



SOLOMON ISLANDS
TRUTH AND RECONCILIATION COMMISSION
Confronting the Truth for a better Solomon Islands

FINAL REPORT

VOLUME II

FEBRUARY 2012

Honiara, Solomon Islands

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4.1

HUMAN RIGHTS VIOLATIONS AND ABUSES

4.1 LEGAL FRAMEWORK

Introduction

The Truth and Reconciliation Act (No 5 of 2008) (the “Act”) mandates the Truth and Reconciliation Commission (“TRC”) “to promote national unity and reconciliation” through, *inter alia*:

examining the nature, antecedents, root causes, accountability or responsibility for and the extent of the impact on human rights violations or abuses which occurred between 1st January 1998 and 23rd July 2003, including the destruction of property, deprivation of rights to own property and the right to settle and make a living.”¹

The Act then explains in greater detail the nature of investigations into human rights violations:

to investigate and report on the causes, nature and extent of the violations referred to in subsection (1) to the fullest degree possible, including their antecedents, the context in which the violations and abuses occurred, the question of, whether those violations and abuses were the result of deliberate planning, policy or authorization by any government, group or individual, and the role of both internal and external factors in the conflict.²

In its truth-seeking and investigative role, the TRC implemented its mandate by holding public hearings for victims, former combatants and actors; closed hearings for actors, perpetrators and other persons; and conducting interviews with and taking statements from victims, as well as carrying out exhumations.³ The public hearings focused national attention on the pain and sufferings of victims arising out of the violations committed against them, and involved the public in sharing these experiences. The decision to include former combatants in public hearings was taken on the basis of providing some balance to the process and enabled them to tell their side of the story. The exhumations highlighted the enormity of some of the violations committed and their devastating impact on the families and communities. The closed hearings and statement taking were intended to elicit more detailed and confidential information from

¹ TRC Act, section 5(1)(b). See volume 5, annex 3 for the full text of the Act.

² TRC Act, section 5(2)(a).

³ TRC Act, section 6(1)(a), (b), (c) and (d).

those interviewed. This additional information would allow the TRC to establish patterns and gather statistical information such as the preponderance and scale of the violations committed during the tension.

The definition of “human rights violations” is expansive and is set out in section 5(3) as follows:

5(3) In this section “human rights violations” includes —

- (a) killings, abductions, enforced disappearances, torture, rape, sexual abuse, persecution of any identifiable group, forced displacements, deprivation of liberty serious ill-treatment of any person;
- (b) the violation of other fundamental rights and freedoms which are guaranteed under Chapter II of the Constitution;
- (c) any attempt, conspiracy, incitement, instigation, command or procurement to commit such violations; or
- (d) destruction of any property including personal or public property.

The use of the word “includes” in the provision in relation to the categories of rights set out clearly indicates that those categories are not exhaustive. The rights mentioned in section 5(1) (b) may be added to that list and other rights which might be applicable by virtue of Solomon Islands’ ratification of international treaties and conventions. The nexus or connection would be the open-ended nature of the provision which allows a wide net to be cast regarding human rights. Where Solomon Islands has yet to incorporate those rights in domestic legislation, the spirit of those instruments should nevertheless animate executive actions to indicate that the act of ratification was more than “window dressing.”⁴

The Act does not contain any further definitions or interpretations in respect of the human rights enumerated in these provisions. However, the Preamble does refer to “gross violations of human rights and the commission of heinous crimes against human rights and international humanitarian laws and standards,” which suggests that Parliament intended reference be made to human rights and humanitarian instruments and standards, in addition to domestic instruments such as the Constitution, the Act and the Penal Code. Taken together with international instruments, these documents comprise the legal framework within which the violations would be dealt with.

⁴ *Tavita v. Minister for Immigration* (1994) 2 NZLR 257. Response of the New Zealand Court of Appeal to suggestions by NZ State counsel that NZ ratification of the Convention on the Rights of the Child was not to be taken seriously.

It is also relevant to note that section 5(1)(b) of the Act, while referring generally to “human rights violations or abuses,” makes specific reference to “the destruction of property, deprivation of rights to own property and the right to settle and make a living.” Particular mention of these rights violations is significant because they are highlighted over other rights. This emphasis is reinforced in section 5(2)(a) in the following terms:

5(2) Without prejudice to the generality of subsection (1), it shall be the function of the Commission –

to investigate and report on the causes, nature and extent of the violations and abuses referred to in subsection (1) to the fullest degree possible.

The singling out of these particular rights is notable because the provision refers generally to “human rights violations or abuses” before specifically mentioning “the destruction of property, deprivation of rights to own property and the right to settle and make a living.” Those particular violations and abuses are mentioned for good reason: they were the most commonly violated rights during the tension. About 30 percent of the population of Guadalcanal fled from their homes as a result of evictions or threats and intimidation during the period of the tension.⁵ The human rights violations listed in section 5(3)(a) of the Act may also be readily associated with those evictions as well as with wider human rights violations committed during the tension. These considerations helped to focus the TRC in conceptualising the violations it intended to examine.

Domestic law

The domestic law of the Solomon Islands forms part of the legal framework of the TRC. The Act contains the mandate which sets out the objectives and how they are to be accomplished. It then refers to the rights set out in Chapter II of the Constitution which the TRC also has taken into account. Other statutes are cited for varying reasons: the Geneva Conventions Act 1957 (UK), because it incorporates the “grave breaches” under the 1949 Geneva Conventions into domestic law through the Geneva Conventions (Colonial Territories) Order 1959, although they only apply to international armed conflicts; the Penal Code because it defines genocide; and the Amnesty Acts 2000 and 2001 because they provided amnesty in respect of certain criminal acts for part of the tension period.

⁵ See Chapter 4.2.6, Forced Displacement.

In addition, the TRC had to have regard to international law comprising customary international law, international human rights law and international humanitarian law because international norms set higher standards, and the domestic law alone is inadequate to deal with human rights violations and abuse. It is within the mandate of the TRC to make recommendations for the incorporation of international human rights standards and values in domestic law, consequent upon the ratification of international treaties and conventions not yet ratified by Solomon Islands.

Constitution of Solomon Islands

The Constitution establishes fundamental human rights for the people of Solomon Islands which are enforceable in the courts against the state as well as against other parties. These rights are inherent but have their origins to the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Remedies for breaches or violations of these rights may be enforced in the Courts by way of damages, specific performance and declarations.

“Human rights violations or abuses” in the Act include: “The violation of other fundamental rights and freedom [*sic*] which are guaranteed under Chapter II of the Constitution.”⁶

The Bill of Rights in Chapter II of the Constitution guarantees the right to life, the right to personal liberty, the right not to be subjected to slavery and forced labor, the right not to be subjected to inhumane treatment, the right not to be deprived of property, the right to freedom of assembly and association, the right to privacy of home and other property, the right to protection of law, the right to freedom of conscience, the right to freedom of expression, the right to freedom of assembly and association, the right to freedom of movement, the right to protection from discrimination and the right to compensation for contravention of rights and freedoms.⁷

Although the Constitution makes no reference to international treaties and conventions, the Bill of Rights contained within it is modelled on the UDHR and the ICCPR. Together with the International Covenant on Economic, Social and Cultural Rights (ICESCR), they comprise what is known as the International Bill of Rights. A comparative analysis of the provisions of the Constitution, the UDHR and the ICCPR would confirm the similarity in wording of the

⁶ TRC Act, section 5(3)(b)

⁷ Solomon Islands Constitution, sections 3 to 19.

documents. While the status of the UDHR may be reflective of customary international law,⁸ the application of international norms and practices in Solomon Islands is tempered by the fact that it has a dualist legal system, regarding domestic and international law as separate entities.⁹ While Solomon Islands courts have acknowledged international instruments such as the European Convention on Human Rights in the case of *R. v. Rose*,¹⁰ the implementation of international conventions and treaties still requires enactment of domestic legislation to give effect to their provisions.¹¹

Furthermore, the globalization of the human rights discourse, particularly in the last four decades, has witnessed the development of rights for vulnerable and disadvantaged groups such as women, children, people with disabilities, and migrant workers. “Soft rights” such as the right to adequate housing, health care and education, are no longer regarded as only goals to be aspired to but not necessarily reached. The courts in some jurisdictions have shown a willingness to draw on international law to reinforce their decisions and give effect to those rights.¹² While this may be a step too far in terms of Solomon Islands, it reflects more progressive trends in other jurisdictions which provide a basis for further reflection.

For those reasons, violations of human rights and abuses should also include mention of violations of economic, social and cultural rights as well as the rights of women and children and the right against racial discrimination, since Solomon Islands has ratified the International Covenant on Economic Social and Cultural Rights (ICESCR), the Convention on the Elimination

⁸ Proclamation of Tehran, Final Act of the International Conference on Human Rights, Tehran, 22 April to 13 May 1968, UN Doc. A/CONF.32/41 (1968); Vienna Declaration and Programme of Action on Human Rights, Vienna, 14 to 25 June 1993, UN Doc. A/CONF.157/23 (1993). These two international gatherings acknowledged the UDHR as having the status of international customary law.

⁹ The dual system was inherited from Britain of which Solomon Islands was a Protectorate from 1896 to 1978, compared with the monist system applicable in States of Continental Europe, South America and parts of Africa and Asia which asserts that domestic and international law are part of one body of law.

¹⁰ (1987) SILR 45.

¹¹ The Constitutions of Tuvalu and Papua New Guinea and the purportedly abrogated Constitution of Fiji contain provisions which allow reference to international instruments for the application and interpretation of human rights.

¹² *Government of South Africa v. Grootboom & Ors* 2001 (1) SA 46; {2000} ZACC 19. The case involved the right to housing.

Minister of Health (South Africa) v. Treatment Action Campaign (TAC) and Ors CCT 59/2000. The case involved the distribution of antiretroviral drugs to combat AIDS and a successful challenge by TAC that in failing to include certain health clinics, the Minister was being discriminatory and affecting the right to health of those concerned.

of All Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Children (CRC). Although it has yet to incorporate the provisions of these Conventions in domestic law, Solomon Islands is required to perform its obligations in a Convention it has ratified in good faith and not rely on domestic law as a justification for not doing so.¹³

In terms of the violations themselves, the state is the duty bearer and all actions undertaken by parties acting for, on behalf of, or associated with the state are regarded as having been sanctioned by the state.¹⁴ In that regard, actions undertaken by the Rapid Response Unit (RRU), the Royal Solomon Islands Police Force, the Joint Operation, and the MEF, when it was conducting joint patrols with the police, are classified as being done on behalf of the state. Any violations which may have been committed by these parties during the armed conflict are the responsibility of the state.

The TRC has chosen to focus on six human rights violations, namely:

1. Killings

Domestic law

The Constitution

Section 4: No person shall be deprived of his life intentionally except in certain circumstances, including capital punishment, self defense and as the result of a lawful act of war”.

Penal Code

Manslaughter, Section: 99(1): “Any person who by unlawful act or omission causes the death of another person is guilty of the felony known as manslaughter. An unlawful omission is an omission amounting to culpable negligence to discharge a duty tending to the preservation of life or health, whether such omission is or is not accompanied by an intent to cause death or bodily harm.”

Murder, Section 200: “Any person who of malice aforethought causes the death of another person by an unlawful act or omission is guilty of murder and shall be sentenced to imprisonment for life.”

¹³ Vienna Convention on the Law of Treaties, Articles 26 and 27.

¹⁴ Prosecutor v. Tadic (1999), Appeals Chamber, para 141-144.

International Human Rights Law

Universal Declaration of Human Rights

Article 3: “Everyone has the right to life, liberty and security of person.”

International Covenant on Civil and Political Rights

Article 6: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his/her life. Being arbitrarily deprived of life includes arbitrary executions committed by an agent of the State, most usually by the police or security forces, with the State’s authority, complicity or tolerance or acquiescence, but without judicial process.”

This issue – and all actions of the police – may need to be specifically addressed, as while the Government may not have authorized the action and the person may have been acting for a rebel group at the time, that they were able to commit violations while using their police powers meant that the Government was not providing its citizens with secure protection of the law (in TRC Act, Constitution and International Humanitarian Law), along with the judicial guarantees which are recognized as indispensable by civilized peoples. The killing of combatants or the incidental deaths of civilians during the course of armed conflict does not violate the right to life, provided the killing is as a result of proportionate and necessary military action.

International Criminal Law

Rome Statute

Crimes against Humanity

Murder and extermination can constitute crimes against humanity when committed as part of a widespread or a systematic attack against any civilian population. “Extermination” includes the intentional infliction of conditions of life, *inter alia*, the deprivation of access to food and medicine calculated to bring about the destruction of part of a population. War Crime: Article 82(c)(i) includes “murder of all kinds”.

Elements of Crime

1. The perpetrator killed one or more persons.

2. Such person or persons were either *hors de combat* (“outside the fight”) or civilians, medical personnel, or religious personnel taking no active part in hostilities.
3. The perpetrator was aware of the factual circumstances that established this status.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

In the case of Delalic, the International Criminal Tribunal for the former Yugoslavia (hereinafter “ICTY”) determined that there was no substantial difference between “wilful killing” in international contexts and “murder” in internal conflicts; case law for the former can be used to guide the interpretation of murder in internal armed conflicts. The ICTY stated that the material element for both is that the death was caused as a result of actions by the perpetrator, with there being a substantial link between the conduct of the perpetrator and the death.

Article 82(e)(ix): Killing or wounding treacherously a combatant adversary.

Elements of Crime

1. The perpetrator invited the confidence or belief of one or more combatant adversaries that they were entitled to, or were obliged to accord, protection under rules of international law applicable in armed conflict.
2. The perpetrator intended to betray that confidence or belief.
3. The perpetrator killed or injured such person or persons.
4. The perpetrator made use of that confidence or belief in killing or injuring such person or persons.
5. Such person or persons belonged to an adverse party.
6. The conduct took place in the context of and was associated with an armed conflict not of an international character.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Article 82(e)(x): Declaring that no quarter will be given.

Elements of Crime

1. The perpetrator declared or ordered that there shall be no survivors.
2. Such declaration or order was given in order to threaten an adversary or to conduct hostilities on the basis that there shall be no survivors.
3. The perpetrator was in a position of effective command or control over the subordinate forces to which the declaration or order was directed.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of armed conflicts.

2. A. Abduction/illegal detention

Domestic law

The Constitution

The right to life, liberty and security of person is guaranteed in Section 4: Right to life; Section 5: Right to personal liberty; Section 7: Protection from torture or inhuman or degrading punishment or treatment; Section 10: Right to secure protection of law; and Section 14: Right to freedom of movement.

Regarding the right to liberty, Section 5(1) provides that “no person shall be deprived of his personal liberty save as may be authorised by law.” The section provides for circumstances in which the law may authorize someone’s deprivation of liberty, such as in relation to criminal charges, disease control and immigration. The Constitution establishes the procedures to follow when a person is detained in Section 5: (2):

Any person who is arrested or detained shall be informed as soon as reasonably practicable, and in a language that he understands, of the reasons for his arrest or detention. (3) Any person who is arrested or detained -(a) for the purpose of bringing him before a court in execution of the order of a court;(b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in Solomon Islands, and who is not released, shall be brought without undue delay before a court; and if any person arrested or detained upon reasonable suspicion of his having committed or being about to commit a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings that may be

brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonable.

Only the state has the right to detain a person. The detention has to be carried out by the police and the detained person must be taken to court immediately. No militant group, be it GRA/IFM, GLF or MEF, had the authority to deprive any person of his or her liberty in any circumstances.

Even in a situation of state of emergency, the Constitution in Section 16(1) in the chapter “period of public emergency” provides that:

(8) Where a person is detained by virtue of a law that authorizes the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists in Solomon Islands during that period, the following provisions shall apply, that is to say

(a) he shall, as soon as reasonably practicable, be furnished with a statement in writing, in a language that he understands, specifying in detail the grounds upon which he is detained;

(b) the announcement of his detention shall be made as soon as possible, and not more than fourteen days after the commencement of his detention a notification shall be published in the Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorized.

That means that during the conflict, the only institution that had authority to detain a person was the police, following the proper procedures established in the Constitution. Detentions made by the police as part of the Joint Operation which did not follow proper procedures established by law were illegal.

Militant groups, such as non-state actors, that deprived a person of his/her liberty committed the crime of abduction or kidnapping, which is sanctioned in domestic law in the Penal Code. Section 248 provides for kidnapping and abductions as follows:

(a) any person who conveys any person beyond the limits of Solomon Islands without the consent of that person, or of some person legally authorized to consent on behalf of that person, is said to kidnap that person; and

(b) any person who by force compels, or by deceitful means induces, any person to go from any place, is said to abduct that person.

Although it is possible that someone may have been taken outside of the Solomon Islands, as in section 248(a) above, it seems more likely that the definition for abduction, as provided by section 248(b) would apply. Section 251 provides for circumstances where the kidnapping and abduction are for the purposes of subjecting that person to “grievous harm, slavery or unnatural lust of any person”. This crime carries a heavier penalty than in section 248, but there is no

actual difference in the definition of abduction or kidnapping. It is also a crime to conceal the fact of someone's abduction or kidnapping even if the person did not commit the actual act (section 252).

Section 139 makes it a crime to "take away or detain a woman of any age against her will for the purposes of marriage or sex." Section 140 specifically prohibits a person to "takes or causes to be taken" an unmarried girl under 18 years "out of the possession and against the will of those who have lawful care of her for the purposes of having sexual intercourse with her." Section 148 makes it a crime to "detain any woman or any girl against her will or upon any premises with the intent that she may have unlawful sexual intercourse with any man."

Abduction of a child is covered under section 253, as "unlawfully, either by force or fraud, leads or takes away, or decoys or entices away, or detains any child under the age of fourteen years, with intent to deprive any . . . person having the lawful care of such child, of the possession of such child, or with intent to steal any article about or on the person of the child." Section 254 specifically makes it a crime to abduct an unmarried girl below the age of 15 years.

2. B. Disappearances

Domestic law

Penal Code

This area is not specifically covered, but can be included in relation to abductions, kidnapping, and murder.

International Human Rights

Universal Declaration of Human Rights

Article 3: "Everyone has the right to life, liberty and security of person."

Article 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Article 6: "Everyone has the right to recognition everywhere as a person before the law."

Article 9: "No one shall be subjected to arbitrary arrest, detention or exile."

Both the General Assembly's Declaration on the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of All Persons from Enforced Disappearance define enforced disappearances (subject to a few variations in wording) as the:

1. arrest, detention, abduction or other form of deprivation of liberty by agents of the State or by persons or groups acting with the, indirect or direct, authorisation, support or acquiescence of the State;
2. followed by the State's refusal to disclose or to conceal the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty.

International Humanitarian Law

Common Article 3, violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; outrages upon personal dignity, in particular humiliating and degrading treatment.

International Criminal Law

Rome Statute

Crime against Humanity: When committed as part of a widespread or systematic attack directed at any civilian population, an "enforced disappearance" qualifies as a crime against humanity; defined as the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a state or a political organization, followed by a refusal to acknowledge the deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

War Crime: Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture.

3. Torture/ ill-treatment

Domestic law

The Constitution

Section 7: "No person shall be subjected to torture or to inhuman or degrading punishment or other treatment."

Torture is not defined as a crime but some of the activities associated with torture are. These include assault (unlawful assault under section 244; and “assault occasioning actual bodily harm” under section 245), kidnapping, and forced imprisonment, indecent and sexual assaults (applicable to women only).

International Human Rights

Universal Declaration of Human Rights

Article 5: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

International Covenant on Civil and Political Rights

Article 7: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Article 10(1): “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”.

The Human Rights Committee in General Comment 21 interpreted this article as applying to “anyone deprived of liberty under the laws and authority of the State,” using examples like prison, hospitals, and detention camps. As this is quite specific to state-related detention, Article 10 may have limited applicability.

UN Convention against Torture

Article 1: For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him for an act he/she or a third person has committed or is suspected of having committed, or intimidating or coercing him/her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. Cruel, inhuman or degrading treatment (or serious ill-treatment as defined in TRC Act) can constitute torture, but it is a violation in its own right. The distinction can be made based on the intensity

of the suffering (both in terms of specific acts and length of occurrence), the gravity of the wounds or the injuries or based on the intention beyond the acts (to elicit information).

International Humanitarian Law

Common Article 3 prohibits: Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; outrages upon personal dignity, in particular humiliating and degrading treatment.

International Criminal Law

Rome Statute

Under Article 7, the following are crimes against humanity when committed as part of a widespread or systematic attack directed against a civilian population:

(d) torture defined as “the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain and suffering arising only from, inherent in or incidental to, lawful sanctions.”

(e) “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”

Under Article 8, the following are considered war crimes in internal armed conflicts if “committed as part of a plan or policy or as part of a large-scale commission of such crimes:”

i. Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

ii. Committing outrages upon personal dignity, in particular humiliating and degrading treatment.

The *Elements of Crime* for torture as a war crime are:

1. The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons.

2. The perpetrator inflicted the pain and suffering for such purposes as obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind,

3. Such person or persons were *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in hostilities.
4. The perpetrator was aware of the factual circumstances that established this status.
5. The conduct took place in the context of and was associated with an armed conflict not of an international character.
6. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

4. Sexual Violence

Domestic law

The Constitution

Section 7: “No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.”

Penal Code

Section 136 defines rape as:

Any person who has unlawful sexual intercourse with a woman or girl, without her consent, or with her consent if the consent has been obtained by force or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false misrepresentations as to the nature of the act, or in the case of a married woman, by personating her husband, is guilty of the felony termed rape.

Section 14(1) makes it a crime to unlawfully and indecently assault (not defined) any woman or girl through words, sounds, gestures, exhibition of any object or act. Section 160 makes “buggery”/“unnatural offence” a crime, whether committed on a male or a female. As it is a crime for both of the people engaged, it is not applicable. Section 162 makes it is a crime for any person to: commit any act of gross indecency with another of the same sex; procure another of the same sex to commit any act of gross indecency; or attempt to procure the commission of any act of gross indecency by persons of the same sex. See also the crimes under abduction/illegal detention.

International Human Rights

Universal Declaration of Human Rights

Article 3: “Everyone has the right to life, liberty and security of person.”

Article 4: “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”

Article 5: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

International Humanitarian Law

Common Article 3 prohibits, (1)(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (c) outrages upon personal dignity, in particular humiliating and degrading treatment.

International Criminal Law

Rome Statute

The Rome Statute recognizes rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other grave forms of sexual violence as war crimes in internal armed conflicts as well as crimes against humanity if they are part of a widespread or systematic attack against civilian population (Articles 7 and 8).

The *Elements of Crime* provide further definitions:

Rape is defined twofold:

- 1) The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
- 2) The invasion was committed by force or by threat of force or coercion, such that caused by fear of violence, duress, detention, psychological oppression or abuse of power, such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.

Note that the concept of consent of “invasion” is intended to be broad enough to be gender-neutral and it is understood that a person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.

Sexual Slavery

The perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty. The perpetrator causes such person or persons to engage in one or more acts of a sexual nature.

Enforced Prostitution

The perpetrator caused one or more persons to engage in one or more acts of a sexual nature by force, or by threat or force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such a person or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent.

The perpetrator or another person obtained or expected to obtain pecuniary or other advantage in exchange for or in connection with acts of a sexual nature.

