

The Scourge of State-sponsored Abductions, Arbitrary Arrests, Torture and Violence in Zimbabwe

greetings to
to you all who have joined us for this
10th
surplus trust policy dialogue forum
on zoom and on facebook across zimbabwe
across the region
the continent and out there
in europe and americas in australasia
we have been a ditch a couple of months
three four months now
and our focus has been this
crisis in zimbabwe and the various ways
we can assist towards its resolution
tonight we are looking at the
state the scourge of state-sponsored
abductions
arbitrary arrests torture and violence
in zimbabwe
with the focus on how to stop it now
i want to begin by thanking uh
eleanor for suggesting this subject
during the last conversation two weeks
ago
and i'm glad she's joining us in this
conversation
second like to thank tony riller
my co-convener and the platform of
concerned citizens
but for thanking him for the concept
note which you have which puts
everything
in perspective but also
thank you for putting together
a very exciting team
we should i'll introduce you just
shortly
but here just to mention them
tony rilla himself
musa kika director of the human rights
ngo forum
from amnesty international she has been

on this program with us before
likewise musa kika and a special welcome
to lisa henry
secretary general of the international
rehabilitation council for torture
victims
welcome lisa then paul graham
former director of eddasa and freedom
house
we had to apologize to paul paul the
designer had put
pw bossa as his photograph
in the first version that's what it's
got to do very wrong
and but there that's paul graham we'll
see him shortly
uh last but not least i have superman
who i call i call him sydney after his
father
a great hero of a man simple is equally
doing a very good job not only as the
executive director of cesar
but also as a regular participant in
this
what policy dialogue forum so
what i intend doing uh after my
introduction is to introduce them
formally and they will
give a minute of two uh being a summary
of what they intend
uh stating before us
and i will also likewise introduce the
the discussions
uh the concept note is self-explanatory
but just want to emphasize three points
the first is that the scourge of
abductions arbitrary arrests torture
violence in zimbabwe
is very unusual unusual because it's
only in zimbabwe where such
is happening in the region
and that explains the nature of the
state in zimbabwe
it's a state under siege

a state alienated from its people
and therefore has to
indulge in this nefarious acts
partly to preempt the population
from doing what is obvious even
demonstrations
they it is a state which as can be seen
is forced to depend on this brute force
to try and silence the people
and therefore abductions absolute
arrests
and violence in general is not an end in
themselves
they have a purpose they are meant to
preempt
opposition they are meant to instill
fear
to silence the population
and as we know from history
this is unsustainable and therefore
indicate
the inevitable end of such
a system as history would inform us
and yet this can continue indefinitely
with increased violence more and more
abductions
as the state becomes more and more
desperate and more and more alienated
from the people
so that so in the meantime how to stop
it
the pressure such as this
kind of discussion the pressure which
has been
exerted and asserted by the media in the
last
few months at home
in the south african media especially
the
electronic media sabc enca
the media abroad
and the various
interventions at least in the form of
statements from the eu

south africa itself which has been
forced or compelled
by its own media and the graphic
illustrations
of the abuse of human rights
to make two visits to zimbabwe and to
engage the zimbabwean government
in the first instance to try and stop
these abuse of human rights and more
recently the african commission
on human rights at this at his uh
meeting in gambia
this recently spoke about
the situation in zimbabwe so we will
look at how we can sustain pressure
by exposing the rot and even identifying
the individual perpetrators
we want to make concert
or appeal to those in the states that
have a conscience and there are many
were appalled by this
they might be part of the state but
clearly the state is not
homogeneous we know that and i know
people
even ministers army generals
were appalled by this how can we make
concert with them
to see how we can stop this of course
international action
such as represented by people have on
this
platform on the panel and among the
discussions
and above all which has been the theme
the constant theme of these discussions
is the pursuit of a solution for
zimbabwe
we believe as historians that we are
approaching a situation where it will
become inevitable
necessary and urgent
to begin discussing and coming to some
solution please

so we'll start now with tony
reeler a platform for consent
citizens a key
factor in this conversation
the background sometimes as he is today
in the front line tony a minute thank
you evo
and good evening to everyone and to my
colleagues
um i've want to make
very quickly a number a number of points
i'm just going to outline
what i'm going to talk about in slightly
more detail i want to raise the notion
that the violence today is part of
continuous
cycles of organized violence and torture
in this country i want to raise
the issues that are related to both
formal and informal
impunity impunity is a very serious
problem
that we deal with i want to talk briefly
about the legacy of organized violence
and torture
what are the consequences for the
victims and the survivors
i'll talk briefly also about how this
has led to the destruction of social
capital and political trust in zimbabwe
something that igbo has already alluded
to
and i want to raise the issue that
actually things are getting worse and
not better
and in conclusion i want to talk about
what should be done
now these are the points that i would
like to cover in slightly more detail
just now thank you evo thanks thanks
tony
musa kika
unmute myself but thanks ibo for putting
together this time the conversation

so i'm going to follow uh
tony and uh i'm going to touch briefly
on the issue of the prevalence of
torture and organized violence in
zimbabwe i'm going to try and give a
little bit of statistics
so that we can paint a picture of where
we are right now while tony takes it
from the historical perspective
i'm going to reflect on the response of
the state
the attempt to silence the victims
of organized violence in torture i'll
also talk about governance
government's refusal to be held
accountable in any manner or form
and i will stress uh
on the issue of citizen urgency as well
as both the
legal and constitutional aspects as ways
through which we can address torture
i do believe strongly that as long as we
have a
a group of people in charge that are
not constitutionalists
it's difficult to address torture just
purely from the legal side of things
you need citizen urgency you need other
forms of intervention
so what that kind of citizen urgency is
is a conversation that we might have
we must have so i'll touch a little bit
on that as well as
as the discussion progresses thanks
thanks
musa thanks very much
thank you very much and leia leia has no
newcomer here
we've been working with her for many
years
and we've met many for her meeting again
next week
and of course she's she's appropriately
here to on such a discussion such as

we're having today coming as she does
from amnesty international
so malaya what do you what are you going
to tell us
yeah thank you very much uh it it's it's
a
an honor to be um amongst everyone
and thank you very much for having me um
so there's just a lot to talk about on
on zimbabwe
but um i will
touch a little bit about
the his the history the historic work
that amnesty has done on
um on zimbabwe my major thrust is to
really talk about
issues around accountability um
and so i'll touch very very lightly
on uh some of the work that we've done
in the past
um i will not really talk about the work
we're doing now
because there's just a lot um happening
and then i want to talk
again quite briefly around
international crimes and lastly i would
like to talk about what i think
could probably be some of the things we
can do
to bring about accountability
so that's what i want to focus on thanks
thanks
thank you very much let me introduce our
discussions
lisa first lisa henry
just talk briefly about what you do sure
hello everyone pleasure to be here and
in honor i'm the secretary general of
the
international rehabilitation council for
torture victims
and i'll be talking tonight about the
international parameters and the
international human rights treaties

so the system that we actually have
whether it's being used or not but
the system we have and what we can do
about implementing and using some of
that system
and using some of the member centers and
the inputs that come from them to
actually
um provide a policy framework
as we move into this discussion thank
you
thanks lisa thank you very much paul
graham
hello it's a pleasure to be here i am
the former regional
uh project director for freedom house
southern africa
um and i understand my mandate to
reflect on our presenters
and to reflect on ways in which
perhaps particularly civil society and
civic agency may be
maybe empowered empowered but
i'm looking forward to hearing the
inputs so that we can deal with this
complicated matter thank you
paul thank you very much you you can see
it's not pw
bother
sydney i wish i mean sipper
thank you so much doc
and thank you to my fellow
let me panelists it rather in this
particular
conversation so my preoccupation
is how to hold perpetrators accountable
and that's what i'm going to talk about
so we all you all can
relate and identify and document the
violations and we can say they've been
going on for years
what i want to discuss is the prospects
of accountability and and what are the
opportunities and the mechanisms that

are out there
so that people have a sense of whether
there's any prospect of accountability
and justice
for past current and what we
assume is going to be future crimes
thank you
thanks thanks sydney i'm now going to
ask
tony to start and the panelists seven
minutes each
the discussions five minutes each
i want to also explain that please
put up your hand if you want to
contribute after the panelists have
said their bit as i said earlier on in
deference to
eleanor who brought us here for this
discussion uh
i'll be should be the first after after
the panelist after the discussions i
made
so back to tony tony rila
thank you very much evo
you know i think it's absolutely
shameful that we can be here
in 2020 40 years after independence
and that we are still discussing
organized violence and torture
and by the way that term was coined here
in harare in 1990
in a very large conference to which irtc
and amnesty and many others were party
where we talked about the differences of
the violence that we saw in southern
africa
during the struggle for for freedom
and we realized in that term that that
torture
was a serious problem
but it fitted within the region in a
whole range of other things
forced displacements apart eight
etcetera etcetera so we

