had to go behind those barricades. I had to go behind those barricades that's where I was watching the action from.

Q. Where was this shooting where exactly was it?

A. It was across the road.

Q. Would you be able to see from that distance?

A. I had my glasses honourable Commissioner.

Q. Because it will matter a lot to see where you were because when we see the video we actually see a lot of activities. These are the members of the military and they are going, when military was in town people are running away, as he is shooting he is not just shooting there he is doing it and the moving I think they were a group from the video if we are referring to the same thing now I am wondering where you would be by that because by the time he kneels he would have done a lot of things along the way. He is with others he shoots and then goes and we don't see any other human activity behind the military and I think that by the time the shooting is taking place it will be certainly be a distance physically from where the ZEC office will be.

A. If I get you well you want to where exactly I was. The ZEC offices I am talking about it Kaguvi and these soldiers came from along the building Net One on the other side and that's where they shooting as they were crossing Kaguvi street which is now directly opposite me because they were police officers there. So I was taking cover with the presence of the security details who were also manning the ZEC offices. So as they were shooting they were going down there and I am across the road at Kaguvi street and from Kaguvi street which is directly opposite me they came running from Net One and across Kaguvi street and then across towards Harare street and I am just across and this distance is about 30m I did not mention.

Q. Were you given any special treatment by the military because we what we also observed in the video is that they are actually clearing everyone?

A. And beating others yes. Commissioner the police details were manning.

Q. I am with you I just want you to clarify for us.

A. I had no interaction with the military at all.

Q. Because from your evidence you are saying that the moment all this had happened you then went to check what would have happened in other words you then had some activities when everyone was cleared you still were able to do a lot of activities there that's why we would want to know. I would be interested in that when we access because from what Commissioner Dixon has been asking is at the end we now have conflicting evidence from various witnesses when we sit to determine what the truth is. We go through these things of assessing what we call credibility so when we as ask

questions as to who believe and to believe we have to go by the probabilities and that's why I am asking this question for you to just explain to me the probability of the kind of military action that we see in the video and this whole shooting that is taking place at that place. And then people are dispersed and then within a few, I think you answer Chief to say when did you then go to check and you said it's a short space of time. That's why I am saying was there any preferential treatment?

A. There was no preferential treatment I had no interaction with the military. What happened was as I was at that position I am talking about the journalist and some other people were still there. It's not correct to say everyone was completely cleared no. People were still running around if you notice the video they were even beating some people who were crossing the road and my main interest was to go by the journalist at first so that I will talk to him, so it's not correct to say everybody had been cleared no. and this was 10 minutes and the road was clear here was peace and tranquillity, the military had moved back that's when we did our scouting.

Q. My final issue because I just came I did not intend to ask, your evidence now is to say that you were here when the military gave evidence?

A. Yes I was here.

Q. Is it more like to say that your evidence would now add to the military you will be next group of people saying that this shooting did not come from the military. That's what you are saying I think the long and short of what your evidence is it will be correct to say that?

- A. I am convinced that if the discharge of the bullets which took place in Jason Moyo did not cause injuries to civilians that's what I can say with certainty.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

But I am saying with certainty I am not convinced it may have led to the death of anybody .

- Q You appreciate that the reason for part of that of the evidence of how this soldier was shooting might not necessarily to say that he killed anyone at that spot. It might be evidence to show that the army were shooting. Are you appreciating the difference that you may not have shot at that stage and everyone might agree with that evidence but o would you disagree with the fact that once we see in one instance a member of the military shooting but without killing anyone we can conclude that they could have been shooting elsewhere which we didn't see which killed people. Would you disagree with that logic?

- A Professor it's like saying, this guy stole, in Bulawayo so there is a possibility he may have stole in Mutare as well.

- Q I think that is different. What we are dealing is a situation where the Commission does know what happened and then the evidence of video is given by some people its trying to suggest that the military was involved in shooting that is what they are saying . They are not saying that, that is what killed anyone . And then I thought you were coming to say no the military did not kill anyone.

A Well Commissioner your Excellency chairperson , if there were some shooting let`s say Mutare and it could have killed people there in Mutare . That is in Mutare. If they could have been some other shooting anywhere outside the person talking about , they could have probably caused fatalities there.

Q That`s area of clear that is where I wanted unfortunately didn`t get to that point. In other words you are discounting this particular ... *interrupted* .

A I don`t think we have any problem with that evidence at all.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q The urgency who said who took the pictures included somebody saying someone is shooting from, above the stairs. I think you can get the evidence. Did you get that?

PERMANENT SECRETARY MRS MABHIZA

Yes .

WITNESS

It`s a newspaper its broadcasting station from his Excellency home country .

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Through the chair in have a follow up questions. I should say that you are one person who is coming here and who is giving us an eye witness and I don`t want to miss that opportunity to really understand from an eye witness what happened there. We watched these videos. I can say we are not sure of the sauce whether it

seems whether there are various videos of the same . At the moment we haven't made that assessment. But from the video that we watched that particular a soldier who kneels down is shooting first before he kneels down . Where you able to see that part of what I am talking about that the kneeling down is what I could call the second aspect of his action. Before his kneeling down he is also in a shooting position of standing and he is shooting. Did you witness that because the angle is also different from the kneeling down position . Did you see that position of shooting before he kneels down.

A Commissioner what I saw in the heat of the moment is like the soldiers were running after the civilians shooting in the air that is what they were doing. The one that knelt had stopped shooting. He actually knelt and then started shooting when he was shooting . That is how I observed the thing. I replayed again and again the video. That what deem to have seem to have happened.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q You didn't see the shooting before the kneeling?

A I am, saying Commissioners , the soldiers were running and they were shooting right, from my eye witness they were running and they were shooting then the one it is now on the video when I replayed the video . When he kneeled, knelt down , he had not been shooting at that point . He only started after taking the kneeling position then he started discharging because I was looking at the nozzle and see what was coming out of the nozzle it was starting to come out of the nozzle when he was kneeling . Then he started shooting.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q So what I am telling you is that the video we watched he is shooting before the kneeling, shooting. So what I am also saying is that I am not sure if there are also videos of the same shooting that are different but I am telling you about a video that we watched. This is why we would also want this ENCA video so that there is some source. I think one Commissioner said but credibility if a source. It's something that at this moment we are really looking for in terms of these videos so that we are certain that you watched or we are watching is the same video but I was asking you because you said you are an eye witness and from your eye witness I want to confirm whether I heard you right that what you watched with your eyes is that you saw soldiers shooting in the air then you saw a soldier that knelt down. Is that your evidence before the Commission?

A That is correct Commissioner.

Q Thank you I have no further questions Chairman.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Mr Chaibva you are former a former senior member of MDC?

A Correct ma'am.

Q And you were told by your field officers that MDC youth had discharged a pistol and killed 2 people those that were dumped at Parirenyatwa. Is that correct?

A That is correct.

Q Did you believe that and why?

A In my evidence Commissioner your Excellency Chairperson I said we can only come up with the credibility of what we were being told in our investigations if we then have to look at the circumstances . I did give an example what Good Samaritan would see a dead person. You want help him or maybe that person you attended to is not dead. You want to help that person .You don't know what he has done he is just suffering there . You pick him up. You take him to Parirenyatwa to a hospital hoping to get assistance for him and then you dump that person there. You don't identify yourself who you are. You don't tell anybody were this has happened and you just disappear and my submission was the information you were therefore gathering given to us by field officers has got credibility because the presence of those bodies at Parirenyatwa is only consistent with somebody who was a witness of the occasion . To the happenings. What took place to these people. Who is alert to that and that person in his panic mode he ran away.

Q Who would have gotten them the pistol or the gun?

A There has been so much debate and discussion in this honourable Commission as to whether the MDC youth are armed or not. I gave you an exhaustive explanation as to who they are and the DRC's I have talked about them and they have moved up to into what they call the Vanguard. Anyone who underestimate the nature of the militant of the MDC group is at you own peril. Let me give you some little evidence. The little evidence I want to give you is from a very senior member for the MDC. A very close friend of the MDC Alliance Nelson Chamisa his name is Charlton Hwende and share with you Honourable your excellence let me read it what he posted ,on his twitter in the fractures primary election . This is what he said,

‘Tomorrow I will go for my primary election for Kuwadzana Constituent.’

Remember I said he is a very close friend . They are my friends also if I am mention.

‘Tomorrow I am going to a Primary Election for Kuwadzana Constituency. This is a Constituency I started in my MDC activates in 2000. I was Chief Election Agent and campaign manager for the late Learnmore Jongwe. We fought one battle with ZANU PF but I delivered and Learnmore become the first MDC MP for Kuwadzana . When Learnmore Jongwe passed on , the people of Kuwadzana approached me replace him as their MP but I turned them down and instead supported our current President to replace Learnmore Jongwe.’

For your information Nelson Chamisa was the Member of Parliament for Kuwadzana he is talking about. President Nelson Chamisa again appointed him as his campaign manager in one of the most violent bi-election. Again I delivered and he went on to become one of the best MPs. This Nelson was appointed MDC President and I was approached by the people to be their representative in Kuwadzana . This time I accepted and I will be standing for my primary elections. Yesterday I received disturbing news that my opponent was moving around with a gun threatening to shoot me .I mentioned it hear so that if anything happens to me people will know what happened to me . This kind of behaviour is archaic. I have notified the party leadership and they promised me and my supporters and of a violence free primary elections . I believe them and pray that God will select the best candidate for Kuwadzana .’

Just the explanation there. He said this he reported this to my party leadership . He didn't report to the police which a normal person in such circumstances will do .

Why protect themselves. They know and I am not talking of hearsay by the way.

From a position of knowledge .

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q I am not quite familiar with the lay of the land so I rely in the Map .You said you were at Jason Moyo and Kaguvi street. That is where you were located?

A Yes.

Q The soldiers in the video where they were moving towards the ZEC head office and the Command Centre at Rainbow Towers or which direction where they going?

A They were moving East Wards in the opposite direction from ZEC.

Q In the opposite direction to ZEC ?

A Opposite direction from ZEC.

Q On which side of the road?

A They were moving across the road . I was on the other side .

Q You were on the side of ZEC office .

A The entrance . The road leading to ZEC offices. On the entrance.

Q So they are moving down Jason Moyo street ?

A They are moving down Jason Moyo street yes.

Q And from ZEC it would meant they are on the right side of the street?

A They are across the street.

Q Yes. Which is on the right side.

A On the right side yes.

Q So this shooting that you observed happened between Jason street between Kaguvi and Harare?

A I started hearing gun fire by the time the soldiers were crossing Kaguvi going towards Harare street . So as they were running they were shooting. I may not have been precise as to where exactly they started their shooting but from the observation of the events , so rapidly they were unfolding. They started shooting when they were at Kaguvi Street. Just across me. They were across me that is when I started hearing the gunshot as they were moving downwards .

Q And this Tula Sizwe of ENMC who interviewed some civilians after the soldieries had gone past was that also on the right side of the road?

A No, no it was across. He was on the right side.

Q In other words on footsteps of the soldiers.

A He was ahead of soldiers actually in the street.

Q Ahead of?

A They came from this end and he was already there .

Q And so the civilians in respond were saying some people were shooting from which building.

A They said someone was shooting from up the were and Tulani Sizwe was saying. “ The people here are saying someone is actually firing a pistol, or a gun from these offices and his camera was showing the building . This is what I then saw when I was watching news.

Q Thank you very much for coming we have no further questions.

A I just wanted my last remark. A very brief last remark which in my view will go a long way in your Commission synthesizing the events of the 1st of August .

Q Just a few days ago, was it last week. Two weeks. We witnessed a scuffle that took place in Harare CBD were a reported Nigerian National , I am saying reported

because I don't know, killed a youth who was allegedly an MDC youth. The events happened rapidly over a trivial matter. Such things happen and could have happened but look what the MDC say, It was all heaped on ZANU PF.' The military Junta. Tendai Biti himself very quick to say, to blame. No investigations, no bothering to find the facts but they are very quick. Only saying military Junta but ZANU PF as a party has absolutely nothing to do with it. Me as a law abiding citizen of this country has nothing to do with it. This is a scuffle between citizens resulting in that shoot. The possibility of those things happening exist. Like I did say, I will stand on it again, as far as I could assess if the discharge of the ammunition by the military which happened in my eye I doubt it very much if it has caused any fatality. Thank you very much.

A Thank you sir you may step down.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

I think at this time we may now break for our late lunch Honourable Commissioners. Like I indicated the other witness is not available the ballistic so this one is going to be our last witness for the day.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Thank you very much. This is our last witness for the day. We are now adjourning the meeting. Thank you very much.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Morning Chair and honourable members of the Commission. We are now ready to commence with today's witness. Maybe for now if I may hand over to the Chair if you have anything to say before we start.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

No let's start right away.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Then I will proceed to call upon our first witness for the day Mr Thokhozani Maphosa.

THOKOZANI ROBERT MAPHOSA : SWORN STATEMENT

Q Mr Maphosa is it correct that you are the husband to the late Sylvia Maphosa?

A Confirmed.

Q This Commission has heard from the sister to the late but has allowed telling them what you feel like the Commission should know if you may now proceed to address the Commission.

A On the 1st of August 2018 we left home with my late wife, my son Thabani .We used to first drop off our first born at Halsted's timber's workplace . After dropping off ,our son in town that is Thabani, we then got into where I dropped off my wife at her workplace at ZINWA offices at the Intersection of Speke Avenue and 2nd street. It was around 7.45. We bade farewell to each other. By then everything was well little did I know that, that was my last time to see my wife. I went back home since I am no longer working. I spent the whole day at home. In the afternoon I then

started communicating with my wife as she was at her workplace .I enquired on her on how they situation was in town citing that we also got the information through social media. She then said yes we are at work but we are hearing some gun shots. She then advised me not to come to town to pick her because of the prevailing environment so to her to was safe for me not to come to town. She said she would find her way. According to her she would with her colleagues because they had been instructed to knock off early because of what was taking place in town. I last communicated with her at around 15.20 and 15.30. Was still at her workplace. That was the last communication between myself and the now deceased.

After that I was now called by my son. He told me that he had forwarded a text message on my phone so he asked to open the text message. According to him that was a picture showing his mother. I opened the picture. Immediately I realised that it was my wife.

I called my son suggesting that we were to meet at Zuva Southerton Service Station which is in Southerton so that we could chat the way forward. I met with my son at Zuva Station. We then agreed to proceed to Harare Central Police Station so that we could get information on what happened. We got at Harare Central Police Station where we saw the officer who was at the Reception. We enquired from that officer on whether they had received any information in relation to Sylvia Maphosa because according to us she had been shot. The officer said offhand he did not have that name. He then advised us to proceed to Parirenyatwa hospital. All those who had been injured had been taken to Parirenyatwa hospital from what we heard. At Parirenyatwa we checked at the outpatient department, checking on other departments to an extent of asking if the police officers who were at the Police Post. Unfortunately there was

no record for the now deceased Sylvia Maphosa to show on whether she had been admitted.

My sister in law had joined us so we were three of us. We then decided to go back to Harare Central Police Station. When we got at Harare Central Police Station there was a different police officer. We told him that we were looking for Sylvia Maphosa. They went on to enquire whether they had received any information. After mentioning her name that is Sylvia Maphosa that officer then said I have heard about that name. He said that person was now deceased. By then I thought maybe he made a mistake. I wanted proof to be certain that indeed she had passed open. That officer then told us that the bodies had been taken to Parirenyatwa we were to proceed there so that we could find out. My daughter by the name Thandeka who is in South Korea she was continuously calling trying to get information on exactly what had taken place. We agreed not to give her any information before the verification process but she kept on calling. We arrived at Parirenyatwa hospital before the arrival of the vehicle which had transported those who were shot had arrived. So that vehicle finalised it was 15-20 minutes and we were already there. When that vehicle arrived I rushed to where it was trying to ascertain on whether what I have been told was true. After checking I realised that it was true my wife was no more. I then instructed my son Thabani to call his sister who is in South Korea informing her that her mother had been shot because we did not want to give her information without verification. After that the body of the now deceased was taken to mortuary. It was after we had identified the body of the now deceased and we proceeded home.

Before we left we were told that we were supposed to come the following day for the post mortem to be done maybe we can call it a forensic examination. We proceeded

to Parirenyatwa the following day in the morning. We spent the day at Parirenyatwa. After lunch we were told that the Post mortem results were out. When we were given the post-mortem results we then realised that on the cause of death it was written stabbed wound. We objected to that. We were not happy with what was written by the doctors because we knew that the now deceased died as a result of gunshots. We tried to talk to the doctors to no avail. We were then instructed to come the following day. The following day we then engaged legal practitioners for us to get assistance. The legal practitioners then advised us that we could seek for second opinion as we were not comfortable with the results which we got at Parirenyatwa hospital. As we were in the process of getting the second opinion we were then told that the results had been changed that sit the post mortem results and from the post mortem report it was now showing that the now deceased died as a result of gunshots not stabbed wounds. We collected the results and we were satisfied with what was later written in the post mortem report. After that we then started the burial process. We collected her body on a Friday and we finally buried her on a Saturday which was on the 4th at Zororo cemetery. That is all I can say but as it is I am eager to know what exactly happened to my wife. Because on the 1st of August we received information to the effect that people had been shot in town by soldiers. I did not receive any information to the contrary. From the video footages which we saw we could see soldiers who were in town and those soldiers were armed. We did not see any video footage showing any other person who was armed. With my family we are not involved in politics. Even the now deceased Sylvia Maphosa she was not a politician. She was actually a prayer warrior she would go out for all-night prayers. Even if you are to check at the point where she passed on at you will realise that she

was trying to negotiate her way out of town that is along Kenneth Kaunda. It was at the intersection of Kenneth Kaunda and Innez Terrez. In my view she was trying to get transport for her to come home along Seke road.

At the scene where she passed on at I think it's less than 50 metres from Harare Central police station. It's difficult for. I am requesting the Commission now to assist us so that we will know exactly what happened to my wife. In a nutshell that is all.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Honourable Chair and members of the Commission. Although I had briefed you about the witness asking his lawyer seated beside her I omitted to then introduce the lawyer to the members of the Commission. He is with Mr Dug Coltart. The lawyer is seated beside him from the Zimbabwe Lawyers for Human Rights if we can have that on the record.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Thank you very much Mr Mpahosa. I only have two questions that I want to hear from you. You said her body was delivered by a car at Parirenyatwa hospital. Was this a private vehicle an ambulance or the funeral hearse?

A ZRP vehicle.

Q Did you personally have an opportunity to visit the scene where your wife's body was found?

A Maybe if you may clarify. Are you referring on the same day that is on the 1st or after?

Q I mean on that day or afterward?

A Yes I passed through the place where I was shown.

Q Where there any observations that were made on the scene?

A No.

Q Why I am asking the question is that there were evidence that was led which seemed to suggest that where her body was found was not the spot where she was shot at that is the only reason why was asking that question but if you didn't make any other question I have no other question to put to you.

I will now hand you over to the commissions should they have any question for clarification.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much Mr Maphosa for coming to testify before the Commission. If I may say on behalf of the Commission please accept our belated condolences for the loss of your wife.

A Thank you.

A I will now ask my colleagues if they have any clarity seeking questions.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much for your testimony and I wish to echo the sympathy that has been expressed by our Chairman for the loss of your wife. I have only one small question. You have told us that it is your son who had forwarded to you the picture of your wife. Did he indicate to you how he got that picture?

A It was my daughter Thandeka who is in South Korea. She first saw her mother's picture on the facebook. After seeing that picture she then called her aunt who is in UK. She informed her aunt who is in the UK that she had forwarded a picture to her

and according her that is according to Thandeka that picture was her mother. Then her aunt responded saying there is a possibility that you have made a mistake lets very. From what I was told Thandeka insisted citing that she knew her mother. After that conversation with her aunt she then forwarded the same picture to Thabani my son. That is how Thabani got the picture and he then forwarded the same picture to me.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Mr Maphosa our Chairman has expressed our collective condolences. May I repeat that to you and thank you for coming. My questions is this, when the post mortem report was changed, where you giving any reason for the first mistake and did you have view on who was involved in the process of changing that report.

A We did not get any explanation on why there was that mistake initially. We did not find anyone to talk to. After seeing that the mortem report had been changed to us we were no concentrating on the burial, process.

Q Thank you.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Mr Maphosa I would also like to extend my sincere condolences on the loss of your wife. Your sister in-law appeared before the Commission and she indicated that there was a witness who had witnessed your wife being shot. Did you ever get to talk to that witness? Do you know about it?

A No. I have not communicated with anyone who had indicated that he witnessed the death of my wife.

Q The Commission had also requested your sister in law to make sure that such witness should also attend and give evidence to the Commission Would you think you will

be in a position to help and talk to your sister in-law and organise that the witness be made available?

A I can talk to my sister in law.

Q That will be most appreciated.

A Thank you.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you Mr Maphosa. My condolences as well and also to emphasises on behalf of the Commissioners like you we are seeking to find the truth of what happened your late wife.

A Thank you.

Q Just a few questions about timings. You said that the last time you spoke to your wife was between 15.20.and 15.30. Is that right. Just want to confirm that because time is important.

A Confirmed.

Q And then with the time the hospital, once again just the sequence of events. Was the day that you challenged the post-mortem report the 2nd of August the day following her death?

A We first challenged the post mortem report on the second after being shown the post-mortem report where it was indicated that they now deceased died as a results of stabbed wounds.

Q Did you see, was there report signed already?

A Yes it had already been signed.

Q Then you said on the following day, the 3rd of August when you were told that the report had been now changed.

A Yes it was changed on the 3rd.

Q The reason why I asked, you might have a copy of the post mortem we have as Commissioners is that the finally one which indicated the cause of death was by a high volatile fire arm projectile is signed and dated the 2nd of August to the Commissioner of oaths, so dated the day after the killing. Have you seen that report and have you got any comment on that.

A I saw the changed post mortem report. Maybe they indicated that it was on the second. Since that was the day when the first mortem report was written or compiled but I could not concentrate on that since I was grieving.

Q I fully understand that is why I wanted to confirm that it was actually on the 3rd that you were told that the first mortem report would be challenged. The 3rd of August was the day you were told that?

A Yes.

Q You said when you challenged it on the second that you did so because you knew that she had been shot and not stabbed. On what basis were you saying that? What information did you have because that may assist us?

A There was no way we could have come up with a different conclusion because it was not only wife who was shot. There were many people who were shot. Some died and some were injured so there was no way for us to come up with a different conclusion.

Q Just one final question Sir. Were you ever interviewed by the police after the death or subsequently as part of their investigation to try and find out that who is responsible for your wife's death?

A The police did not come to per say. But they called me. Inviting me to the station so that in could give a statement. From what they said, they did not say at they intended to investigate the case. They only said they wanted to know what transpired.

Q When they said that they did not intend to investigate the case how did they put that to you I am trying to understand what exactly was said.

A When I gave the statement I expected the police officers to inform me that there were going to investigate or the case or at least to tell me what they were going to do after recording the statement so when they said they only wanted to hear what happened to me I thought that was the very end of it.

Q Ok Sir thank you very much for your answers today.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Mr Maphosa we had an expert who came here and indicated that there are two documents that are given. What kind of papers where you given as a post mortem report. Was it one with pages and details of pictures or it was a small paper?

A It was just one page on the first day.

Q When question was accused on why there was a change to one of the victim`s relatives, there was an explanation that the one that was give on the first day was simply to facilitate burial orders. Where you given that explanation. Where you favoured with such an explanation?

A No.

Q I have no further questions.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q My condolences.

A Thank you.

Q I want to ask some question that will clarify for certain issues its going to be very difficult area because that is the point where you meet the body. Please bear with me I know it is very difficult. When you got to the ZRP car that was carrying that body, did you remember the intersection with the police. What did they say to you?

A I enquired from the police officers whether she could have survived had it been that she had Been promptly taken to hospital but they responded saying she could not have survived.

Q I am also trying to establish how they introduced the matter to you that this is the body of your deceased wife?

A We were waiting for that vehicle to come, at Parirenyatwa hospital. At the mortuary. As the vehicle was approaching we managed to identify the vehicle knowing that, that was the vehicle with the bodies. So when that vehicle stopped at the entrance to the mortuary, I went there, I could not constrain myself because I wanted to know the situation. When I got there I identified my wife. I did not wait to be told by anyone.

Q Thank you very much for that clarification.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Mr Maphosa our Chairperson has already expressed our condolences I am very sorry about what happened.

A Thank you.

Q I just want you to clarify if you can help us with the time which this vehicle arrived with the body of your wife.

A It was between 7.30 and 8pm.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Than k you once again Mr Maphosa. We have no further question for you. You may step down.

A Thank you.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Q Honourable Chairperson before we call the next witness maybe if we may ask Mr Interpreter to remind our audience that, for progress sake we would require them maybe not to inject as the Commissioners will be putting questions.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

We will call upon the next witness Mr Paddington Japajapa. You will note that his statement is in the flat file that was handed over to the Commissioners this morning.

PADDINGTON JAPAJAPA : SWORN STATEMENT

Q Mr Japajapa is it correct that you were an accredited election observer during the last harmonised elections?

A Yes that is very true I was a duly accredited election observer. Local election observer during the 30 July harmonised July elections.

Q And you say you are an eyewitness to the events of the 1st of August?

A Yes I was there when everything happened.

Q Would young please now tell the Commission that which you witnessed on this day?

Q Thank you very much Mr Chair for inviting me to appear before this Commission. On the said date which I the first of August, I was parked at OK First Street at the intersection of 1st street and Nelson Mandela. Whilst I was parked there it was around 2.30 in the afternoon. I heard some gunshots coming from the direction of Fourth

Street, then within some few minutes an army truck full of soldiers, a puma truck was driving against the one way. Driving towards Harvest House, when they were about 10 metres or 20 metres towards Harvest House some four soldiers jumped from the puma truck. Three of them started firing AK47 automatic weapons randomly along Nelson Mandela Street. I started motor vehicle which I was with. My vehicle was clearly branded election observer and I was in my election observer kit from the hat, yellow reflector, my t-shirt, my bag. So I followed the army from about 50 metres behind them slowly whilst they were shooting at pedestrians who were walking up and down along Nelson Mandela Street. One of the soldiers was kneeling at Horizontal angle which is 180° at that angle you will be pointing at the waist of anybody who will be walking or above the waist that is the horizontal angle according to my mathematics. He was just firing randomly and one of the officers was commanding them to continue firing. We heard them shouting. There was one police officer who was in riot gear. He was also in front. He was in complete riot gear. When they were at the intersection of Nelson Mandela and Angwa Street one man was lying in a pool of blood he was shot. The army just passed though they never bothered to look at the person who was shot. At the intersection of Leopold Takawira and Nelson Mandela another man was gunned down and his intestines were outside he was crawling along the building on the left side. He was crying for help. Nobody helped him. We followed the soldiers to the Agri Bank. They continued towards Chinhoyi Street. Some turned left to Coppa Cabana. They were still firing weapons and screaming people. Most of these people were caught unaware because they were just walking up and down in town. At Coppa Cabana there was another person who was shot down. That is when I following the army because one of the officers

threatened me in Shona I can quote whilst I was about to take pictures from my motor vehicle. He “Ukatora ma picture zvaitika tokupfuudza sezvaitwa vamwe vako,” You are not allowed to take pictures we will shoot at you. So just switched off my phone because there were plenty of soldiers now all over the place.

We drove to Robert Mugabe Street then turned along Robert Mugabe Street. We heard some people saying another woman was shot at the Corner of Kenneth Kaunda and Inez Terrace. We went there and we saw the woman lying in a pool of blood.

Then from there I drove along Robert Mugabe to fourth street where the gunshots and missiles were coming from. We discovered a youth who was in dread locks had already died he was lying in pool blood. And we enquired and we heard that a police officer guarding ZANU PF offices at Jason Moyo and fourth street had actually killed that youth. He is the one who shot and the bullets as I speak the bullet holes are at a building at the corner of Jason Moyo and fourth street, there are the bullet holes for the gunshots fired by a police officer who was guarding ZANU PF. I continued circulating around town because I knew I was safe because my car was clearly stated election observer and I was in the kit of an election observer so there was no reason for me to be afraid. Soldiers were all over beating up anybody whom they came across with shamboks and sticks. This was one of the most barbaric act I have ever seen in my life which was perpetrated by the members of the Zimbabwe National Army and it is ungodly and very cruel of them to say today they never killed anybody. I saw it. They killed people. Altogether at the end we discovered that 6 people died on that day. I went fourth to the Command Centre and I tried to ask for Mrs Chigumba. I wanted to make a report. I saw a woman there we argued vehemently. She said you could not see the Chairperson then I told the woman that

some people had been shot in town. She told me to go amend report at Harare Central Police. I couldn't go back in to town because the situation was very tense. I stayed at the command centre and left for Mazowe where I heard that there were some skirmishes in Mazowe. This is what exactly transpired on this day from my eye witness account.

Q Thank you very much Mr Japajapa. I have very few questions for you. What time of day was it when you saw the soldiers coming?

A It was at 2.30 in the afternoon. Half past 2 in the afternoon.

Q And you also saw a soldier who was in a kneeling position and shooting?

A Yes I saw him he was shooting at horizontal angle which is 180°.

Q Where exactly did you see this kneeling soldier?

A It was near harvest house and he was pointing west wards shooting at people who were screaming and running away towards Nelson Mandela. Nelson Mandela it's a one way drive but they were driving against the one way so the soldiers were following after people who were running west wards and there three of them were shooting at random. One of them who looked like a senior commander was commanding them to continue shooting whatever, to continue pursuing the running away pedestrians.

Q There is a video that circulated on media of a kneeling soldier. Would you say this is the same kneeling soldier you saw or is a different?

A Yes he is the one because I managed to study the videos and definitely he is that man.

Q You stated that the fourth body of the dreadlocked youth that you saw you heard that it had been shot by the police officer guarding the ZANU PF Provincial head quarters is that correct?

A Yes after enquiring from the people who were leaving around Fourth Street. We asked some witnesses and they said it was a police officer who fired the firearm at a vendor who was selling his wares there. He was dreadlocked and he shot him and the bullet holes are still there at a building at the corner of fourth street and Jason Moyo street as I speak and also at Hurudza house there are some bullet holes which were at another building at corner Leopold Takawira and Nelson Mandela .
Mr Japajapa it appears the two dread locked youth who died on this day , this one you are referring to if I may use them, you said one of them was coloured but was also dreadlocked.

A No the slim one was black in colour he is the one who was shot at the fourth street incident.

Q Thank you very much.

A It was corner fourth street and Jason Moyo who was said to have been shot by a police officer guarding the ZANU PF offices.

Q In your own estimation if you can assist the Commission. How far away from the ZANU PF provincial offices was this body of this young man you saw?

A About 1 -20 metres. It was very close.

Q Thank you very much I have no other questions to put to you I will now and you over to the Commission if they have any questions for clarification.

HIS EXCELLENCE THE CHAIRPERSON MOTHANTLE

Thank you Mr Japajapa for availing yourself to the Commission. I will now ask my colleagues if they have any clarity seeking questions.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Thank you Mr Japajapa. Could I be very clear on how many people you saw being shot dead. And I must say that your witness is a powerful one because you speaking from what you saw. So can you tell us many people you saw being shot dead?

A Two people. The one at the corner of Nelson Mandela and Angwa Street. Then other one at the intersection of Leopold Takawira and Nelson Mandela Street. The one at Coppa Cobana, Innez Terrez and fourth we arrived there when they had already died. So exactly I saw two people being killed by the army. Especially that soldier who was in a kneeling position.

Q Then the other you talked to people around there?

A Yes.

Q And it was from their evidence that you reached your conclusion that they were shot by the army?

A Yes they told us that it is the soldiers.

Q The soldiers?

A Yes they told us that it was the soldiers except the one who was shot by a policeman.

Q Yes.

A. The other 5 were shot by members of the Zimbabwe National Army. I further enquired and I was told that they are from the one mechanised infantry battalion from the Inkomo Barracks and some of them from the Presidential Guard.

Q Thank you very much.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q The second one you said Leopold Takawira and what?

A Leopold Takawira and Nelson Mandela Avenue. On the left side. He was crawling along the building with his intestines outside. He was crawling at the corner of the building.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much Mr Japajapa for your testimony. Mine is a general question. According to Zimbabwean Constitution as well as the Public Order and Security Act. The military namely the Zimbabwe Defence Force can be called upon to extend support to the police in the maintenance of law and order. Do you have any comment on that, do have any opinion. Do you think anything needs to be done to the Constitution as well as the public order and security order?

A I am sorry, it was unnecessary for the army to come in because they were no very, very serious disturbances in town. The police were supposed to deal with this situation. We have got thousands of police. More than 30 000. If they had come they were able to deal with this situation. Now to call the army to deal with very few people who were moving around town, I don't think it was necessary. The army used disproportionate force. It's like somebody taking a 40 pounds hammer to kill a mosquito. It was unnecessary. We have got situations in the country in the past where riots have occurred and the Zimbabwe Republic Police has dealt with these riots sufficiently without killing people. So we are saying the police, were supposed to be called and deal with this situation because it was not very serious. We have got serious situations in the past where there were some serious riots in the city and

the police have dealt with the situation so the Constitution must be amended to make it clear that the army must not leave its barracks unless there is a war in the country. Nobody used firearms against the police, against the army. I did not see the reason why the soldiers came and used the AK 47 rifles. It was unnecessary disproportionate use of force. Our Constitution must be very clear that the army has no business in dealing with riots.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Mr Japapajapa I would ask you to comment on this on. The army Chief came and gave his testimony and said that the soldiers were deployed at polling stations and we have got more than 150 000 polling stations in this country and I think 5 per each polling stations. There were not enough to deal with the situation. What will you comment.

A We have got thousand of police officers in this country. We have got thousands of soldiers in this country. The situation that day in town never necessitated the bringing in of the army. Even 20 riot police officers were going to be able with the situation where there is teargas. If they had brought in those vehicles mounted with tear gasses and that water which causes itchiness they were going to easily deal with the situation. There was no need to call in the army. It was unnecessary. It was an intention to kill. Their intention was killing. That is why they brought in the army. If they had brought riot police 20 of them. We have seen in the past where few riot police officers with teargases have managed to disperse thousands of people, so there was no need of the army. It was not about the numbers. It was about the intention. They wanted to kill people and they went on to kill them.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you MR Japajapa I have couple of points that I want to seek clarifications from you. In terms of time when you witnessed the killing by the soldiers and those that you see dead. I mean the four that you mentioned. Can you indicate the times one by one?

A I said the first incident when the army arrived was at 2.30.

Q. I am looking at the people that you saw dead.

A It was in intervals of 10-15 minutes.

Q Would you remember the exact time when you saw the dead bodies?

A Sorry can you come again?

Q We would you remember the actual time when you saw the dead bodies?

A I said 2.30 from there I had no time for looking at my watch because the situation was tense and frightening saw I just saw soldiers gunning down people. This is what I managed to see and dead bodies on the tar mark but it was at different intervals. I did not look at my watch for me to give to give a detailed account to say it was this time , this time . But everything started at 20.30pm when I was parked at intersection of Nelson Mandela and 1st street in front of OK I was having my lunch after a day`s work of observing the proceedings.

Q The other question is there are two bodies which you enquired about. I think the Copa Cobbana and the one that is near the ZANU PF provincial offices.

A The Copa Cabana , the Kenneth Kaunda and Innez Terrace the woman and the fourth street I enquired the three of them .

Q I think according to your account there are two bodies that you witnessed dying.

A Yes along Nelson Mandela.

Q Let me finish. There are two bodies that you arrived when they are dead and then you enquired from the people. I want us to focus on the two bodies that you arrived dead and you enquired from the people about what happened to them. The question is that did you see the bodies yourself?

A Yes I saw the bodies.

Q Thank you for that one. I am going to the next point seeking clarification. You said that you followed soldiers that were shooting people randomly?

A Yes.

Q My question is that did that scenario cause any threat to you as a person?

A My vehicle was clearly marked. It was a Mazda BT50 grey in colour. It was clearly marked election observer in large very visible large words. I was putting on my election observer kit with a yellow reflective jacket so there was no need for me to be afraid because the soldiers never bothered unless one over enthusiastic one who came and ordered me not take pictures but I was following very closely because I know that elections observers are never harmed so there was no danger to my life.

Q The other one is that you saw a man who was crawling. It should be crawling at Leopold Takawira and Nelson Mandela with intestines out?

A Yes.

Q You had a vehicle?

A Yes.

Q Did you think of offering any help of the person who was crawling?

A. The situation was very tense and dangerous so I just looked at him whilst he was dying I couldn't offer any help because I did not know what was going to

happened if I tried to offer help. Because from here are soldiers who are shooting at people whom they perceive as enemies so if you try to help their enemy otherwise I was going to end up being beaten up also.

Q Did you witness how the crawling man on his intestines was then helped?

A He was picked up by a Honda Fit which took him to Parirenyatwa hospital. They said he was picked by a Honda Fit. I don't know the identity of those people. He was picked up by a Honda Fit was grey in colour. I thought they were taking him to hospital.

Q Did you witness that?

A Yes.

Q Thank you no further questions.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I just wanted you to comment on fact that the body that you referred to in Nelson Mandela and Angwa Street there was a dead body there from your evidence. Is that correct.

A. Yes.

Q. Your evidence has to be tested. We have heard evidence hear which suggest that there was no dead body picked from there. We have other witnesses who have indicated places where dead bodies were found. Would you insist on that evidence that at Nelson Mandela and Angwa Street there was a dead body?

A Yes I insist on that.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q You mentioned that there was a soldier kneeling. We have a lot about this particular soldier. If you were referring to the same person and we have watched a video of it.

Our assessment is that it appears to be in Jason Moyo Avenue with the soldier shooting east down the street. That's all basis of that particular video. It was said maybe we might be talking about different videos but on the one we have been referring to where we see what appears senior officer seen at the person there, tapped the person on the soldier. That is in Jason Moyo Avenue. Can you help us because this could be relevant whether the soldier you saw kneeling down was in Jason Moyo or was he in Nelson Mandela. Is there a video of that? I appreciate it's hard to do here because we don't have the maps and videos we might have to do off route but we need to try and get to the bottom of this so if you can try and assist because there seems to be a contradiction of some mistaken identity here?

A What I saw was in Nelson Mandela. Soldiers can kneel in that position in several different sides because wherever a soldier is firing a weapon they take that position so it's not a matter of how many times they kneeled in that position. What I saw was in Nelson Mandela Street.

Q Just following it up? Have you seen any video of that soldier in Nelson Mandela? It may be that you have it or you might not have it. We might have a look at it.

A I am not relying on video evidence I am relying on eye witness account so I don't care about what happened in Jason Moyo because I was not there. I am giving eye witness account of what I saw happening

Q Fair enough if you have any additional video evidence it will be very helpful to the Commissioners we are trying as much as we can. Can I ask you another question please? We have to look at everything that happened on the day objectively. I need to know in addition to what you saw the army doing that you testified about. Did you see the people who were protesting doing anything in relation to damaging shops,

being aggressively in a way? What were they doing in relation to the police and the army? Everything that you saw is important we have to look at the entire spectrum you understand.

A I never saw anybody demonstrating. What I saw are members of Zimbabwe National Army in a Puma Truck who started firing randomly along Nelson Mandela Street. They were chasing after anybody who was moving around. Any moving object around town. They opened fire but when I arrived at Fourth Street that is when I heard that it was hearsay that there were some skirmishes there. It was just hearsay. Who did that I don't know.

Q What hearsay did you hear? Obviously directed on anything we can get as the Commission.

A. I just heard that there were skirmishes.

Q And what kind of skirmishes?

A Exchange of harsh words between people who were around that place.

Q Between the army and police and protestors they were shouting at each other?

A Yes between the police at ZANU PF who were guarding ZANU PF offices and the people who were around that place but the identity of the people don't know because it was some hours well after.

Q We have lots of evidence about what happened at ZANU PF is it the regional offices or the provincial offices?

A Yes. Some of them were trying to amend their statements but I heard an eye witness account. I was there. I am telling what I saw and what I heard. Two people being gunned down by the members of Zimbabwe National Army then the other ones I arrived whilst they were already dead and I enquired as per my requirement as

an accredited election because I was supposed to write a report after the elections and submit it to ZEC and unfortunately I couldn't do that because the police were hunting for me. I had to escape from Harare.

Q Can I just ask you about one of the dead persons the person in dread locks you said was shot by police officers from ZANU PF Headquarters

A Not headquarters. Its ZANU PF offices. The headquarters. I am talking of ZANU PF offices at the intersection of Jason Moyo and fourth street that is where the dread locked vendor was shot by the police officer who was guarding the Zanu Pf offices according to some witnesses who were there .

Q So that is the Provincial offices?

A I can't classify then, because it's another political party.

Q Looking at the map. I just want to clarify. Did you hear that this person was shot by Police officers or did you see that?

A I arrived after the person was already shot and when I enquired as an observer the people who were around that place they said dread locked youth was shot by a police officer who was guarding Zanu Pf offices at the intersection of Jason Moyo and fourth street. This is an eye witness account.

Q And you could help us with getting that person to provide evidence?

A I don't even know the person because they were many of them so I can't even locate the person .

Q Just one last question according to what you heard. Did they say the police officer had been there all the time guarding or was it a police officer that came later to that office?

A No. That part I cannot know but what I was told was that the police officer was guarding the Zanu Pf Offices.

Q Ok. Thank you for your answers.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Is it your evidence Mr Japajapa that you didn't see any demonstrations on this particular day?

A. I did not see any demonstrations but I just saw people who were running. There was pandaminion and chaos around Harare. People were running away from the soldiers who were shooting at any moving object.

Q I think that is important for us as how we assess your evidence. You are an eye witness. It is important that you realise it importance of the evidence that you giving. You have heard evidence that is quite clear that there were demonstrations in town and that if you say you were in town at the time that you were indicating between 2.30. When having your lunch at Corner Nelson Mandela and First Street.

A Yes.

Q And at that stage you didn't witness any demonstrations in town?

A In that part of town there were no demonstrations. I later learnt on when I arrived at Sheraton whist after reporting at ZEC that people had been killed and when they told me to go and report at Harare Central Police Station that is when I started watching television. Then I realised that there was chaos in town and there were some of burning of cars in Fourth Street.

Q When you observed the gunning down of these person there was movement, there was just police or the army just shooting?

A There we was one police man in riot gear and this puma truck which came driving against the one way in Nelson Mandela. The soldiers jumped from the puma truck. Three of them and one senior officer who was behind. They started shooting randomly westwards along Nelson Mandela street thus some minutes later then I saw a man lying down at the intersection of Angwa street and Nelson Mandela then I continued following. The army were advancing west wards when I arrived at Leopold Takawira and Nelson Mandela a man on the left was crawling along with his intestines out he was already in the process of dying. He was gasping for air.

Q Was he among the dead that you talked about the two?

A Yes. We managed to look for the names of the people who died and we obtained the names all the names we have got them.

Q What I want you to realise, we want to rescue your evidence so that when it gets to be assessed it is taken with the seriousness that it deserves. This enquiry is proceedings on the assumption which was not disputed that there were protests. Protests were peaceful at some stage. Some of them turned violent. There was intervention by the army and we are looking at the extent of that intervention. Now not will be important for to really be sure that you didn't come across demonstrations during your entire processes in town.

A I am categorically stating that I only learnt that there were skirmishes in town. I never personally experienced the confrontation between the army and civilians in town. What I saw is a puma truck with the soldiers, jumped out started firing at any moving object which was moving around town. Chasing after civilians and pedestrians. Two people were shot. People started screaming and running towards the

west but I never saw any confrontation between the army, police and civilians. What I experienced is that opening of fire by somebody who was crawling at horizontal angle which is 180 °degrees which took down two people along Nelson Mandela street.

Q Do you agree with Mr Japajapa that it is one thing to say that people must be allowed demonstrates peacefully? They must be they must be allowed to demonstrate peaceful and that the military has no business interfering with the right of people to demonstrate that is one thing. It is quite another to say that there is no demonstrations at all. Are you appreciating the difference between those two?

A I am not refusing that there was any demonstrations in town. If there were there I did not see. Yes they might have been demonstrating I am not denying the fact but I am saying from the position where I was parked, I did not see any demonstrations. What I actually experienced was soldiers firing at anyone who was moving around town but the issue of demonstrations whether they were there or not. I did not experience that.

Q I would say to you we have heard evidence. Your evidence was tallying very well with a witness who actually operates at Corner Nelson Mandela and first street. She was actually selling her bibles next to the Harvest house. Almost the same time that you after testifying to. She also gave us evidence relating to that army vehicle and soldiers disembarking from that vehicle.

A Wonderful.

Q But her evidence was so clear that people were peacefully outside that place signing, celebrating at the same time that you were saying you were there but we would be interested in knowing whether in fact at that particular point we now

have two versions. Your version which says there were no demonstrations and another version which appears to be relating to the same incident saying there were protestors who were even numbering up to about 400 or so?

- A See the way people perceive situations differs depending on one's nervous disposition. I am of a stronger nervous disposition. Maybe that person saw things differently but from what I saw, because I was not running away, if that person is telling the truth, that person saw soldiers firing automatic weapons, I don't think that is very true that she was standing there hearing the bubbling of bullets whilst she was standing. I had the opportunity to come closer to the situation because of my position as an observer so I was privileged to come closer because I knew that the army was not going to harm me so the way that person saw the situation and the way I saw it maybe it was a difference of some minutes so things happened differently so it cannot be exactly because I was not together with that person.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

- Q Thank you very much Mr Japajapa for sharing your eyewitness account with the Commission. We have no further questions you may step down.

- A. I just want to make some few comments before I close down Mr Chairman. A brief history about this government called ZANU PF. A government which is well known for kidnappings, killings, brutality, rigging of elections from the day the party was formed. I am going to give some few notes a brief history about people who had been kidnapped and killed in this country. This brutal regime called ZANU PF. In 1975 Mr Chairman, the first ZANLA Chairman Herbert Chitepo was reportedly killed in a car bomb in Zambia. And there is no conclusion to that matter your Worship. It is a party which eats its own children. From 1983 to 1987 your worship

more than 20 000 Ndebeles were killed by the 5th brigade whilst they were looking for around 150 dissidents and whom they accounted for one only who was called Gwesela.

The Commander of the 5th Brigade was currently Minister of Lands and Agriculture Perence Shiri, Constantine Kuvheya Chiwengwa was the Commander Zimbabwean National Army. Sydney Sekeramayi was the Minister of Defence. Robert Mugabe was the Head of State. Mnangagwa was the Minister of State Security. Right on 28 June during the 2008 Mr Montlathle you were once the South African President and at one time Deputy President I think you intervened a lot about the happenings in power sharing government. The power sharing arrangement in this country. You know how difficult these people called ZANU PF are. Something without precedence happened. Two Ministers of home affairs, where have you seen that on earth? A power sharing government more than 300 MDC supporters were killed, abducted by CIO, the military intelligence. I want to tell you that, it's only in Zimbabwe here where people are abducted, killed and disappear because they speak out their mind. In South Africa we have got millions of people in South Africa, Opposition political parties the fowl brand AEEF leader Malema but we have never heard one incident of a person abducted and killed by the secret police in South Africa. It's only here in Zimbabwe, we are only 13 million people. Once you speak out you are abducted. You disappear. In 1990 there was Gwizha. He laughed at Chaminuka's body. He was abducted and killed. His car is still parked at Chaminuka building as we speak today. Itai Dzamara freelancer journalist. He carried out a one man demonstration in Africa Unit Square. There was threat at all. In Glenview he

was abducted from a barber shop, tortured and killed cold blooded murder style up to today his body is not found .

One of your Commissioners there was blazoned and left for dead at the National Sports stadium Commissioner Madhuku. On March 11 2009 Morgan Tsvangirai the first MDC President was arrested. He was blazoned at Machipisa police station.

Madhuku was there. With his head bandaged. Author Mutambara was there, he was beaten up by the members of the ZRP, CIO. It was terrible Mr Chairman. Solomon in 2013 one of the most decorated ZAN he was an army general, abducted and he was killed, his body brought in dead according to reports from the independent media. A blue flame came out from his burning body to resemble farming inputs.

On 3 June 2012 captain Edwin Mleya from 1.2 infantry battalion abducted after exposing some portion of elephants in Matabeleland and Midlands. On 23 June 2013 Edward Chindorichindinga Member of Parliament was followed by man in glasses and suits in Guruve. He was involved in a mysterious car accident. He was investigating the diamonds issue. It was reported that he was assassinated the ZANU PF style.

Nelson Chamisa who was going to America. He was beaten up at the Harare International Airport and left for dead by members of the central intelligent organisation. We know these guys they have been here for too long. In 1999 I worked with them. I was a member of the Constitutional Commission. I was once ZANU PF. I am a liberation war detainee. I know all these people. I was once a member of ZANU PF.

Last Saturday whilst the Commission is here in Zimbabwe, Chamisa`s driver was nearly abducted in Ruwa. The chase ended up in Chizhanje Mabvuku and member s

of the public had to intervene. So this is the behaviour of this party and government called ZANU PF. Comrade Chairman honourable Montlathle. You know very well. You intervened as South Africa in 2009 to form a power sharing government. Our Commissioner here can testify, in 2008 they came to my house in Westlea. They tried to abduct me at home after my village was burnt down by 25 ZANU PF youths. I had a taste of the same medicine. They came to my house I did not open the door. I know the guys from the law and order section. They had a car without a number plate. I escaped to Morgan Tsvangirai's house in Strathaven. I arrived there Morgan Tsvangirai was already in Netherlands Embassy. I was told to go to the American Embassy. I had to seek refuge at the American Embassy. I phoned Chamisa. I phoned Mwonzora and I told them about the situation. The following morning I went straight to Kembo Mohadi's office. He was the minister of Home affairs. He called his two police Commission Sibanda and the other one Shambare and asked them why they were looking after me. They told him that I was wanted at the law and order. Phillip Sibanda the current Zimbabwe Defence force commander had written a letter on army letterhead that I was undermining the authority of the State. I was supposed to be supposed to be arrested. I went to the law and order I had to be investigated for more than 20 hours until a relative of mine who was an assistant police Commissioner intervened then I was released. Recently after this incident after I have reported this incident to ZEC Charity Charamba the police spokesperson conducted a press conference where they said they were said they were hunting for Paddington Japajapa and Tendia Biti. I had to run away. I went to Bulawayo. I spent three weeks in Bulawayo in the bush running away from the police until I had to phone the Police Commissioner. I told him that I was coming back to hand over myself. I was

arrested whilst I was in Gweru after having sadza with him. They identified me with him. Then I was arrested. I was detained at Gweru Police Station. They brought a brand new quantum truck to collect me 2.45 am. They drove me from Gweru to Harare Central Police Law and Order. Detained me there. Fortunately there were two lawyers from Zimbabwe Lawyer for human rights. The docket was done. The reason why I was arrested is that I was implicated through the newspapers. Arresting people through the newspapers that I had incited violence I was nowhere near. I was an election observer I did not where they got all this information. I was taken to court and the NPA clearly stated that there is no witness in this matter. The police said they were relying on video evidence which they downloaded from the YouTube. A concocted and doctored video. And according to the Criminal Procedure and Evidence Act Chapter 9:07 video evidence is not admissible at a court of law. This is what saved me and yesterday I was removed from remand. So I am talking of a regime that used abductions, killings, election rigging, I have got a video today where Robert Mugabe in 2013 said Tsvangirai in 2008 won by 73%. He admitted I have got the video here. So this is party which wants to remain in power forever. Anybody who speaks his mind dealt with through the judiciary and through the police and the dreaded CIO central intelligence organisation. I know some of them have got line directors and line deputy directors, thousands of operatives to deal with the a population of 13 million people only. This is very unfair. The world must be told the story that we are in hot soup.

Emmerson Mnangagwa was dealing with Mugabe for 55 years. They called him the strategist. Nothing has changed. He learned everything from Robert Mugabe. He was

one of the cruellest men in the world. I compare him to Momma Gaddafi or Saddam Hussein. We are in soup Mr Chairman in this country.