Forced Pregnancy

The perpetrator confined one or more women forcibly made, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.

Other Sexual Violence

The perpetrator committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by violence, duress, detention, psychological oppression or abuse of power.

Against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give consent.

The TRC included as violations of sexual nature: forced nakedness, violence against sexual organs, and being forced to witness behavior of a sexual nature.

5. Property Violation

Domestic law

The Constitution

Section 8 protects against the deprivation of property, including prohibiting “compulsorily taken possession of, (or any) interest or right over property . . . except where required by law.” In Section 9: “Except with his/her own consent (or as required by law), no person shall be subjected to the search of his/her person or his/her property or the entry of others on his/her premises.”

Penal Code

Theft/loss, Section 258(1): “A person who, without the consent of the owner, fraudulently and without a claim of right made in good faith, takes and carries away anything capable of being stolen with intent, at the time of such taking, permanently to deprive the owner thereof.”

Subsection 2(a) defines “takes” to include obtaining something by any trick, intimidation, mistake or finding an item if the taker. knew they could identify the owner; “carries away” to include removal and detaching, if applicable of anything from the place which it occupies; “owner” includes any part owner, or any person having possession or control of, or a special property in, anything capable of being stolen.

Also the Penal Code details specific crimes concerning the theft of documents (including titles), animals, trees, fences, and fruit and vegetables. Exact wording differs but includes when such items are destroyed (meaning killed in regard to animals) when stealing it. Burglary and housebreaking are covered in sections 297 to 303. “Breaking and entering” is defined in section 297. Arson/destruction (Sections 319 to 322) make it an offence to commit arson, or to attempt to commit arson, when a person wilfully and unlawfully sets fire to: any building or structure whether completed or not; any aircraft, vehicle or vessel, whether completed or not; any stack of cultivated vegetable produce, or of mineral or vegetable fuel; a mine, or the workings, fittings or appliances of a mine; a crop of cultivated produce, whether standing, picked or cut; a crop or hay or grass under cultivation, whether the natural or indigenous product of the soil or not, and whether standing or cut; any standing trees, saplings or shrubs, whether indigenous or not, under cultivation.

Section 326 applies to the destruction of property (including a wide range of property such as dwelling-houses, vessels, bridges, documents, machinery, and mining equipment, etc.), making it a crime to wilfully and unlawfully destroy or damage any property. Under subsection (2) a person can be liable to life imprisonment if they use an explosive substance to destroy a dwelling-house or vessel when it endangers the life of someone who is inside. Robbery, Section 293 defines robbery as when someone: armed with any offensive weapon or instrument, or being together with one other person or more, robs or assaults with intent to rob, any person; or -robs any person and, at the time of or immediately after such robbery, uses or threatens to use any personal violence to any person. It is also a crime to assault any person with intent to rob them.

International Human Rights

Universal Declaration of Human Rights

Article 17(1): Everyone has the right to own property alone as well as in association with others .

(2) No one shall be arbitrarily deprived of his/her property.

International Humanitarian Law

Common Article 3 contains no specific property provision in relation to internal conflicts.

International Criminal Law

Rome Statute

War Crime

Article 8(2)(e) includes the following as serious violations in internal armed conflict: Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities; intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives; pillaging a town or place, even when taken by assault; destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict.

Elements of Crime for Pillaging

1. The perpetrator appropriated certain property.
2. The perpetrator intended to deprive the owner of the property and to appropriate it for private or personal use.
3. The appropriation was without the consent of the owner.
4. The conduct took place in the context of and was associated with an internal conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

Elements of Crime for destroying or seizing the enemy's property

1. The perpetrator seized or destroyed certain property.
2. Such property was property of an adversary.
3. Such property was protected from that destruction or seizure under the international law of armed conflict.
4. The perpetrator was aware of the factual circumstances that established the status of the conflict.
5. The destruction or seizure was not required by military necessity.
6. The conduct took place in the context of and was associated with an internal armed conflict not of an international character.
7. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

6. Forced Displacement

Domestic law

Constitution

In Solomon Islands Constitution of 1978, this rights are protected under the Section 1: “Every person in Solomon Islands is entitled to the fundamental rights and freedoms of the individual [including] life, liberty security of person and protection of the law . . . and protection for the privacy of his [her] home and other property and from the deprivation of property without compensation.”

International Human Rights Law

The Universal Declaration of Human Rights

Different articles are dedicated to guarantee this security:

Article3: Everyone has the right to life, liberty and security of person.

Article 6: Everyone has the right to recognition everywhere as a person before the law.

Article 12: No one shall be subjected to arbitrary interference with his [her] privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13(1): Everyone has the right to freedom of movement and residence within the borders of each State.

Article 17(1): Everyone has the right to own property alone as well as in association with others.
(2) No one shall be arbitrarily deprived of his [her] property. Also in the Preamble to the United Nations Guiding Principles on Internal Displacement: “For the purposes of these Principles, internally displaced persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”

International Humanitarian Law

Common Article 3 prohibits “violence to life and person.”

International Criminal Law

Rome Statute

Displacement is considered as a crime against humanity under Article 7: the “deportation or forcible transfer of population”, defined as the forced displacement . . . by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law is considered a crime against humanity when part of a widespread or systematic attack directed against a civilian population. It is considered as a War Crime under Article 8(2) (e) (viii): “Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand.”

Elements of the Crime

1. The perpetrator ordered a displacement of a civilian population.
2. Such order was not justified by the security of the civilians involved or by military necessity.
3. The perpetrator was in a position to effect such displacement by giving such order.

4. The conduct took place in the context of and was associated within internal conflict not of an international character.

5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.

The TRC decided to base its definition for the classification of the human rights and international humanitarian law violations committed during the armed conflict in Solomon Islands during 1998-2003 on the Rome Statute. Although this may cause some disquiet, the concern was to have some internationally-recognized benchmark as a guide to assessing the violations of human rights and international humanitarian law which occurred during the armed conflict. In taking this approach, the TRC does not ignore the exacting standards of investigation and evidence required for criminal prosecution under the Rome Statute. However, in present circumstances, it is being referred to as a reference point in which to contextualize the violations and criminal acts that were committed during the period.

The TRC was also required to give special attention to the victims of sexual abuse and the experiences of children during the armed conflict,¹⁵ acknowledgment of the particular vulnerability of women and children during the tension.

These violations were identified on the basis of the Act¹⁶ and that the familiarity of Solomon Islanders with the notion of human rights and rights violations was limited. The TRC wishes to emphasize that it has adopted a broad and inclusive view of violations and applied violations definitions to the actions of the armed militant groups as well. If it were to limit it only to Government or state-endorsed armed groups in the latter part of the tension and to the Rapid Response Unit of the Royal Solomon Islands Police Force in the early stages of the armed conflict, then the majority of violations and abuse which were committed by the GRA/GLF/IFM and MEF would not be subject to scrutiny

To ensure that the concept of human rights violations was properly understood, it was therefore necessary to formulate the violations in simple terms and group similar violations together to facilitate the work of statement takers in the field, because people did not distinguish between

¹⁵ TRC Act, section 5(3)(c).

¹⁶ TRC Act, sections 5(1)(b) and 5(2)(b).

some of these violations, as well as to enable the victims to identify more readily the types of violations and abuse they suffered. The above six groupings represented the most commonly committed and experienced human rights violations during the period of the tension. They also reflected the nature of the conflict in which Guadalcanal militants began forcibly evicting Malaitan and other settlers in 1998, prompting Malaitan militants to arm themselves in 2000 and retaliate, further fuelling the conflict. During the period of the tension, a significant portion of the population suffered one or more of these violations. The scale of the upheaval during the tension may be gauged by the numbers of those forcibly displaced on Guadalcanal: estimates of up to 35,000 out of a population of 70,000.

The six violations identified above also have linkages to other rights. The loss of property and forced displacement may be seen as a violation of economic, social and cultural rights, as well as the rights of women, children and people with disabilities. Death, torture and missing or disappeared may be linked to the right to health and the rights of women, children and people with disabilities. Sexual violence usually affects women, children and people with disabilities disproportionately as the most disadvantaged groups in society. The point of these illustrations is to emphasize the interconnectedness of these rights.

The other rights guaranteed by the Constitution are briefly considered below with a general comment that although the armed conflict was national in its consequences and repercussions, it had a direct and devastating impact on Guadalcanal and to a lesser extent on Malaita, the Western Province and Choiseul while the rest of the country remained on the sidelines:

(i) The Right not to be subjected to Slavery and Forced Labor

While slavery as such was not practiced during the tension, there were incidents recorded by the TRC where women and girls were held by militant groups to provide sexual favours for either their leaders or the group.¹⁷ They were abandoned once they became pregnant or the militants tired of them. There were also instances where both sides in the armed conflict used forced labor, as a means of control and as punishment in relation both to captured opponents and local communities they wished to control or intimidate. This work usually consisted of building

¹⁷ Chapter 4.2.4, Sexual Violence.

bunkers, clearing bush land or forest to build structures and as porters to carry supplies, arms and munitions.

The Joint Operation forces established a virtual concentration camp in the village of Malaheti on the Weather Coast in late 2002 while trying to capture Harold Keke and held approximately 400 people from villages on the Weather Coast captive for ten months. During this time the captives were forced to plant crops and forage for food to feed both their captors and themselves.

(ii) *The Right to Privacy of Home and Other Property*

This right is to be distinguished from property violation as attaching to the sanctity of an individual's private space and his/her right to enjoy unimpeded the benefit of what he/she owns. This right was readily violated as thousands of settlers were evicted or fled as a result of threats and intimidation by Guadalcanal militants in the initial period of the tensions. And then more generally, as the armed conflict progressed, the inability of the police to provide law and order, coupled with the strength of the armed militant groups, meant that the privacy of home and other property was extremely vulnerable, whether by invasion or other forms of violation. The commandeering of vehicles and other property at gunpoint was a common occurrence in Honiara and elsewhere. Private homes and property were openly raided on some pretext or other and household and other items taken arbitrarily. Although the courts continued to sit, people were too fearful to press charges with the police who were either ineffectual or collaborating with the MEF.

(iii) *The Right to Protection of Law*

This right was unevenly provided during the period of the tensions. Displacement took place throughout the duration of the tension with impunity. The same can be said of the other human rights violations. The Royal Solomon Islands Police Force were divided, demoralized and ineffectual. During 2000 the MEF helped to provide policing and security functions. In the Western Province, the Provincial Government took the extraordinary step of inviting groups from Bougainville in early 2000 to provide security, an initiative which had good intentions, but gradually deteriorated into anarchy. Hostilities between the militias were intense in the months leading up to the Townsville Peace Agreement (TPA) in October, 2000.

Subsequently, the situation descended into one of lawlessness, criminality and uncertainty as militants with guns held sway, and the armed conflict with Keke and the GLF on the Weather Coast continued. The recruitment of former combatants as special constables only exacerbated the situation, although it was intended as a conciliatory gesture. Most were subsequently demobilized as the Solomon Islands Government was unable to meet the cost of retaining them. This situation was to persist until the arrival of RAMSI in July, 2003.

(iv) The Right to Freedom of Conscience

This right was circumscribed in the period of the Emergency from 5 June 1999 to 25 October 1999; but it had also been violated before then and subsequently as evictions took place with settlers being deprived of the freedom to live their lives and practice their beliefs in places they had occupied for at least a generation. Then, as hostilities intensified in 1999-2000, the population of Guadalcanal became hostage to the opposing militias who asserted their authority at gunpoint. After the TPA, this situation mutated into random acts of criminality, as people were forced at gunpoint to do the bidding of the militants. On the Weather Coast, Harold Keke and the GLF imposed a strict code of conduct over areas they controlled and beatings were prescribed for those breaching the code. Killing was the ultimate sanction. The Joint Operation were little better as they regarded all the people of the Weather Coast people as potential enemies and burned down their houses, destroyed their property and confiscated their livestock in order to intimidate and subjugate them.

(v) The Right to Freedom of Expression

Not only was this right restricted during the Emergency but the activities of first, the Guadalcanal militias, then the MEF and its allies affected its exercise. People were fearful about the situation and therefore not inclined to express themselves openly and forthrightly. In order to be fully exercised, freedom of expression (as with the other rights relating to the individual) requires an open, tolerant and law-abiding society. Those factors were absent during the period of the tension in Guadalcanal and elsewhere.

(vi) The Right to Freedom of Assembly and Association

The evictions, State of Emergency (1 June to 25 October, 1999) and the hostilities between the militias ensured the curtailment of this right for much of the period of the tension. The settlers

from other parts of Solomon Islands discovered to their misfortune that the rights enjoyed over decades to gather with immediate families and *wantoks* was abruptly ended. And that pattern was to repeat itself throughout the tension, as the opposing militias retaliated against each other. It is also important to note that the hostilities were largely confined to Guadalcanal, although Malaita experienced some of the ripple effects and Western Province and Choiseul also had to deal with that and the spill-over from Bougainville.

(vii) *The Right to Freedom of Movement*

The violation of this right was a central feature of the tension because it was the forced eviction of thousands of settlers from other parts of Solomon Islands from Guadalcanal that helped to ignite the armed conflict. One of the demands of the Guadalcanal people was the repatriation of settlers, particularly Malaitans, and statehood to regulate migration. Overnight, settlers were evicted in the thousands from various parts of Guadalcanal. As the conflict developed, initially the GRA held the rural areas and the MEF held Honiara and people were restricted in their movements between the areas held by the two militant groups; the rest of the Solomon Islands, except for Malaita, the Western Province and Choiseul, were unaffected. After the TPA, Harold Keke and the GLF were confined to the Weather Coast and the people there had to contend with Keke and the GRA on one side and the Joint Operation force on the other. This latter part of the armed conflict was fierce with the people of the Weather Coast bearing the brunt of it, including confinement in a prison camp at Malaheti.

(viii) *The Right to Protection from Discrimination*

Although there has been considerable debate about the ‘ethnic’ nature of the tensions, it is a fact that the GRA/IFM targeted Malaitan settlers on Guadalcanal. While asserting the National Government was responsible for the conflict in failing to address the Bona Fide Demands, the Guale militias vented the brunt of their anger against hapless Malaitan settlers. Divided and weak, the Government was in no position to protect Malaitans from the wrath of the Guale militias. This travesty was to be further magnified in the payment of compensation for losses suffered during the tensions. The great proportion of monies borrowed from the EXIM Bank of Taiwan for this purpose was paid for dubious claims made by militant leaders, politicians, public

servants and well-connected persons, leaving most of the genuine victims destitute, disillusioned and despairing.

(ix) *The Right to Compensation for Contravention of Rights and Freedoms*

Access to the courts was available to everyone. However, access to justice and compensation was problematic because it is expensive and time consuming. These are the reasons why victims have not pursued their claims as they simply do not have the means to do so. In relation to claims arising from the tension period, the courts would have not realistically been able to cope with the volume and it would have taken years to determine the legitimacy of the claims. Thus, the misuse and abuse of the funds set aside for compensation was a tragedy for Solomon Islands because the opportunity to ensure a fair and equitable settlement for those deserving of compensation was sacrificed.

The Geneva Conventions of 1949 and the Geneva Conventions Act 1957 (UK)

The four Geneva Conventions of 1949 are: Geneva Convention for the Amelioration of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention); Geneva Convention for the Amelioration of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Geneva Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention). Apart from Common Article 3, the four Geneva Conventions apply to international armed conflicts which would exclude their application to the tension. Common Article 3 applies as customary international law¹⁸ to internal armed conflicts.

Common Articles 49, 50, 129 and 146 of the Conventions are incorporated in domestic law by the Geneva Conventions Act 1957 (UK) which applies by virtue of section 5 of the Solomon Islands Independence Order 1978 which preserves “existing laws” as at independence on 7 July, 1978 and section 3 which retains the Geneva Conventions (Colonial Territories) Order in Council 1959, the instrument applying the Geneva Conventions to Solomon Islands as a Protectorate of the United Kingdom. These provisions make it an obligation to define “grave breaches” as crimes under domestic law and investigate grave breaches and either prosecute alleged perpetrators before Solomon Islands courts or extradite them to another jurisdiction for

¹⁸ Prosecutor v. Tadic ICTY, Trial Chamber, (1997) paragraph 559.

investigation or hearing. These provisions are not relevant, as earlier mentioned, but are cited for completeness and to make the point that Solomon Islands needs to fill the gaps by ratifying the Rome Statute and incorporating its provisions in the Penal Code and related legislation.

Pursuant to the Geneva Conventions Act 1957 (UK), “grave breaches”¹⁹ are crimes under the national law of Solomon Islands, whether committed within or outside the country by nationals or non-nationals and can be tried before the courts of Solomon Islands. However, they only apply to international armed conflicts and are only referred to for completeness.

The Penal Code

The Penal Code codified criminal law in Solomon Islands and is based on the Criminal Code of Queensland of 1899, as are the penal codes of a number of other Pacific jurisdictions.

The Penal Code of Solomon Islands defines genocide as a crime in section 52 (1) as follows:

“52.(1) Any person who with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such, commits any of the following acts:-

- (a) killing members of the group;
- (b) causing serious bodily or mental harm to the group;
- (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within the group;
- (e) forcibly transferring children of the group to another group;

is guilty of genocide and shall –

- (i) if the offence consists of the killing of any person, be sentenced to imprisonment for life;
- (ii) in any other case, be liable to imprisonment for 14 years and notwithstanding section 24 (3) may not be sentenced to pay a fine instead of imprisonment.”

This definition is almost identical to the wording of Article II of the Genocide Convention. However, the legal regime applicable to the crime of genocide under the Penal Code is

¹⁹ First Geneva Convention, Article 50; Second Geneva Convention, Article 51; Third Geneva Convention, Article 130; Fourth Geneva Convention, Article 147.

unsatisfactory for several reasons. The crime of genocide under domestic law is incomplete as the ancillary crimes of genocide listed in Article III of the Genocide Convention (conspiracy, direct and public incitement, attempt and complicity) are omitted. Therefore, if (for the sake of argument) a case for genocide could be made out in relation to the armed conflict, then it would not be possible to prosecute those who had allegedly conspired, incited, attempted to do either or were complicit in the crime. Second, the consent of the Director of Public Prosecutions is required to institute a prosecution and third, there is a two-year limitation on prosecutions; both these conditions constituting fetters on the right to prosecute which ought to be the prerogative of victims. As has been stated elsewhere, the domestic law of Solomon Islands contains significant gaps in incorporating international crimes into the Penal Code. The practical effect of this anomaly is to provide some level of impunity in relation to those crimes which have yet to be “domesticated.”

The Penal Code is not adequate because it only contains the crime of genocide, so it is clearly possible that some crimes under international law could not be prosecuted here because they have yet to be incorporated in domestic law. Consequently, the Penal Code may only be invoked against perpetrators of crimes according to international law, if those offences equate to an offence under the Penal Code. However, this is not satisfactory because the offence under domestic law does not carry the same degree of opprobrium or condemnation as would a crime under international law. Similarly, the sanctions under domestic law could conceivably be lighter as well, and a perpetrator might have available to him/her avenues such as remission of sentences and early release options not available in international law.

The Emergency Powers Regulations

On June 5 1999, the Government of Solomon Islands declared a state of public emergency²⁰ and enacted the Emergency Powers (Island of Guadalcanal) Regulations 1999. Regulation 11, as amended, granted a blanket amnesty for all acts committed “in good faith”:

No civil suit or criminal prosecution shall be brought against a police officer, authorised officer or any other person for any act or omission committed or done in good faith in carrying out his duties or in the exercise of his power during the continuance in force of the state of public emergency.

²⁰ It was lifted on 25 October, 1999.

Public reporting about alleged human rights violations was also restricted.

It is apparent that the amnesty granted in the Emergency Powers Regulations was unlawful under international law, as it covered violations of international humanitarian law and international human rights law in respect of which amnesty cannot apply. Furthermore, some rights are non-derogable, such as the right to life and the right against torture. However, no definitive pronouncements were ever made by either national courts or international tribunals on the legality of the amnesty and the curtailment of human rights during that period.

There appears to have been wide acceptance of the restrictions on human rights and little public outcry during the state of emergency in the light of the threats to law and order by various armed groups. This threat and the ready access to arms from the raids on police armouries generated widespread fear and concern, hence community preoccupation with personal safety and security rather than the diminution of their civil liberties. The Solomon Islands Christian Association (SICA), comprising the Church of Melanesia, South Seas Evangelical Church, Roman Catholic Church, United Church and Seventh Day Adventists, together with women's groups such as Women for Peace, were vocal in advocating peaceful dialogue and respect for human rights. The latter, particularly, were active in the period leading up to the Townsville Peace Agreement in October, 2000, interceding with both the GRA and MEF to allow safe passage of people and food supplies as well as praying with and talking to them in attempts to moderate their conduct.

The Government itself was barely in control. The armed uprising by Guadalcanal militants and the forced eviction of Malaitan and other settlers on the eastern plains of Guadalcanal had begun in late 1998. In declaring a state of emergency in June 1999, the Government of Bartholomew Ulufa'alu was already faced with a police force that was gradually disintegrating with officers having divided loyalties, an armed Guadalcanal militant movement and threats of pending retaliation by Malaitan groups. Prime Minister Ulufa'alu was forced from office on 5 June 2000 but subsequent Governments of Manasseh Sogovare and Sir Alan Kemakeza were only nominally in control. They too were hostage to the armed combatants who roamed the streets of Honiara at will.

The Amnesty Acts and the issue of amnesty in the Solomon Islands

An amnesty is a bar on any future prosecutions in respect of specific criminal conduct that occurred before the amnesty came into place. Generally an amnesty refers to conduct that has

occurred in a precise period or linked to a particular event such as an armed conflict.²¹ Amnesties often relate to a certain category or categories of people, for example members of the rebel forces, State agents or political exiles.²²

Amnesty was a significant part of the Townsville Peace Agreement of 15 October 2000. Pursuant to this Peace Agreement, the Solomon Islands Government enacted the Amnesty Act 2000 (hereinafter the “Amnesty Act”) and, following the Marau Peace Agreement, the Amnesty Act of 2001. The two Amnesty Acts are almost identical with the latter expanding the initial Act to include the signatories to the Marau Peace Agreement.²³ The Act sets out the scope of the amnesty by stating that:

. . . the amnesty or immunity from criminal prosecution referred to in subsection (1) shall be in respect of any criminal acts committed in the execution or purported execution by any person:

(a) of the Isatabu Freedom Movement in connection or in association with the forceful eviction from the Province of Guadalcanal of certain persons during the period commencing 1st January 1998, and ending 15th October 2000 in furtherance of the demands of the indigenous people of Guadalcanal; and

(b) of the Malaita Eagle Force, in retaliation against the forceful eviction of Malaitans from Guadalcanal; and

(c) in execution of the purported execution of the para-military operations conducted on the 5th day of June 2000, and the joint para-military/Malaita Eagle Force security operations carried on thereafter, until the signing of the Townsville Peace Agreement on 15th October.”²⁴

And furthermore, it will only be granted on the condition that:

. . . all weapons and ammunition and stolen property in possession and in the custody of the militant groups . . . are surrendered and returned in the manner and within the periods specified in the Townsville Peace Agreement or such other date the Minister may specify by Notice published in the Gazette.²⁵

It is worth noting that crimes committed after the signing of the Townsville Peace Agreement do not fall within the scope of the Amnesty Act; therefore, any alleged crime of the Joint Operation

²¹ Rule of Law Tools for Post-Conflict States, “Amnesties”, United Nations, New York and Geneva 2009, pp. 5,6.