we coined a different term in in in 1990
and it's important to realize that
that's
that's now 30 years ago or more
that this country embraced the notion
that organized violence and torture
was anathema to the southern african
region so it is absolutely shameful that
we're still talking about it today
the point is that unless we deal with it
what we see
is that the cycles of organized violence
and torture
persist over time and they have done in
zimbabwe
zimbabwe has a really unhappy history
of organized violence and torture
we tend to think about the torture
the organized violence and torture from
1980 but we must not forget
the liberation war and the
the organized violence and torture that
took place there
now i'm raising these this notion of
cycles because these cycles
are identified by
mass violence followed by impunity
and this was begun before zimbabwe
became a state
under the smith regime in 1975
they passed a law called the indemnity
and compensation act
which essentially was proactive impunity
for any violation committed by a state
agent
and that's very serious what you're
saying ahead of time
is that if you do unacceptable things
you are excused
and mass violence
was continued and was ended in
in lancaster house but it was followed
immediately by two amnesties in 1979
under the british government in 1980 by

the zimbabwean government
we then went through another process in
the 80s
of mass violence followed by amnesty
and we followed in in to a lesser extent
since 2000
and certainly the 2000 election there
was an attempt at amnesty
so what we see is that zimbabwe has this
history of
periods of mass violence and we could
add into this period of mass violence
the absolutely violent elections in 2002
and 2008 and i want to point out you
know
that one of the things we do is in
zimbabwe is we forget our history
we are very focused on 2008 but those of
us who witnessed 2002
will know that that was a brutal
election
because it was not just around the
immediate election it began
in the year 2000 in all the by-elections
so there's been the sustained use of
violence
so what we see in zimbabwe in particular
is this relationship between mass
violence and then
impunity now i want to distinguish two
different
kinds of impunity here because gross
human rights violations have
increasingly become
unacceptable in the world with the rome
statute
the international criminal tribunals
people do not accept this we're having
conflicts about myanmar now
so formal impunities are seriously
problematic so the kind of amnesties and
pardons and these sorts of things
are no longer acceptable what we have
seen in zimbabwe is the replacement of

formal impunity with what i would call practical impunity that in this organized violence and torture that takes place what we see is that the victims are all too frequently arrested themselves on spurious charges and then tied up themselves in lengthy remand proceedings court proceedings cetera et cetera and in the end the charges against them are dismissed no investigation happens to the perpetrators and the only redress that the victim has is to resort to civil litigation and civil litigation is costly and lengthy and organizations like zimbabwe lawyers for human rights in the forum and others excuse me have all uh resorted to litigation and what is important about that litigation it has established that gross human rights violations have actually taken place the forum has a very important report that shows when you go to court the courts give damages to the victims on the basis that their gross human rights violations have been perpetrated but it's also important to think in this historical perspective about the legacy of organized violence and torture and it is very important that we have to see that what we carry in zimbabwe is the legacy of victims from every decade the decade before and the decades before independence and every decade since independence perhaps less in the 1990s and what has also happened is that in

none of this period has there ever been
an a formal system of assistance
to the victims that was not present
for the victims of the liberation war i
know this because
the organization i was part of at the
time the omani trust
we were staggered to find people two
decades after the liberation war
who had not been recognized as victims
of organized torture
and received the kind of therapy
physiotherapy etc that they should have
done
and the point about not providing system
this kind of assistance to victims and
particularly since 2000
it represents another form of impunity
because if the victims are not assisted
their stories will not be told and
therefore nobody will be embarrassed
by it and we have to remember
that the major consequence of organized
violence and torture
is psychological disorder it's not just
the bruised bodies
it's the disability psychological
disability that people live with
for decades afterwards what it also does
all of this violence over time it
destroys
both social capital and political trust
in a very
serious way in the state now it's
in political science it's very clear
that states
that fail to deliver public goods and
services lose
the trust of their citizens i think
that's manifest in zimbabwe
citizens are failed by the state and
live
in really powerless circumstances
and states that then deal with that lack

of trust and resort to coercion
increase that political trust mistrust
and zimbabwe currently
exemplifies this extensive use of
coercion
the failure to deliver public goods and
services and the consequences of
citizenry have lost all political trust
in the government in the state
i'm saying this because currently one of
the stories that is put out there
to deal with this legacy is that we must
have reconciliation
you can have reconciliation if people
trust the state
okay but if you do not have that and the
social capital of it is broken in the
ways that it is
and the political trust is damaged as
far as these are pious calls
for something that just cannot happen
the consequence of all of this
failure to deliver goods the coercion
that's used
has made zimbabwe the most politically
polarized country out of 31 african
states
and the point now is that was the case
18 months ago uh
at that election that was the comment
made by
uh an analysis done by the
afro-barometer that
zimbabwe is the most polarized country
the social capital
and the political trust in this country
is gone
and since that time what has happened is
things have got
worse not better there are more
violations
since the coup than in the period from
2013
to 2000 november 2017. they've increased

we see that the military are much more involved in violations than any other time than since 2000. if you look at the human rights reports you will see that the military have a very low presence until about 2008 but since 2017 they're very high profiled in the perpetration of gross human rights violations and very seriously and ebay referred to this in the beginning is abductions have increased significantly abductions are not hugely common in zimbabwe they have now become common and very serious so what should be done in all of this history i'm painting a picture of a country that has repetitive cycles of gross human rights violations and this is not recognized sufficiently by anyone it is critical that all states right now recognize that there is serious political violence and not sweeping it under the carpet as was done in 2002 or 2008 or 2018. in 2008 a uh south african government sent two respected jurists here to investigate the gross human rights violations the south african government suppressed those reports for nearly a decade in 2008 they sent two generals here nobody has ever seen that report and in 2018 we have a report the montanti commission about the violence that happened in 2018 not one single recommendation has really

been implemented
and where does this lead us to
i'm going to pick up on a point that was
raised in 2005
by anna tibojoka investigating
operation murambachina she made the
comment in all her analysis
and she made two comments about what
needed to be done
as a consequence the first one she
raised was
that this situation in zimbabwe evoked
the responsibility to
protect a non-binding convention that
was signed by every single member state
of the united nations in 2005.
and she said this is a case where the
responsibility
to protect should be evoked she also
raised the issue that that
had actually murambachina had
constituted crimes against humanity
um not strongly but i will say that
serious lawyers like the oxford pro bono
uh publico unit did an analysis and they
did agree that these were crimes against
humanity
and my colleague musa may talk about a
report
a recent report of the forum where they
allege that crimes against humanity had
been committed
and certainly this could be raised very
strongly
in respect of goku hindi but the point
about the responsibility to protect
and i want to quote the significant
section here
is that each individual state has the
responsibility to protect its
populations from genocide war crimes
ethnic cleansing and crimes against
humanity
this responsibility entails a prevention

of
such crimes including the incitement
through appropriate and necessary means
what they meant by that
was that other states have a
responsibility
to take this seriously when a country is
unable to either look after its citizens
or is actually making them unwell by
various means
this is a responsibility for every
country
and so that means intervening early and
heeding the warning signs
and what this means is that r2p as they
call it the responsibility to break
means that you challenge serenity
that's what has to happen in zimbabwe
the region doesn't sweep things under
the carpet it recognizes
that inherently zimbabwe is a violent
state
with governments pre and post
independence who have
no impu no compunction but to use
violence and then to find ways of
impunity to cover that up
and that means you have to interfere
and my point is that good neighbors do
interfere
just like good neighbors interfere in
abusive families
with domestic abuse or child abuse
when countries are being abused then it
is the responsibility
to protect the citizens so what do you
do now
you take the violence seriously and you
don't sweep it under the carpet
but you act thank you very much
thanks tony that's very good it gave us
a good historical perspective
and the common denominator the last
60 70 years in zimbabwe has been the

feature
of states under siege
and the religion state
now this is mobile state and
one of the common themes for those of us
who
we have witnessed the violence of the
colonial era
and tasted some of it in the
post-independence era
is the common denominator with respect
to the
the law and order maintenance act
under the religion regime
it was there we were detained
no trial indefinitely
and many of us perished thereby
the incident that we do we don't have
the law and ordinance actions in
zimbabwe
but the effect is the same
demand which abductions have been are
taking place
the aboriginal arrests so one can see a
constant theme
in our in our country
let me now turn to musa
thank you and thanks to tony before me i
think tony set us
a good path by providing us context
now the zimbabwe human rights ngo forum
is now and again reported
a report after another widespread cases
of torture
and abductions and i'm going to try and
reflect in my talk some of these reports
and what we document just to paint a
picture of what's happening now
what you notice is that what has been
happening in the colonial times
uh coming into early independence and
now the conversations remain the same
regarding these violations happening
what's worse

some of these violations are even worse
now like abductions we are at an
all-time high with abduction since
independence now
so in June 2020 the forum released a
report that we titled guns ran amok
where we were looking at extrajudicial
killings assault and torture
particularly around the August 2018
period and also the January 2019 period
the report does identify actually
systemic and widespread violation of
rights to such an extent that we
we suggest that because of the
widespread and system
nature of the violations crimes against
humanitarian fact
being committed again in June 2020
we released a report that is called
route by violence where we were
documenting patterns of politically
motivated violence
and we looked at the periods 1998 to
2019
and again cases like torture rape
abductions
are seen high up there when it comes to
politically motivated
violence but what is quite chilling
is that abductions have in fact been on
the rise
since November 2017. Tony made a point
about this
all the 20 members of the forum recorded
the following abductions 2018
we had 24 abductions in 2019
we had 67 abductions that's a massive
jump in 2020
so far as that October we have 15
abductions
11 of them are tied to the July 31st
protest
and this brings the total number of
abductions since