Recently they have allowed a slow genocide to happen in the nation. Prices of drugs going for 8USD at a rate of 320 so if you want to buy \$8 by 3 its \$24 for buying

Panadol. If you want to have an ECGH for the heart at Parirenyatwa hospital \$293.

Where can a person from Mt Darwin get that money from? The government is

watching prices sky rocketing. They failed to control prices. They are allowing a slow genocide. People cannot afford the prices which are being charged. Drinks going for

\$10. Cooking oil \$10 but things have not changed in South Africa Mr Chairman. So

here is the Government which has failed to control the situation but they want to be very harsh and cruel on the innocent people in this country. They don't allow

political sports to the opposition. Nelson Chamisa is in trouble as we speak. Wherever

he is going he is being followed by so many cars with people in suits and dark

glasses these are members of the military intelligence and members of the

military intelligent organisation they have nothing to do. You go to America CIA

guards the interests of the United States of America

In South Africa the secret, they guard the interest of the South Africans. Here in

Zimbabwe we have got a regime which has got thousands of intelligent

operatives from the military NID and CIO who going after opposition party

supporters with intention of harassing and persecuting. We are not free in this

country. Elections after elections.

Last but not least Mr Chairman in line with one of the most decorated Senior

Commander Josiah Magama Tongogara died in a mysterious car accident in Chimoi

whilst he was coming to Zimbabwe for independence and it was reported at private

independent media that he was assassinated so here is a party which eats its children. If a lion is hungry it eats its own children. What about the opposition. The opposition is in hot soup. We are not allowed political space so we are saying if this Commission can make strong recommendations to this government that they must allow the opposition to exit. You cannot have one team like Dynamos in Zimbabwe dominating soccer whilst we don't have Highlanders and Caps United. We need competition between the two teams so the ruling party also need the opposition of them to perform above standard so this idea of going after opposition party supporters it's not good at all. What the army did was not good I want to quote from Isaiah 59 vs.1 from the bible. The hand of God is not shortened that it cannot serve, neither his ears deaf that they cannot hear but iniquities have separated them from God. Their sins have hidden God's face from them. They have got blood dripping from their hands. Everybody knows that also we are staying this must come to an end and this must stop.

As I speak Mr Chairperson I also want protection from you. Otherwise the NID and the CIO I have been seeing plenty of them here. I might be followed but me I am not afraid because I can fight unless they kill me it will be a fight a real fight. But I am saying Chairman we need protection from this Commission because we have told the truth and nothing else other than the truth and the truth will set this nation free. Looking at all the incidences happening in this country when we do evil things, we do not confess before God, the blood of those 6 people is speaking over the lives of these soldiers. There will always be avenging spirit of wars on this country. Ngozi yevanhu ivavo ichaenda pa soldier iwayo.

There was no need of having these soldiers. There was no need for them to kill people. I saw it they killed people. What they were supposed to do was just to say we are sorry we did it and compensate the grieving families.

That is all I can say Mr Chairman. I think your Commission can help us engage SADC so that we can have respect of human rights in this country. They have twisted the Constitution threw it in the bin and there is no respect of human rights. We have got a bill of rights which is very good according to the constitution but it is not being followed so this is all what I can say. I have been part and parcel of ZANU Pf I was constitutional Commissioner. I did indigenisation empowerment. A member of the Kimberly process but I discovered that I cannot continue sitting together with the devil.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Mr Japajapa once again may I ask you to provide the written statement I notice that you have not submitted.

A I have chronicled the events from 1963.

Q Thank you. That information will also assist the Commissioners.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you Mr Japajapa. You are excused.

A Thank you very much Chairman .If they follow me I am going to SABC and all other private media. I want your cell number I will phone you directly that I am being followed but I am not afraid because I know I am covered but if they do anything I do not mind I have suffered enough in the country.

Q Thank you very much Sir.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Members of the Commission I was proposing that we take a short break at this juncture because there are certain developments with regard to the witness that I have indicated having becoming at 11 o'clock so I need to speak his lawyer advocate Mpofu who has just arrived before we cannot proceed.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Ok members a short comfort break and we come back at quarter past.

BRIEF ADJOURNMENT

RESUMED

EVIDENCE LEADER MRS CHIMBARU (To witness)

Honourable Chair and members of the Commission if we may résumé today's hearing. I intended to call upon our next witness Doctor Noah Madziva but like I indicated to you before that they was a lawyer Advocate Thabani Mpofu who has asked to speak to the Commission he is here I have relayed the message to him but he insist that he wants to take the witness stand. But I have relayed the message fully to him but for purposes of order because he is already standing next to the witness stand. I thought you should know that before I call in Dr Madziva.

EVIDENCE LEADER MRS CHIMBARU (To witness)

NOAH MADZIVA : SWORN STATEMENT

Q. Doctor is it correct you are in charge at Parirenyatwa Group of Hospitals?

A. Yes madam.

Q. The Commission has asked you to come before it to confirm the issue of bodies that

were dumped at Parirenyatwa hospital if any. Would you please tell the Commission what you know in connection with that matter?

- A. Thank you very much Chair and Commissioners. My name is Noah Madziva. I am the director of clinical services Parirenyatwa group of hospitals. Part of my job is to receive reports especially unusual reports which will come to my desk even anything unusual which has happened in the hospital. In this case I do confirm that one body was dumped at mortuary reception on the 1st of August 2018. A bit more detail on the 1st of August 2018 it was usual business at Parirenyatwa hospital until late in the afternoon at around 15.30. A white pickup truck just approached the mortuary reception. I am told at high speed. The car was being driven by a male and a lady was seated besides the driver. The mortuary supervisor noticed that the lady actually was bleeding from the left arm and left leg. Approximately five adults were sitting in the back of that truck they seemed to be in a hurry. They went and grabbed a trolley from the mortuary area and dumped the body. The mortuary supervisor asked them why they were doing that. Where was the police officer because under normal circumstances BID that is brought in dead you cannot be accepted in a hospital without being accompanied by the police? So they said we have brought you your body which has been shot. That was around 15.30. The mortuary supervisor immediately rushed to the police station which is about 50m away from the mortuary. A constable by the name Zinyenye came to assist. The police officer tried to get information from the body who brought the body but they were uncooperative and appeared to be very much in a hurry and actually they just dumped the body and speed off before the police could get more details. The police then called the doctor

to certify this body and when the body was certified the body was then put in our cold rooms as per standard. The identity of the body was later found to be Brian Zhuwawu of 1675 Overspill Epworth and I am reliably informed that this was actually the first body to arrive at the hospital. Thank you Chair.

- Q. I have no questions for this witness if I may hand you over to the Commission should they have any questions for clarifications, honourable Chair and members of the Commission your witness.

COMMISSIONER CHARITY MANYERUKE (To witness)

- Q. Just one point of clarification. The body when they put it in the trolley did they dump it at the causality area or at the mortuary?
- A. The body was taken straight to the mortuary reception.
- Q. By that group of people from the car?
- A. Yes madam.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

- Q. You seem to be reading from somewhere is there a record of this event at the hospital or somewhere it was taken for trial?
- A. As I have told I am the clinical director. All unusual events are reported to my office. I am not the mortuary supervisor but I am the one responsible for the hospital for any unusual activities which happen. So everything unusual I receive a report.

Q. Was this the only body that was dumped in this way on that day the 1st of August?

A. Yes. This was the first body and then at the hospital we became aware that there is something unusual going on. After that more bodies started to follow but they were coming with the police as per standard and those they present themselves in causality where a doctor will first certify the body dead before the body is taken to the mortuary.

Q. I must understand you correctly that five out of the six bodies were brought to the hospital to the mortuary by the police?

A. Yes.

Q. There is only one which was brought by persons who were not the police?

A. Yes.

Q. Do you have a record of that incident somewhere? Was there a recording that was taken of these events which you could provide to us?

A. This is the record I have as an administrator?

Q. So you could provide a copy of that to us?

A. Yes.

Q. Thank you that's all my questions.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Am I understanding you correctly to say that there was an interaction between these

persons and the hospital administration? You are using the word dumping but in this evidence you are giving they brought a body in a vehicle, they was some communication between them and the administration?

A. Yes through our supervisor because the supervisor is the one who receive dead bodies and dead bodies they should come in the company of the police. If you bring a body without a police officer that's dumping.

Q. Thank you very much. So by dumping we mean bringing a body without police officers?

A. A dead body coming to a hospital belongs to the police so if you bring your relatives to Parirenyatwa hospital and along the way he dies we don't accept that body until the police have arrived.

Q. Can you clarify this? Can I just bring it in my own words? One way of understanding dumping is that you just find a body there. There is no one who can identify themselves with it. There is no interaction with the persons. We actually don't know what you see is a dead body. That is one way I can explain it. The other one is where you actually explaining. You actually know who has brought the body but they are not police officers. Those who had brought the body have gone all the way to leaving work with you to get it to the mortuary, you are still calling it dumping?

A. Yes, because procedure states that a dead body is of police interest before the hospital can take that body.

Q. So its correct that it was dumping in the sense that it did not follow procedures?

A. Its now technical, yes.

Q. They was this police officer who is stationed some 40 or 50m you have said in your evidence this police officer interacted with the dumpers?

A. Yes.

Q. So you have an opportunity to have some conversation with them?

A. Yes.

Q. So he can tell who brought this body?

A. I am not a police officer but the police can answer themselves.

Q. In other words if he follow it through we can actually know these are people who did really come and just drop a body and go away. They remained until the body was in the mortuary. That's the way I understood your evidence?

A. No they did not remain. According to our records to the report I got they didn't even wait to give more information to the police. They speed off in their car.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Will it be normal for hospital to receive a body, accept it, and put it in the morgue without ascertaining from the people who brought the body the circumstances and some other details?

A. Its not normal that's why we did call the police and the police is not far away. It was only 50m away. The mortuary and police post are about 50m apart so it was not

normal that's why a report was brought to my office. Many bodies come at the mortuary every day I don't need a report but if something unusual happens as the custodian of the hospital I must be informed so I was informed that a body was dumped. Definition of dumping I think I have explained to you. Anybody who comes without escort of the police we call it dumping.

Q. Was there any effort made by your office or the hospital authorities to ascertain from the police to ask the police to investigate?

A. Our duty is to inform the police and we did that. The name of the police officer is Constable Ziunye.

Q. Just to inform them not to ask them to give you report following their investigations?

A. That's not how we work with the police at Parirenyatwa hospital. We are more concentrating on leaving people. The moment someone is dead and especially in an unusual circumstance the police take over and it's the police's responsibility to investigate further.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Just one follow up question. You actually answered by naming the police officer who did come. Is that recorded in your report that you are going to give to us?

A. This police officer they work at Parirenyatwa hospital and our supervisor knows them. It's not some unusual police officer. We have got a police officer at the hospital so it's not some unknown constable it's a police officer who work at

Parirenyatwa hospital.

Q. Was that person who spoke to the people who brought the body there?

A. According to the report I got yes, but they were not cooperating and the speed off before the police officer could get more information from them.

Q. Will you therefore note conversation took place?

A. Me?

Q. Yes.

A. Not me but my understanding is the supervisor was there.

Q. And it was just that one police officer or more police officers came?

A. According to my record one police officer.

Q. Thank you we much appreciate we could have the record for the time.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I hope you appreciate the importance of this whole incident to our investigations because there is evidence that came to us. You may comment on it. Evidence that was brought before this Commission suggesting that people could have shot each other among themselves and then to hide that act they then went to drop the body and that's why the dumping was key. But now what we are getting from you is that there was interaction. I want that clarified. There was clear interaction and you can identify these people who brought the body?

EVIDENCE LEADER MRS CHIMBARU

Maybe if I may assist the Commission by notifying them that the mortuary attendant and the police officer who attended to this are present and they are the next witnesses I am going to call after the doctor. The doctor was simply here as the overall administrator.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much Doctor we have no further questions.

Witness excused.

EVIDENCE LEADER MRS CHIMBARU

I will now call upon the mortuary attendant Mrs Sarudzai Madyamhuru.

SARUDZAI MADYAMHURU : SWORN STATEMENT

Q. Ms Sarudzai Madyamhuru is it correct that you are the mortuary supervisor at Parirenyatwa Group of Hospitals?

A. Yes.

Q. Were you on duty on the 1st of August 2018?

A. Yes.

Q. Would you please tell this Commission that which you know with regards that which you know with regards to how the body of the person that you have now come to identify as Brian Zhuwawu how it was brought to the mortuary?

A. It was on the 1st of August which was on a Wednesday. We were doing our daily

chores as usual as the mortuary supervisor around 3.30pm as I was at the reception. I saw a white pickup which was approaching. As it was approaching it was actually speeding. It stopped in front of our reception. In front they was a woman of middle age maybe around 30 somewhere there. They opened the door to that vehicle. At the back they were about five men. Upon their arrival those who were in the van jumped off where they called out saying we have brought the body of a person who has been shot by soldiers. They entered through our entrance to the mortuary where they were looking for those trolleys which we use to transport bodies. I tried to ask them on where the police officers who they brought and what actually transpired but I did not get a clear answer. They were angry shouting at the same time. I rushed to our police post which is close by at Parirenyatwa. I found Constable Ziunye and Constable Kapingidza. I appraised them of what happened informing that they was a body which left at the mortuary by some people. We returned together in the company of those officers. They found the same people still there but they could not talk to them because those people were angry. As the police officers were still trying to talk to them without any breakthrough those people left with their vehicle. I rushed to my superiors at the hospital to apprise them of what happened. I came with them to the mortuary where they found the body at the reception. The police officers then followed their procedure that is to say if a dead body comes, if that person was not admitted in hospital they call the doctor to certify the death of the person first. They finally took the body to the cold room. That is all I know. The body was later identified as the body for Brian Zhuwawu of Epworth. That is all I know.

Q. Did you by any chance manage to see the registration numbers of the vehicle?

A. I did not manage to record the registration number of the vehicle because I was in a

state of confusion because of their emotional state and I was also in a hurry.

Q. In your statement before the Commission you also indicated that in the vehicle they was someone who was bleeding. Is that correct on the arm and the leg?

A. Yes.

Q Where was this person?

A. When the vehicle arrived on the front seat after the front door had been opened I then saw that person who was bleeding on the left hand and left leg.

Q. Was that person the driver?

A. He was not driving but he was seated next to the driver on the front passenger seat.

Q. Did you by any chance find out how that person had been injured or were you told?

A. I did not get clear information but from what they were saying as they were calling out they were saying he had been shot by the soldiers.

Q. Would you by any chance know whether that person also received medical attention at Parirenyatwa hospital?

A. No. Like what I indicated earlier on that vehicle took off at high speed so it disappeared I do not know where it went to.

Q. Thank you very much I have no further questions I will hand you over to the Commission should they have any questions for clarifications.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to seek clarifications on a few points. The people that came with the car and that left on high speed did they identify themselves?

A. Like what I intimated earlier on that I enquired from them on where police officers were and who they were but they refused to tell me.

Q. Did they leave any of their contact details with you?

A. They did not leave their contact details. Like what I indicated earlier on these people were angry to an extent that I was even afraid to remain at the reception.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. As far as you can remember what sort of clothes were they wearing. Were they wearing uniform or individual clothes?

A. My apologies. Considering the prevailing environment or situation I could not identify exactly what they were putting on. But maybe what I can say is they were putting on their casual clothes.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. I may have missed your point on where they got the trolley, did they get the trolley from the mortuary or from the reception?

A. Our reception is in the mortuary so that is where they took the trolley from.

Q. So that means they came straight to the mortuary?

A. Yes.

Q. So these would be people who would be familiar with the Parirenyatwa mortuary system?

A. I do not know.

Q. I think we need to know because that's critical information. The people who are coming with a body they didn't go anywhere else but they went straight to the mortuary is that what you are telling us?

A. Correct. As you enter at the gate at Parirenyatwa hospital there are arrows showing different places so they might have been assisted by those pointers.

Q. Are you then saying that you change the initial position that from the way you observed it these people would be familiar with what is happening, comes straight with a body and goes straight to the mortuary. Are you now suggesting that that might be because they were following direction and say here is the mortuary?

A. Our mortuary is at the back considering where the main entrance is.

Q. Why I want you to clarify that is that from the evidence we have heard ordinarily it is the police or members of the security who would bring bodies. So if we then get to establish that these people were familiar then it might mean they were members of the

security who were not in uniform that's where we want you to establish that point?

A. I would not know since they were not putting in any uniform they were putting their casual clothes.

Q. But the point I also wish to ask just following on that. You then tell us any of the words that they were saying. You kept on saying that they were angry, they were shouting, do you know what they were saying?

A. I only heard them saying we have brought your body the person had been shot by the soldiers.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Mrs Madyamhuru, in your statement you stated that these people who brought the body were impatient and were alleging that soldiers had shot their vehicle. Did that to you mean that this body was shot whilst in the vehicle?

A. To me it was not clear on whether the person was shot from the vehicle or any other place but that is what they were saying.

Q. Did you see any bullet holes on the motor vehicle?

A. I saw some holes.

Q. Would you identify those holes as gunshots?

A. I am a lay person in the use of fire arms so I do not know.

NO FURTHER QUESTIONS.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I have a follow up question. At which point did you see the car arriving at Parirenyatwa?

A. I first perceived the vehicle when it was at a distance of about 800m.

Q. Are you therefore confirming that you didn't see the car arriving at the Parirenyatwa gate?

A. Like what I indicated earlier on considering where the mortuary is situated it is actually at the back so one cannot see what would be taking place at the gate from the mortuary.

Q. Could you therefore be implying that you didn't see where else the car went before coming to the mortuary?

A. Yes in that respect I did not see anything since I was being obstructed by the buildings.

NO FURTHER QUESTIONS.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. I just want to find more about the holes that you said you saw on the car. Where about were they? How many?

A. The holes were on the passenger side but I did not manage to count them.

Inquiry

S. Madyamhuru

Q. I know you are not an expert but they looked like bullet holes to you?

A. Like what I indicated I do not know I have no information to that effect.

Q. Was there anything else on the car that was significant, any insignia, and any colours, anything that might assist us?

A. I only observed that the vehicle was white in colour only.

Q. Thank you for your written statement which also as you confirmed said they were two police officers who were interacting with this crew. From what you saw did it look like this group knew the person who they were dropping off or complete strangers? Just anything that you may have noticed?

A. I did not observe that because they were shouting.

Q. They didn't say anything about the person indicating that they knew the person or they knew anything about who he was?

A. They did not say anything leading or showing that they knew the person.

Thank you for your answers.

CHAIRMAN KGALEMA MOTLANTLE

Thank you madam. No further questions you may step down.

WITNESS EXCUSED.

EVIDENCE LEADER MRS CHIMBARU

I will call upon the next witness the police officer who attended the scene Mr Last Bright Kapingidza.

EVIDENCE LEADER MRS CHIMBARU (To witness)

LAST BRIGHT KAPINGIDZA : SWORN STATEMENT

Q. Mr Kapingidza you confirm that you are duly attested member of the Zimbabwe Republic Police?

A. Yes.

Q. What rank do you hold?

A. Constable.

Q. You confirm that on the 1st of August you were on duty at Parirenyatwa hospital at police post?

A. Yes.

Q. Would you tell this Commission that which you know which relates to the handling of the body of the deceased Brian Zhuwawo?

A. The mortuary supervisor came to our office saying they was an irate group of people. They were trying to cause commotion. They brought a dead body. So I assigned one of the constables who was there since I was acting in charge to come with me so that we could go and observe and see what was going on. When we got at the mortuary we realised that these people were rather traumatised than being violent. We thought they were violent people but they were traumatised people. Some of them were crying, some of them were shouting that we have lost a friend he was shot in town with the

army so the situation was getting out of hand because they were some people who were also taking out their deceased ones. So my concern now was to calm the situation down and to get to the bottom of the issue. These people were rather irate because they were coming from where ever they were coming from and they seem traumatised. So I got near to the car which was a Nissan hard body white in colour. I couldn't read the registration number because it was damaged I don't know what had happened to the car earlier on and it had some bullet holes all over the car especially on the front. So I asked the driver what happened and he said we have been shot at because when our friend was shot we tried to take him to the car and then they were shooting at us. They were opening wide the bonnet of the car showing me the radiator which was shot. The crowd was swelling at the time and I was getting worried because we were under staffed. I had to disperse the crowd at the same time. But as I was going through the car I realised that inside the car at the back seat there was a lady who was bleeding so I reached out to her. I opened the door, I asked her name and she refused to tell me her name and she was bleeding the right arm and the right leg. So I asked her what happened and she said no, don't ask me what you know, don't ask me what you know. I said its okay but all what I want to do is to help you. I want to concentrate with helping you. I want you to get help as soon as you get help we can discuss all other issues. She refused to disembark from the car. Because the group was rather huge I decided not to keep on forcing her to come out of the car. I instructed one of the guys who was there that if he can do anything we need to put pressure this lady is bleeding fast and she can lose blood. So I asked them where exactly did you pick this guy in town. They were saying no you shouldn't be asking us because these people like I said earlier on they were people who were afraid because I had

introduced myself as a police officer. They were saying your colleagues shot our friend e.t.c. A lot of things were happening at the moment so I just decided to concentrate with calming them down because they were some people who were now trying to take some pictures and videos e.t.c and I didnt want things to get out of control. From there one of the guys who was talking to the mortuary came to me and said we are going now because we are going to take more bodies in town and we are bringing them here. I asked him how do you know if this person is dead because if we don't have documents from the police from Harare Central we can't say these people are dead. So what you have to do is if you bring your people take them to the causality and doctors will attend to them don't bring people this side. In any case I wanted to know who sent them but I had no joy in getting the information. I wanted to know where exactly they had got the person I had no joy in getting the information. So by the end of the day I said its okay guys if you don't want to cooperate with us as police we will be forced to take action. They said you want to arrest us after we have lost a family member after we have lost a friend. I said okay if you don't want to cooperate I am forced now to use my authority but at this moment I was bluffing because I had no manpower to deal with the group I had to make calm down. Having said that they got in their car and they said we are going to bring more people then they drove off.

So I went to check on the deceased body. I asked the police officers who were there that we want to search the person. We searched the body but they were no particulars but he had a small rock pebble in his right pocket that's the only thing that he was carrying. So since they were no police or papers from Harare Central we said we have to keep this body and we were to ask Harare Central if they had had any report. If not

then we were going to start writing the papers and to process so that the person would be certified dead if he was dead. I think that is what I did all the day.

Q. You spoke of a small pocket size rock. What do you mean? Is it a pebble, is it a small stone or a rock?

A. Its very difficult for me to say because he had a rock, was it a pebble or what some people go to religious sects where they carry rocks and pebbles so I don't know. I am not qualified to call it. I don't know.

Q. That's what I wanted you to clarify because its common practice that some are apostolic they have those in their pockets.

A. That's why I didn't emphasis on it.

Q. Thank you very much I will now hand you over to the Commission for any questions for clarifications.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q. Did you carry out any investigations later, subsequently after those people had left?

A. The police is an organisation we have got different departments. We do the first preliminary investigation as to establish what would have been the cause of death but we refer the docket to Harare Central investigation whether either it will be taken to Law and Order whichever the officer in charge decides we won't be part of it.

Q. Does the hospital have video surveillance equipment or your police station?

A. I don't know how the hospital operates as to regards their security so I don't know whether they have got cameras there or not. I don't know.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. I know you are a police officer you are quite conversant with gunshots wounds or anything.

A. Not gunshots wounds I am not medically qualified.

Q. Did you notice any wound on the body of the deceased?

A. Yes I noticed he had a small hole right on top of the left hip or butt and then right on the front near the waist there was also a wound he was bleeding as well.

Q. In your own wisdom what would you say would be the cause of that wound?

A. At work we don't use wisdom we use procedures.

Q. I stand corrected officer that's your line of expertise. In terms of what you observed what would you say was the cause of the wound?

A. Such type of wounds they can be caused with arrows, they can be caused with knives, a lot of things can cause wounds. Like I said I am not qualified to discuss on wounds I think forensic pathologists will do a better job on that.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. You said that this group appeared traumatised and they said that they had lost a friend.

Can you help us with any more information? Did they provided they appeared to know the person who they brought in?

A. Like I mentioned earlier on when you are dealing with an irate group of people if you ask a question you cannot follow it up because you are overwhelmed with noise at the same time so I couldn't get that information.

Q. But you heard them say we have lost a friend?

A. Yes I heard that.

Q. What about a family member you mentioned that as well?

A. Yes but like I said when you are dealing with povo people who are inexperienced you expect anything. Some of them they can even say he is our manager, he is our what so we have to concentrate with important information in order to solve the situation.

Q. But it seemed like from your observation that they knew the person who they brought there?

A. I would say yes.

Q. The car that they showed that was damaged you said they lifted the bonnet and showed you?

A. Yes because they were adding water in the radiator so they said look officer, look officer our radiator had been shot as well so I tried to cooperate as much as I can.

Q. Did you ask them who had done them?

A. Yes I asked them who did that and some were saying your colleagues some were

saying soldiers and a lot have been said.

Q. The woman who was in the front was injured?

A. She wasn't in the front like I said she was at the back I opened the door.

Q. Did you ask her who had caused her wounds?

A. When I asked her she didn't tell me.

Q. You said that she seemed afraid?

A. Yes she seemed afraid because she was looking all over the place she was overly aware of her surroundings.

Q. And she didn't say to you why she was afraid?

A. I knew she was afraid because she said she was coming from a place where people were being shot at so she had every reason to be afraid I think.

Thank you for your answers.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Just to confirm two statements that you made. The first one can you confirm that you said that some were saying that it was their friend and the other ones were saying it was a family member?

A. Yes I can confirm that.

Q. Did I hear you correct that the car when it left they said that they were going to bring

more bodies?

A. Yes. That's what they said.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Did I hear you say that they said that it was your colleagues and the army that did that?

A. Yes you are correct.

Q. Your colleagues meaning the police?

A. I don't know that they meant by saying colleagues because like I said povo they say a lot of things. So when they were saying your colleagues then I could not draw myself into it because I don't know what was happening in town.

Q. Yes but if they said your colleagues and they army?

A. Like I said if they are not specific on things I don't have to put it into their mouths I have to stick what they told me.

Q. I just want to confirm that they did tell you your colleagues and the army?

A. Yes but which colleagues, I don't know.

Thank you.

CHAIRMAN KGALEMA MOTLANTLE

Q. In your affidavit you mentioned that when you asked them as to where they came from they mentioned an unknown Member of Parliament from Goromonzi. Did they

mention a name or how did you get to know that he is a Member of Parliament from Goromonzi?

A. Like I said I tried to remember as much as was being said with everyone who was there so that it becomes a tip of investigation. So yes I recall some were shouting that because I asked a question so who sent you to bring the body hear and one of the guys said a Member of Parliament from Goromonzi. I said in Goromonzi they are a number of MP which particular MP are you referring to. I could not get an answer to that one.

Q. You also stated that you couldn't read the registration of plate numbers of the car because it was damaged.

A. Yes.

Q. Was this the case both sides the front and the back?

A. It was the front. This is the situation, if you are getting at the mortuary its rather narrow such that at times it would be even difficult to turn around so cars they come either way and usually they go that same way. We don't have that opportunity so I couldn't see the rear number plate.

Q. I must say that your concern about the traumatised group was normal and commendable so for that you deserve to be commended.

A. Thank you Sir.

Q. Was there any way in which you could alert other police officers once this vehicle

sped off in order to try and locate these people as a record?

A. Yes I provided that information to the investigating officer and I cannot divulge every information that we passed each other for the sake of investigations.

Q. How soon was that?

A. I was very efficient.

Q. Well done.

A. Thank you Sir.

Q. No further questions. You may step down.

WITNESS EXCUSED.

EVIDENCE LEADER MRS CHIMBARU

Honourable Chair and member of the Commission if you may note that this witness is one of the four witnesses that were invited by the Commission. As such we do not have a written statement from him.

EVIDENCE LEADER MRS CHIMBARU (To witness)

I will call upon our next witness Jim Kunaka.

JIM KUNAKA : SWORN STATEMENT

Q. Mr Kunaka I would want to thank you for responding to the invitation by the Commission to come and testify before it.

A. Thank you.

Q. Briefly to put you to perspective the Commission heard evidence to some effects that during the 1 August demonstration you were identified by some of the witnesses as if you were urging some of the protesters to become riotous but it's not as if we are putting allegations. This is a Commission of inquiry. It's not a trial, it's just that you get a chance to respond to that information that was brought before the Commission which may taint you. If I may be specific on the places where you are said to have been seen. You were said to be seen along 4th street and you were urging demonstrators to burn a burner which had the portrait of his Excellence the President of Zimbabwe comrade ED Mnangagwa. Also at some stage they are some who also indicated that you were also seen in a green vehicle in the company of honourable Biti and you were said to have been a passenger in that vehicle whilst Mr Biti was driving and that you were saying, if I may use the exact words, "Ahoi macomrades ahoi". So like I indicated earlier on this is not a trial. It's simply to put you in perspective so that you will be able to address the Commission so other than those general allegations I will now ask you to address the Commission.

A. Thank you. Firstly I have a question. You said this is not a trial. I know that this creature by the name ZANU PF that we want to play it is very, very dangerous creature. You arrested me in August where I appeared before a court of law. ZANU PF was dilly darling delaying to give us a trial date so that we could first give our evidence. You hear our evidence which you will temper with during trial. So my apologies. I will respond to some of the issues and I will not respond to some of the issues also.

I am a former member of ZANU PF. Not a cell member but the provincial Chairperson, Harare Province Youth League. You should capture what I am saying Commission. This may take some time.

Firstly I would like to bring it to your attention that the letter which you wrote to me was wrongly addressed. I am not a member for MDC Alliance. I am a member for Nation Patriotic Front, NPF. I am the deputy political commissar for that party. I contested in the previous harmonised elections where I actually contested against a member for MDC alliance. So what I have established so far is you are dealing with hearsay evidence you do not have facts at hand. So from now onwards I am bringing it to your attention, you should know this. I am not a member of MDC alliance.

When you are addressing letters to me you should look for at my place of residence.

Through you the honourable chairperson I just want to tell you what happens through ZANU PF. If you go wherever you go that is social media it can be goggle you will find my name Jim Kunaka. I am actually baffled or surprised to see Charity Manyeruke as one of the Commissioners. She is one of the architects for violence in ZANU PF. Like what I indicated earlier on that I was a member of the ZANU PF I would sit down with one of the Commissioners Charity Manyeruke where we would actually plan on how to attack MDC members. She is the secretary for women's affairs for Mashonaland East. So when I saw her as I entered I said all is well with me. I have seen my boss who would actually send me instructing me to do all the violence against MDC or opposition members. I will not respond to any question from Charity Manyeruke my commander. She was actually giving me instructions. I was merely a foot soldier getting instructions from my commander.

Now we delve into the flash of the matter we have dealt with one of the Commissioners my mother.

I do not know when I last communicated with Tendai Biti even greeting him because all along I was a member for ZANU PF. I was only expelled from ZANU PF after a coup according to the witness. Let me say this, ZANU PF eats each children. In the year 2014 I was kidnapped by the military intelligence. The security agents behind you one of them, one of your body guards cannot directly look at me. I was assaulted where I was finally dumped in a bush as you will be going towards Chitungwiza. They thought that I was dead. This year 2018 during the coup where the country was taken by force the same people came again to my house, the military and the ZANU PF people. They destroyed from TVs, portraits of my pictures; they bit up my wife, my children and everyone because they could not locate me after I ran away. That is where the issue is.

Is we are to go back before I became the Chairperson for the province ZANU PF had no constituency in Harare they were not leading any constituency. Once I became the Chairperson for Harare province I then made a declaration that I was going to make sure that we were to rescue or to get some of the seats from MDC but we had to employ or use violence to achieve that. Maybe to shed light on this. They is a meeting which is convened at the basement at ZANU PF headquarters. ZANU PF lost during the harmonised elections 2008. We were invited by the military personnel at ZANU PF headquarters and I was instructed that the country/nation could not go by a pen and a paper. I then asked them on what we were to do. I said what we do. I was instructed to go and defend the revolution. Do anything. That was the instruction. Do

anything. Good or bad happened to the opposition people. Wonders happened.

ZANU PF emerged as a winning party at the end. I am saying this so that you will know where the issue of violence is coming from. If you refuse to follow or to dance according to ZANU PF's tune here in Harare you will be dealt with up to the end.

Do you remember or know the year when Morgan Tsvangirai was assaulted at Highfields police station. He was not assaulted by the members of the Zimbabwe Republic Police. ZANU PF youths were taken where they were given police uniforms with buttons sticks.

The officer who has just testified if you ask him he will tell you that a trained police officer knows where to hit that is when he is assaulting a civilian, you do not hit at a point which may cause the death of an individual. So those were members of the public commonly known as povo so they were hitting the late Morgan Tsvangirai on the head because they were not trained. I want to bring this to your attention. With my experience with ZANU PF the way I know them they realised that they had lost the elections so they sat down and came up with a strategy so that they could cause violence in town and then allege that it was MDC alliance. We used to do that. So that is the ZANU PF strategy. We used to do this. There is no one who can come and stand before me disputing what I am saying because I was one of the commanders. This is the reason why I decided to look for a new home because to me I am now a man enough after attaining the age of 40. I decided not to remain with old people. My issue with ZANU PF if you were to check in your records, maybe I will refer to this guy Saidi who indicated that he is a member of one of the Commissioners' party, that guy was lying. To be specific Commissioner Madhuku. He is a ZANU PF member.

He lost during the primary elections. He was actually aspiring to be a counsellor in Ruwa. Their problem is they are told what to say. Before coming here they will be sat down with where they are coached. He has nothing else to do. He survives on donations what they get if they are some gathering stealing. Their problem is they still want me in ZANU PF, they still want to use me in ZANU PF to do dirty work. I am now an adult I am now grown up. I cannot continue to be used by people of the old age whilst I am seeing it.

After I had done a great job they came twice in a bid of trying to kill me. They do not appreciate if you do something good. Maybe to bring the Commissioners into perspective, at one point I returned to ZANU PF but I joined the G40. With the G40 faction we actually overpowered or outweighed the orderly group. They decided to use the gun. With Professor Manyeruke we were together at the G40. She only jumped from the G40 as a result of cash her desire for money.

So coming to all these allegations, to me that's not the issue. I will keep my evidence which I will give as my defence outline before a court of law. I know that ZANU PF will steal my defence outline because they are in here.

But for me to leave this room without sitting out who killed who. Gentlemen we want to be honest and realistic. Even a Grade 2 child, if we are to leave this place maybe without all these security agency. I will assist you. We go to Epworth that child, a Grade 2 child will tell you who killed those people who were killed on the 1st of August. So to me I don't see any reason why this Commission was set. Honestly this Commission considering your status the Chairperson honourable Mothlanthe for you to be her for three months to me that does not make sense because we know the truth.

We know who killed these civilians. It was the members of the army. Professor Madhuku was also a candidate even though he lost but next time I would like to believe that he will win because there is nothing. Coming to professor Manyeruke, she knows exactly who killed these civilians.

EVIDENCE LEADER MRS CHIMBARU (To witness)

Q. Mr Kunaka maybe if you may be if you may, you run the risk that some of your information will not be interpreted. Just allow for interpretation so that all your information. Some of the Commissioners don't understand what you are saying.

A. I do not want to waste the time. They are hearing what I am saying.

Q. It was for your benefit.

A. So the issue here is when they are going to compile their report the Commissioners because we are now completing which is going to Emerson Mnangagwa. I know the reason the why Professor Charity Manyeruke was brought in. She has some interests which she is representing in the Commission. But they acted after we had already seen their moves. So honourable Chairperson what we are saying is if you want to remain with that dignity that even if after your death let's say I happen to get some to come for your funeral you should be perfect.

Coming to the issue of gukurahundi they is no one who is taking responsibility admitting that I instructed soldiers to shoot civilians. But today you expect that someone will admit that I instructed soldiers to go and shoot civilians in the street. Why is it that this Commission is not trying to come up with a solution on what

should be done to the economy because to us these elderly people who were appointed as ministers they have failed. They are just stealing. Honestly a soldier who was clearly seen who is clearly visible at that point where he is shooting then a commander will come and tell us that that gun was at 45°.

Coming now to the report which you received from Chaibva. Chaibva his problem when I was still in ZANU PF I actually literally dragged him saying come and be our spokes person within ZANU PF. We gave him a place where he could stay cooking his food there. If we are to go right now in Mbare closer to Post office we will find him where he is staying. So as he was testifying he knew very well that if he was to testify against ZANU PF he was going to lose his place. So as he was testifying he was actually full of fear being afraid that his place could be taken. ZANU PF has that history even in Mbare we took some houses. If you want to go with me to Mbare hostels I can show you the people whom I gave houses. It was not through the City Council. Where was the power coming?

So let us conclude this way. For us to come smartly dressed with ties before this Commission honestly trying to find out who killed the civilians, let us conclude this way. Soldiers killed civilians. But you cannot send the same police officers who were disarmed to go and investigate soldiers who disarmed them. They will be assaulted. I was happy to hear one of the Commissioners the one who is second from the last who asked the officer who testified here on whether they already have an accused person in connection with a murder case. I literally cried when I was hearing on a television when I heard that police officer saying that we have no murder accused persons whilst it is clear seeing a soldier shooting. Why they are not arresting that soldier. So that is

where it is now said the rule of law when it comes to the application of law here in Zimbabwe its selective. They arrest members of the opposition but they do not arrest those who belong to the ruling power. On the television it was said openly that we were wanted that is Jim Kunaka, Tendai Biti, Morgan Komichi and we were arrested but what does the law say. We don't arrest to investigate. We investigate to arrest. After the arrest we have not yet been tried. But the question is if they were still investigating if they were not satisfied with the evidence which they had why were we arrested. When I was kidnapped I knew the soldier who kidnapped me. I actually knew him but for a year that soldier was not arrested up to a point I had to go to the police saying you are afraid to arrest the soldier. Here in Zimbabwe we normally call them gunners. Through you honourable Chairperson, I am requesting you that you call the soldier whom we are seeing in that video footage at that point shooting so that he will come and clarify on whether that gun was at 45⁰ or not. We know where he stays he is known he stays in a location in a suburb, high density suburb.

After giving evidence our lives are at risk. We know what is coming what is awaiting us. There is a possibility that cases maybe they will come with cases which could have happened around 2014 so the way you wrote letters calling us here the same way you should protect us. We know that we are going to be arrested after giving evidence but we are under oath we have no option. We have to say it as it.

As I sit down I want to remind you like what I indicated earlier on that I am not going to answer questions from professor Manyeruke because her questions are biased. We were participating together, planning together so she cannot ask me questions whilst she is the one who was sending me. I will not do that. On all of these other issues

which were raised alleging that I committed an offence that witness I will meet before a court of law.

ZANU PF is aligning us to MDC alliance. That will happen, but in my case I am not a member of MDC alliance. I support their vision. It's only that I realised that they had a good cause, a good vision at a later stage. Its normal in life that we see or we happen to open our eyes at different stages but at my stage I realised that MDC alliance was fighting for a good cause. If we are to go by the history of this country the generals who are now the vice presidents of this country they went to fight for the liberation struggle when they were aged 18, some 25 that is when they started ruling but we have given them the opportunity. Now we are saying give us the opportunity also to lead. So to us at this age of 40 I don't understand that.

Q. Thank you very much Mr Kunaka I will now hand you over to the Commission if they have any questions for clarity since they invited you.

Honourable Chair and members of the Commission your witness.

A, I do not need water I am okay.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Thank you Jim Kunaka. I must say did I hear you say that you know the soldier who was kneeling and shooting because if that is so that is a very important information?

A. I said that soldier is known I did not say I personally know him. It's just good as if

you want to cast your vote you know the candidate whom you will be voting for.

Even if you are to go in the locations out there he is known but I didn't so say I personally know him as Jim Kunaka.

Q. I think it will be very useful for the Commission to be able to identify the soldier and....

CHAIRMAN KGALEMA MOTLANTLE

Once again I have to plead with you not to interject to any witness who will be testifying or any of the Commissioners if they ask a clarity seeking question. Can we agree on that? Thank you very much.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. I did say that it would be very useful to the Commission to be able to know somebody who can identify that soldier because it would be very useful information for us as a Commission and as you said it would be very useful to ask him questions.

A. Like what the officer who has just given evidence indicated that there is a procedure which is followed within the police. An acting officer commanding law and order gave evidence where he indicated that they are still investigating the case. Let them go and arrest the soldier. It's only that we are playing games here but the issue is very simple. Let them go and arrest that soldier. They know they will be seeing these things on social media on daily basis. His name is there.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Mr Kunaka would it be correct to say, we have listened to what you said, in terms of what the issue why you were brought here would it be correct to say that you have denied ever getting involved in the manner that the witnesses have said? And then that you can't of course give us further details because they is a pending matter relating to the same thing in the court. Would that be the correct summary of what you have said?

A. That is the truth of what I am saying.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q. Mr Kunaka thank you very much for your submission. Some witnesses who have appeared before this Commission have told us that they are aware that some political parties have military wings within their organisational structure. Do you have any comment on that?

A. I have no knowledge those are lies. It is ZANU PF which has militia youths which were trained through Boarder Gezi. They failed to employ them after training they are now using those youths to attack MDC members, Mavambo, NCA and NPF. If they is anyone with evidence to the effect that he saw people going outside the country let's say members of any opposition political party that person should be subpoenaed the same way I was subpoenaed so that he will come and testify bringing evidence which we now commonly call V11 here in Zimbabwe after the elections. And also that person should explain on what he or she was doing when he saw those people receiving training.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

- Q. Thank you very much for your testimony. I think you said you have been following the proceedings of the Commission. I thought you would agree with me that you would have seen the Commission is very directly scrutinising the actions of the army and the police on what happened on the 1st of August. As part of our mandate as you mentioned insist in ensuring that the rule of law is developed and upheld. As part of our mandate as well though we have to look at what the protesters were doing on the day to understand the full picture. Now I think your testimony have been very useful to us to understand what as you say brought people out on the streets that day. The historic grievances frustrations of many decades. What we are trying to understand is on that day that things spill over into violent activity, and if so who was responsible for those activities. You have to assist with any of that?
- A. Firstly I did not say that I saw anyone protesting. So I will not answer to that one. But out of abundance of caution I will say this. If people had been allowed according to the constitution to demonstrate expressing their democratic rights I do not know how the military came in where they came in. Zimbabweans are learned. If you are to rate us in Africa we are the best so we know where our rights would have been infringed upon. At first we were not wise we were foolish. So prior to this we were a bit foolish. After MDC alliance had made an application to demonstrate I would see the letter by then I was acting like a Chief Superintendent or someone within the police. If the opposition would have made an application to have a rally I would be consulted when I would say no that rally cannot go ahead where I would then be told to make an application saying I want to play soccer at the same venue. This has happened on

several occasions. Then you will realise that there is no rule of law. So the opposition would then say we had been oppressed for quite some time we are going ahead without that clearance. But the gist of the matter in my view on the issue or the matter which occurred on the 1st of August I am saying ZANU PF militia guys manipulated this demonstration so that it would appear as if MDC alliance members were demonstrating whilst it was themselves. If you are to keep a closer look on this issue you will find out that they are targeted individuals who left ZANU PF. Those same individuals were holding influential positions in ZANU PF. For me to lie against the members of the MDC alliance I actually feel pity. Morgan Tsvangirai suffered as a result of ZANU PF, he actually died before leading this country but he had wounds and he was fighting for democracy for the liberation of this country. If police officers are doing their work perfectly like what was done by the Commissioner General Matanga as he was testifying before this Commission of inquiry the police must be apolitical. The military the same thing. But they are planning to arrest Nelson Chamisa. If I hear them correctly they promised to arrest Nelson Chamisa those are unnecessary threats which are not supposed to come from a Commissioner General. That is wrong. That is why we are saying they should retire get their pensions because they have attained the age of 65 why are they retiring others. Some junior officers are being forced to retire why are they not retiring. They have attained the age of 65, 70, and 80 they should do the same not retiring junior officers who will go and suffer there because they will be receiving little money. This is our time as young generation to take this country of ours and if they think that this country will die they are dreaming. We will make sure we will stand up and defend our future as young generation of this country. Thank you.

COMMISSIONER CHARITY MANYERUKE (To Chair)

Mine is not a question. Chairman with all due respect let me set the record straight. I have never sat in any meeting with Jim Kunaka.

BY WITNESS JIM KUNAKA

I think Mrs Manyeruke she want us to go deeper and deeper. If she wants to challenge me there is no problem that's my job. I would like her to challenge me. I don't want to waste other people's time. Like what I have indicated I am not going to answer any question from her. I don't want any question from her she is dirty.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. Thank you very much Jim Kunaka you have a right to refuse to respond to any questions from Commissioner Manyeruke. That's your right you are protected. We just want to assure you that as a Commission and once you testify here under oath nothing that you have said here will be used against you.

A. Thank you very much Mr Chairman but to be honest with you, you have been here in Zimbabwe. I have never stayed out of Zimbabwe the rest of my life. I do not know any other political party besides ZANU PF. If I tell you of its evil actions you should listen to me. They have other good deeds but good deeds are over weighed by their evil actions. If we are to go by what the other witness who testified said we are on a hot soup after giving evidence we can be followed. That's the truth. They can follow me but they cannot harp hazardly approach me they know that. I am also strong though small body but I am dangerous. I did not come here to go deeper with Commissioner Manyeruke but I simply said she was not supposed to ask me questions

because of certain reasons which I have stated. Maybe you can ask me why I did not mention Commissioner Nyemba, yourself the Chairperson or Professor Madhuku.

There is a reason why I stated her name professor Manyeruke. We were now dancers together in ZANU PF in doing those touch games together in ZANU PF with professor Manyeruke. I tried to simplify issues lightening them considering her age. She almost the age of my mother but if she forces me then I will burst that is if she challenges me I will do so. Through you honourable Chairperson like what I requested earlier on professor Manyeruke should not ask me questions. I respect her as my mother. That's the end.

Q. Thank you very much there are no further questions. We thank you for coming and we still have to reiterate that nothing that you shared with the Commission can be used against you.

WITNESS EXCUSED.

ADJOURNED

RESUMED AT 3.30PM

EVIDENCE LEADER MRS CHIMBARU

Good afternoon honourable Chair and members of the Commission. We are ready to continue with today's business. I intended to call upon Simon Chipokosa. It appears the witness is not available maybe I will move on to the next witness Shadrek Mashayamombe. It would appear he is also not present but before we went for lunch he was available and I thought as we had indicated that we are resuming at 3.30pm.

Inquiry

S. Mashayamombe

Honourable Chair and Commission Mr Mashayamombe is one of the witnesses you invited.

EVIDENCE LEADER MRS CHIMBARU (To witness)

SHADRECK MASHAYAMOMBE : SWORN STATEMENT

Q. Mr Mashayamombe we want to thank you for responding to the invitation by the Commission for you to appear before them.

A. Thank you.

Q. Your invitation was as a result of certain allegations that the Commission heard about you and it was on that basis that they thought it would be fair and just for you to appear before the Commission and maybe respond or address them in that regard but this is not a trial.

A. Thank you.

Q. Certain information to the fact that on the 1st of August you were seen with the demonstrators and distributing alcohol commonly known as bronco to them was brought before the Commission. That's generally the nature of the allegations it appears that you were urging.

A. Can I respond?

Q. Yes it's now time I have just put you in perspective but now the commission can clarify with you and also you can also tell them to know.

- A. Thank you to the Chairperson of the Commission and also the Commissioners for affording us this precious opportunity to respond to the allegations which were raised.

Firstly I would like to bring it to your attention that I highly regard or respect the Chairperson of this Commission honourable Mohlanthe. Considering where I am coming from. I was a former senior member for ZANU PF. Because of my background I highly regard the Chairperson of this Commission honourable Mothlanthe.

Firstly Chairperson you should know that there is no unit in our nation the nation of Zimbabwe. Our nation is divided depending on which party you belong to so most of the things are done depending on which party you belong to. I am one of the members who was expelled in November last year being alleged that I was close to Mugabe or G40 faction. I was a member of parliament for Harare South. So most of the things that are now taking place, people sit down trying to find the way forward on what should be done to attack or fight Mashayamombe that is myself. This Commission is also being used as a stage to eliminate Mashayamombe.

I came here trying to get the opportunity to testify before this Commission and I saw that lady but I have forgotten her name but I was not given the opportunity to testify. It was as a result of the clip which I saw which was being broadcasted at the ZTV the Zimbabwean television. After I had seen the calibre of people who were coming masquerading as witnesses. Had it not been that you subpoenaed me through your letter I had been denying the opportunity to testify by that lady who is sitting there. If you ask her she will confirm what I am saying.

EVIDENCE LEADER MRS FORTUNE CHIMBARU (TO Chair)

Maybe for the record it is true that he indeed came. I think I also indicated to the Commission even when you asked me to send the invitations I confirmed that he had indeed come but on that day they were others who were on the list but I confirmed even to the Commission that Mr Mashayamombe had volunteered to testify.

EVIDENCE LEADER MRS FORTUNE CHIMBARU (To Witness)

Q. Proceed?

A. Thank you for conceding or admitting the truth because I was left standing there and all of them left. After that there is a lady or a woman by the name Sheila Mutsenhu. Sheila Mutsenhu is a ZANU PF member so from the information which I received I am reliably informed that she came and testified to the effect that she saw Mashayamombe distributing brone clear known as bronco here in Harare. I am here to say the truth and I will say it as it is. I grew up in the Roman Catholic Church I have never tested beer in my life. Even in our family my young brothers all of them they do not take alcohol. They were following my footsteps. I told them the negative effects of alcohol. So there is no way I can take other people's children buying brone clear for them. So when I heard those allegations I decided to come and clear my name setting the record straight.

Your excellence the Chairperson of the Commission, on the 1st of August when they was violence in town I was no way near the CBD the town of Harare. I was contesting in Harare south. The results of constituency that is Harare South had not

yet been announced so all the candidates were at DDF training centre which is the command centre for Harare South. I could not leave the command centre at DDF training centre coming to the CBD to demonstrate before knowing the results because by then I was the leading candidate. So all these allegations are lies. Other candidates whom I was contesting with in Harare South they can come and confirm to the effect that we were together in Harare South to be specific at DDF training centre. We were eagerly waiting for the results which had not yet been announced. Our results for our constituency Harare south were finally announced on the 3rd of August if my memory serves me well.

Coming to the person who implicated my name before this Commission I heard her saying Mashayamombe was at her offices which are along Julius Nyerere. I last used those offices last year in November after being evicted from town during the coup period. I last saw Sheila Mutsenhu in the year 2015. What I still recall is during the period of elections I think it was in June she sent Kerena Mujati asking for \$15 000-00. She indicated that she was having difficulties to make ends meet. At one point she escaped going to Botswana. She indicated that CIOs, youths, war veterans and also members of the homicide police section were chasing after her. I then responded saying you also know the problem that I encountered. I had no money.

I have face book charts here between Sheila and Kerina Mujati where even she mentioned my name where she requested Kerina Mujati to ask me to assist her. Kerina Mujati is there you can contact her so that she will come and testify confirming what I am saying. In these charts she indicated that CIOs, war veterans, Kudzi Chipanga including my name we wanted to kill her. These are some of the

things which happened which then prompted her to come and implicate me before this Commission.

To those who can recall what once happened in relation to Sheila, the Sheila I am talking about? She is one of those ladies who went and urinated at the Daily News offices after they wrote some news which was negative about Mugabe and ZANU PF in Manicaland. She is the same lady Sheila who went and removed her clothes in Manicaland before the Ambassador from America. She is the same Sheila who was being used by Didymus Mutasa and his colleagues to attack Mugabe and grace in 2014 to those who can recall. So she is an individual who is used by ZANU PF as a thug to attack opponents or fight opponents. I have these copies for you so that you can go through them. You can even confirm with Kerina Mujati. So this is the type of people who are being coached by ZANU PF to eliminate members of the opposition party or to attack them tarnishing their image. She implicated me because when she asked for help by then things were not well for me and I could not assist her. So honourable Chairperson other people or some individuals have taken advantage of the Commission to attack others whilst they are not telling the truth. They are lying.