²² *Ibid.*

²³ From this point, this section will only refer to the Amnesty Act of 2000 as the Amnesty Act but note that the two Amnesty Acts are virtually identical.

²⁴ Amnesty Act 2000, section 3(2).

²⁵ Amnesty Act 2000, section 3(3).

Group, the Guadalcanal Liberation Front or other militant groups that occurred after the signing of the TPA would not be eligible for amnesty even if fitting other criteria.

“Criminal acts” covered by the amnesty include:

- (a) offences relating to arms and ammunition;
- (b) killing or wounding in combat or in connection with the armed conflict on Guadalcanal;
- (c) damage done or loss caused in any property during or in connection with military or security operations; and
- (d) any traffic offences committed during or in connection with military or security operations.”²⁶

The Amnesty Act, however, goes further than the Peace Agreements in section 3(5) and provides that amnesty does not extend to “any criminal acts done in violation of international humanitarian laws, human rights violations or abuses or which have no direct connection with the circumstances referred to in subsection (2)(a), (b) or (c) of this section.”²⁷

Only one case requesting amnesty has been rejected as a result of this section.²⁸ In *R. v. Su’u and Others*, the application for amnesty related to six Malaitan men who were alleged members of the MEF and accused of participating in an MEF patrol that killed a young Guadalcanal man, Francis Sale, while he and his friends were preparing their *motu* [oven] and cooking. The Court found that all requirements of the Amnesty Act were satisfied except for section 3(5). The judge, therefore, refused amnesty stating that:

The right to life is a human right. A killing which amounts to murder or manslaughter is a violation of a right to life. The International instrument [*sic*] dealing with human rights is the International Bill of Rights which covers: The Universal Declaration of Human Rights; The International Covenant on Civil and Political Rights; The First Optional Protocol to the International Covenant on Civil and Political Rights and the Second Protocol to the International Covenant on Civil and Political Rights.²⁹

²⁶ Amnesty Act 2000, section 3(4).

²⁷ Amnesty Act 2000, section 3(5).

²⁸ *R v. Su’u and Others* (2007) SBHC 144; HCSI-CRC 333 of 2006 (1 March 2007). High Court of Solomon Islands. Hereinafter *R. v. Su’u*

²⁹ *R. v. Su’u* at 18.

According to international human rights law, human rights violations are committed by state agents. There was no discussion by the judge as to whether these men, or the MEF, were behaving as state agents. As such, the use of international human rights law here is of questionable legal accuracy and calls into question the extent to which all those applying the Amnesty Act understood section 3(5) of the Amnesty Act.

Concerns regarding the Amnesty Act

The Amnesty Acts provide no instruction as to how courts should hear and determine applications for amnesty and which courts should do so. It is not clear whether an amnesty application should be made prior to trial or during a trial and there is no mention of issues such as the burden or standard of proof or the taking of evidence. Indeed, to date the various amnesty applications have been treated differently and amnesty has often been treated as a defence to a charge instead of a bar to prosecutions. In most cases an application for amnesty has been made pre-trial, but in at least one case an application for amnesty was made following a finding of guilt but before the Court had handed down a sentence.³⁰ Further to this, there is no guidance in the legislation as to whether decisions relating to amnesty are appealable or not. Although as a general principle, it would be reasonable to assume that since the issue of amnesty is a matter within the jurisdiction of the courts, it would be subject to their hierarchy as well.

Despite the lack of any clear guidance in the Amnesty Acts, most applications have been made before trial to the High Court. It appears the High Court has applied the criteria set out in the Amnesty Acts very strictly. It is difficult to find comprehensive data on the amnesty applications and grants. However, it is certain that only a few amnesties have actually been granted under the Amnesty Acts, perhaps as few as two.

The first amnesty was granted in a 2000 case, *Nokia v. Regina*³¹ (heard on appeal as *Regina v. Maga*).³² The application for amnesty involved two Malaitan men who were accused of offences arising from the abduction of a Guadalcanal man suspected of involvement with the Isatabu

³⁰ *Maoma and Futa v. R* (2009) Criminal Appeal Case No 22 of 2008. Court of Appeal of Solomon Islands. Available on www.pacii.org

³¹ [2006] SIHC 70; HCSI 588 of 2004(31 October 2006), High Court of Solomon Islands. Judgment at www.pacii.org

³² {2007} SBCA6, CA-CRAC 32 of 2006 (16 October 2007). Court of Appeal of Solomon Islands. Judgment at [www. Pacii.org](http://www.Pacii.org), hereinafter, *Nokia v. R.*

Freedom Movement. The accused were suggested to have been members of the Malaita Eagle Force. In this case, the Defence asked the Court to consider amnesty as a pre-trial issue,³³ whereas the Prosecution submitted that

the Court should allow the trial to proceed and ascertain on the evidence whether or not this case falls within the amnesty claimed. In order to have the benefit of the Amnesty, it first must be established beyond reasonable doubt or admitted by the accused that the offence was committed otherwise there is no basis to have the immunity or amnesty.³⁴

The arguments presented in this case highlight the confusion as to how amnesty should be granted. The matter was nevertheless decided as a preliminary issue and the judge, being satisfied that the two accused had admitted to the crimes, granted the applicants amnesty. On appeal, the decision to grant amnesty was upheld.

Another case where amnesty was apparently granted was *R. v. Lusibaea, Bartlett, Kili and Fioga* which was heard by the High Court in 2007. Despite numerous attempts, it has not been possible to obtain a copy of this judgment. It is not available on the Paclii website; the High Court was unable to locate a copy; and neither the Office of the Director of Public Prosecutions nor the Public Solicitor's Office could provide one. It is unacceptable that records of cases, especially those reaching the High Court, cannot be obtained. No other cases of amnesty have been found in available court records.

With so few amnesties being granted, it appears many of the former militants have been dissatisfied with the Amnesty Acts. They assert that the Amnesty Act does not reflect what the parties believed they were signing with the Peace Agreements. In 2008, former MEF commander Jimmy "Rasta" Lusibaea commented in the *Solomon Star*:

We have been lured by leaders during the tension days to sign the agreement. . . . They assured us that if we sign we will not be prosecuted for any crimes committed during the unrest but that was totally untrue. He said in court they applied for protection under the agreement but failed. This clearly indicates to us that we were being fooled and lied to by those leaders who claimed that the agreement was a blanket amnesty. . . .³⁵

The Peace Agreements themselves did not provide blanket amnesty and so perhaps this should have been better explained to those signing it at the time, together with the caveat that amnesty

³³ *Nokia v. R.* at 3, 4,5.

³⁴ *Nokia v. R.* at 7.

³⁵ *Solomon Star*, 16 March 2008.

would not be available for gross violations of human rights and international humanitarian law under international law. Other than section 3(5) which has only been used once, the conditions placed in the Amnesty Act for a granting of amnesty are entirely consistent with the Peace Agreement.

Amnesties and international law

Amnesties are very vexing issues under international law. Blanket amnesties, generally understood as amnesties that apply to broad categories of offenders and do not require the recipient to satisfy any conditions, are highly controversial and generally unacceptable.³⁶ It is therefore significant that the Amnesty Act does not provide a blanket amnesty.

It is generally accepted by the international community that amnesties cannot be provided for the most serious crimes under international law: war crimes, crimes against humanity, genocide and gross violations of human rights. Therefore, although the Amnesty Acts departed from the Peace Agreements on this issue by expressly excluding acts that violated international humanitarian law and accepted human rights principles, this limitation of the amnesty's scope makes the Amnesty Act more compliant with acceptable international standards on amnesty.

Despite the reference to international law in the Amnesty Act, no one in Solomon Islands has actually been prosecuted for violations of international humanitarian law or human rights law.³⁷ Solomon Islands has a dualist legal system, meaning that any international convention the state has ratified must be enacted into domestic law before they are enforceable. As such, with many provisions of international humanitarian law not appearing in the domestic Penal Code, it could be that someone is denied amnesty for a breach of international humanitarian law, but at the same time they could not be prosecuted in a domestic court for this breach.³⁸ Although this situation has not happened, it certainly is conceivable. If it were to arise, the person could still

³⁶ OHCHR, *ibid*, p. 8.

³⁷ This includes the accused in R. v. Su'u and Others who were denied amnesty on the grounds that they had violated human rights.

³⁸ For this to occur, it would need to first establish that the armed conflict meets the threshold required for Common Article 3 or Additional Protocol II to which the Solomon Islands is a party.

be accused of a domestic offence, for example, murder instead of a war crime.³⁹ If such were to happen it would undermine international law and fail to acknowledge the gravity of the crime.

Amnesties, even the conditional amnesty in the Amnesty Act, are often considered incompatible with various human rights treaties and emerging principles that call for victims' right to a remedy, the right to the truth, the victims' right to know, the duty to investigate and the duty to prosecute. While, for example, Solomon Islands is not bound by a treaty obliging it to uphold the right to truth, that right is nonetheless enshrined within certain rights in the Solomon Islands Constitution such as section 12 on freedom of expression and access to information.⁴⁰ In the case of Solomon Islands, however, given the limited application of the Amnesty Act and the support provided to tension trials, amnesty has not significantly inhibited these principles. If, however, a blanket amnesty, as envisaged by some of the signatories to the Peace Agreements, had been granted, then these human rights principles would have been in jeopardy.

The TRC has not had the scope to grant amnesty or to expand or limit the Amnesty Act in any way.⁴¹ Nonetheless, during outreach activities, a regular question asked by members of the public has been whether the TRC can grant amnesty. To date there has only one truth commission that has used a truth for amnesty formula: the South African Truth and Reconciliation Commission. In a recent report, the Office of the High Commissioner for Human Rights (OHCHR) has noted that it is doubtful whether the South African TRC amnesty provisions would be found acceptable today by human rights bodies.⁴² It is therefore consistent with international best practice principles that the TRC has not had amnesty granting power.

³⁹ As far as International Humanitarian Law is concerned, only grave breaches of the Geneva Conventions appear in Solomon Islands domestic law. These are not applicable to the tension in any case as they only apply to international armed conflicts. If the conflict is not considered to be a non-international armed conflict then Common Article 3 would apply. However, this has not been incorporated into domestic law.

⁴⁰ This argument was successfully advanced before the South African Constitutional Court – see *The Citizen1978 (Pty) Ltd and Others v. McBride* (CCT 23/10) [2011] ZACC 1,1 available at www.saflii.org/za.

⁴¹ TRC Act, section 20.

⁴² OHCHR, op cit, “Amnesties” at 33.

International law

Solomon Islands is bound by the treaties and conventions it has ratified (conventional international law). Article 26 of the Vienna Convention on the Law of Treaties provides: “Every treaty is binding upon the parties to it and must be performed by them in good faith”.

It is also bound by customary international law which are practices and principles which have not been codified but are considered binding on states, because they have been accepted and followed by the international community as accepted norms and practices.⁴³ Treaties not ratified by Solomon Islands may also be relevant to determining the international law provisions applicable to Solomon Islands, as their provisions may reflect customary international law, e.g., the Convention against Torture and All Forms of Cruel, Degrading and Inhumane Treatment or Punishment.⁴⁴

Ratified Humanitarian Law Conventions and Protocols

In relation to International Humanitarian Law, Solomon Islands is a party to:

The four 1949 Geneva Conventions;

The two 1972 Additional Protocols to the Geneva Convention *viz* :

Protocol Additional to the Geneva Convention of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977;

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977 (both ratified by Solomon Islands on 19 September 1988).

Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (Geneva, 17 June 1925), ratified on 1 June, 1981.

⁴³ Article 38, clause 1 b. Statute of the International Court of Justice, “The Court whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

b. International custom, as evidence of general practice accepted as law.”

⁴⁴ Prosecutor v. Anto Furundzija, Trial Chamber, (1998).

“It should be noted that the prohibition of torture laid down in human rights treaties enshrines an absolute right, which can never be derogated from, not even in time of emergency ... This is linked to the fact ... that the prohibition on torture is a peremptory norm or *jus cogens* ... The prohibition is so extensive that States are even barred from expelling, returning or extraditing a person to another State where there are substantial grounds for believing that person would be in danger of being subjected to torture” paragraph 144.

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (London, Moscow and Washington, 10 April 1972), ratified on 17 June 1981.

Convention on the Prohibition of Military or any Hostile Use of Environmental Modification Techniques (10 December 1976), ratified on 19 June, 1981.

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Paris, 13 January 1993), ratified on 23 September 2004.

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (18 September 1997), ratified on 26 January 1999.

Ratified Human Rights Conventions

As regards to the International Human Rights Law, Solomon Islands is a party to:

The 1966 International Convention on the Elimination of All Forms of Racial Discrimination;

The 1966 International Covenant on Economic, Social and Cultural Rights;

The 1979 Convention on the Elimination of All Forms of Discrimination against Women;

The 1989 Convention on the Rights of the Child;

The 1999 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

Various International Labor Organization Conventions and Recommendations.

As for International Criminal Law, Solomon Islands signed the Rome Statute on 3 December 1998 but has yet to ratify it or take any steps regarding the Optional Protocol.

The rights and obligations contained in these international instruments are directed at state parties such as Solomon Islands and assume the state, as duty bearer, is the violator. However, during the tension, the state, which was barely functioning, was not as active as the militia groups in committing human rights violations, although the Police Field Force, Rapid Response Unit and Joint Operation did commit violations attributable to the state. If the legal definition of human rights is to be applied in terms of the duty of Solomon Islands to its citizens, the violations committed by non-state actors such as the GRA, GLF, IFM and MEF would be considered as a failure by the state in its basic duty to protect its citizens. The Joint Operation force had authorization and support from the Government and as such was a state actor. The MEF and IFM participation in the Joint Operation force would also be similarly classified. This

would also apply to the MEF prior to and post-TPA when it co-operated with the police to provide joint patrols and maintain law and order in Honiara before the situation deteriorated into anarchy and general lawlessness.

Yet the mandate conferred on the TRC by the Act requires it to investigate “the nature, antecedents, root causes, accountability or responsibility for and the extent of the impact on human rights violations or abuses which occurred between 1st January 1998 and 23rd July 2003.”⁴⁵ Section 5(2)(a) then directs the TRC to “investigate and report on . . . the question of whether those violations and abuses were the result of deliberate planning, policy or authorization by any government, group or individual.”⁴⁶ Notwithstanding the obligations the Solomon Islands assumes as duty bearer (for human rights), the Act clearly directs the TRC to look into violations committed by any Government, group or individual.

Relationship between International Human Rights Law and International Humanitarian Law

It was once common to treat these two bodies of international law as related but separate and to consider them as applicable to the mutual exclusion of the other, one applying in a society at peace and the other displacing it in an armed conflict situation⁴⁷ (whether international or not). There is considerable debate by commentators in this regard, but the prevailing view is that they both apply in situations of armed conflict, one rationale being that humanitarian law is a special category of human rights.⁴⁸ The proposition that human rights are inappropriate for “situations of strife” is misconceived because if human rights are regarded as inherent they cannot, by definition, be dependent on circumstances.⁴⁹

⁴⁵ TRC Act, section 5(1)(b)

⁴⁶ *Ibid.*

⁴⁷ Prosecutor v. Tadic.

⁴⁸ J. Pictet, *Humanitarian Law and the Protection of War Victims* (1973); E Cohen, *Human Rights in the Israeli-Occupied Territories 1967-1982* (1985); A. Robertson, *Human Rights in the World* (1972); Draper, “The Relationship between the Human Rights Regime and the Law of Armed Conflict,” *I Israel Yearbook on Human Rights*.

⁴⁹ C. Droege “The Interplay between International Humanitarian Law and International Human Rights Law”, in *Situations of Conflict*, 40 Israel Law Review (2007), p. 324.

Moreover, the International Court of Justice (ICJ) has held in several of its decisions that human rights law may apply in situations of armed conflict.⁵⁰ In its Nuclear Weapons Advisory Opinion, the Court stated that:

the protection of the International Covenant on Civil and Political Rights does not cease in times of war, except by operation of Article 4 of the Covenant whereby certain provisions may be derogated from in a time of national emergency. Respect for the right to life is not, however, such a provision. In principle, the right not arbitrarily to be deprived of one's life applies also in hostilities. The test of what is an arbitrary deprivation of life, however, then fails to be considered by the applicable *lex specialis*, namely the law applicable in armed conflict which is designed to regulate the conduct of hostilities. Thus whether a particular loss of life, through the use of a particular weapon in warfare, is to be considered an arbitrary deprivation of life contrary to Article 6 of the Covenant, can only be determined by reference to the law applicable in armed conflict and not deduced from the terms of the Covenant itself.⁵¹

The Court was saying that both human rights law and humanitarian law would apply where hostilities occur, however, the law to be applied would be the one which was specific to the circumstances, i.e., humanitarian law. This suggests that humanitarian law displaces human rights,⁵² on the basis of the principle that the general must give way to the specific (humanitarian law as the *lex specialis*). It remains a controversial issue whether humanitarian law does indeed displace human rights law in times of conflict. The established view is that humanitarian law is what applies in times of conflict by definition.⁵³

In its Advisory Opinion on the wall dividing Israeli and Palestinian territories, the Court quoted the dicta in the Nuclear Weapons Advisory Case with approval and further observed that:

More generally, the Court considers that the protection offered by human rights conventions does not cease in case of actual conflict save through the derogations of the kind to be found in Article 4 of the International Covenant of Civil and Political Rights. As regards the relationship between international humanitarian law and human rights law, there are three possible situations: some rights may be exclusively matters of international humanitarian law; yet others may be matters of human rights law; yet others may be both these branches of international law.⁵⁴

⁵⁰ ICJ. "Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion", 8 July 1996, *ICJ Reports* 1996.

ICJ. "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory", Advisory Opinion, ICJ, 9 July 2008, *ICJ Reports* 2004.

⁵¹ ICJ Nuclear Weapons Advisory Opinion, *op. cit.*, paragraph 25.

⁵² Noam Lubell, "Challenges in applying human rights law to armed conflict", *International Review of the Red Cross*, Vol. 87, No. 86 (December, 2005), p738.

⁵³ Refer note 49 and the differing perspectives of the commentators and writers.

⁵⁴ Legal Consequences Adv. Op., *op. cit.*, paragraph 106.

Here, the Court elaborated further its views on the relationship between humanitarian and human rights law by acknowledging that there was a place for human rights in actual conflict, rather than as a set of values which deferred to humanitarian law during periods of hostilities.

An attempt by Israel to argue that international human rights covenants such as ICCPR, ICESCR and CRC did not apply in the Palestinian Occupied Territory because of the existence of armed conflict and were, therefore, to be replaced by international humanitarian law was rejected by the Court on the basis of the Nuclear Weapons Advisory Opinion and the passage cited above.

This position has also been reinforced by United Nations human rights bodies.⁵⁵ In its Concluding Observations on Israel in 1998, the Human Rights Committee stated:

The Committee is deeply concerned that Israel continues to deny to fully apply the Covenant in the occupied territories. In this regard, the Committee points to the longstanding presence of Israel in these territories, Israel's ambiguous attitude towards their future status, as well as the exercise of effective jurisdiction by Israel's security forces therein. In response to the arguments presented by the delegation, the Committee emphasizes that the applicability of the rules of humanitarian law does not by itself impede the applicability of the Covenant or the accountability of the state under article 2 , paragraph 1, for the actions of its authorities. The Committee is therefore of the view that, under the circumstances, the Covenant must be held applicable to the occupied territories ...where Israel exercises effective control."⁵⁶

It also made the following observations on the ICCPR in General Comment No 31:

The Covenant also applies in situations of armed conflict to which the rules of international humanitarian law are applicable. While, in respect of certain Covenant rights, more specific rules of international humanitarian law may be specifically relevant for the purposes of the interpretation of Covenant rights, both sphere of law are complementary, not mutually exclusive.⁵⁷

The Human Rights Committee applied a more nuanced approach than the ICJ in the Nuclear Weapons Advisory Case. It suggested that in situations of armed conflict, the two fields of international law should be harmonized as far as possible, rather than humanitarian law displacing human rights as the *lex specialis*, i.e., the specific taking precedence over the general. This is to be compared with the approach of the European Court of Human Rights which only

⁵⁵ Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel 31/08/2001 E/C.12/1ADD.69.

Human Rights Committee, General Comment 29, States of Emergency Article 4, UN Doc.CCPR/C/21/Rev.1/Add.ii (2001).

⁵⁶ HRC. Concluding Observations, CCPR/C/79/Add.3 paragraph 10 (1998).

⁵⁷ HRC. General Comment No31, CCPR/C/21/Rev.1/Add1.3, paragraph 11,(May, 2004).

applied human rights law to situations of armed conflict in Northern Ireland, Turkey and Chechnya.⁵⁸

Therefore, both human rights and humanitarian law applied during the tension, but the extent to which the latter applied throughout the period depends on the facts on the ground and whether an “armed conflict not of an international character” persisted for the duration of the tensions.

International Criminal Law

Solomon Islands is not yet bound by the rules of international criminal law because it has signed but not ratified the Rome Statute. International Criminal law comprises genocide, crimes against humanity and other heinous offences which the international community has crystallized in the Rome Statute. It is a specialised area of human rights law, because it not only criminalizes particular types of reprehensible conduct but sets out rigorous procedures for ensuring those charged are accorded due process before the law by impartial and independent tribunals. The TRC has adopted the definitions and standards set out in the Rome Statute as a measure by which to assess conduct by state and non-state actors during the armed conflict. However, this is not for the purpose of criminal prosecution which requires investigation and evidence to exacting standards but as a general reference point to guide analysis of human rights and international humanitarian law violations and abuses.

Solomon Islands signed the Rome Statute of the International Criminal Court on 3 December 1998. The tensions are legally defined as beginning on 1 January 1998. As a signatory to the Statute, Solomon Islands is “obliged to refrain from acts which would defeat the object and purpose” of it pursuant to Article 18 of the Vienna Convention on the Law of Treaties. That Solomon Islands has yet to ratify the Rome Statute and domesticate its provisions has left a window of impunity open in this regard which needs to be closed.

The Relationship between international law and the domestic law of Solomon Islands

The obligations of Solomon Islands in relation to international law are set out in the Vienna Convention on the Law of Treaties. It is obliged to act in accordance with the conventions it has

⁵⁸ McCann and Ors v. United Kingdom, ECtHR, App. No. 1898941 (Sept 27, 2005); Ergi v. Turkey, ECtHR, App. No. 23818/94; Isayeva, Yusupova and Basayeva, ECtHR, App. Nos. 57947-49/00 (February 24, 2005), Isayeva v. Russia, ECt Hr, App No. 5799/50 (February 24, 2005).

signed and implement the provisions of those it has ratified, since what is accepted as customary international law applies by virtue of that status in domestic law as common practice and usage among nations. However, there is a caveat: the application of international humanitarian law is triggered by the existence of ‘armed conflict’ on the ground; this caveat will be considered shortly.