the new government came into place 206
and you have about 25 extrajudicial
killings
added to that as well now these
violations
have been noted by the international
community by
reaching our neighbor south africa by
the un
uh tony referred the statements that
were released by
various bodies for instance the u.n
human rights experts
on 10 june released a statement to the
effect that zimbabwe should immediately
end
the reported pattern of disappearances
and torture that are aimed at
suppressing
protesters and also descent
similarly the un high commissioner for
human rights released the statement on
24 july
2020 uh we saw on 7 august 2020 the
chairperson of the african union
commission also calling upon zimbabwe to
stop
its pattern of human rights abuses and
when the u.n
special reporter on the rise to freedom
of peaceful assembly and association
came to zimbabwe in 2019
he concluded that there is in fact a
serious deterioration
of the political economic and social
environment in zimbabwe since august
2018.
so that's the trajectory that we
essentially are in
and in 2019 the forum also released
another report called the new deception
what has changed in which we actually
show
that the record of the new dispensation

in opposing human rights
contrary to the government's own
rhetoric is in fact a downgrade
from the days of robert mugabe and
successive reports
uh actually indicates that of course the
government
has been rubbishing these figures the
government has been rubbishing
uh the evidence of abductions and
torture and in the government's books
there is probably no one who has been
abducted
in its tenure not a single soul has been
protected prosecuted in zimbabwe
for abductions uh what we have been
seeing in the past few months
um is a change intact in the manner in
which the government is responding to
organized violence and torture so our
government used to attribute
abductions to what they termed an
invisible third force
uh but perhaps out of realization that
third force or not the government
remains obligated to protect
the life and security of its citizens
the government then changed tact
and now they say abductions are stage
managed they are fake
meant to attract uh uh attention
so you then see government functionaries
and even ruling party functionalities
making statements to this effect that
abductions are fake even before
investigations are done in particular
cases you had patrick namaste saying
that in the case of
johanna mambe and the two mdc ladies you
had the minister of home affairs also
saying the same you have the information
secretary saying the same
essentially rubbishing claims of victims
who are coming forward to say

we have been abducted and tortured and the case of joanna mambe and the two other mdc ladies is also indicative of a new pattern where we are seeing criminalization of victims who come forward and report abductions so they come in reports but they become the ones to be arrested because they are supposedly faking their their their abductions and their goal in that is to try and ensure that no one comes forward to say i was abducted and tortured because there is no fear that if you do that you are actually the one who will be arrested and right so that fits then into the impunity that that uh tony ably covered and when it comes to impunity this again is well documented uh we released a report in 2019 court of justice under siege in which we were looking at the salvation of due process in the criminal courts where state-sponsored organized violence and torture is concerned in another report that we titled anti-impunity report 2019 we we documented impunity by design where a string of clemency orders and presidential pardons are issued after episodes of state-sponsored or politically motivated organized violence in torture we have seen this successively after election periods where in zimbabwe the graph of organized findings and torture spikes but then even in those cases where the state actually

admits that someone has been abducted we
have seen no prosecutions this is the
case with justina mukoku
where the state admitted in court that
yes the individual was abducted and
tortured and paid damages
but still no one has been prosecuted the
case of italia zamara is another case in
point
the car that was used was identified and
the owner was tricked
but nothing has been done and recently
the case of tawanda muche ui as well
where impala current house was was
implicated
uh but nothing has been done to check
who hired that vehicle
that was used in committing the offense
now all this inaction uh tends to
suggest
that those who investigate or those who
are empowered to other investigations
are in fact complicit
they are in fact implicated in this uh
it's a natural conclusion to
draw when you see in action even when
there is some
some some form of of evidence
now our government is consistently
refused
to be held accountable the government
looks down upon its courts but also
the regional and international
mechanisms that are there to hold
us accountable they have been shunned
the government is
up to now refused or neglected to sign
up to the convention against torture
as well as the convention on enforced
disappearances the government is not
signed up
to the african court on new men and
people's rights the government
is not signed up to the rome statute

which establishes the international
criminal court
and many of us on this call would recall
that it was in fact the government of
zimbabwe
in 2010 which led to the to the
dissolution of the sadaq tribunal
when a number of cases were decided
against zimbabwe
zimbabwe lobbied sadaq to dissolve that
and it was in fact dissolved
dissolved and now we have the saddaq
administrative tribunal
with cattle jurisdiction so what
this trajectory shows us is a government
that doesn't want to be held to account
instead what we are seeing is the
government
having interest in ensuring that people
don't talk about abductions
and people don't report so we have seen
incidences
where there is muscling of anyone who
seeks to talk about abductions and i
will give a case in point
uh on 25 june this year 2020
it was the day before the international
day in support of victims of torture
when the forum brought together a number
of torture victims and civil society
personnel to discuss torture or national
radio and this was capital fm a
state-owned
station which is owned by zen papers our
program was
was terminated mid-air because
the powers that we did not like the
content of that program when we later
engaged the authorities we were told
that
it's because the government was not
there to defend itself
and of course this shook us because we
couldn't understand

why it is that the government needed to
come to defend itself
on a program where victims are narrating
their ordeal
we are talking about torture and
abductions which are recognized criminal
offences at international law
so why would the government want to uh
to to to come and defend itself
of course perpetrators are always scared
of exposure and accountability
so what must be done uh this is the
picture this is the trajectory what must
be done
i suggest that it is important to
ensure that while least we are pushing
for
the legal and constitutional framework
to be operationalized
and the international accountability
mechanisms to be used
a citizen agency should be at the form
of these processes
i say so because when you have a a
a system where you've people who are in
charge and they are not
constitutionalists
they don't care about rule of law they
don't care about accountability
it is important for citizens to invoke
their power in terms of our constitution
all power is vested
in the people executive power judicial
the the the judicial power executive
power all that power is vested in the
people
now it is important for people to be
able to shape
the kind of system and the kind of
society that they need so i'm going to
suggest a few
action points number one documenting
it is extremely important for citizens
to organize themselves

and document evidence and patterns of abductions and torture and any form of organized violence
zimbabwe is not a post-conflict state it is a state in conflict
so these violations that we see happening now will actually form part of the broader transitional justice issues that we have to address now but also in a post-conflict state if we are to get there
that evidence is key and in the case of zimbabwe our crimes don't prescribe for at least 20 years but even if we are not to get accountability in the long run in the local courts
we do hope that the regional and international platforms will someday find efficacy
over the zimbabwean situation so we must document we must place things on record
number two i suggest strengthening accountability institutions and demanding effectiveness a lot of what we have with our institutions is performing democracy as opposed to real substantive democracy
so you have institutions that are created by the constitution
uh but that in fact do not save their purpose for their constitutional mandate so that we must push back and we must ensure that institutions like the zimbabwe human rights commission the national peace and reconciliation commission
and the courts the national prosecuting authority
live up to their constitutional expectations
uh we have in our constitution a mechanism that is provided under section 210 the independent mechanism

to deal with uh security sector human rights violations
uh last month we had a constitutional court judgment
in fact sometime earlier this month which said that
institution should be set up it's unacceptable seven years down the line since abduction of the new constitution for that institution not to be there so we must demand that institutions like that
are put in place we hear that the government is planning to subsume this institution under the proposed public protectors office uh covered under the current proposed amendments to the constitution uh but we know that that would eventually lead to an institution that is not independent and that will not be able to discharge its constitutional mandate so those are the kind of attempts by government that we must strongly push back on and then number three
i suggest pushing for regional and international accountability and i'm glad to any tax on this when you spoke about the responsibility uh to to to protect so groups that are fighting for uh accountability citizens should push for use of extra territory or jurisdiction to prosecute perpetrators wherever possible of course this then presupposes sufficient documentation of admissible admissible evidence but also a sense of peer accountability among nations in the region and beyond this is a whole big topic of

fellow countries fellows other countries
and even african countries
failing to hold each other to account
but it's not a lost cause
it's a frontier that must be advanced
and then number four
exposing and continuing to speak about
it we must expose perpetrators and those
implicated
uh expose the tactics expose
the trends and remain vigilant
we can't be silenced we need to
continuously talk about it
and then citizen agency
you know because of the system that we
have
uh it is very difficult to simply rely
on the legal mechanisms that are there
without having
people agitate you know for the the duty
bearers to be accountable
and for those frameworks to actually be
utilized
so the people should ensure that those
institutions
do their work uh nowadays with
technology
the people should use the devices that
they have and the mechanisms that are
there to
record violations expose perpetrators
collect
information piece that information
together
and there must always be an economic and
a political cost
to to human rights violations the
individuals that perpetrate some of them
are known
some of them have been exposed the
businesses that are implicated
some of them are known a lot of these
perpetrators
run businesses those businesses can be

known

i believe it is time for citizens to
mount their own sanctions against such
individuals and establishments
shun business with them shun association
with them etc etc that brings an
economic

cost to things uh when when when our
radio program met the forum was
terminated in june