We do not want to say much about where we are coming from in ZANU PF. Surely if others fail to accept that we have separated because of our differences and allow that individual to go and do his own business they will be making our lives very difficult putting us in a corner.

I am saying this because we have wounds of where we are coming from Mr President. Mr. President, on the day it was said that President Mugabe wrote a resignation letter I was abducted day light at Rainbow Towers. For more than five hours I was being

tortured using live electric cables. My skin is peeling off in my legs I cannot sit for the whole day whilst putting on shoes. That did not end there Chairperson. They demanded for all my money. They took a safe which had more than US\$50 000-00 which they were given by my young brother and my wife whilst I was tied on live electric cables. If I think of it tears come down. (The witness is now sobbing).

I am in the business of importing cars. They took the money from that business. As it is I still owe people who had already paid for some vehicles. I am being dragged to courts because of that money. That did not end there. The offence which I committed is, they are saying I was close to Mugabe. They robbed at my house where they took suits more than 30 pairs. They also took my shoes, they assaulted my young brother he has a permanent injury as a result of the attack. They are even after my businesses right now as I talk. They want me to remain with absolutely nothing in my life.

During the period for campaigns around June as I was leaving Avondale I was abducted again during that period the period for elections. The offence what they were saying they were saying I was supposed to go and withdraw my candidature in Harare South because I was contesting against president Mnangagwa's son. Mr President our life experience is painful. This can be my last day especially considering the prevailing environment. I was dumped at Tynwald, my vehicle was taken and they remained with it the whole night. I returned home using a commuter omnibus. I then went to collect my vehicle the following day.

In my case where I was abducted last year in November most Members of Parliament know what I am saying they were there. It was reported to the police but there was no single day where we were invited to the police being informed that they were

pursuing our matter they were handling it. Which is the reason why I did not formerly lodge a police report when I was abducted in June because I know that nothing will come out from the police.

During the elections the candidate whom I was contesting with the President's son came and burnt my cabins at my work place but that matter was never reported I was never even invited for interviews.

So honourable Chairperson we thought it would end after elections but they are going forward bringing people who will come and falsely implicate me before this Commission. These are the problems which we are encountering because these people are being coached. In fact they start with rehearsals.

If you can give me the list of people who came and gave evidence before this Commission I can identify them and even identify their districts and also the political party which is ZANU PF. That is what is there. The evidence which was tendered before this Commission it was actually tendered by an aggrieved party who was demanding money from me. She was actually trying to extort money from me. She is known in all ZANU PF circles. That is her behaviour that is her way of doing things.

I want to put the record straight. I was not part and parcel of those people who were demonstrating. Had it been that the President for MDC alliance advocate Nelson Chamisa called for demonstration honestly he could not have called only 5000 people, maybe more than 50 000 people could have come. Because the number of about 5000 which is being mentioned to me that number is not for demonstration. It is just a matter of smearing other people with mud tarnishing their image. If they were people

who demonstrated these people were merely concerned citizens who were demonstrating showing their concern. The issue or the offence was whilst ZEC that delayed to announce election results.

In the evidence which was tendered by Sheila who implicated my name she said she saw me standing with a sea of people who were wearing red regalia. But if we are to check on those videos or pictures there is no way where you see people who were only wearing red regalia. You can bring the videos with the pictures. At my offices they are other occupants of other offices next to my shop they can come and give evidence to confirm on whether they saw a sea of people who were wearing red regalia at that shop being addressed. We have a problem President. So I think you can assist. For Zimbabweans to enjoys that privilege where they would buy an item or getting maybe two items for \$1 it was through your assistance where you came and assisted us. So that is what I can say that people who are coming to testify are being coached. I know some of them. We actually recruited some of them in our structures.

Q. Thank you Mr Mashayamombe. I have no questions for you I will now hand you over to the Commission should they have any questions for clarifications.

CHAIRMAN KGALEMA MOTLANTLE

Thank you very much. Clearly your testimony was lucid and straight forward. The Commissioners have no further questions to put to you. You can step down.

WITNESS EXCUSED.

Inquiry

T. Paradzai

EVIDENCE LEADER MRS FORTUNE CHIMBARU

If I may check if Simeon Chipokosa is available. If he is not available Mr Chair maybe if at this juncture you may allow me to hand over to my colleague for the next witness.

EVIDENCE LEADER MR THABANI MPOFU (To witness)

Good afternoon Mr. Chairman. I propose to call the ballistic expert as the next witness Letwin Paradzai.

TSITSI PARADZAI : SWORN STATEMENT

Q. Tsitsi Paradzai you hold the rank of superintendent in the Criminal investigations

Department of the Zimbabwe Republic Police?

A. Yes Sir.

Q. You are in the forensic ballistics department?

A. Yes,

Q. What do you do in that department?

A. I am the superintendent forensic ballistics. I head the forensic department. I am the ballistics expert and currently working at the CID headquarters.

Q. For how long have you been in the ballistics department?

A. I was transferred to this section in 2005 since then I have been in the CID forensic ballistics.

Q. You have had occasion to examine a number of scenes and compiled a report that I have since submitted by the Commissioners whose copy you have.

A. Yes I admit.

Q. I would like you to please take us through your report that you have compiled taking us through the scenes that you have examined. Your findings thereof and anything else that you think might be relevant to this Commission in this hearing.

A. Thank you Sir, through the Chair I wrote the report and directed it to my officer commanding crime since it was a document for police so I shall read it through as we follow. CID forensic ballistics is an expert section which works as an aid or a tool to the investigator. It stands as a support section to the organization assisting in the criminal investigations. Not only to the Zimbabwe Republic Police but also to other sister organisations in Zimbabwe and in the region. According to the organisation set standards and procedures all experts are called to a crime scene by the attending details when a circumstance cause for that. This I quoted a book called police duties and investigations manual and gave you the pages so that you can refer my statement from.

In this matter ballistics experts only attended to two places of occurrences related to the post election violence that is the Zimbabwe Congress of Trade Union officers, Golon building cnr Jason Moyo Avenue and Harare Street.

Q. Let me stop you there. As I have indicated to you the Commissioners do have your

report. I want you to touch on those areas which you feel must be highlighted in that report which must be heard by the Commissioners starting with your findings at the city centre car park. I have deliberately chosen the second area you visited because that is in the last inspection ion loco the Commissioners went to that place first.

- A, Crime scene number two, city centre parking shooting area. Its cnr Angwa and George Silundika. On the 15th of November at around 9.30 I superintendent Paradzai together with two detective inspectors that is detective inspector Mutizwa and detective inspector Taringa visited the shooting incident together with number 058 5441 DIA Mukohwa Victor from CID law and order. Upon arrival at the city centre park it was observed that normal operations have since resumed an indication that the crime scene had been completely interfered with. To add more to this I am highlighting where the interference was. We noted the bullet holes one entry and one exist hole were observed on the car park wooden guard room northern and southern wings respectively. But just to highlight it had already been tempered with because some nail was pushed into the bullet hole and some tissue papers forced into the hole. Inside the guardroom it was already broken where I was going to see the exit of the bullet which was broken using some sharp object to remove the material on the wooden guard room. You can see it on my picture that I presented on the report, the second picture on the southern wing. That's the external side where the bullet came out of. The bullet was fired from the northern side of the guard room and it struck one of the metal post of the durawall prior to penetration past northern and southern wing viewing the guard room. Another bullet it was approximately the entry of 7.5mm diameter and one exit at 9.2 mm diameter and it was also observed something was pegged from my picture the one that you see in the brownish colour that is

appearing on my page 10 it is that nail that is appearing like a bullet head. I just did this so that I will let you know how the bullet holes were tempered with so I could not get the correct or depict the correct calibre because the holes were tempered with.

Going to another part that we visited in the car park, it was the Barclays bank Mini bus ABB7538 Marcopolo. It had one bullet entry and one exit hole was found on the Barclay mini bus which was parked inside the car park on the day. The bullet that hit the bus was fired from the northern direction as shown on my picture just down. The bullet entry hole had a diameter of 5.9mm and the exit had 6.9 an indication it had flown from very far direction from the firer.

The third one we attended also to a victim who was there at the car park when we visited Adrian Mujeri who came to this Commission and testified. Adrian was interviewed and indicated that he was shot inside his arm jut close to the elbow and I could just see the stitches that was on his skin. I never attended to the person before he was taken to the hospital so I could see the stitches and the exit that was larger an indication it passed in his body from this side and out this way. They were stitches that I could see were so many because of the medical people who were attending to the hand. A bullet entry and a bullet exit were seen by the marks and scares he identified to us.

Q. Still on Adrian. Were you able to tell from your observations and from your interviewing him whether this shot that hit him was fired from the front or from the back?

A. As an expert I just observed it must be or it was a bullet entry from its entrance and the outer side that it came out of. I could not ask him much because I am not an investigator so I just wanted to examine the bullet hole and its exit. That I got from Adrian that it was fired and I could see the entry which was smaller and the exit that was already operated and I could measure anything it was already stitched and already healed.

Q. Thank you very much you may proceed?

A. The last one was a Mitsubishi commuter omnibus AAQ0173 it was parked closer to the main post office and the person who owns the kombi was not even there so I could not access the inside of the kombi. One bullet mark on the windscreen was sighted. It was a shatter that was giving in and we could not pick anything from there because the window did not shatter or produce any hole but you could see that it was a blow that came from outside into the screen of the car. I think I will now go to my conclusion.

Q. Before you go to conclusion your examination of these scenes that you have just referred to from that car park are you able to tell the Commission what sort of firearm was used to fire those?

A. From my opinion the weapons that were used were small arms. I cannot depict the calibre because the bullet holes were tempered with using certain....

CHAIRMAN KGALEMA MOTLANTLE

You are protected. You have our protection. Carry on.

EVIDENCE LEADER MR THABANI MPOFU (To witness)

Q. You can continue with your evidence?

A. From my observation at the car park all the bullet holes that were cited were fired by small arms and we cannot pick which calibre because all the holes had been tempered with for example the wooden guardroom. As for my picture I actually took pictures so that the Commissioners can see the temper that was done on the hole. So all those are small arms and when we talk about small arms.....

CHAIRMAN KGALEMA MOTLANTLE

Once again we must appeal to you. Please don't interject someone who is testifying under oath. I am appealing to you because it is important. You are physically here but they are many people who are watching this on television. I am really appealing to you that let's have order because this is a public hearing and it's not right for you to interject the witnesses. Allow the witness to make the points and we have all the year and time to analyse and arrive at our own conclusion. Please help us. Let us work together here this is a public hearing.

EVIDENCE LEADER MR THABANI MPOFU (To witness)

Q. Please carry on with your evidence?

A. When I am saying small arms, small arms cover shot guns, rifles, all pistols, revolvers all of that are included when I am saying small arms. I cannot go straight to which calibre it was because as I said earlier on the car park all the scenes that I attended at the car park the holes were tempered with. With the buss they had already cleaned the bus tried to remove the bullet that was inside the seats and even the one that had

passed into the bus they had already done something on the holes. Going back to the guard room I have the picture which shows the wooden part of it removed even the other side it had some nails inserted inside so I cannot go straight to which calibre it was but I can specifically say it was from small arms. Thank you.

Q. Lets move to the ZCTU scene if you could take us through your findings without fear?

A. The ZCTU offices we observed that on the third floor two bullet holes approximately 2.4 cm and 2.5 in diameter 8.5mm horizontal apart 137 cm and 129 from the floor respectively were observed on one window pane facing Jason Moyo Avenue. Further examination of the holes showed that the bullets were fired from outside the building. Entrance holes were neater and clean cut. They tend to be smaller, exit holes were larger and messy they showed the circular fracturing of the glass because the bullet came in from outside into the window and fell inside. Bullets are fired with a lot of force and the force carries pieces of glasses through the hole and out other side. The glass fragments intended to stick on the exit hole and I could see from observation the glasses were shattered inside the building showing the exit into the building on the glasses. I observed the two holes that had the circular fragmentation that was caused by the bullet holes. I indicated on my picture the first hole and the second hole.

The second was second floor. One bullet hole approximately 2.3 in diameter and 182 from the floor to where it came in was discovered on one window pane facing Jason Moyo Avenue. Further examination of the hole show that the hole was fired from outside. Two bullet entry holes and two exit holes were also located on the aluminium

screen that we see on the picture as aluminium louvers that were just outside the building. I could not measure the two holes but they are completely two shots that are smart and coming into the building. We could not measure those because we could not go outside the building or reach the surface we were but we could see they were to shots fired from outside. The material of the louvers must be aluminium. Its entrance and exit is clearly seen because it came from the outside into the inside and leaving the material of the aluminium opening into the offices showings its entry and exit. The position of the exit hole in relation to the entry holes shows that the bullets were fired from outside and it could not be measured due to its location.

Lastly that was observed was the ceiling that was concrete. It had an approximate 3cm in diameter. The cement had come off and it was a circular fragment that had fallen into the office. From there you could tell that the bullet that came in through the louver into the window also hit the ceiling and fell down. I think am done with ZCTU. The two floors that we saw the bullet holes.

Q. On the day the Commission visited the ZCTU Golon house on the second floor a witness showed to the Commissioners what appeared to non expert eyes as a head of a bullet and two spent cartridges. You had occasion to examine them. Are you able to now tell this Commission what your findings were?

A. As the police procedure like what the CGP had indicate earlier on that the cartridges were going to be given to the police officers and law and order would bring them to CID ballistics they were brought in by Detective Constable Vhunduka. He brought what I name A, the 2 x 7.6, 2 x 39 spent cartridge cases. The other one I will name

'B' it was a steel core. Examination on exhibit 'A' that is the spent cartridges showed that there 7.62 by 39 spent cartridge cases which were discharged by two different AK rifles that chambers 7. 62 by 39 live ammunition. Further examination of exhibit 'A' meaning the spent cartridges showed that they did not match any outstanding scene in the laboratory. To explain this we keep cartridge cases that are brought to the lab without firearms matching on them for further examination so that we match the outstanding crime case to the incoming firearms looking for the firer. To go on examinations of exhibit 'B' that is the steel core that you saw from here that was of different shape to the cartridge case showed that it was steel core of a 7.62 by 39 bullet. No comparison could be done on exhibit 'B' the steel core. This will could, not put on the machine and examine which firearms could have fired the steel core because it had already left its jacket elsewhere we only saw the steel core and we cannot put it on the machine. Going on pertaining to, no I will stop there. That is all about the exhibit that were brought from the Commission.

Q. For continuity sake. I just want you to carry on to that because your evidence that you have just stopped short from giving when you said pertaining to the crime scene number 2 City park just carry on finish that then I will come back to what I want to ask .

A Pertaining to the crime scene number 2. City centre car park nothing was picked from the crime place by forensic ballistics' experts. Since the scene had already been disturbed , we were told by the lady who worked in the guardroom that they are always sweeping the guardroom and they did not find anything they feel intended

to give us even the minus the drive indicated he cleaned the bus and took everything out and washed it using a hosepipe so we could not pick anything from the bus. Further with my regards to the scene no exhibits have been brought to forensic ballistic any other stations for forensic examination. Thank you Sir.

Q Thank you very much. Now I just want to take you back to your findings pertaining to the spent cartridges. On the day of the inspection in loco the Commission was referred to a witness who then came to confirm his evidence here in this very room. This witness made indications. He indicated that the steel core and one of the cartridges you examined were found on the floor of second Golon House. He then led the Commission downstairs to a spot where he indicated outside Golon house that he had picked up the other cartridge. Now in view of the position of the cartridges are you able to tell this Commission as to where these cartridges would have been fired from?

A Thank you Sir. Chairman 7.62by 39 cartridges are fired by an AK rifle. If they are forced the firer squeezes the trigger it ejects the cartridge case closer to him or her meaning the cartridge case that was found on the ground was fired by one person who was on the ground. The other two that were cited inside the office it means the head that went into the offices was true it could have come from the ceiling and falling down that's my opinion. The other one that was picked as he says in the office to me and other experts and anywhere the firer was inside or could have squeezed the trigger inside the offices because it falls only closer to the firer. It does not fly together with the projectile from the ground into the 3rd floor or second floor. That is impossible.

Q Thank you.

A So what we were supposed to have. What I think was supposed to have supposed to have been picked inside the offices were supposed to be just the bullets. The steel cores. Cartridges should have been picked where it was closer to the firer. Thank you.

A Is there anything else pertaining to your report that you have compiled which has been handed to the Commissioners that you would like to highlight at this stage?

A Nothing thank you.

Q Thank you very. I will now hand you over to the Commissioners. They may have certain question or clarification they may seek from you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I think first and foremost we would want to be just make it clear that by a small arm you refer to an AK 47 Rifle?

A Yes from my definition as I highlighted small arms covers rifles, shot guns , revolvers and pistols, any calibres that are below 10 mm will fall into small arms.

Q In other words an AK 47 rifle is a small arm?

A Thank you.

Q Is that what you are saying?

A Yes that is what I am saying.

Q You were trying to clarify that point I saw it created problems earlier on so the questions is clarified that a small arm includes an AK 47 . The second questions

relates to what happened to the third floor in the ZCTU. Is it your evidence that from the observation of the shots emanated from outside?

A From the?

Q From the report from your expert analysis?

Q Yes I will take the question as yes. The bullet were fired from outside into the building, passing through the louvers and the glass in to the ceiling then fall down on the floor.

A So there was no indication as far as you are concerned of any firing from inside?

A When we interviewed the people who attended us there, they indicated they never saw anyone inside the building.

Q If then that is clear as such it would mean that this thing that was picked it would the one thing is false either that that thing was not picked from the third floor or that someone shot from, it can't be both correct because we got some evidence that that cartridge was picked from the third of second floor but you didn't notice any shooting from the second floor yourself?

A As I alluded earlier before, the shots that we observed where all fired from outside in to the building. We never saw anything like bullet hole that was fired from inside to outside and I did took the photos just to show you what I observed as bullet holes.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Superintendent did you make any finding as to whether the people inside the building had arms. Did you make any findings on the day?

A On the day we attended we had investigators from CID law and order for me I do examinations and produce reports for Judiciary. The investigation part of it is done by the investigators. They were together with me and are the best people to ask more on what they got from the occupants of the office. The other office that we entered the person was not even there. The person who reported was said to be outside the country. We just got entry using the keys. He was not even there to answer to any questions.

Q Since a cartridge was found inside would there be any possibility that they could have been fired from inside. Considering that windows can always be opened?

A Maybe I answered when Commissioner asked me. I am saying when one is firing any small arm; the cartridges fall closer to the fire. To add more one can ever see the cartridge and pick it because it falls close. In the event that it rolls over, it can roll over but closer to you the firer meaning that the person who indicated to you that he picked the cartridge case and the head the steel core should explain maybe how it come to them and they didn't see the firer. I even asked, did any personal come into the building with a firearm and fired? Are there any other holes that you have that we did not see because we looked through all the offices that they reported we were fired to. Thank you Commissioner.

Q In your evidence in the city Centre you said you examined one guy who was shot and according to your statement its suggestive of the fact that he was shot from the front. Would you confirm that?

A My picture that I inserted on my report does an aid to explain where the whole was because if I change the direction or say anything it will be wrong or a speculation. I don't know his position during the time of fire and where he was putting his hands during the time he was fired but what I noticed was a mark that was already attended to inside the elbow and outside this side and I observed this one was smaller than the outer, the exit hole which I explained that the entry will be smaller. The exit will be larger and any projectile that forced into the bones makes the bones more impact to the exit as they will also intent to take the position of the projectile create missiles as it leave the body .

Q The reason why I was seeking clarification is that in your statement it said the bullet marks were located just below the right elbow and the bullet was fired from the front direction. I just wanted you to clarify so that when we go through the evidence we can be able to tell.

Q Thank you Commissioner as I have cleared this I think we are done with it.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Thank you just want you to clarify. You are not able to say categorically that the shot was fired from the front it depends on where the persons would have been when they shot . If the persons could have been facing the other direction, it's the other way it never depends on factually at the time.

A Yes because I attended the person when he was treated and the wound healed. I can only confirm the entrance that he showed me and the exit that was consistent with the gunshot where the entry is smaller than the exit. The exit is larger. The entrance is smaller.

Q Thank you. Can I just go back to the scene of the Trade Union Federation in your report at the last page you said that these cartridges were from two different AK47 rifles. How can you tell that?

A Commissioner let me go through what we do when we examine cartridge cases. Ballistics is an art where we examine cartridge cases from a crime scene using a comparison microscope so when we put cartridge cases on the comparison microscope we are checking for striation marks. We do it using the microscope and checking all the striations that we are going to see on the cartridge and compare with cartridge cases because it's a comparison of two things. So when we picked the two, we studied the first one and studied the second one put the two together. Recheck what we are seeing on the first cartridge and what we are seeing on the second cartridge. We compare the two. To put this clear, let me say we are comparing two people. Myself and her. So what similarities do we have when we are comparing. We write them down. What difference we have? We write them down. If we are so different it means we are coming from different parents. If we are real people like what I am giving as an example she is light and I am light. That is not a difference. That is not different from us. She is big. I am a bit small. We look at the differences. So these two cartridge cases when we compared them, there were actually two different things. The one that was picked on the ground had

different striations from the one that was picked inside the offices indicating they were two different weapons that were fired. We are an aid to the investigation so when the investigator is investigating we just forward the information that we could have got in the office so that he goes to look for the two firearms since it's not coming up to the one firearm that got the two cartridges .

Q I think I understand. Every gun that they both AK 47 rifles.

A. Yes.

Q Every gun will have its own characteristics.

A. Yes.

Q You cannot therefore tell which bullet was fired from which gun in this case we don't know which gun but you can confirm that there are two different AK 47 rifles.

A Yes Commissioner I admit to that.

Q. The bullet that was found inside you state was a 7.60 x 39 mm bullet which is exactly the same figures that you used for describing the AK 47 cartridge. So is it far to assume that that was most likely from an AK47 rifle?

A. From my report I clearly stated the cartridge cases are from you can read my second part. Examination of examination of exhibit 'A' that the two cartridge cases showed that there are 7.60 x 30 mm spent cartridge cases which are discharged by two different AK rifles. So I think you are answered.

Q So the bullet itself. Is it safe to assume that the bullet itself is also from an AK 47 rifle? Was it exactly the same measurements?

A It's safe to say that because it was a steal core from an AK 47 ammunition.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q It's not a possibility it's a fact that it was from an AK 47.

A. It's a fact.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q That is what I am trying to establish that us as Commissioners can rely on that philosophy. That philosophy is finding in your evidence as an AK47 bullet.

A Yes.

Q Just walking back from the evidence is it your expert your opinion that bullet must have been fired from the street at an angle going through the window into the ceiling and then dropping down .

A imaginarily as an expert I have to look for a possibility where something is flying from and towards a target. So as an expert I am just saying from my imaginary point of view the trajectory was from down in to the louvers through the windows on to the ceiling then down .

Q And then one further step. It might not be you it might not be you that's got to do this but maybe somebody else in the police but we have seen a video talked about a soldier kneeling down and firing. In that same video there is another soldier behind you who does have his gun up in the firing and those people who were in the office said that we should look at that video because they think it could be that soldier

firing into the building and that trajectory going into the ceiling. Have you looked at that video to do a comparison as an expert?

Q Thank you Commissioner to answer you back, as an expert I don't work with videos I am sorry. I work with cartridges and firearms. If I speculate anything that will be wrong.

Q We as the Commission we certainly looked at the video and we would be very much helped by police as well to see if the two can be matched up. I appreciate that it's not you but somebody in the police who is an expert in that.

A Thank you.

Q Thank you very much for your answers.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q May I say that as Commissioners we looked at the video and the question my colleague o was putting to you was a question arising from our observation of the videos. You as an expert don't need to look at the videos but you are in a position to answer our question from your expertise. My question relates to the car park wooden guard room. We understand your report to say that you were convinced that it was one bullet that made the two marks as 'A' and 'B'. I say this because with my inexperienced eye I was not convinced when I looked at them that the holes were parallel enough to justify the conclusion that it was one bullet. The impression I had was that the entry points of the bullet did not coincide properly with the exit point so the possibility of two bullets having been fired there. Did you consider that?

A Commissioner in my observation I had 'A' the bullet hole. The part I wrote 'A' and the other one that I wrote 'B'. And I also had two pics. The other picture is indicating one bullet and the other one is indicating another entry and exit so there are two holes and also the, let me take you back. There is also, let's go back to the 'C'. I want you imagine the Durawall of the City Car Park had steel bars. There is one that is coming through the steel bars into the guardroom and there is the other one that is just to below here. Two things.

Q So there are two bullets?

A Yes. I suppose.

Q Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q We have post-mortem reports. Perhaps you might be able to explain to us from your expertise if it applies where the doctors describes what caused the death the shots coming from high velocity projectiles. Would you be able to explain to us what that would be from ballistic framework.

A Commissioner to explain about the velocity, in ballistics we classify weapons into three categories. We have the low velocity. The high velocity and the hyper velocity. When we talk about the categories, it classifies the types of weapons and their velocity. So small arms as I said before, fall into the high velocity and hyper velocity. We cannot go to AK rifle and bring it in here own its own but its classified as small arms falling into high velocity and hypervelocity. We have some mathematics there I don't know if you want me to present the metres per second that governs the velocity.

Q So we will be correct then according to that expertise that if the description is that the shot came from a high velocity projectile then the AK 47 rifle will be in that category?

A Let me with my ballistics say wounds inflicted by high velocity firearms or ammunition are radically different from wounds caused by handguns or law or medium velocity firearms. Injuries from law velocity firearms e.g. pistols are confined to tissue and organs directly in the wound track as they are flying into, when the projectile is coming when its high velocity, the wounds are different from law velocity the doctors are commenting on this because they actually saw the wounds and I cannot comment much on the wounds because I did not do terminal ballistics so I cannot comment on wounds because I never saw the 6 or 7 bodies. I only saw one injured Adrian Mujeri and the rest of the victims I did not see them or attend to them in any way.

Q What I wanted you to assist us with I think you have done that it was just not for you to have observed them but we are dealing with this description that it came from a high velocity projectile and my understanding from your expertise is that high velocity projectile would include an AK 47 rifle. Is that what you are saying?

A Let me take you back and say

Q I think before you take me back you are talking to a lay person.

A That's why I want to explain to the lay person. I was saying when commenting on high velocity we normally categorise them into three. High velocity and hyper velocity and small arms do fall in high velocity and hyper velocity no unless you want me to say AK rifle is high velocity but I said in an umbrella term, small arms are rifles.

Q When I need then to consider this you will not be there and what I am just doing was to make sure that my notes are clearly accurate in saying that so you are putting the AK 47 rifles in this high velocity projectiles. I think that is what you have said?

A Thank you.

Q Is that correct? I heard your voice to that? I think it is very important for me to confirm that an AK 47 rifle....

A An AK47 riffle falls under the small arms.

Q Which is a high velocity thing?

A It falls in to the two categories. The high and the hyper so it's basically the same thing.

Q I am not asking you to conclude we are just taking notes and we are lay people so that when we discuss. I think you have answered the question.

A I have answered Commissioner.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q A follow up question. For the possible ranges of firearms that could have possible used at the car park. Do they fall in to the high and hypervelocity?

A Yes Commissioner I answered to that. I said I could not just come up with the calibre. The size of the firearm because the bullet holes where tempered with. That I answered.

Q Yes but that range of fire arms

A Falls under the small arms.

Q That what I wanted to know.

A Yes Commissioner.

Q The second issue in your own opinion can a pathologist conclude on the issue of velocity without a reference to the ballistic expert in concrete terms?

A I cannot answer for the pathologist.

Q Is it knowledge that is restricted to the ballistic expert in terms of the velocity or it is expertise that is also found in the pathologist?

A It's also found with the pathologist. We normal assist the pathologist in the arms and ammunition when they are doing the post-mortems. We work together. He has knowledge of firearms that is why they commented on high velocity and the wounds.

A Thank you for that clarification.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much for your testimony. I have understood use of the things that you have said. My only questions is how harmful can a bullet be when it is fired into the air and then it falls down and happens to fall down on a human being. How harmful can that bullet be when it is fired into the air? You see its trajectory and then it covers its trajectory and then you know the velocity decreases and then the bullet falls down an object or human being? First question

A Commissioner you are saying the bullet is fired into the air?

Q. That is right

A When we fire into the air we are trying to fire at a safe direction intending to fire not to the target but to make warning shots and in the event that it comes back on its way I cannot tell exactly when its falling down its impact because its affected by a lot of things. When firing there are a lot of things that affect for example the charge in the ammunition, the wind resistance and a lot more. So I cannot tell the

impact it will cause on the human being when its coming back depending on a lot of things but when one is firing into the air, we are firing at a safe direction assuming that there is nothing flying in the air because we can have birds, we can have aeroplanes but firing into the air is only to fire in a safe direction.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q But a bullet fired in the air will eventually fall.

A Everything that goes up comes down.

Q So there question is when it comes down. Because it will fall at some point. When it falls down what sought of damage can it cause.

A That is what I am saying. I cannot comment on what damage exactly it will cause because its affect buy a lot of things as it goes up. What I said as the charge, the wind resistance, the distance it would have taken its velocity as it was leaving the muzzle. There are a lot of things but it can come back on the ground and have an impact on anything. If it reaches to a target that is hard that is when we have ricochets.

Q What is the worst case scenario? It has gone you have all these factors. What is the worst case scenario of the bullet that has gone into the air?

A I have given you one thing that we call ricochet for example the ZCTU building. It went into the ceiling and came back depending on its effect when it was coming back. Its velocity. Was still having enough speed. The velocity the muzzle velocity when it was coming it was coming down. It can cause harm.

Q So the worst case scenario is that even a bullet fired in the air can kill?

A It cannot kill. From my point of view I am saying when one is firing straight in to the air it is going to fly as long as it is not going to meet any object on the way then it comes back due to gravitational force. When the kinetic energy done it comes back. Because they are driven with the kinetic energy from the muzzle as they go up. So when it loses the kinetic energy it will come down.

Q Can I get an idea of the distance how far? If someone is firing not necessarily in the air but they are just firing whatever range how far can a bullet go. Would you be able to have an idea?

A It depends with the calibre. Every firearm has got its own effective range or maximum range.

Q What is the effective range of an AK47 rifle?

A The maximum range is 350 metres or 380 yards.

Q 350 metres?

A Or 380 yards.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much superintendent, your report is certainly very helpful and the clarifying scenes of this shooting. Thank you very much. No further questions. You may step down.

EVIDENCE LEADER: MR THABANI MPOFU

Mr Chairman we have come to the end of the hearings today. There are no more

witnesses to call.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Thank you very much. We are available to hear any volunteers. Anyone who is itching to share information with us. None. Thank you very much we will see you tomorrow.

ADJOURNED

RESUMED

EVIDENCE LEADER MRS CHIMBARU

Good morning Chair and members of the Commission. May we begin today's business. Our first witness for the day is Mr Meynard Manyowa. You notice he was on yesterday's list but he was not able to testify yesterday. He is a journalist.

EVIDENCE LEADER MRS CHIMBARU (To witness)

MEYNARD KUDAKSWASHE MANYOWA : SWORN STATEMENT

Q. Is it correct that you are a journalist?

A. Yes.

Q. Do you work for any Media House?

A. Yes ma'am. I own an online organisation called Kuluma Africa.

Q. We want to thank you for coming before this Commission to give your evidence and we apologise for not being able to accommodate you yesterday when you came.

A. You are welcome.

Q. Is it correct that you say you were an eye witness of the August 1 events as journalist?

A. Yes I was an eye witness of the 1 August events with certain limitations though the incidences that happened at Rainbow Towers along Jason Moyo all the way up to Leopold Takawira, down Cameroon Street and back to Rainbow Towers. Those are the incidences for which I witnessed.

Q. Would you now please narrate to the Commission that which you witnessed on the 1st of August?

A. Thank you very much. Perhaps I will start with a small back ground. During the election session my team and I had set up a command centre at the Rainbow Towers Hotel. We had gotten two rooms there for which one was our News room and one is where we could retire to bed as a team. On the particular day in question on the 1st of August we woke up early and went to the ZEC results centre together with my candidate reporter. Her name is Tatenda Maredza. While we waiting for the Commissioners from ZEC to come and announce results I received a call from my first wife Mutsa Guta who asked to meet downstairs she wanted to get some bond notes from me. She had gone to buy a dress in town and they refused to take eco cash and swipe. When I got downstairs she delayed a bit by about 10 to 15 minutes although she had indicated she was downstairs. When I eventually saw her I enquired why she had called and said she was downstairs when she wasn't to which she responded that she had been blocked at the gate by a group of protesters and that they was a bit of standoff by the riot police. I then proceeded to walk her out of the hotel

so that I could guarantee that she could leave safely. When I got to the gate they were perhaps maybe nearly less than a 100 MDC supporters. They were singing, they were dancing, none of them were armed or doing anything I would say as perhaps violent at the time. They were cooperating with the police. The cars that arrived would only experience a slight delay but eventually the gate would be opened and they would enter and leave so there was some freedom of movement and free flow of traffic.

Naturally and based on instinct and also based on what they were saying I kind of figure that they would return and given that I think at the time there was a video that was going around on the social media of protest as from Harvest house to Africa Unity Square along Nelson Mandela and returned. So I then decided to spill with my candidate reporter. She would then cover the broadcasting of the results live from the results centre and I chose to remain downstairs. I think about maybe perhaps within an hour to an hour and half later the protesters returned again. I was sitting downstairs at the foyer at Rainbow, I could hear them singing. I made my way towards the gate. At this point they had increased in number. We were perhaps looking at between maybe 500 to 600 protesters and among them were a group of very young children. I am in company of the footage which I am willing to hand over to the Commission so that they can verify some of the claims I will make. As I stated amount there were quite some very young children who from their appearance and dressing I made the assumptions that these could have been street children. They probably were about 50 in number and in my commenting in one of my live videos that I think it was disheartening because a few of them looked at least intoxicated. The language that they were using was extreme vulgar for which I cannot repeat in front of elders like you. Some of the protesters at the time were bearing iron bars, sticks,

stones, bricks and even the kind of songs they were singing had now changed. Among them that I remember was one where the captain was chanting hondo, hondo which was telling out to war. And another one which they kept on saying in Shona they say zvikaramba toita zve, I can't say the word but to translate that is if it doesn't work we were going to use force.

During that time they protested for a little and as we were there three bricks were launched from the porters towards the police barricade. One of them hit the security proof at Rainbow Towers. To this day if you go to Rainbow Towers one window remains broken and hasn't been replaced. On the video itself I did go towards the object that were launched to confirm that there were bricks. Two of them had spilt one had hit a police officer and one had fallen I think where they were hedges into the side.

They continued for a while maybe 10 to 20 minutes and then they left with promises that they would return.

One lady and a gentleman did remain. A lady was sitting right in the middle of the gate. I approached her to ask a few questions and I do have that footage. I had asked her why she was visibly irate to which she answered that she felt that the elections were being stolen. I proceeded to ask her on what basis she thought that and why she felt the elections were being stolen given that a fraction of the results had only been released. In her response she then responded saying the people in the rural areas had voted wrongly and that ZANU PF was using dead and ghost voters to vote. I did ask her and noticing her demeanour and also the use of extreme language that she may have been intoxicated. I asked her if she had had anything to drink to which she

responded that yes she had taken alcohol, she had taken a local brew called Super and also taken some marijuana. At that point I went back to sit at the foyer as the protesters had left.

The protesters then returned after 2 towards 3 o'clock in a much larger number. This time we could hear the songs when they were about 500 to 600m away. As I made my way to the gate, behind them I could see thick clouds of smoke and right the entrance were a group of few protesters. Some of them had torn down ZANU PF campaign posters and were burning them down. Some of them were vandalising President Mnangagwa's banner which was erected just inside of ZANU PF but you could access it from the outside. This time it didn't take long for violence to break out. Within 3 to 5 minutes of them arriving they began to launch missiles towards the police. The police reacted by firing water cannons towards the protesters. When you get to the entrance of the Rainbow Towers. To your right is a plantation of jacaranda trees. The protesters then went underneath the jacaranda trees which basically blinded the police water cannons missed them because when they fired them they would go through the trees first. They started launching missiles from there these bricks and stones towards the police. I think the police were about 20 in number. Some of them erected a barricade by they began facing an obvious challenge in that if they erected their backs facing the gate they were still getting hit by missiles from the right. I did take a brick to the back myself and one of our mounted cameras was hit by a brick and was broken permanently. I did damage a cell that I had at the time as we were trying to flee. The police reacted by launching tear gas canisters in to the trees. Some of the canisters were picked up and thrown straight back at the police while some of

them were picked up and put in some plastic canister that had water. I suppose as a means to neutralise them.

During that time two gentlemen quirked up towards the gate and launched two bricks towards the police water cannons hitting the muzzles and when they hit the muzzles in the water cannons the trucks immediately flooded and then that caused a lot of water leakages towards the gate. I did speak to a police officer asking him how they were going to proceed as it looked like the trucks were flooding and he said at this point when they are flooding we have to ask for reinforcement there is nothing else that we can do.

At the time I was talking to him they were then told that the ZEC offices were under siege. There are about maybe 200m from the Rainbow Towers from town and then they embarked into the water cannon trucks and then opened the gate and went outside the gate. They then stationed themselves at the corner of Rotten Row and Jason Moyo if I am not mistake. That's where you find the Net One Building.

At this time the protesters branched out into about 4 groups. One group went towards Prince Edward which is at the left and the other group went to the right towards Rotten Courts and the other group was in between Rainbow Towers and the water cannon trucks. I went out and began filming with the group that was at the robots. They were vandalising the robots with those pipes and sticks, they broke a few traffic lights. Some of those images are available on my face book timeline public till today including the pictures. As we were standing there one gentleman approached us and he was holding a 500ml bottle which is to contain fruit juice called minute maid which had a brownish liquid which looked like petrol. I did get confirmation that it

was petrol because he did ask one of the guys if they had a duke or a cloth that they could shove it into and set alight the bottle. They did find this and threw the bottle into the ZANU PF headquarters but it only ignited mid air and didn't ignite when it was at the ground. One of the gentlemen then said no, you made a mistake you have to pour in sand if you want it to explode like a petrol and the other gentlemen then said look we need to find more bottles. Go and get more bottles and go and get more petrol. And these gentlemen left.

As they were leaving the people who were just outside ZEC were intensifying perhaps the same violent behaviour and the water cannons trucks turned towards them and parked just outside ZEC. The police had erected another barrier there maybe of about 15 people as well. They were retreating getting pushed and kicked and the norm retaliation we are talking of 15 police officers against thousands of protesters so they had literally no way of retaliating and they were just taking it on the chin.

They were then intense discussions among the protesters about flipping the water cannon trucks over. A rare discussion because some of them were going and banging the water cannon trucks. The group that was at Prince Edward started fleeing. We were standing there we just saw people running and screaming. I think on my live video I did ask I don't know what's happening people are just running away. Within two minutes or so I then sported a lone military figure holding one hand whip with the protesters running away from him and he was coming in our directions. About 30 to 40 seconds later a group of about 10 to 12 other soldiers were coming from the same directions and they were holding hand whips and just behind them was an army truck that was moving slowly. When the protesters who were standing the other time at

ZEC noticed that the soldiers were coming some of them in isolated instances began to launch missiles and bricks towards the oncoming soldiers. But the soldiers kept on coming and they were hitting people. In one of the videos that has been published on News 24 when I heard an opinion piece about what I experienced you can hear me on the video saying people are launching stones and we don't know how to proceed. I was with a friend who had identified himself as a local journalist at the time and we went up just standing in the corner we didn't know whether to proceed towards the military or how they would react towards us. At the same time we couldn't go with the protesters and bricks were flying all directions. The only way of protecting ourselves was to cower close to the buildings.

The soldiers did come, they did hit few people and people were running in different directions. I then crossed they happen to just leave me alone I supposed it might have been on the account that I was wearing a media bib that tells I was a member of the press. I crossed the road and I stood next to the riot police where I felt at this point it was safe. It was at the time that I heard the first bang and my video I think which I will supply to you you can hear me saying I think shots have been fired is that a gun shot. The soldiers were holding hand whips their first reaction as the time or the other time was to cower down a little bit and then when they did the other members of the National Army then disembarked from the trucks and they were the ones who holding some automatic weapons. They disembarked and began firing into the air and advancing towards the protesters. Bar one soldier who comes out partly on the video published and partly on one that I released who did go into a crouching position and looking as if he was shooting towards the protesters. I then felt at the time that it was safe for me to go and film from behind the soldiers generally the rule of thumb as if

you covering in conflict zones. If you travel behind the government forces you tend to be safe, if they identify you as a journalist they are likely not going to attack and you also happen to get advantage point.

They proceeded down Jason Moyo against the one way towards the Coppa Cabana area. As we got to I think its Harare Street another journalist had been following us closely I think he may have seen the image he was wearing chiffon that made him look as if he was Arabic but he wasn't wearing a media bib. He then turned towards one platoon of the soldiers. He went to try and take pictures of them he is the one who has images where he was assaulted with a whip and then ran away immediately.

We continued going down Jason Moyo until we got to where Coppa Cabana starts. The soldiers then divided into two pairs. The other ones turned left going up towards Samora Machel and the other ones turned right going down the Market Square direction. At that point I felt that I had filmed enough of the soldiers from behind them and shooting and because of that thick clouds of smoke that I could see down Jason Moyo and Coppa Cabana area I then decided to proceed and see if I could get another rendition or unique footage.

I proceeded down that road and chose to turn as I got to the road that goes to Coppa Cabana I think it's Cameron Street if I am not mistaken. As I turned there, there was a group of protesters and people generally were fleeing from that direction. I don't know what they were running from. I don't know who they were running from. As they were running and I was trying to film from the corner of my eye I then noticed the guy who was wearing black, he had a black shirt, black t-shirt and black shoes and he took two steps and he tumbled down and people immediately said vauraya munhu

which meant that they have killed someone. I advanced immediately towards him. I am not saying of his identity now but I am aware that his brother in law came to testify at this very Commission. I have seen the images that have been circulating and the bulky of those images are taken from my face book live video and the pictures I shared on twitter.

When I got to the people who were saying he is dead, he is dead, I remember uttering that he is alive and at the time he was still alive and someone said can you dispense help and I responded in Shona and said ari kutandadza which basically means that he was in the process of dying and I could tell because he was struggling to breath almost snoring in a way. At the back of his short when it was lifted you could see the single gunshot wound in his chest just below his shoulder blade and I knew at the time that the bullet would have gone through his heart and he had no chance of surviving.

I stood there for quite a while trying to film in different directions. I must state that at the time that he took those two steps and fell down and died and the time that I filmed and if you go through my videos they had been people behind and they had been people in front of him but they were no soldiers at the time especially in that specific area and I don't know who had the gun, they were gunshots going around all over town, they were army choppers flying low but I did watch him take two steps, tumble and die. This was a traumatic time I don't want to make accusations against people but the account that this Commission received earlier on from the brother in law that they had been standing and watching apples isn't consistence with what I had in footage and what I witnessed and that those videos are available. The brother in law to this guy did show up later, he came and tried to touch body and on the video you

can hear me saying please don't touch him and to which he responds nditsano vangu meaning that this is my brother in law. I said to him I am a filing journalist you are touching him and we are here and the soldier come they are going to beat you and he did have a back and forth exchange it was some 6 to 7 minutes afterwards.

As we were in that exchange we then saw a group of soldiers coming up Speke turning into Cameroon Street but going the opposite direction. We waived at them and we shouted and the soldiers we got their attention and they then came towards us. As they were walking towards and they got close and they realised that I had cameras and I had two cell phones and I was filming, one of them retorted to say iwe une foni uya pano apa, which translate to you who is holding a cell phone come here. At that time he was pointing an automatic weapon at me. I immediately froze for a while, turned and dispersed and started running. When I started running I did hear gunshots. I that time I just assumed they were shooting at me and until to date I can't say they were not shooting at me or not shooting at me I was running away. I ran for my dear life and I ran and fell quite a few times which is normal if you running and you think someone is taking aim and shooting at you. I remember at one point falling over encroaching behind the bin. I sprinted in zigzag lines with a colleague who was also there all the way until we got back to the hotel room. I got back to the hotel I picked up my phone the one which had not suffered any damage. I phoned my second wife. I broke down, after which I broke down I took a bottle of whisky and I downed the bottle of whisky and passed out.

For people who had known me before this event and people who knew me personally I haven't been the same since that day. The article I read on News 24 was the first

time that I have written any form of the news article since that day. I still see the man's face vividly any time I go to bed. He died as I was filing. I still remember being scared. I am very young man I have just 28 years of age. I have got two wives and three beautiful children and I was sprinting running for my dear life. I am an orphan by the way my father died when I was 10 and wondering what sort of fate my children would suffer at the time. But I suppose that's not the business of the Commission and that is what I witnessed on that day.

Q. Thank you very much for the detailed account. I have a few questions that I want you to clarify. What time was it when you saw this first group of protesters whom you say were demonstrating peacefully?

A. It was early morning I think between 9 and 10.

Q. And then you say when you then followed the soldiers when you heard the first bang were you able to identify the source of the loud bang that you said you heard and thought that were gunshots?

A. I didn't because the soldiers that were at my left and to my right were holding hand whips and I couldn't tell the direction of the shots either hence I even enquired to friend saying are those gunshots and he said yes I think it's a gunshot. The soldiers that were next to me reacted pretty much in the way and they briefly crouched back a little bit as if they were surprised wondering what it was. I assumed it was gunshots, it could have been anything else but a dead sound like one.

Q. But you would say that the soldiers that you were seeing at the time were using

whips?

A. Yes they were holding hand whips.

Q. Were they using them on the demonstrators?

A. Yes they were.

Q. But you said they also ducked when they heard this shot?

A. The first loud bang yes they did.

Q. The person you say was in the company of you whose brother in law later showed up

I think we have come to know him as Ishmael Kumire?

A. Yes.

Q. Were you wearing any uniform on the day in question?

A. I was wearing blue jeans, a white t/shirt if I remember but I was wearing a media bib, the Zimbabwe media Commission gave us bibs one like this one.

Q. Because evidence has been led before this Commission to the effect that the person who was restraining the brother in law from touching Kumire was in army uniform and he then in fact told this Commission that he retorted when he was restrained to say no he is my brother in law so you can't stop me from touching him?

A. Unless a second event happened at some other time but when the guy was shot the brother in law I think on the day he was wearing an orange t/shirt and black trousers. He wasn't there he showed up later and I have it on video as I am speaking to him

asking him not to touch the body.

Q. And you confirm that it was you who in fact tried to refrain him from touching the body of the deceased?

A. I did ask him not to touch the body to which he retorted that its my brother in law.

Q. I have no other questions that would want to put to you I will now hand you over to the Commission should they have any questions for clarification.

Honourable Chair and members of the Commission your witness.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to get to the scene of the person who is dying when you were there. Did he drop when you were there on the ground?

A. Yes as I was turning into Cameroon Street.

Q. Turning into Cameroon Street?

A. Yes.

Q. So in terms of streets he lied down at which exact point?

A. Just down Cameroon Street after Jaison Moyo there is a rank and then they is a place where they used to keep a bin that area.

Q. Cameroon after Jason?

A. Yes. At the intersection of Jason Moyo and Cameroon street. He was maybe perhaps 20m from the intersection.

Q. At that time was the army there?

A. In the streets of Harare yes they were.

Q. No at that particular point?

A. No didn't see any soldiers. On my video I rolled P60 to check and they were not there at that particular time.

Q. Did you see the direction if it is possible where the shooting was coming from?

A. No I didn't I saw people running up Cameroon Street towards Jason Moyo to which the guy took two steps and tumbled. And as I said they were multiple gun shots going around in each and every direction. They was an army chopper that was flying low at the time. One of those gunshots none of them could have been, I don't know. I watched him take two steps and tumble and I filmed him dying I don't know who shot him. But they weren't any soldiers at that particular but he fell down and died.

Q. Approximately how many minutes later do you then wave to the soldiers that are passing to come and help you?

A. I think about 8 to 10 minutes later.

Q. When they came I sort of missed the point when you then got to run away and befalling. What had happened?

A. They were quite some distance as I said they turned up if I am correct it's up from Speke and were turning left going the other direction maybe perhaps 120m away. When we saw we waving at the them they turned and came in our direction and they were three of them. As they were getting closer and I can only speculate and assume

that they saw that because I had a camera hanged on my neck and I had two cell phones which were filming because one of them then retorted that you who is holding a cell phone come here to which I just turned and ran. At was at that point that I ran when they had asked me to come to them. I was holding two cell phones. I was standing to a dying person and I had a camera and the come here wasn't come here lets go for a date, the kind of came here.

Q. At that point is that when the brother in law was dead?

A. The brother in law showed up maybe about 5 minutes after wards before the soldiers had even arrived.

Q. At what point does the person die?

A. I can't have the exact time but by the time I got there anga ava kutandadza he was basically in the process of dying.

Q. So the brother in law came when he was already dead?

A. He was dying in the process of dying I didn't check his pulse to confirm.

Q. Did you ever then hear of how the deceased left the place after you had left the place?

A. With regards with what they did with the body I don't know I had left. I ran away and gobbled a bottle of whisky and passed out.

Q. That shooting did you ever find out what happened where it came from?

A. No I didn't mind. My candidate reporter Tatenda was around who then told me about the points of Zimbabwean law at this Commission. She had gone through the videos together with some members of my staff a few times and she retorted that the

guy in the video who seem to show at the Commission and he said X and X that's how I was away that the Zimbabwean law had come here and that's when I was then directing the video of his version. I had generally stayed away from a lot of things. That day evening eventually when I did wake up I was extremely disappointed and I did take to twitter to express my disappointment because I had watched this stuff in the very beginning and I had watched people nag at a level a notch up each time and I twitted about that and I twitted in response to a cousin of mine Patson Dzamara who had in some words spoken of the people who took to the streets as heroes. I was in the same hotel room with doctor Nkululeko Sibanda. I think you remember then on the next day when they stormed ZEC they were in the 6th floor and I failed to reach that participants who were camped in a hotel would have the guts to call people who were launching missiles and people who started something heroes. I had received a bit of footage images from a ZANU PF counsellor Nyasha Zemba who had his bus burnt so I knew what had transpired that day.

After that twit I became the subject of immense attacks. Immense attacks on myself, my mother, my father, my family and my children, I was basically hounded out of town. The level of abuse, I was accused of being gay and in bed with government ministers. I was being accused of being gay and in bed with the President. I was being accused of being on the payroll of the military. I was accused of being a ZANU PF sympathiser. I am not even a registered voter I didn't even vote. All manners and sorts of abuse were directed at me and I gradually went in to Shaw. I struggled a lot with the trauma of what I saw so I didn't know what happened to him I didn't try to find out. I tried to black it out as much as possible. I tried to pretend that day didn't happen.

Q. Thank you no further questions for now.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you Sir for your very enlightening testimony. We hopeful can appreciate the extreme pressure that you were under that day and thereafter. So just a few questions to try and clarify your evidence. We have heard from some MDC alliance leaders and those involved that they had nothing to do with this protest action but were just concerned citizens that came out into the streets. Did you see anything on the day which alerted you to the fact that this was something that was organised by the MDC alliance which they were participating in from your eye witness testimony or what you captured on video?