Solomon Islands has adopted a dualist approach to the application of international law, similar to other Common Law jurisdictions, which considers international law and domestic law as two separate systems of law, the latter requiring ratification and incorporation by statute before it can take effect. But this position has been modified by the courts in the last three decades. In *Kelly v. R.*⁵⁹, the Court of Appeal explained the position in these terms:

Solomon Islands has acceded to the Convention on the Rights of the Child which came into force on 2 September 1990. The convention has not, however, been ratified by Parliament so as to incorporate it into the domestic law of the Solomon Islands. At most therefore, it serves as a guide to the procedure to be followed in a case of this kind at common law or under statute. In fact, the only relevant provision of real consequence is Article 37 (a) providing that life imprisonment “without possibility of release” shall not be imposed on a person under 18 years who commits an offence, but this is relevant to the sentencing of the offender rather than to their prosecution or conviction. The International Guidelines for the Administration of Juvenile Justice 1985 (the “Beijing Rules”), which do not constitute the terms of a binding treaty, lay down desiderata which appear to have been complied with in the appellant’s case. So far as relevant here, those rules are again material only in relation to sentencing.⁶⁰

As may be seen from the passage cited, the purely dualist stance is no longer applicable. Even where conventions and treaties have been ratified and are yet to be incorporated in domestic law, the courts use them as aids or guides to statutory interpretation. However, the requirement of incorporation in domestic legislation after ratification of international conventions remains a prerequisite for determination of criminal responsibility and an end to legal impunity.

Part of the explanation for the less rigorous approach of dualist jurisdictions like Solomon Islands has been the influence of the Bangalore Principles which were developed by eminent Commonwealth jurists and lawyers at a judicial colloquium in February 1988 in Bangalore, India. They state, *inter alia*:

In most countries whose legal systems are based upon the common law, international conventions are not directly enforceable in national courts unless their provisions have been incorporated by

⁵⁹ [2006] SBCA 21, CA-CRAC 019 of 2006 (25 October, 2006).

⁶⁰ *Ibid*, p. 31.

legislation or into domestic law. However, there is a growing tendency for national courts to have regard to those international norms for the purpose of deciding cases where the domestic law—whether constitutional, statute or common law—is uncertain or incomplete.⁶¹

. . . It is within the proper nature of the judicial process and well-established judicial functions of national courts to have regard to international obligations a country undertakes — whether or not they have been incorporated into domestic law — for the purpose of removing ambiguity or uncertainty from national constitutions, legislation or common law.⁶²

This trend of “creeping monism”, as one academic has termed it, is readily attributable to the globalization of the international community.⁶³ Moreover, the greater unification of regional legal systems as in the European Court of Human Rights, the increase in the number of international supervisory bodies producing “international case law,” and the promotion by the Commonwealth Secretariat of judicial colloquia which, developed and built on the Bangalore Principles, have all played a part in this process.⁶⁴ Human rights and related values have become widely disseminated and their universal nature affirmed and acknowledged. At the same time, there is a continuing debate and dialogue about the extent to which these values can be qualified by sovereignty, context, cultural, social and other factors.

In terms of human rights and humanitarian law, only the grave breaches of the four Geneva Conventions have been incorporated into the domestic law of the Solomon Islands, as well as those international laws (whether human rights, humanitarian or criminal law) that are considered part of customary international law, such as Common Article 3 of the Geneva Conventions. None of the human rights conventions which the country has ratified, as cited earlier, have been enacted as local law with the exception of the Convention against Torture, provisions of which apply as customary international law. Therefore, only Common Article 3 is relevant in this regard.

However, that does not preclude the reliance on the Conventions the Solomon Islands has either signed or ratified for guidance and reinforcement of international norms.⁶⁵ Where an Act or statute is open to two interpretations, the Courts will proceed on the basis that the interpretation

⁶¹ Bangalore Principle 4.

⁶² Bangalore Principle 7.

⁶³ Melissa A Waters “Creeping Monism: The Judicial Trend toward Interpretive Incorporation of Human Rights Treaties”, *Columbia Law Review*, vol. 107, p. 629.

⁶⁴ Robyn Layton, “When and how can Domestic Judges use International Law in Dualist Systems”, 1.

⁶⁵ Ken Averde, “Unpublished Remarks.”

consistent with a human rights approach is to be preferred.⁶⁶ If the common law lacks clarity, is ambiguous or unclear, the Courts will make a ruling that accords with human rights law. When defining what constitutes “the public interest”, they will also rely on human rights conventions where relevant. And the Courts may also give effect to human rights conventions in matters which are regulated by those Conventions.⁶⁷ The relationship between humanitarian and human rights law has already been considered: the present position is that the former is regarded as *lex specialis* to the *lex generalis* status of human rights law, i.e., the specific is to take precedence over the general. It is relevant to note that the European Court of Human Rights has applied human rights law rather than humanitarian law to internal conflicts in Northern Ireland, Turkey and Chechnya.⁶⁸ This may be regarded as either an oversight by the Court or an innovative initiative to adapt human rights law more readily to situations of internal armed conflict.⁶⁹

Moreover, the mandate of the TRC required it to have regard to international human rights and international humanitarian law in the investigation of “human rights violations or abuses”. So the TRC has statutory justification for this reference.

Applying international humanitarian law to Solomon Islands

While reference has been made to the four Geneva Conventions, for practical purposes only Common Article 3⁷⁰ and other elements comprising customary International Humanitarian Law may apply to the period of the tensions as “conflict not of an international character”. It provides:

⁶⁶ Sukutaona v. Houanihou, Civil Appeal Case No 7 of 1981.

⁶⁷ R. v. Su'u, see above.

⁶⁸ See note 57.

⁶⁹ William Abresch, “A Human Rights Law of International Armed Conflict: The European Court of Human Rights in Chechnya”, Centre for Human Rights and Global Justice, Working Paper No 4, p. 2.

⁷⁰ Nicaragua v. USA [1986] ICJR, paragraph 218 “Article 3 which is common to all four Geneva Conventions of 12 August 1949 defines certain rules to be applied in armed conflicts of a non-international character. There is no doubt, that, in the event of international armed conflicts, these rules constitute a minimum yardstick, in addition to the more elaborate rules which are also to apply to international conflicts, and they are rules which, in the Court’s opinion, reflect what the Court in 1949 called ‘elementary considerations of humanity; (Corfu Channel, Merits, ICJ Reports 1949) page 22, paragraph 215 above). The Court may therefore find them applicable to the present dispute, and is thus not required to decide what role the United States multilateral treaty might otherwise play in regard to the treaties in question.”

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking active part in the hostilities, including members of armed forces who have laid down their arms and those placed “hors de combat” by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth, or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the abovementioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judicial judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilised peoples.

(2) The wounded and sick shall be collected and cared for. An impartial humanitarian body such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provision shall not affect the legal status of the Parties to the conflict.

To establish whether international humanitarian law is applicable to the tensions (i.e., January 1998 to 23 July 2003), it has to be determined whether, at any point in time, an armed conflict (either of an international or a non-international character) occurred during that period. One also has to establish a nexus or connection between the violation and the armed conflict, e.g., if a person is shot and killed, it must be demonstrated that both parties were combatants for the act to be legitimate and not murder. This raises issues about the status of members of militant groups as “combatants” which will be considered shortly.

The Appeals Chamber of the ICTY has defined “armed conflict” as follows:

Whenever, there is a resort to armed force between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State, international humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached, or, in the case of internal armed conflicts a peaceful settlement is achieved. Until that moment, international humanitarian law continues to apply to the whole territory under the control of a party, whether or not actual combat take place there.⁷¹

⁷¹ Prosecutor v. Tadic, ICTY, Appeals Chamber.

While the Act deems 1 January 1998 as the beginning of the tensions, the outbreak of “armed conflict” and its duration is an issue of fact. The Preamble to the Act makes a general reference to 1998 without more specificity. It also appears from accounts of the early part of the tensions, that Malaitan and other settlers were either evicted in large numbers by Guadalcanal militants or fled because of threats or intimidation from them. Plantation workers suffered the same fate. It could be argued that armed violence as such between the GRA and the Rapid Response Unit (RRU) of the Royal Solomon Islands Police Force did not meet the threshold as laid down in Tadic’s case. However, the TRC considers that the nature and violence of the forced displacement and the limited engagement by the RRU was sufficient to qualify as an armed conflict. Houses and properties were burnt down, civilians lost everything but the clothes on their backs and Guadalcanal people fled to the bush for protection when attacked by either the MEF or the Joint Operation forces. Between 1998 and 2003 at least 30 percent of the population of Guadalcanal was forcibly displaced through direct or indirect threats and intimidation.⁷² It was at its highest levels between 1998 and 1999.⁷³ This pattern of displacement continued throughout the tension although on a reduced scale.

In considering the issue of armed conflict, the ICTY has taken into account the intensity of the conflict and the organization of the parties to the conflict. In *Prosecutor v. Tadic*⁷⁴ it observed:

The test applied by the Appeals Chamber to the existence of an armed conflict for the purposes of the rules contained in Common Article 3 focuses on two aspects of a conflict, the intensity of the conflict and the organisation of parties to a conflict. In an armed conflict of an internal or mixed character, these closely related criteria are used solely for the purpose, as a minimum of distinguishing an armed conflict from banditry, unorganized and short lived insurrections, or terrorist activities, which are not subject to international law.

The evictions of squatters began in 1998 and confrontation between the GRA and the Police Force was pursued at a low level of intensity for much of 1998 and 1999. The GRA raided the armoury at Yandina, Russell Islands and were able to obtain some high-powered rifles for their campaign in December, 1998. Although skirmishes between the GRA and the Police Field Force were intermittent, that is not to say there were no casualties. According to TRC statistics, 64

⁷² Chapter 4,.2.6, Forced Displacement

⁷³ *Ibid.*

⁷⁴ *Prosecutor v. Tadic, op cit.*

percent of deaths occurred between 1998 and 1999.⁷⁵ The Honiara Accord was concluded on 28 June, 1999 between the Government, the Provincial Governments of Malaita and Guadalcanal and GRA/IFM leaders, brokered by a Commonwealth envoy, Major General Sitiveni Rabuka. It broke down shortly after. The GRA encountered little opposition in its forced evictions of non-Guadalcanal settlers at this time and, according to TRC figures, these evictions reached their peak in 1999.⁷⁶ These evictions were at times accompanied by killings, rapes, abductions, lootings, theft, extortion and the burning of houses.⁷⁷ Both sides committed these criminal acts. The police did not strenuously respond to the actions of the GRA militants, adopting a cautious approach in the expectation of “a political solution”. But none was to be forthcoming as politicians themselves were paralyzed by conflicting loyalties and internal disputes. This paralysis allowed the GRA to accomplish the displacement of tens of thousands of non-Guadalcanal settlers. In considering the phrase “armed conflict”, the CTY has examined the definition of “protracted armed violence” in relation to the interpretation to be given to it. In *Prosecutor v. Haradinaj*, it considered what “protracted armed violence” was in these terms:

The criteria of protracted armed violence therefore has been interpreted in practice, including in the Tadic Trial Chamber itself, as referring to the intensity of the actual violence than to its duration. Trial Chambers have relied on indicative factors relevant for assessing the “intensity” criterion, none of which are, in themselves, essential to establish that the criterion is satisfied. These indicative factors include the number, duration and intensity of individual confrontations; the type of munitions and other military ammunitions fired; the number of persons and type of forces partaking in the fighting; the number of casualties; the extent of material destruction; and the number of civilians fleeing combat zones. The involvement of the Security Council may also be a reflection of the intensity of the conflict.

Applying that criteria, the intensity of the armed violence between the GRA and the RRU in 1998-1999 was serious with the settlers and workers from other islands the deliberate target of the GRA violence. Its effect on the people was disastrous in terms of personal losses and psychological trauma. This violence escalated in 2000 after the formation of the Malaita Eagle Force in late 1999, the MEF raid on the Honiara police armoury in June 2000 and their counter-attack against Guadalcanal. These events are discussed in detail elsewhere in this report. There can be no doubt that they constituted “intense armed violence”.

⁷⁵ Chapter 4.2.1, Killings.

⁷⁶ Chapter 4.2.6, Forced Displacement.

⁷⁷ *Ibid.*

The Townsville and Marau Peace Agreements did not, in the TRC's view, lead to a final and lasting peace in the Solomon Islands. Although it has been said that after the TPA the level of conflict subsided to some extent, but widespread anarchy and criminality still prevailed in Honiara, Auki and elsewhere and Harold Keke grew more pathological on the Weather Coast, imposing harsh control over the persons living with him. The armed conflict continued and the Solomon Islands Government devoted considerable resources and personnel to fighting Keke and the GLF. Its energies and attention were concentrated on the armed conflict and little time and funds were expended on other matters of national concern such as the health services, education and infrastructure.⁷⁸ In this regard, the state bore direct responsibility for the human rights violations committed by the Joint Operation forces such as killing of civilians, torture, burning of houses, confiscation of livestock and destruction of property as well as the illegal detention of hundreds of villagers at Malaheti village, because the Joint Operation was operating with the explicit authority and backing of Solomon Islands Government. The Weather Coast and its people suffered the brunt of these attacks which left deep psychological wounds that still remain. That there has neither been an acknowledgment nor any form of recompense for the violations of human rights and international humanitarian law committed has only added to the profound sense of grievance and marginalization of the people of the Weather Coast.

As to establishing the nexus or relationship between the violation and the period of the tension regarded as "internal armed conflict", the Trial Chamber in Tadic's case stated:

On the basis of the foregoing the Trial Chamber accepts, with some caveats, the Prosecution proposition that it is sufficient for crimes against humanity that the act occurred in the course or duration of an armed conflict. The first such caveat, a seemingly obvious one, is that the act be linked geographically as well as temporally with the armed conflict. . . .

Secondly, the act and the conflict must be related or, to reverse this proposition, the act must not be unrelated to the armed conflict.⁷⁹

The proposition in Tadic's case required the violation or abuse committed to have occurred within the geographic area where the armed conflict took place and also that it was a part of or connected to the armed conflict. For example, the burning of villages in West Guadalcanal by the MEF would be related to the armed conflict, but acts of criminality post-TPA by some MEF

⁷⁸ Chapter 3.6.2, Sectoral Impact: Health and Education.

⁷⁹ Tadic, *supra*, para. 683 and 684.

regulars in attacking Red Cross personnel or patients inside a hospital, or extorting money or looting shops would have no nexus with the armed conflict.

As to the organization of the rival militias, the MEF, Marau Eagle Force and the Joint Operation had a clear command structure beginning (in the case of the MEF) with small units and proceeding in a hierarchy up to Commanders with a Supreme Council at the apex. The GRA and IFM were less hierarchical in their organization, but they did have units based on villages and responded to a chain of command with Harold Keke as leader (until the schism before the signing of the Townsville Peace Agreement in October, 2000). According to the criteria set out in Haradinaj's case, both parties had a leadership structure, disciplinary rules and mechanisms, headquarters, control of certain territory, access to weapons, recruits and training, the ability to carry out military operations, speak with one voice and conclude peace accords.⁸⁰ Having said that, it should also be noted that these militias reflected the more horizontal structures of Melanesian society and had informality akin to a citizens' militia. It was in the approximately nine-month period up to October, 2000 that the conflict was at its height, as the MEF and its allies gained a decisive advantage with the arms seized in the raid on the police armoury at Rove. It is no coincidence that in 2000 the incidence of abduction, torture, killing and sexual violence peaked whereas the high point for forced displacements and property violations was 1999.⁸¹

The definition of "combatants" however, raises some problems. In international armed conflicts, the terms "combatant" and "civilian" are clearly defined.⁸² However, for non-international armed conflicts, whether members of armed opposition groups are considered civilians or members of armed forces is ambiguous.⁸³ The issue is particularly unclear whether members of armed opposition groups are civilians who lose their protection from attack when directly participating in hostilities, or whether members of such groups are liable to attack.⁸⁴ This lack of clarity is reflected in treaty law where Additional Protocol II does not contain any definition of

⁸⁰ Prosecutor v. Haradinaj, ICJ (2008), para. 60.

⁸¹ Joseph Sangu in closed hearing.

⁸² Geneva Conventions 1949, Additional Protocol II, Articles 13-15, 17-18.

⁸³ J.M. Henkaerts, "A Study on Customary International Law: A contribution to the understanding and respect for the rule of law", *International Review of the Red Cross*, Vol. 87, No. 857, March 2005, p. 190.

⁸⁴ *Ibid*

civilians or of civilian population.⁸⁵ States have long been reluctant to recognize or accept that domestic insurgents have any right to attack government forces.⁸⁶ The practical approach would be to treat them as combatants in order to extend the rules of war to such groups. The other point is that there are numerous examples where state institutions are weak or dysfunctional and armed opposition groups are contending for control. Accordingly, an expansive approach should be adopted to treat the members of the GRA, IFM, MEF, Marau Eagle Force and the Police Field Force as combatants.

The signing of the two peace agreements ended hostilities between the militant groups and the level of conflict decreased. Was “a peaceful settlement reached” in terms of the Appeals Chamber’s definition in Tadic’s case? The question may only be answered by comparing the situation on the ground before and after Townsville and whether after Townsville the fighting between the Kemakeza Government and its allies with Keke and the GLF amounted to armed conflict. The ICTY, as mentioned earlier, has held that “protracted armed violence” refers to the “intensity” rather than the “duration” of an armed conflict. The peace agreements did not bring “peace” to the greater part of Guadalcanal. While the actual incidence of conflict diminished to a large extent. Harold Keke and his GLF militia refused to be a party to any peace accord and continued to resist the Government and its allies. Harold Keke continued to intimidate and terrorize the local population. The Government regarded Keke as a threat to national security and concentrated its efforts in trying to capture him as has been detailed elsewhere. Outside the Weather Coast, the situation was largely peaceful but the threat Keke represented was real and continued to cause fear throughout Guadalcanal. The Government was nominally in control but its authority was limited and it was subject to pressure from MEF militants. Fighting between the GLF and the Joint Operation Force was fierce with no quarter given by either side. A measure of the intensity can be seen in the extent to which the Joint Operation went by setting up Malaheti as a concentration camp for Weather Coast villagers, by continued displacements of local communities, and by the savagery with which Keke treated his own people whom he suspected of collaborating with the other side.

⁸⁵ *Ibid*

⁸⁶ William Abresch, *op. cit.*, at 18.

When Keke and the challenge he and his militia represented is considered in terms of the resources and the personnel the Joint Operation forces deployed against him, it amounted to an “internal armed conflict”. The full force of the paramilitary personnel the Government was able to muster was deployed against Keke and the GLF. The scale and ferocity of the fighting was intense although it was a series of engagements rather than protracted warfare. Despite being confined to the Weather Coast, Law and order in Honiara at this time (2001-2003) was tenuous with some semblance of order interwoven with random acts of criminality. The conflict was now between the Government and its militia allies on the one side and Keke and the GLF on the other. In 2002 and 2003, the Government sent a patrol boat and an armed force to capture Keke. Both attempts were unsuccessful but the effects on the local population were devastating in terms of indiscriminate shooting and the widespread destruction of homes, property, crops and livestock from the patrol boat and the armed contingent.

It therefore appears that the “intensity” of the conflict was at appreciable levels, in terms of the confrontations, the weapons used, casualties and the type of forces engaged in combat in accordance with the criteria laid down in Tadic’s case. Taken as a whole, the TRC has concluded that an internal armed conflict occurred from 1 January 1998 to 23 July, 2003. It began with the forced displacement of thousands of villagers in parts of Guadalcanal. Furthermore, workers and Guadalcanal people themselves were also displaced to different places around Guadalcanal. The scale and nature of the dislocation was massive. Although displacement peaked in May 1999, it continued for the duration of the tension as different groups of people were displaced by different groups of armed militants. Fighting persisted throughout the period, first between the GRA and the RRU of the Royal Solomon Islands Police Force, then between the GRA and the MEF and Marau Eagle Force, and finally between the Joint Operation forces (the Government, MEF and IFM of Andrew Te’e) against Keke and the GLF. As has been mentioned, the effects of the armed conflict are best measured by the fact that approximately 30 percent of the population of Guadalcanal was displaced from their homes between 1998 and 23 July 2003.

This determination means that the internal armed conflict covered the entire period of the tension and that international humanitarian law was and international human rights law are applicable during that time. In any case, the mandate of the TRC requires it to investigate all human rights violations and abuses occurring between 1998 and 23 July, 2003.

Forgiveness Bill

In the course of the TRC's work, a Forgiveness Bill was mooted by Prime Minister Danny Philip in a speech to Parliament outlining the policies of his newly-formed National Coalition for Reform and Advancement (NCRA) Government in October, 2010. Although the Forgiveness Bill was only a concept, it envisaged some kind of process to remove the misdeeds of the tension from former militants and perpetrators and rehabilitate them fully into society. The concept received strong support from former militants and inmates' advocate groups. But there was an adverse reaction from victims, churches and other sectors of society.

The TRC recognizes and appreciates the desire of many people to draw a line under the events of the tension and move forward. And while discussion remains in the realm of conjecture, it should be emphasized that forgiveness is the sole prerogative and domain of the victims of the tension, and them alone. Forgiveness is also an individual rather than a collective act: one may not purport to forgive on behalf of someone else, because the violation and harm was done to a particular person or human being, who thereby acquires the right to forgive or not. Reconciliation is a mutual pact and in this relationship, the roles are reversed with the perpetrator seeking favour from the victim.

Forgiveness is also a complex process involving conflicting emotions and feelings which victims need to resolve in their own time and at their own pace. To remove from victims what is left for them to bestow as a measure of what little dignity they continue to possess, albeit for noble intentions, would represent an apparent disregard for their worth and an invasion of their personal space. From the victims' perspective it would seem as if they were being violated a second time because caveats were to be placed on what only they could rightfully grant.

4.2

PATTERNS OF HUMAN RIGHTS VIOLATIONS AND ABUSES: FINDINGS OF THE TRC

4.2.1 KILLINGS

1. Introduction

The number of killings in the Solomon Islands crisis of 1998-2003 was small compared to other regional conflicts such as those in neighboring Bougainville (1988-1998) where around 20,000 people lost their lives, and in East Timor (1975-1998) where a reported 200,000 people died. Nevertheless, the crisis years were tumultuous times, summed up by Amnesty International as a deteriorating human rights situation with civilians suffering abuses by all sides, including abductions, torture, rape and killings, forced displacement, looting and burning down of homes.⁸⁷ It was a period of paranoia: knife and gun-wielding youths in army fatigues roamed the scene, militants thrilled by the new-found realization that guns could get anything.

The deep-seated sentiments of the Guadalcanal people, mainly male youths, over land and their concern over disrespect shown to them by non-indigenous people, including killings, culminated in the “Bona Fide Demands”, passed down from their fathers, and now embedded in their very experiences from childhood. By the end of 1998 the frustrations were at the fore.

2. Incidence

The context of killings throughout the conflict was very much influenced by events. By November 1998 the Guadalcanal Revolutionary Army (GRA) appeared on the scene with two attempted raids in search for arms. The first was on Yandina, Russell Islands on 14 December 1998; the second on the island of Bungana, Ngela on 30 December 1998. It was at Bungana where one of the tension’s first victims, Ishmael Panda, fell. The rest of the raiding party was arrested, with the rebel leader Harold Keke, who was injured in the incident, including his

⁸⁷ Amnesty International: “Solomon Islands. A forgotten Conflict”, August 2000, p. 1; available at: <http://www.amnesty.org/en/library/info/ASA43/005/2000/en>; date of access 25/08/2011.

brother, Joseph Sangu. Both were released on bail in March 1999 and immediately assumed their places as rebel commanders of the Guadalcanal Revolutionary Army (GRA).