we took the decision that we are not
going to

fund oppression by engaging those
businesses so we have stopped using
those kind of businesses

and we think if that kind of action were
to happen at a light skill

we are going to bring an economic cost
to to to oppression

uh and i'll end uh evo by saying the
following

you know in an autocratic system no one
is safe

those in power may think they are safe
but they are not

so even those who create the autocracy
are not safe

those who are sent to abduct people are
not safe

those who send abductors are themselves

uh not safe it's a cycle as tony puts it
it comes to haunt the creator

and then and william shakespeare in
macbeth put puts it

as follows he says blood instructions
which being taught

return to plague the inventor so it's a
cycle that

unless we break is going to continuously
hit us

i'll stop there

very thanks poignant uh presentation
muslim

i'm glad that you really the ngo forum

of which your director is documenting
i've always been worried about
documentation and i'm glad to know
and hear today that these are being
documented
um and really followed on very well from
tony will give a stronger perspective
to focus on the current and for those
and i hope they are the out there
people in denialism
you will have heard from musa abductions
have been taking place
over 100 abductions in the period since
since 2017. they are reality
yes we didn't we couldn't bring the some
of the victims
of this of this abductions
and torture before before this program
for various reasons
but i think the the the the account
given by musa
is so poignant it brings the reality of
what we're talking about
home if anyone had doubted it or yeah it
is
thanks very much let's move to malaya
thank you very much doc um yes so
yeah uh listening to uh tony and
and musa one just
can't help but think what else can be
done
in zimbabwe as i mentioned at the
beginning
amnesty has been working on zimbabwe for
a very long time
first when it was still southern
rhodesia
when most of us probably were not even
born
and then from the 1980s
when it became uh independent
so as amnesty we've always been
concerned with issues around
accountability and have produced many

reports over the years on zimbabwe in fact there's almost always one output or other on zimbabwe from amnesty international every month if you go to our pages you will find so much on on zimbabwe in terms of documentation and evidence that we have stored in our evidence lab on numerous occasions we've called on authorities to release political detainees often arrested on trump top charges we've also asked authorities to investigate all allegations of torture by state security agents we've documented many enforced disappearances uh musa was talking about some of them here in tai that so many torched her and extra judicial executions among a slew of other nefarious activities so on 23rd may 1997 pierre sunny who was then the secretary general of amnesty international wrote a letter to then president robert mugabe who was assuming the chairmanship of the organization of african unity the forerunner to the african union for those of you who were not yet born when the aiu was the thing in the letter he asked mugabe to commit himself and his government to resolving zimbabwe's need for greater openness and a public discussion of the massive human rights violations that took place in matabeleland and the midlands in the 1980s in 1983 mugabe as we all know appointed judge simplicia hambachu to chair a commission to investigate the killing of political

dissidents and other civilians in the
mataveliland region
as well as to gather testimony from
villagers about what occurred
this was the kukurakundi massacres the
report
as we all know was never published an
alternative report
breaking the silence which was prepared
by the catholic
commission for justice and peace as well
as the legal resources foundation
was produced the report stated that
there were more than 20 000 civilians
killed
tortured by security forces during the
operation
and evidence of mass graves even now
um were discovered in addition to the
location
of mine shafts where bodies have been
deposited no
action to date at a meeting in london
on 18 november 1985
amnesty international submitted an aid
memoir
to the minister of home affairs at the
time in osancala
which outlined various ways in which the
allegations of ocha mata beliland could
be investigated
we suggested among others an invitation
to the
u.n special rapporteur on torture to
conduct a thorough evaluation
of the prevalent allegations of torture
in january 1986 amnesty international
sent the government a detailed
memorandum that called for an
investigation into reports of torture
including
21 detailed cases of torture in bulawayo
or
elsewhere in matabeleland in february

1986

we published another report calling for
an investigation into the killing of
school teacher
luke kumalo and his wife who were killed
in an attack
unexplained now i'm talking about these
examples
among many to show the road we have
walked on zimbabwe
but as you have heard from the previous
speakers
there is still no accountability and the
impunity continues
and amnesty continues to to document um
just like others and to also publish
just like others
right now uh there needs to be a new
demand for criminal sanctions
what we've documented over the years on
zimbabwe could be classified as crimes
against humanity and
musa and uh tony talked about it um
and just not to assume um
that everyone understands what crimes
against uh humanity are
uh these are acts that are
purposely committed as part of the
widespread or systematic attack
directed against any civilians in time
of war
or in peace so i'm saying this
uh just to emphasize that these are
committed as a part of
as a part of widespread
or systematic attack the goku rahundi
massacres and many others
we still document a date four squarely
within that arena
they are not isolated incidents but are
part of either a government
policy or a widespread practice of
atrocities tolerated or condoned by a
government

by the government of zimbabwe so things
such as kidnappings which
musa i think alluded to enforced
disappearances torture for example
may reach the threshold of crimes
against humanity if they are white
if they're widespread and systematic in
our own estimate
estimation as amnesty they are
widespread and they are
uh systematic uh so
what um what has happened in the past of
course we know that uh crimes against
humanity have been prosecuted
by various courts the international
criminal tribunal for the former
yugoslavia for example
um the international criminal tribunal
where i worked for some time
uh in rwanda and now we're talking about
the international criminal court
as well as in domestic prosecutions and
other
hybrid sort of courts
now even though crimes against humanity
are not codified
uh in an international convention
there's currently an international
effort to establish
such a treaty led by the crimes again
against humanity initiative
um so the the the crime
um uh crimes against humanity
uh has the concept of
crimes against humanity has really
developed through the evolution
of customary international law and this
last point about customary international
law is important because
it's universal in its reach so i have
heard many people
and many times people talking about
referring individuals from zimbabwe
to the icc because in in many instances

the perpetrators are known um so it's not a secret they are known and as we have heard zimbabwe is not a member of the rome statute and ordinarily in order for the icc to prosecute a country must be a member by having ratified their own statute or indeed if not a member they must accept its jurisdiction however technically the icc has global jurisdiction because even if a country is in a party it would be compelled to cooperate with the court if the particular case is referred by the u.n security council and so i i now want to go to what the options are um uh in addition to what my colleagues have already spoken about and the first and in no particular order whatsoever is building an international coalition to advocate that the u.n security council refers some of these crimes to the icc and i'm suggesting this route because there has been a lot of advocacy at sub regional regional and other international bodies such as the au sadek we've just heard from musa how the sudden tribunal was killed by uh by zimbabwe the african commission which continues to do a stellar job in just bringing out some of these things and i'm glad that the au is now talking a little bit more about what is happening in zimbabwe so there's a lot of documentation as i said earlier on atrocities committed in zimbabwe but there's something to be said about people being made an example

um at fora like the icc
the shame such as we see now with the
referral to the icc
of the former sudanese president omar
al-bashir
is a is a case in point of course there
are limitations to using this route
because the jurisdiction of the icc only
applies to crimes committed after one
july 2002
when the rome statute entered into force
so this would still leave out atrocities
committed in the 80s and 90s but we know
that there are so many other atrocities
that have been committed
since the statute came into effect
the second is and musa mentioned this
is getting um
solidarity i like to talk about
regional and international solidarity
moses spoke about national um
action so in addition to that i think
that we need to build
that coalition of people in regionally
and internationally and i
think that there is still appetite for
that
um to really
bring to bear um issues
uh that are happening in in zimbabwe
some of these processes may look
long and arduous but i think there's
something to still be said about
international processes
right now i know that malawi has been
elected
as we all know uh omeno has been elected
to be a member of the human rights
council
what message are we a civil society
taking to malawi
um we have an opportunity now with this
new president
and we hope that it it won't be

squandered but
how can we use that sometimes it's the
small
countries that will surprise you
um and actually bring um
uh certain topics to uh to the fall
um so what can we do there i'm sure
there's lots that can be done
uh because there are some countries that
are receptive
so how can we organize ourselves around
uh getting
malawi to play an important role while
they're still on the
human rights council for the next three
years and then lastly
the conversations such as the one we're
having are very important
um how do we because you know sometimes
we we seem to think that
well we're just talking and talking but
actually talking does lead somewhere
um eventually uh how do we
build on these conversations such as
this one
and create a noisy coalition around
countries such as south africa south
africa is
a regional giant even though now i don't
think that south africa has been playing
the role that it should be playing
um they i i do think
that uh south africa is still a country
that feels a little bit embarrassed
by um uh international pressure
so how can we work around how can we use
that how can we leverage that
to really be noisy about the role that
south africa can play
to support some of the initiatives um
regionally and internationally so um
i'll end there and i hope there'll be
time for
um questions uh later thank you