A. I didn't see any leader speaking to anyone and saying go into the street and protest but obviously away from that I was extremely convinced, one, we don't have a storeroom of face bricks in Harare. If you walk down the streets of Harare today you don't happen to find a cash of bricks in town that I heard to be used and launched as missiles. Secondly, an ordinary citizen coming into town doesn't come with 51 canister that have been cut open and modified so that they can be used to neutralise tear smoke canisters. I didn't know until I asked a police officer that if you hit the muzzle of a water cannon truck you cause it to flood. I had no idea. the crowds continued to swell the first group was maybe a 100 and the second group 500 to 600 but the third time they were in their thousands and they were promises they were repeated promises that we will come back and it will intensify, it will increase. This was stated repeatedly and at different times. As I stated earlier on I said one thing I

found concerning was the involvement of children to the black pen 11, 12 young children who look like street children. I don't think at 10 years old I wasn't even in the streets at the time. I understood the consequences of the spelling election. I did later on when I grew up in 2008 but I didn't when I was 10 years old. A young street child cannot understand and cannot have a reasonable ground unless they had been coordinated to storm ZEC offices and sing in extreme vulgar and demand that we want the results of the stolen election. I just don't think children are capable of understanding at that level.

Q. From the slogans you heard being chanted did you draw any conclusions?

A. They were a number of slogans chanted as I said they were two songs I alluded to

they was the one that they sang quite consistently which said tinoda Nelson Chamisa vechidiki, repeatedly shouting Chamisa, Chamisa with open palms. They were MDC supporters and they were protesting for the benefit of the MDC. I think that's a clear fact. I think I would be stretching it too far to say I just assumed they were ordinary people who were just protesting on because of an injustice that Chamisa suffered.

They were MDC supporters some of them as I said the woman I interviewed clearly indicated that she was an MDC supporter she said she voted for the MDC in

Borrowdale so they were MDC supporters. Quite a number of them were dressed in bright red the colours of the MDC. The ones who burnt pictures of Vice President

Chiwenga and President Mnangagwa they were chanting his poems saying

Mnangagwa uri mbavha, Chiwenga uri mbavha which translates to Mnangagwa you are thief, Chiwenga you are a thief. We are sick and tired of you etc. so I think it's

clear that they were MDC supporters. (If I may be allowed to translate) There was a

part where he indicated that they was someone who chanted saying that tinoda Nelson

Chamisa which is translated to that we want Nelson Chamisa as our preferred candidate as he is young.

Q. When you were at the Rainbow Towers hotels you said the police were there trying to use water cannons and also teargas. Did they fire any warning shots at that time?

A. Warning shots from guns?

Q. Yes.

A. I didn't see the police with guns. They had those tear smoke dispensers they looked like a gun I don't know if they qualify as guns.

Q. So you didn't hear any gunshots at that time?

A. From the police?

Q. Yes.

A. No.

Q. We have seen some video and this might be later we to estimate our times together where he appears to be a police officer from inside the parking lot of ZANU PF headquarters firing some shots. You never saw any shots or heard any shots coming from that area when you were there?

A. When I was there no. I will view it from my video but no.

Q. They were some videos from the headquarters but we will looked at that as the Commission. What I also need to just find out is what time roughly you were there because that might help us piece this together?

A. From the morning I was camped there we had a room there we were sharing a room with a number of colleagues so we were stationed at Rainbow. We actually had two rooms one room was our news room where we were consolidating all the news reports we were getting and one room is where would retire to go to bed so we were within that vicinity from morning all the way to evening even after the shootings we still went and retired to bed at Rainbow Towers so we were in that vicinity the whole day.

Q. When did you leave to the Jason Moyo area and to the ZEC offices?

A. Do you mind if I check time on that video.

Q. Yes please and of course we should say it's given we have got request to provide all of your video and audio recordings that you have please.

A. It was 15.12 that's when I started moving towards Jason Moyo. 12 past 3 that's when I was leaving the hotel going towards Jason Moyo and the soldiers arrived at 3.30pm that's when the video starts.

Q. 3.30pm the soldiers were outside ZEC and going to Jason Moyo?

A. Yes going to Jason Moyo. I went to the guy who died at 15.44 and I am checking the times from the videos.

Q. And those times you are getting them from your face book feed where you recorded this?

A. I am getting them from my video and the eye cloud in the video details.

Q. So we are going to look at that and get those times. Thank you that's very helpful.

When you went into Jason Moyo you said you went behind the soldiers and you were proceeding east down Jason Moyo?

A. Yes.

Q. And you said that some of them were firing into the air warning shots.

A. Yes.

Q. One was kneeling down?

A. Yes.

Q. Did you see that soldier yourself kneeling down?

A. I have seen him from the video when I was now reviewing part of the footage that I have. He seemed taking three steps generally crouching down until he goes into kneeling position. He fired a few times to which a commander goes and tapes him on the back and then he stands up.

Q. How far away were you from that at the time?

A. Only 15m I wasn't very far from them.

Q. So you saw it yourself in real time or you saw the video afterwards?

A. I didn't notice it in real time I saw it when we then reviewing the videos. I had two cell phone that I was filming in two different angles. I had the I phone 10 and the Hawei P20 Pro so eventually when I was reviewing the video trying to understand

some of the things that happened before I come to present to you that's when I did realise that he did appear briefly in my footage.

Q. When soldiers were firing warning shots did you see any of those shots going into buildings and window at the time?

A. No.

Q. You got any of that on your video now which you provide us?

A. Yes I do. They were going down Jason Moyo and firing this way. The tallest building we have is Net One to your right and we have got ZEC to your left then the rest are basically your flat buildings.

Q. So in the video that shows some of those shots going into the buildings?

A. No you see them firing pointing into the sky not firing towards the building no, I don't have a video of them firing into a building.

Q. Okay we appreciate looking at those videos. When you go behind the army moving down Jason Moyo were they still firing all the time as you were proceeding behind them?

A. They fired in single shots yes, they had advanced maybe take one or two steps, fire in the air, take a few more steps, fire in the air. They were not firing multiple rounds or continuous rounds they were just firing in the air, take a few steps, fire again.

Q. Just trying to put this together, you get to the corner of Jason Moyo and Cameroon. I

am just trying to look at it on the map. That's when you see Mr Ishmael fall?

A. Yes this is the deceased, yes.

Q. Are you appreciating you didn't know his name at the time but we are just referring to that so we have it clear for the record. Are we right in assuming that by the time you got there the soldiers had moved through that area?

A. No. When we got down Jason Moyo when we get to Chinhoyi as I mentioned the soldiers branched out into two and one platoon went to the left and one went to the right. I found it pointless to continue following them as I had been already filming them firing into the air.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Can you put roads to that I think, the two directions which roads would that be?

A. This is Jason Moyo and Chinhoyi if I am correct. Some turn left towards Chicken Slice and some of them go right going towards the Market Square area.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Chinhoyi is the street just before Cameroon?

A. Yes I think so.

Q. So some turned left and went down Chinhoyi and left up to Chinhoyi?

A. Yes some went towards I think its Samora Machel area. I think it's Nkwame Nkurumah and Samora and the other ones go down Speke towards Market Square.

Q. And then you didn't see where they went after that?

A. I then went past them and they went that direction and I went straight down.

Q. So it's alright you didn't see where they went after that once they turned left and right?

A. Where exactly they were, no I don't.

Q. And then you went further on one block and got to Cameroon that's when you saw this person fall?

A. Yes.

Q. We are just trying to locate things on the map.

CHAIRMAN KGALEMA MOTLANTLE (To witness)

Q. You can use the road map.

A. I understand it.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Perhaps you can orientate that and help us. You said that soldiers turned left and right into Chinhoyi you didn't see where they went after that you went on straight?

A. Yes.

Q. To the next block in the corner with Cameroon that's where Mr Ishmael fell?

A. Yes.

Q. If you could mark on the map where it was that you actually came across the body

because I know you mentioned a distance of 20m whether it was 20m down into Cameroon or 20m along Jason Moyo?

A. What I have done is I have put an arrow showing the general directions that I went and at the intersection with Chinhoyi I have put two arrows showing the directions of soldiers went and at the next block I have put a big dot this looks where I found the body.

Q. When you saw the soldiers going left and right in Chinhoyi how many soldiers went each way. Do you remember that?

A. They must have been a dozen of them they must been six. I didn't count to see how many went which sway but they certainly split in equal.

Q. So it's about six, six?

A. Yes.

Q. Were they still firing when they went down the streets did you keep hearing gunshots or you are not sure?

A. I kept hearing gunshots the whole time.

Q. So even when you came across Mr Ishmael you were hearing gunshots around that time?

A. Yes.

Q. What kind of gunshots? Was it rapid fire or single fire?

A. It was still single shots.

Q. Same as the shots that you had heard before when you were hearing them and following the soldiers?

A. Yes in terms of frequency yes, I didn't get a chance to distinguish the sound.

Q. When you came across them you said that his brother in law arrived was it 5 minutes later?

A. Yes.

Q. Do you have that on video so that we can time. It's difficult to estimate time when you are under extreme pressure.

A. Yes I do.

Q. So we can see him arriving?

A. You can see him arriving and you can hear me actually rushing and saying comrade don't touch him, to which he is responding saying no nditsano vangu meaning he is my brother in law. I think I responded and said because you are not a journalist and when the soldiers are come here you are gonna get beaten.

Q. How long after that did the soldier arrive at that precise place?

A. Maybe 3 to 4 minutes later.

Q. And that's when they asked you who you were?

A. Yes that's when I waived to them and we were calling out to them to say that they

was a body here. When they came in our general direction it took them about maybe 35 to 40 seconds to walk up the road. When they were approaching him that's when they pointed a fire arm and asked me to come towards then to which I ran.

Q. Where were they, they were south side of Cameroon coming up towards you is that right?

A. Yes.

Q. How many of them were they? Were they six again?

A. No they were three and they didn't come from this direction, they came from a direction of town.

Q. They were coming up?

A. Up Speke.

Q. Up Speke?

A. Yes.

Q. Okay I am gonna have to orientate again. I do apologise. So you saw then coming from town travelling in the Westly direction?

COMMISSIONER LOVEMORE MADHUKU

Mr Chair, the witness can pace up and can point out if possible.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Yes.

A. Can I get marker?

Q. Yes that will be helpful to pinpoint where you saw them coming from when you called them over.

A. When I got to the intersection of Jason Moyo and Speke the soldiers branched into two. Half of them went up this way and the other half went up this way. I continued to proceed down Jason Moyo and turned here. The guy I saw die broke and fell right here where I have put an X. I continued to film from there and later on the three soldiers came up in this direction.

Q. Were those three soldiers armed?

A. Yes they were holding automatic weapons, yes.

Q. You called them over because you had the body there?

A. Yes and they were two other colleagues who were standing there with me and some other guys. They had actually come and turned trying to go in that direction. We had to wave and scream to get their attention for them to then turn and come up because they had come in and tried to go down Cameroon Street.

Q. When they came what was their first response to what they saw. Do you recall that?

A. They were walking towards up until one of them then said to me, you who is holding the cell phone come here, a very aggressive tone and there was a weapon pointed at

my direction that's when I turned and fled.

Q. Did they take any notice of the body or move towards it or have to do anything in relation to it?

A. By the time they were getting close to the body I had already turned and started running I don't know what they did as they got to the body. But when they were perhaps some 15m from where we standing together with the body and the body was lying face down in a pool blood. I assume that they could tell they was a body. By the moment they said you who is on the cell phone come here I didn't wait to find out.

Q. So that's the first thing they said to you that you holding the cell phone come here?

A. Yes.

Q. And you didn't wait to respond you said you ran straight away?

A. I ran straight away.

Q. When you ran when was the first time then you heard the shot after that?

A. I think it was probably within 5 to 6 seconds I did hear the first shot.

Q. How many people were with you when you were running away?

A. The people I had been standing with and they was another group of people that had converged who were standing right here at Jason Moyo and Speke towards the corner they also started running as well. But I think on the video you can hear me saying I think the cops are shooting at us.

Q. The brother in law you might not have seen him at that stage but did you notice what he did?

A. He ran we all ran.

Q. So he was part of the group running away?

A. Yes.

Q. The deceased did you see that his t/shirt was taken off or wasn't taken off during the time when you were there?

A. When we were there I did lift his t/shirt briefly and I did I put it back. Another person who came was also saying you have killed a person did open and he started asking what is that and said it's a gunshot wound but when we left his t/shirt had been pulled back up.

Q. It wasn't taken off at that stage?

A. No it wasn't.

Q. Did you have a chance to look at the gunshot, we have the post mortem report and the cause of death but I just wanted if you could help us with what you saw?

A. Yes I did and I have it on video and as well as picture.

Q. Very good we will look at all of that. Thank you very much for answers I might have some more questions but that's it for now.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q. Thank you very much for your testimony. When you saw the soldiers around on the streets did you notice any vehicles on the streets apart from the military trucks any other vehicles?

A. They were few Honda Fit cars the ones that generally pirate taxis people jump in to them for lifts and you get to pay R5. They were few but they were fleeing and leaving town. As the soldiers were advancing everybody was driving out of town trying to find the best possible exit.

Q. Did you see any people, any person collecting or trying to collect cartridges?

A. No didn't see any person collecting cartridges.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Just two clarifications related to your interaction to this brother in law because he gave evidence here when we tried to put it together. Did I understand you correctly that after you had then gone to the dying person he was the next one to come?

A. He was not the next one maybe three or four people. Some people were running past. He came quite a little later I think I filmed on the body for about a minute and half or two and even did a 360 walked back towards Jason Moyo and Speke, came again. He showed up quite a little later some time later. That's when he first seem showing up, they were some people who even were talking on the video that no mufesi we sadza

uyu ndiye apfurwa, mu face wedu anobika sadza which is the guy who sales sadza the guy who cooks sadza.

Q. After he comes that's when we get to the six soldiers?

A. Yes after he comes we then called out the soldiers a little later.

Q. That means that during your interaction with the soldiers he is with you?

A. At the time he is in the vicinity yes.

Q. And these soldiers that you saw was it clear to you that they would be different from the soldiers that had gone different ways the ones in Chinhoyi.

A. I didn't look, I didn't notice. Generally men in camouflage tend to look the same and I had not really looked at their faces and a few of them were wearing balla clovers as well so I never got a chance to identify them.

Q. Did you see a possibility of these soldiers being the same soldiers that were coming or you were indicating that they were coming from Speke?

A. They were coming from up Speke. The soldiers that we had followed had branched up into two different directions. I didn't interrogate to check if they were the same people or could have been the same people. It didn't help that when they getting close by that's when they said come you who is holding cell phones. And me understanding I am standing with a body and holding cell phones I fled.

Q. But in your estimation do you think in terms of time and so on it could have been

possible that these soldiers were branched in Chinhoyi?

A. They had branched and going into town and came back?

Q. That is not possible?

A. I don't know because then they branch out and I get there and that guy dies I

thought I had to go one block down, down again and come back and shot the guy for them to be the same people. I don't think in terms of time because I was walking down and they have had gone round otherwise I could have gotten there before them. But whether they went down Chinhoyi and then went into town and down Robert Mugabe and came back I wouldn't know.

Q. But would that be possible in terms of the time element. When they branched you went straight?

A. Given that I spent another ten minutes with the body or in the general vicinity where the body was I think it enough time to go down to Robert Mugabe, go down and come back up Speke. I would like to think it's possible.

Q. Your evidence would be evidence that this person would have been shot after about 15.30 that body that we are talking about?

A. Sorry I keep on pressing that phone it's not mine. I think when he turn its 15.44 that's when I start recoding. I got to the body around 15.45 so that's a round up so I think he is shot at about 15.43 thereabout.

Q. Would it also be correct to say that, because we have heard evidence that perhaps

these people had died before the soldiers came into town. Your evidence would then suggest that cannot be correct?

A. With this particular person I don't know about the other guys who were shot. I try not speak about things I didn't see or even as a matter of speculation but with this particular person who is the one that I witnessed getting shot and who died on my video. He died at, he was shot at 15.43 he was probably dead by 4 o'clock by which time the soldiers had been deployed. I can't say the soldiers shot him. I don't know who shot him though so I know he was he shot he died as I was watching but I don't know who shot him.

Q. That is very clear that you wouldn't know but you would be the witness to say that if anyone says all the people that died on this day died before the deployment of soldiers that would be false according to your evidence?

A. On the account of the one that I saw yes. I would say the person I saw died when the army was in the street yes, but I would not say all the people.

Q. Yaa we are not asking you to do that but we are asking you to conform that at least one person according to your evidence died after the deployment of soldiers?

A. Yes. The soldiers arrived just after 3p.m from what I said from the time stamps on my video and this guy is shot at 15.43. The soldiers were already in town. As for who shot him I don't know. Did the soldiers shot him? I didn't see soldiers shooting they weren't any man in camouflage at the time.

Q. Don't worry about that aspect of who shot we are not going to be asking that because

we are investigating but what we wanted you to establish which is very important for us is that there has been evidence given that perhaps soldiers would not have not been involved or were not in town by the time all these people died. Let's assume that has been the evidence. You are saying that it's not the case in respect of this particular person?

A. Yes.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Can I be very clear that the person you saw shot dead died before the soldier appeared on the scene or after the soldiers appeared on the scene?

A. Maybe if I may ask you to clarify your question. Are you asking if the person died before the soldiers arrived, where he died or you are asking about the general deployment of what time the soldiers arrived in town?

Q. No I am asking the scene.

A. At the scene?

Q. At the scene of the death of that one person you saw dying. Were the soldiers around at the time that you saw him die?

A. The soldiers arrived after he had died.

Q. The soldiers arrived after he had died?

A. Yes.

Q. Let me go back to the scene of the kneeling soldier. You filmed that?

A. Yes Sir it appeared in my video.

Q. From what we have seen on the video he was kneeling and holding his gun very horizontally?

A. Yes.

Q. The people were running away when he was shooting or were they advancing towards them?

A. The people were running down Jason Moyo.

Q. They were running away?

A. Yes.

Q. So he was shooting them at their backs as they were running away?

A. Yes.

Q. That's important to know. And as Commissioner Madhuku was asking you did not see anybody picking up the bullets the cartridges?

A. No Sir I don't.

Q. What would be your speculating guess about what happened to the cartridges that the soldiers shot because I find it puzzling that we still not seen the cartridges and the bullets. What would be your guess?

A. Unfortunately my guess would be extremely uneducated because I am not well versed to what happens to cartridges and bullets. I don't even know the difference between a blank cartridge and one which has got live ammunition and I never interrogated to

what happened to the cartridges later. From my perspective my life stopped when a gun was pointed at me and I was told to come here by the soldiers, I fled, I didn't pay any attention afterwards. So I don't know what could have happened to the cartridges. If I was to guess it would be like a two year old guessing how a child is conceived.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. You talked about the other journalist who was running away did you tell us that there was a journalist?

A. Yes, yes he was a colleague whom I was with.

Q. What was that all about? He was running away from what, what had happened there?

A. When they said you with the phone come here and they pointed the fire arm and I turned and ran away he also just started running away together with me and everybody else and when they was a sound of a gunshot everybody just ran.

Q. I am not referring to that one. I thought you gave us evidence about another journalist who was there?

A. Yes you can see him in my video I think at one point you can hear me saying to him I think we need to get out of there earlier long before the soldiers haven't come.

Q. Would that journalist also be running away from handing over the cameras or would that be the reason?

A. Probably. I was running away because I was told to come here in an aggressive

manner by a man pointing a gun at me and as I was running there was a bang. I would think that if he was next to me he would have assumed the very fate would befall him.

Q. Would it be fair to say that the soldiers wanted to take your camera?

A. I don't know. The purpose of the invitation or rather grounds for the invitation seems tied to my cell phone because he said you who is holding the cell phone. They did say who is holding the cell phone and the guy next to you with the camera he said you who is holding the cell phone. I don't know if they wanted to take my cell phones or if they thought I had footage or they thought I was filming them because the phones were pointed at them and these three particular ones two of them didn't have balla clovers on so it could have been anything if I had been able to identify them I think they would have been the best people to answer why they were inviting to come towards them. As I said I didn't wait because I understood the great possibility that I could be beaten or shot or seriously harmed.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Maynard thank you very much for your detailed narration of events. When you see this man tumbling and falling down and they were no soldiers around?

A. No they were not.

Q. Did you suspect anybody in the crowd to have a fire arm?

A. At the time no I didn't because when I saw a man tumbling I immediately ran to him.

A lot of questions about who could have shot him are things I only began to reflect on much later as the scenario began to play itself in my mind. I have tried to analyse it as I go through it time and time again and as I said I have gone through these videos for the first time this week preparing to come here and I am still baffled if not puzzled. I do believe that bullets are not hide and seeking missiles that travel up and down hunting a specific person in the middle of a crowd. So I do strongly feel that whoever shot that guy was a person who was behind him. But I don't know the person who was behind him. I would like to think if they were people who were further behind him and shot they would have shot the last person at the back because it was a group of people running away. So it could have been someone from the crowd. If we were to engage in the balance of probabilities for example which can be risk because assumptions can make man foolish but probably he was shot by the people who were around him because they were no soldiers behind him and as you see in the footage I did the entire 360 more than once. They were no soldiers behind him. They were no soldiers behind me either, there were no soldiers to the left or to the right. They were buildings. They were fleeing protesters and a man who had been shot in the back.

Q. When you saw the soldiers you waived at, how far were they from scene of the dying man?

A. Some 120m because there were at the corner of the next block. We were just where Jason and Speke they were just Cameroon and Speke, I gonna say its 120m or so.

Q. Before the tumbling of this man you haven't seen them?

A. These particular soldiers?

Q. Yes.

A. No.

Q. When you saw them did it occur to you that oh yes they could have shot from there.

Di you have any suspicion?

A. They arrived 10 minutes later and I am standing with a body that has been shot in the back just below the shoulder plate and the bullet slightly gone through the heart and the lung it couldn't have been possible that it was them. I didn't assume it was them either because I had watched him take two steps and die unless they had been the invisible ones that I didn't notice.

Q. So it is your evidence therefore before this Commission that other than the soldiers they could have been some elements in the crowd that had fire arms?

A. That's my suspicion yes.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Can I just follow up I think I am now oriented myself clearly on the map. Just first of all you talk about suspicions. Can we go on what you actually saw on the day and what's on the video? Did you see anybody in the protestors on the streets with guns other than the army?

A. No.

Q. In your videos you haven't recorded anybody with guns other than the army?

A. No.

Q. Just coming then to the map I think I have noted when the soldiers split into two and six went on to the right down to Chinhoyi and six the other way. Did you see, I think you said you haven't witnessed where they went but did you see when even they turned left into Speke going robots going round the block in Cameroon the other direction towards where you were going. You were going one way round Jason Moyo into Cameroon, they might have been going round the other way did you see that?

A. No I didn't see where they went after they turn right.

Q. I know you can't prophesy but it is possible that they could have gone left into Speke and come around the other side into Cameroon going around the block the opposite way next that that you were coming?

A. Its possible they could have gone round and come down all the way to Cameroon and gone back I think that would explain why I wouldn't have seen them but my assumption being that I am going straight down the road and I turn and the man who dies immediately at the turn do I have to go all the way down and then come back round. I don't think they would have done that round and left before I got to Speke or at least done that round, gone there shot a man. If they had done that lets just assume that supersonic speed it lent with a variety at the same time and I had seen them as I turned into Cameroon Street myself.

Q. Okay but what I am really trying to clarify is what you saw. When you saw the man

fall you said in that immediate area you didn't see any soldiers. What we are talking about is it a 10, 15m radius.

A. All the way down Cameroon Street.

Q. So you were able to look all the way down and so no soldiers? Down to the street?

A. Straight down because more or less to the left and then when you get to Speke you we have got a taxi rank there. After Speke you still keep going down and I didn't see any soldiers there.

Q. There is a street that goes off to the left I think that's Park Street. Did you look down that street?

A. No.

Q. Sorry I didn't hear the answer.

A. No, as I went down Park Street no, I only looked left Cameroon Street?

Q. You didn't see looking down or you didn't look down Park Street?

A. No. not that I recall. Park Street has been behind me isn't it?

Q. Yes when you are going to, it would have been to the left, yes so looking down Cameroon as far as that I can see but what about to the left is what I am just trying to find. I just want to get a sense of what you were able to see?

A I didn't because when I was standing behind me I think is the Colcom shop it's a building because Cameroon doesn't fit the road and become Park Street you have take nudge to the right. So directly behind me is a Colcom shop then we have Park Street? The roads are not connected so behind me up to the Colcom no I didn't see any assaults.

Q When you saw the man drop then how many shots did you hear at the time or before or after that?

A Before that there were several gunshots in town during the time he falls there were still gunshots. After there was still gunshots.

Q So there was continuity really.

A There were single shots firing very other second.

Q One last question I think you mentioned another journalist who was at the scene the Journalist you were referring to my fellow Commissioners?

A There was a South African Journalist. I think he was an eye witness news. He was wearing a media bib as well. The guy with a scarf he does also appear on my video he did come and went to the dead body and he said don't shoot, don't shoot. I mean well all ran after wards but he is not the particular journalist who was with or I fled with together.

Q So the journalist who came to the body with you do you know what his name is?

A No sir I am sorry I don't.

Q Which televisions company he was working?

A I think its eye witness news if I recall correctly.

Q Thank you once again?

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q These people were running from which direction?

A From down Cameroon Street? So they were running from this direction up? And I was facing that direction.

Q Where there is Speke and Cameron?

A Yes.

Q They were running away from, possibly from soldiers?

A Yes possibly.

Q Would this had been the same soldiers that had taken *interrupted*.

A I wouldn't know.

Q Because I think it's clear as what Robin as Commissioner Robin is asking because what you see there falling but they are running away coming this direction where you met them .

A I don't know what they were running from because they were running straight up Cameroon. I do not know if there were other people who ran down Speke and turned into Cameron or some were running up somewhere running from down the road which leads to Mbare. I don't know.

Q But they are coming down Cameron towards Jason Moyo.

A Yes they were coming there towards Jason Moyo.

Q But it's possible if you get to the right and you go to Chinhoyi those people could have seen those soldiers.

A Yes they could be running from the Soldiers in Chinhoyi and ran down and turn left. It's possible but I don't know what they were running from.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q How big was the crowd when this man was falling?

A Maybe 25-30.

Q Thank you.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q I am sorry Mr Chair I am just trying to clarify again. So they were running down Cameron to reach yourselves?

A I want to believe so. If I am correct it's an incline I think they were running up Cameron. But to avoid getting lost in translation they were running towards Jason Moyo.

Q So they were running up Cameroon more of this group. Running away from something coming up Camerron?

A Yeah.

Q And then running north towards Jason Moyo?

A About 25 of them and the person you saw drop was in amongst that group?

Q Yes.

Q And this group was running did you speak to any of them afterwards?

A No I didn't really speak to people but some of them did comment as they were running past the predominate comment was, "vauraya vanhu." 'That they have killed people.' The ones who were running past some asking what happened they were few people said let's call an ambulance there was one lady who had a vending store and they said let's put him in a trolley and push him to the hospital somebody said we need to get him help he is still alive maybe he can be saved but we didn't have dialogue no but people were commenting as they were running.

Q So the group that was running away it was part of someone who stopped when he fell and tried to help him?

A They didn't stop immediately no but people were also running because the running continued even after he was on the floor. It wasn't one group which was just passing and then the running stop. You still had people in groups or two there who were running past. Three four. Definitely they were still running.

Q And these groups were all running up to Cameroon towards Jason running away from something behind?

A Yes they were running from something behind.

Q And it was a continuing running. Where they keep past you?

A Yes I think only once did I see people try to run from the opposite direction. Who were coming behind wanting to run down and some of them run down and then ran straight then back. I seemed from my experience that they could have run in one direction and see soldiers and police and then try to run in another direction.

Q Thank you for bearing with us but I think we have got the layout very well.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q You said he was short in the middle of 25-30 people?

A Yes.

Q It is in the middle you did a check around of whether the soldiers were in that vicinity?

A Vicinity yes.

NO FURTHER QUESTIONS

SIMEON CHIKOPOSA : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

You will also notice that he was on yesterday`s list. He was the victim whom I could not find when I called out for him but it appears he was not around but not near the hearing room.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Semion how old are you?

A I`m 19 years old.

Q And its correct you reside at number 20555 Budiriro 5.

A Yes

Q And you were doing upper 6 this year at Highfield High 2?

A Yes.

Q Also correct that on the 1st of August you were in town with your mother?

A Yes.

Q Would you please tell the Commission what happened when you were in two on the day in question they have your statement in the file.

A On the 1st of August 2018 I went to town or I was in town. It was around 1500 hours. And we were headed to a hardware which is along Harare Street as there were items that we wanted to buy from there. Upon getting at the hardware it was closed. We then decided to go back home because it seemed as if most of the shops were closed. During that time we were staying at Southerton so we had to board a commuter omnibus which was heading to Southerton and we boarded the commuter omnibus

at Market square .After all the passengers were on board the commuter omnibus they were two soldiers who came into the commuter omnibus. They had firearms with them and they instructed is to disembark and to walk home. I was seated I the back seat in the company of my mother and we were the last passengers to disembark. After having disembarked we then started walking as if we were going back to Market Square. That is the direction in which most people were running facing Harare Street. As we were running we reached at the toilets at Market square, I then felt pain on my leg. I then told my mother that something had hit me but I did not know what it was . I continued to run until when I reached Harare Street. There was commuter omnibus which then arrived and there was a certain soldier who said young man get inside. We then boarded the commuter omnibus together with my mother and we were dropped at Mbare Police Station and I was then advised to lodge a report there. From there I was taken to Harare Hospital. My mother hired a taxi. Upon arriving at Harare Hospital an X- ray was conducted on my person. I was advised that there was a bullet. I was then discharged and I went home. I was then given date of 12 February next year which is going to be my review date. The doctor in dictated that the bullet can either be removed or not. There two possibilities. As we speak right now the bullet is still in my leg. That is all.

Q Which leg is it that you referred to?

A Left leg.

Q Which part of your leg were you hit?

A On my calf.

Q You said you didn't know what had hit you but did you hear any gunshot around?

A As I was running I was hearing sound of gunshot behind me.

Q And are you now fully healed?

A I am still in pain here and there.

Q I guess this year you were writing you exams is that correct?

A Yes.

Q Did you manage to write the exams?

A Yes I managed to sit for the examinations.

Q I have no further question for the witness.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Semion when you heard that something had hit you from where were you going?
You were facing which direction?

A I was in market square facing towards Harare Street.

Q How far you were from the soldiers who that had asked you to disembark?

A We left the soldiers standing at the door of the commuter omnibus where we disembarked.

Q When you were running did you see any soldiers?

A No.

Q At the point when you heard something hit you how far were you from the soldiers that you had left behind. From where you had left them how far had you run to?

A I think about 20 metres.

Q And you were in the crowd when you heard something hit you?

A Yes. We were running?

A Are you able to tell, the Commission who shot you?

A I do not know.

Q You cannot say it's the soldiers that you saw?

A No they are not the ones.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you for coming. I want to understand about the crowd that was running. How big could that crowd be?

A I think about 9-10 people.

Q When you were at Market square you were running in which direction. I can see that there is Harare Street. There is Bank Street and the Bute street bordering bus terminus.

A There is a dumping site closer to Harare.

Q It's about Bute and Harare Street?

Q You were thinking of going which direction?

A We were just following the crowd without any idea of where we were really headed to.

Q Did the crowd increase from 9-10 people.

A Yes the number increased as we were meeting and coming across others who were also fleeing.

Q Would you know by the time you were shot they increased to which number?

A I do not have an idea.

Q Could it be a crowd of 50-100.

A The figure was below 20.

Q Which position would you position yourself in the middle of the crowd. Were you in the middle of the crowd? Were you the one leading the crowd?

A I was at the middle of the crowd.

Q Thank you very much no further questions.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Simeon where you the only person who was shot amongst the crowd you were running with.

A And would you guess when you were running the distance between you and the soldiers?

A About 20 metres away.

Q Sorry?

A There was a distance of 20 metres away from where I was from where I had left the soldiers.

Q At what point did you stop running?

A When I was at Harare Street that is when I was assisted by the people who come with the commuter omnibus.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q When you were running away all these people what were they saying they were running away from .Would you say they were running away from soldiers or what.

A Nothing was said. People were just fleeing or running away.

Q But you were running away because you had been asked to disembark from the Commuter omnibus.

A Yes

Q What did the soldiers say to you when they asked you to leave the commuter omnibus?

A The soldiers said Disembark and walk home.

Q They didn't allow to use the committer omnibus to go home?

A They stopped the commuter omnibus when it was about to take off.

Q How did you interpret that? What is a form of punishment?

A I didn't not understand what it actually meant.

Q And this bullet that is still in your leg the doctors said they will still decide to remove it or to leave it?

A That is what the doctor intimidated.

Q Is that what will happen on the 12th of February 2019?

A Yes.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q You said, you had an x-ray done by the doctors. Did they tell you anything about the bullet that was in there? What kind of bullet it might have been?

A Nothing was said.

Q You have a copy of the x-rays with you?

A I only have one with them.

Q It will be very helpful if we could have it. It might assist us. We don't need it now we can look it afterwards as long as you just leave it with us please.

A Ok.

Q Did the police make enquiry with you about this shooting and the bullets and the x-rays after the effect?

A No.

Q I just want to ask you about the soldiers the two that come on to your hub. Where they armed with guns?

A Yes.

Q When they told you to get off. How did they do that? How was the manner and tone like?

A They fired two warning shots in the air. The driver then stooped the motor vehicle in the midway and he ran away. Some of the passengers had to disembark through the window that is what happened.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q So the soldieries fired warning shots while next to the bus into the air is that you evidence?

A Yes.

Q And did they say anything when they did this?

A The order was that we should alight or disembark from the commuter omnibus.

Q And then when you were running away how many shots did you hear. If you can recall I know it's hard remember?

A The were number of shots which were shots but did not recall the number or exact figure how many times the shots were fired.

Q Ok thank you very much for your evidence.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Are you saying now that you ware almost about to leave or you were leaving when the first warning shots come.

A We were about to take off as we were about to leave.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q When the warning shots were fired had you got down from the bus or where you still in the bus, the one which was shot to scare you to get down?

A The warning shots were fired whilst we were still inside the Commuter inside.

Q To make you to get out?

Inquiry

S. Chikoposa

A Yes.

Q Did they give you any reason or wanted you to get down the bus?

A No.

Q They just wanted you to get down?

A Yes.

Q When you all got down did they do anything to the bus?

A No I did not check since we were already running away.

Q Would you say this happened to just a kombi. Where there other commuter omnibuses that were affected?

A Not to my knowledge.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

No further questions for you sir. Thank you for coming.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Our next witness Advocate Prince Machaya. The Attorney General. Like I have indicated this witness was scheduled for 11 o'clock.

ADVOCATE PRINCE MACHAYA : SWORN STATEMENT

Q Advocate Prince Machaya is correct that you are the Attorney General of the Republic of Zimbabwe .Do you mind stating your qualifications?

A Holder of a bachelor of law degree called a BL from the University of Rhodesia now the University of Zimbabwe and also LLB from that same University and I was initially admitted as an advocate of the High Court of Rhodesia in

November of 1976 and subsequently I switched bars and I was admitted as an attorney of the High Court of Zimbabwe in May of 1981.

Q And as the Attorney General is it correct that you are the Principal Legal Adviser to the Government?

A That is correct in terms of the country's Constitution.

Q The reason we have called you before this Commission Attorney General is for you to explain the Legal provisions particularly section 213 of the Constitution . Copies of the Constitution has been provided to the members the Commission. 213 which relates to the deployment of the defence forces in relation to Section 37 .1 of the Public of POSA. The relations between these two Sections. You should clarify to this Commission how these two sections relate.

Q Section 213 of the Constitution deals with the subject of deployment of defence forces and in a nutshell it provides that only the President can authorise the Defence Forces either in support of the police in the maintenance of public or in support of the police services and other civilian authorities in the event of an emergency or disaster and also on peace keeping operations under the offices of United Nations or to defend the territorial and integrity of a foreign Country or in fulfilment of an Internal National Commitment or in Defence of Zimbabwe's National Security or National Interest . In a nutshell that is what that Section provided. So the President and only the President has Authority to permit that deployment.

Section 37 of the Public Order and Security Act on the other hand deals with the issues of when defence forces may assist police force in terms of the Provisions of that Act and perhaps if I may read Subsection 1 of that Section. It reads that if upon

a request made by the Commissioner of police the Minister is satisfied, the minister here means the Minister of Home Affairs , the Minister is satisfied that any regulating Authority requires Assistance of the Defence Forces for the purpose of suppressing any civil commotion or disturbance of any police district he may request the Minister responsible for defence to Authorise the Defence forces to assist the police in the exercise of their functions under this Act in the police district concerned.

Basically the essence of it is that if the police forces require the assistance of the Defence Forces then the Minister in charge of the police will request his counterpart being the Minister of Defence to authorise the deployment and my understanding of the Provisions in relation to the provisions of Section 213 of the Constitution is that the two Provisions should be read in a complementary sense in that the Constitution is the Supreme law of the land and the public order and security act being an act of Parliament should be read subject to the Provisions of the Constitution I do however take the view that if the provisions of the Act are read in isolation of the Constitution they give the impression that that Minister of Defence is the one who is the ultimate Authority in the defence forces for purposes of maintaining law and order within the country and perhaps could be better phrased that I don't think its an issue really of the Provisions of the Public Order and Security Act requiring alignment to the Constitution. When the Public Order and Security was published in 2004, I think it was. It was under the auspices of the former Constitution which also had a provisions to the said that the only the President could authorise the deployment of the defence forces. I am not sure if I have answered your questions.

Q Thank you very much. In your view you are saying the two can still be read together without the need to amend the POSA.

A Yes I believe so because the Minister of Defence, being the Minister of Defence he will always be aware of the Provisions of the Constitution which stipulates how deployment of Defence forces is carried out so there is not likely to be any confusion in his mind as to the nature of the authority that is required.

Q I think there is no further clarity that I will require from you. I will now ask the members of the Commission to ask you any questions should they have any.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much Attorney General for your insightful presentation. My question relates to the defence forces Act. National Defence Act. Does it make any reference to the deployment of the Defence forces in support of the police?

A I am sorry Mr Chairman and Commissioner but I haven't perused the Defence Act before I came here so I cannot enlighten the Commission that special but in my recollection from my previous reading of it I am, not aware of any specific provisions relating to the nature of assistance which the defence forces may give within the country at the request of the police forces. I am not aware of any such provisions being in that Act.

Q In your opinion don't you think that there is a possibility for one to misinterpret or to have a different perception of the public order and security as it stands right now?

A Yes as I have already said Mr Chairman and Commissioners. A member of the public reading the Act independent of the Constitution will get the definite impression that the Minister of Defence is the person authorised to give or empowered to give the necessary authority for defence forces to be deployed for purposes of retaining law and order within Zimbabwe. Definitely that impression will be created but as I have said also, the Minister himself will be under no such misapprehension.

Q I am sorry since I am not a Zimbabwean so excuse me for my ignorance. Are there any regulations which flow from the public order and security Act?

A Not any relating to the issue of Section 37. Not any that I am aware of.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Thank you. Is it then correct that your expert opinion is that in terms of the law therefore when we read them together like you say they can be read together the Minister of defence then has to obtain the approval of the President for the deployment of the defence forces to assist the police?

A That is the correct Mr Chairman and Commissioners.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you very much honourable Attorney General. Could I ask whether the subsequence provisions 37 (ii) (a) and (b) are applicable for the maintenance of law and order if the military is deployed?

A That is correct Mr Chairman and Commissioners. These two provisions of Sub Section 2 of Section 37 will definitely apply in the sense that the defence forces within under the command of the police force in the maintenance of law and order.

Q And are there any regulations that govern how should happen. Is that a matter left to the police to regulate themselves?

A I am not aware of any specific regulation Mr Chairman and Commissioners.

Q And then 2(b) when it says that defence forces will be subject to same responsibilities discipline and penalties as a member of the police what does that mean for the investigation of any allegation against members of the defence forces or the police?

Inquiry

P. Machaya

A Basically it means that members of the defence forces will be held responsible or liable for any acts or Commission that may occurs for which a member of the police force will otherwise be liable when carrying out his duties.

Q So member of the defence forces then become subject to police investigations as any police member will be infact any member of the public?

A That is correct Mr Chairman and members.

Q Thank you.

Q Thank you very much for those answers.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I do not know whether that would arise. There is a high Court decision that, some High Court judgment, Justice Mangota`s decisions that did comment on the work that the Commission is doing. Doing you think it has any relevance to what we are doing or it doesn`t affect us if we might be assisted if we have any idea of that. We are aware of the judgment but as Commissioners we haven`t studied it and then we would want to be guided whether it does affect us at all.

A I wouldn`t be certain I have perused the judgment myself. I also haven`t studied it but I perused and my view was that one the conclusion we also come to was that the minster of the defence is the one who would authorise the deployment defence forces on 1 August but reading of it indicated that neither the applicant of the respondent had placed that evidence before the court and that the judge or the court arrived at that conclusion nearly from the perusing the provision of the Public Order and Security Act in Section 37. That appeared to the impression that I got and that conclusion was not based on a fact which was placed before the court.

Inquiry

P. Machaya

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Mr Attorney General thank you for coming. I just want to lead on from your earlier reply to my colleague's questions about the Defence Forces the subject similar, regulations and treatment as the police when they are performing law and order duties would that in your view mean that for example the soldier who was seen kneeling down shooting could be investigated in the normal way that the police will be investigated?

A Yes. Certainly Chairman and Commissioners.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

A Thank you for coming AG. You may step down sir.

A I am most obliged thank you.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Q Our last witness is Mr Modecai Pinet Mahlangu. I just had been advised that he is here and I made to understand that he is the one who is coming on behalf of the Zimbabwe lawyers for Human rights. The fourth witness as I indicated on the list.

MORDECAI P. MAHLANGU : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Q If I may also indicate that he is also one witness who has had to wait because of the time that we then had to take with the other witness. I would want to on behalf of the commission to apologise for keeping you waiting?

A I understand ma'am. Thank you.

Q As I indicated, I think I believe Mr Mangu is the one who is coming on behalf of the Zimbabwe Lawyers for human rights. He is a very senior lawyer here in Zimbabwe. I don't have their report or a statement before that. Maybe if I could ask if he has the report because they indicated to me that they will bring report and we had made copies for the Commission.

A Yes we do. We have report here together with the subsidiary documents that I would speak to brief.

Q Mr Mahlangu on behalf of Zimbabwe Lawyers for Human rights would you now inform the Commission that which you thing is relevant for their mission.

A Thank you. I would like to confirm that I am here with Belinda Chinovava. She is one of our lawyers at Zimbabwe Lawyers for Human Rights and I thank the Commission for inviting us to make this presentation. We did submit earlier our own report and observations but we have since prepared a slightly amended document which is the one that I handed out just now and I believe you have sufficient copies for the Commissioners and in addition to that there is another document that I have included which I will speak to brief. Chairman and Commissioners as you may be aware, when the President of Zimbabwe announced this Commission the Zimbabwe Lawyers Human rights we had our reservations about it for a variety of reasons and we actually went to court to try and deal with that and our court applications was dismissed but at that time the Commission was more or less in place. But we still have reservations as Zimbabweans in these patriots we do hope that inspite of our reservations something good will come out of this Commission. But those are reservations if I may just outline them. Perhaps I should say also that we cannot give evidence on the events 1st August 2018 because we did not record them. None of us

knew that things would develop the way they did and what we saw was probably what everybody saw which was either on TV or on social media so I would not speak to that because I don't believe that, this is reliable evidence. But these are the issue that concerned us. As we stated and our report says so. We are a human rights organisation, comprised largely of lawyers in private practise. We are concerned about human rights.

We try and promote the observance by the state and other of human rights and rule of law. These are some of our reservations Chairman and Commissioners. We were concerned that events like these were addressed by way of Commission because we believed that the killing of the people that died and the injuring of those who were injured were criminal acts and should have been dealt with like criminal acts and perpetrators should have been arrested and dealt whether they are private individuals or members of the Defence Forces there are provisions in our laws for that so we felt that setting up of the commission to deal with what are criminal acts was something of an overreach by the state. But there is other aspect of that which was a concern to us, which is yes, that also result of the events of 1st August 2018, a number of people were arrested and brought to the courts and prosecution as far as you are aware are ongoing which means that the state's mechanisms had the capacity to identify perpetrators and ability to deal with them. It was now confirmed to us that then while we saw images of the members of the defence force firing weapons and in some cases we had undoctored evidence of people, being beaten up by soldiers, nothing seem to be done to them so we must not have the Commission enquire into that long after the event. I cannot for the life of me believe that either the police or the Commander of Defences would not have been aware of the

perpetrations of the refractions and replinary acts so that was a concern to us. We are further cornered that we hope it does not occur Chairman and Commissioners this Commission might actually be used as way of putting this somewhere in the back burner so that we may never get to know what action the state is going to take as a results of these events . I should say that in this country over the past 30 or so years of independent, they have been other events that I am sure you heard about when you testified which have resulted in Commission of inquiry being set up. The unfortunate outcome is that none of those reports where ever publicised. As a matter of fact Zimbabwe Lawyers Human Rights went to Court to seek an order for the publication of one of the reports which dealt with the Matabeleland massacres normally called Gukurahundi massacres and I should say that in defence of the government of Zimbabwe, the then Minister of Justice who is now the president of Zimbabwe declined to make that report available simply saying it could not be found. It's a concern that we have that perhaps all these deliberations. You taken evidence from people who were willing and would like to see this matter properly resolved and perhaps this report does not see the light of the day. It would be my hope Chairman that that does not happen.

The other note that I should mentioned perhaps in passing is that I had the opportunity of listening to some members of the Defence Forces give evidence before you and obviously without any personal knowledge of what transpired on that day, other than the images that I saw like everybody else, I was rather concerned with that evidence and I hope you will have a way of verifying it, of testing it. Of determining whether or not it is true but I can just tell you as a Zimbabwean who has been in this country for the entire duration of our independence

that some of those accounts sounded disturbingly familiar, which is just a simply denial of the truth when confronted with it.

In that respect I would mention that our defence forces do not have an unblemished record in these matters and I have in the second document which is part of the documents I made available set out some of the judgements that Zimbabwe lawyers for human rights has been involved in.

Q Do you have that second judgment?

A Yes. It says some judgments on cases taken against the Zimbabwe National Army. It was distributed.

Q I think we need it Secretariat.

A Shall I pause here and let you get it because I need to speak to it.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q We are in the process of getting it.

A Thank you.

WITNESS CONTINUES

You see what the first matter that we have highlighted is a matter that was dealt by Southern Africa Development Community Tribunal which has since been disbanded and disbanded at the behest of the government of Zimbabwe by the way and in that case the Zimbabwe National Army was used on behalf of individuals and they defended that case. They denied all wrong doing but there was a finding against them. And that page you can see well it was for tribunal but if you look at the other matters that we have highlighted, Minister of Defence was dealt in 2003 as far back as that and we have summarised them. You will see that once again there was complete denial of wrong doing and yet a judge of the High Court note a finding

against the Zimbabwe National Army and there was yet another matter which was cited there as a the 2006 judgment Kulinje Minister of Defence and there again this matter went all the way up to the appeal court and there was a finding against the Minister of Defence and another matter in 2006 question the Minister of Defence and there again after a fierce contestation there was a finding against the minister of Defence and I think it's a final matter. That of terror and Minister of Defence. And there again a similar outcome.

These are completed matters but I simply highlight them to show we have not yet have a situation where the Ministry of Defence or the army as the protectors of the people of Zimbabwe have admitted wrong doing without having to be used. The general response when these things are highlighted is total denial and is a culture that has developed over many years. So Commissioner, Chairman and Commissioners you will excuse our scepticism when we listen the Commander of the army his own take on the events of the 1st August when giving his own explanations as to how things arose and who was responsible. We were incredulous, first because the account did not make a lot of sense from a man of his position but more seriously because in our experience in dealing with the Ministry of the Defence and the Army they rarely admit their wrong doing. It is our hope that in your deliberations you might assist then seeing that there is merit sometimes in owning up to the truth and the mustn't be a credibility gulf between the people that they defence and those who defend us. It will be tragedy if that persisted. I subscribe to the belief that after the events of 2017 our nation has an opportunity of repairing a lot of loss ground but this cannot happen unless we go back to the fundamentals. Firstly the nation must be trusted by its people. If it can't be trusted then I think is a tragedy. Chairman

and Commissioners if I may then just draw attention to our report which has also been disputed, I do not wish to take your time in going through it. We try to highlight those issues that are of concern to us as an organisation and I said earlier we did submit a report on the 12th of October. We then submitted today a slight revised one which in essence even different from the one we submitted earlier but it captures out take on these events and the resolutions that we have.

Finally as I have said I don't wish to take too much of your time, it is my hope on behalf my colleagues at Zimbabwean Lawyers human rights that something good comes out of this. We have Zimbabweans sitting in the Commission, 'm sure they will do the right thing on behalf of their country and their citizens and we have visitors coming from abroad who I am sure have a lot of goodwill for this country and would like to see us get back on the path that we can all be proud of. And I do hope and pray that we can achieve that. Thank you Chairman and Commissioners and I don't know if my colleague wishes to add anything. If there are anything questions I am here to answer them.

Q Thank you very much Mr Mahlangu I do not have any question for clarification I will now hand you over to the Commissioners should they have any questions.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q No clarification seeking questions Mr Chairman but thank you very much Mr Mahlangu for coming to appear before the Commission. My request would be that, maybe you give us some recommendations to the Commission as the way forward in our country looking at the events of the first of August as an Organisation?

A We have made suggestions on the report itself but in addition to what is in the report I would hope that matters of this matter are dealt with in accordance with our

existing laws . We have all manner of laws in the Defence Act , in the Criminal law Legislation to deal with matters of this nature and all we ask is that they are enforced but also Zimbabwe is a singletree to all manner international conventions dealing with human right and how you deal with your citizens . We sign these voluntarily and all we ask is that our government, and government players and urgency leave by them. We are not asking for something extra ordinary. These are things that they have signed voluntarily and this is what the rest of the community in the world subscribes by. That is all we ask for and they have people, they have civilised nations and that is all we ask for really and we do not believe that there should be a debate about that. I am not sure of that answers your question madam.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Page 5 of your report, you talk of circumstantial evidence. I will ask you to explain testing somebody exactly what you are saying in that particular Section for the understanding of people like myself who are not lawyers.

A I think what we trying to explain there is that this is not direct evidence. It is circumstantial evidence and must be treated as such. In a way its conclusion that you draw from the circumstances as opposed to the actual direct evidence that you can test to. I don` t know if my colleague might wish to add then.

BELINDA

The allusion circumstantial evidence was in the context of the fact that there is very little eye testimony of the events of the 18th of August but given the totality of all the facts, the fact that there were soldiers deployed on that day. That the soldiers were armed. That no civilians were arrested with arms on them. With all those factors put together, circumstantial it is reasonable for this Commission of

enquiry to conclude that indeed the Zimbabwe National Army was responsible for the fatalities that occurred on that day so that the context in which we gave the part our circumstantial evidence.

I think perhaps I can add that also the other thing that I am sure those who were watching those events would have noticed was that initially the attitude of the police who were in trucks and their interactions with the crowd of protestors or demonstrators was actually quite positive. It was very interesting. They were shaking hands and everything else and all of a sudden somebody get shot and then you say what caused this? We were not there we can't attest to that but you then must conclude that how did you move from that scenario which we saw to shooting and killing people so that when we talk of circumstantial. I think that answers your questions ma'am.

Q Yes it does but let me draw your attention to the last a paragraph of the circumstantial evidence in the way in which you put you said which is your conclusion on that particular section and circumstantial evidence. You said that, simply put circumstantial evidence provides a basis from which the facts in dispute can be inferred. The silent question to be answered is whether the army personnel are responsible for shooting and killing civilians beyond reasonable doubt all circumstantial evidence depends ultimately upon facts which proved by direct evidence. Is this the conclusion under circumstantial evidence?

A Yes.

Q That you want the Commission to be seized with?