In the same month, the Guadalcanal militants began a concerted campaign to evict Malaitan settlers from Tangarare in southwest Guadalcanal to Mberande, formerly CDC 3 (now GPPOL 3) in northeast Guadalcanal. It was an effort intended to rid Guadalcanal of all Malaitans and lasted until July 1999. By August 1999, Honiara had become a Malaitan enclave with large numbers of Malaitans arriving by trucks and on foot.

The first wave of killings had occurred by then, mostly Malaitans who were caught off-guard just going about their normal business. Some had stood in defiance of the onslaught of Guadalcanal militants, trying to protect their property and families. Most of the killings that took place at that time were ethnically driven. One example was that of north Malaitan Johnson Liomasi and his friend and co-worker Simon who came from Makira Province. Liomasi worked as an excavator for Solomon Islands Plantations Ltd. (SIPL); on 12 June 1999 he and his friend were excavating drainage ditches at the Mberande oil palm blocks close the former CDC 5 station, northeast Guadalcanal, when the militants arrived. Liomasi and his friend Simon were captured and taken alive back eastwards across the Mberande River by the militants, where they were said to be tied up and questioned. Simon was released the following day and Johnson has never been seen since. A note from Simon to the family of Liomasi confirmed that the militants had continued to hold Johnson as he was Malaitan.

On that same day, at least three other deaths have been documented, all Malaitan men who were in the vicinity of the Mberande CDC 5 station and overtaken by Guadalcanal militants. On west Guadalcanal, three Malaitan men were also apprehended by militants at Verasale village, another two were taken from the Riuanu Plantation⁸⁸ and at least one was taken from around Doma;⁸⁹ all were Malaitans and working at the time of their capture. Malaitan ethnicity alone became a reason to pick on anyone.

Malaitans banded together, sheltering with relatives in town, at the Honiara Multipurpose Hall, and elsewhere. The bitterness felt by many over what the Guadalcanal militants did became the

⁸⁸ Riuanu Plantation is a coconut plantation a 15-minute drive west of Honiara where a number of Malaitans worked.

⁸⁹ Doma is a substation west of Honiara which contained both cocoa and coconut plantations and owned by the Guadalcanal Development Authority (GDA), the business arm of the Guadalcanal Provincial Government.

prime motive to retaliate. By November 1999, it was recorded that thousands of people were displaced, 70 percent of whom were from rural Guadalcanal.⁹⁰ Malaitan vigilantes began setting up roadblocks in Honiara around May 1999, scouting for Guadalcanal people coming to town. Through word of mouth or using tinted taxis, information would be fed through to vigilante superiors in an attempt to abduct, or kidnap particular individuals from Guadalcanal.

One case occurred on 3 August 1999 when William Tuga, Junior, age 16 from Tanaghai, was abducted by Malaitan men along the Wind Valley road, White River and has not been seen since. Another popular hotspot in town for clashes was the then headquarters of Guadalcanal Province near the main Central Market. Road transport became difficult because of the road blocks and sea transport became popular amongst Guadalcanal people, embarking either from the seaside provincial headquarters or from the yacht club. The Malaita vigilante factions stepped up in their press for retaliation, carrying out raids as far as Belaha village in Upper Tenaru. Joachim Hore, an elderly man in his nineties and his son Benjamin in his thirties were killed in one such raid on 29 November 1999.

Apart from the desire for revenge, there were unprovoked killings of innocent civilians who were caught off-guard by the intruders. Since villages in the Tenaru areas were seen to be quite accessible at any time, more raids would take place in that area, resulting in another four deaths by the middle of 2000.

The Auki armory raid in January 2000 set off a sequence of killings as high-powered guns were now in the possession of Malaita Eagle Force (MEF) militants. The newly formed MEF had members from the PFF who had some training with high-powered weapons unlike their Guadalcanal counterparts. After one of their confrontations at Kogulai, the Guadalcanal militants reported on the *Isatabu Tavuli*:⁹¹ that the MEF had connections with the police:

During the Kogulai shootout between the MEF and IFM, the MEF ran away leaving behind police PFF uniforms, an evidence of police involvement. One of the officers who left his uniform behind was Elijah Marite, PC780. That is clear evidence. What have the police done to this

⁹⁰ John Fraenkel; *The Manipulation of Custom: From Uprising to Intervention in the Solomon Islands*; Wellington: Victoria University Press, 2004, p. 55.

⁹¹ The *Isatabu Tavuli* was the Guadalcanal militants' newsletter that published updates and comments throughout the crisis. It could be accessed through the web and provided a forum that both Guadalcanal and non-Guadalcanal readers could freely express their views about the conflict.

man? The police have also supplied the MEF with guns, ammunition and uniform. The police force is disgustingly corrupt. They are therefore behind the unlawful activities of the MEF.

Isatabu Tavuli, N° 9, 6 June 2000

Malaitan vigilante activity increased, exemplified by two incidents, the gruesome discovery of the headless body of David Mare at the Central Main Market and the abduction of a young Guadalcanal boy, Edmond Rukale, at Lengakiki, both in April 2000. Killings as such were strictly ethnicity-based, carried out mainly by Malaitan sympathizers and vigilantes and not the MEF, who at the early stages of 2000 was a group who had structure and command and focused on selected raids and operations around Honiara city boundaries.

By the middle of 2000, many Guadalcanal families had left town and the conflict became more direct, mainly between the Guadalcanal militants and the MEF. This more direct conflict was facilitated by the 5 June 2000 coup which saw the fall of the Ulufa'alu Government under MEF influence and the installation of the Sogavare Government. Direct combat deaths became more common, such as the six IFM *malahais* on 10 June 2000 at Alligator Creek, killed when they stepped forward before an oncoming DZ modified bulldozer used by the MEF, trusting in the protection of their Isatabu beliefs.

Two other deaths in the same encounter were those of Steven Tango of Kindivoroa, South Guadalcanal and Isaac Kamilo. They were injured during the shoot-out and brought to town by the Red Cross to Central Hospital where they were shot by MEF militants later the same day while receiving treatment. The MEF also suffered casualties in some of their operations, such as the death of John Wui during one of their Tenaru operations. He was captured by the IFM foot soldiers and beheaded, leaving a lifeless body at the scene while the head was put on a gate pole at the Tenaru IFM bunker.

There were similar incidents in West Guadalcanal. The IFM initially manned check-points at Kakabona and had surveillance along the peripheries of White River, up to Kongulai. On one occasion, two security personnel from Malaita guarding the Australian High Commission's properties in White River were captured by the IFM and killed at Bonege. In another incident at Kakabona, on 8 August 2000, a MEF member was gunned down by a bush sniper; the MEF

immediately retaliated by killing James Kuki, a South Guadalcanal man who had already been in dialogue with them before the MEF member was shot.⁹²

The exact number of deaths from direct combat is not clear. The TRC registry of tension-related deaths from Malaita is possibly incomplete as TRC could not get an official listing from Malaita Province. It is believed that deaths from direct combat between the Guadalcanal IFM and Malaita MEF are in a range of 20 or more, based on available records.

Another category of killings is those carried out by the police in the initial stages of the conflict when the Solomon Islands Government tried to use its resources to curb the Guadalcanal militancy. The Royal Solomon Islands Police Force (RSIPF) deployed its Rapid Response Unit (RRU) to selected positions in North and Northeast Guadalcanal in search for key militant strongholds. The central, north and northeast Guadalcanal regions were of great importance to the Government, as the SIG had investment interest in the Gold Ridge mine and SIPL.

In March 1999, a RRU patrol arrived in Tasimboko, 50 km. northeast of Honiara, believing that the IFM had established a base in the area. The unit patrol drove towards the coastal village but stopped three-quarters along the way and started out on foot. A Malaitan police officer was walking in front and came across three youths carrying dried coconuts and a conversation ensued. The armed officer began interrogating the boys and then swearing at them. In a moment's reaction, one of the boys, who went on to become a key IFM commander in the area, swung his bush-knife at the officer and cut him on the shoulder, causing him to fall unconscious. One of the boys took the SLR gun from the police officer and they escaped before the other officers arrived.

Such events highlight the root of the Guadalcanal militants' distrust of the RRU officers and the RRU officers' suspicion of any Guadalcanal male. Robert Roso, Junior, a 27-year-old from Guadalcanal, was fired upon and killed by men from the RRU while net-fishing off Talaura Point, Northeast Guadalcanal in the morning of 9 October 1999. The RRU team was returning by boat from Marau and fired upon Roso and the others purely out of suspicion that they were the IFM.

⁹² See *Au v. Regina* [2007] SBHC 69; HCSI-CRC No 22 of 2007 (27 February 2007).

John Meneanea, age 20 from Guadalcanal, was killed on 19 June 1999, also by the RRU. He was a student at Pamua Secondary School in Makira but because of the conflict he could not return to school. He was accompanying people from his village of Suaghi to witness a ceremony at the log point, off Tetere oil palm mill, an hour's walk. The ceremony was put on by the family of a Malaitan man who was married in the area as a gesture of goodwill, or in Pijin, *peim laef*, "pay for his life") to the Guadalcanal communities in the area. The police had been hiding in the bush and when the Suaghi people arrived at Tetere log pond they fired at them and Meneanea was killed immediately.

Such incidents at Tasimboko and Tetere gave the impression to many Guadalcanal youths that the police were definitely an opposing force – not there to protect the citizens of Guadalcanal but commandeered under heavy MEF influence. Following the Tasimboko incident, many Guadalcanal youths joined the IFM, stirred on by their south Guadalcanal peers who had crossed the island and were preaching the Isatabu cause along the North and Northeast Guadalcanal coast. The IFM erected a bunker at Mbinu which the police tried to oppose.

On 7 October 2000, the police planned an operation that led to their first casualty. Scravin Ngatu, a prison officer from the Western Province, who was shot from the Mbinu IFM bunker, died instantly. His death sent a strong message to the police about the determination of the Guadalcanal militants and their intentions. Immediately following the incident, the IFM moved their bunkers up to Tenaru and after careful negotiations with the IFM leaders, the RSIPF withdrew its men and bases around CDC 1 and Gold Ridge back to Honiara, passing through a heavy presence of IFM onlookers who jeered at the men in military uniforms as they passed. Police clashes also cost four lives in the Gold Ridge area on 10 August 1999. Earlier, in one of its first encounters with the Guadalcanal militants, the police also killed four militants at Mount Austin. There were also heavy police operations on West Guadalcanal, towards Selwyn College, near Maravovo village.

The MEF-paramilitary Joint Operation became obvious after the June 2000 coup. They carried out operations in Foxwood, Tenaru, Kongulai, Kakabona and even as far as Aruligo. More than 30 killings took place in 2000: civilians picked up on the roadsides, abductions and deaths in combat, and killings of revenge and retaliation by both Guadalcanal and Malaitan militants. MEF sympathizers went hunting for anyone they could associate with Guadalcanal. The case of

Moses Rukale, age 23, a young man from Uraghai in South Guadalcanal, highlights the cold-blooded killings. He was not a member of the IFM but worked as a security guard for a Japanese couple at Lengakiki when he was picked up by MEF militants on 21 April 2000. It was Good Friday. Despite a struggle, in which Rukale tried to escape, he was seized taken to one of the MEF camps behind Honiara, and assumed to be brutally treated and tortured over five days before he died. From an eyewitness account handed to TRC, the gruesome details of what is believed to be Rukale's ordeal under his captors' hands were documented in this journal extract taken from a source who heard from the witness:

Heard -----'s description of visit to Malaita Eagles' camp above Gilbert Camp in Honiara on Easter Saturday afternoon. He went with a taxi driver friend and the Malaita Eagles invited him to come inside. Uniforms, very heavily armed. They showed him their Guadalcanal captive. Taxis in Honiara (driven by Malaitans) serve as "spotter" of GRAs in Honiara town. They radio a Malaita Eagle Hilux which descends upon the GRA and kidnaps him off the street and then takes him to the Malaita Eagle camp. This happened to this person. ----- saw him hanging by his bound hands and feet, with wrists and ankles bound with sharp wire cutting into the flesh. Blood dripped down from the body. His face was badly beaten and people were abusing the body as they went by. The MEFs urinated into his mouth and wiped feces on his clothes. This person was kidnapped on Good Friday afternoon. He eventually died on Tuesday.⁹³

Francis Mandetea, a man from Northeast Guadalcanal was another victim of these targeted killings. Mandetea, who was married to a south Malaitan woman, was taken from Hauhui, west 'Are'Are by MEF elements and ferried across to Honiara on board the *Ramos III*. He was last seen in the confines of the old Guadalcanal Provincial headquarters and was believed to have been taken to one of the MEF camps at Henderson and killed. The event took place on 14 June 2000. Walter Tarai, another Guadalcanal man was abducted from his village in Tamatanga, Mataniko Riverside by the MEF on 4 June 2000. His very young daughter witnessed the event. He was beaten and thrown behind a Hilux and taken to Henderson where he was shot and beheaded.⁹⁴

In 2000, killings also occurred in the Western Province. On 12 November four men were shot in Room D of Gizo Hotel, the perpetrators believed to be elements of the BRA. Surprisingly, one of the four was a man from Aruligo, Ian Chapangi, whose presence showed the extent of

⁹³ The statement-giver and witness want to remain anonymous.

⁹⁴ Testimony of former MEF militants to the TRC Exhumation and Victims Program who knew the victim before the crisis.

collaboration between Guadalcanal and Western Provinces against Malaitans. However authorities in Gizo denied this claim, stating that,

the killings in Gizo were more an internal matter within factions of the Bougainville Revolutionary Army (BRA) than an incident related to the events happening in Guadalcanal at the time. These men were thought to be a group that were causing nuisance around Gizo town for some time and the BRA were purposely sent to deal with them. Chapangi was believed to be sent over to the Western Province to buy guns for the Guadalcanal militants but got caught in the shoot-out that led to his death. The other men in the Gizo Hotel incident were Ivan Reve, Barry Otutana and Brianly Java.⁹⁵

When the Townsville Peace Agreement was signed in October 2000, fighting subsided but the killings did not stop. One of the most unsuspected events in 2001 was the killing of Selwyn Saki, IFM commander of the north Guadalcanal plains on 22 November 2002. Saki was abducted in his home village and taken to Honiara; his body was later found at Mount Austin. He had been tortured and disfigure beyond recognition. The courts heard that his death was punishment for damages done to a vehicle owned by a MEF member some days before.⁹⁶ Saki's death revealed the simmering tensions still present.

By 2002, three special constables (SCs) from Guadalcanal were abducted to a Ranadi compound, said to be that of MEF leader Jimmy Lusibaea. SC Max Ula, SC Soni Hati and a third who later escaped were abducted on 12 January 2002. SC Ula and Hati were killed. The abductions were thought to be revenge killings for a Malaitan killed in west Guadalcanal. Another isolated killing in 2002 was that of Ms Samoa Pitakere from Guadalcanal, shot by militants from the Mbinu area, north Guadalcanal. The Saki, Special Constable, and Pitakere killings were all incoherent killings. Nobody really knew why they happened except the perpetrators.

The year 2002, however, belonged to Harold Keke. That Keke's GLF was not a party to the TPA caused some to be hesitant about surrendering all their arms, one of the conditions of the TPA for guaranteeing amnesty for the militants who participated. Private missions were also funded to capture Keke. The mission of the Kwaio mercenaries, led by Kalisto Geni'ufaria, became one of the most deadly of the tension. On the morning of 7 June 2002, ten men from Kwaio and a Bougainvillean, Eugene Magung, set out to the Weather Coast to capture Harold Keke. Near Marasa point, their boat ran out of fuel and was idle on the coast when the GLF

⁹⁵ The informant wants to remain anonymous for security reasons.

⁹⁶ See Regina v. Idu [2004] SBHC 19; HC-CRC 046 of 2004 (27 February 2004).

approached them. A shoot-out occurred and Keke's nephew and GLF member in the approaching GLF boat, Andrew Warren Piko, was shot dead. Geni'ufaria also died in the shoot-out. His remaining companions were captured and escorted to the beach at Ravu. Harold Keke met them and seven were executed on the beach on the same day. Joseph Jackson and Magung, the Bougainvillean, were spared and led to Inakona where Jackson was further interrogated and then killed. Magung, the only survivor, escaped to tell their story.⁹⁷

This event established the GLF's status as Guadalcanal's hardcore hardliners, a group that required more than just a group of untrained mercenaries if they were to be captured. In Honiara the amnesty incentive was not as appealing as first thought of, as with the murder of the ten Kwaio men, Keke had become by now an impediment to the peace process, as guns might be necessary to resist him. The Government formed the Joint Operation Group (JOG), whose mission was the capture and arrest of Harold Keke. This phase of the conflict incurred the most deaths recorded. Amidst the deaths of Fr. Augustine Geve, the Melanesian Brothers and the ten Kwaio men, the JOG troops violently sought for the GLF along the coastlines and interiors of south Guadalcanal.

The JOG was merciless to anyone associated with the GLF. Peter Leku was a young man from Nghaobata, north Guadalcanal who joined the GLF and resided with them for some time in south Guadalcanal. On 21 October 2002, Leku was found napping in the village of Viso when the JOG troops arrived. He was taken to Tasmania village and hacked to death. On the morning of 10 October 2002, the JOG forces made their way to Veramataga beach, where four boys allegedly from the GLF were sleeping in a leaf hut. The JOG opened fire on the hut, taking the occupants by surprise, and Christopher Tova, Jimmy Lasi, Ralph Enoch and Lianga Lini were all killed. Witnesses testified that Christopher Tova was initially injured on the foot but was then stoned to death.

The GLF mounted often brutal retaliation attacks on the JOG, such as the Marasa beach incident on 16 June 2003 with the killing of former SC John Lovana and teenager Adrian Smith Bilo. The two men were accused by the GLF of working with the JOG and were brought before the whole village to be interrogated. They were assaulted, and had money pushed down their throats and beaten to death. Immediate family members were forced to watch.

⁹⁷ See chapter 3.2.2.

The GLF hierarchy regarded suspected supporters and spies of the JOG as threats and thought that the very existence and safety of the GLF was guaranteed only by removing such people, even if it meant a whole family. Francis Gemo was a South Seas Evangelical Church (SSEC) pastor and GLF supporter who was accused of spying. Gemo was picked up by GLF members on 27 May 2003 close to the village of Calvary, south Guadalcanal. His hands were tied behind his back and he was then rifle-butted to death.⁹⁸ Two days later Pastor Francis' elderly father, Huavai Lepo, and mother, Kisele Oli, were also taken by GLF members. The father was beaten and then shot while the mother was made to undress and humiliate herself before the entire village before being killed.

JOG forces attacked and the GLF retaliated. That Harold Keke and his right-hand man, Ronnie Cawa, survived the JOG operations could be attributed to the way they dealt with the slightest hint of suspicion around them, a case of "kill or be killed". Such a mindset was evident in the GLF internal killings, at least ten of which have been documented. Paul McSweeney of Purepure was killed on 1 October 2001 for wanting to defect from the GLF. On 3 April 2003, John Horana, Andrew Salau, David Lianga, Alban, Richie, Gibson Charles, and Douglas Tete were all killed by their own GLF colleagues, accused of being spies. On the 14 April 2000, Vincent Lovolovo and Jack Taka were also killed by GLF members for wanting to defect.

Altogether, close to 200 killings were recorded by the TRC. This number is the rough estimate of the number of deaths from the tension. The intervention of RAMSI in October 2003 marked the end of the killings. It also meant that some of the killings would become criminal cases and go to court. Between 2003 and 2006, RAMSI exhumed the bodies of 52 of the victims, primarily to find evidence. Many of these victims were among those killed on the Weather Coast of south Guadalcanal and included prominent cases such as the seven Melanesian brothers and the Kwaio ten, all of whose deaths were attributed to Harold Keke's GLF. The passage to prosecution was made easier with the arrest of Harold Keke on 14 August 2003. The Amnesty Act of December 2000 (amended in 2001) gave immunity from prosecution to selected participants in the conflict for killings that took place between 1 January 1998 and 15 October 2000 (extended to 7 February 2001). Amongst other stated conditions for amnesty, it had to be proven that the death in

⁹⁸ See Regina v. Roni [2007] SBHC 77; HCSI-CRC 478 of 2006 (13 July 2007).

question was connected with conflict that was ongoing between the IFM and MEF and that, if the killing qualified, the alleged perpetrator also had to have surrendered any arms still in his possession.

The GLF killings were swiftly prosecuted following the surrender and arrest of Harold Keke and his GLF group. They were charged with more than 22 counts of murder by 2009 and received life sentences under the Solomon Islands law (Penal Code section 200), “Any person who of malice aforethought causes the death of another person by an unlawful act or omission is guilty of murder and shall be sentenced to imprisonment for life.”

It was easy for the courts to prosecute the GLF provided they had good evidence, as the GLF were not a party to the TPA, so the Amnesty Acts (2000, 2001) did not apply to them. Many of the acts of atrocity, abduction, torture and cruelty, retribution killings, and execution killings imposed by the GLF were heard in court. In the Kwaio killings, Harold Keke witnessed of himself:

The 10 Kwaio men then jumped out of the boat and he rounded them up and brought them to the beach and he made them kneel down with hands behind their heads then he showed him a knife that he cut off Kalisto’s heart . . . The witness further said that Keke told the 10 Kwaio men, “today you will see Harold Keke and you will die”, he said. Keke then ordered the boys to open fire.⁹⁹

Another GLF retribution killing was the Marasa murders of decommissioned special constable John Lovana and teenager Adrian Smith Bilo, where it was said about 400 villagers witnessed the incident, including the youths’ own family members. They were rounded up by Ronnie Cawa, GLF supreme operations commander, and his men on 15 June 2003. TRC interviewed Lovana’s father who witnessed his son’s killing:

When we started from Ruhu and went down to the beach we could see his body was already changed. They threw stones at them; they cut them with knives and whipped them with sticks. They told us that we should not cry, if we did they would shoot us. His younger brother saw him and he started to cry. I had to carry him and make him face another direction. His mother and his aunty could not bear to see what was going on so they laid face down.

Statement N° 6089

⁹⁹ See Regina v. Keke [2007] SBHC 99; HCSI CRC 557 of 2004 (24 August 2007). Note, however, that RAMSI pathologists later discounted the truth of this account which may have been a product of Keke’s imagination. See Chapter 3.4.2.3.

Lovana and Bilo were systematically beaten with timbers, sticks and rocks in front of the villagers by armed GLF men; they were made to dance and the money, which had been recovered from a JOG boat ambushed some days earlier by the GLF in which Bilo and Lovana were alleged to have travelled, was shoved down their throats. The men died of heavy injuries caused by the ill-treatment, which the Crown prosecutors later described as “humiliation and torture.”¹⁰⁰

The GLF were neither isolated in their actions nor in the violations that were happening under them. The MEF, RRU/PFF of the RSIPF, MEF-Paramilitary Joint Group and IFM, who were fortunate to be candidates for amnesty, were equally guilty of human rights violations, some worse than the GLF’s. The granting of amnesty was clearly intended to appease the very people whose actions the country would be better off without. Amnesty International went on to describe the passage of the Act by Parliament as a “black day for human rights.”¹⁰¹ When first raised, commentators on the conflict such as Amnesty International were quite reserved about the idea of amnesty, anticipating that many issues could be intertwined within a plethora of legal complexities.