excellent excellent excellent layer
thank you very much indeed
and the the threat implicit
in your presentation should surely
it should act as a deterrent if we
proceed and thank you for
for acknowledging us as part of the
conversation towards a noisy coalition
around the neighborhood
and and including malawi as i said
earlier in my introduction the
there's no doubt that the media and such
conversations have helped
to provoke the region to some kind of
awareness on zimbabwe
such as being shown by the south african
visits to zimbabwe with the hope that it
becomes more multilateral
and that the au should not just stop by
making statements
but also show some teeth let me now turn
to the discussions
i'll begin with uh lisa
thank you i hope you're hearing me
yes uh well as a discussion first i will
raise some themes that i've been hearing
in the conversations and then i'll speak
a little bit about the international
rehabilitation council for torture
survivors if you will
um some of the themes that i'm really
hearing clearly come through
are this about you know breaking the
cycles of violence that we're seeing
happening
it's about documentation and we know
there's a lot of documentation going on
but i'm hearing some really interesting
pieces about how to
improve that documentation how to
enhance it
and use this vehicle of citizen agency
in our documentation and i would
actually even

talk about the work of the irct in
knowing
exactly what kind of documentation is
necessary
in order to document that torturous
happened what are the particular
procedures you have to follow
um how do you document it where do you
bring it so there's there's
definitely a convergence of ideas there
i'm also hearing a very interesting
commentary about pressure right so using
peer pressure and i think maleo is a
really interesting
piece you brought forward about malawi
and we have an african nation there that
could potentially be a vehicle for some
you know interesting um pressure points
i would also point out ghana because as
the nations who are involved in looking
at the torture convention
and the convention against torture ghana
is one of the five six countries
together with denmark who are
actually part of the like-minded
countries who work
in particular on getting more and more
states to sign up and ratify
so i would invite the conversation about
what about using ghana
as you know a pressure point
particularly with respect to
to zimbabwe potentially
the last one that i think is really
interesting is this whole idea about
um yeah the noisy coalition so
exactly conversations like this combined
with additional documentation and and
getting more momentum behind what's
going on
and this idea about being noisy about
bringing our voice to bear with
documentation
so those were just some themes i was

hearing as a discussant
um evo back to you but but back to irt
just for a brief moment if you will
so the international rehabilitation
council for torture
victims
has always been looking at zimbabwe and
working on the case of zimbabwe
tony realer was a co-founder of the
organization and
you know the counseling services unit
has been
instrumental in helping this global
movement of organizations
who work to make sure that torture
survivors
have a right to rehabilitation and that
we work to
to eradicate torture i'm really happy to
be part of the council
the discussions today to kind of give
back
so from our perspective
in rct the most important thing is
signing up to international human rights
treaties
even though there's a feeling of
impunity
the commitment that has been made and if
you look back to 2016 where the
government of zimbabwe actually
committed
at the universal periodic review to
ratifying the convention against torture
that commitment has to be returned to we
have to bring that back into play we
have to
i suggest talk about that because this
clear commitment
to using the international human rights
treaties would be also a commitment and
a statement to zimbabweans who are
fighting for this
and to the international community to

end torture
why to do this because this commitment
also would open the door to even more
international support and technical
assistance
as you said yourself evo there are some
like-minded people within society there
are people who are denouncing this
violence
there are some good people within the
system who want to be working in a
different way
so by opening a bit of a door there
there could be some more
technical assistance and support coming
in from organizations like ourselves
from the international forensic experts
group
who would be able to provide additional
assistance
and why to do this because we can also
see in many other countries around the
world and in this region that's signing
up to the universal
convention against uh torture and the
opcat
has also initiated global improvements
in these countries
we understand this it's primarily a
system of impunity at this time but
but the international tree bodies are
the system we have
so we are still um
speaking for an rct that that states
step up to this
we have expertise in our organization
for helping on the right to
rehabilitation
we've also developed standards within
the field of the right to rehabilitation
and at this point our our emphasis in
our organization
is looking at how are individuals
actually enjoying if

at all the right to rehabilitation i
would say in zimbabwe they're not
enjoying it at all
aside from the phenomenal work that's
being done by the civil society
organizations
but it is the right of this it is the
responsibility of the state to be doing
this so the
ngos who are doing it now are filling a
gap
um it's important though to state that
as i mentioned before along with the
danish government
the ghanaian government is part of those
leading the fight in the international
community for
um the torture conventions and and
signatories and ratification
so again we would appeal and and bring
into play just as
amnesty did what about african nations
where are they and where's the
leadership here
and could ghana be applying some peer
pressure to the situation or to the
government of zimbabwe
finally i would say that um with respect
to ensuring justice and again back to
the work that irtc has been doing across
the world
we have a significant group of
international forensic
experts who are available to
support in principled cases with
gathering the relevant data and
documentation
taking health data analyzing it with
elite through a legal lens
and being able to bring that to court
they're also available to provide
training
human rights defenders um to document in
the correct way and i know i was hearing

from malaya there's a lot of this
already going on
but again just to re-emphasize we are
there to help we have an expertise
that's worldwide and and whatever we can
do we would be more than willing to and
have been doing for years but it's just
reiterating that support
thank you very much
thank you lisa thank you very much
indeed
um program
hello everybody and thank you very much
to the speakers
i thought the papers were
really important and significant
and i want to thank
everyone for organizing this forum
in a situation which is as dire as the
one we are presently facing
and having this type of internationally
accessible
forum which gives visibility to
activists
and humanizes victims and tells their
stories
um and helps to re-establish zimbabwe
as a course celebre is
critical because the world is a
noisy place at the moment it's not just
the coalitions that are noisy
and there are many many people clamoring
for attention
and many struggles which are
gaining that attention and so
our ability to raise
the the profile of the zimbabwe case
is quite critical um i
i want to make a few prepared remarks
very brief
and then say reflect a little bit on
what people
said so without
civil liberties which are

essentially undermined and destroyed
claiming political rights is extremely
costly as people know
and without political and civil rights
attaining social and economic rights for
all
people as opposed for a privileged few
is
is almost impossible and
zimbabwe remains an unfree country
the freedom house um scores
of which there will be a new iteration
early in the new year i have
have zimbabwe in in the category of
partly free countries
i want to come back to that if i have
time but the one thing that's very clear
is that
civil liberties are extremely
poorly scored political rights
is what tips people over the edge and i
think
the assumption that many analysts make
is that electoral democracy somehow
makes
a country slightly more free
i personally differ on that but
and so there's no
evidence that either zimbabwe's
incumbent government
or indeed the several neighboring
governments
or sadiq are really willing or able
to change the levels of freedom inside
zimbabwe at the moment despite
the more recent statements
we've got a long way to go before words
become
actions of any sort
and human rights defenders are being
given support
in zimbabwe both by domestic
human rights groups and international
human rights groups

but this is the support that field
hospitals
provide on the side of a battlefield
rather than support that substantially
changes
the power relations inside the country
and while the international community is
divided as i believe it is presently
with the conflicts in the
in the eastern mediterranean
the disasters in
so-called western democracies and
the difficulties that people are having
in the east and in latin america
and while the remnants of political
society inside zimbabwe
seem to be intent rather on trying to
reclaim past glories
and confront the present realities it's
very hard actually to see what
must be done but of course as the saying
goes we cannot
go on we must go on and the one thing
about zimbabwe is that civil society has
never capitulated
despite what we heard from musa
civil society zimbabweans inside and
outside zimbabwe have never given in to
despair
and you've talked about the
documentation
and now i just want to reflect very
briefly on some of these comments
with human rights documentation is it
will have some retrospective
ability to deal with impunity it
might have some disincentive on present
human rights abuse if people know that
they are being watched
and they take that watching seriously
because they know to whom
the watchers are reporting
and it might have some
validity in terms of popularizing as you

are doing today
the struggles that people are facing and
the
manner in which they are being
victimized and the difficulty that that
causes for anyone trying to assert their
rights
because one of the things about zimbabwe
is that
people think of it as a at least a
somewhat democratic state
in which the present government
aspires to democracy in the day and
autocracy in the dark
and the fact that people visibly talk
about
their struggles they go to court
they achieve civil remedies occasionally
people study zimbabwe suggest to the
outside world that actually
it's not as bad as we all know it is
somehow we have to change this
attitude and approach and it's clear
that
the message is not entirely getting
through through the reports alone
that brings me to to
malawi's suggestion that there's a
coalition that
starts to be more focused
maybe we need to think of fewer things
and derive the international mandate
from zimbabwe voices who have
clear and communicated objectives
to those of us acting in solidarity
outside
they've been times when that has not
always been the case
and they've been desperate voices about
what can be done
i hope that that can change um
well also mentioned malawi
you you'll remember that we have a case
in

in africa of gambia taking up the
struggles of the
rohingya people and succeeding in
putting that pace
more firmly on the international stage i
think there may well be something to be
said
for taking malawi more seriously
as an ally relying
less heavily on south africa which has
to be honest its own problems and which
is
increasingly parochial and i suspect
with the civil war inside the anc
is going to continue to be parochial
for some time to come
i i hope that people heard musa talking
about
citizen agency
as i've reflected on zimbabwe recently
and on the demands in the international
human rights
world and on the causes that gain
attention
it's been very hard to overlook
the citizens of belarus
now all countries are different
the manner in which violence manifests
in zimbabwe
is so well documented by tony and we
know how
damaged it has been to the country and
to individuals
but there's no doubt that the
international community
will begin to see zimbabwe
as a fundamental challenge to human
rights globally
as agency is exercised within the
country itself
thanks so much ibu and and the panelists
for
your work and your presentations
thanks very much for for that very