A Yes I think there is lots of case law on that point actually. Where you can establish facts which lead you to one inescapable conclusion. That conclusion is valid although

we don't have direct evidence from that. I think that is the point that we are trying to make. Thank you. I am clarified on this point.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you very much for your evidence today. I just wanted to start by indicating that it may be that the roles of the Commission is not mutually exclusive from actions to be taken as part of the Criminal Justice system given that our main act is a lot bolder looking at root causes and recommendations for future which we hope can assist. But following I just wanted to ask on Circumstantial evidence which is certainly very powerful evidence on people shooting in fact with direct evidence it's not inferior evidence depending on the nature of it of course. But do you think the Commission like ours has to find beyond reasonable doubt is that the standard that you think we need to apply in giving in a note of Criminal Court. Could we look at things at a lower standard of proof? I am not putting on you at the spot but it's some of the ideas we have to discuss as well.

A Thank you it's a very interesting question. I would answer it in this way firstly as a general proposition in your own conclusions as a Commission I would say that the standard is lower. I would think that the balance of probability is sufficient but I would also say that if you are going to make a finding in whether somebody committed a crime then you probably now have got a step further and say beyond reasonable doubt it depends on the nature of the findings that you are making. But I think as a general proposition I would expect that you will be satisfied with the balance of probabilities because at the end of the day you are not a criminal court and you will be making recommendations to the government that will then have to decide what action it takes.

Q And the civil standard for paying damages is a balance of probabilities much lower than the criminal standard?

A Quite correct. It is a lower threshold yes.

Q Can I just ask about the protestors on the day even though you said you can't give any evidence about that but we have had a lot of evidence that there was violence coming from the protestors as well and we have seen the footage obvious, cars burning, it's a very important part of the evidence for understanding what happened on the day. Do you have any comments on that? On the way which protestors actually should be undertaken because I think when you look at Human Rights as whole, of course you have to look at the protection of people by the police forces, what about the responsibilities of those who take protest actions.

A Oh there is very little doubt that their right to demonstrate and protest is protected in our Constitution its subjects to the rights of others to go about their business peaceful so there is a responsibility. There is a bid to do so peacefully. Absolutely I have no doubt about that.

Q Do you have any suggestion or ideas that we may be able to build on for recommendations in that regard to ensure that the events that we saw were violent spilled over that they don't occur in the future.

A It's a difficult one but I would think when we have these demonstrations and protest there is always somebody who is organising them. In other somebody has to take responsibility and I think that as a general approach there should be a commitment to ensure that whatever protest or demonstration it acknowledges the right of others. You may not be necessary want to be part of it and they want to get one their own business so that what I could say that maybe a bit of education in the part of our

population is important that people recognise that you enjoy your rights and at the same time observe rights of others.

Q Thank you very much.

COMMISSIONER GENERAL DAVIS MWAMUNYANGE (To witness)

Q Thank you very much for your submission. Mine is a general question. Have you ever held forums such as seminars to discuss issue of human rights with the security forces, members of the political party, leadership of the political parties and other stakeholders ?

A Yes we have actually and also you know they have to allow us to do that so I am Belinda you can speak to that but we have programmes in terms of which the Prisons, Parliament at Junior level are called given lectures on some of these subjects in order to try and instil a culture getting value on human rights .

BELINDA

Unfortunately we have heard constraints in accessing the Zimbabwe Republic Police. In the past we have done training for the Zimbabwe Prison and Correctional Services because they were open enough to allow our members of staff to do so but we have not managed to have any kind of training were the Zimbabwe Defences we would welcome and sought for recommendations that the Commission could make that would enable us to access them and create maybe a Human Rights Curriculum as part of their training.

Q Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q My question or contribution goes to Section 22 of your paper. I think on page 12 of your paper. It is titled the presence of the members of the bill as they behave in the street. Are you there?

A She has found it.

Q I notice that you have indicated that the terms of reference are not clear on those issues. The three issues that you specified there. I notice them but then I see that you really want the Commission to make findings in respect of those issues. Just to enlighten the Commission of how important it is to either you or your members or the public to the issues determined.

A It is important because in terms our Constitution, you know maintaining law and order within the country is responsibility of the police not the defence forces and when that happens there are processes that are stipulated in law that have to be followed to ensure that this is done lawfully and in this case you may already have evidence on it. I don't know because I have not been able follow on your deliberations but we believe that it is a key issue to determine the justification for the army going out there and doing what it did and getting involved in the maintenance of law and order because that is not their function in terms of our constitution and we think it's an important thing and its important also what your observation at the end and recommendations because historically in our country, the police has always being able to make law and order and this was a departure from what we have experienced in the past. I know that post of events of October 2017 the army got a little and of our lives than it was done in the past. We thought that was behind us. So I think it an issue that we feel that should have been specifically highlighted in your

terms of reference so that you investigate it properly and be able to make recommendations on it.

Q Could I say while they very much knew that the circumstances that led to the police having to be assisted by the military in maintain law order has to be thoroughly investigated but I take you are not unaware of situations in many other countries where the military has been deployed in situations like would normally be the responsibility of the police.

A I can't say I am unaware maybe it's simply just my ignorance but I would simply say that, that really ought to say that, that really ought to be an exception because you know I also assume that training of the army is different from the training of the police.

Q Oh indeed it is.

A And they play different roles.

Q Yes.

A And that demarcation is very important and it's deliberate and in our law the law says how it should be done.

Q I take all that but I just wanted to be sure that you are aware the deployment of the army law and order maintenance has happened in many other countries including developed countries.

A I am sure.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Mine is a follow up question. You clearly stated that you have made plans and recommended training programmes to the security sector and the access has been problematic in some cases. But I didn't hear your response in terms of you developing

programmes. Training programmes for the political parties. I think it's a follow up question to questions asked by one of the Commissioners here.

A Belinda you need to assist me here. I am not aware of a specific programme political parties per say but it's something that if we had the resources I would recommend that we do because obviously the events of first August suggest that, that might have been helpful.

Q Are you saying that you have not attempted to assist in that regard?

A I don't believe so. I don't believe we have a programme that covers political parties. Just perhaps to say that you know you have to have funds to do these things and priority areas I mean the bulk of the work that we do is in defending people that require defence in criminal matters and these are human rights related matters and matters of public interest. So we got to be very careful with our budget we are not a rich organisation.

Q Now with the full knowledge of what and should do you believe that it's an area, that as human right lawyers you may need now to approach political parties or even for resource mobilise rather for that good cause.

A Well in light of what has happened I think it might be a very useful and important exercise on a subject budget permitting.

Q Thank you.

A I accept that.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q I just want to check whether any persons have come forward to you with complaints and reports of what has happened on the first of August I know you say

you haven't received any information that you might feel to hand over to us to consider.

A Yes infact one of the reasons why I am here aside from my colleague Belinda is at the office, that some of my colleagues are actually involved in dealing with people, who have come forward to us either because they have been arrested and they are being prosecuted or they have been accused of having been involved in some way and therefore there was a feeling that they will be conflicted if they appear before this Commission. So yes we have heard reports.

Q So would you be able to provide that information providing the person concerned because I don't believe there was a conflict because what we received cannot be used against them in any way.

A I should think that within reason it should be possible but I must say that really it would have to be a decision of those who are handling these matters I would make the recommendations but they must make their decisions.

Q Well any relevant information we could get will be much appreciated.

A I understand now. I will see what I can do about that.

Q Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much Advocate Mahlangu and Belinda for your testimony and notes that you have shared with us. Much appreciated sir. Thank you. You may step down

A Thank you.

EVIDENCE LEADER MRS FORTUNE CHIMBARU (To witness)

Q Thank you. That was our last witness for the day. If I may maybe handover the
 copies of the X-rays.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

At this juncture we may break for lunch. Our next hearing will be on Monday 2 O'clock.

COMMISSION OF INQUIRY OF 1ST OF AUGUST 2018 POST ELECTION VIOLENCE HARARE 26/11/18

MEMBERS OF THE COMMISSION

29. HONOURABLE KGALEMA MOTLANTLE- FORMER PRESIDENT OF

THE REPUBLIC OF SOUTH AFRICA- CHAIRPERSON.

30. RODNEY THOMAS DIXON QC-BARRISTER UNITED KINGDOM-

COMMISSIONER.

31. CHIEF EMEKA ANYAOKO- FORMER COMMON WEALTH

SECRETARY GENERAL, FEDERAL REPUBLIC OF NIGERIA -

COMMISSIONER.

32. GENERAL DAVIS MWAMUNYANGE- FORMER CHIEF DEFENCE

FORCES OF THE TANZANIA PEOPLE'S DEFENCE FORCE-

COMMISSIONER.

33. PROFESSOR CHARITY MANYERUKE POLITICAL SCIENCE,

UNIVERSITY OF ZIMBABWE- COMMISSIONER.

34. PROFESSOR LOVEMORE MADHUKU- FACULTY OF LAW,

UNIVERSITY OF ZIMBABWE -COMMISSIONER.

35. VIMBAI NYEMBA- FORMER PRESIDENT OF LAW SOCIETY OF

ZIMBABWE - COMMISSIONER

RECORD OF PROCEEDINGS

Inquiry

Dr. A. Maticha

MR GODZI

Good morning Commissioners. If it pleases this Commission may we continue with the inquiry in issue? I will hand over to our evidence leader Mrs Chimbaru.

EVIDENCE LEADER MRS CHIMBARU

Thank you honourable Chair. My apologies in the little hitch in starting. We will call upon our next witness Doctor Admire Maticha.

ADMIRE MATICHA : SWORN STATEMENT

EVIDENCE LEADER MRS CHIMBARU (To witness)

Q. Mr Maticha correct you are a medical doctor currently practising at PSMA Medical Clinic along 4th street?

A. Its PSMI Clinic.

Q. The Commission received information actually according to the post mortem report we have here. They was a body that came to PSMI on the 1st of August. Are you are aware of this?

A. That's correct. Yes.

Q. Would you please tell the Commission the circumstances under which this body came to your clinic?

A. We had just closed our clinic following the disturbances that were occurring in town.

They were some patients who were still in the clinic yet to be attended so we just closed the doors so that we could attend to those and finish and go. So it was around that time that a group of people came pleading with our security guys to open the clinic so that someone who had been shot can be attended to. I allowed them to open so that we could assist the said victim. He was actually being carried by some people the guy who was bleeding that we allow him. So we allowed him and we led him to one of our consultation rooms where I attended to the victim. When I first attended to him I realised that he was already dead. So we informed the police which is the normal procedure. We called the police to take over the situation.

Q. Were you able to identify those that had brought him to the clinic?

A. No.

Q. Before you attended to him or during the time that you were attending to him did you get any like history of what could have happened to him or was there anyone to give you any such information?

A. The only history that we got was that they were not his relatives they were just people who brought him. They just said could you please assist he has been shot in town. So that was all the history that we had.

Q. Do you still remember the name of this person?

A. The victim?

Q. The victim yes.

A. No actually we didn't positively identify him because they was no one who knew him

by name. So it was actually probably the police who later on went on to establish who he was. We tried but we couldn't.

Q. What nature of injuries did he have if you still recall?

A. He had a wound in the abdomen which was still fresh.

EVIDENCE LEADER MRS CHIMBARU (To commissioners)

Members of the Commission according to this medical report the only victim who is said to have passed through PSMI is Garvin Charles if you look at page 2 of the post mortem report. So I think this will relate to Garvin Charles.

EVIDENCE LEADER MRS CHIMBARU (To witness)

Q. You were still describing the nature of injuries. Is there anything else that you would want to describe about the injuries that you observed?

A. I think that's all.

Q. I have nothing further to lead from the witness. Honourable Chair and members of the Commission your witness.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Would you remember what he was wearing?

A. I don't remember.

Q. You can't remember anything in particular?

A. He was wearing a trousers, I think a t/shirt inside and a jacket. I don't remember the

colours.

Q. You don't remember any colours of the clothes?

A. I don't remember.

Q. What time approximately was it when he was brought?

A. I can't tell exactly but I think it was sometime between I would say 2 and 3.30 in the afternoon.

Q. Do you have a record at your place which would indicate to be a bit more specific because we are interested in the time that that could have happened in trying to ascertain what we are looking forward to. It will be very useful for us to get an idea of the exact times. 2 to 3.30 is a bit too broad. Is there anything that can be done?

A. I don't think we have a record about this patient or about this case because normally what we do we have got an electronic recording system where when we attend to patients we enter their details and everything into our electronic system but in this case we actually didn't do all that process because we realised that the patient had already deceased when he arrived at our clinic and we couldn't actually positively identify him so we just handed the case to the police. So we didn't keep any record of the patient.

Q. But would you know the police officers you directly contacted?

A. I have forgotten his name. Yes we contacted a police officer and he came but just that I have forgotten his name.

Q. So is there anywhere we can really track this because we are interested in the times.

You have said 2 to 3.30. We are more interested in trying to get around the exact time so if you could help us with the police officers that you contacted it will then give us an idea also.

A. I don't think we will be able to do that because they took some time to come. We waited for probably 1 ½ to 2 hours before they had arrived. So we waited for some time after our initial call but they continued reassuring us that they are coming so we waited until they arrived.

Q. When did they leave the hospital with the body?

A. I think probably it was towards 6 (six) in the evening. I was actually not there when they did the actual collection of the body because they just wanted a statement from me after they had finished with me I left.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. In what condition did they bring him to you?

A. Sorry can you come again?

Q. In what condition was he when he was brought to your clinic? How would you describe the condition in which he was?

A. The first time that I saw him he was on the couch they had already taken him to the examination room so when I went there I just saw a man who was lying there and not

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Dr. A. Maticha

breathing. They was no heartbeat.

Q. He was already dead?

A. He was already dead he was not alive when I first saw him.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. So they would be others who received this who are not yourself when the people were coming to the clinic were not the doctor?

A. The people who actually carried him because they were very near at our clinic and when the security officers opened they actually carried this person themselves the people who brought him and they were directed to the place where we wanted him so he was actually carried by the same people who brought him to the examination area that we wanted to attend to.

Q. So are you saying that if you are not able to remember the colour of what he was putting on other people could remember like the security people that assisted these people that came?

A. Possibly.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Thank you very much doctor. Do you remember the deceased's skin complexion?

A. He was light in complexion. He was a slim guy, he had dreadlocks.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Could I ask, you said that you gave a statement to the police when they came, was that a written statement they took down from you?

A. They were asking me questions and I was answering to their questions.

Q. Were the answers written down by the police?

A. Yes they seemed to be writing. They were writing yes.

Q. Did they ask you to sign anything after they had written that down do you remember?

A. I think they did.

Q. To read what they had written?

A. I cannot be sure I don't remember. It's possible I could have signed but I did not go through a lot of things.

Q. Thinking that now do you remember them showing you a document they had written and then you signed in that?

A. No, no.

Q. Do you remember them writing something down?

A. Yes.

Q. You remember if you have got a copy of that?

A. No.

Q. So we may have to follow up to the police whether they have a record what was said at the time?

A. That's correct.

Q Can I also ask the group that brought the person in did they say where they had collected him from?

A No. They didn't.

Q Did they say anything about how he had been shot?

A No they didn't. They just said someone had been shot.

Q What state was this in? You said they were pleading to come in. How did they appear to you?

A They appeared like people who wanted assistance. Ordinarily under the circumstances we wouldn't have opened right but when they mentioned that there was someone who was injured that is when we opened so it was a group of people who were pleading.

Q Sorry a group of people who were?

A Who were pleading that we open.

Q Before they came had you heard gunshots when you were in the clinic?

A Yes.

Q Do you remember how many were there?

A I don't remember but it was more than once.

Q So when this person got there it wasn't necessarily a surprise to you. You were able to put two and two together?

A Well I think because the disturbances had started slowly we had kept the clinic open for some time and because we had considered the situation to be safe. I think we heard gunshots a little bit earlier. Way earlier than the time this victim was brought. It was not a like within the same time range. Gunshots had occurred sometime back.

Q Can you try and estimate as best as you can how long was it between the time you heard gunshot and when the deceased man arrived at your clinic. About an hour to one and half hour.

Q Is that the information that you have to the police?

A No they didn't ask that.

Q The people who brought him there did they stay with him, the whole time until the police came?

A A few guys lingered around but by the time that the police came we had cleared most of the patients. Like I said they took some time to actually come so most of the people had gone so it was actually myself and a few of our staff members who were there but the people who had brought him they were no longer there.

Q They were no longer there?

A There were no longer there. Yes.

Q So all of them had left by the time the police came?

A That is correct.

Q And you don't have the names of those people. Do you?

A I don't.

Q Cause presumably those were the people around when this happened. Possible you have no information about them at all?

A I have no information about them.

Q Ok thank you for your answers.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Where is your clinic?

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Dr. A. Maticha

A It`s at 52 George Silundika Corner Fourth Street and George Silundika Avenue in town.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q The people who brought him did you form the impression that he was part of their group of that or they were just doing good.

A I think one or two appeared to have been a part of the group.

Q One or two appeared to be his friends?

A Yes.

Q I see. Thank you.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q So you would have known or have been aware of what was happening around that Corner Fourth Street and George Silundika?

A I wouldn`t because I was actually busy consulting a patient and because I am the team leader there so the staff members asked me first before they could open the door. Whether to open or not. So I gave him a go ahead that if there is an emergency please let`s attend to that.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Doctor what do you mean by one or two appeared to be part of the group?

A Well from what they were saying, they appeared to be saying us in the way that they were making reference to him and themselves.

Q Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much Doctor Maticha. There are no further questions. You may step down. Thank you for coming.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Honourable Chair that was the only witness for this morning. Maybe if we could adjourn at this time to resume at 2 o'clock. Continue the hearing at 2 o'clock. So maybe at this juncture if all the other members of the public can now move out. The next hearing will be in the bigger room at 2 o'clock. So if we could all move out to allow the Commissioners space to go out. Thank you.

SECRETARY MRS MABHIZA

Mr Chairman may I at this point hand over the proceedings to the evidence leader Mrs Chimbaru

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Q Thank you honourable chair and Commissioners. Unfortunately we may delay our programme with about 3minutes. I understand they are still setting their machines. They had some problems when coming in. So just for three minutes whilst they finishing setting up their machines.

Once again good afternoon honourable chair and members of the Commission. I am advised that our machines are now working properly. I think I will call our next witness Mr Tendai. Biti.

ADVOCATE BEATRICE MTWETWA

Honourable Chair and members I represent Mr Tendia Biti. My name is Beatrice Mtetwa. He is outside I don't know whether he is having problems we have all been having in coming in here. We were being denied access so I don't know if it's one of those. If I may just sir be allowed to go out and check where he is and then come back.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Honourable Chair and members the witness is now present and is seated with his lawyer Mrs Beatrice Mtetwa who has already introduced herself to you.

Inquiry

T. Biti

TENDAI LUCKSON BITI : SWORN STATEMENT

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Mr Biti on behalf of the Commission of inquiry I would want to thank you for responding to the invitation to come before the inquiry today.

A Thank you and good afternoon to the Commissioners.

ALL COMMISSIONERS

Good afternoon.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q It is common cause that you are the Vice National Chairperson of the MDC Alliance?

A That is correct.

Q And you are also the Member of Parliament for Harare East Constituency?

A That is correct.

Q And I understand you received the invitation from the Commission and the reason why the Commission has called you is that certain evidence was led before this Commission to the effect that before and on the day of the 1st of August you were, you led certain statements which could have incited the violence but being a lawyer yourself, I believe that you understand that this is not a court of law as such we are not putting allegations in the way that we do criminal proceedings but this is in order to allow you to respond to those allegations that were made. The Commission thought that it will only be fair and just that you will be allowed to respond to the said

allegations and it is in this spirit that you have been called. Would you have anything that you would want the Commission to know with regards the allegations?

- A Thank you your excellence and members of the Commission. I have indeed received an invitation to appear before this Commission and that invitation insinuated that certain allegations had been made by those who came to testify before the Commission. I have Mr Chairman through my lawyers of record Mrs Mtwetwa of Nyambiari Mtetwa and Associates and also Mr Chris Mhike of Arthurs and Cook. All instructed by the Zimbabwe Lawyers for Human Rights. I have requested copies of the transcript so that I can study and prepare myself fully and see who said what I against me or against the organisation that I am a member of . The movement for democratic change. We have made this request on at least 6 occasions and we have been denied access to the transcript so I need to say that I am appearing before this Commission Mr Chairman without prejudice or to put it differently under protest because I have not been fully furnished with the transcript and therefore I am unable to answer in minute and greater the detail the allegations that have been made again me. I am also appearing in casu under protest for the bigger and constitutional issue that from where I am sitting the real issue about the 1st of August 2018 is who actually gave the order to deploy members of the army. Who actually gave the order to shoot on an unarmed civilian population and as far as I am concerned I am constitutional lawyer myself. Section 213 is very clear. Section 213 of the Constitution is very clear that only the country`s President is responsible for the deployment of troops and if that is the case it means with great respect that the answer to who deployed is answered. It`s answered by Section 213 of the Constitution of Zimbabwe. That being the case Comrade Chairman, the very same person who is Constitutional responsible

for deploying troops cannot therefore call a Commission of inquiry to infact inquire into his own cause. He can't do that he is conflicted and so principles of natural justice would have demanded that another person other than the person responsible for deployment of troops appoint the Commission so I respectfully content that the appointing authority had no legal basis of making the appointment and setting up the Commission in terms of the Commission of inquiry of the simply and good reason that he is conflicted by virtue of Section 213. And I know a President Chairman that coming from South Africa you will be familiar with true judgments of state capture in which the High Court of South Africa, the constitutional Court of South Africa disbarred former President Zuma from appointing a Commission on state capture due to the very fact that he and members of his family had been mentioned and allegations had been mention into state capture. He was also disbarred from appointing a Commission of inquiry into the use or because of funds around the constructions of Nkakla residence again for the same reason so I would submit Mr Chairperson that if we have to follow the strict dictates of natural Justice , Constitutionalism and rule of law, the appointing authority cannot appoint a Commission in which it's is both Judge and jury.

My second basis of the objection of third basis are the terms of reference. I consider comrade Chairman that the terms of reference are presumptive. I consider that the terms of reference create a conclusion, but that conclusion is then that ought to be the by product of this inquiry of the factually inquiry so just to read two, just to read one term of reference. It says and this is term of reference 'B' to identify the actors and their leaders. Their motives and strategy employed in the protest. Why is there an assumption that there were leaders in this whole thing? Why is there an assumption

that there was a motive. Why is there an assumption that there was a strategy because term of reference number three pre-supposes a pre-planned? A process the execution of implementation of something that was planned somewhere by individuals. I would have though with great respect that the simply term of reference is just one who ordered the troops out of the barrack on the first of August 2018 and who actually gave the command to kill and unarmed civilian population so with great respect I consider that the terms of reference are flawed . With great respect Mr Chairperson I have problem with and I say this with great respect to all of you. I have a problem with some of the Commissioners. I think that if Justice is to be done and more importantly of justice is to be seem to be done and the test of bias in our law as well as in South Africa. It is not what is actually happening. It is not whether there is actually bias. It's actually the perception. What would be the innocent bystander thing of when certain appointments are made so I would like to submit with great respect that some of the persons sitting on this Commission do not inspire confidence , do not in spire the belief that this Commission can be neutral and I say this with great respect and I need to underline that I am creating a gap between the objective conduct of the Commissioners and the subjective conduct or rather the subjective perception because the test for bias is subjective. What is the perception of the innocent bystander out there because justice must not only be done but it must be seem to be done. In other words there must be legitimacy in the mind of the public that those who are administering justice, those who are inquiring on matters of fact are objective, are impartial and they are neutral so I have a problem with a Commissioner Charity Manyeruke. I think that it's not in dispute that she is a member of the ruling party. It's not in dispute with great respect comrade Chair before the 30th

election she appeared in recorded adverts or campaigning material for the ruling party pitching for Mr Emerson Mnangagwa so the question is not whether she will be biased. The question is what is the perception of persons outside and certainly the perception is not correct and I would also have thought that in light of the fact that these allegations have been made against her would have thought that the decent thing for her as a self-respecting person would be simply to resign so that she doesn't put anyone

I have a problem too with the barrister from the United Kingdom. I do not know his name but I presume it's the white man over there. I have gone through his website Mr Chairperson and his own personal website. So he boasts of extreme association with military and military governments.

He said on his government that he actually advises military regimes. So I have a problem. Again I don't know him and the question is not whether he will actually be biased. The question is what is the perception out there. What is the subjective impression created by his presence? I would also like to know the criteria that he was chosen. There are probably over a million lawyers in the United Kingdom. Is it that he was chosen purely because of his extra association with military and so forth. I have got a problem with him and I don't think that using the test of bias developed in our law in cases such as *Magova* versus the Minister of health. I don't think he will pass the test. I also have a problem with Mzee the General from the Republic of Tanzania. Again the intelligence we have in our party is that he is strongly associated with our vice President. That maybe correct or may not be correct but the fact out there is what is the perception to the public. I would have thought that what was

simply needed neutral persons. People for instance yourself Mr Chairperson , Chief Emeka Nyaoko people with no born in the fight but to appoint with some kind of parentage to the military government here I would have a problem with that so that is my third objection so in short on this call it is my testimony my view and my submission that this Commission ought not to have been appointed by the appointing authority that appointed for the reasons that I have pointed out above and secondly that there are certain things that raise questions, the terms of reference and the appointment of certain Commissioners so I am giving evidence under protest .This second aspect of my testimony Mr Chairman with your permission, I am aware with great respect that you are looking at what happened on the 1st of August 2018 but I think that it will be relief for the Commission to see the 1st of August 2018 in isolation and I would like to submit Mr Chairman that 1st August 2018 does not occur in isolation. It is connected to a long sad heinous history of violence in this country and violence that doesn't start in 1980 but perhaps starts when Zimbabwe as a modern state is founded in 1888 or 1890. And I would like to submit Mr Chairman and testify that the history of Zimbabwe has been history founded on violent, founded upon a matrix in which those who have the monopoly of the armed wings of the state namely they military have used same to reproduce a political order in Zimbabwe and that at all material times during the history of our Country , force, coercion and violence has always been used to reproduce and maintain a political power in Zimbabwe thereof the 1st of August 2018 If justices has to be done to it must be connected to events that have happened in nor history and I would like to submit Mr Chairperson that if you look at our history again from 1880 sorry from 1888 when King Lobengula signed the Moffat treaty this Country has not gone for a period of

more than 15 years uninterrupted without violence with force being used against the people of Zimbabwe and I am going to quickly run through this historical connection just to illustrate that at all materials has been a violent state in respect of which coercion is used against the people to reproduce a certain political in which , the agenda of power retention either by the colonial establishment or by the post colonial establishment and you recall Mr Chairman and Professor Madhuku knows a lot about what I am talking about. He has written a lot about it. We had the Moffat Treaty 1888. Followed by the Rudd Concession followed by the granting of a Royal Charter to the British Southern African Company BSAC led by Cecil John Rhodes. The charter gave Cecil Rhodes or his company the capacity to pass ordinances or law in this country it also gave him the unfettered right over our land and over our minerals and so soon after the granting of this charter in 1889 an entire army was unleashed on the people of Zimbabwe from Matabeleland all the way to what was then known as Mashonaland. So violence was at the Genesis of the state you had violence continuing all the way to the death or surrender or capture.

Historians are not very agreed of King Lobengula in 1894 and then we had resistance by black people leading to what many call the first Chimurenga but in fact it's not the so called rebellion of 1896. That's violence. This violence Comrade Chairperson continued all the way to 1912 and in 1914 the various contestations between black people who were saying this is our land and that neither the Moffat Treaty nor the Rudd Concession gave you sovereignty over our land and the contestations of the Rhodes Company saying this is our land. The contestation of the crown saying this is also our land because we gave your company the right to preside over it through the royal charter of 1889. Those contestations we heard in by the privy

Council in case called Imre Southern Rhodesia in 1914. So there was a period of calmness but violence erupted again in 1923, 1925 again over land forcing and promoting the Rhodesian regime to appoint what was called the Morris Carter a Commission and the Morris Carter Commission was determining the question of either :-

(1) Black should be allowed to own land.

(2) Whether whites should own land with black people side by side or whether whites should own land on their own solely and exclusives. The result of the Land's Carter Commission where that whites should own land rather own land exclusively on their own. The functions of the land's Carter Commission were codified in a law Comrade Chairperson. That is law is known as the land a apportionment act of 1931. It totally disposed black people in this country of their land. It forced people to go into reserves. Violence started again. There were armed skirmishes across the length and breadth of this country and it was the military the colonial military that was used with great force to subjugate a protesting black population. That the emergency of the Colonial State also coincided with the emergency of black labour as way back as 1894. They introduced a hut tax where black people were to pay 10 pen. But you could only get 10 pens you were going to work in a farm or in a mine. So by the 40s there was no serious black unions in this country with the main one led by a man called Benjamin Burumbo who organised a protest in Hwange in 1944. That strike Mr Chairperson was the Genesis of the Nationalist movements which were then led by Joshua Nkomo in the 50`s so we have never known peace. It has always been violence with the state using violence against the black population. The Nationalist Movement

saw the execution of the war liberation struggle in the late 50's the early 60s until the Colonial establishment here or the white establishments broke away from the colonial establishment by laterally declaring independent on the 11th of November 1965. The UDI as we call it just accelerated violence and so we had a war of liberation that only ended in 1979 and left 50 000- people, black people dead in this country so the colonial state was primarily a violent vicious state that reproduced its minority rule through violence oppression and repression of the black people. After independence nothing changed with great respect Comrade Chairperson up to until 1979 we had two armies. A gorilla Army led by Nationalist fighting a colonial or neo colonial troop led by Ian Smith and generals like General Peter Wills. I suspect that part of the challenge we have in this country is that in 1980. One army a black one just succeeded another one. The white without the infrastructure of coercion of centralism being dissipated which is why comrade Chairperson, the first threat that the post independent government faced in 1982, the challenges of so called dissidents and I use that word with great circumstantial and apology. They responded in a military way any other person would have engaged in dialogue with the communities that were affected by our government responded in the only way it knew best namely a military response and that military response we now call it Gukurahundi. A process in respect 20 000 of our country person perished. It is good that we are having this Commission of inquiry around what happened on the first of August 2018 but I think that something is wrong with our Country. That we have not had a Commission or inquiry. A public Commission of inquiry into a happening where over 20 000 lost their lives. There is something wrong there and very wrong Comrade Chairperson so 30 000 people were killed by the army led by the 5th brigade. Some of these

commanders are sitting in the present day government. Directed by the cabinet ministers some of them who are sitting in the present day government. And again you can see the gap if you were counting the period. You can see unfortunately that we have never had more than 15 years of uninterrupted peace since 1888. And infact Mr Chairman if you had time I would actually argue that we have never had since 1450 it has just been violence, so after Gukurahundi and I want to say that between 1980 and 1990 and there was serious political violence as well against ZAPU People against UANC people.

I grew up in a township called Dzivarasekwa. Our neighbours houses where stoned for supporting Bishop Muzorewa`s UAC . This is something that I personally witnessed as a little boy in the ghetto. So there as always been political violence in this country despite the bigger picture of Gukurahundi , there were these side stories and side shows that had been taking place in our country . Then we had Mr Chairperson the violence associated with our land reform programme and I submit that whilst no-one can question the imperator of land reform I this country I would like to submit that the violence that associated our land reform programme was totally unnecessary. Absolutely unnecessary. The lives of black workers who were lost . The lives of commercial farms owners were lost. The lives of livestock. Dogs ,cats were lost during that exercise an exercise which is still continuing , 20 years after the land reform programme we are still occupying farms even as I am talking to you right now . In 1999 the MDC was born in pursuant to National working peoples convention that was held in hillside about 5 kilometres away from this venue on the 24th and the 26th of February in 1999. Commissioner Madhuku also attended with myself at that convention. The formation of the MDC is the first real threat for

the organised democratic political opposition ushered into Zimbabwe a new kind of violence and that violence starts after the Constitutional referendum that was held on the 10th and 11th of February in 2000. We had a Constitutional referendum Comrade Chairperson and as civic society we organised ourselves in a civic board known as the National Constitutional Assembly and the referendum had a simple question yes or no. Yes to those who wanted a Commission that had been prepared by Commission of inquiry chaired by the late Chief Justice Godfrey Chidyausiku and those who said no. So we mobilised for the no vote. Doctor Madhuku was part of our campaign and the no vote succeeded. This was the first time in the history of our country comrade Chairperson that the government and indeed the ruling party had lost in plebiscite in any referendum in any election but that referendum number 1 it created the land reform programme because white farmers were perceived to have been supporting the opposition in the no vote. But as I said the referendum, was on the 11th of February 2000. The farm occupations took place a few days later on the 14th of February 2000 so there is actually a connection which is uncontested which undisputed between Zanu PF's loss in the Constitutional referendum and the violence that started and emerged and has been a permanent part of our infrastructure from 2000. We saw mass violence afterwards. Political violence in 2000 we lost a number of activities from our party. People like Talent Mabika . Chimenya and so forth. I am going to speak about the people that we have lost later on but there was massive violence against our movement. We went to an election on the 26th of June 2000 were our young movement did extremely well out of the contested 120 seats we actually won 58 seats but ZANU PF only managed to get a decent majority because at the time the President could appoint 20 extra member of parliament and then to say that of the

seats that we lost we took 15 of them or rather took many of them .We filed elections petition before the High Court of Zimbabwe and at High Court level we actually won 15 election petitions so that our result would have been 58 plus the 15 and would have been the majority party in 2000 but sadly our pails for reason I don't want to go to were reversed on appeal all the 15 cases we had won at high court level were reversed but I am saying this to point out the fact that when we went to the presidential election that was held on the 11th of March 2002 . Given how well we had done as MDC in the June 2000 election there was no-one that Morgen Richard Tsvangirai was going to win that election. Was going to defeat the Zanu PF Candidate President Mugabe so it was not a surprise that on the eve of that election the military through General Zvinavashe issued a statement Comrade Chairperson in respect of which it made it clear that it would not recognise any results from the election of 2002 unless someone with liberation credentials had won. Mr Chairperson allow me to read the quotation. General Zvinavashe said , his full names were General Vitalis Zvinavashe , so he stated , 'To this end let it be known that the highest office in the land is a straight jacket whose occupant is expected to observe the objectives of the liberation struggle . We therefore not accept let alone support or salute anyone with a different agenda that threatens the very existence of our sovereignty, our Country and our people. So we speak about the coup that happened in November of 2017 comrade Chair. I would like to submit that this statement was actually the first or the first pre-emptive coup that this country saw in March 2002 and you known Mr Chairperson that President Mbeki appointed a Commission of inquiry led by General Kambebe into the 2002 election which was released. The South African Government didn't want to release it but fortunately litigation released and the findings of the Kempebe

report was that the election was not free and fair and that Morgan Tsvangirai would have won that election. The 2002 election. This statement Comrade Chairperson have been reposted over and over again. And the 29th of November 2010 , the Commissioner general of the police Augustine Chihuri , I don't know where he is that the present moment, and I am not sure whether he still believes in the statement but he stated as follows, 'This country came through blood and the barrow of a gun, and it will never be re-colonised through a simple pen which cost as little as 5c . That is a member of the security forces who I terms of Section 206 of our Constitution must be neutral, must be impartial and serve the state the state not a political party. I have got another statement made by Brigadier General Douglas Nyikayaramba. This is what he said in 2011, 'Day dreamers who want to reverse gains of our liberation struggle will continue day dreaming. They can go to hell. They will never rule this country. No-one will rule this country without any revolutionary credentials. The same statement comrade Chairperson or similar statement was repeated at a rally by ZANU PF in Murombedzi this very Saturday.

This past Saturday. The vice President of the country. The esteemed Chiwenga, General Chiwenga made more or less the same statements that advocate Nelson Chamisa and others like myself are day dreamers. That there is a no vacancy and there will never be a vacancy in the Presidency so this is consistent comrade Chairperson. I want to speak to and make the point that it is us the ordinary man and own of Zimbabwe who have been the victim of violence and victims are not perpetrators comrade Chairperson. Victims will always be victims .We don't hold state power. We don't control the armed organs of the state. We are just poor victims. In 1999 we formed a movement that movement was founded on Constitutionalism. That

movement was founded on peace. That movement was founded on the rule of law and it had to be historical Mr Chairperson because what we were fighting, what we were trying to removing was violence was unconstitutionalism was the abuse of the rule of law so the MDC could not have been anything else because the mischief that led to the formation of the MDC was this ray terrible picture of violence of capture or a predatory state of a toxic state and so despite temptations we have remained loyal to the values of constitutionalism of the rule of law and of peaceful democratic change in Zimbabwe and we have refused comrade Chairperson . We have refused the temptation because often times the path to democracy becomes weary and painful. Often times it becomes very painful. And our struggle has been long we have been in the trenches since 1999. So often times it's easy to forget the bigger picture but we have refused and remained steadfast in the past of peaceful change democratic change to our country.

Mr Chairperson I have got role of honour. This list has got over 3000 people that we have lost over the years at the hands of ZANU PF. Can I be allowed to submit the same as exhibit A. I am just going to highlight some of the likely characters who we have lost. In 2000 we lost two outstanding cadres of our struggle in Buhera. One was Tichaona Chiminya and the other one was Talent Mabika. A high court judgment by Justice Backlet identified the killers of Talent and Chiminya . It identified them as State Agency Kitsiyatota and Phiri. A High Court judgment, notwithstanding that High Court judgment there has not been a prosecution to this very day and I know that Phiri is roaming somewhere in Chipinge. I think he is farming in Chipinge. I don't know where Kitsiyatota is but he is roaming somewhere in Zimbabwe . There has

been no prosecution.

Another sad case Mr Chairperson is the case of Tonderai Sergeant Ndira. A brilliant fine young man we had from the dust town of Mabvuku , he was abducted in 2008 during the run off the June 2008 election. He was killed in Goromonzi. He was a bigman physically. He was a big boy very athletic. When his body was found Comrade Chairperson, his remains could only fill a 5kg packet of roller meal and his father was only able to identify his remains at Parirenyatwa hospital because of the copper bangle that he put on his right hand side. Otherwise everything had been destroyed and crushed in 2008. His lawyers at the time Advocate Mtetwa who is here filed what we call in our law a *habius copus* which is an application for the release of someone who has disappeared. So on the way to argue this *habius copus* news reached the lawyers that Tonderai Ndira`s father had just identified him through that Copper bangle. We call it a bangle in this part of the world. The matter was heard before Justice Bent actually who is now a judge of our Constitutional court. The police representatives who appeared in that court proceedings , then advised the court that this court application is now unnecessary and it has to be concluded as a matter of urgency because we are going to give Tonderai Ndira a paupers burial the following without a pot-mortem. And thanks to state counsel. The lawyer who was standing of the state counsel who is the Sectary to the Commission Mrs Virginia Mabhiza. She said , “There are things that my conscience won`t allow me to do so.” she refused to be part of the process to do with the paupers burial. 2008 was terrible. We lost hundreds of cadres in violence that was perpetrated by the army against the opposition because our calm was simply we had dared to win the election that was held on the 28th of March in the year of our Lord 2008. This violence was most severe

in headlands because of the activities of the then Minister of State Security Didmus Mutasa. This violence was most severe in Mashonaland Central. Mr Chairperson, one family in a village called Chairman lost 15 people on the same day in 2008. The perpetrators are known they have never been prosecuted. Mr Chairperson allow me to submit exhibit. Exhibit 'A' is the role of honour. Exhibit 'b' is an affidavit that was prepared by Hilton Chironga in the Constitutional Court of Zimbabwe in case CCZ 42 of 2018. This affidavit was signed on the 3rd of June 2015. What Mr Chironga was trying to do and Mr Rashid Stewart Mahiya the applicants in this matter, we have in our Constitution comrade Chair, there is a provision in Section 210 of the constitution of Zimbabwe. The setting up of an independent complaints mechanism against the security forces. Notwithstanding that our Constitution became law in 2013. The powers that be has refused to actualise through the enactment of an act of parliament this Commission so what Mr Chirenda was to, he took the government to court. The Minister of Home Affairs, the Minister of Defence and the government the Republic of Zimbabwe to say look please actualise this Commission. There are many Commissions which we have not, but this is one of them. To justify his *locus standi* to justify he had legal footing to bring this application he had to tell his story. He was a victim of the 2008 violence and I am just going to read a few paragraphs from his affidavit that is before the Constitutional Court. We argued the matter three years the constitutional had not handed down judgement but I will just read three paragraphs to capture the violence in our system. I shall read from paragraph 8.4. So he says, 'In my own case I had a special in bringing the instance application. On the 20th of June 2008 I was at home that is Musiwa village close to Nyachuru, Mazowe in ward 11 sleeping with my family. In the early hours of the morning we woke up and found our

homestead surrounded by a rowdy crowd that included Richard Chirongwe the Zanu Pf electoral candidate for Mazowe Constituency in the March 2008 election. Soldiers in the form of Cairo Mhandu and Chamunorwa Chakanyuk and various other persons whom I believe were members of the security Agency in particular the CIO. At our homestead was myself, my Brother Taingwa Gibbs Chironga who had been elected on an MDC ticket as councillor for ward 11 in the National Election that was held on the 28th of March 2008. Also present was my mother Nelia Chironga . My sister Susan Chironga and two of my uncles Joel Nguwami and Hama Madamombe . Richard Chironga and his team proceeded to open fire on us. My Brother Taingwa Gibbs Chirongwe was shot and killed and he died on the spot. The rest of us froze at our state and Richard Chirongwe still started assaulting us viciously. My two uncles Joel and had their heads hit on the rocks with the results that they two died on the spot that very moment. My mother My sister and myself were severely beaten .So brutal were the assailants that they even forced us to drink a herbicide known as paraquet . Fortunately we did not swallow the same. In my case my tongue is now permanently lacerated and I have nearly lost my tongue as a result of the paraquet. My brother did not have any children but my uncle Joe was married and had four children. My uncle Hama was married and had seven children. At the present moment I am looking after the dependants of the aforesaid deceased. We reported the matter to the Zimbabwe Republic police but instead we were infact arrested and incarcerated for making the report.”

Now Mr Chairperson this is a ubiquitous story in this country. This is ubiquitous story. There have been various report on violence in this country. There has been various reports on violence perpetrated by security agency. Perpetrated by the military

and I want to refer Mr Chairman your commentary to what I will call as exhibit 'C' which is a report produced by the Zimbabwe Human Right Forum dated July 2012 called a culture of impunity in Zimbabwe. A report on access to Justice for survivors of organised violence and torture. In Zimbabwe if I might so submit Mr Chairperson. The violence on our people has also been noted and recorded in our law reports so unintentionally our law reports has become witnesses to the brutality of the regime in Zimbabwe over the years and allow me Mr Chairperson to just go through you, through a few of the cases that are reported. There are quite a few lawyers on the Commission so in other words this is evidence that was accepted. These are judgments that were pronounced on violence on violence in Zimbabwe, perpetrated against the people of Zimbabwe. One of the worst case of political violence is a case called Mberengwa West Election petition. The citation I know there are lawyers amongst you is 2002 volume one. Zimbabwe Law Report page 233. There was serious violence in this constituency against the MDC candidate Sekayi Hove and other MDC members. That violence was principally done by security agency and a war veteran known as Big Chitoro. You will find these facts in that judgment. Another judgment I want to refer to is the case of Chauke vs Mare. This was violence that took place in Chiredzi north. The case deals with serious cases of legal electoral practises, violence. The citation of that case which was later had an appeal by our current Chief Justice of confirming Mr Chairperson is the violence against women. Our violence is indiscriminate. You would have thought that there is gender respect. There isn't. So you will see in this case its serious violence on women. The citation of Chauke vs Mare is judgement number SC 147 of 2007. The next case I wish to refer to is the case of Eugenia Teera vs Minister of Defence. The citation is

Harare 21 of 2007. And this case involved the plaintiff Mrs Teera suing the Zimbabwe National Army for the sum of \$70 000 for damages for paying shocking suffering and condementia as a result of an unlawfully assault and assaults that was inflicted on her by members of the National Army in Glenview and the judgment was handed down by Justice Hungwe. And I am just going through some of the notorious case. Another very notorious case is the case of Jestina Mukoko vs the Attorney General. The citation is SC 11/12. It's a very sad judgment Mr Chairperson. It's an indictment to our society. It's an indictment to this state.

What happened was that, the applicant Jestina Mukoko was abducted and tortured for months by security agency. After months she was then following these harbious copious application that I have referred to, when she was released it was established that she has not been in the custody of the Zimbabwe Republic and that is very significant because the only people allowed constitutional to arrest on reasonable suspicion of the commission of an offence are members of the police. It was established that she was never detained by the police so she brought an application in the Constitutional Court , in the Supreme Court and the judgment was actually written by our current Chief Justice Malaba . She argued that her right to dignity codified in Cection 51 of our Constitution, her right not to subjected to torture cruel degrading treatment codified in Section 53 of the Constitution of Zimbabwe had been breached. And the Constitutional Court unanimously all of them concluded that the state through its agency had violated the applicant`s her right protected in the all constitution Section 13.1, Section 15 .1 and section 18.1 of the constitution and therefore ordered a permanent stay of the prosecution. In other words the Constitutional Court felt that the violation of her own rights were so great that any

criminal proceedings had to be permanently stayed. This is a decision of the highest court in our land. So this violence is not of our making as codified and witnessed in our law reports.

The next case I want to talk about is the case of Lillian Chinyerere vs Minister of Home Affairs. The citation is HC 11 969/2016. Just listen to the facts comrade Chair. On the 26th of August 2016, Lilian Chinyerere a woman aged 64 was sitting near the Rotten Magistrate Court where she was assaulted heavily by armed riot police officers. They were kicking her and some were beating her with truncheons and it goes on and on.

This is the violence that takes place in our society.

Another case I want to refer to is the case of Vaina Ndlovu and 5 others Vs Officer Mazarura and two others. The citation is GL467/472/15. Can I also refer to the case of Sophia Tagwirei vs Officer in charge Triangle and two others Chiredzi Magistrate Court. The citation is GL184/2015. This is violence in Masvingo Province. Can I also refer you to the case of Ellen Muteiwa vs Office in charge Masvingo province and the citation is GHL 208/15. Can I also refer you Mr Chairman to the case of Get rude Changwasha vs Officer in Charge Triangles and two others. Again Masvingo Province. The Citation is GL 201/15. Can I also refer you to the case of Constance Tshuma Vs Mbonis Mpofu and 3 others. This citation is High Court Harare 19/15. Can I also refer you to the case of Cynthia Fungayi Manjoro Vs Minister of affairs. Commissioner General of police and the Prosecutor General and the case number HC,2965/14. I can go on and on Your Excellency but the point is that this is a very violent society. The point is that there is only being one victim and that so ordinary man and women of Zimbabwe. There is only been one victim, the

majority of members of the movement for democratic change. There has only been one victim. On the 11th of March 2007 Civic Society organised under the banner of save Zimbabwe campaign, organised a peace March in Zimbabwe which was sanctioned as it way by the police in terms of section 6 of the Public Order Security Act POSA. I was part of that crowd. Professor Madhuku was part of that crowd. The peace March was supposed to take place at Zimbabwe Grounds in Highfields. Zimbabwe Grounds is a famous ground that we use here in Harare in particular whether liberation people or us for democracy people. It's like the home of our freedom. We were arrested comrade chair and put first inside a police station. Machipisa police station in broad daylight. We were to say assaulted is another statement. We were butchered by members of the Zimbabwe Republic Police. In broad daylight. They were using anything and everything that they could use. They had a shambok comrade Chairperson. I don't know who invented that shambok. That shambok if it hitted three strips, if it hit you it came away with your skin. They were using police truncheon. Morgan Tsvangirai was left for dead. The person who was assaulted second best if there is such a term was Professor Madhuku there. Comrade Chairperson they took a belt. They took a belt which had an iron buckle. So the iron buckle had a little hook. An iron hook. They were hitting professor Madhuku in the head. *Chimusoro chake ichocho.* 'They were referring to his head saying his head.' When they were beating me they were referring to my mouth. This one talks too much. But in the case of Professor Madhuku there were referring to his head. They were hitting him and blood just oozed out of his head. When they were beating us they were busy shooting people outside. Gift Tandari was shot on that particular day the 11th of March 2007. We were taken to Harare Central Police Station. Across the

road Mr Chairperson. I am not a medical doctor. So at that time the wound in Professor Madhuku`s head had clotted. So me not being a medical doctor I took him to a tape. We couldn`t move doctor Morgan Tsvangirai. We thought he was dead. None of us could go near him. He was just lying in the loan at Harare Central Police station but with doctor Madhuku I actually took him personally to a tape knowing that you don`t do that so I removed my shoe and took my socks and started washing it. That clot now opened and blood just went bhoobho. That man over there on the 11th of March we were taken to hospital . Sorry to the Avenues Clinic where we stayed for a few days they wanted our wounds, the swelling to heal a little bit before they took us to remand Court. So after 3 or 4 days they took us to remand court. Court number 6 at Rotten Row. When we taken in Court something that I have never seen happened .Both the Magistrate and the prosecutor Mrs Ziyambe she is very senior in the prosecuting authority. Both the Magistrate and the prosecutor broke down and refused to hear our case and said go back to hospital. So we went back again to Parirenyatwa or sorry to the Avenues Clinic.

So we are the victims Comrade Chairperson. We are the victims of brutal violence by brutal state. On the following week, the 18th of March, at Harare International Airport Advocate Nelson was leaving the country as a member of parliament for a meeting in Brussels for the ACP when he was brutally assaulted at the Harare International Airport in broad daylight and left for dead by the same regime.

Your term of reference number 1 says too enquire to the circumstances leading to the 1st of August 2018 post elections violence. These are the circumstances Comrade Chairpersons. These are the circumstances comrade Chairperson. We are dealing with a violent state . A state that has no respect to the dignity of the person. A state that has

no respect to the right of life codified in section 48 of the Constitution of Zimbabwe. A violent state. A predatory state. The violence comrade Chairperson. The violence of ZANU PF has not been monopolised to us in the democratic movement and to ordinary people who are in Zimbabwe. It has also been violence targeted at internal forces.

It was as a result comrade chair I know you are familiar with this. It was as result of the March 11 assault that I have just described that SADC then called for an extra ordinary summit in Daresaalam on the 29th of March 2007 which is the summit that appointed President Thambo Mbeki to act as an intermediate and facilitator on the Zimbabwean crisis. Mr Chair I know you chaired pertaining of that mandate. When on the 23rd of January 2009 you presided over an extra ordinary summit of SADC that gave birth the government of National Unity at your then residence Nyamandlovu in Pretoria or Tshwane that is where it come from. I thought I will just complete the dots but I was talking about the fact that violence is not monopolised to members of the Democratic movement and top ordinary Zimbabweans. There is also massive violence within ZANU PF itself and violence inside ZANU PF is used an instrument to deal with opposition. To deal descending voices. On the 23rd of March 1975 the then leader of ZANU PF advocated Chairman Herbert Chitepo was killed in Lusaka. There are various reports about who killed him including books but Mr Chairperson I know you know that the Zambian Government set upon a Commission of inquiry. A judicial Commission of inquiry who findings are very clear. Herbert Chitepo was killed by his own Comrades in ZANU PF and you know that may nationalist were arrested. When you read the report its fascinating because all the people the leading members of ZANU went with QC's like him to

appear before the Commission and the findings of the Commission of Inquiry by the Zambian Government came to the conclusion that it was an inside job. And you also recall that before the Assassination of Chitepo there was a rebellion in ZANU by young military officers led by Thomas Nhari . Hence it's at known as the Nhari rebellion.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Sorry Mr Biti if I may interject a little bit. I was going to ask if it is possible for you to submit a written response relating to the historical background.

A With respect Mr Chairperson. People were given free room to give evidence. I have to have the same licence. What I am speaking is to me the circumstances turning reference 'A' the circumstances leading to 1 August so I hope I can be allowed to continue.

So what happened was that these two boys, Thomas Nhari and Badzi made a revolt. They were very junior officers so they made a revolt against the Senior ZANU hierarchy and their cry was that look we are living in poor condition whilst shefs are enjoying. You know they are spending money they are doing what. So these boys revolted and went against their senior leaders and did many things that included capturing the wife of Commander Tongogara . Josiah Tongogara. A battalion then came from Tanzania. ZANU PF then sent a battalion led by Solomon Mujuru to put down these youngsters. Many of them were shot Comrade Chair violently. But this is what happened to Badze and Thomas Nhari that I want to talk about.