In early 2011, the TRC invited several key lawyers of the Public Prosecutor’s Office, the Public Solicitor’s Office, and law experts for an informational session about the Amnesty Act. The presentations confirmed that the Amnesty Act 2000/2001 was not a blanket amnesty as many ex-combatants and tension key players had been led to believe. Amnesty Act Section 3 defined the amnesty for specific groups of people, over specified periods of time and only for certain criminal acts including (1) offences relating to arms and ammunition; (2) killing in combat conditions or in connection with the armed conflict on Guadalcanal; (3) damage done to properties during or in connection with the military operations and (4) traffic offences committed during or in connection with security operations.¹⁰² Additionally, the Amnesty Act stated that arms must be surrendered and armed rebellion must cease in order for amnesty to be granted. Perpetrators could be immune from prosecution for those offences under Section 3(1-4); however, Section 3(5) of the same Act, deemed by some law professionals as “poorly written,”

¹⁰⁰ See *R v. Cawa* [2007] SBHC 26; HCSI-CRC 312 of 2004 (19 April 2007)

¹⁰¹ *Solomon Star*, 21 December 2000.

¹⁰² Amnesty Act 2000, section 4, clause 4.

stated that perpetrators who committed acts in violation of human rights including killings could still be denied immunity and be prosecuted under clause 5 which states

The Amnesty or Immunity from criminal prosecution referred to under the *Amnesty Act* does not apply to criminal acts done in violation of international humanitarian laws, human rights violations or abuses or which have no direct with the circumstances referred to subsection 2(a), (b) or (c) of Section 3 of the *Amnesty Act*.

This was the case for the killing of Francis Sale.¹⁰³ The accused were immune from prosecution for attempted murder; however, they were still considered liable for prosecution under clause 5 Section 3 of the Amnesty Act for the alleged murder of Francis Sale. The judge based his decision on the Universal Declaration on Human Rights and the Solomon Islands Constitution to exclude the killing from the provisions of the Amnesty Act. The amnesty was intended to be a “sovereign act of forgetting” the atrocities, violations, crimes, and gruesome and horrific acts, committed and witnessed by citizens during the tension period. Many saw the Amnesty as “offender-orientated,” a good thing for perpetrators but not the victims. That the amnesty in the Act was written to come short of a “blanket amnesty” could give some assurance to the families of victims that justice for many of the crimes during the ethnic tension was a still a realistic outcome if the cases were really pursued. Considering the situation on the Weather Coast and the operations done by SIG-supported operations, Andrew Te’e was charged and imprisoned for seven counts of murder, a victory that was cut short in October 2011 when he was freed. That the JOG were able to commit violations while using police powers meant that the Government was not providing its citizens with the secure protection of the law under the Solomon Islands Constitution or humanitarian law. Many retribution killings done by GLF against JOG members were carried out in the name of the Solomon Islands Government, which GLF enemies were seen to be representing. While the Government may not have authorized the actions committed by JOG individuals against the people of the affected regions of the Weather Coast in 2001-2003, neither were they protecting them. This view is widely held and reflected in the statement by Adrian Smith Bilo’s brother:

My brother was a student during the tension but Harold Keke’s militants used his name as a spy for the Joint Operation. I would like the Government to do something with the life of my brother because I heard the name “Government” was used during the torture of my brother.

Statement N° 6031

¹⁰³ See Regina v. Su’u [2007] SBHC 144; HCSI-CRC 333 of 2006 (1 March 2007)

The Amnesty Act 2000/2002 continues to be interpreted by the Solomon Island courts on a case-by-case basis. Many families of tension victims and tension survivors want justice. Full accountability for human rights violations, including trial in the criminal courts, is desirable as it paves the way for a moral and political renaissance and long-term peace-building and democratic consolidation, as prosecutions may help the rehabilitation of victims and society itself.¹⁰⁴ On the other hand, trials and uncovering past wrongs could deepen rather than heal old wounds and give false hope to families of victims, considering the prosecuting process and resources and money needed, possibly amounting to nothing in the end.

3. Window cases

The tension was fraught with stories and events that can be described as both sobering and provoking. Events of our horrific past will be forever embedded in our history; it is important for us to know and relive these events so we can make the necessary changes to avoid repeating the past. One such story is the death of teenager Adrian Smith Bilo, who accidentally set in motion the very events that would claim his life.

Adrian Smith Bilo was a 15-year-old from Varaboko village, Marasa, South Guadalcanal. He was doing Form 3 at Tangarare Provincial Secondary School and had returned to his village for mid-term holidays when he met his death at the hands of Harold Keke's GLF.

On the evening of Sunday 16 June 2003, Bilo and some boys took an evening walk on the beach. Bilo was in possession of a camera and was taking pictures as far as the "rocks" on Marasa beach when he was spotted by GLF men who were lying in the bushes in anticipation of the JOG boat which the GLF had radio-intercepted and was coming their way. The JOG boat was said to be bringing cash and ammunitions for the JOG forces that were carrying out operations to capture Harold Keke and his GLF men in the area. A firefight ensued when the boat arrived and Bilo was caught in the cross-fire, jumping for cover. The JOG boat lost supplies and incurred casualties. Most of the money and ammunition were left on the boat as, according to eye-witness accounts, the men swam for their lives to Marubo and Sughu. This shoot-out also took the life of special constable David Vai of the JOG.

¹⁰⁴ Gregory Balke, Human Rights Advisor and UN Human Rights Commissioner, "Justice after a civil conflict-what next?", *Solomon Star*, 11 June 2002.

Bilo, having witnessed the event, walked home and requested his mother to kill and cook one of the chickens for his meal. His brother, John Selwyn, recounted of him that evening:

When he got to the house and asked our mum to slaughter one of the chickens for his dinner on that Sunday evening. He could have felt that something was going to happen to him. My mum killed the chicken and cooked for us. We had dinner with chicken and he ate two of the thighs. After dinner he went and had his swim and came and looked through books and went to sleep.

Statement N° 6031

Bilo woke up the morning to the sound of GLF men approaching his village knowing well something connected to the day before had happened. He ran into the bushes of the hill behind his village; towards the top he looked back and heard the militants shouting for them to come down, that they were just there to have a meeting and wanted to talk with the villagers on the beach front. The tone and message may have been convincing for Bilo, who, despite the opportunity to flee, decided to return to the village. Approaching the beach, Bilo could see the 400 villagers who had already gathered. He also saw that a man was already being held captive with his hands tied and was being dragged by the militants to the center of the sitting villagers. The captive was John Lovana, who many knew used to work for the Government, his only crime that day. Bilo watched as Lovana was mercilessly beaten in front of them; his grieving parents who were present were cautioned by the GLF not to cry or risk being punished themselves. In the process another GLF member noticed Adrian from the crowd as the person walking on the beach the previous day and connected him with the JOG boat, as a spy who was surveying the area in preparation for the boat's arrival. Bilo was quickly picked out from the crowd; his brother who was present had to witness the rest of the day's events. Bilo and Lovana were further beaten with sticks and stones and forced to dance in front of the villagers. In the scene progressed, the arrival of the boat carrying a GLF commander presented an opportunity and Lovana attempted to escape. The GLF members gave chase and captured him and returned him to the center. Lovila's escape attempt stirred further anger and one of the GLF men cut him across the back with a knife. The two men were made to kneel and, using money which was allegedly recovered from the JOG boat, the militants shoved the money down both their throats. The beating continued until the men died. Recounting the event, Bilo's brother relived the last moment of his brother's life:

Before my brother died he laid back and we could see he shed some tears. I could see his tears because I was right at the front of the line.

Witnesses, both in their statements to TRC and in court testimony, mentioned that their bodies were unrecognizable even by their own families. Their bodies were thrown one on top of the other. On 12 September 2003, Adrian Smith Bilo's body was exhumed by RAMSI. Thirteen men were accused of the murders of Adrian Smith Bilo and John Lovana; four were charged and convicted of murder and seven pleaded guilty to the charge of manslaughter. This event was typical of events around the Weather Coast areas where the GLF ruled during the tension period.

4. Magnitude

The actual number of deaths that occurred from 1998 to 2003 is still inconclusive. It is fairly accurately estimated that about 200 people lost their lives as a direct result of the conflict. Deaths generally could be categorized into five different groups:

1. Deaths from direct fighting, including combat situations; torture, beatings, kidnapping and abductions, including those reported as missing.
2. Deaths from shock and trauma, including those of some young children and a few elderly adults. Many occurred while the victims were fleeing from fighting or directly witnessed gunfire and deaths.
3. Deaths due to the lack of medical facilities and treatment while people hid in the bushes and jungles. A number of children died this way, including newly born.
4. A few suicides were also documented: young women who were fearful of being raped or sexually harassed and opted for suicide instead.
5. Deaths after 2003 were common amongst adults and elderly who experienced torture and beatings and then died due to sustained injuries from the beatings later on or just the psychological prolonged effect of the whole experience.

For the purposes of this report, killings are more weighted towards the first category of directly-caused deaths. Quantification of the different killings is limited to deaths that the TRC has actually verified through reliable and documented sources. From November 2010 to November 2011, the TRC recorded 202 victims who died as a result of the ethnic tension. The names have been taken from various sources including the Committee of Missing Persons Report, Guadalcanal Province list of deceased persons, MNURP Compensation Files, RAMSI Exhumation records, TRC statements, and TRC Exhumations and Victims Program (EVP) field research and investigation. Table 1 presents the full list of victims from TRC records:

Table 1
List of fatalities of the tension, 1998-2003

NO	NAME	HOME VILLAGE/ PROVINCE	DIED	LOCATION WHERE KILLED	CIRCUMSTANCE OF DEATH	SOURCE
1	Ishmael Pada	Haliatu, South Guadalcanal	30 Dec. 1998	Bungana Island, Ngela	GRA member, shot by the Police while on a mission to find arms at Bungana.	TRC-EVP
2	John Afia	Malaita	1999	Kolove, Northeast Guadalcanal	Killed by the GRA.	Missing Persons Committee Report
3	Sylvester Faralanga	Malaita	1999	Vura Village, Riuanu	Killed by GRA raid at Vura while fleeing.	TRC statements
4	Lonkona	Malaita	1999	Mberande	Elderly, died of heart attack when he heard that GRA militants were approaching to chase them out.	TRC statements
5	Serapino Kuki (Junior)	Popo, West Guadalcanal	22 Jan. 1999	Tambea Resort, West Guadalcanal	Killed while on duty as security guard at the Tambea Beach Resort. His body was disposed of at sea by militants and was found the next day at Kesao Point, west of the resort. Kuki was age 26 years at the time.	MNURP-Compensation file
6	Samson Siarana	Nazareth, East Kwara'ae, Malaita	17 April 1999	Bubunuhu, East Guadalcanal	Siarana was going to Aola clinic to attend the funeral of his in-law when he was captured by Guadalcanal militants. Andrew Te'e pleaded guilty to Siarana's death on March 2011 and since been released from prison.	Missing Persons Committee Report
7	Johnson Houanikura	Manawai, South Malaita	20 April 1999	Tangarare, Guadalcanal	49-year-old killed by the IFM during raid at his family home in Tangarare where he was married.	Missing Persons Committee Report
8	Akwai	Feranagono, East Fataleka, Malaita	April-May 1999	Ruaniu Prawn Farm, West Guadalcanal	Akwai was captured along with John Oimea by Guadalcanal militants and said to be taken to Tamboko and never seen since. They were workers at the Riuanu Prawn Farm.	Missing Persons Committee Report

9	John Oimea	Feranagono, East Fataleka, Malaita	April-May 1999	Ruaniu Prawn Farm, West Guadalcanal	Oimea was captured along with Akwai by Guadalcanal militants and were to be taken to Tamboko and never seen since. They were workers at the Ruaniu Prawn Farm.	Missing Persons Committee Report
10	James Kadora	Koloula, South Guadalcanal	May 1999	Gold Ridge	GLF member mistakenly shot and killed by GLF Harold Keke during shoot-out at Gold Ridge.	TRC-EVP/TRC statements
11	Clement Takanakwao	Taba'a, Malaita	10 June 1999	Verasale settlement, West Guadalcanal	Takanakwao, Maenukua and Dami were captured by Guadalcanal militants while trying to escape and believed to be taken to Tamboko and killed.	Missing Persons Committee Report
12	Rex Maenukua	Taba'a, Malaita	10 June 1999	Verasale settlement, West Guadalcanal	Takanakwao, Maenukua and Dami were captured by Guadalcanal militants while trying to escape and believed to be taken to Tamboko and killed.	Missing Persons Committee Report
13	Daniel Dami	Taba'a, Malaita	10 June 1999	Verasale settlement, West Guadalcanal	Takanakwao, Maenukua and Dami were captured by Guadalcanal militants while trying to escape and believed to be taken to Tamboko and killed.	Missing Persons Committee Report
14	Johnson Liomasi	Amathaia, Malu'u, North Malaita	12 June 1999	CDC 5, Mberande, Northeast Guadalcanal	Liomasi was an excavator working at SIPL, clearing drainage ditches along with Simon Haru from Makira when they were set upon by Guadalcanal militants who had come across the river in their effort evict Malaitans working and residing at CDC 5. Liomasi and Haru were captured but Liomasi was never seen again. Haru was released the next day.	Missing Persons Committee Report/ TRC-EVP
15	Joseph Alabaru	Suava, North Malaita	12 June 1999	CDC 5, Mberande, Northeast Guadalcanal	Killed during a raid by Guadalcanal militants to evict Malaitans working and residing in the area, CDC 5, Mberande. Was said to be killed by a machete.	Missing Persons Committee Report/ TRC statements

16	Balasi	Baegu, North Malaita	12 June 1999	CDC 5, Mberande, Northeast Guadalcanal	Killed during a raid by Guadalcanal militants to evict Malaitans working and residing in the area, CDC 5, Mberande. Was said to be killed by a machete.	TRC statements
17	Placido Oge	Angwalifou, Ata'a, Malaita	12 June 1999	CDC 5, Mberande, Northeast Guadalcanal	Killed during a raid by Guadalcanal militants to evict Malaitans working and residing in the area, CDC 5, Mberande. Was said to be killed by a machete.	Missing Persons Committee Report
18	Henry Gou	Sinaragu, East Kwaio Malaita	12 June 1999	CDC 5, Mberande, North East Guadalcanal	Killed during a raid by Guadalcanal militants to evict Malaitans working and residing in the area, CDC 5, Mberande.	Missing Persons Committee Report/ TRC statement
19	Pati Ladomea	Ofofabu, Baegu, Malaita	15 June 1999	Doma, West Guadalcanal	Captured and taken by Guadalcanal militants in a Suzuki through a bush logging road above Doma and has not been seen since.	Missing Persons Committee Report
20	John Maneanea	Suaghi, North Guadalcanal and Malaita	19 June 1999	Tetere Log Pond, North Guadalcanal	Traveling with village people from Suaghi to witness reconciliation ceremony at Tetere Log Pond when group was ambushed by alleged members of the RRU, Police, who shot them. Maneanea was a student at Pamua Secondary School, Makira, at the time.	Missing Persons Committee Report/ TRC-EVP
21	David Doro	Namoia, East Kwara'ae, Malaita	21 June 1999	Baerevo, Aruligo, West Guadalcanal	Married to a woman from Baerevo, Aruligo. He was killed by GRA elements who were not from the area. He was beheaded and his body left in a garden near his home. It was discovered and buried by family members. Location of victim's head is still unknown.	TRC-EVP
22	Andrew Kabola	Boboilangi, West Fataleka, Malaita	July 1999	Malatoha, Malangho, Central Guadalcanal	Abducted from around Malatoha area by GRA militants while returning to reunite with family and never seen since.	Missing Persons Committee Report

23	Goerge Bibira	Taba'a, North Malaita	29 July 1999	Valeato village, Central Guadalcanal	Captured by Guadalcanal militants while en route to get water with his wife; he left his wife at the water source to see a friend at Valeato village and has not been seen since. Was a resident of Taba'a Malaitan settlement at Titinge.	Missing Persons Committee Report
24	Augustine Lepokai	Kolokiki, South Guadalcanal	31 July 1999	Mount Austin, Honiara	IFM member killed in a shoot-out at Mount Austin with the PFF.	Missing Persons Committee Report/ TRC-EVP/GP List
25	Kelly Taluhasa	Kolokiki, South Guadalcanal	31 July 1999	Mount Austin, Honiara	IFM member killed in a shoot-out at Mount Austin with the PFF.	Missing Persons Committee Report/ TRC-EVP/GP List
26	Samson Laurere	Kolokiki, South Guadalcanal	31 July 1999	Mount Austin, Honiara	IFM member killed in a shoot-out at Mount Austin with the PFF.	Missing Persons Committee Report/ TRC-EVP/GP List
27	Alfred Lenny	Koloula, South Guadalcanal	31 July 1999	Mount Austin, Honiara	IFM member killed in a shoot-out at Mount Austin with the PFF.	Missing Persons Committee Report/ TRC-EVP/GP List
28	William Tuga	Kolutoha, Tanaghai, West Guadalcanal	Aug. 1999	White River, Wind Valley area	16-year-old Form 2 student at Bishop Epalle school. Abducted by a group of Malaita men and never seen since.	Missing Persons Committee Report
29	Jacinth Fioga	Kikiri, North Malaita	5 Aug. 1999	Konga, Central Guadalcanal	Captured and killed by IFM militants when he returned to his former settlement at Konga to look for food from his garden. His body was exhumed on August 2011 by the TRC Exhumation Team, 12 years after he was killed.	TRC-EVP

30	Noel Berry	Turarana, Central Guadalcanal	10 Aug. 1999	Bubulake, Gold Ridge, Central Guadalcanal	IFM militant killed in a shoot-out with the Police RRU, at Gold Ridge, Bubulake.	TRC-EVP/GP List
31	Francis Kaoni	Turarana, Central Guadalcanal	10 Aug. 1999	Bubulake, Gold Ridge, Central Guadalcanal	IFM militant killed in a shoot-out with the Police RRU, at Gold Ridge, Bubulake	TRC-EVP/GP List
32	Nelson Soba	Turarana, Central Guadalcanal	10 Aug - 1999	Bubulake, Gold Ridge, Central Guadalcanal	IFM militant killed in a shoot-out with the PoliceRRU, at Gold Ridge Bubulake	TRC-EVP/GP List
33	Davis Rekolo	Funafou, Lau Lagoon, Malaita	30 Aug. 1999	CDC 1, North Guadalcanal	Rekolo was removed from a vehicle belonging to the ROC Matepona Rice Project Farm that was stopped at the CDC 1 GRA road block. As the militants were checking the vehicle, Rekolo was said to have tried to use a ship flare to ward off one of the militants who was checking the vehicle, injuring him in the stomach. The truck tried to speed off, causing Rekolo to fall to the ground; the militants chased him and caught him under the Ngalimbiu bridge. Rekolo was said to have been transported northwards to one of the IFM camps and has not been seen since.	TRC-EVP/ Missing Persons Committee Report
34	Don Lee	Selamamata, Central Guadalcanal	3 Sept. 1999	Dereni, North Guadalcanal	One of child victims of the crisis, killed when the vehicle he was travelling in came under gunfire by unknown gunmen hiding in the roadside bush.	TRC-EVP/GP List/Dereni Case File
35	Staisen Chaivaka	Central Guadalcanal	3 Sept. 1999	Dereni, North Guadalcanal	3-year-old boy killed when the vehicle he was travelling in came under gunfire at Dereni by unknown gunmen hiding in the roadside bush.	TRC-EVP/GP List/Dereni Case File/TRC statement
36	Ima Vao (F)	Purakachele, Central Guadalcanal	3 Sept. 1999	Dereni, North Guadalcanal	One of the few women killed in the Dereni shooting incident when their vehicle came under gunfire from unknown gunmen hiding in the roadside bush.	TRC-EVP/GP List/Dereni Case File

37	Made Eua (F)	Purakachele, Central Guadalcanal	3 Sept. 1999	Dereni, North Guadalcanal	One of the few women killed in the Dereni shooting incident when their vehicle came under gunfire from unknown gunmen hiding in the roadside bush.	TRC-EVP/GP List/Dereni Case File
38	Robert Roso (Junior)	Talaura School	9 Sept. 1999	Talaura Point, Mberande, Northeast Guadalcanal	Killed by Police officers returning on a boat from Marau. Roso was with a group of men doing net fishing off Talaura Point when the Police boat came past and shot at them, suspecting that they were IFM militants.	TRC-EVP/GP List/ Compensation Files, MNURP/ MNURP victims List
39	David Aro	Kalusa-kwalo, Central Kwara'ae, Malaita	Oct. 1999	Komukama, Northeast Guadalcanal	Aro was married to a woman from Guadalcanal and was escorting a fellow Malaitan back towards CDC to be lifted into town as the tension was at its height. On the way he was spotted by Guadalcanal militants and escorted away and since has never been seen.	Missing persons Committee Report/ TRC-EVP
40	Arthur Inia	Baegu, North Malaita	3 Oct. 1999	Gold Ridge Resettlement area	Abducted by armed men while drinking with friends at the Gold Ridge re-settlement area and taken away further up Belaha river where he was killed. In August 2011, TRC exhumed the body of late Arthur Inia.	TRC-EVP/ Missing Persons Committee Report
41	Hilda Saeni (F)	Ado, Tenaru, Central Guadalcanal	31 Oct. 1999	Central Guadalcanal	Killed in an ambush by unknown gun men while travelling. She was said to be pregnant at the time.	Missing Persons Committee Report
42	Joachim Hore	Ado, Tenaru, Central Guadalcanal	23 Nov. 1999	Ado, Tenaru	Killed by MEF raiding party along with son Benjamin, who was first wounded but died six days later.	Missing Persons Committee Report
43	Benjamin Hore	Ado, Tenaru, Central Guadalcanal	29 Nov. 1999	Ado, Tenaru	Wounded in the same incident that killed his father, Joachim Hore; died six days later died at the Central Hospital.	Missing Persons Committee Report
44	Howard Fa'asuia	Baelelea, Takwa, North Malaita	10 Dec. 1999	Totongo, Longgu	Died under suspicious circumstances, most probably forced to swim and ended up drowning.	Missing Persons Committee Report