solid advice obviously based on years of
experience
we have all focusing on the idea of this
coalition
malaya's term coalition
no noise coalition
unfortunately the poor we can't avoid in
south africa
first of all as you know we have three
million of our citizens there
zimbabwes not to mention those of other
countries in the region and
it is the power so to speak
and the international community in
particular
tend to look at south africa as the
reference point everything that happens
in the region
yes we we hear you
let's see what happens with malawi
sipo my dear sydney
thank you so much evil um
there's very little that hasn't been
saved
so i will try to really just cover
aspects that uh maybe reinforce
uh crucial aspects that have been raised
but also cover
just a few aspects uh that have not yet
been covered
uh thank you so much tony for walking us
through
not even a panoramic or
or picture picturesque view of
the history of atrocity in our country
it's actually a solid walk
through it's not even through a park
it's through a chamber of horrors
that walked us through there and
i i want to appreciate your
your your very
clear up understanding of the history
of violence in our country and its
source

in impunity inbuilt impunity
in the way in which the state interacts
with citizens
a state pre-independence
that was predisposed to violence and
then
put in place legal insulation
to avoid accountability for its violence
against citizens
the the indemnity and compensation act
by the rhodesian regime
and the amnesties that followed by lord
psalms and then
and then subsequently throughout
post-independent history
it is very clear that the state
in zimbabwe and its
predecessor fashioned
a modest operandi of violent engagement
with his citizens
and then fashioned a system of
protection of itself
for what it clearly understood and knew
were criminal acts
by legalizing those criminal acts
post-facto
or preemptively by creating these
amnesty
provisions in the laws and then of
course
that is just the legal aspect but but
this was
very enthusiastically accompanied by
a practice where
nobody got none of the people who in the
state who committed crimes would ever
face accountability there would be
they would be allowed to go squat free
this is where we are um 40 years after
independence this is exactly what has
been happening
uh the
the perpetrators they feel that they
walk on water uh

like jesus did they can literally get away with anything because they have got away with anything and everything um so that's the perspective that's the history but in truth they can't get away with everything it's impossible that anybody can get away with everything uh you can only get away with everything if you control the power and the ability of those that hold to hold you accountable that's all you can only get away with anything and everything within a limited set of circumstances um so my my my intervention is in three parts so i'm going to talk about the crimes and then i'm going to talk about criminal responsibility and then i'm going to talk about accountability so there is absolutely no doubt that the abuses that we have seen in post-independent zimbabwe are crimes under our law they're criminal acts they are not something that somebody does that is not covered by the law as a result they must invite criminal consequences and in our law criminal consequences for a crime is an arrest in the prosecution and if found guilty a conviction and imprisonment or a sentence so every crime that is committed in society must be visited by those consequences every crime that has been committed in zimbabwe is due to be visited by those consequences so we must we must be under no illusion

about the acts
about the conduct of state officials
ruling party officials or functionaries
that may neither be state or ruling
party
who have committed crimes and i i will
go on here to say
that all the acts that have been
described over time including by my
brother
kika constitute crimes
under our national law the revised
criminal code and its predecessor the
criminal
law which was the common criminal law in
zimbabwe
it is a crime to beat somebody in
zimbabwe it's the
the criminal conduct is called assault
and it has different gradations
if it is severe it is called with a soul
to do grievous bodily harm
and if the assault results in a death it
can be called murder
we have those crimes in our statute
books
there are other crimes that have been
committed which are also crimes in our
criminal law
so abductions in our criminal law
classically are called kidnappings
these are crimes under our law if you
take somebody against their will and you
hold them against their will you commit
the crime of kidnapping
and that crime the sentence ranges
in our statute books from a period of
imprisonment to the death penalty
i had the privilege of dealing with an
abduction case many years ago
i don't have the time to share it and
and a former
former advocate the late advocate
anderson

we engaged him as council and he he had
the
inauspicious responsibility of telling
my clients
who are shocked to hear him stay well
you know
the penalty for the crime you're accused
of ranges from a prison sentence to the
death penalty
my clients almost fell off their chairs
they had not even quite understood that
what they had done
could even amount to the death penalty
there are many other crimes crimes
against women
rape is a crime in our law i'm talking
about our domestic law
and of course murder is a crime in our
law our law does not recognize the crime
of mass murder
but i'll talk about those crimes under
international law
so it is quite clear and
incontrovertible
that the earth and the abuses we are
describing that have gone on in zimbabwe
and that are going on in zimbabwe right
now
are crimes
and therefore as crimes
they require criminal
legal consequence it's important for
perpetrators to know that
that they have committed a committing
end
or are committing crimes the second part
is that
they are not just crimes under under
criminal law zimbabwean criminal their
crimes under international law
malaya has described crimes against
humanity
and all the crimes that we see in
zimbabwe fall

into a range of three categories of international crimes
the first torture torture is an international crime
the convention against torture is now customary international law
whether or not you are a party to the torture convention
you are still bound by it
and we must we must remember that the commission of international criminal of international crimes attracts universal jurisdiction
especially if those those crimes are also crimes under customary international law
i hear a lot of excitement coming from lawyers for the ruling party
lawyers that advise these perpetrators we are not a party to the international criminal court i say yeah keep thinking that keep committing crimes keep committing torture
keep committing crimes against humanity it does not matter whether you're a party to it or not
but shia was not a party to it but he's going to the international criminal court he's going there
he refused to sign just like mugabe he refused to be a party to international criminal court
but the minute you commit an international crime regardless of where you're committed
you have committed an international crime and you will remain liable until the law catches up with you and it will at some point
so it's very important that perpetrators know this
they must not fool themselves they must not lie to themselves
the only reason why they are not being

held to account is because they are
clinging on to power right now
and they and of course continue clinging
to power but we know what happens the
more you use power the more you lose it
you will lose power
at some point just like mugabe lost
power who would have thought
mugabe would ever lose power so the
point for me is this
there is still time to stop committing
crimes
it is possible to stop committing crimes
you don't have to continue committing
crimes
now when it comes to who is accountable
we know i think it was uh
tony who said that the arguments have
been well
uh it was my brother musa actually who
said the arguments have been
we are not committing these crimes this
is a third force and then these are fake
abductions but let us remember one more
thing that's so
important associated with the notion of
international crimes is the notion of
criminal responsibility
what does that mean criminal
responsibility
is the level of perpetration of a crime
it is the responsibility of perpetrators
of a crime
it is the notion that determines who
is held accountable and responsible for
a crime there's two
there's two types of responsibility
under international law for crimes
the first is individual responsibility
individual criminal responsibility and
that includes
the responsibility of direct
perpetrators of crime
so the person who goes out the ferret

member who goes out and knocks down the door
and drags out an activist and goes and tortures him
is directly and individually criminally responsible for that crime
a person who aids and abets a crime is individually responsible for that crime what is to aid in the bed to provide a car impala rentals for example is directly and criminally responsible
for participating in the abduction of tawandam
they don't need to have been there they provided the vehicle
you are also criminally responsible if you provide the finance
you are criminally responsible if you provide the planning
if you provide the logistical support you are criminally responsible
if you just stand outside and watch as a god
so it is very clear that criminal responsibility covers anybody and everybody who is involved in the perpetration
the aiding the support any logistical and even any planning and designing of a crime
that is the first thing it also includes anybody who orders the commission of a crime
so if you order even if you're not present at the time
if you have if even if you're not there
if you say please go and do xyz you are individually criminally responsible for that crime
there is another level of responsibility which is the most dangerous for our political and military leaders and i don't know

why they don't even see this it is called command responsibility or superior responsibility command responsibility is the responsibility of any person in command for the crimes of their subordinate so a subordinate can go and commit a crime you don't even need to be there you can be held criminally responsible if you fail to do a number of things firstly if you fail to prevent the commission of the crime and secondly if you fail to prosecute and punish that crime mugabe clear candidate for criminal responsibility he died without even facing his justice because even if he was to argue well we've got enough evidence that mugabe actually sent out the gurundi it was a widespread and systematic attack the role of the state organizing the brigade training it equipping it so what malaya talked about earlier the definition of a crime against humanity is met by many of the crimes we see a widespread and systematic attack against the civilian population that's what we see all the time widespread and systematic attacks widespread and systematic abductions widespread and systematic torture widespread systematic beatings of civilians it's widespread it's systematic it requires the mobilization of significant state resources it requires the order requires the police it requires everybody out there these are crimes against humanity and

let us assume
for example that as many people want to
argue that kukura only
so long ago the rome statue doesn't
apply all the crimes that have happened
more recently
are covered
they are covered by international law
and international justice
so the last point for me is this
the failure to punish a crime once you
are away
as a commander or a superior or a
political leader
mind you command responsibility is not
restricted only to military leaders it
is
also it is also uh
uh inclusive of political leaders
the prime minister of rwanda was
convicted under command under superior
responsibility
the mayor akayesu
was convicted mayor a mayor
general of christian in bosnia or israel
was a croat i think you can correct
malaya
general christian was convicted of rape
as a crime against humanity by his
soldiers he was never even near the area
where the rapes were committed
he was convicted for rape by his
soldiers
he was not even there he was not even
there
so i'm saying this and i'm i'm imploring
the political and military leaders
stop your subordinates from committing
the crimes because you are
going to go down for them stop them
i'm assuming you're not ordering those
crimes if you
are you will go down for them as for
individual criminal responsibility