So what happened was that when the rebellion was put down the frontline states through President Maline Julius Nyerere issues a statement to the fact that, in fact it

was a directive that they had to be due process comrade Chairperson and that Nhari and Badze should go through a trial. Through due process and that they were not to be executed. They were not to be executed they could be fired from the struggle. Decommission from the struggle. What happened comrade Chair is sad. They were tried. They were convicted. They were decommissioned that was the official sentence but the actual sentence was that in the middle of the night 10 or 15 of these boys were taken to a place called Chifombo in Zambia. Pits were dug. They were put inside like we see in Western movies and their heads remained then ZANU PF took axes and hit them on the head. Executed them. They were left for days to be eaten by scavengers in Chifombo in 1975.

WITNESS TO CHAIRPERSON

Mr Chairperson I am been advise that Zimbabwe broadcasting co-operation has cut its live coverage. So I want to make an official complaint. Its conduct consistent with the ruling party comrade chair. In 1977 comrade Chair, let me just give a quick, what happened is that in 1975 the Mozambican front was opened so gorillas from ZANU and ZAPU moved into Mozambique but because they were so unhappy of the hierarchy of both ZANU and ZANLA sorry and ZANU they went formed a new organisation called ZIPA. Zimbabwe`s people`s army. It had 18 commanders. One from ZAPU the other one from ZANU. So I think the leader was I think J Z Moyo and then Solomon Mujuru and it went on like that. When President Mugabe was released from Prison ZIPA comrade Chairperson did not recognise President Mugabe. So when the Nationalist went for talks in Geneva in 1976 there were two

organisations. There was ZIPA then there was ZANU. So the Nationalist were not happy with that. So what they did was in January of 1977. I am told Mr Chairperson that ZBC has cut its line again. Mr Chairperson ZIPA at the time was led by these young radicals. Mr Chairperson, Zippa at the time was led by these young radicals that included the late Wilfred Mhanda whose Chimurenga name was Tinashe Machingura. That included people like Webster Gwauya, Parker Chipowera young marxist radicals. So what happened was that, in January of 1977 they were called and they eventually agreed to a meeting at a compromised area namely Beira as opposed to Chimoio or Nyadzonya. They said fine we will go to Beira. Fifty of them were then called in a basement so they went down that basement, when they went down that basement they found themselves surrounded by Frelimo soldiers and they were arrested. Many of them were shot on the spot. Those that survived like Wilfred Mhanda Tinashe Machingura he was only released and only came to Zimbabwe in 1981. Over almost two years after independence and only because a Germany crew of journalist had discovered that they were some guerrillas who were still detained because they had been put in northern Mozambique in a forest where they couldn't run away because they were animals. I had the privilege of representing Wilfred Mhanda. He was telling me that when they were in prison they used to be fed rice cooked with stones so when you are chewing it you don't know whether you are chewing rice or a thing. That's the ZANU we know Cde. Chair. A violent political party. That was 1977.

In 1978 senior leaders of ZANU PF who included the late Kumbirai Kangai, he later sold out that's how the hierarchy knew of this. Mukudzei Nyudzi, Henry Hamadziripi, Christopher Mudzingwa and others and Rugare Gumbo. Rugare Gumbo

is still alive. They were accused of organising a coup against President Mugabe. Their argument was that you Robert Mugabe you have takeover but you were not elected at a congress. Then one of them sold out as I said. They were arrested Mr Chair. Many of them were shot like the Wilfred Mhanda group some of them were put in detention. Like the Wilfred Mhanda group a few of them only came to Zimbabwe including Rugare Gumbo way after independence when again they were discovered by journalists or embassies who knew that they were people. That's before independence.

After independence we have prominent people that had been killed Sydney Malunga the famous joke in Zimbabwe that you will see a black dog. And a black dog is a euphemism for political assassinations. Over the years they had been many black dogs Mr Chair in our political landscape.

The most famous of these political assassinations is the assassination of General Mujuru on the 14th August 2012. General Mujuru was found burnt to death at his farm in Beatrice. Evidence given at his inquest was that those who tried to douse the fire the more they poured water on the fire the more the flames grew. Meaning that Mr Chair a very sophisticated accelerant something more complicated than petrol had been used to assassinate General Mujuru and we know that General Mujuru was perceived as a real threat inside the system. I could go on and on, on internal violence. They have been violence inside ZANU PF they have been violent against us, against democratic forces. I want to refer Mr Chair to the disappearance of Itai Dzamara on the 9th of March 2015 to date no one knows where he is. They is a duty in our Constitution to protect the citizens. The Constitution enjoins on the State the

duty to protect the citizen. Section 35 of the Constitution of Zimbabwe. All Zimbabwean citizens are equally entitled to the rights privileges and benefits of citizenship. Sub section 3, “All Zimbabwean citizens are entitled to the following rights and benefits,

(a) To the protection of the State to the protection of the State.

I would like to content Mr Chair that people like Itai Dzamara, people like all those people that are on that role of owner that I have submitted they have been denied protection by the State which is mandatory, which is obligatory in terms of the Constitution.

Mr Chair we have been a very peaceful organisation that believes in Constitutional democratic change. I want to run through you the history of peaceful constitutional resistance by the MDC where no one was killed. Where the army has been called. We have been in the trenches for a long time, peacefully, constitutionally without any violence, without things that happened on the 1st of August 2018.

Way back on the 11th of June 1992 the Zimbabwe Congress of Trade unions organised a massive demonstration in this country. It was on a Saturday led by Gibson Sibanda, led by the late Morgan Tsvangirai. There was no violence. People were arrested and those who were arrested then challenged the then laws and order maintenance Act which said that you needed police permission before you demonstrated and the Constitutional Court with that.

On the 10th of December 1998 and 10 December as you know it's the International Human Rights day. The Zimbabwe congress of Trade Unions organised a massive

stay away possibly the most successful we have ever had in the history of the labour movement. It was on a Tuesday. We now call it a red Tuesday. Again no one was killed. Soldiers were not called for. The police contained this. The following year in March we had other demonstrations against a proposed tax. No one was killed. The army was not called for. In June of 2004 we organised what was called the final. We called it the final push. So we thought that through a demonstration we would remove this regime. So we organised this massive demonstration. ZANU countered that. They actually put more people than us. So the net result was that they were thousands and thousands of people in the streets of Zimbabwe. We the demonstrators were outnumbered by ZANU PF. No one was killed, the army was not called in. the police controlled the situation.

In May, in particular May 9 and May 10 of 2005 we organised what was called a broad front and Professor Madhuku was part of that. We demonstrated against the cleanup operation, operation Murambatsvina for two days. Again the police were able to control us. The army was not called in. no one was shot, no one was killed.

Then I come to the save Zimbabwe campaign. I have already referred to that. At the end of 2007 we organised ourselves under what was the known as the save Zimbabwe campaign. What had happened Mr Chair is that ZANU went to its annual December conference at a place called Goromonzi and resolved that the presidential election that was to be held in 2008 will now be held in 2010. So we said that's not going to happen. So we said we want the election in 2008 but under a new constitution. Those were the themes of the save Zimbabwe campaign. So we organised what we called DRC, Democratic Resistance Programme. So we started demonstrating in January,

16 January in particular in Bulawayo then Gweru, then Harare culminating in the 11th of March peace march that I have referred to you. No one was killed. The police were able to contain this. The army was not called in. no one was shot. And they were many other demonstrations throughout this period mainly led by the NCA through Dr Madhuku who is there. No one was killed. No one was shot and the police was able to contain the same.

In July of 2016 we organised ourselves under the banner of NERA. National Election Reform Agenda in which we were demanding electoral changes. NERA was expanded to include other parties it became known as ZINERA. We organised demonstrations Mr Chair. A big one which was held on the 26th of August 2016, big, big demonstrations. Again the police were able to contain it. No one was shot, no single window pane was broken, and the army was not called in. It was because we were increasing the frequency of these demonstrations that is when the government or the police on the 1st of September 2016 banned for three months the holding of public procession in Harare using section 27 of the Public Order Security Act. So we challenged that and fortunately the Constitutional Court agreed with us, but again no one was killed.

On the 5th of June 2018, just this year on the 5th of June 2018 a month before the election as MDC alliance we organised a massive demonstration. They were probably 40 000 people and the videos Mr Chair, we marched from Africa Unity Square. We went down Jason Moyo Avenue to the head office of the Zimbabwe Election Commission. We stood there whilst our leaders went and handed a petition. We marched back this time through Samora Machel Avenue. Samora Machel is very

significant because that's where the Government offices are, the Constitutional Court is, the High Court is, the Supreme Court is. No one was hurt, no one was injured. The closest we came to violence was that we did press ups in the street. Nothing else. The police contained the situation very well. We were happy, we went to our homes. But we gave notice Mr Chair; we gave notice to the police that we were going to march in terms of the public order security Act. We have never in the history of the MDC carried out a demonstration in respect of which we have not provided for notification in terms of the public order Security Act in respect of which we have not complied with the law because we have nothing to hide. We are not a guerrilla movement or a rebel movement.

On the 11th of July 2018 a few weeks before the elections we gave notification of yet another procession and again thousands and thousands of people came. If you went on the roof of any building in Harare particularly buildings adjacent to Samora Machel, buildings adjacent to Nelson Mandela, Buildings adjacent to Jason Moyo it was a sea of red of people matching. And that kind of crowd no police can stop them if they decided to be violent because they were just too many, but again we were peaceful. We went to ZEC, gave a petition to ZEC, the Commissioners of ZEC ran away, justice Chigumba ran away. So we saw junior officers. We addressed the crowd there, marched again along Samora Machel Avenue peacefully. Went and were addressed by our leadership in Africa Unit Square. No window pane was broken, no vehicle was stoned, no shop was looted. The police were there they controlled us. No one was shot and the army was not called on by any one.

On the 29th of November Mr Chair we have given notification that we are going to march. Again peacefully, again constitutionally because section 59 of the Constitution says we have the right to demonstrate peacefully and constitutionally. So anything that is done outside the law and our organisation is full of lawyers. Anything done outside the law is not ours. We are not afraid of the law, we believe in the law even though sometimes it lets us down but we religiously believe in the law. Sometimes we go to Court knowing fully that we are going to lose but we do so because we believe in the law. And that's what we have been doing for years, and years, and years. Even when we were at University we have been involved in activism since University. We believe in the law. We will not betray the law even though sometimes it betrays us but we will not betray the law. We believe in the law. I want to emphasise anything done outside the law is not ours and no one should give us paternity of it because it's not ours.

Now I want to come to the 30th of election and the 1st of August. Mr Chair, we ran an extremely difficult campaign. As a movement we didn't have recourses and also our leader Morgan Tsvangirai passed on, unfortunately on the 14th of February 2018. So we had to regroup, find a new leader very quickly and hit the road running because we knew that the election would have to be held at the latest by the 18th of August 2018. We regrouped Mr Chair, we found a new leader in the form of Advocate Nelson Chamisa. We hit the ground hard and running. We campaigned Mr. Chair like we have never done before. We were in Binga, we were in Dotito, and we were in Chipinge, in places that can't be found by GPS. We addressed over 87 star rallies across the length and breadth of Zimbabwe. The quantitative output of our work was

there for everyone to see. The massive crowds that attended our rallies, the choking crowds that attended our rallies. In Africa I think only the ANC can do better than us.

So when we went to this election, when we campaigned in this election in places particularly rural areas that we have never been, we genuinely believed that we were going to win this election. After the election until today this very minute Mr Chair we genuinely believe that we won this election. We genuinely believe that Nelson Chamisa won this election as president of Zimbabwe. That believe Mr Chair is very important. That believe is very important because they is a behaviour of winners and they is a behaviour of losers. And because we genuinely believed we had won Mr Chair there was no way we were going to put people on the streets to disturb our own victory. There is no way, how do you spoil your own party. In my mother language we say “unodira jecha sei pamuchato wako” it’s illogical. Those who have lost will disturb the party. The behaviour of ZANU PF is not consistency with the party that won the election. There was violence on the 1st of August for the first time in the history of this country the army were called. Why? How many people were they to justify the calling of an army. I have just narrated Mr Chair the long and consistent history of demonstrations which were have had where thousands and thousands of people were there but the army was never called because by their very nature Zimbabweans are not violent. We are not violent. It’s not in our DNA.

I have been a student leader Mr Chair with Dr Madhuku we carried out a lot of demonstrations at the University of Zimbabwe. On 29 September 1989 we demonstrated against corruption. The following year on the 29th September 1999 we had a commemoration of that. The police came in and beat us up and the university

was closed on the 4th of October and students were chased away. There is now a bar in the Zimbabwe University called the 4th October bar. But in those instances there was no chair broken, there was no window broken but now we are being accused of doing things we couldn't do when we were 22.

Mr Chair, I want to underscore our believe that Nelson Chamisa won this election. I say this with great respect to the Constitutional Court judgement. I am not in any way mulcting the constitution court judgement. But I have to pose a question that Mr Mnangagwa was declared the winner but even as I sit here right now Mr Chair I don't know the result. Was it 50.8 which was recanted by ZEC. Was it 50.6 which again was withdrawn by ZEC. Was it 50.4 which again was withdrawn by ZEC. And the Constitutional Court judgment doesn't say Mr Mnangagwa won by 50. what? All we know is that the judgment says he met the 50 plus 1 threshold but without knowing how much. From where I am sitting Mr Chair, what happened is we filed a constitutional application and said your result of 50.8 is wrong. ZEC then agreed with us and said yes we agree with you. It's not 50.8 its 50.6. Then we filed other papers they said we agreed it's not 50.6 its 50.4. Once ZEC does that Mr Chair the onus is now upon them to justify their result now. Because we have prima facie shown that the result is wrong. So the onus is no longer on us. That's why in the hearing of the Constitutional Court Advocate Thabani Mpofu said in his submissions that ZEC had sold Mr Mnangagwa under the bus by admitting that the 50.8 was wrong, the 50.6 was wrong. But from our own verification, from our forms we hold different results. But we accept the finality of the Constitutional Court judgement but it doesn't mean that the Constitutional Court judgment deals with our understanding and firm believe that Nelson Chamisa won the 2018 elections.

The election was held on the 30th of July. When the election takes place at the polling station level results are counted, results are added up of every election that would have taken place at that polling station meaning the local authority election, the parliamentary election and the presidential election. These results are then collated in a form called a V11 which in terms of the section 54 of the Electoral Act is then posted outside the polling station. That means for all intents and purposes results are actually announced and declared at polling station level. When ZEC formerly they are just repeating that which would have already taken place. Mr Chair, because the maximum number we used a polling station based station and the maximum number at a polling station is 1000 which is not a great number that means that when polling stations close by 7pm on the 30th of July 2018 most of them would have been through with their counting by 1a.m on the 31st of August 2018 because you are just counting a thousand but in most cases there was no polling station with a thousand. They would be like 600. In my own constituency the highest polling station had 700 people otherwise its 500 sometimes 300. That's note a lot of numbers and then you duplicate them by three for the local authority. So that means that there is absolute no reason why ZEC should not be able to announce even on that very same day or the next day because results are effectively counted at the polling station.

We had a background that affected us. That was 2008 we used the same system Mr Chair. The election was on the 28th of March 2008. We through our own systems, through our parallel voter tabulation we calculated our results, added them up and on Sunday the 20th of July 2008 at 11 a.m at the Stewart room at the Meikles Hotel in my capacity as secretary general of the MDC I announced the results that Morgan Tsvangirai had won. That's when the law was then amended. Section 66(a) was then

amended in the manner that it was amended. The key point I want to make is that, on the 13th and 14th of April 2008 SADC had an extra ordinary summit on Zimbabwe at Mulingishi International Conference centre in Zambia where SADCC came up with a resolution that no one had won a presidential election and that Zimbabwe would have to go to a run off which run off would be held on the 28th of June 2008. Mr Chair the result was not there. The official presidential result would only be announced on the 5th of May 2008.

So our fear in 2008 was that we have won this election, the longer thy delay they will cook these results. So they must announce the results now because they have got them already. That is why I cast to a press conference on the 30st of July 2018. Which is on U-tube and I said the following which is allowed by the law Mr Chair. I said in terms of our own data, in terms of our own evidence Advocate Nelson Chamisa has won this election. That's what I said I said in terms of our own data. However we are asking for ZEC to make the formal declaration. It can't be as clear as pike stuff it cannot be any clearer. I am sure you have been given the transcript but it's on U-tube some can connect it's on U-tube. There is nothing fantastic about these declarations Mr Chair. Even ZANU was doing it. Go to the twitter handle of Mr Mnangagwa. He sent a twit on the 31st of July saying we have won but we wait for the official announcement. In any event Munyaradzi Paul Mangwana made the same announcement because a dubious nexus is trying to be made between my pronouncement on the 31st of August and 1 August. There is no link at all. If they was link Mr Chair then violence should have started in 2008 because on 29 July 2008 I announced that Morgan Tsvangirai had won. They should always been people who marched because Mr Mnangagwa claimed victory. They should have been who

marched because Mr Mnangagwa claimed victory. They should have been people who marched because Mr Mangwana on behalf of ZANU PF also claimed victory. There is nothing unique about the ipsedix of a verbatim pronouncement of a political party. That's the nature of democracy Mr Chair. So people claim, opinion pose are done. That's the full package of an election. My learned friend from the United Kingdom knows this better than I do. That's hipsedix. That's all. 1st of August I was back at work. That was the first time I put on a suit after an election. 1st of August the first time I put on a suit, I went back to my law firm to work.

I got arrested Mr Chair, the back ground is that State agents were trying to kill me. They was attacks on my mother, attacks on my brother, it was vicious. So I sought refuge in the republic of Zambia. I crossed Zambezi River on the 8th of August 2018. Notwithstanding that I was now on Zambian soil State agents followed me and squashed me, squished me. I don't know how I am still alive. It's the grace of God. The Zambian authorities recued me, smuggled me into their country. I say smuggle because the official entrance into Zambia the State agents in Zimbabwe just blocked it. They closed it so they had to smuggle me into the road of incoming vehicles into Zimbabwe. We almost hit a tanker travelling on the wrong side of the road going on the opposite direction. I got a court order from the Zambian High Court asking me to be at the Lusaka High court at 8 a.m on the 9th of August 2018. Zimbabwe State agents followed me into Zambia, unlawfully removed me from Zambia notwithstanding that court order. So I was brought to Harare and it was in court that I learnt that I was now being accused of having incited and participated in violence on the 1st of August 2018. I was advised that I was with one Jim Kunaka. This is what was in the Form 242 which is a remand form. When the police remand you they have

got a summary of facts against you. They said that I was driving a green discovery.

It's a joke Mr Chair. I hardly know Jim Kunaka physically. I know him as a notorious leader of the Chipangano group that killed our people in Mbare. That's how I know him. So even if I wanted to do violence "ndashaiwa here vanhu kuMDC" just looked ridiculous. So if I want to do violence is it that they are no other people so that I will go to an extent of doing it with Jim Kunaka.

To cut a long story short, they say I was driving a car. I don't even drive myself. I can't see. I don't drive myself. I don't own a green discovery. Why would I demonstrate violently? Why would I start now Mr Chair? Why would we start now? With a lot of great respect a lot of rubbish with great respect. And for the record Mr Chair, I didn't incite anyone on the 30th or on the 1st of August 2018. I did not participate in any acts of violence with anyone later alone Jim Kunaka, with anyone on the 1st of August 2018. Some of you there as Commissioners you know me. You can be by character in witnesses. I have no intention of engaging in violence. I have never engaged in violence and I won't start now at the age 52 when I could not do it at 22.

I learnt around 5 to 6 on social media that soldiers had shot people on the 1st of August. I think I issued a tweet immediately condemning that violence. On the 2nd of August that is when I learnt that the police spokes women had issued a statement that they were looking for me. My lawyers Mr Muchadehama went to the law and order saying we want to bring our client. CID said we don't know anything about this. That was on Friday the 3rd of August. We went and did a press conference on the 3rd of August at my law firm to announce that we wanted to surrender ourselves but the

police at law and order said we don't know anything about it. When we finished this press conference Mr Chair, 15 white unmarked twin cabs tried to abduct me at my law firm in Rowland Square and we were served because one of the lawyers threw himself in front of the junda car that was in front, Nyasha Munetsi so that moment gap when people think you killed someone that's how we escaped.

Around 6p.m I was called by the National Peace and Reconciliation Commission. They were panicking. They said results are going to be announced at 8p.m on the 3rd of August and we hear that you guys MDC you want to bring thousands of your supporters to protest. So I said to this Commission where would we do that when we believe we have won. I said I want to give you my personal guarantee as Tendai Biti that no such thing will happen. And of course no such thing happened. But that the state security agents had created this fiction that that is what we wanted to do and I said before we don't do that.

Mr Chair I want to conclude by dealing with how we see Mr Mnangagwa's setting up of this Commission. His motives, we believe that with great respect to the Commission that they are trying to use this Commission to assault and inosculate the democratic movement. To cripple the democratic movement. To arrest key leaders of the democratic movement. Because they have done so before in the past Mr Chair. In 1982 arms of war were found in properties that belonged to ZAPU planted by the regime. Now it's now coming up in books. There is a brilliant book written by a British academician called Stewart Doran, exposing this. It's their modus operandus, it's their DNA. It destroyed ZAPU, gukurahundi those armscashare destroyed ZAPU. ZAPU was never the same until it was swallowed by ZANU in the unity accord of 22

December 1987. In 1997 Mr Chair I was privileged to defend the founding president of ZANU Reverend Ndabaningi Sithole. He was tried of treason. All the weaknesses in his trial were soldiers who said Reverend Sithole had given them weapons and had asked them to go to Mozambique to train through Tamandai in Chipinge. One of the witnesses had a pathetic story. He said Reverend Sithole sent him to wait in a bush near the National Sports Stadium he was holding a claymore mine and the allegation was that he was going to use this claymore mine against President Mugabe's motorcade. The state called a ballistic expert who said clamour mine can't even blow a person on a bicycle. There was a video created in that trial. A video not of Reverend Dr Ndabaningi Sithole but of his wife Vinna Sithoel attending some meeting somewhere which was used and admitted in evidence. Reverend Sithole was convicted by the late justice Ismael Chatikobo. We noted an appeal Mr Chair. We noted an appeal Mr Chair. The appeal record disappeared. The record couldn't be prepared until he died.

In 2002 they replayed the same script this time against Morgan Tsvangirai. They cooked up a video in Canada created by a top class mustered agent called Ari Ben Minashe. I should say a discredited mosard agent called Ari Ben Minashe. The treason trial took place for over a year. Mr Tsvangirai was represented by someone you know Mr Chair, the great Advocate Bizoles. Morgan Tsvangirai was acquitted by justice Garwe sitting as judge president.

So this crypt of attempting to destroy democratic forces through false testimony, false evidence including the planting of arms is nothing new. We know it they want to do it now as they did it yesterday. It's ZANU PF DNA written all over. That's their style

of operation, so my prayer Mr Chair and all the Commissioners is that I hope you will be able to stand up to truth and there is only one true story in this entire milin of false testimonies that have been provided before you. There is only one true story and that true story is that we are victims. We had an election stolen from us but as if that was not enough they are now going for us. I pray Mr Chair that as Mahartma Ghandi has said the way of truth will find its way out. I thank you very much.

Q. Thank you very much Mr Biti I have no questions to put to you. I will hand you over to the Commission if they have any questions in clarifications.

Honourable Chair and members of the Commission your witness.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Mr Tendai Biti let me first thank you for that lesson in history. If you are not a lawyer I think you could be a very good history professor. Also let me observe that one of the hopes of this Commission with the permission of the Chairman I would say so, is that through its work we shall find an end to the history of violence in Zimbabwe. I have only one question for you. Would it be correct to say that in the same vein as you said that in 2002 the military made as statement before the elections that they would not accept or support any result that did not favour the revolutionary movement, and also a similar statement was made in 2011 just before 2011 elections by an unnamed Brigadier General or if you named him I didn't get his name. Would it then be correct to say that in keeping with that tradition MDC spokesman before the elections of July 30 this year also said that they would not accept any result unless their leader won the elections?

- A. Look, elections have been stolen from us. Thank you for the question and it's good to see you again. The elections have been stolen in our Zimbabwe from our point of view as MDC from 2002. 2008 the runoff, 2005, 2013, now 2018. and you know, I hope I can call you secretary, you don't mind me calling you Mr Secretary General that in respect of the 2018 election, all credible reports of the international community, the European Union report, the report of the American observer mission, The MDIIRI, the two Common Wealth reports have all said that this election did not meet the taste. I have referred to the Kampempe report of 2002. The 2008 election even continental bodies from SADC, SADC parliamentary forums, the African Union they all condemned that election but notwithstanding that we have not done anything extra legally to challenge the status core. A status score that we know is not legitimate. So in 2008 after the June 2008 election we went to negotiate with President Mugabe even though we knew that president Mugabe had not won the June 2008 election but we negotiated with him. The net result was the government of national unit. So the MDC is constitutional law abiding, law respecting political party and anyone who wants to seed into anyone that we set our people to lawlessness after the 30th of July that's not correct. I want to underscore Mr Secretary that we genuinely, genuinely believed that we were going to win. We have never run a campaign that was as robust as the campaign which we ran in 2018. We have never run such a buoyant campaign, such an overwhelming campaign. So when you hold that believe you don't see unlawfulness and we didn't do that. We made statements like we will defend the vote. Defending the vote means we will defend it by going to courts. We will defend it legally the way we have been doing. Over the years Mr Secretary General when we fight dictatorship, when you fight authoritarianism , when

you fight tyranny and we have been tyranny for over 20 years you learn to do certain things. Number one, you push, you beg a reform, you leave to fight another day. We have learnt in Zimbabwe that the struggle for democratic change is not a sprint it's a marathon. So over the years we have been cheeping away as a system. We have one of the best constitutions now, I know professor Madhuku wouldn't agree. A very decent constitution which we fought. Many people died for it and we are very proud that through our actions we got that constitution. So that's how we have learnt to fight dictatorship. You cheep at it and leave to fight another day. This is why I said we have refused the temptation, the seduction of the easy route to become a guerrilla movement or rebel movement. We have refused and our late leader Morgan Tsvangirai was consistent. Even if things are hard we hold on to constitutionalism, we hold on to the rule of law. And that's what we have remained like in the past 20 years of our existence as a movement.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q. Mr Biti you indicated that the riotous would not have been MDC people. Maybe this might help you to clarify, these people who gave their evidence here said they were chanting slogans, we want to defend our vote. They were also putting on MDC regalia. They were also chanting slogans putting on t/shirts and barretas, what would you say about that?

A. Thank you Cde President. I hope I can call you that. We did not as MDC sanction or lead any protest on the 1st of August or any time. The last time we had a public procession it was open. It was on the 11th of July 2018. That people were chanting

slogans, I also can do a ZANU PF slogan, “Pamberi neZANU”. So people can do MDC slogans. People can put on our regalia just like we can also put on ZANU PF regalia. So to me it means nothing. But the fact of the matter is that we genuinely believed, you might call our belief foolish but that’s what we believed. We believed that we had won this election as I still do and they was no way that we were going to stop our coronation as it were. If were to do anything consistence with everything we have done over the years we will follow the route of the law, we notify the police.

Q. Would it absurd then to say maybe since this was not sanctioned it could have been enthusiastic supporters of the party that just went out?

A. Since we are now venturing into speculation my own believe right now is that I think that people knew the magnitude of the theft and I think that people knew that with or without MDC they will be protest in Zimbabwe so people had to be killed to create a killing effect to make sure that nobody else demonstrates again because blood would have been lost on the streets. So I believe that people actually planned this thing to the full stop in the same meticulous manner they planned coup of November 2017.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Thank you Tendai. On the 31st of July 2018 you indicated that the results showed beyond no reasonable doubt that Chamisa had won the elections through the parallel voter tabulation process. And that the people could actually begin to throw party since the elections had been won in the manner in which you described. You then proceeded to say that if ZEC announces to the contrary we will not accept this result and that what would follow if that was the result you would have demonstrations and

do petitions. My question is that then what happened that the demonstrations followed?

A. Firstly Commissioner, that is not what I said on the 31st and they is a video on U-tube.

What I said on the 31st was that, if you watch the whole thing the import of my press address was to force and compel ZEC to timoeusly announce the results. In the background of 2008i where they have taken 6 weeks before they had announced the results. So I said we want ZEC to announce the results. But from our evidence that we have collected Nelson Chamisa has won so we are asking ZEC to announce the results. Can you announce the results? That's what I said. I did not make any reference to demonstrations, I did not make any reference to parties and so forth I did not do that.

Q. Thank you very much, no further questions.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Mr Tendai Biti.

A. Yes Mzee.

Q. As the Mzee from Tanzania, Mzee by the way it's a Swahili word referring to an old man but it is usually said in a respectful context.

A. I am respecting you Mzeye.

Q. Thank you so much. I would like to join hands with Chief Anyouko in thanking you immensely and profoundly for your very insightful an instructive submission. I have only one small question for you. What advice do you wish to give to the government,

to the political parties, and to the people who are Zimbabweans generally with the regards to the political future of this beautiful country?

- A. Thank you Mzeye. It's a question of wisdom. I thank you for that. I think that our country has been arrested by years and years of turmoil. Years and years of intolerance, years and years of unnecessary division. People can have political differences. People can belong to different political parties, that's the natural order of things but you cannot have the situation that exist in Zimbabwe where having a different opinion is a crime. Having a different view point is a crime. Part of the challenge with Zimbabwean crisis is that we do have a political crisis and we have had a political crisis for years but our political crisis tends to be so over bearing. It tends to affect every walk of our life. So right now we have got a serious economic meltdown in our country. We can't get cash from our banks. The government has just increased taxes through the budget announced last week. 95% of people are unemployed. 79% of our people are living in extreme poverty. I have been to countries, I have just come from Uganda I spent a whole week in Uganda, they is a political problem there. A big political problem in Uganda. But the political problem does not affect people in their ordinary day to day living. There is fuel in the shops of Uganda, the prices of goods are so cheap, I went to the market to buy traditional clothes, I could have bought the whole market. Their shops are full of goods. There is electricity, they is water. The Zimbabwean crisis is unique in that it's all embracing. It's overwhelming. It follows the citizen in every aspect of his life. Its suffocating, it's choking. So in my view Cde. Mzee I think we need to have a serious dialogue as a people. We need to finish the work that was started by President Mbeki, completed by

President Mthlantle. This dialogue should focus on those things that structurally and permanently divide us. Elections permanently divide us. We should have discussion on around elections. We should listen to what everyone is saying including even SADC and African reports so that elections are not a cause of division. Let's have a discussion on that. Because since 1980 Cde. Mzee we have had a situation where every election time it's a season of madness, of intolerance, of exclusion. So let's have discussions around that so that we have permanent reform that stops the reproduction of this continues physco of conflict and struggle for legitimacy. Right now there is a struggle for legitimacy. We don't accept the result of July 2018 and so far as it affects the presidential vote. So we are going to waste the next five years quarrelling over that and which investor will put money in Zimbabwe. Which foreign country will provide overseas development assistance? So let's clean the question of legitimacy. Let's deal with the question of reforms Cde Chair. We need and Dr Madhuku will agree with me. Let's revisit the constitution and see what aspects need to be dealt with. Let's revisit our legal regime and see which laws need to be dealt with. They are obvious ones like POSA, like IPA, lets harmonies our laws to the new constitution. Let's have reforms that deal with State capture in this country. Every institution now is basically captured. Let's have reforms that deal with the issue of the militarisation, the rise of the securocratic states. How do we get our soldiers back to the barracks? How do we get politics leading the gun as it should be? Let's discuss the issues of reforms around the media, 38 years after independent it is a crime Cde. Mzee that we still have one broadcasting house the Zimbabwe Broadcasting Corporations. Which has just blocked my evidence I am being told. 38 years after independence we basically have one newspaper. I know in Tanzania Swahili

newspapers alone have got 8 newspapers, never mind English. In Da'ar alone never mind the Islands and you is an African country so let's deal with all these issues. Let's deal Cde. Chair with the key issue of nation building. We are country but we are not a nation. How do we restore the social contract? How do we rebuild the social fabric of Zimbabwe? I suspect we need a programme of national healing. I suspect the levels of intolerance in this country Cde. Mzee we are as close to Rwanda in 1994 as we can never be and that's a disaster because four months later in April of 1994 a million people were killed. That's how buttered this society is. So we need national reconciliation. We need a program of transitional justice because all of us are caring things. We have been victims of violent. We have been tortured, we have been brutalised. Those of us who have not been tortured physically they have been tortured through economic mismanagement. The pensioners, the ministry of finance appointed a Commission on inquiry into pensions led by a retired judge Justice Smith. It came to the conclusion that 5.68 billion USD worth of pension monies were lost because of the hyper inflationary eras. Now we are losing money again through the introduction of bond notes. So if you are not buttered politically you are buttered economically. Most of the time you are buttered both politically and economically. So we need healing Cde. Chair then let's agree on the economy. How do we move the economy forward because the economy has become a feature of the disempowerment of the ordinary person.

Lastly the agenda of international reengagement. So if our friends go to China who will go to Brazils. Now at least they can go to London. But it doesn't make sense. Let's have a common front with our engagement with United States of America, with London, with Brazils, with Beijin, with New Dehli. We don't have that common

front. So I would say five key issues, let's have a discussion on legitimacy on elections, let's have discussion on the reform agenda, let's have discussion on nation building, national healing, restoration of the social contract, let's have a discussion on the economy. Let's have a discussion on reintegration, how do we end Zimbabwe's isolation. Once we agree on this we then discuss on the implementation mechanism. How do we implement the agreement reached on that? Without soberness and maturity you will find us four years from now exactly in this current boat of economic malaise, divisions, hatred, intolerance, meanwhile our country is being weighed down. As I said I was in Uganda you can't recognise kampala the development and the cranes you are seeing on those hills. The last time we had a crane in Zimbabwe I probably 1968 and that's not good enough Cde. Chair. So we are lagging behind every other country in the region. You come from the east African look what is happening in your country, what is happening in Kenya, what is happening in Rwanda, I flew using a Rwanda airlines, it used to have two airlines now it has Airbus A380 Boeing 777 and we have old aircrafts that were bought in 1976. It's not good enough Cde. Chair. So we need dialogue to move the country forward.

Q. Thank you very much.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you Mr Biti. I have a very hard act to follow but I wish to also reiterate what the Chief has said in that we as the Commission it's our mandate as getting to the truth of what happened. We have to rely on the evidence we get though so we are trying to get as much evidence as possible so we can make a fully informed decision. Thank you for all the information you have provided us today. It's important for these

but also the very eloquent submissions you make about recommendations. And also we hope as the Commission to assist in promoting more positive impression internationally as well which is vital now for Zimbabwe. What I wanted to ask though about in relation to our terms of reference because I think that is where we have to start and then move on to the future. With respect to the armed forces and the police I hope you have been following the proceedings you would have seen that we very directly scrutinised the actions and every step that was taken. What is emerged as part of that evidence is an allegation although it doesn't appear to be the concrete evidence of it of some third force that was operating. Or some group within the MDC that was armed. I think we have decided to find that you have a full opportunity to respond to this allegation that has emerged. That's my first question.

- A. Thank you very much. Firstly there is no third force in the MDC. We are a very Constitutional party in terms of what we do and we have stuck to one script. An election stolen from, us we cry, we go to courts, come the next election, we campaign and when we campaign we actually genuinely believe we are going to win and then it goes on and on like that. So I don't think that they is anyone sophisticate to have a third way force in the MDC but I know the State has got capacity and I have absolutely no doubt that this was planned. I don't know the number of people who were in the streets on the 1st of August 2018 but I don't think that it was a big crowd that the police itself could have failed to control. And I have given in my testimony, the many times that we have demonstrated with thousands and thousands of people he last being on the 11th of July 2018 and as I said in my testimony if you were on the top of any building the tallest building in Harare is the Reserve bank building, you

would have seen a river of people putting on red matching from Africa Unity Square to the ZEC offices in Kopje coming through Samora Machel back to Africa Unit Square. The police controlled them. So the person who gave the order to deploy needs to be interrogated because personally I don't buy for one moment any contention that the police could not control whatever was happening. I don't accept that at all. Because in the past they have dealt with real situations. So if there is a third force it's within the State. It's within the army because we know as a matter of fact that the army itself is not homogeneous there are agendas they are various agendas, as I said before the behaviour of the army on the 1st of August 2018 is not the behaviour of people who believed they have won elections. The establishment went to town to try and present the image that 2018 was actually a free and fair election there was no violence. But 1st of August shattered that. So whoever gave that command was he acting in scene with the others that had created this narrative that this was a free and fair election. So if there is a third force it's inside the State it's inside the army.

Q. We have heard this evidence if I may follow up from a number of MDC supporters that the protest actions that we saw that became violent were caused by not any MDC members but by the State itself. Do you have any evidence on the day from what you saw or what others saw that supports that?

A. I wasn't witness to anything that took place on the 1st of August. As I said I was actually in my law firm putting on a suit but what I can testify from years and years of being a lawyer, being a human rights defender, from years and years of being an activist in this country is that the Zimbabwean military, the Zimbabwean police they are so strong. They are so effective. So if they had been anyone indeed outside the

State who did anything wrong on the 1st of August he would have been arrested, he would have been prosecuted. We don't have a problem of law enforcement in this country. We have a problem of selective application and execution of law enforcement. And that's why when our police or army if they go on peace keeping missions they always do well because they are well trained. So the problem is not ability it's just the politicization and capture of these institutions.

Q. You said that you rightly condemned the violence on the day in a tweet, what exactly did you know and condemn perhaps we can obtain a copy of the tweet?

A. I don't have it. After I had learnt that the army had shot people I condemned that.

Q. Did you say anything about the protestors?

A. We don't have paternity over the protestors. Our own protest is notified and we lead from the front. If you look at images of the 11th of July you will see Advocate Chamisa, myself another leaders offer a movement right at the front. If you look at images of the 5th of June you will see Advocate Chamisa, myself, Cde Morgan Komichi and others leading from the front. If you look at pictures of 26 August you will see Morgan Tsvangirai and other leaders of ZINERA leading from the front. If you go back as way back to 11 March 2007 you will see Morgan Tsvangirai, Lovemore Madhuku, Arthur Mutambara and other leaders leading from the front so we don't lead from the behind.

Q. We learnt from video evidence that the ZANU PF provisional headquarters were attacked that day. We have seen the video evidence of that. Do you know anything

about who might have done that?

- A. I have a problem just with that that the violence is located in centres that they actually control. I actually have problem with that because you see these days everyone is a journalist. Most people carry smart phones so its very difficult that someone can go and burn a building and a car and you actually don't capture him or her on video and you capture that posfacto which is I was I strongly believe that this whole thing is a stitch up to attack democratic forces, to emasculate democratic forces.

- Q. Can I ask about the recommendations that you discussed. Do you have any recommendations that you can provide to us to assist us with how election results could be announced so as to avoid that you have highlighted?

- A. I think let's do what happens in every other country. Let's do what happens in United States of America, what happens in your country? The result comes in and it's immediately announced, people are waiting at their party head offices. America has got over 300 million voters but by the time you go to sleep in the early hours of the 5th of November after every four years you know who has won but it has got a bigger population. So in Zimbabwe we can do that because the results are announced at a polling station. South Africa has got over 20 million voters but the result is known that very same night. So let's do that. But here we don't that because we have got something to hide. We want votes to be pregnant and multiple. So let's follow international based practices. The result comes its announced. Chitungwiza north here is the result. Chitungwiza east here is the result. Meanwhile they will be a total of the president. A candidate X is on 2, candidate Y is 5000. So they will be presidential

tallying up. It should be so easy. Why do we need to wait for days? Morgan Komichi right now is facing charges for having declared that the results announced by ZEC on the 3rd of August was fake. And he had a right to say that because the law demands. Remember we vote in constituencies so the law requires that all the results should be collected throughout Zimbabwe and sent to a National Command centre here in Harare. Then the party's respective agents must then tabulate and verify these results. So they were saying in Chitungwiza candidate X got 15 candidate Y got 20. In Bulilimangwe candidate got what. So you just add up the V23 forms. A process which shouldn't take more than a day. It didn't happen in 2018. It happened in 2013 it didn't happen in 2008. So I don't know why we complicate things when we are a tinny population of less than 5 million people who voted.

Q. Thank you very much for your answers.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. Thank you, just one follow up question. I noticed that you have referred to yourself as human rights lawyer?

A. Yes.

Q. Do you believe that any of the speeches that you made before the 1st of August would be classified as contributing to what could be called hate speech which could have incited some people?

A. Absolutely not madam. This election more than any other election else we were so

issue based. If you look at our blue print our smart document we try to raise issues in that document about moving our country forward. Our attitude in this campaign was that lets not be a typical opposition because the role of a typical opposition is just to denigrate anything done by the government. So our approach was that lets show that we are a credible viable legitimate alternative with better ideas and a better platform. I would like to believe Cde Commissioner if you compare pound for pound, our manifesto is the smart manifesto and ZANU PF manifesto we win hands down which is why if you look at the new government economic program. The transitional stabilisation programme they plagiarised our document and not the ZANU PF document because we raised critical issues about moving our country forward. So I think that under no stretch of imagination can anyone take what we said and did during this campaign as inciting anything. We did not do anything beyond election bander. So during election we say yes you are a thief that's allowed, that's normal. They called us everything and anything. The only thing that they didn't call us was they didn't accuse of incest with our sister but everything else they called us. That's politics we accept that. They call us puppets of the British ironically but we can live with that because that's politics. It's allowed in terms of Section 67 of the Constitution. Also madam Chair the statements you attribute to me are not correct. They are not correct at all and they should be transcript and videos of what we said during this campaign. We were every colourful but we did not cross the lines. Yes we called people thieves we accept that. Yes we said people killed people in gukurahundi, we accept that. But we didn't cross the line and they are transcript to that effect. Just like they also called us puppets and so forth. That's accepted.

Q. Thank you.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Q. Thank you very much Advocate Biti for your lucid and eloquent rendition of the history of Zimbabwe and this Commission on behalf of my fellow Commissioners I can re-assure you that whatever is shared with us shall not be used against you in a punitive manner anywhere. We want to thank you for suggesting dialogue going forward because we believe that Zimbabweans do need to deal with what quite clearly from all testimonies is deep sitted animosity and levels of mistrust as Zimbabweans and that hopefully this Commission can contribute towards resolution of that problem and it accumulated corralled disabilities so that they can be reconciliation, they can be nation building and focus on how to build the economy and ensure that the quality of life of ordinary citizens improves. That's what we hope this report we will compile can help bring forth.

Now having aid all of that we had a pattern in the testimonies. Those who testified in the manner which tended to uphold positions of the governing party did not see soldiers at all. Those who testified in a manner which suggests that they are supportive of MDC positions only saw the army, did not see anything else. That has not helped us as a Commission because we have to deal with the objective fact and that can only come from those who witnessed the events of the 1st of August. So I was hoping that if there is anything that you feel can help the Commission to arrive at correct analysis and assessment of these events please don't hesitate to share that with us and I was also going to ask you to favour us with, you cited a number of recorded

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cases. If you could, I know you gave the citations but if you can favour us with that document it will be very helpful.

A, We will do that.

Q. Thank you very much they are no further questions. You may step down Sir.

A. Thank you.

WITNESS EXCUSED.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Honourable Chair with your indulgence I was going to propose that probably we take a short comfort break before we come back to the next witness.

ADVOCATE NELSON CHAMISA'S EVIDENCE.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

NELSON CHAMISA : SWORN STATEMENT

Q. I am advised that the recording machine is now working we may continue. So I don't know if the point of order is still there?

A, No it falls away thank you very much.

Q. So before the disturbance I was about to say evidence has been led before this

Commission to the effect that some of the statement you made during your campaign rallies could have had the effect of inciting the violence of August 1 and it is against this back ground that the Commission has invited you so as to give you a chance to respond to the allegation as they saw it fit that its proper and just that you be given that chance but it is not a trial. It is just in the spirit of hearing the other side before they come to their conclusion. So on that basis do you have anything that you would want the Commission to know. So you may now proceed to tell them.

A. Thank you very much madam for such a gracious welcome. I also want to thank in particular the former President of South Africa President Motlantsi. I am very glad to see you after a long time having seen how you have played a pivotal role in the unfolding of historical developments within Zimbabwe. You were seized with matters to deal with elections of Zimbabwe as early as 2002. We acknowledge your role even in the inclusive government. I must say that the role that you played is well articulated and well appreciated. So part of the reason why I am here, I am here in honour of your

good works. I am here in honour of a decorated African icon whom I believe deserves to be given the honour and respect particularly in the context of you helping us in this peace building process. In this nation building process. I had a lot of reservations which I will articulate but I was prepared to set them aside, archive them and make sure that I put my country first. I put my continent first so thank you for your good works. You taught us as Africans that it's possible to lead and live like you did in South Africa and thank you for that. That is the reason why I fundamentally I am here to honour you. Thank you very much Mr President. We appreciate you.

I also am here because of the Commissioners. I know that reservations have been cast but I would not want to delve in that. I trust the integrity, I trust the good will, I trust the weight upon your shoulders to make sure that you give truth, a way, you give light to truth and this is why I am here. Particularly if I am to also refer to Chief Emeka who as way back as 2000 was seized with the issues of elections in Zimbabwe in the context of the Commonwealth. You are not new to this, you are not stranger to our circumstances and our situation and I give due regard and I salute you. Yes I am not a soldier but I give you a salute that is befitting of the roll that you have played and thank you for being here.

All the other Commissioners whom I respect the General from Tanzania. I own Generals especially Generals who appreciate the need for democracy in Africa and on the African continent. Thank you General for being here.

My fellow learned colleague from the UK thank you for making a way all the way from UK. You are far away from the Queen's comfort and harmony all in Zimbabwe

which is not a joke it's because of your commitment to our circumstances and thank you very much for being here.

I want to also thank my colleagues' fellow Zimbabweans who are here. Professor Madhuku who also happens to have been my teacher at law so I am before my teacher but in a different context and I trust that the teacher is not going to mark me like I am a student but like I am a candidate.

I also have professor Manyeruke again a lecturer who taught me. Bar the political colour and the political persuasions Mr Chair. Issues of politics is what has brought us here where people are unnecessarily divided over partisan and issues. What we would want to see is to see Zimbabwe that is above partisan politics. Zimbabwe that is above enclaves of where you come from, what you eat, what you believe in, we must all believe in the collative which is Zimbabwe. So I want to also honour you Commissioner Manyeruke. Of course I know there are issues around party affiliation. That is the right we must all respect. We all went to the liberation struggle so that there is the right to freedom of consciences. So if you chose to go for white when I am going for a whiter colour that should not be the reason for us to have a division.

I also want to acknowledge of the law society then former President amai Nyemba whom I also cherish. I just thought that I needed to say this because it's important to put into context the fact that the Commission that we have we would have issues around it and of course they would be raised but I have no reason to doubt your integrity going forward in terms of making sure that you give Zimbabweans justice and the justice that they deserve.

Honourable Chair and Commissioners as esteemed. As I come here I have already indicated that I am coming here as a representative of the people. As a people's leader. Not just as a people's leader but as a popularly and by majority elected leader in the political context. I will explain to you why I say so authoritatively and on firm grounds but I am here because I sense that in this context because of the Commission that has been set democracy is on trial. I have a sense that the Will of the people is on trial. I have a sense that our future is on trial. Why do I say that there are on trial?

There are on trial because there is a victim who is supposed to be looked after who is being turned into a perpetrator. He is being asked to come and answer for the things that were done by people who are now making those allegations. That makes it a bizarre situation but I come here because of the honour that I have already indicated.

And I also come here in honour of the deceased. The six people who perished. I went to visit some of them before they passed on and one of them who had a bullet told me that I believe that we are going to cross to Canaan. I said what do you mean? He said I voted for you and I believe in a new Zimbabwe. I said but were you demonstrating and he said no I was not demonstrating. I was actually selling my things. He told me that the following day he was going to be operated and guess what, the following day I was told that he had passed on. So this is the reason why I am here esteemed Commissioners to come and speak for the voiceless, to come and say something on behalf of the dead. Blood speaks and blood speaks through others and I have to come here and speak on their own behalf. Even if I don't know their persuasions what they believed in but because they are Zimbabweans I have a duty as a leader to come and speak on their behalf. In the best interest of innocence, in the best interest of justice.

Some may say Mr Chamisa we want to hear what you say. I am very clear about what I say. All the times I am very circumspect. I know that there is a difference between a Politician and a Statesman Cde. President. A politician would think about the next election. A Statesmen would think about the next generation. I am such a statesman who is thinking about the next generation. I am not just thinking about an election. Elections come and go but generations are supposed to leave a mark. A mark on this earth. A mark in the history and allows of human kind and this is why your excellence I am here.

I am fortified by one of the icons of this country in the liberation struggle Joshua Nkomo who once said that Zimbabwe will never die. It will never die because young people will rescue it. So I am here because as a Youngman carrying the torch of the transformational struggle away from the liberation struggle. I have a duty to make sure that we give sanctity to our liberation struggle by representing ourselves in a manner that will represent the young generation. The Joshua generation. Not just in the context of Joshua Nkomo but in the biblical context. So we are the Joshua generation. Yes Joshua Nkomo also said that the trouble and the tragedy of Zimbabwe is that people live in constant fear of their government. That is the situation in our country where we find that the people can't trust the government; the government can't trust the people. So there is a cat and mouse relationship. As I was coming here Mr Biti said something about the country and a nation. A country is just a geographical expression but a nation is about institutions, values, the vision, is also about the citizens and the State. We do not have a proper nation. We have a country and what we need is to move from just having a country to having a nation. A nation that is premised on love, a nation that is premised on unity, a nation that is premised

on harmony and this is why honourable Commissioners, before the election I wrote to President Mnangagwa then but now I would not say President Mnangagwa because I have not acknowledged that he is the President of this country. I wrote to him five times requesting for a meeting. After assuming the leadership of the MDC upon the passing on of our President Dr Richard Morgan Tsvangirai. I felt that it was necessary to create a new dispensation of harmony instead of the old dispensation of acrimony. In any event your excellence I may wish to just tell you all the Commissioners that when we did the November thing in our support on the streets it was under the understanding that it was going to genuinely bring a new dispensation. President Tsvangirai was convinced that we were going to have a transitional authority but that did not happen. He was disappointed and he was betrayed because that transitional authority was never put in place to deal with the preparation for an election. So we went to an election in the context of a disputed environment. We tried to put up a document which we called peace which was emphasising the issue of peace but also a plan for a credible election in Zimbabwe. That plan we tried to engage president Mnangagwa then, Mr Mnangagwa now who did not want to even meet with us. We said to ourselves even if he doesn't want to meet with us we will continue the doors. In fact they ridiculed our efforts because we anticipated that this country is so divided. This country is so, so divided that it would require all citizens to come together and fashion a common agenda to build the country forward on the basis and also on the basis of harmony. That did not happen and of course that is why we then proceeded to go to elections.

I have also learnt honourable Chair and Commissioners that all of the years in my years of leadership I have generally come to the conclusion that for a nation to thrive

dishonesty must die. Deception must seize and 13.1 17 tomfoolery must vanish. Such is the case in our circumstances. No nation can ever stand or even survive on the seals or foundation of lies, falsehoods, deceit and deception. I have had opportunity to take a look at some of the testimonies. Under oath a person would lie about things that did happen in broad day light. Things that are common cause a person would want to convince Commissioners that what is whit is black and what is black is white. That is a serious indictment on the history and the future of our country.