45	Willie Aaron	Valemolau, Central Guadalcanal	2000	Near St Martin's, Tenaru bush	Killed by MEF party during shoot-out at Tenaru along St. Martin's Road.	TRC-EVP
46	Ray Boe	Valemolau, Central Guadalcanal	2000	Near St Martin's, Tenaru bush	Killed by MEF party during shoot-out at Tenaru along St. Martin's Road.	TRC-EVP
47	Moses Lovi	Valemolau, Central Guadalcanal	2000	Near St Martin's, Tenaru bush.	Killed by MEF party during shoot-out at Tenaru along St. Martin's Road.	TRC-EVP
48	Charles Konitarake	Soso, North Guadalcanal	Feb. 2000	Matepona Road, North Guadalcanal	Found dead along with Andrew Kameti, their bodies showing evidence of brutal treatment by the perpetrators.	MNURP-Compensation File/GP List
49	Andrew Kameti	Soso, North Guadalcanal	5 Feb. 2000	Matepona Road, North Guadalcanal	Found dead along with Charles Konitarake, their bodies showing evidence of brutal treatment by the perpetrators.	MNURP-Compensation File/GP List
50	John Tole	Ado, Tenaru, Central Guadalcanal	7 Feb. 2000	Ado, Tenaru	Killed at Tenaru, allegedly by a MEF group.	Missing Persons Committee Report/GP List/TRC statements
51	Scravin Ngatu	Western Province	7 Feb. 2000	Mbinu IFM Roadblock	Prison Service officer killed by IFM sniper during raid by Police on IFM Mbinu bunker.	TRC-EVP
52	Fabiano Vachali	Tita, Tenaru, Central Guadalcanal	19 Feb. 2000	Upper Tenaru	Shot and killed by the MEF while on a hunting trip.	TRC-EVP
53	(SC) James Manetiva		9 Mar. 2000	Foxwood Police Post	Killed when the IFM raided the Foxwood Police Post.	MNURP Compensation Files
54	Anne Sirilo (F)	Purakachele, Central Guadalcanal	9 Mar. 2000	Foxwood Police Post	Shot at the Foxwood Police Post by the Rapid Response Unit (RRU) when the post was raided by GRA elements.	TRC-EVP
55	Jackson Lauvisu	Gwanaru'u, Malaita and Katihana, Guadalcanal	2 Apr. 2000	Gold Ridge Resettlement Area, Tenaru	Killed during MEF raid at the settlement, Tenaru.	TRC-EVP
56	Elise Bongikesa (F)	Visale, West Guadalcanal	13 April 2000	Kakabona	Shot and killed behind the hills of Tanagha, Kakabona by MEF.	Missing Persons Committee Report/TRC-EVP

57	Moses Rukale	Tangulia, Mbabana-kira, South Guadalcanal	21 April 2000	Lengakiki, Green Tank	23 years old, abducted by MEF and shoved in a vehicle before being taken to MEF base, Gilbert Camp. Gruesomely tortured and died five days later.	TRC-EVP/ MNURP- Compensation File/ Missing Persons Committee Report
58	David Mare	Koloula, South Guadalcanal	5 May 2000	Central Market, Honiara	Abducted by MEF elements and beheaded. His headless body was put at the Honiara Central market for display.	Amnesty Report, GP List, TRC-EVP
59	Basilina Atumare (F)	Marau Sound	June 2000	Kaugele, Marau Sound, South Guadalcanal	Died of trauma and shock while fleeing from the Marau Eagle Force raiding party in Marau.	TRC statements
60	John Wui	Malaita	June 2000	Tenaru School bush	Killed by IFM during MEF operations in Tenaru. He was beheaded in retaliation for the headless Guadalcanal man found at the Central market the month before.	MNURP List
61	Bobby Sae Nare	Malaita/ Western	11 June 2000	Gizo	Shot in a workshop while asleep at the rear area of KYH in Gizo.	MNURP- Compensation File/ TRC Statement/ Court case file
62	FRANCIS Francis Mandetea	Tasimboko, Northeast Guadalcanal	14 June 2000	Henderson, East Honiara	Abducted by MEF from his wife's village in Hauhui, West Are' Aare and taken across to Honiara on board <i>Ramos III</i> , accused of being ex-GRA. Taken to MEF Henderson camp and killed despite appeals from internal MEF/Malaitan officials.	TRC-EVP/ Missing Persons Committee Report
63	Harold Fiota	Fo'ondo, North Malaita	26 June 2000	White River, West Honiara	Captured by IFM militants along with Silas Basikao while serving as a security guard for the Australian High Commission property in upper White River; handed over to the GRA faction and both men were taken to Bonege and killed	Missing Persons Committee Report/ TRC-EVP

64	Silas Basikao	Malu'u, North Malaita	26 June 2000	White River, West Honiara	Captured by IFM militants along with Harold Fiota while serving as a security guard for the Australian High Commission property a in upper White River; handed over to the GRA faction and both men were taken to Bonege and killed.	Missing Persons Committee Report/ TRC-EVP
65	Shadrach Hairiu	Niu Houa, Are'Are, South Malaita	July 2000	Marau	Killed by a GLF raiding party in Marau.	TRC-EVP
66	John Bosco	Wanderer Bay, West Guadalcanal	2 July 2000	Honiara MEF Camp	Abducted by MEF and taken to Central MEF camp and killed.	TRC-EVP/ Missing Persons Committee Report
67	Riga Rubo	Mataruka, Malango, Central Guadalcanal	3 July 2000	Alligator Creek	Disappeared around Alligator Creek area. Last seen at the IFM bunker in Tenaru where he was going into Honiara to sell his soap.	TRC-EVP
68	Chief Dominic Viti	Longgu, East Guadalcanal	3 July 2000	Alligator Creek, East Honiara	Killed in combat with the MEF at Alligator Creek shoot-out.	GP List/TRC-EVP
69	Veke Chaivaka	Longgu, East Guadalcanal	3 July 2000	Alligator Creek, East Honiara	Killed in combat with the MEF at Alligator Creek shoot-out.	GP List/TRC-EVP
70	Paul Pao	Purepure, East Guadalcanal	3 July 2000	Alligator Creek, East Honiara	Killed in combat with the MEF at Alligator Creek shoot-out.	GP List/TRC-EVP
71	Grey Pino	Veralava, East Guadalcanal	3 July 2000	Alligator Creek, East Honiara	Killed in combat with the MEF at Alligator Creek shoot-out.	GP List/TRC-EVP
72	Paul Loginiatu	Charanaghao, South Guadalcanal	3 July 2000	Alligator Creek, East Honiara	Killed in combat with the MEF at Alligator Creek shoot-out.	GP List/TRC-EVP
73	Fred Thomas Lucao	Riva, South Guadalcanal	3 July 2000	Alligator Creek, East Honiara	Killed in combat with the MEF at Alligator Creek shoot-out.	GP List/TRC-EVP
74	Veve	Komuvaolu, South Guadalcanal	3 July 2000	Alligator Creek, East Honiara	Killed in combat with the MEF at Alligator Creek shoot-out.	GP List/TRC-EVP/TRC Statement

75	Walter Tarai	Tamatanga, Mataniko Riverside, Honiara	4 July 2000	Tamatanga Village, Mataniko	Taken from his village by armed MEF men and killed at Henderson, where he was also beheaded. TRC attended to the Tarai case in August 2011 and identified his remains as those exhumed by RAMSI in 2006.	Missing Persons Committee Report/GP List/TRC-EVP
76	Isaac Kililo	Komunalihe, South Guadalcanal	10 July 2000	Alligator Creek, East Honiara	Injured in combat and taken by Red Cross to Central Hospital where he was later killed by MEF gunmen while under treatment.	GP List/TRC-EVP
77	Stephen Tango	Kindivoroa, South Guadalcanal	10 July 2000	Alligator Creek, East Honiara	Injured in combat and taken by Red Cross to Central Hospital where he was later killed by MEF while under treatment. Tango's body was exhumed by TRC in August 2011 for reburial in his home village of Koleasi, central Guadalcanal.	GP List/TRC-EVP
78	Docko Vuranga	Sumate, West Guadalcanal	13 July 2000	Visale clinic	Killed by MEF during their raid at Visale where he was receiving treatment at the clinic.	TRC-EVP
79	Hillary Labacha	Tanagarare, West Guadalcanal	13 July 2000	Visale station	Killed by MEF party during raid at Visale, where he was cut with a knife and shot.	TRC statement
80	Tony Sau	Duidui, West Guadalcanal	15 July 2000	Kakabona	Killed during shoot-out between IFM and MEF at Kakabona.	TRC-EVP
81	Stanley Percy	Pipia, East Guadalcanal	21 July 2000	Marau Sound	Killed at Purakiki, Marau Sound.	Missing Persons Committee Report
82	Grace (F)	Pipia, East Guadalcanal	21 July 2000	Marau Sound	Adopted daughter of Stanley Percy also shot at Purakiki, Marau Sound by Marau Eagle Force. She later died	Missing Persons Committee Report/TRC statement
83	George Maelasi	East Fataleka, Malaita	8 Aug. 2000	Kakabona	Killed by MEF sniper during MEF patrol.	TRC statements

84	James Kuki	Chimba, South Guadalcanal	8 Aug. 2000	Tanavasa Bridge, Kakabona	Retribution by MEF at Kakabona, Tanavasa Bridge, for the killing of an MEF member that same day by unknown gunmen believed to be IFM members. Body was exhumed by RAMSI on 2 Feb 2006.	Court case files/GP List
85	Maelon Daubalo	Aruligo, West Guadalcanal	Aug. 2000	Aruligo	Killed during MEF operation at Aruligo. He was captured and taken aboard a barge used by the MEF and killed on board the vessel and his body dumped into the sea. It was found by relatives almost a week later partially eaten by marine animals.	TRC-EVP
86	Ben Chabe, Junior	Tarou, Doma, West Guadalcanal	12 Aug. 2000	Kongulai, Honiara	Killed by MEF. His body lay in the bush four months before being discovered by family.	TRC-EVP
87	John Kennedy	Savekau, Marau Sound	21 Aug. 2000	Savekau, Marau Sound	12-year-old killed by the Marau Eagle Force while asleep in a leaf hut. He was initially only injured but died later from profuse bleeding.	MNURP Compensation Files
88	Sebastian Abele	Savekau, Marau Sound	21 Aug. 2000	Savekau, Marau Sound	21-year-old killed by the Marau Eagle Force while asleep in a leaf hut along with Sebastian Abele and Fox Mono.	MNURP Compensation files
89		Savekau, Marau Sound	21 Aug. 2000	Savekau, Marau Sound	17-year-old killed by the Marau Eagle Force while asleep in a leaf hut along with Sebastian Abele and John Kennedy.	MNURP Compensation files
90	Salome Savea (F)	Savekau, Marau Sound	22 Aug. 2000	Savekau Jungle	Elderly woman who died as a result of exhaustion and shock while fleeing from the Marau Eagle Force raid at Savekau village where three young men were killed (see above).	TRC-EVP

91	Francis Sale	Kaimamosa, Tenaru, Central Guadalcanal	23 Sept. 2000	Kaimamosa village, Central Guadalcanal	21-year-old killed by MEF patrol at Kaimamosa village, Tenaru, while cooking cassava with friends. Body still missing.	Court case files/GP List
92	Willie Rege Suia	Haliatu, South Guadalcanal	16 Oct. 2000	Malagheti, South Guadalcanal	Died of weakness after being abducted along with family by JOG supporters from Mboko village and taken to Malagheti	GP List
93	Sam Hagi	Malaita	Nov. 2000	Auki Town, Malaita Province	Bashed and killed by MEF elements in Auki. His brother Collin, a Malaita Provincial Member at the time, was also beaten but survived.	MNURP Compensation File
94	Ian Chapanghi	Aruligo, West Guadalcanal	12 Nov. 2000	Room D, Gizo Hotel, Western Province	Mistakenly killed in Gizo Hotel by BRA members for suspicion of being Black Shark member causing trouble in Gizo at the time	Court Case File
95	Ivan Reve	Bougainville, North Solomons	12 Nov. 2000	Room D, Gizo Hotel, Western Province	Mistakenly killed in Gizo Hotel by BRA members for suspicion of being Black Shark member causing trouble in Gizo at the time	Court Case File
96	Barry Otuaana	Choiseul, Marovo	12 Nov. 2000	Room D, Gizo Hotel, Western Province	Mistakenly killed in Gizo Hotel by BRA members for suspicion of being Black Shark member causing trouble in Gizo at the time	Court Case File
97	Brianly Java	Bougainville, North Solomons	12 Nov. 2000	Room D, Gizo Hotel, Western Province	Mistakenly killed in Gizo Hotel by BRA members when he came to check the incident at Room D Gizo Hotel. He was shot outside the room.	Court Case File
98	Teke Kenisi	Alosolo, South Guadalcanal	16 Mar. 2001	Kuma River Mouth, South Guadalcanal	Killed by JOG forces at Kuma River mouth as a GLF suspect in retaliation for killing of a JOG member by GLF. Body exhumed by RAMSI 22 Jan. 2004.	TRC-EVP

99	Augustine Govu	Alosolo, South Guadalcanal	16 Mar. 2001	Kuma River Mouth, South Guadalcanal	Killed by JOG forces at Kuma River mouth as a GLF suspect in retaliation for a killing of a JOG member by GLF. Body exhumed by RAMSI 22 Jan 2004.	TRC-EVP
100	Patteson Melane	Temotu/ South Guadalcanal	14 April 2001	South Guadalcanal	Civilian killed by GLF for suspicion of being a spy while visiting his uncle Fr Daniel on his ordination. He was abducted and murdered.	MNURP-Compensation Files
101	Francis Manegelea	Ravu, South Guadalcanal	May 2001	South Guadalcanal	Shot and killed by group of men at a village near Wanderer Bay. Believed to be a payback killing for the death of a Wanderer Bay man, Joseph Gira.	TRC statements
102	Christian Peroa	Ravu, South Guadalcanal	May 2001	South Guadalcanal	Shot and killed by group of men at a village near Wanderer Bay. Believed to be a payback killing for the death of a Wanderer Bay man Joseph Gira.	TRC statements
103	Alick Ona	West Fataleka, Malaita	June 2001	Mbinu, North Guadalcanal	Stayed with Guadalcanal people in the grassland area, Mbinu, and believed to be killed when tension was at its height in 2001.	Missing Persons Committee Report
104	Johnson Veke	Chelama-mata, South Guadalcanal	9 July 2001	Gilo School,	Shot by a Malaitan person at Gilo School while on his way from Valehoti, his family village.	Missing Persons Committee Report
105	Paul McSweeney	Purepure, East Guadalcanal	18 Oct. 2001	Inakona, South Guadalcanal	GLF member who was killed by his own group for wanting to switch allegiance to the JOG forces. His body was exhumed by RAMSI on 12 May 2004.	TRC-EVP
106	(SC) Mannaseh Tiva	Roghu, Tasiboko, Northeast Guadalcanal	3 Oct. 2001	Roghu village, Tasimboko	Killed at Roghu coastal village in Tasimboko in cross-fire between two rival Guadalcanal groups.	TRC-EVP/Court Case File
107	Brian Majapeso	Mbarabara-kakasa, Choiseul	5 Oct. 2001	Mbarabara-kakasa, Choiseul	Killed when trying to confront some armed men who came to his village.	Court Case Files

108	Selwyn Saki	CDC 1, North Guadalcanal	22 Nov. 2001	Mount Austin, Honiara	Abducted at his home village and taken to Honiara by MEF members, tortured and killed. His body was found along with his land cruiser at Mount Austin Japanese Memorial.	TRC-EVP/Court Case File/GP List
109	Samoa Pitakere (F)	Dadave, North Guadalcanal	1 Dec. 2001	Tetere	Killed by unknown gunmen at her family's Tetere residence while preparing flowers to sell at the market.	TRC-EVP/GP List
110	Ray Augustine	Kolokiki, South Guadalcanal	2002	Kolokiki, South Guadalcanal	Tortured by GLF at Kolokiki where he died of the wounds sustained.	TRC statements/GP List
111	(SC) Francis Seda	Madakacho, South Guadalcanal	2002	Tiro Village, South Guadalcanal	Killed by GLF during JOG operations at Tiro Village.	TRC Statements/GP List
112	(SC) Soni Hati	Babanakao, South Guadalcanal	26 Jan. 2002	Lungga, East Honiara	Abducted by MEF men and taken to Ranadi where he was rammed with a vehicle and killed along with SC Max Ula. Their abduction and killing was said to be for their suspected involvement in the death of Malaitan men in west Guadalcanal. Another SC also abducted managed to escape. SC Soni's body was exhumed at Titinge on 24 January 2004 by RAMSI.	TRC-EVP
113	(SC) Max Ula	Koloula, South Guadalcanal	26 Jan. 2002	Lungga, East Honiara	Abducted by MEF men and taken to Ranadi where he was tortured and killed along with SC Soni Hati. Their abduction and killing was said to be their suspected involvement in the death of Malaitan men in west Guadalcanal. Another SC also abducted managed to escape.	TRC-EVP
114	Frederick Fawcett-Kay		Feb. 2002	Western Province	Shot at sea with Rex while travelling on a OBM canoe to collect gas bottle for Fawcett-Kay's mother.	TRC statement

115	Rex Dalia		Feb. 2002	Western Province	Shot at sea with Fawcett-Kay while travelling on an OBM canoe to collect gas bottle for Fawcett-Kay's mother.	TRC statement
116	Andrew Warren Piko	Purakiki, South Guadalcanal	7 June 2002	Marasa coast	Killed during shoot-out with Kwaio men sent to capture Harold Keke.	GP List/TRC-EVP/Court case Files
117	Kalisto Ganifiri	East Kwaio, Malaita	7 June 2002	Marasa coast	Killed on the boat in a shoot-out with GLF off Marasa coast.	Court Files/TRC-EVP
118	In isafi	East Kwaio, Malaita	7 June 2002	Ravu beach, South Guadalcanal	Killed by GLF after failed mission to capture Harold Keke. Body exhumed by RAMSI on 8 May 2004.	Court Files/TRC-EVP
119	Leslie Dikwakela	East Kwaio, Malaita	7 June 2002	Ravu beach, South Guadalcanal	Killed by GLF after failed mission to capture Harold Keke. Body exhumed by RAMSI on 8 May 2004.	Court Files/TRC-EVP
120	Banjo	West Kwaio, Malaita	7 June 2002	Ravu beach, South Guadalcanal	Killed by GLF after failed mission to capture Harold Keke. Body exhumed by RAMSI on 8 May 2004.	Court Files/TRC-EVP
121	David Aruana	East Kwaio, Malaita	7 June 2002	Ravu beach, South Guadalcanal	Killed by GLF after failed mission to capture Harold Keke. Body exhumed by RAMSI on 8 May 2004.	Court Files/TRC-EVP
122	Peterson	East Kwaio, Malaita	7 June 2002	Ravu beach, South Guadalcanal	Killed by GLF after failed mission to capture Harold Keke. Body exhumed by RAMSI on 8 May 2004.	Court Files/TRC-EVP
123	Eddie Lofea	East Kwaio, Malaita	7 June 2002	Ravu beach, South Guadalcanal	Killed by GLF after failed mission to capture Harold Keke. Body exhumed by RAMSI on 8 May 2004.	Court Files/TRC-EVP
124	Joseph Jackson	East Kwaio, Malaita	9 June 2002	Inakona, South Guadalcanal	Killed by GLF after failed mission to capture Harold Keke. Body exhumed by RAMSI on 8 May 2004.	Court Files/TRC-EVP
125	Sirilo Vovota	Kindivoroa, South Guadalcanal	24 June 2002	Kuma, South Guadalcanal	Killed by GLF near Kuma River during JOG operations against the GLF.	MNURP Compensation Files/TRC-EVP
126	Fr. Augustine Geve	Haliatu, South Guadalcanal	20 Aug. 2002	Haliatu, South Guadalcanal	Member of Parliament for South Guadalcanal who was killed by GLF over accusation that he misused money and office benefits.	Court Files/TRC-EVP

127	Martin Rueben	Veramoho, South Guadalcanal	23 Sept. 2002	Veramoho, South Guadalcanal	Disappeared while looking for cabbage with his daughter; head was discovered by wife the following day.	TRC-EVP
128	Christopher Tova	Haliatu, South Guadalcanal	10 Oct. 2002	Haliatu, South Guadalcanal	Killed at Veramatanga beach, Haliatu, by JOG forces, suspected of being a GLF member. Tova was exhumed by RAMSI on 13 May 2004	Court Files/TRC-EVP
129	Jimmy Lasi	Haliatu, South Guadalcanal	10 Oct. 2002	Haliatu, South Guadalcanal	Killed at Veramatanga beach, Haliatu by JOG forces, suspected of being a GLF member. Lasi's body was exhumed by RAMSI on 13 May 2004.	Court Files/TRC-EVP
130	Liang Lini	Haliatu, South Guadalcanal	10 Oct. 2002	Haliatu, South Guadalcanal	Killed at Veramatanga beach, Haliatu by JOG forces, suspected of being a GLF member.	Court Files/TRC-EVP
131	Paul Enoch	Haliatu, South Guadalcanal	10 Oct. 2002	Haliatu, South Guadalcanal	Killed at Veramatanga beach, Haliatu by JOG forces, suspected of being a GLF member.	Court Files/TRC-EVP
132	William Rege Ilomae	Haliatu, South Guadalcanal	16 Oct. 2002	Malaheti, South Guadalcanal	Died of weakness after being abducted along with his family by JOG supporters from Mboko village and taken to Malaheti	GP List
133	Peter Leku	Ghaobata, CDC 1, North Guadalcanal	21 Oct. 2002	Viso, South Guadalcanal	Killed by JOG forces after he was found napping in a church at Viso. A known GLF member, he had been residing on the Weather Coast for sometime from his home village in North Guadalcanal. Was brutally slashed to death.	TRC-EVP
134	Ariel Hadovi	South Guadalcanal	22 Nov. 2002	Cave near Vatuloki, South Guadalcanal	Employed as a JOG scout in search for GLF members when he was shot at entrance of a cave where GLF members were hiding. Along with him a Police Officer also died in the evening.	TRC Statements/ GP List
135	Thomas Salovi	Mamasa, South Guadalcanal	2003	South Guadalcanal		TRC-EVP
136	Clement Taveku	Kiriki, South Guadalcanal	2003	South Guadalcanal		TRC-EVP

137	Ruth Kava (F)	South Guadalcanal	2003	South Guadalcanal	Elder and, parents of Ronnie Cawa and Willie Lazarus; died from the shock and experience of the fighting in South Guadalcanal.	TRC-EVP
138	Willie Kava	South Guadalcanal	2003	South Guadalcanal	Elder and, parents of Ronnie Cawa and Willie Lazarus; died from the shock and experience of the fighting in South Guadalcanal.	TRC-EVP
139	Br. Nathaniel Sado	Baegu, North Malaita and Savo	1 Feb. 2003	Ghorambau, South Guadalcanal	Killed by the GLF, suspected of being a Government spy. Captured, held and beaten over two days before killed.	Court Files/TRC-EVP
140	Andrew Salau	Kolohasi, South Guadalcanal	April 2003	Pite, South Guadalcanal	GLF internal killing, accused of being a spy.	Court Files/TRC-EVP/GP List
141	Amon Richie	Navutu, South Guadalcanal	April 2003	Pite, South Guadalcanal	GLF internal killing, accused of being a spy.	Court Files/TRC-EVP/GP List
142	Morris Alban	Navutu, South Guadalcanal	April 2003	Pite, South Guadalcanal	GLF internal killing, accused of being a spy.	Court Files/TRC-EVP/GP List
143	Douglas Tete	Sughu, South Guadalcanal	April 2003	Pite, South Guadalcanal	GLF internal killing, accused of being a spy.	Court Files/TRC-EVP/GP List
144	David Lianga	Verasabaha, South Guadalcanal	April 2003	Pite, South Guadalcanal	GLF internal killing, accused of being a spy	Court Files/TRC-EVP/GP List
145	Nicky Charles	Sughu, South Guadalcanal	April 2003	Pite Jungle, South Guadalcanal	GLF internal killing, accused of being a spy.	Court Files/TRC-EVP/GP List
146	John Horana		April 2003	Pite, South Guadalcanal	GLF internal killing, accused of being a spy.	Court Files/TRC-EVP/GP List
147	Vincent Lovolovo	Macedonia, Duidui, South Guadalcanal	14 April 2003	Ghorambau, South Guadalcanal	GLF internal killing, accused of wanting to defect.	Court Files/TRC-EVP/GP List
148	Jack Taka	Macedonia, Duidui, South Guadalcanal	14 April 2003	Ghorambau, South Guadalcanal	GLF internal killing, accused of wanting to defect.	Court Files/TRC-EVP/GP List