but if you are not you are not doing
yourself as a favor by not stopping them
if you are a commander of the army any
military person who commits a crime
which is then brought to your attention
and you fail to prevent or to punish
that person
you are liable
it doesn't matter that you didn't do it
it's not enough for you to say no but i
didn't do it i was sitting in my house
i didn't order this crime it does not
work like that
you are liable criminally
for any subordinate so if you want to if
you want to distance yourself from the
crime
hold any perpetrator accountable arrest
them prosecute them
sure that you are not part of it
so that's my so my last point is
accountability i'm not going to say much
more because i think malaya talked about
this
the allegation in the argument that
because we're not zimbabwe is not a part
of the iecc
it is not possible to hold any
perpetrator accountable
is a fallacy it is a complete
and utter fallacy
i've already mentioned the case of
bashir
it does not matter that you are not a
party to the icc
and mind you even if you're another
party to the icc zimbabwe and still
hold the prerogative of holding you
accountable at some point in time
and mind you universal jurisdiction
allows for you
to be arrested elsewhere
and there are some countries that are
very pleased and eager to exercise it

it's complicated there's issues around
head of state immunity
but we all know what the decisions on
that have been there is no head of state
immunity anymore for crimes against
humanity
that is why bashir had to run
like a fox from south africa
because south africa was was was
obligated to arrest him he was a head of
state if you remember
he was here at an au summit there is no
immunity head of state community now
customer
law has removed
especially for international crimes so
my last point is simply that
there are consequences there may not be
consequences in the spaces you control
simply because you control those cons
those those places
but there are consequences for
international crimes what can we do now
we can stop committing the crimes and
you can like the club did
declared got away with murder he got
away crimes against humanity that's what
he did
you can negotiate your way out you can
negotiate a process
that allows the country to transition
from this period of blood
blood letting and violence into a period
of peace
whereas part of your negotiation you
negotiate with the people of zimbabwe
to let you go for your crimes
you have to ask the people of zimbabwe
to let you go for your crimes
because the crimes have not gone away
and they will not go away
i personally believe that the people of
zimbabwe may be willing to have that
conversation

i don't think they should but i believe
they may be willing the people of south
africa were willing to have that
conversation
in el salvador they had those
conversations in chile and argentina
they had similar conversations
that's called transitional justice
i don't particularly like it because i
don't like people to get away with
murder
but sometimes a political transition
does require trade-offs
and this is the time and i say this
even as a lawyer who prefers more than
anything else
accountability under international law i
want to see people
face justice for what they have done but
the window is closing
as these perpetrators believe they are
they are invincible
i'm saying the window is closing but she
never saw how how much the window had
closed until it was too late
next thing zimbabweans are hauling you
through the course and the legal
process over there just taking you and
handing you over to the criminal court
and saying please deal with this person
we can't we don't even want them here
and i'm saying you still have control
over the narrative
you have control over the political
process fashion
a transition that allows the country to
move from this terrible terrible bloody
period
to a process where you step away
but you still step away and you
negotiate for your freedom
because it's not guaranteed it's never
guaranteed when you commit crimes
thank you so much

skipper sydney has brutal
brutal hope this can be
tony this must be documented this entire
conversation
and published it's very important i
think you have answered the question
what what is to be done now
saying it as if as you have
he gives a poignant message
a real message a strong message
hands please helen are you ready
people may put up their hands or begin
with eleanor
then this is jannah okay
uh thank you your hands will note you
down
okay thank you and all the people
uh speaking after me it's a bit of a
tall order to
speak after sipo he really rise up
people's emotions
uh you know a lot has been said
that i i agree with totally uh
the international remedies what must be
done in the region
uh i i think sippo's points are really
important
uh so i'm not going to
try not to repeat anything anyone has
said i just want to pick up
on the issue of uh that was raised about
citizen agency
because i truly believe that a lot of
what happens is not just
the the regime to be blamed
but also a citizen apathy you know the
saying that
bad things happen when good men do
nothing
and i think there's a lot of apathy and
almost an acceptance
of some of these things when uh i
remember coming back from senegal
uh after after going to study there

when my boss evo mandaza forced me to
suffer
nine months in west africa
and i came back and
an aunt was telling me about what
happened while i was away
and she said you know so and so
committed suicide
uh and this woman worked for the army
she said she committed suicide
she drank that acid you know the one
that the army uses to make people
disappear
the way this thing was said it was like
you know there was no shock and horror
that the army
has acid that makes people disappear it
was an acceptance
and i think there's a large extent of
acceptance and there's a lot of citizen
apathy
and i agree with everything that must be
done on the legal front the
international remedies
but i think there have to be ways to
make citizens
more conscious i you know i we've seen
what has happened in the u.s the
the killing of george floyd which has
really
brought on a sea change uh in american
policy um and politics and as
you know fueled the black life movement
and i think we need to
have strategies to make citizens
more conscious and i think it's the way
we tell stories and
present things the way things are
present have been presented today
very articulately and um
and are good for human rights activists
and specialist communities but i think
when we talk to citizens we must present
stories

and we must give names of people and the criticism

i have of the human rights well both of civil society and zimbabwean political movements is that we've not we've not hammered on these stories we've not hammered

people respond to individuals

i think you know the anc used mandela as a name because and and it was a good move because

people respond to someone and relate to someone

if you just give numbers and say 20 30 40 words

abducted over the last while for ordinary people that doesn't have such an impact and i just want to

i i also feel it's just important to mention people's names when we do this so you know i want to mention uh rashiwe kuja who disappeared in 1990 it's in citole 1975

with his secretary maria miriam never found again

1989 captain edward leia

early 1990s marceline zumbura

2000 patrick nabanga polling agent

uh in the 2000 june 2000

parliamentary elections kaninkala

um 2001 uh

abigail chiroto 2008 tondera indira

2008 justina mococo

2008 and i certainly believe that

justina's life was saved by

immediate and uh strong

international protest and along with

justina

a number about 70 in mdc activists

including a two-year-old nigel

mutteimakau

and his uh his mother

was kidnapped with his his mother violet

and his father colin mutimagaw and

it also included a 70 year old activist
then february 2012 paul jesus
vanished 9th of march and i always
remember on my birthday
he tied zamara who disappeared
then samantha korea more recently peter
magombe
and then the young women from the mtc
joanna and i just forget the others at
the moment
it's really important to personalize
this
and and and put and i i i want to make a
suggestion that you have
international day of victims of enforced
disappearances
which was declared by the un on 24 21st
december uh by its resolution
um 65 209
and the same resolution welcomed the
adoption of the
um convention of the
protection of persons from enforced
disappearances
and i really believe that on this day
zimbabwean should
use it as an advocacy and remind people
of all these names we're not just
talking about
abstractions we're talking about names
of people
and we have to repeat these stories
and let people hear the stories on on
the days of
uh the international day of torture
commemorations
you have people in kosovo repeating
their stories people in uruguay
uruguay repeating their stories i think
many of you may remember the
the protest of the women in chile the
the i mean in
the protest of the mothers against
enforced disappearances that went on

for years and years and i think these stories of enforced disappearances need to be repeated and there needs to be a a popular an effort well i would say it's a propaganda effort to counter the propaganda of the state we need a counter narrative to this story of the very pernicious um argument that the state uses that these abductions were that people abduct themselves and and we can't deny that that has some success and a considerable demobilizing effect on many people and we have to counter these narratives and you know we've got the tool we've got the social media tools that we didn't have before that even if the regime controls the the airwaves they don't control um twitter they don't control whatsapp they don't control facebook and we must use these to actually hammer this message home in the same way that the regime hammers the message of sanctions and they do it constantly and they've done it with some success in the region so we really need to do this i i think that we if we also don't reach ordinary people and we don't reach the populace of the zimbabwe zimbabweans i'm afraid that the zimbabwean population has under colonialism then under xanupf actually sees some of these things as normal and doesn't respond i i see in south africa a far different level of response you know if the south african

the south african government not to say
that
it doesn't do uh things i mean people
talk about marikana of course and
uh other abuses but it's much more
difficult the cost is much higher
for the states to abduct individuals
or to kill them and i think that
we need to drive the cost higher for
example this impala car sales
i really can't understand why there
hasn't been a mess boycott campaign
against them
because you know when you ask people for
solidarity
it's easy if you ask them for one thing
if you say
just do this thing just let's boycott
this
impala let's find out let's lobby with
if it's in south africa with whatever
license registration they have let's
work to get it withdrawn
let's if you ask people to do one simple
thing
our our lesson with all the advocacy
that we did
in crisis in zimbabwe coalition between
2003 and 2009
our most successful advocacy was around
justina mukulko's abduction
where we saw people who hadn't been
mobilized before
come up because there was a name and a
person and a face
and people rallied behind and i
genuinely believe
that that's that saved justina's life
and the fact that of actually saying
there is this person
and and it had a knock-on effect that
the other people who were abducted were
also saved
i i think the stories we just dropped