I must say that in as much as I have already indicated the appreciation that I have of the contribution that has been done by President Mothlante in the context of the government of national unit, allow me also just to indicate to you something that is very important. Where Mr Chamisa is now being alleged by one witness from what I have checked and that is the police Commissioner General. He made some very political statements to say that Mr Chamisa we would have arrested him long back but we didn't arrest him because we wanted to have him accept to the position in parliament. I have said that position is meant for Mr Mnangagwa not for Mr Chamisa. As I will also indicate this is not just a pontificating position but a position that is informed by facts and facts which cannot be negated. All the Chair I have read disturbing statements from the spokesperson to President Mnangagwa, Mr Charamba. The spokesperson to Mr Mnangagwa has made some very dangerous statements. Statements that would almost reduce this Commission into almost like a rubber stamp or a white wash or a choreograft assembly of great men of honour and integrity. What did he say in The Herald which was quite a big story I think it was on the 28th of November. He had this to say, "In an interview deputy chief secretary to the president cabinet and cabinet comrade Charamba said this is a very serious matter, referring to

the Motlantle Commission inquiry, if anyone thinks that this is a ritual by government which has too much foreign currency to give to the Commissioners they are mistaken. We want to make sure that the facts are established but more critically we have more elections for as long as this country lives as a democratic proposition. If we don't send a clear signal we don't debore in variance of trivialised life it will mean that this thing will continue haunting us. It is a very serious matter". Continued Mr Charamba. Yes it is about lives that were but more critically it about lives that are still endangered by the future. The Van guard is mentioned in the Commission. There is a counter narrate to say that they have disbanded it. Meanwhile Chamisa is certification them for their superb violence which draws fatalities". Already. This is the spokes person to Mr Mnangagwa. Who is Mr Mnangagwa the man who has set this Commission? So if you are pre-empting this Commission, if you have an answer already, if you have a conclusion already. Why even bother because it does put a dent and a blemish on the integrity of the Commission and I don't know what is going to be done about this to assure me that this is not going to be just but a rubber stamp. To assure me that this is not going to be but taken as a way of just wasting people's time because we need to be assured that indeed this process is going to establish the truth and nothing but the truth.

So I just thought I needed to highlight the issue of Cde. Charamba but not only that our honourable Commissioners. I also want to know why and how and when Mr Mnangagwa is going to be invited to this Commission. If it is a question of witnesses having mentioned names like what happened with my name that Mr Matanga just mentioned my name, why is Mr Mnangagwa who was mentioned by his own General not also before this house? Why is he not before this Commission because he was a

candidate then? And what criteria have been used to invite me without inviting my brother ED as they call him. What is good for the goose is good for the gander. What is good for Nelson must be done to Emerson. So that there is an understanding of fairness in how we do things. Yes I know that they might be a bit of a problem in terms of him being the President and having appointed a Commission but still they has to be that narrative from his so that it completes the picture in terms of how and where he was mentioned.

Not only that honourable Commissioners. I must say that I am really excited. Bad s it might appear that we have had a situation where we lost innocent lives. We must also understand that it has brought to the fore the fundamental issues that this nation is broken. That our politics is rotten. That violence is at the centre of our politics, violence which is institutionalised. Election in, election out we cannot transact an election without violence. Particularly violence from the State and that is the issue that we are confronted with and that is the issue that we would want to deal with.

I must say that it is clear from what I have seen that all the years through and I will not go into what Mr Biti has already given or what others I waste your time honourable Commissioners. It's very clear history is repeat with examples of how have been victims of violence. I for one I was left for dead at the airport having been attacked by people who are known. At the International Airport. Can you imagine honourable president having been attacked at Oliver Tambo and there is not a single person who has been arrested to date. If anything they are actually trying to cover up that matter. That matter got to Common Wealth nothing has been done. I am just one

of the many cases of people who had been arrested, people who had been harassed and people who had been left for dead. That is the nature of our politics.

I was left for death again on the 11th of March. Mr Biti narrated the ordeal. I must tell you that the person who served me that day was Professor Madhuku. Because when my turn had come to be thrashed and to be thoroughly beaten professor Madhuku entered, they said no let's focus on this man whom we must deal with because he has a hot head. Referring to professor Madhuku. The situation was terrible. I sustained serious injuries and I was in hospital for almost like a week. From there I then had to Brazils' because I was going there for both treatment but also for a parliamentary assignment. I was attacked at the airport and left for dead. I still have those visible marks which are there. Having been attacked in broad day light. Nothing was done. Guns were used and this tells you the story of being a democrat. The story of being peace loving patriot. The story of standing for the truth and for the alternative in this country. My story is just one of the many stories and that's why I am here to tell the story of those who cannot tell this story in Muzarabani, those is Tsholotsho who cannot tell this story but this is the story of every Zimbabwean, not a single Zimbabwean has a gun as far as we know. It is normally the state. It's difficult to hold a gun in this country. Even holding catapult it's such a difficult thing. If you have catapult you will always be tracked and you will be known and one wonders when they say MDC you have guns. We have no gun. The only gun we have had is the Constitution. The Constitution is our gun that's we always go to the constitutional platforms to try and articulate in dealing with our issues.

Honourable Chair I must say for the record my hands are clean. My conscience is very clear, my resolve is unbreakable and my heart is pure. These hands you see have not spilled blood. The mouth you see has never conspired to have a live that is also on the basis of political violence. I have said that violence is not part of DNA and who so ever chooses violence we will always repeal. That has been our tradition and we have stated that we will not knock to State house in a sea of blood. That has been president Tsvangirai's position. That is our position that is the position of the MDC.

But what is the paradox. Honourable Chair. The paradox in all this that the allegations that are being made are being made by those whose hands are unclean. And why are they doing so. They are doing so as a way of running away from their culpability and their complicity. We have law and order in this country. We have law and order agents and mechanisms in this country. If there is any crime that has been committed the solution is not kill but to arrest. If they is a citizen who has done anything criminal the duty is for the law and order institutions to arrest and not to do what was done on the 1st of August. So I must indicate this in the context of the 30th of July because I can tell you that the first time I got to know that there was something untoward in the city was when I was called by the then Home Affairs Minister Obert Mpofu and I was shocked because he has never called me for years after the inclusive government. I only used to meet him in the context of the inclusive government. I said Mr Minister what can I do for you because I am busy in prayer. He says no I have called you because I have seen your people who are destroying property at my party. I said my people. Do I own people? Who are these people? He said no I suspect that they are your people because I can see they are putting on red. I said Mr Mpofu let me tell you, you are saying that they are destroying property. Once

a person starts destroying property he is criminal. You don't need to call me to say that you must restrain your people. Is there something that you are up to? Why would you make such an allegation? What are you trying to do? I had a big scuffle and he said look Mr Chamisa we want to talk to you because I had been instructed by my boss. I said who is your boss? He said the VP Chiwenga. I said what has instructed you. He said no we must talk if there is any problem's I said I don't talk to people who want violence. I talk to peace loving people that's what I was actually joking. He said no he is actually here because I could hear the voice and I said no I don't have anything to do with you then I switched the phone off.

I was worried at that point that what could be happening. I then tried to check with my youth Chairman. I said what the problem is, Is there a problem in town? He said there is no problem. And if you can go to the 1st of August an check on my calls there was that call from Mpofu then I called my youth chairman to say what is this thing, is there anything that you are doing and he said no we are not doing anything. There is nothing that we are doing here other than that people are just waiting for the results who are doing the parallel voter tabulation. I said that's oaky because somebody called me that there is a problem. Is there a problem in town? He said that not that I am aware of. I then at that point in time checked with a number of people who told me that there were some problems in town but it was not yet quite serious because the guns I think had not been fired and the army was not yet there but it was clear that I think there was some bit of a problem. What shocked and worried me was that Mr Mpofu would then call me. If these were doing whatever they were doing they were supposed to be arrested because the police were there. But the calling was obviously a choreographed way with eye sight of trying then to say you are responsible you might

have sent those people. But why would we do such things. So I will address that in the context of our issues.

Let me go to the 31st of July in context. Honourable Chair I really appreciate this platform because this platform gives us an opportunity to just indicate what the people know. What ZEC knows that Mr Mnangagwa knows that we won this election emphatically?

Why do I say so? I will tell you the reason why I say we won this election emphatically because that is what gives me moral comfort. Further alone we all know all about it. And further alone we all know the truth about it. We had the parallel voter tabulations and by mid night because the presidential election results were counted first before any other results. By midnight the election result was known across the whole country. We also went our own way of ascertaining that result. Mr Mnangagwa knew the result. And the result was very clear. We had 2.6 74.320 votes, Mr Mnangagwa at that point had 2.008 639 votes. That is the result that we had managed to get in the parallel voter tabulation. That is the result that was on the server of ZEC. My lawyer who is sitted on my right wrote to ZEC to say we want the results that are on the server because we have heard from our own election agent that they were not willing to go to the server that had now created an excel spread sheet so they wanted an alternative. This was on a Wednesday if not Thursday where they wanted to create a parallel platform where they were now beginning to tabulate the results but they already had results that had been punched real times. And honourable Commissioners I must say that the strength of our matter when we went to the Constitutional Court where we wanted to be declared by way of a relief the winners

was because we had primary evidence on the server. And this is why we issued a subpoena and I actually have that subpoena which we did apply for but the Registrar and the Constitutional Court denied the opportunity to us to have the subpoena of this server. I actually have the subpoena here and it will be important for the Commission to just have regard to it. At that level that subpoena is the one that I was going to subpoena the server and indicate the results that were punched in real time.

The server works in this way. If you try to temper with the server when you have punched in the results it will freeze. So what then happened was that they could not announce their results from the server because of those issues. I know this because I have been a Minister of ICT. I know how these gadgets work and I can tell you that this is authoritative and this is why this is even before the court.

Mr Mnangagwa in his affidavit does not deny the issue of the server. He even said that the server was there but it was tempered with. This on the court papers and this is the story which has not been told. So as far as we are concerned we got 57.10%, Mr Mnangagwa got 42.10%. The rest was received by other parties that participated. Why is this important? This is so important on the context of any other subsequent development because then we had won the election. We had managed to bag victory and it was in the bag there was no need for us to anything that will then cause unnecessary challenges in the context of our country. I could have gone into how the figures were inflated and the methods that were used but I don't think that it will really help you but for whatever its worth it must be brought to your attention that there was 4 million ballot papers what were printed, presidential after the 30th of July and that can be validated. Its part of our papers and what we have said and this

information is known by Mr Mnangagwa. Why were these ballot papers being printed? They were being printed because wrong results were going to be announced. ZEC's figures could not tally. There was no tally between the parliamentary and the presidential vote. There were differences in the V11s which were being altered by the way between Tuesday and Wednesday. There was evidence across the whole country of V11 forms that were being altered. There were missing polling stations that were not accounted for and also there were problems of certain results not being posted outside the polling station as required by the law. So for us we were very clear that we had won this election and whereas Mr Biti said we believed because he used very tenderised language. We won the election and we have it on authority that we won the election.

I must also take this opportunity just to highlight that the right to vote is the most important vote. The reason why we went to the liberation struggle was because we wanted to assert that right to vote and that right to vote is the reason why some of us believed that operation restore legacy was all about the right to vote and that's why some of us were in the street. I actually addressed a rally in Highfields in support having been sent by Dr Tsvangirai in solidarity with ZANU PF. The only thing which confused us was after that successful rally certain of the ZANU PF officials were beginning to back track on that collective effort and they were beginning to say that is a ZANU PF affair when in fact we thought it was a collective national effort that meant to restore democracy in Zimbabwe.

Let me go to the 1st of August before I respond to your specific questions madam.

Honourable Commissioners, the 1st of August is a very sad day in the history of

country. Very regrettable for me. But the way I see it and allow me to see it the way I see it. It was a pre-emptive measure to avert what they expected to be a response from those whom they had robbed of electoral victory. It was so managed what I would call a managed explosion as opposed to an unmanaged explosion. Calculated to fore store any kind of protest especially on the context of results that would be doctored or not real. It is very clear when one was has regard to the V11 forms changes. The 4 million ballot papers that were printed and this was all averred in our papers in the courts. I can tell you that the 1st of August the way we see it, it was designed to be a platform for the release of a fake result and justify a putative attack on innocent citizens. It's not an accident that the election result was(machine has switched off)

Sorry honourable Chair, thank you very much I am just being told that ZBC again gone on unofficial break. If that maybe addressed honourable Chair.

EVIDENCE LEADER MRS FORTUNE CHIMBARU

Q. I understand that the problem has now been sorted you may now proceed. Advocate Mpofu is your client now ready to proceed.

A, Yes.

Q. I understand the problem has been resolved.

A. Thank you honourable Chair, I was just making the point that the fake result that would be released was then designed in the context of a putative attack. Why do I say that? It's not just on account of what we have said. If you look at the EU report for example which I have here. In terms of their just executive summary and I may quote

a paragraph. “The final result as announced by the Electoral Commission contained numerous errors and led adequate possibility, transparency and verifiability”. May I just repeat honourable Chair? The final results as announced by the Zimbabwe Electoral Commission contained numerous several errors and led adequate possibility, transparency and verifiability. Finally the restrictions on the political freedom and the excessive use of force by security forces and abuses of Human rights in the post election period undermine the corresponding positive aspect during the pre-election campaign and we so agreed. The pre-election campaign had challenges but they were better than in the previous circumstances. As such many aspects of the 2018 elections in Zimbabwe failed to meet international standards.

This is an EU report. This position is validated by the Common Wealth. This position is validated by the NDIIR report. I could have gone into the nitty grities. It’s important because what it then does it speaks to the concerns anxieties that we had and we had always articulated and mentioned.

In the context of 1 August honourable Chair, Mr President, it’s important to understand that this was done way ahead of the deployment of tanks and water cannons at the MDC headquarters on the 28th of July on a Saturday. One would wonder, a curious mind would want to know. Why would you deploy tanks and water cannons at Harvest House and not at ZANU PF headquarters? These are both political parties that are in an election but you had already deployed. So you have already worked on a presumption that there is going to be a demonstration that is going to come or emanate from one party and not the other. There is no justification. We tried to enquire through our lawyers why that was done there was no explanation.

One would also want to know why when there was this violence on the 1st of August certain people attempted to change the cause of death especially trying to convince the relatives of the deceased that let the cause of death be stab wounds instead of gunshots. Why would that happen? Why would the VP Chiwenga say in an interview on the 5th of August in the Standard by denying that people had been killed or shot dead? He insisted on the issue of the wounds out of the stabs by knives. Why would we then have in terms of the attack just the ZANU PF headquarters and the ZANU PF provincial headquarters where there was no protection, yes, maybe? But we must understand that why do we then just have that attack on ZANU PF headquarters and not on any other including the MDC. It tells you that it's a story that I would say was meant to paint a picture from our perspective and that's how we see it with the turn of events having assessed the situation and having seen what then happened.

I also want to say that there was the sending of people who claimed to be soldiers into the high density suburbs I am not so sure if they were soldiers but they claimed to be soldiers and there was actually a statement issued by the European Union and other such International organisation to condemn the brutality that was being meted out on individual citizens in the high density, in Chitungwiza, in Highfields, in all the areas. One would wonder what was the context of all this. One would wonder why the election result was announced at night. Why the election result was announced when everyone else was removed from town. Of course as I am being advised by my legal practitioner the election result was not announced as per the law constituency by constituency. It was just a blanket announcement.

I must also say Mr President that there was supposed to be verification and validation of the results by the candidate or the Chief Election Agent of the candidate. That did not happen. In fact my Chief Election agent was told to wait in a particular room at HICC including my legal practitioner. As they were waiting there they were told that election results were already being announced and this necessitated my Chief Election agent to go and take the platform which was being used by ZEC and to announce that the results that are being are fake and have not been validated. This is all common cause and I say it because it does tell a story of where we come from and our perspective in the context of these developments.

I must also take this opportunity to indicate honourable President, distinguished Commissioners that the MDC as a matter of record and the MDC I am stating here is the MDC that is in the country the legitimate one and I am its leader. We did not give any instruction to demonstrate on the 1st of August. I want that to be understood. When we make decision to demonstrate we are an organised party with organs and structures. We are structured, we don't just wake up and say go and demonstrate. They have to be meetings. In our own case we have a national standing committee which is the top leadership that has to meet and recommend to the national executive which is the second organ, then the national counsel. So the decisions are not made nicodimously of noctenously. They are made in broad day light and we always inform the police. We have demonstrated before we are going to demonstrate again as we are going to demonstrate on the 29th of this month. The reason why we are demonstrating we know that it is a legal tool, a democratic tool. We are democrats we use democratic tools and demonstrate is one of the constitutionally enshrined democratic tools that we have to use. Just like the Constitutional Court if we have an appeal in

terms of section 93 and also section 156 of the Constitution. Those are the tools we use to defence our vote. We said it over and over again that we will defend our vote. We didn't say you will defend your vote. We said we will defend our vote meaning to say that we the leadership will take a leadership role in defending what we would have voted for through constitutional and legal means. And we have done that. We will do it and we will continue to do it. Up to today we are defending that vote and we will continue to defend the vote because the people voted and the people spoke on the 30th of July.

Does the MDC condone violence? We don't condone violence. In fact in the past we were disciplined people who had exhibited tendencies of violence within the party either in settling disputes or in other issues. We have tried to then deal with those things and I can tell you that if we had actually called for a demonstration on the 1st of August you would not see the few hundred people you saw. We are a big political party. When we call for a demonstration it can actually bring the entire of Zimbabwe to a standstill. But we have sparingly called for demonstrations as a way of saying let us dialogue on these issues. We knew this as a way of trying to persuade our colleagues in ZANU PGF to come to the negotiating table to discuss our national issues. To try and massage their arrogance, to try and say lets come together and work a way forward for the people of this country for Zimbabweans have suffered. 38 years of suffering, 39 years of suffering. People want to at least have a relief. Some kind of a way of going forward. So I must say that in terms of where we are, no one deserves to die on account of omissions by ZEC or Commission by ZANU PF. This has happened in the past. We did not hope to have that kind of a situation in the context of 1 August. I must say I am so disheartened that up to today and having listened to the

police Commissioner no docket has been opened. A docket to deal with the problems especially considering that on the 1st of August the whole CBD was full of police officers. They were supposed to arrest whoever broke the law. They were also supposed to deal with all the people who were there and then on that basis you would be able to know the character identity of individuals. The people who were arrested at Harvest house are actually not demonstrators. These are members of staff who were busy doing parallel voter tabulation at Harvest house. They were busy working and police when they came to Harvest house they didn't ask for guns, they were not looking for guns. They were searching for computers because they wanted to take all the evidence of our parallel voter tabulation. This was on the 2nd of August I am sure if not the end of the 1st of August. So I must say that whereas we had reservations about the process we were committed to persevere all the legal means and platforms to make sure that we avoid a situation of having certain forces instrumentalising protests as a pretext for a clamp down on citizens or on the opposition.

I am not going to go into the history of violence in this country I think that has been touched upon. Even in my own context I am not going to spend a lot of time. I have mentioned a point that it was unstrategic. For whoever as a citizen of course they retain their right to demonstrate but I genuinely believe that it was unstrategic to demonstrate especially in the context of our victory which we were just waiting to be confirmed.

We are victims particularly in the context of set ups and choreography. Do we have an armed wing? I have met many ridiculous things in my life. But the allegations that the MDC has a military wing and for the Zimbabwe National Army to even suggest that

we could have an army then, Zimbabwe National Army is bizarre . The only army we cherish in this country is the Zimbabwe National Army which is the people's army. As MDC we do not intend to have side shot . The reason why I participated in this election it's because I thought that there was a vacancy. A vacancy to be the head of the Zimbabwe Defence Forces Constitutionally. That is why we participated. We did not participate because we wanted to be the head of Vanguard. Why would we go to an election if we had a vanguard. Vanguard was just a youth establishment to try and create young people who are disciplined . They are not a military as far as we understand they were there during the time of President Mugabe. When I came in there was a problem with Khupe and others internally and we realised that it was becoming a weakness because people were beginning to blame things on what they called the Vanguard so we said we do not want hear about this anymore and these are members of the youth assembly now Mr Charamba then makes a point that Mr Chamisa gave a certificate. Members of the youth assembly who were given certificates for being upcoming and young include also some of the members who were in the then vanguard. It does not mean that we have given vanguard and it's still an existing structure. It's not. It was just an organised people who were trying educate each other on discipline that's what it is and you know that if it was something else the State would have destroyed it. Professor Madhuku you know the competence of our colleagues. They would have managed to flush it out. They would have know by now if they were really the people who were in charge of August 1 and there is no need to then try and manufacture , engineer evidence and do all sorts things to set up . By now we would be having people who are arrested. Who would have been arrested? Our police force is one of the best. I am proud of our

police force. When they do their work without political interference you will be shocked. I am proud of our armed forces. When there is no political interference they are one of the best armies in the whole world and such is the confidence we have in them so at no point we would we cast on a people's army because the Zimbabwe National Army. Sir a people's Army is a people's Army. Our Army. Our National Army and we would want the best from our army because they are there to protect us and to make sure that there are the protectors of the people as we move.

Allow me as I seek to conclude so that I don't waste a lot of your time perhaps I will give you more time in question. To say does the MDC even harbour having a security wing? We don't not want it even Fawcett Security we do not want them. We have said we do not want any kind of a thing that will be misconstrued to be something else. That is why our young people are the ones who march out and who has provided our security with a demonstrations, at public meetings in the interest of peace. We believe in democracy not thagocracy. Honourable Commission what do I mean by thagogary? A rule by thugs. People who are in the habit of using thuggery to persuade or coerce people into a particular action. It's a political science term. Doctor Machengera would know this. We are not a thagocratic party. We are a democratic party. That is why our name is movement for democratic change. And we have always said we sit in the politics leaving the gun not the gun leading politics which we believe is becoming a problem in this country. We have said that the politics of this country must be the politics of the ballot not the politics of the bullet and it must not be about who ever has keys to the armoury but whoever has keys to hearts of many Zimbabweans. So yes I went to this election to be given a constitutional mandate. There has been a dispute on this election. We verily know that the power of

a nation and a State comes from the people. Legislative authority comes from the people. Judiciary authority comes from the people. Executive authority comes from the people. That is why we went to the people. We run the risk honourable Commissioner of election being emptied at its meaning in this country. Were people, participate in elections but they know that there is going to be a predetermined outcome. That kills democracy. That is a threat to democracy. So we hope that this Commission will restore the integrity of electorate process. Over and believe the issue of making sure that violence will not rear its ugly head ever again. Particularly state sponsored violence and also ZEC would make sure that they respect the Constitution because they did not respect the Constitution. And our biggest problem in this country state institutions which are not respecting the constitution. So we have constitutions without constitutionalism. And that is where we must be going.

Going forward there are fundamental questions being asked in the country. Yes we have heard a Commission for the sad and tragic deaths of the 6 Zimbabweans. One life lost is far too precious. But one what about the 20 000 people who perished in Matabeleland? These are some of the question people are asking because we must have a holistic approach to the issues as we go forward and these are question that must be answered. Yes we need to do Justice for the 6. We also need to Justice around the role of our military and army in this country. Let our army be confined to the barracks. Let there be a respect and honour to our military in the proper context just like other modern democracies . We must de-village our military and demilitarise our villages we must make sure that our military is the burge because to ever in the military is the most important of honour for any citizen. But to be able to

do that we must restore full democracy. And full democracy on the basis of what we fought for. One man one vote in the liberation struggle.

I so rest many case honourable Commissioners. If there are any questions I am ready to answer any questions. I have to truncate my submissions because I realise that time is of essence and I need to make sure I also do justice with you. I know you have been working the whole day. Mr Biti was long I realise, that he was here for almost three hours I am sure he did a bit on behalf.

I am sure he did a bit on my behalf.

Q Thank you very much for the detailed narration maybe before handing you over to the Commissioners if I may also inform you that certain videos of campaign rallies were watched by the Commission.

A Sure?

Q Where the statement *jecha musadza* statement. Would you want to comment on that. *'kudira jecha musadza* .

A *Kudira jecha musadza?*

Q Certainly if you would comment on that.

A Before I answer I just want to appreciate your understanding of that so that I can give you a very comprehensive answer.

Q We understand that it's like spoiling the party. That is the lose translation of that.

A Thank you I am just saying this because you want to contextualise things and I don't want to be given vague and embarrassing questions. I want questions that are valid and so that I give you valid answers.

Q It was not question actually. I was simply advising you that certain videos were this statement was made were shown to the Commission would you like to comment on that. It's not a question actually.

A Ok thank you. I appreciate that they watched some of the rallies. I am very honoured. Thank you very much. And I hope that they appreciated how excellent our campaign was. Thank you very much honourable Commissioner. But I hope it will come as a question so that I will be able to answer it.

Q It's alright. I will now hand you over to the Commission.
Honourable chair and members of the Commission. Your witness. I have no questions to it.

WITNESS TO EVIDENCE LEADER.

A Sorry just to do justice to you because you said it's not a questions but I think it's fair for me contextualise but perhaps your understanding was not properly in what had said ,If you look at the Jecha Musadza (sand in sadza) context it was in the context of making sure that , this statement is very clear. This statement does not say to people be violent on a particular day in particular on the 1st of August. It does also not say that be violent to the extent of shooting people. I don` t take this to say I am the one who incited those who used guns to then kill people because in have no capacity to incite any soldier especially to be violent or to use violence against any citizen so whatever statement I made is almost like the Bhora Musango statement .

WITNESS TO INTERPRETER

Q And what do you say (to interpreter)

A Bhora Musango statement meaning to say you can vote for another candidate.

Q If I may say it's almost like the statement ED Pfeeee. What does it mean?

A ED Pfee meaning ED without doubt, resoundingly will win.

WITNESS CONTINUES

I want to just say that the Jecha Musadza . Sadza is supposed to b a finished product.

You can` t say that you put sand in sadza, to use your language when the sadza has not prepared. You only are able to then put the sand in the sadza post declaration of a false result. That is the context. We could have not done anything before the announcement of the results. We could only do something after the announcement of the results and what we did is constitutional. We have continued to do that that is why we went to the constitutional court. What did we do to put sand in the sadza . We delayed the inauguration of Mr Mnangagwa that is putting sand in the sadza.

We have confused Mr Mnangagwa`s plan to have elaborate scheme election to that extent that even up to today if you were whisper to him how many votes did you get he will say I was declared by the constitutional court .

That is the sand in sadza I was very clear about that. Sand in the sadza is to make sure that you will not have it your way of you rig an election. It was conditionally upon declaring a false result and what we did after the declaration is therefore for all to see.

We went to the constitutional court. We are in the African Court even now. We are even continuing to talk about political dialogue. We are engaging the international community to say the election in Zimbabwe is disputed. Something is rotten in Denmark. In this case something is rotten in Harare in Zimbabwe. That is our position.

Q Like I had indicated Chair I no longer have any questions.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much Mr Chamisa for your presentation I will now ask my fellow Commissioners if they have any clarity seeking questions.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you very much Advocate Nelson Chamisa for your eloquent presentation.

A Thank you.

Q It was a great pleasure listening to you.

A Thank you Doctor.

Q I have a few points that I would want you to clarify.

A Sure.

Q I think mostly in terms of meaning.

A Sure.

Q The first one made on the 9th of June 2018.

A Sure.

Q Where I think you were listening to the videos like we did you are alluded to the fact if Emerson was to get 20% of the vote then the whole country will be set on fire.

A Aahh.

Q What could be your translation to that?

A No its a false premise and it's a false question because I am not so sure were you got it. I would never say such a thing to talk about setting the whole country on fire. If anything in the contexts of percentages I have said if Mr Mnangagwa get that percentage would give him my sister. But to say that the whole country will be set on fire? What kind of fire?

Q That is what I wanted to understand.

A Well I don't know the context of that perhaps you got a doctored evidence. I am not so sure what evidence you are using but I would have wanted, that is why I said to the Commission , please favour with the statements that are alleged to have been said by myself . You have been my lecturer. You know that I am not that stupid. I am sure you know that. I would not say such stupid question.

Q That why I wanted to clarify.

A And they would have arrested me or they would have summoned me to just say Mr Chamisa you have said something. They have done it in the past that was never said and that will never be said by myself.

Q Thanks for that clarification. The other aspect that requires clarification is that, there is another one we watched were.....

A Infact on that one Doctor Manyeruke, I just want to say on the contrary statements that should have caught you eye and your imagination are statements from Hungwe. The former governor who said soldiers will shoot people if ED losses. That is what happened .Mukhupe who is a senior official who is the former Deputy Minister of Finance also said that Chamisa. The soldiers will not allow Chamisa to be a head of state in this country. They will do whatever it takes to make sure that things will be done. Now to then say Mr Chamisa you said that the whole country will be set on fire, was the whole country set on fire after the announcement of the election. If the whole country was set on fire before the announcement of the election it has nothing with me because I only spoke in the context of an unannounced election results.

Q Thanks for that clarification. The other issue would have been were you seem to have said that there will more demonstrations and that I mean if there would be any

esistance I mean you would shut the whole country down . What I am looking for is probably the interpretation of that.

- A Doctor Manyeruke you don't even need any interpretation. I am armed with this Constitution and I must read for the benefit of our great Commissioners. Section 59. Every person has a right to demonstrate and present petition but this right have to be exercised peacefully. Every person includes you and me. We can demonstrate both of us if we have anything we are not happy about it's allowed as per the constitution. So demonstrating is not a problem. Demostroying and demostructing is a problem. I also want you to go to section 67 because I am lawyer so I want to make sure that the law is always covering me. I would never utter a statement that I know at law is not going to be defensive and I also have one of the finest lawyers in the country. It's known that is why colleagues may always want his services. Because he is one the finest lawyers. Section 67 subsection infact 2(d) paragraph (d). Subject to this Constitution every Zimbabwean and that includes Mr Chamisa . That includes MDC people. That includes ZANU PP people. Every Zimbabwean citizen has the right (d) to participate individually or collectively in gatherings or groups in any other manner in peaceful activities to reference, challenge or support pieces of government or any political or whatever cause. our cause is political and we will always use this constitution to advance that cause . I listened to Mr Mnangagwa over the weekend he knows that the Constitution does allow us. He was saying Mr Chamisa I have given you democracy you are abusing it. I said you are not Father Christmas. Democracy is given by the Constitution.

- Q Thank you once again advocate for that clarification.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Advocate Chamisa thank you very much for the respect you gave to the Commission.

A Sure.

Q We are humbled by that. My question is on the 1st of August they were demonstrations. What would you think was the cause of the demonstrations?

A Why it's very difficult for me to speculate madam President it's very difficult I can't speculate. If it was ours I would have told you that the reason why we demonstrated was because of 1,2,3,4. I would have told without even ask. You would have seen a sea of red in the city. You would have seen yourself as leadership. We do not think things were we are not leading from the front. We do believe in that kind of leadership but just to emphasize that I wouldn't know what the cause is but I have already articulated in my submission but I would only guess that perhaps it was a well choreographed thing to try and create a platform for destabilising the announcement of a result because, we were winners. Why would we want anything that disturb the announcement and frankly speaking I was actually not in the city centre I was actually somewhere where I doing my issue to do with faith. I had reasonable confidence this election it was just a question of time. We were just waiting for announcement and that point Mr Mnangagwa was sending emissaries to me to say let's talk. But I said we will only talk after the announcement of results. I was looking for you. It was clear that we have won and you want to kiss me because we have won. We wanted a hug and a kiss before. You turned it down. Now let's wait for the result we will then discuss after the results and you will see that he actually sent a tweet to that effect that he has been trying to get in touch with me.

Q The demonstrators themselves according to evidence that is available were putting on the MDC regalia and they had t-shirts printed your name and they were chanting slogans , we want Chamisa and they were saying our vote had been stolen . Would you allude those to have been members of any other political party other than MDC.

A Well first thing, leaders don't chose supporters. Supporters chose leaders. I wouldn't know, Mr Mugabe for example shockingly said on television that he was going to vote for me. I was shocked because I didn't expect to have such kind of a vote but I could not runaway from the vote because you don't chose voters. Voters choose you as a leader. So for me to know who was I town, who was demonstrating and they were saying we believe in Chamisa`s. It might have been even people who genuinely believing that the..., because there were two major candidates Mr Mnangagwa and Mr Chamisa. And in Harare if you drop a stone 98% you will hit an MDC supporter. It's a fact. Its known. So I wouldn't know somebody who is sympathising with the MDC .I wouldn't know who was there, who was protesting or who was demonstrating. Those who were demonstrating and protesting were not doing so at the instruction of the MDC or at the instruction of its President or at the instruction of its organs. If anything we were all pre-occupied with making sure that we have the V11 in place. We have also validated our appparelled voter tabulation which we already but we want them to see the proper V11 in the various polling station so the central focus was polling stations not the CBD because the CBD was not in any way going help us in making sure that we would get the security of the results and the security of the vote. I am, sure you are answered.

Q I am answered. Just one questions. If we say these people were not MDC supporters maybe just clarify why you would think ZANU PF supporters would then go and destroy their party premises. Go and destroy their cars.

A Well am saying say it might not have been ZANU PF. It might have been people sent by other individual forces who wanted t justify instability. To justify the killing of innocent people for a broader strategy which I don` t know what it was. But the bottom line is that I would not authoritatively say that these were MDC supporters .

Q I have no further questions.

A And just to also say look I would not choose to define or confine your mind but asking the questions about demonstrators you must also ask about the killers. As much as we have demonstrators, demonstrators are supposed to be dealt with in terms of the law. If they broke the law that must be arrested. They must not be killed. Life is so sacrosanct its precious and I think the central focus if we are to honour those who died is to say who killed those who died. Including women who were shot in the back . It was not even frontal attack. It was in the back to show that they were actually running away and just as a matter of fact madam President of the law society then , I can tell you this , not a single MDC supporter as we know in the structure was a part of the victims . These were innocent people. Who were just in the City Centre. Who were indiscriminately shot at. Assuming that it was MDC as I have heard from certain people who want to advance theories. Why would MDC hire people? Bring demonstrators, shoot at them, and kill them. To achieve what? Honestly for what? We have never used blood as a fuel to drive us and we will never use blood as a reason to be in power. Never that will not happen. I can tell you not just as a politician but as a man of faith that is why I use the bible. Because one other thing you must know is

that I am a man of my faith. The Christian faith. And I am not ashamed of it. When I say I believe in this word. I believe in the word. I do not believe in spilling blood. I do not believe in killing. I don't believe in violence. It is against my faith as it against faith as it against my script as it is against my belief. I do not believe in it.

Q I have no further questions Mr Chair.

A Thank you.

COMMISSIONER CHIEF EMEKA ANYAOKO (To witness)

Q Thank you very much Mr Chamisa. This is my first time of seeing you in person.

A Oh thank you.

Q So I would like to thank you for the eloquence which you spoke.

A Well this is not my first time to see you. I have always seen you around. You are a great man of Africa and thank you for being part of this panel.

Q One of the most impressive things you said was about MDC being a party that respects the law.

A Indeed.

Q And always acts in the course of law.

A Sure.

Q I take it that now that the constitutional court has made a pronouncement that in keeping with the MDC's loyalty to law that you will accept the pronouncement of the Constitutional law and in that context I was also very impressed by what you said about being ready for dialogue. Did I understand you correctly to say that MDC and you personally as the leader of MDC are ready for dialogue in order to heal the nation?

A In fact we have made a resolution all over secretary General to say for Zimbabwe to move forward we have an African saying that say '*Zvanza zvinogezana.*'

Q Isn't there an element of contradiction in saying that you are an extremely law abiding party but at the same time does not respect the pronouncement of the Constitutional court. We respect the pronouncement of the constitutional court . Infact as an advocate I am an office of the court. But the constitutional Court is a court of law and a court of Justice. It is not a court of politics. Politics is about legitimacy. And our contention is based on legitimacy. We have the right to say that Mr Mnangagwa you are legitimate because of the results we have. Yes we acknowledge the constitutional court. Yes we have taken note of the verdict but we also have the right to disagree with court because it's allowed. Its permissible. It does not subtract from our rule of instincts and our rule of law character. We continue to be so but we have a legitimacy issue arising out of an election result which we know by fact and by truth that it did not give Mr Mnangagwa victory. And I have heard this thing but how did Mr Mangwagwa`s party get two thirds and your party did not get two thirds. Even if you look at the vote, a lot of the people who voted for me were voting for ZANU PF at Parliamentary level. In some cases but they would vote for me in the presidential so the tally of the presidential we had more vote than Mr Mnangagwa who had half of the vote to the vote of his parliamentarians even by the results that are there.

Q Would you agree that internationally that the pronouncement of the highest court in any land is to be respected and accepted by everyone who law is abiding?

A Well it has to be honoured. It has to be respected. That is why we have said the Constitutional Court has ruled. We acknowledge their decisions but we still have political legitimacy issues that has to be resolved and they can only be resolved

through what you have already alluded. The issue of political dialogue. And that is why we have insisted that political dialogue is the way forward and we have put on the table a 5point plan. This is not the first time that there has been political dialogue in this country. Especially where there is a disjuncture between the path of law and the path of reality and the facts on the ground. We need to build the two together.

Honourable president Motlante you know how you helped us in Pretoria to try to broker and understanding of how to them out of such a political impregia or political situation. That is what we are saying. Going forward we must be able to resolve the legitimacy issues away from the courts. We must be able to resolve issue of reform that are comprehensive so that we don't have a repeat and a recurrence of disputes of elections year in, year put. Every election cycle. We are reproducing a vicious cycle of negative politics . We want to deal with that. Let's have a pass to nation building. A pass to peace building. That is what we have put on the table. Mr Mnangagwa doesn't seem to have appetite for it and that is why we are saying will then use democratic tools to make sure that we bring him together negotiating table to resolve the political legitimacy issue such is our trajectory.

Q My last commenting question is being a very distinguished you are and I have read a lot . You agree that the harmony in any a country shall depend on acceptance and respect for the separation of powers between the legislature, the executive and the judiciary and the countries work best when this separation of powers is accepted and respected . And so in that context given that the highest court of the land has made a pronouncement I would have thought that you will agree that for harmony in the country that the pronouncement of the Highest Court should be accepted and respected by everyone and of course the point you make about dialogue can take place

and should take place probably but all within the context of acceptance and respect for the pronouncement of the highest court.

A Harmony starts with the truth. Harmony starts with the relent. Harmony starts with the state. Honouring and respecting that there should be no state part conflation. The conflation of the apart and the state and the attempt to influence the state in its organs. Those are fundamental issues that will then require a political reform agenda and a constitutional reform agenda. And that is what we put on the table. If anything Mr Mnangagwa must count himself lucky Honourable Chair. That he has such a young Zimbabwean who is peace loving. If were a trigger happy young man, there would be a problem in this country but I have tried to be circumspect, careful and very careful in what I do, what I say to keep this country intact. I thought you were going to be congratulating me.

Q I wouldn't be surprised if you are what you say you have just described yourself as because when I had the pleasure of meeting Morgan Tsvangirai in 1998 I formed a very good impression of him and if you determine to work on his footpath you should be as good and I hope as mature as he was.

A Thank you very much.

Q Yes.

A Just also to say that from what you have said, it is important to understand that it's not possible for the one who claims to be the winner to get the loser's consent by force.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Honourable Chamisa thank you very much. It's a great honour to have to listen to your testimony today .I wanted to just one or two things. First going back to the beginning. You said you manage to saw one those people who were shot on the next day on the second of August.

A Indeed.

Q Where was that? Was that in hospital?

A Thank you advocate Dickson. It was at a hospital because I visited the victims. I went to the hospital before addressing a press conference where I was then calling for peace and harmony. I wanted to have an on spot assessment of the issue so I went to the hospital at Parirenyatwa . I saw the injured. They told me horrendous stories and the stories they told me they told me that they had an encounter with the soldiers and they were not even demonstrating. I went to SFFU were I also tens of people who were injured on account of what had happened. I actually had to come back to visits. This was I think the following day after the problem when I addressed a press conference soon after.

Q Did this person, because I am trying to get evidence of what happened. Did this person tell you anything about how they had been shot the one you saw who you then said died later.

A Well didn't go into the detail. I was really heartbroken .He just told me that his special organ had actually been ripped apart and the bullet was still inside and I could see that the engine was totally destroyed and I was really worried that, it was a very sad and a sorry sight so I didn't go into further details other than the fact that he was very optimistic. He was actually saying that no I am going to theatre but please come and

see me. They want to remove the bullet. The next thing I was told that, that person had died. Because I had then wanted to make a follow up just to go and check how they were doing.

Q When you got there, the call a day before from the Home Affairs Minister. This is from the 1st of August. At that point you said you were asked there were some problems. Was there anything you thought at that stage maybe to intervene or to start that situation.

A Well Mr Dickson at that stage like I told you, the only effort I could do was to try and raise the Youth Assembly Chairperson, you know to check if there was an issue. There was nothing as far as they were concerned. So there was nothing that I could do. Infact I was actually far away. He asked me where exactly you are Mr Chamisa and I told him that I am actually out of Harare. I am in Domboshava. He said oh really. Ok that is fine. That is evidence that is available. There was nothing that I could do because did not know what was happening. We hope was doing what. And I thought than perhaps he was just trying to pull something so that I would then being invited to a dialogue because at that point in time I was under the impression that they want to bribe me into something to say please because they had also say but why is Chamisa giving us problems . Why can't we just given him money. How much does he want so that he will be very quiet? So I was very cautious of calls that would come from across there. The other side and I must be frank on that.

Q Now I know you say you went in Harare on the 1st of August . But are you able to assist the auditorium. Did you think there were people the day who thought that the results were being cooked up whether there was going to be a fake result.

A Well I am not so sure but I think the whole nation was anxious. The whole nation was armed with what has happened the past. I am sure Professor Madhuku would also be also be equally worried because the issue of elections in 2008 when results were withheld being some kind of nostalgia and dejavu on the people of Zimbabwe that look perhaps this is now a repeat of what we have seen before were results , people knew because people voted and people know that the result at a polling station had been concluded the very same day but the election was not announced on Tuesday . On Wednesday on Thursday on Friday. Only to be announced on Friday at night. Now I know my colleagues in ZANU PF. If they had won the election it was going to be announced midnight on Monday and they were going to be celebrating but they knew the result that is why they took so much time to try and think otherwise I know of a very honourable member who had to sleep with her shoes on because of this result. I wouldn't want to go there because it's not necessary.

Q Just one last matter. You mentioned the army and the police in law assessment in being very professional.

A Sorry.

Q I said you mentioned the army and the police generally being professional.

A If not politics.

Q I was going to mention politics.

A Sure .

Q Is there anything that you can help us with as to what recommendations we may be able to consider on that particular issue. What steps should be taken in the issue.

A Thank you Mr Dickson for that questions. Infact the first thing we must do is to remove our military from civilian politics so that we honour our military as our

military. The second thing you must do is to make sure that our Zimbabwe National army moves away from campaigning for a political party and starts campaigning for Zimbabwe having nothing to do with political parties because at the end of the day political parties have different persuasions but they all are fighting not even anti state effort but to make sure that they reconstitute and transform the state so we would really urge our colleagues because I know in the past or in the previous elections some of the serving members of our esteemed state institutions were actually campaigning for my colleague ED. Now that is the problem when soldiers campaign for political party when we all are supposed to have the equal protection and the security to our sovereignty because we as the people are the state and that includes MDC and ZANU PF so moving away from the partisan politics would be a very important thing .

Q Thank you again for your testimony.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Advocate I really want to acknowledge with a lot of respect your recommendations on the way forward. On that way forward I am wondering if you have also considered the issue of abuse of woman and violence against women that we took note during the election campaign period .Would it be an issue that you wouldn't want to speak on with regard the recommendations and going forward as a country.

A Thank you doctor. Women are such an important force but they are also such an important vice. But in this country there has been a scant regard of women and their vote and the greatest form of violence against a woman or women or any citizen is to disregard their vote as has happened in this case. So in order for us to be able to resolve issue going forward we need to respect the dignity of the woman by allowing

more woman to be active away from violence sponsored by either the state or by politicians and its very important for a lot of political education to go into our politics and this is why when I assume the presidency in my party I had wanted to meet Mr Mnangagwa to have ground rules so that we have do's and don'ts . We don't repeat what Mugabe used to do to Mr Tsvangirai. Where he would attack Mr Tsvangirai. Were he would victimise Mr Tsvangirai. I want to agree with Mr Mnangagwa to say let's have a political fight but beyond fight let's build our country, nobody is going to build the counter single handedly. We can build our country together. I am a young man but I have a very mature heart. A mature heart to bring this country move it forward. That is what I have always said and once you do that I can tell you that we will have more beautiful flowers blossom in the garden of our country way of more women in politics .

Q Thank you very much advocate.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you again advocate for your testimony. I just want to pick a brain with regards to the electoral system because I am aware that post the experience of 2008 elections there was an agreement that results will be declared within a timeline of 5 days how do you suggest that should be reduced particularly with regards to the Presidential elections as you have you have correctly pointed out. Actually results are determined at the polling stations. The rest is really addition collation and tallying would perhaps any electronic transmission of saying cut that timeline shot. I know that having have the experience of having to wait a long each longest period 5 days appeared quite reasonable then but if today that is just too long, I want you to suggest how that process can be short circuited.

A Thank you Honourable President I think going biometric would be a good solution in terms of the collation of results and validation of results . It will be good solution on account of the systems having been agreed upon by all the stakeholders perhaps through a multi party liaison platform which platform was not active by the way in the previous election. So I suggest that, that would be one way forward. Another way forward would be to also make sure that we get our army out of verification and validation of the results or participation in electoral result. I think they must just be given the outcome so that we don't have the seloctorate replacing the electorate. When I am saying the seloctorate I mean the securecrat in particular they are supposed to simply respect what the people have voted for . Not massage it, not to seek to change it or marinate it for certain objectives. Thank you honourable President. I am sure I did justice to your questions. It's very difficult to do Justice to Mr President's questions but.....

Q Thank you once again. We will as a Commission in our report try and make specific recommendations with regards to bilateral system and hopefully that would shorten the waiting periods but once again we are honoured to have you sir and with no further question you may step down. Thank you for coming.

A Thank you so much we hope to also provide some DVD's that are going to be very useful especially just articulating I have heard that there is problem honourable President in understanding when we say that we are going defend the vote . Defending the vote for us is about the integrity of that vote. The sanctity of that vote and it's a constitutional provisions so we also provide DVD's to contextualise some of our submissions to the Commission. But I must the misgivings we have of the Commission we hope are wrong because we trust the integrity of Commissioners in

terms of the final product to help Zimbabweans move forward. We ourselves , we have suffered a lot and we really want to find an answer and finality to the problems affecting our people and for us to be able to do this , this Commission will be very useful in giving markers and indications of his this is going to be done and I want to thank you for your time .We don't take it lightly I know that you have had to fly all the way from South Africa in time for this .

Q That`s next door.

A But the effort has to be appreciated honourable President.

Q Thank you.

A I also want to appreciate Chief. It's not very easy for the Chief to leave the subjects to come and preside over such an important. We really appreciate this as Zimbabwe. We honour those who perished and died and their families we hope that this is going to give some kind of solace,a cathis and a healing effect so that they be able to leave a happy life and they are able to stop violence once and of all. May God bless you.
Thank you very much distinguished Commissioners.

A Thank you.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q Honourable chair and members the Commission, that was our last witness on the list for today. If I may hand over to the secretary.

SECRETARY MRS MABHIZA

Thank you Chairman. This must be end of our business today and I propose that we adjourn.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU

Inquiry

Pure Simango

Good afternoon honourable Chair and members of the Commission. I understand there is a victim who was supposed to have testified on the 3rd day who is available. Whilst we wait for the other witnesses. He is Mr Pure Simango. I think he was supposed to have testified on the 1st day and I am told you have the statement on your files.

PURE SIMANGO : SWORN STATEMENT

Q Simango correct you reside at 5392 Muhute Street in Glenorah B in Harare?

A Yes.

Q And you are ordinarily employed as a Kombi driver?

A Yes.

Q On the first of August you were at Copacabana.

A Around 4.

Q Can you tell this Commission what happened when you were there?

A I started work early in the morning. At around 4am as usual. On that day the votes were still being counted. At around 11-12 there was a group of people who passed and they were making some noises as they were passing by. There was a group of people. What was happening was that those people would move to a certain direction and they would also cross the road and return back and they were also at Chinhoyi Street. And they were moving all over the streets and I work from Copacabana bus rank at a front part. At around 11-12 and then started burning tyres whilst they were at the streets. And the noise escalated and there were many people who were moving in the CBD. And the shops closed down together with Food World. The front Food World which

is facing were we normally operate from. There were a number of police officers who we at the rank and some of them were at the commuter omnibuses. We considered things they were, a number of police officers who were manning that are we were safe or everything was normal. We stayed there for some time and we then bent on that since there were police officers nothing was going to happen. At around 4 pm there was puma for the army which then came from a different direction. When the Puma vehicle for the army arrived I saw it and it was at the back of the tents which had since been demolished.

There were soldiers who then come to the side of the public toilets. One of them got inside and prior there was already an order from those people who were making noise instructing that all the commuter omnibuses were supposed to leave the rank. During that time as we wanted to run there was a soldier who then had gone out and there was an elderly man and he was wearing a hat which was woven and he was then being assaulted and we had sought refuge where we had ran at Food World . After that man had been assaulted I realised that all was not going to be well or all was not well. He then fired two warning shots as he was facing the west wards direction.

Q Were the demonstrators at that stage.

A The demonstrators they were moving around and they were giving orders to people to stop operating their business. If you would be a vendor you will be advised to stop operation as they continued moving up and about.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To Interpreter)

Q Advised or assaulted .I thought he said he would be assaulted.

A Sorry.

Q Did you hear what he said about vendors?

A I said the vendors would be advised to close shops.

A No please confirm.

EVIDENCE LEADER: MRS FORTUNE CHIMBARU (To witness)

Q What did you say they were doing the vendors?

A What was happening is that after having given order to vendors to stop operating they would even confiscate their wares and in some instances some vendors were even physical attacked. I cannot certainly say where these people who were causing mayhem were from. And I will be lying if I say I know any of them.

Q Ok. So if I am taking you back now where you were saying the soldiers then shot in the air. You can continue from there.

A There was a soldier who then fired two warning shots in the air and then he went back. And the Puma vehicle was facing towards Speke. And then they continued increasing in number. And they went to Boomerang bottle store as there is a night club at the back there. There were so many things which were obstructing us to see only that now that area has been cleared. I then ran together with my colleagues to where there were newspapers vendors. The soldiers were facing at Cleveland and there were other crowd to form as if it's circle. I stay in Glen Norah though I work at Coppa cabana. I then thought of main my way out to be safe as the warning shots, there were gunshots which were continuously being fired and they just thought we may be in danger. I then ran towards the pavement which is at Cameron facing towards Jason Moyo. There is shop which is being renovated which is Food World

Express. And there was certain a gentleman who was selling his fruits at the corner.

At Mbare rank. I saw that man following. I had to look back. That is how I managed to see him falling back and he was behind me. They were nearly triple there amounting to the number of people who are in this as they were running or fleeing to a certain direction. The manner he fell he did as if he was getting tired and he staggered and fell on his mouth. I personally did not hear anything at that point. I only know that something had happened but I did not know what exactly happened.

Q You mean to this man who had fallen or to you?

A I could not focus my attention on him after he had fallen down since there were gunshots which were still being fired and I was thinking of seeking refuge as we were running away . I was wearing a black pair of shorts and tackies and whites socks. It then dawned to me that at that time when that person fell down I had sustained an injury. Upon getting to Chinhoyi and Jason Moyo I met a colleague one at the traffic light intersection there and he explained saying to me I had been injured. Everything happened very fast and it was at that time that I started felling pain and I started bleeding. As we were trying to find a way of assisting the other person they then emerged from Chinhoyi.

Q Maybe before you leave that point where you trying to assist some other person you are the befriend like who was trying to assist?

A It's like he wanted to assist me .Blood was coming out. We are colleagues and we work together at that rank. As he was trying to tie me with a cloth there were gunshots again and we not manage in that as I also had to run away. I then got to Chicken Slice and Chinhoyi. Chinhoyi and Kwame Nkrumah and there was a certain woman who was roasting maize from that corner. The was a guy who emerged from that corner,

he had a vest and a short and he explained that I had been injured and he took his shirt and then tied where I had been injured. When there were arrangements, when it was been arranged that I be taken to the hospital those young man and continued charging to where we were. I had been hit on my left thigh and I continued limping. And then I arrived at Total Samora. And there were others who emerged from Harare Street. I realised that it was not safe for me to continue in that direction and then I went to that direction towards the passport offices. I also saw that there were people who were assaulted behind me. I then continued walking and there other four Puma vehicle emerged from there.

Q Is that all contained in the statements you gave to the police.

A I had reported to the police so that I will be given a request for medical attention and there is an affidavit that I deposed to. There were four Puma vehicles which had police officers and soldiers on board. There was no way I would see from both sides , they were pre-cast walls and the motor vehicle which was now surrounding us and then we thought that it was going to be better off for them to actually kill us. I then went towards Harare Street where there is Nyaradzo. I once worked at Stapple Ford Mr T Hampden roads. And then I thought if I could get any commuter omnibus which will be taking that direction I will then jump so that I will get out of the CBD.

Q How did you finally leave the CBD?

A I was ferried by one Roby who plies the Greencroft route. I called him out and he also saw that at that time I was limping and then I told him to wait for me

Q He then took you to Parirenyatwa hospital?

A I then asked that if I could call my wife and they called her rather that I had been injured as I was now leaving the CBD towards Westgate road. I then disembarked at the roundabout.

Q Sorry now I am trying to keep you to the relevant issues in view of the time. Did you later realise where you had been injured?

A I had discovered that I had been injured during that time that I was at Chinhoyi Street whereupon I was then tied on that wound later. At Westgate I then had to find a way of going to my place. I then had to get a motor vehicle since ours I did not have a battery and I had one Irvine Sadza who assisted me so that I would go to the police.

Q So that is why I am saying did you later get assistance at the hospital.

Q I am now trying to take you to the injuries. What injuries did you sustain?

A I was treated and I actually have medical records with me. I was shot on my left thigh. And they alleged that there were some veins which were ruptured during that process.

Q Are you able to supply the medical records for the Commission?

A I have the medical records with me but for today I did not bring. I once brought them when I was summoned that I was to lead my evidence before the Commission earlier on.

Q So initially you said you saw people burning tires and many people close their business and forcing vendors to close shops and the police were there?

A Yes.

Q And you said the police was there.

A Yes. There were police officers who were around and we thought everything was okay and the situation kept on escalating as the number of people kept on growing.

Inquiry

Pure Simango

A Thank you very much. I will now hand you over to the Commission if they have any questions and at the same time I will hand over to my colleague Mr Mpofu to take over.

Q No further questions.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Thank you very much sir. I am trying to follow your count because we need to take it step by step with clear translation so if I can just ask a few questions.

A Ok.

Q What I want you to understand. You were at Copa Cabana?

A Coppa Cabbana bus terminus.

Q When you first saw the soldiers arrived?

A As per my evidence that we had been ordered to move our motor vehicles from the rank and we were seated in that area which is railed at that rank.

Q I am just trying to take you step by step. You first saw the soldiers arrive at Coppacabbana bus terminal. Is that right?

A Yes.

Q You described a crowd surrounding you. Is that correct?

A Yes that is confirmed. The area around that rank is surrounded by two roads. There is Chinhoyi Street and there is Cameroon Street and there is Speke. Speke Avenue is where there is Boomerang. There is a certain road and prior to that road, there are

public toilets and there is another shop which is along that road. Just behind the shop there are shops there which I indicated there. They parked at the back of the rank.

Q When you say you saw this person fall down, where exactly was that?

A There is Food World which is along Cameroon and Speke. There is another Food World express. It is still along Cameron Street and Jason Moyo. Just in front of that Food World across that is where that person fell down. Towards the direction Cameroon and Jason Moyo Avenue.

Q That is outside Food Mart if I got the pronunciation right on Cameroon Street.

A There is Food World express and Food World.

Q So it's the first Food World which is on Cameroon Street?

A Just at the beginning of Cameroon and Jason Moyo and there is Food World Speke and Cameroon.

Q I just think we need to be absolutely clear on this because this could be very important . Where was it that you saw the person fall down, it was Food World on the Corner of Jason Moyo and Cameroon is that right or is it at the Corner Cameroon and Speke?

A Food World Cameroon and Jason Moyo.

Q I need an answer. Where did he seen the person fall. I need him to be absolutely clear for the record?

A Just behind me at Food World Express Cameroon and Speke.

Q Are you saying Cameroon and Speke or Cameroon and Speke?

A Jason Moyo and Cameroon.

Q Its outside a building called Food World. There is only one Food World only.

A There is one Food World Express and Food Stop which is under renovations. I was advised the shop has since been relocated to Marimba.

Q Can I approach you this way then? You said you saw the person fall near the Corner of Jason Moyo and Cameroon outside of the food world express.

A Yes Food World Express not food world Cameroon Street.

Q Now we might ask you to locate it on your map if you are able to locate it. When you saw this person fall, what I want to know from you, where were the soldiers? Did you see the soldiers?

A As I have said that some of them where coming from the direction of Speke to towards the Cameroon. They then turned along Cameroon facing towards Jason Moyo. I actually saw the person (if the Commissioners may take note of the indications which are being made by the witness as he is demonstrating how the person had opening fire.)

Q So just to clarify, you saw soldiers opening fire at that point?

A Yes. There were shots which were being opened.

Q How many soldiers did you see doing that there?

A It was difficult because you were now running away.

Q You just clarify, you were running along Cameroon north towards Jason Moyo.

A Yes.

Q How many people would you estimate were running away there?

A There were many people and there were others who came from Cleveland as there is a rank in that area.

Q Where is Cleveland house?

A Speke and Cameroon and there is Leopold and Cameroon and there is Speke.

Q Now there person you saw fall down, can you remember any information what they look like. What they were wearing?

A I recall the name of that person as being one shoes. Shoes was the name he was being called by.

Q Who was calling him that name?

A He was a popular vendor who was known by most people, working in that area and the touts were calling him as he had a store there by the corner.

Q Did you see what he was wearing?

A He was wearing a pair of jeans which was torn at the back of the pocket.

Q Anything else you remember. I know it's difficult you said you were shot at. But anything else you remember from what you saw there?

A I spent about 4days not getting into town since I was not able to walk well after the incident. During the time he was shot we did not realise much. It then came to light to me that it was him because as it the norm that when a vendor or a tout passes on there

will be a poster which would have his picture. Then it then dawned to me that it was him who fallen on that day in question.

Q Did you see nay video after wards that shows that person lying there?

A I was only sent a picture. And I did not see any video. I actually personally saw him as he was failing to walk properly as he was staggering as he then fell down.

Q So you saw him stagger first and then faulty?

A When got the photos which were being sent of people who had sustained injuries when the pictures were being circulated it was then said that from Coppacappabana one had been shot and fell there.

Q Do you know where he was shot?

A Just in front of where he was shot.

Q It was just in front of where he was shot. How far roughly. Can you estimate?

A About 10-15 metres.

Q And you say you do have a medical records of that. You can provide them to us?

A Yes I went to Harare hospital where I was attended to and I got treated there.

Q So can you give us the medical records not now but can you go back and bring them to us so that we can have a look at them.

A Yes I will forward them. I left the record because it was raining.

Q We definitely want to get the record we need to look at them ourselves.

I know sir just one thing I know sir, I have asked a lot of questions just to try to go though step by step. One last thing if you got the photography that they showed you of this person or if you still have got that you can bring that as well.

A Yes I can bring the same.

Q I do apologise for a number of questions but we had to discuss the details.

COMMISSIONER VIMBAI NYEMBA (To witness)

Q Just follow up question. Mr Sinongo you gave an impression that when you were running you were in a group and at some point you saw another group you were together with another group that came from somewhere . Where exactly.

A We were separate groups from the one which was causing people to cross down and my groups were different groups .

Q There is a group that you said they were coming from Cleveland house and they were many people. What kind of group was that?

A After the warning shots or fire was opened people were now tricking out of the CBD. There were other people who were coming from the outer place of the CBD. We were at the rank. They were people who were coming from different directions of the CBD it's the group that is I am referring as the group that joined on with us as they were now running leaving the CBD .

Q At the time that shoes fell how far were you from the soldiers?

A They were Cameroon and Speke. That is where they turned and faced towards the direction where we were. If there is anyone who is familiar with that area they can assist by estimating.

Q Mr Simango I think I will reiterate the statement that was said by my learned colleague that just answer what you are given. That will enable us to make our findings . And when shoes fell did you realise.

A At that point that I got injured I did not even feel it at that exact time when it happened. I then felt it later when I had crossed the road as I saw myself bleeding but there was fire which was being opened on that area.

Q What was the cause of your injury?

A There was fire which was opened and then discovered that I had an injury on my person.

Q When you went to the doctors why did they say was the cause of your wound?

A Before I had gone to seek for medical attention I went to the police who then wrote in the medical report that I had sustained an injury as a result of a sharp object.

Q Was that confirmed by the doctor as well?

A The doctor subscribed that I had medication that I had to take and the doctor sutured me on the wound . I was given the medication in form of pills. After the treatment and undergoing the x-ray at around 4 am I was then discharged.

Q So in the group that you were in you did not see Shoes the deceased.

A I managed to identify that it was him through his clothes and pair of jeans that I described that it was torn.

Q You said you were running at what stage did you manage to identify him?

A He fell as I also turned and looked back. I saw that he had fallen.

Q I was trying to get at you said you only realised that it was shoes in your evidence when you saw the pictures.

A It was after I had seen the pictures and after it was being said by other vendors that he had been short then it added up to me that the person whom I had seen falling down there was him.

Q So at the time that he fell you did not recognise him?

A No I did not at that juncture.

Q I have no further question.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Mr Simango you said Shoes falling behind you. Is that correct?

A Yes I saw him when I was now at home. I actually saw him during the time that he fell down.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Why are you saying that you then realise that it was shoes when you were home. Not that you actually saw someone.

A That is confirmed.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q You saw shoes fell behind you?

A Yes.

Q You saw Shoes dying or staggering. I want clarification. There is a different between staggering and dying.

A I said in my evidence in chief that when I saw him it was as if he was staggering and he was getting weakly losing power and he fell on his face.

Q Did you see him die at fall?

A I recall vividly that I saw him falling down. The following day when it was being discussed about him. His picture was being circulated and that was when I then realise probably at the time that he fell down that is when he passed on or died.

Q How many people were running away between you and shoes when you fell?

A They were not so many people thought I did not actually take note of the number of people who were there.

Q Would you say there were less than 10 people or 20 people?

A You said they were less than 10 people?

Q You said they were less than 10 people?

A There were not so many people there and you could actually see clearly that the happenings which was taking place with some people even those who were at the pavement.

Q Would they have been between 5-10 people?

A Approximately.

Q Did you think they were less than 5 people or more than 5 people?

A 5-10

Q So how many people were in that are roughly were Shoes fell. In total. I don't mean behind you. Behind you, you said 'they were 5-10 people but I mean in total. The total group.

A They were many people in front of me than people who were behind me as I have mentioned in my evidence that during that time I was trying to cross the road . And there was pavement and there were many people who were gathered at that pavement. And I crossed from the other side of the pavement to the other side of the pavement from the tree. It is at that juncture when I got injured. There was a high number of people such that I can say there were 50 people from the other side and 50 who were in front of me .

Q Back to the position where shoes fell. Was it along Jason Moyo at the Corner of Cameroon Street and Jason Moyo but in Jason Moyo on the side of Cameroon. Is it along Jason Moyo or the side of Cameroon?

A The reason why I mentioned Jason Moyo was to give a picture of that area but he fell just in front of the Food World which means that it is along Cameroon street .

Q Did you have a bullet in your leg?

A It ruptured and passed on.

Q So do you have two openings in your leg?

A Yes. He is actually making indications of the bullet opening and where the bullet went through from.

Q Are you still under treatment?

A No.

Q Where did you receive your treatment?

A Harare Hospital.

Q Where do you reside?

A Glenora . Muhute.

Q No further questions. Thank you very much sir.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q If I may just clarify. For me you can just answer yes or no. I just want to be sure.

A Did I hear you correctly that the people who were running away towards Cameroon were all from that area of Coppacabbana where you were?

A There were people who come from Speke which is Cleveland house who joined in from where we were.

Q And the reason why they come to that place, they just thought that since it was a rank and then when those people came that is when we also had to runaway together with that group which came from that direction.

Q So when you started running away you had already seen soldiers?

A Yes. It was that time when fire had been opened when we started running away.

Q Do you know the real name of Shoes?

A I can find out from his colleagues.

Inquiry

Pure Simango

Q Is it now clear that you were shot just along the same time that Shoes was shot?

A Yes it was during that time that fire was opened and the gunshots which I could hear from that area.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q Sorry I just wanted to check. You said you have affidavit of the police. What date was that?

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q I think we have it. It's on the 4th of August.

WITNESS

Q I have a copy with me but I suppose it's the same with that one.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Q Sorry we have got a copy but in your original files there is statement for the same chap.

COMMISSIONER RODNEY THOMAS DIXON QC (To witness)

Q So this was not a statement to the police. This was a statement to the Commission on the 4th of October 2018?

A I was actually summoned that my docket was being compiled at the Commission of Inquiry. That is how I was invited. That affidavit was recorded as I was being asked and someone was writing.

Q Yes I understand that. I am just trying to find out was there an earlier statement before this that you gave to the police at any time.

A No.

Q The document you said you saw the police when you were first asked by them what had happened . Do you have the copy of that still or did they keep that?

A I do not have that one. I was actually shown on what was being entered on the computer by someone who was interview me.

Q They never gave you a copy of that?

A There were 9 copies and I was asked on whether I wanted that copy and then I just had to take it.

Q So you did take a copy?

A The only copy that I have is the affidavit that I signed when I was summoned by the secretariat and not the one that I depose to at the police.

Q Ok I understand. Thank you again.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Thank you very much Mr Simango. I just want you to explain to us when you saw the soldiers. Where the Soldiers actually coming down Speke street from the direction of Chinhoyi towards Cameroon.

A The witness has indicated showing us along Speke Avenue where there is Bumerang Bar. So they come along Cameroon Street at the Mbare Rank. Facing the Northern direction that is along Cameron street . In front of the bus terminus. So its along Cameroon Street facing the northern direction. The witness has marked the intersection of Speke Avenue and Cameroon street that is where the soldiers where according to him. So right in from of Food World. So according to him. Maybe to set the record straight. There is Food World which faces the Western direction so that sir where the soldiers were at the intersection of Speke Avenue and Cameroon.

COMMISSIONER PROFESSOR LOVEMORE M ADHUKU (To witness)

Q Can you just understand what might help us. If you are at the corner of Speke and Cameron. The soldiers maybe coming from Chinhoyi but in Speke or coming from Leopold Takawira and Speke .Did you see where the soldiers were coming from. Where the soldiers coming from Chinhoyi in Speke or coming from Leopold Takawira and Speke or you just saw them at the Corner?

A So I saw the army truck which he has referred to the puma arriving at Chinhoyi were it stopped behind the rank along Chinhoyi. So when the army truck stopped they started shooting. They were actually firing I could hear the gunshots. They took the direction where there is Boomerebg. There were some market stalls there so we could see a number of soldiers. So we could see the soldiers from that direction. He has referred to them as gunners. So when they go to the intersection of Speke and Cameron we could clearly see them now. So were running towards Jason Moyo along Cameroon. May be to be precise he was running 01.21.26.

A Ok so the soldiers dropped in Chinhoyi. They came down Speke. I saw them as they arrived that is where I indicated that I actually saw a soldier who fired twice in the air. After seeing them I first ran towards Food World which is at the intersection of Cameroon and Speke maybe to give clear direction now he ran towards the eastern direction in town . He then realised that there was danger by taking that direction where he then turned taking the northern direction that is running towards Jason Moyo along Cameroon.

Q For me the Clarification I wanted you to make which you seem to have made unless I am wrong is that these soldiers you are referring to you saw at dropped

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down . Is that correct. Corner Speke and Cameroon were the same solders that had dropped at Chinhoyi. Is that correct?

A Yes.

Q Ok that correct.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q By the time you saw these solders at the corner of Speke and Cameroon you had already been joined by the group which came from Cleveland House.

A Yes they had joined us. As we were all leaving town.

Q Thank you very much no further questions.

A Thank you.

Q You will favour us with the medical record.

A Yes.

Q Thank you very much Mr Simango. Thanks for coming.

EVIDENCE LEADER MR THABANI MPOFU

OBERT MOSES MPOFU : SWORN STATEMENT

Q. Doctor Mpofu as at August 1 2018 you were the Minister of Home Affairs?

A. Yes.

Q. How long had you hold this portfolio as at August 1?

A About 2 years.

Q You confirm that as the ministry of Home affairs you are the Minister responsible

for the police?

A. Yes indeed.

Q. And you are acquainted with the police situation relevant in the country during the election period let us say from January 2018 up to August 2018?

A. Yes indeed.

Q. You are aware of the events of the 1st of August 2018 that led to the convening and appointment of this Commissioners?

A. Yes.

Q. Would you be able to assist these Commissioners and the public by narrating to this Commission what it is that you know that is relevant to this starting from prior to the elections then the elections, then anything that you think is relevant to the Commissioners with regards to what transpired on the 1st of August 2018?

A. Your Excellence the Chairman and the Commissioners. We had made preparations for the pending elections before, during and after but we were faced with a situation where polling stations required services of the police drawing quite a number of our officers to the voting stations remaining with quite a small police personal to administer law and order during that period,. While that was happening we made sure that we spoke against any form of violence. We appealed to those that were furnning hate speech inciting their members to disregard the law. This was mostly from the politicians in the opposition. I went out on several occasions issuing press statements appealing to the leaders of the political parties to refrain from hate speech, from incitement but we still continued to have such incitement or hate speech from the

opposition parties. I was called on a regular basis by some members of the opposition parties. I can recall one incidence in Buhere when one leader the political party mai Khupe was under siege from members of her party or her faction requiring assistance to be rescued from that scenario. The politician who called me is Misihairambwi Mushonga. She was in tears, called me and I immediately, I actually instructed the Commissioner General to deploy the police to the scene and I think the situation was dealt with.

Q. What sort of assistance was she requiring and did you understand what was happening?

A. She required police assistance because she had been designed in a house which opponents were allegedly intending to set on fire. So we had to ensure that the police intervened and I think there is footage where she was rescued out of that house escorted by the police.

Q. Proceed?

A. The other instances quite unfortunate indeed. I am the Secretary General of the ruling Party. We, other than talking about peace appealing to colleagues in the opposition to exercise restraint on issues of political nature we came up with a committee the Inter Party Liaison Committee which should have been coordinated by the Secretary Generals of the parties. I assigned one of our top lawyers Cde Mangwana to be a member of that committee together with another lawyer of the party Cde Chasi to ensure that parties continue to monitor their activities since his excellence had assured

the nation, the world that Zimbabwe wanted to see an election, a free and fair election that would see people campaigning doing their political business campaigning in a manner that is peaceful and democratic. And this has never happened in this country before. I have been in politics the rest of my life, 55 years in politics and I am familiar with our politics from a long time ago. This also surprised us who were in the leadership of the ruling party that the President directed that people should be allowed to conduct their political business in a free environment, in a totally democratic manner. He invited the world to come and observe our elections. I am sure most of us even here including some of the Commissioners could not believe this was what happened. People came from all over the world to come and observe our elections. But because, that's my personal view, some of our opposition parties survived on misinformation about the democratic space within our country, felt very uncomfortable with that kind of approach by his Excellence in the new dispensation because I think it's very clear that they were not very happy with the stance but that was the case. People came and observed our elections.

We kept on; I was issuing statements on a regular basis together with the police just to call for calm and orderliness on the part of the political players including members of my party. But this was not to be the case. We continued hearing inflammatory statements from some people who turned to preach democracy during the day and during the night they preach violence.

Q. The Commission had the opportunity to view a number of videos pertaining to the pre-elections era. I would like to refer you now to the events of the 1st of August

2018. What is your evidence pertaining to the events of that date?

- A. Your Excellence the Chairman of the Commission and distinguished Commissioners, after we realised that there was a looming action by those that are prone to violence, just a few days before the elections we started receiving quite a lot of information some documented, some of course through the intelligence that certain actions were going to be taken by the opposition. I went to public through the media, both local and international. I think I was invited by NCA of South Africa but that press conference was one of the press conferences and it was attended by most of the colleagues from the media both print and electronic where we cautioned against violence and appealed for calm and orderliness during the period of the election. We on our party kept on being advised that some violent actions would be undertaken by the opposition party to the extent that we received a request from the officer commanding in Harare here I am sure whose details had been submitted to the Commissioners appealing for support in case the reported plans were consummated or were effected. That was the case I think Commissioner General has given the actual evidence of the process that was followed leading to what happened on the 1st of August. But before anything could be done on party because I was still convinced that they would be some modicum of orderliness from those that were preaching violence.

I was in my office at ZANU PF headquarters where I am stationed and I started witnessing from the 8th floor groups of people running towards the Sheraton the HICC and these were people that were clearly sloganeering and making noise in support of Mr Chamisa and I said look let me perhaps call him. I had never called him before I think I last spoke to him when we were in the inclusive government. I looked for his

number till I got it and I managed to get through to him. And for the benefit of this esteemed Commissioners through Mr Chair I recorded the discussion. I recorded the discussion as I always do with suspicious characters. If it is okay with you your Excellence I have that recording and it may be really depending on how to handle this because that recording will give you the story of the discussion that transpired between Mr Chamisa and myself. It is available and I can table it for consideration by this committee where he admitted that he had lost elections and he was trying to throw some aspersions on the role of the Vice President and I said no our dialogue had nothing to do with the Vice President.

Q. You are able to avail that recording to Secretariat so that it can be forwarded?

A. Certainly so it is on my phone and I will avail it to this Commission.

Q. Very well we will make arrangements for it to be forwarded to the Commissioners. If you can then just bear with us after you have given your evidence we can then send our technicians to retrieve it and forward it to the Commissioners.

A. With pleasure.

Q. But I would like at this stage for the benefit of the Commissioners and the public that are listening to summarise what is in that conversation if you can just give evidence on what is contained, what you talked about as if they is no recording?

A. I actually pointed out to him that they were people demonstrating outside in his name

because they were actually rowdy young people mentioning his name and also sloganeering showing the MDC open palm slogan and initially they were not very violent I must say. They were just demonstrating against making noise although they were obviously railed by the sight of revolutionary building. So they went to HICC I don't know whether they got in and came back. I think they had been stopped by the police and they went into where ever they had come from. That is when I started consulting the police my colleague and ministry of defence just to warn that they was likely to be a problem. They went back, second time they were a bit violent. It became clear that no something was brewing in their systems. We started now communicating following the processes which were articulated by the Commissioner General and the other Generals. It is then we, I was in my office we started now communicating with each other as to the request that has been made.

Q. I would like to bring you back to the conversation, your conversation with Chamisa.

Would you kindly tell the Commissioners what it is that you discussed.

A. I actually appealed to him to stop what his people were doing. I appealed to him. I don't usually appeal what I view as violent. I appealed him to say Cde Chamisa, I called him comrade, please stop what is happening out there. Please we want this process as we have always said to be a free and fair process and free and fair democratic process. He after trying to say a few things as he likes talking he ended up saying that now Minister you are speaking like a lawyer. I said no this is not an issue that would require one to have a legal background. It's a question of orderliness, peace and tranquillity in an atmosphere of democracy. We discussed it was not an

acrimonious discussion but a really official discussion where he ended up saying I will look into it and I will come back to you. He didn't come back to me.

Q. What time of the day was it at that stage?

A. It was around midday when actually the group had gone back for the second time but when they came over the third time that's when people were trying to scale our walls throwing some missiles into the yard and I was getting reports that our provincial office had been run over and people were hiding in toilets and people had been beaten, the vehicles had been burnt down. Now they were pulling down the banners that we had at the head office.

We told our youths to restrain themselves from reacting. Yes it was clearly a provocation on us to react so that the international media would show us in bad faith. It's unfortunate, it's really unfortunate that this happen. We are a peaceful country, very peaceful. my party ZANU PF is the most disciplined party not in Zimbabwe alone but in the world because we have got the personnel, we have got the people, we have got the way to deal with what we perceive to be an enemy but we didn't see enemies we thought we are looking at people who wanted to exercise their democratic rights. We are a national party. I come from 800km from this place and I am one of the top leaders of the party. But Khupe who comes from more or less the same place that I come from was thoroughly beaten up because she do some destructors, she belong to the wrong tribe. I can assure you no matter the renting and the stage managed presentation to the Commission will not make Zimbabweans change their trust. I believe my party is going to rule for a long time.

Q. How many times did you speak to Mr Chamisa that day?

A. Once. He promised to come back to me and he didn't come back. But later I was phoned by someone called by Thabani Mpofu who said he is a lawyer for MDC. I jokingly told him that what kind of a Mpofu are you who advice on such evil things because we are not a violent party. He said no look mdhara we will talk but that's what as far as Chamisa is concerned. I spoke to him once. He never came back to me. We sort permission, I wrote to my colleague about what we were requesting and that process went up to the principal and a report back was given by government to pursue with what the police had requested and that was done I think there is a record trail to that effect.

Q. What is it that the police had requested?

A. They requested support including the military support if need be.

Q. You were involved in that process?

A. Yes I was involved in the process. I wrote to the Minister of Defence who also processed the process to the authorities and reply was given back to me giving authority for that reinforcement and I sent back that message to the Commissioner General.

Q. You have testified to the effect that in the run-up to the elections you continued to receive reports of the incitement of violence you said from people. What actions did you take as the Minister of Home Affairs in view of these threats of violence? What did you do as Minister of Home affairs and as government?

A. We increased our police reinforcements on areas that we thought had a potential of becoming or witnessing violent activities, but we were thin on the ground because most of our officers had been deployed to assist with the elections throughout the country. It was quite a sizeable number hence our decision as requested by the people that were actually in charge of operations leading to the process and the involvement of security forces.

Q. Thank you very much Doctor Obert Mpofu. I will now hand you over to Commissioners they may have certain questions for you. They may want you to clarify anything on any subject that they so chose.

Mr Chairman your witness.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Thank you very much Mr Mpofu. I noted your comment that the police were deployed throughout the country for the election purposes and so the number of the police available in Harare to cope with the situation in Harare was considerably reduced. Do I understand you to say that following reports you were getting before the elections that the preparation for the possible that time possible help from the military was being planned or was it that on August 1 when the situation became clearly unmanageable by the police that the plan for seeking additional help from the military was made?

A. Through you Chairperson, that's indeed what happened. The request was made on the day of the event or the demonstration.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Just to follow up on that, mine is just very legalistic. From what you are saying I think we have heard evidence before and also saw some documents. My understanding you are saying that the compliance with the law went all through the way that you got a request from the Commissioner General which you as Minister of Home affairs processed and requested Minister of defence who then went to request the President to authorise the deployment and the President authorised the deployment and it came back via the Minister of defence to yourself and then to the Commissioner. Is that correct?

A. It is correct.

COMMISSIONER GENERAL DAVID MWAMUNYANGE (To witness)

Q. Thank you very much Dr Mpofu. Some witnesses have told this Commission that apart from the security forces they are individuals who happen to possess fire arms. Do you have any comment on that on the possession of fire arms by private individuals apart from the security forces?

A. Thank you Commissioner. As I indicated earlier on, we continued to receive reports about certain activities or intentions by people who wanted to prove to the world that elections had not gone according to what they expected. But before perhaps I comment further what would motivate an organization to go on the street until you can deny, look certain human beings act in a manner that defies any logic. Why would people go on the street after going all those processes? People were campaigning freely, rallies were filled up by people and hearing people calling themselves

democrats saying that we will only accept an outcome that is in our favour other wise this country would be on fire. What kind of democracy is that? This is just one of the many statements made and they were fuelled by those that wanted to create disharmony in the country. I saw people trying to get in some of our democrats, finding father of our revolution when it suits them. I come from Matebeleland and people in Matebeleland are clear about what Cde Nkomo said about the unity of this country. We are the only country; I want to say this, perhaps in the continent that doesn't talk about tribalism. We are one but someone says no look here, this Joshua Nkomo. Nkomo never subscribed to this sharid that you see in the name of Democratic Party. Your excellence I feel honoured to be saying this before you. What would motivate an organisation to send a group of hooligans into the street pulling down ZANU PF banners? Perhaps this is hearsay that this evidence that has been given here. I am a well trained soldier in Tanzania. When you shot from whatever position but you see a cartridge on the second floor or third floor of the bullet you fired what does that mean? I feel, that's a personal view and it's a well informed view not a misplaced view, not properly placed view. I think they were snipers that were planted around Harare on some buildings. ZANUI PF will never do that and the President will never condone that. So somebody created a scene and directed that they should be some firing somewhere just to put government in bad light. And as far as you see the rantings and people trying to be cleverer than what they are own issues that revolve around treason. I think the Commission in its wisdom will deal with this issue. But those guys in the military are very clear they have been sent all over the world on peace keeping missions why would they do a commendable job out there and come back and shoot their brothers and sisters. Its illogical, it's actually something that is difficult to believe. I think you have got more evidence than I have Chairman to determine. We

don't do these things. Find a cartridge when the, because it can be within perhaps 2m radius of where the bullet was fired and not upstairs. I think this is my view as former Minister of Home Affairs.

COMMISSIONER CHARITY MANYERUKE (To witness)

Q. I want to seek a clarification. We saw the demonstrators turning riotous and engaging some of them in some criminal activities which include the burning of cars, destruction of property, stoning of people directly or indirectly. Do you think that arresting all those demonstrators was an option available for the police?

A. Thank you Commissioner Professor Manyeruke that is an operational matter which those that were responsible for the deployments were concerned. But when there were gunshots coming from all over directions, all directions I was not there. I don't know perhaps I would have handled it in a different manner but I wouldn't want to comment on operational issue because they are really a responsibility of those that were conducting the operation.

COMMISSIONER RODNEY THOMAS DICKSON (To witness)

Q. Thank you honourable Minister. I wanted to ask, we have all seen these highly charged statements that you referred to. Did you make some assessment before the 1st of August that might lead to problems? I think you said that you had had some fore-warning and you were concerned?

A. Yes indeed as I indicated earlier on Commissioner through your Excellence. We started receiving some reports I think two, three days before the 1st that people were

planning something. It was clearly a planned demonstration because it had its source, the base, the gathering points and logistical support from headquarters of the opposition. These people were not marching from nowhere. They marched from a point and that's where they were also given alcoholic supplies to cause mayhem. It was clear that initially their march was sober, on the second move they were getting a bit, and I don't know whether it was intoxication or something that had quite, showing signs of being violent. The third time it was chaos people were just in a mood that the streets were not passable. They were climbing on our walls to get into ZANU PF and burn it down or whatever. To all mention this honourable Commission, we could have reacted. Reacted in a manner that could have made those perpetrators never to do a similar thing at all in their life. That building is a citadel of power and we don't encourage people to temper with it or its leadership.

Q. I think we understand the evidence of how it got worse to escalating. When you phoned at Chamisa was that you said at morning things were relatively peaceful then?

A. Not peaceful but it was clear that the motive was to create mayhem.

Q. That's what I wanted to ask because we listened to the tape thank you very much for providing it. Were you saying to him then that your concern that it's going to get worse?

A. Yes.

Q. What was his response to that?

A. He said Minister let me look into it I will come to you in a few minutes and those

minutes have not been realised.

Q. I just said we will listen to the tape. Do you have the whole conversation?

A. Yes the whole conversation it has everything it covers the full discussion, there was nothing left out.

Q. I am just putting a silly question but did he know that he was being taped or you don't say anything?

A. The type of job I do needs factual records and I don't take things for granted. My office would require that kind of preparedness in case. Even the media when they talk to me I record them. A lot of lies have been said about me and at the right time I want to use that information.

Q. Like now it's the first time you have made it available it now?

A. Yes.

Q. Can I just also ask the call that his lawyer made later what time was that?

A. I think it was later, I am trying to connect to what transpired that day. As I was driving out of the building I saw a missed call and I returned that call and it turned out to be Thabani Mpofu's call.

Q. So you didn't speak to him. I just want to find out what was said?

A. He actually said he was looking for me I doubt if it was about the violence but I think it had to do with the police stopping the journalist from going into a press statement

that Chamisa was going to make.

Q. So it was a different separate issue?

A. Yes, if it was something to do with this I would have recorded him as well.

Q. One last thing, you mentioned about this allegations about snipers in buildings. Did you know, maybe we have to ask the police. Is there any police investigation that's going on into that or is going on into that allegation?

A. I think honourable Commissioner, this evidence is being given that's according to my little understanding to enable a proper appreciation of what transpired and I am sure most of the information will be supplied or be given to those that are responsible to deal in the matter in a manner that is in accordance with the laws of the country.

Q. Thank you for your answers.

COMMISSIONER CHIEF EMEKA ANYAOKU (To witness)

Q. Can I just follow up what my colleague has asked? To some extend what my other colleague has just asked? As a former Minister of Home Affair how easy or difficult would you say that it is to acquire arms outside? I am just trying to get a picture of possession of arms on the police and the army in this country. How easy or difficult is it?

A. It is very difficult to hold or posses a fire arm in this country or any material that would be perceived to be dangerous such as explosives and other materials that are viewed as injurious to the public. But your excellence it's possible that we have got elements within societies that are motivated by violence to further their own political

games to acquire arms or other tools or items that would be legally in a situation. That is possible. The people that had been attacking our governments or attacking other political parties in Africa and in Europe indeed and America are people who bring in those items illegally like we have people who commit some illegality. But the law in this country is so clear on possession of arms. It is very difficult. But when people want to embark on act of terrorism it takes a bit of time to arrest them but you may not be aware of what they have, their intentions like we were not aware about that demonstration until it was done. So it's possible.

Q. So you weren't surprised that they were snipers as you said?

A. That was my conclusion because you could see the kind of daring by some leaders of the opposition telling rallies of thousands of people that if I don't win you won't enjoy your victory. What is it that you will be trusting or believing in? Something that cannot even be said by me Home Affairs Minister with over 50 000 policemen under me to threaten the whole nation that if I don't win I will make this country ungovernable. Again there is an African saying that if you see a disabled person threatening to beat you he or she is stepping on something. Your excellence we are disappointed in fact the country's government is very, very disappointed and embarrassed by this action the appointment of this very esteemed Commission of inquiry. It is unlike of Zimbabwe to experience that and you can see some people are bragging about it because it achieved what they wanted to achieve. I am not a prophet but they is something fishy.

COMMISSIONER LOVEMORE MADHUKU (To witness)

Q. Are you saying that this account you are giving of snipers would be targeting ordinary people from the theory that you are putting across. Have you had a situation where members of the security forces the police or the army has been attacked by ordinary Zimbabwe really like shot at by ordinary Zimbabweans?

A. Your Excellence Mr Chair and Commissioner Madhuku, in military terms, in fact in guerrilla warfare, if you want to hate the status core you must target civilians. I was a guerrilla myself for 15 years. You make the country ungovernable. You don't fight soldiers to take over to liberate your country. That's my humble conclusion submission on such issues. If the intention was to fight soldiers or to shoot at soldiers they hadn't been this Commission.

Q. Why I want to follow up on that is that from what you have now answered it would mean that the security forces would be safe from this kind of force that once destabilize. We have heard evidence also some speculation coming from others saying in fact ZANU PF that's what had been said to this Commission actually created the situation. They also targeted civilians so that you get dead bodies and then you get the army military to get involved. You were saying that now having theories, from what you are now saying that this force would also avoid the police and the army and then target the civilians. Are you seeing how difficult it is now from that perspective for us because it's coming at least from your side. It would be the opposition that would have the snipers to create that. The opposition says no, actually its ZANU PF that is creating that. So in the centre we have civilians which ever theory we take?

A. In that logic it doesn't follow Professor. Through you Chair, we are in power we are reposed with running this country. We have the mandate to run, even before the results it was clear that we were going to win the elections. I think you were one of the players you knew what was happening. I have a lot of regard for you you know that. But let's not bring theories to reality. Why would ZANU PF shoot people? To achieve what? And in Harare we have always accepted defeat and Mr Chamisa said that he knew he had lost parliamentary elections on that recording. It defeats any logic. This was a predetermined action which was cleanly planned. People were told how they were going to be resourced, which streets they were going to take. They were leaders that were leading that. Honestly let's look after our country as sisters and brothers. But to try and impress the world through things that create the suffering for our people that's not what we fought for. Why after 38 years would we start shooting at our people especially when the election results are being counted? I was the Chairman of JOK and the message at every meeting was that these elections should be peaceful. They shouldn't be any loss of blood and this was on the generous.

Q. Dr Mpofu as I close on that. That's exactly where the problem is for me, I think if I were to follow your words why we would do it, to achieve what. Yesterday the testimonies we got, you may have been following. If you listened to honourable Tendai Biti, he exactly said that. Gave a long history of the opposition movement in the country. And his message would actually end with the same words. Why would the opposition do that? What for? That's where the complexity I hope you are appreciating it. I am not saying you give an answer but if you look at it you have very

good reasons for saying ZANU PF cannot do it. Why would it do it? And then we got this long historical account showing and in fact using words of honourable Tendai Biti we are the victims and we can never do it. So what the Commission has would be these two views the one that says ZANU can never do it. It's the ruling party it wants to preserve the country. We are an opposition. We have been victims of violence for years why would we do it. That's where we are. And this is why I am just putting it to you for you to realise the complexity of the situation.

- A. Thank you Professor, through you Chair. What did they say? We are a responsible government. United by our leadership. United by our principle, united by our history. I listened to a lot of what was said yesterday. I think 90% of it if I were a Commissioner I don't hope I won't be one, only 10% was relevant to this according to me. I may be doing the same thing but I would never counter nest a situation where a government you order the shooting of innocent people, never. But someone thought this would be a strategy for them to convince the world. Just like the issue for sanctions. You call for the suffering of you people for you to be in power. I don't want to go into history. I just want to be relevant to what this honourable Commission has called me for. You don't win popularity by stage managing issues. We can give you all the history, all the back ground but at the end of it, it will be the people of Zimbabwe to decide on how they want to manage themselves with of course your assistance. I am just watching about it because innocent lives were lost. If they was never that demonstration we would not be sitting here. But the demonstration was created, planned to do exactly the outcome of which we are talking about now. We

are not foolish. We respect the sanctity of humanity.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

- Q. Thank you very much Mr Mpofu. The Commission was informed by officer leading investigations into the criminal activities that unfolded on the fateful day of the 1st August. As a Commission we referred two matters to the investigating officer. Two matters that in our book wanted to have been investigated long before the Commission was established and we don't know what to do because we were then informed that 41 offenders had been apprehended and appeared in court. This leaves us with a difficulty because we have looked at the charge sheet and all of that, they don't actually help us as a Commission. We would have loved to have sight of the police information with regards to precisely where each one of the fatalities happened because of the six they are two that were actually dumped. One at Parirenyatwa and the other at PSML. Just to give you a sense of why we have these concerns, a police officer who is on duty at Parirenyatwa on the mortuary side was called in when a group of people dumped a body and they came in a vehicle that had bullet holes including, from the account of the police officer the radiator was also causing the engine to boil because it was shot at. They was a lady passenger inside that vehicle with injuries still bleeding. But this police officer could not give us the registration number of the vehicle instead he told us about these people who were traumatised and they were crying and so on. I just find that very difficult to follow giving the gravity of the situation. I thought I should share this with you so that perhaps you could from your good office nag them into action. Thank you.

A. Thank you your excellence president Commissioner Mothlantle. I said earlier on when specific points were raised regarding what transpired on the ground that those are operational issues. But again I just imagine a situation where a professional soldier spray bullets into a vehicle and suddenly that vehicle is driven away to dump the body at the hospital. Some policeman comes, I am just thinking aloud but I think government will deal with recommendations of the Commission without fear or favour that's why this is a public Commission and evidence is being given and that will be taken. In Zimbabwe once you murder you get arrested. Not only murder, if you assault grievous bodily harm you get arrested. Even if you run away from Zimbabwe we arrest you whenever you decided to come to Zimbabwe because you are a criminal. So I can assure you your excellence that and I am speaking on authority as a secretary general of ZANU PF as well as a former Minister of Home Affairs. Any recommendations that would be given to the government action will be taken. That I can assure you.

Q. Thank you very much we have no further questions. Thank you for coming and thank you very much also for sharing the recording with us.

A. Thank you your Excellence.

WITNESS EXCUSED

EVIDENCE LEADER THABANI MPOFU

Mr Chairman could we have a short health break.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

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We are adjourning now.

EVIDENCE LEADER THABANI MPOFU

I am informed that they was a witness who has been willing to testify who has been asking to testify. I haven't seen them myself from one of the political parties.

EVIDENCE LEADER THABANI MPOFU (To witness)

LINDA TSUNGIRIRAI MASARIRA : SWORN STATEMENT

Q. Ms Masarira you have asked to give evidence before this Commission?

A. Yes I did.

Q. I would like you to give your evidence cognisant of the fact that the Commission has heard a lot of evidence and where you feel some evidence has been given before you may move to other aspects that we haven't heard.

A, Noted.

Q. If you could identify yourself.

A. My name is Linda Tsungirirai Masarira, MDC T spokesperson.

Q. Go ahead and tell the Commissioners what it is that you want to share with the Commissioners?

A. Firstly I think what made decide to come to the Commission to share what happened to me on the 1st of August. My presentation is going to be very brief because a whole of other things had been said before by other witnesses and I would also want to

observe a moment of silence for those who lost their lives prematurely by the alleged delay of the announcement of results of the 2018 national general harmonised elections. May their souls rest in peace?

Firstly I would like to state that the demonstrations that happened on August 1 were not just a coincidence. These were demonstrations that were influenced by the various political leaders who were contesting during the 2018 elections. Most inciting statements were heard by ordinary Zimbabweans at rallies, at press conferences. It is important to note that a leader is a person who inspires and influences followers either positively or negatively. Peace is inspiration, violence is inspiration. Our words as leaders are believed by our followers who rally behind our vision and the methods we use to achieve our goals. So the violence utterances influenced the people to demonstrate. Who spoke inciting words is not even in need of investigations. The public domain over wash with video footages and other live recording of treasonous and encaustics statements by political leaders in Zimbabwe.

Dr Thokhozani Khupe and Douglas Mwonzora were nearly burnt in a hut in February at the late Dr Morgan Tsvangirai's funeral. I would like to categorically state that I Linda Tsungarirai Masarira was a victim of the MDC alliance supporters who protested violently on 1 August 2018.

Contrary to Advocate Nelson Chamisa's view that the protesters were not MDC supporters at the Rainbow Towers gate. On 1 August I was a victim of the supporters' violence. As the car I was driving was targeted a Isuza Nissan X-trail number plate AEP 7333 was surrounded by violent protesters who were chanting mutengesi hure" before they broke into song ""tengersa uone mashura. They were chanting saying sell

out, sell out. Prostitute, if you are to sell out we will show you way forward. After that the police had to come to intervene as they were doing it violently banging the car. I actually have pictures that were captured by the police which unfortunately I didn't get time to print because I was coming from Bulawayo. But if the secretariat wants it I can run to the business centre and print those pictures.

MDC is a party full of highly intolerant people. They think they are the Alpha and Omega of Zimbabwe politics. The eloquence of their leaders in preaching peace is not actually put into practice. It is hypocritical, it is fortunate or should say unfortunate that we live in an era where the name of God is taken in vain and there is no instant justice. People dare to lie under oath professionally misrepresenting themselves but the truth cannot be hidden because only the truth can set Zimbabwe free. I was assisted by the police who came with buttons sticks and removed the violent crowd that had surrounded the car and redirected me to use the other gate as the protesters were shouting "toda kumuuraya haagese" We want to murder her she does not bath. Which is a statement that is synonymous with the MDC alliance on social media. I was going to ZEC command centre when I met the angry crowd of the protesters who belonged to the MDC Alliance. You could tell these people were high on something. The behaviour was like that of trained rebels. These people were not only verbally abusive and misogynistic as they are accustomed to do but were prepared to do physical assault on my car and my body. Honourable Chair person it would be naïve for anyone to think that the MDC does not have radical militant youths who were trained under the civic society banner which are stock holders of the MDC. I can speak with confidence and evidence that there are two groups were trained to lead protest though it said they were trained to appraise in a non violent

manner which is contrary to the actions that prevailed on the 1st of August. The MDC believes the government can be persuaded to push for a government of national unity or to assed to certain demands for the illegal demonstrations that they did coupled to the ongoing demonstrations demonization of Zimbabwe. We have an opposition that believes in hate speeches and insults, terrorising women and the suffering masses to new protest votes.

Honourable Chair it is true that there was a violation of the human rights by the ruling party ZANU PF as many witnesses testified here. But on their submissions all of them noted a significant drop in violent cases during the pre-election period and the period leading from 2013 to 2018. One would expect to see the MDC alliance taking a lead role in advocating for the removal of the now irrelevant sanctions. But we hear statements from the alliance supporters denying the existence of sanctions a surprisingly in conflict campaign for the maintenance of sanctions despite the popularity due to good will of Morgan Tsvangirai which unfortunately could not be enough or jealously guarded to give victory to the MDC. The MDC alliance believes protest and demos, hate speech and insults and violence plus the painful instructions can give them a protest vote.

I have been threatened with abductions and death by members of the MDC alliance. Evidence is all over social media. I have several screen shots which I want to go with to the police to report honourable Chair. After I threatened to expose some activists were trained at workshops to do what is called a dilemma action to push the government to concede to their demands. These training were done in Cape Town and

Livingstone so that they will be able to radically defend their vote through whatever means necessary and make Zimbabwe ungovernable.

I strongly believe and most earnestly I access that the wrecklace utterance by the MDC alliance Nelson Chamisa influenced his supporters to protest against the vote they speculated was being tempered with and that they will continue the violent culture if not stopped. It's just unfortunate that social media evidence may not be admissible in a court of law since one can write pseudomenously or assume a different character. But honourable President Mothlantle and esteemed Commissioners a visit to my face book time line or twitter would vindicate my statement on how toxic and inciting, slanderous and abusive the MDC supporters and members are.

In conclusion the nation will only move forward when both ZANU PF and MDC alliance put Zimbabwe first and stop using violence as a conflict resolution.

Zimbabwe needs humble leaders who are concerned about the sustainable human development and revival of our economy. Honourable Chair my nation is broken and only the truth will set Zimbabwe free followed by healing and reconciliation. I pray that the families who lost their loved ones on 1 August 2018 will find closure and that whoever killed those innocent souls face the full wrath of the law.

Going forward the State must desist from using maximum force on unarmed civilians in the culture of violence will not put you on end it is bound to repeat and the alliance will still demolishing the institutions of intelligence, ZRP and political activists who are not under their big tent valour. We have to look beyond political curtains and

focus on peace election building. We have more that unites us than what divides us.

Thank you.

Q Thank you. I will and you over to the Commissioners who may have questions for you.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Thank you Chairman. Thank you very much Linda for your narrative. What I want clarity of is where exact you were when the chanting of slogans sell out prostitutes were done?

A I was at the gate of rainbow towers when I got to Rainbow Towers the gate was already closed and it was barricaded by the policeman . There was a grouping of angry MDC supporters. Somewhere in their regalia and some faces that could identify because there was one Jabulani Mtunzi who was also here and who is even on the current structures Councillor for the MDC Alliance .

Q The MDC Alliance leaders deny that the rioters were their members what will be your comment since you have started giving us name of those that you would say are in the ranks . Are they in the ranks of MDC Alliance or else.

A Jabulani Mtunzi is a current ward councillor for the MDC Alliance and I saw him leading the protest at the gate of Rainbow Towers .

Q You also spoke of trainings that you said were done in Capetown . When were these trainings done?

A Unfortunately by the time I got here I couldn't be able to get the exact date but one the person was trained actually has the dates and was supposed to email me the

email that she received because she actually went through the training and was not subscribing to the agenda that was there at the training in Livingstone.

Q Was it this year?

A This year.

Q Ok

A I think the first one was in May and the other one in July.

Q What was the nature of the training? Was it just a youth training for ...

A It was actually on neighbourhood training for non-violent protest and preparing for young people to be able to defend their votes anyhow. And from what I heard it was supposed to actually ensure that they go through non-violent protest by colleague the one who is supposed to send the information which I will name right because I fear for her victimisation is actually on the PR list of the MDC Alliance. She did not subscribe to the way they were being told that they should do whatever necessary to ensure that they defend their vote since they failed to do that in 2008.

Q Are you able to tell us what exactly it is that they said they should do whatever is possible?

A Any form of protest. Any form of protest. It was more of a workshop like set up where they were being told that you have to protest defend your vote.

Q At what time were you at HICC?

A It was around 1pm if I am not wrong because I was rushing to the next pronouncement of results which was supposed to happen at 2pm.

Q Did you see the presence of many police officers or the army?

A I saw police officers.

Q What were they doing?

A They were standing inside the gate with their shoes and the gate was closed because they had to redirect me to use another gate and only a few were outside who were in civilian. They are the ones who managed to remove the crowd that was surrounding my car and redirect me to use the other gate.

Q How big was the crowd?

A I think they were about 40-50.

Q I have no further questions.

COMMISSIONER PROFESSOR CHARITY MANYERUKE (To witness)

Q Linda how do you feel as a woman in Zimbabwe in terms of your experience with demonstrators?

A Honestly I have a very thick skin. I no longer feel anything because I am gonna used to the violence and the vitro that used against person but actually feel sorry for the other women who are actually victims of these protest which they were not even part of. We care not safe in this country. We are not safe so long as you are speaking anything that is against the Alliance you are not safe. They against the democratic principles that they speak of. Everyone has got right to support a political party of their choice and no-one should judge me for not supporting me . I did not support them because they violence , they are misordinistic and they do not practise inter party democracy themselves , so when you want to speak of democracy lets practise the democracy that we preach of and let everyone participate politics at a political party of their choice.

Q As a Commissions madam we are also going to be looking at recommendations in terms of the issue you are talking about here is gender based violence during elections

and women in suppression of their rights and so forth. What your recommendations going forward in order to avoid this situation where women are threatened with death and so forth.

A I think we need punitive measures on bully's not just physical bullies, including the cyber bullies. We also need the Commission to step up and ensure that women particularly in politics are protected from violence. Are protected from threats because failure to do that you will find that a lot of women are going to shy away from participating in politics because the only thing that is ever known is that when you are a woman in Zimbabwe and you want to participate in politics you are called all sought of names and you face a lot of violence even in our internal part democracies so what is critically important is to have a gender narrative that is strict . We need strict measures on how to deal with perpetrators of gender based violence especially in our political parties in our government structures, in the parliament, senate and everywhere else because so long as we do not have primitive measures to deal with violence against women, women will always be at the receiving at need of violence.

Q I am sure you are aware that the issue of woman and democracy is an issue that I am passionate about and I would want to ask you whether you think that women we are at the upper etchments . Have a role to play in coming up with a solution.

A Yes women we have got a very big role to play especially those who are in powerful positions. Ione of the tragedies that we have always I had over the years is when women get into those high positions they forget that there is a next generation of woman that is coming. We need protection. We need mentorship and we have a gender Act in Zimbabwe which not implemented. We have got a very good Gender

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Act so we need the Women Affairs Ministry to start taking women`s issues seriously.

We also need our police to stop violating woman whether in parliament, whether is the vendors in the street and everything else. We should not be blind to the fact that our police violate women on a daily basis in different spaces.

Q Thank you very much Linda. No further questions.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE (To witness)

Q Linda thank you very much for coming and for your testimony. There are no further questions from the Commissioners and please do favour us with whatever evidence that you believe will help the Commission arrive at correct conclusions by forwarding it to the Secretariat.

A I will do so. Thank you very much honourable Chair.

Q Thank you very much you may step down.

EVIDENCE LEADER: MR THABANI MPOFU (TO WITNESS)

Mr Chairman we have come to the end of the proceedings today.

CHAIRMAN HIS EXCELLENCE HONOURABLE MOTLANTLE

Thank you.