them for example nigel
mutimakaw nigel was two years old
and i asked myself where is nigel now
you know what has happened to nigel
surely this is the things that we should
be bringing up
year after year you know we we just let
things drop
we have operation with china
and the same kind of operation has been
going we we just let that drop
we don't remind this regime we don't
remind the region
this is what this regime did and this is
what it is
continuing to do so i would say on the
propaganda side
we just need a strong powerful narrative
where we will hammer
and hammer and hammer on this thank you
thanks eleanor thanks
thanks very much and thanks again for
bringing the subject up and
i'm sure you are you feel that the panel
has acquitted themselves
enormously today far beyond my
expectations
um i'll take one or two hands
because we run out of time any any hands
there janna
are you there
okay so i'll go i'll have to go back to
lisa
to do your summary and conclusion
followed by a program
and then simple again
and then malaya
musa and then last but not least tony
in that order
thank you uh yeah a really uh
powerful conversation tonight
i can only uh condone and and support
the ideas of
international accountability um

making sure we use the international
tools the international human rights
bodies and treaties refer to them
crimes have been committed document
these crimes have been committed
continue to claim a crime that's been
committed and documented and proved that
case

and i think community activism is um
an incredibly powerful tool and the
tools of documentation are at our hands
so knowing what to document knowing
where to bring that documentation to
bring

the individual documentation combined
with the individual stories
is obviously a tool that is successful
and i i really appreciate uh eleanor
your words

and your your call to um
you know strongly um hammer
uh repeatedly incessantly
consistently on the abuses call them out
and pursue justice thank you
thank you thank you very much
paul um thanks

to everybody for uh for this event
i do hope that there will be
um a push for an international campaign
to get the attention of
international courts um
let's not leave that too long
i also just want to remind everybody
that

advocacy for zimbabwe in the
international community
may sometimes fall on deaf ears
even with elected governments or states
that have
theoretically human rights components to
their
foreign affairs but that does not stop
you from talking to citizens in those
states

more forcefully and i think eleanor
identified some of the ways in which
you can begin to build
a new a new alliance because i think
there were previous alliances
of of citizens in solidarity with some
zimbabwe
but i think new ones are needed and
the less confusion there is about what
is going on inside zimbabwe
and the less confusion it is between
different
political and civil society actors in
zimbabwe the clearer the messages are
about what is happening and what needs
to be done
the more likely it is that those citizen
alliances
in solidarity with zimbabwe will be
re-established
thanks very much thanks very much paul
thank you immensely
sydney thank you very much
for me in closing i have a message
firstly to zimbabwe
and my message to zimbabweans is do not
despair
justice is coming it will come it always
comes
and
is replete with examples 1990
all with the help of the african union
and abeliano kabuka
who was the financier
hello i hope you can hear me
i can hear you now i can hear you okay
my my internet seemed unstable
so felicia and kabuga the rwanda's
financier of the genocide
escaped justice and he was hiding and
running all over the world
and he was apprehended this year and has
now been referred to the tribunal for
residual mechanisms he's now facing

justice for his crimes he committed in
1990
this is 26 years later
bruno day 93 year old
s.s god was convicted
this year for crimes he committed in
1944
with the nazi ss god 93 years old he was
convicted of those crimes
so my message to zimbabwe is do not
despair
the only thing that will save these
perpetrators is death like mugabe
that's all that's the only salvation
from anybody who committed crime
anywhere in the world
my message to perpetrators of crimes
and to some of the political actors who
happen to be political and military
actors
stop it to stop the crimes
negotiate negotiate with
the victims of your crimes
talk to them negotiate a way out
because as long as these crimes have
been committed they will remain
like an albatross on your neck
but you have a chance to negotiate so it
is not it is not zimbabweans who must
negotiate for their freedom from
perpetrators no
no it is perpetrators who must negotiate
for their freedom from zimbabweans
the only people who are guilty of crimes
who deserve to be locked up
are those people who have committed
crimes zimbabweans will fight for their
freedom they won't negotiate for it
but perpetrators must negotiate and when
they do
this is my last message let's all keep
an open mind
zimbabweans must keep an open mind
when perpetrators negotiate zimbabweans

must keep an open mind
but that is not a free pass because the
window will close
and the point to perpetrators is that
negotiate when the window
is still open thank you very much
thanks sydney thank you very much
you've been brutally
frontal today very good indeed
malaya your last words
leah yeah
okay yes i was still waiting to be
unmuted
right yeah thank you very much uh so two
things
um the the first one is just to follow
on what mom eleanor said
about people's stories i think that's a
very powerful message
um and i will break
talk about um a more recent
um or a fresh story uh
itadama for example i think there was a
lot of international mobilization around
italian summer but if that could be
brought to bear
locally as well for citizens to actually
take those stories
inside zimbabwe i think that would
really
go a long way the second one is exactly
what simple has been talking about
the long arm of the law it will still
find you
you can't run away for customary uh
international
uh uh from from from international
crimes because you know they are
codified in customary international law
so let's keep the pressure going thanks
thanks davis malaya thanks very much
who says gone huh let's have tony
what's where you can give us us uh the
closing remarks and the summary of

our deliberations it's the run out of
time tony
thank you it's been a very rich
conversation
and i want to quickly start with an
anecdote
in 1994
two families sat on the beach in beirut
we'd gone there after the liberation and
the war had stopped
and we sat there on the beach listening
on the radio
to the south african election
and we were deeply excited we thought
finally the continent is going to be
free
from north to south and then of course
there were all sorts of funny things
happened with that south african
election
at the same time nearly a million people
were chopped up
raped and destroyed in rwanda
and we only found that out when we came
home and slowly the
story trickled through and i remember
watching on
zimbabwe television this absolutely
heartwinding story of a little girl
running across a bridge
all by herself it evoked for me is an
older person
the same picture of a little girl
running having been burnt by napa
in vietnam
that incident and that time provoked the
world
into a notion about the responsibility
to protect
it was the events that happened in the
balkans
and rwanda that said to people you
cannot stand by
when bad things happen and in 2005

people sound
basically signed up to that now what
that
proposed was a moral responsibility on
people
and that moral responsibility with all
the reservations that all of us had
sits in front of zimbabwe and where will
zimbabwe go
uh we're rated one of the most fragile
states in the whole country in the whole
world
and you know what happens with fragile
states they can really become very
failed states and very bad things happen
and we've had some very bad things
happen
recently and they're increasing in a
very very alarming fashion
and one of the ways in which
the responsibility to protect
argues is this must be put where
such a situation needs to be prevented
to the u.n america raised this
she said there needs to be an
international movement
to say intervene take responsibility
to protect the citizens of zimbabwe and
not just
from the gross human rights violations
but from an uncaring government
that has increasingly shown little
respect
for the hardships that the citizens are
facing
hunger on a mass scale
collapse services all of these things in
a country in which the citizens
have no trust in the government or the
state
or even political parties that's what
the catholic church
said in its sabbath all the churches
said and the sabbath

the catholic church has repeated it
recently
so the point is that we need this
international responsibility it has to
come from somewhere
and i'm really pleased that irct and
amnesty
will join with us and we will find this
international coalition to put it to
people
that the first step before
accountability
is prevention first do no harm
premium no no carry stop the stuff
that's going on
exactly as cfo said this is urgent
and this is urgent in a region that is
quietly and gently collapsing with
mozambique likely to
or possibly to develop into civil war
and the region to become more and more
unstable and zimbabwe is a
serious point of that we live with a
broken government
a broken state they cannot deliver
anything
and there is no way back except for
political reform
and what they do in order to protect
themselves
and you know i think cfo put it
bluntly and boldly is they rely on
coercion
and coercion has a cost and sifa has put
it really bluntly
the cost doesn't go away it stays with
you
forever and this is the issue that we
have to put
to everybody this is not a domestic
problem
only it is a regional problem it's an
international problem it's an
international problem like the yemen and

everyone else
and the will in the world might be quite
weak
but zimbabwe courtesy of amnesty
international the irtc
human rights watch all the organizations
that have bravely documented and i
speak out all the time about an
unacceptable end to
40 years of an independent country
that should be stable that should be
prosperous
that should be leading the region in
democracy
this is what we have to do and i thank
you all
for your very rich rich rich
presentations and i
i do hope that this message
goes out wider and broader thank you
very much
thanks thanks tony thanks and i'm sorry
that musa
has had problems with this internet uh
but wonder again i think this
the tony to thank you again for putting
together a fantastic
panel of panelists and discussions
i think everyone prepared
so well everything moved into the next
is the most of the most powerful
statements on the subject
something which will savor document
disseminate and and
include in a in the publication very
soon i want to thank you all
we run out of time there's no time for
summary but just to thank you all for
fantastic
presentation and for those you out there
i hope you have listened for those
in government offices in zimbabwe in
particular
i hope you have taken note sippo's

poignant emotional
uh statement refers but it is
such legal input that no one dare
ignore that and but most of all
i think if the question was how to stop
it
now we have started stopping it
thank you again and i wait to wait for
your
suggestions as next topic as eleanor
has done so well to suggest this topic
about which we have we are really
satisfied as men in which
all of you have covered it and thanks
again to
our newcomers lisa program
it was really nice having you in our
conversation
and again good night until we meet again