149	Br. Alfred Hill	Isabel	2 April 2003	Ghorambau, South Guadalcanal	Killed by GLF for suspicion of being a spy.	Court Files/TRC-EVP/GP List
150	Br. Francis Tofi	Makira	23 April 2003	Ghorambau, South Guadalcanal	Killed by GLF for suspicion of being a spy.	Court Files/TRC-EVP/GP List
151	Br. Robin Lindsay	Papua New Guinea	23 April 2003	Ghorambau, South Guadalcanal	Killed by GLF for suspicion of being a spy.	Court Files/TRC-EVP/GP List
152	Br. Ini Paratabatu	Guadalcanal	24 April 2003	Inakona, South Guadalcanal	Killed by GLF for suspicion of being a spy.	Court Files/TRC-EVP/GP List
153	Br. Tony Sirihi	Guadalcanal	24 April 2003	Inakona, South Guadalcanal	Killed by GLF for suspicion of being a spy.	Court Files/TRC-EVP/GP List
154	Br. Patteson Gatu	Guadalcanal	25 April 2003	Inakona, South Guadalcanal	Killed by GLF for suspicion of being a spy.	Court Files/TRC-EVP/GP List
155	Palu Buake	Tasmania, South Guadalcanal	28 April 2003	Duidui, South Guadalcanal	Captured and beaten to death by GLF members at Ngalimala beach, Duidui. He was a member of the JOG Forces.	Court Files/TRC-EVP/GP List
156	(SC) Robert Masugu	Kolopisi, South Guadalcanal	28 April 2003	Isuna, Duidui, South Guadalcanal	Killed in an ambush by GLF during JOG patrol from Kolina to Duidui.	Court Files/TRC-EVP/GP List
157	Jimmy Losi		28 April 2003	Isuna, Duidui, South Guadalcanal	Killed in an ambush by GLF during JOG patrol from Kolina to Duidui.	Court Files/TRC-EVP/GP List
158	Hon. Alasi Seli		01 May 2003	Urahai, South Guadalcanal	Killed by GLF for being a JOG supporter.	Court Files/TRC-EVP/GP List
159	John Tova	Beku, South Guadalcanal	23 May 2003		Killed by GLF in retaliation for a previous operation in which he was involved.	Court Files/TRC-EVP/GP List
160	Wetly Tova	Beku, South Guadalcanal	23 May 2003	Ogio, South Guadalcanal	Killed at Ogio village for being JOG follower and supporter.	Court Files/TRC-EVP/GP List
161	Rilon Rasile	Urahai, South Guadalcanal	27 May 2003		Assaulted and killed by the GLF at his residence at Ogio village	Court Files/TRC-EVP/GP List

162	Pastor Francis Gemo	Mbiti, South Guadalcanal	27 May 2003	Calvary village, South Guadalcanal	Accused and killed by the GLF on suspicion of being an informant for JOG forces operating the area.	Court Files/TRC-EVP/GP List
163	Huavai Lepo	Mbiti, South Guadalcanal	29 May 2003	Calvary village, South Guadalcanal	Killed on suspicion of being JOG supporter, following the earlier killing of his son, Francis Gemo.	Court Files/TRC-EVP/GP List
164	Kisele Lepo (F)	Mbiti, South Guadalcanal	29 May 2003	Calvary village, South Guadalcanal	Killed for on suspicion of being a JOG supporter, also following the earlier killing of her son Francis Gemo. Was also made to humiliate herself in front of villagers before she was killed.	Court Files/TRC-EVP/GP List
165	(SC) David Vai	Peochakuri, South Guadalcanal	15 June 2003	Peochakuri, South Guadalcanal	Killed in an ambush by the GLF during a JOG operation.	Court Files/TRC-EVP/GP List
166	(SC) John Lovana	Marasa beach, South Guadalcanal	16 June 2003	Marasa beach, South Guadalcanal	Killed by the GLF under suspicion of assisting JOG forces. Was tortured and made to dance in front of the whole village before being killed along with Adrian Smith Bilo.	Court Case Files/TRC-EVP/GP List
167	Adrian Smith Bilo	Marasa beach, South Guadalcanal	16 June 2003	Marasa beach, South Guadalcanal	Killed by the GLF under suspicion of assisting JOG forces. Was tortured and made to dance in front of the whole village before being killed along with John Lovana.	Court Case Files/TRC-EVP/GP List/TRC statement
168	Tuti Vao	Chimba, South Guadalcanal	24 Nov. 2003	Vanusa, South Guadalcanal	Killed by JOG forces at Vanusa while fleeing.	GP List
169	Jack Tali	South Guadalcanal		South Guadalcanal	Killed by GLF for disciplinary reasons when he was accused of stealing food.	TRC-EVP

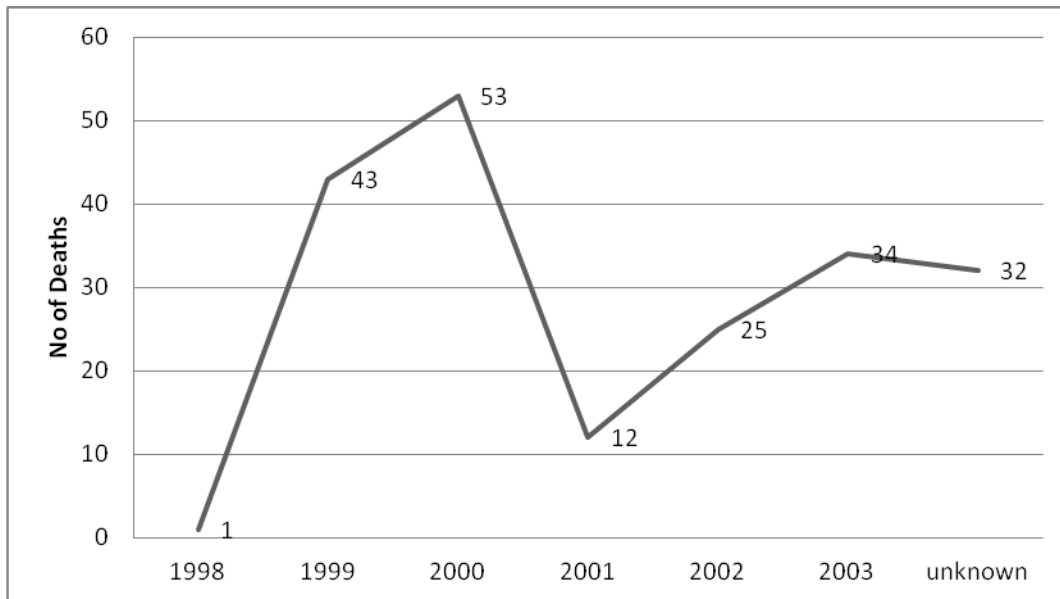
NAMES OF VICTIMS THAT TRC COLLECTED AS DECEASED BUT PENDING FURTHER INFORMATION

170	Michael Ki'ugaena-Bani	Talafaifulu, West Kwaio	not available	Guadalcanal	Reported missing person.	Missing Persons Committee Report
171	Steve Bioka	Talafaifulu, West Kwaio	n/a	Guadalcanal	Reported missing person. Son of Michael Ki'ungaenabani.	Missing Persons Committee Report
172	Ne'eri We'eu	Sinaragu, East Kwaio/Malaita	n/a	Tangarare, South West Guadalcanal	Reported as missing around Tangarare area while on a trip to visit his cousin.	Missing Persons Committee Report
173	John Bonikwaru	Sinaragu, East Kwaio/Malaita	n/a	Tsapanamau, Tangarare, South West Guadalcanal	Killed by IFM around Tanagarare, said to be tied up and drowned.	Missing Persons Committee Report
174	Rosa Elly	Rate, Central Guadalcanal	n/a	Guadalcanal	Not available	GP List/MNURP List
175	John Kaoni	Turarana, Central Guadalcanal	n/a	Guadalcanal	n/a	GP List/MNURP List
176	Henry Hari	Puracha-chele, Central Guadalcanal	n/s	Guadalcanal	n/a	GP List/MNURP List
177	John Oli	Selamamata, Central Guadalcanal	n/a	Guadalcanal	n/a	GP List/MNURP List
178	Thomas Salovi	Nakoga, South Guadalcanal	n/a	South Guadalcanal	Weather Coast operation	GP List/MNURP List
179	Vereboto Kalahai	Monga River, South Guadalcanal	n/a	South Guadalcanal	Weather Coast Operation	GP List/MNURP List
180	Charles Vekei	Rere, East Central Guadalcanal	n/a	n/a	n/a	GP List/MNURP List
181	Alfred Reni	Guadalcanal	n/a	n/a	n/a	GP List/MNURP List
182	Talusi	Ghaobata, North Guadalcanal	n/a	Road to Gold Ridge GPOL 1	Was said to be killed by own faction members due to internal disagreements	GP List/MNURP List
183	Mark Kapini	Masi, East Guadalcanal	n/a	Guadalcanal	n/a	GP List/MNURP List

184	Ambrose Hanta	Purepure, East Guadalcanal	n/a	Guadalcanal	n/a	
185	Ben Biritini	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
186	Sito	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
187	Pako	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
188	Savino Sele	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
189	Paul Enoch	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
190	John Vulele	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
191	Kalisto Keke	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
192	Gideon Lianga	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
193	Justin Koelua	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
194	Willie Lararus	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
195	Nollen Ika	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List
196	Jimmy Oi	Malaita	n/a	Guadalcanal	n/a	GP List/ MNURP List
197	Joseph Rence	Malaita	n/a	Guadalcanal	n/a	GP List/ MNURP List
198	Sia Mae	Malaita	n/a	Guadalcanal	n/a	GP List/ MNURP List
199	Bruce Magung	BougainvilleNorth Solomons	n/a	Inakona, South Guadalcanal	Killed by own militia faction, GLF, due to internal dispute.	GP List/ MNURP List
200	Joseph Gira	Guadalcanal	n/a	Guadalcanal	n/a	GP List/ MNURP List

From Figure 4.2.1-1 the following trends of killings can be observed:

Figure 4.2.1-1
Tension-related deaths 1998-2003



The killings started around 1999 and peaked in 2000 at the height of the tension. The table is reflective of the peace initiatives going on the last half of 2000 which resulted in the cease fire after the Townsville Peace Agreement was signed. The fighting between MEF and GRA/IFM subsided and the creation of the Joint Operations Group (JOG) was approved. This new plan to capture Harold Keke using the JOG resulted in the increase in number of deaths from 2001 until 2003 when RAMSI arrived. Many deaths categorized as “unknown” would come from the Weather Coast operations of 2001-2002 though detailed information surrounding these deaths has not been forthcoming to the TRC at the time of research and writing.

Figure 4.2.1-2

Victims by their provinces, 1998-2003

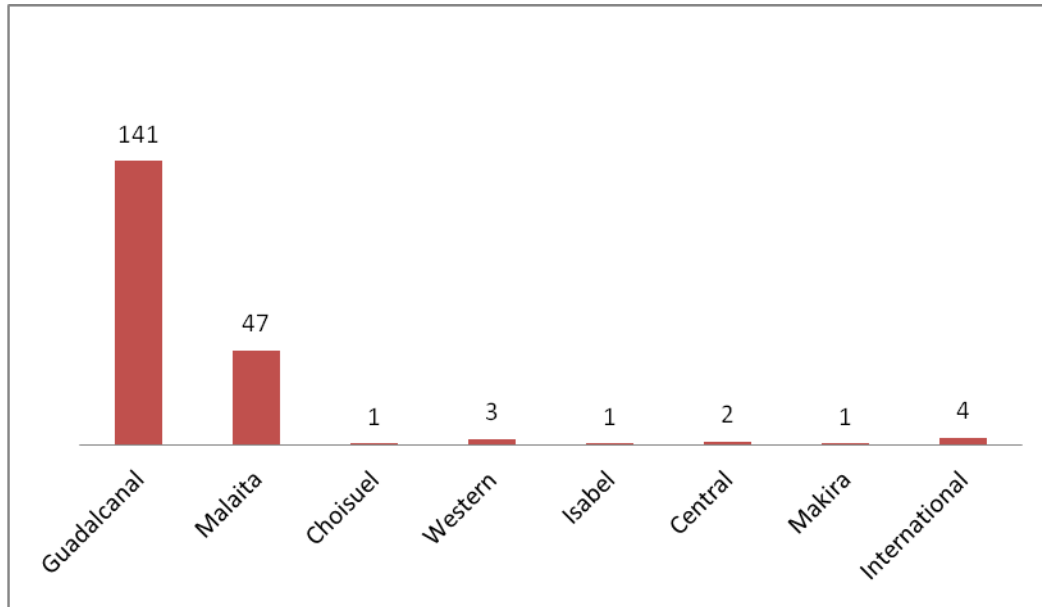


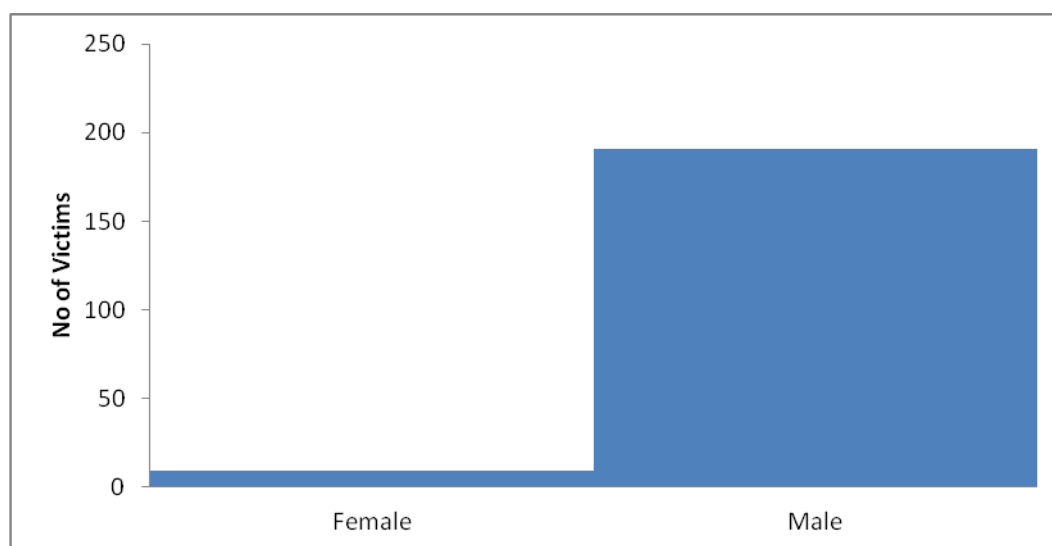
Table 4.2.1-2 shows that Guadalcanal recorded the highest number of deaths during the tension between 1997 and 2003. They comprised almost 74 percent of the total number of deaths, with Malaita at 24 percent, and the rest of the provinces, four percent. The latter are largely due to the locations of the homes in Isabel, Makira and Central Province of three of the seven Melanesian Brothers killed by the GLF at Pite, South Guadalcanal in 2003. International deaths included Melanesian Assistant Head Brother Robin Lindsay, a man shot at Kakabona by the MEF, both from Papua New Guinea; and Bruce Magung, Ivan Reve and Brianly Java, all from North Solomons, Bougainville, PNG.

Guadalcanal deaths were reliably documented by the *Solomon Star*, Amnesty International Reports and Guadalcanal Province. Guadalcanal militants undoubtedly became the victims of better firepower and weapons used against them both by the MEF and later the JOG operations in South Guadalcanal, accounting for their higher death numbers. Internal disputes among the Guadalcanal militants, leading to Keke's separatist GLF on one side and Te'e's IFM (and later participation in the JOG) on the other also contributed to additional deaths amongst Guadalcanal people. Malaitan deaths in Guadalcanal were limited to the obvious events such as the 12 June

1999 GRA raid in CDC 5, Mberande, in northeast Guadalcanal where about five Malaitans were killed, and the Kwaio mercenaries killed at Ravu, South Guadalcanal. However, many other Malaitan deaths remain sketchy; the TRC could only verify some through statements collected by TRC statement takers. One useful document obtained by TRC was the Report of the Committee of the Missing Persons, chaired by Catholic Archbishop Adrian Smith in 2000. It had details of Malaitan victims, confirmed and unconfirmed. With regard to south Guadalcanal deaths, Keke was meticulous and merciless towards his opponents and those he considered betrayers. While some commentators might explain it by paranoia, it may also have been the mentality that assured his survival until his arrest by RAMSI in 2003. For Keke, GLF internal killings were out of the necessity to eradicate the slightest suspicion of his betrayal.

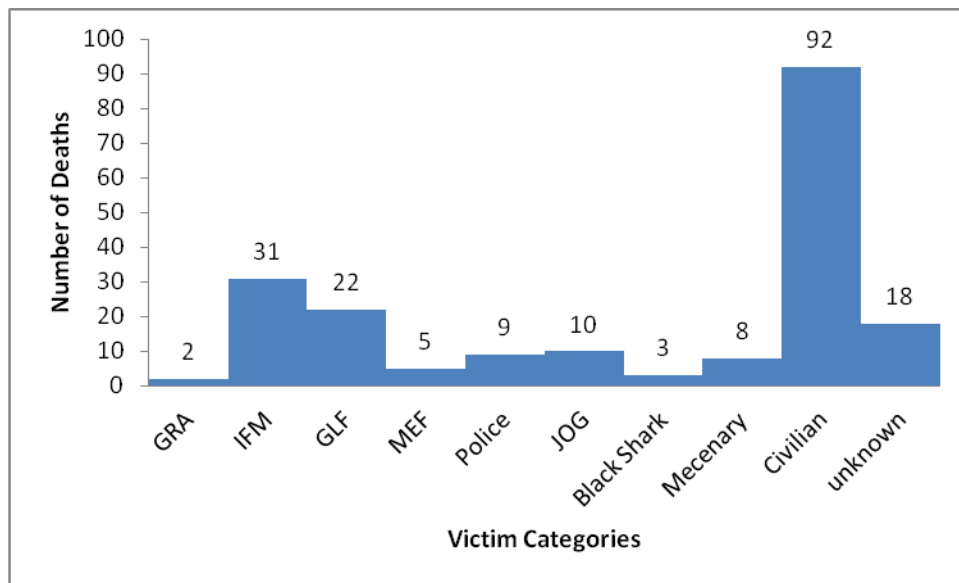
Western Province, on the other hand, was subject to various operational militia factions throughout the ethnic tension period, namely the BRA, the Black Sharks, various other local groups and various elements of the GRA and MEF. The Gizo Hotel Massacre in which four persons were gunned down by BRA elements was the deadliest of the clashes of these groups in the Western Province. Otherwise, some of the deaths were opportunity-orientated, the need for power, assets and recognition, such as that by the William Amalo gang, who stalked the communities of Choiseul, leading to the death of Brian Majapeso of Barabarakakasa village on 5 October 2001.

Figure 4.2.1-3:
Victims by sex: 1998-2003



The TRC recorded deaths of nine women victims during the conflict. However this number is probably not accurate if one considers some of the militants' rape victims who went on to commit suicide¹⁰⁵ and an elderly woman who died from shock and fatigue during the MEF raid at Visale. Correct estimates based on TRC statements could be 12 or 13 female victims.

Figure 4
Victims by groups



Perhaps the most significant representation of the different killings during the tension is the different background the victims came from. While the ethnic tension was fought and known most for the MEF, IFM and GLF, many more civilians than militants were killed during the years of 1998-2003. Civilians, interpreted as those who had no direct involvement in the conflict, made up the largest percentage of victims, at 46 percent. The IFM/GRA, including IFM participants in the Joint Operations under Andrew Te'e, constituted 21 percent of the total deaths. The GLF was third highest at 11 percent. Mercenaries such as the Kwaio Ten killed at Ravu by the GLF are rightly not classified as an MEF operation but rather a Government-sanctioned mission with promises of monetary rewards if they were successful.

¹⁰⁵ TRC statements N°1488, N° 1396

5. Conclusions

In conclusion, killings constitute a very sensitive and grave reality of the tension. Like all conflicts, people die, yet the lives of those close to those who have died should remain the focus of consideration for any recommendations towards rehabilitation and reconciliation. That perspective, recognized by the TRC, is the basis for this entire report.

Around 200 people have been officially recorded as having died from the ethnic conflict of 1997-2003. Guadalcanal people were 74 percent of these deaths while Malaitans were about 24 percent and the rest of the provinces, around four percent. Civilians were the highest amongst the deaths, followed by the IFM and GLF. It is said that the patterns of killings revolved around the many events that were happening, resulting in killings by abductions, kidnappings, revenge and retribution. The Guadalcanal uprising emerged out of Guadalcanal's claim for respect and recognition for over 30 decades of being host province to all provinces, including providing Honiara as the capital of Solomon Islands. In 1998, Guadalcanal youths sought the path of arms and violence to relay their grievances and Malaitans, who were the majority of the settlers on Guadalcanal, immediately became victims. The Malaitans responded and the result of the two opposing forces was the ethnic crisis. By 2000, the fight between Malaitan and Guadalcanal militant groups was practically over but the newly established JOG, on behalf of the SIG, pursued Keke's GLF. The JOG-mandated operations resulted in even more deaths and many other atrocities and human rights violations. Keke was not a signatory to the peace agreements and became the center-man of a new crisis but his surrender marked its end and the successful beginning of RAMSI. In the end, Harold Keke and his cohorts would end up in jail leaving the rest of the signatories to the TPA able to benefit from the Amnesty Act, an Act catering quite deliberately to those most involved in the crisis, including the MEF and the IFM and their various private supporters.

4.2.2 ABDUCTION/ILLEGAL DETENTION

1. Introduction

Arbitrary deprivation of a person's liberty was a frequent human rights violation during the conflict. The TRC distinguished two forms according to the actor: *Abduction* is an act where the victim is deprived of his or her liberty by a militant group, and *illegal detention* is an arrest made by a state actor – according to law, this should be the Royal Solomon Island Police Force (RSIPF) which is not based on legal grounds and does not respect legal procedures.

As will be shown in this chapter, abductions were committed by each of the militant groups, and illegal detention was a common practice mainly during the Joint Operation on the Weather Coast where not only the regular police force, but also former militants converted into special constables acted on behalf of the state. Usually there were many eyewitnesses, but nobody dared to stop the heavily armed militants or the police. In a situation of generalized insecurity and lawlessness, the victims were at the mercy of their captors who could act with complete impunity.

2. Incidence

2.1 Abductions perpetrated by a militant group

The TRC received 212 statements reporting abduction cases committed by one of militant groups that were involved in the conflict. With the exception of the Black Sharks/BRA in the Western Province, these were cases of kidnapping committed while the respective group controlled a particular territory on Guadalcanal. By restricting the free movement of people, these groups violated also a human right guaranteed in Article 13 of the Universal Declaration, which in clause (1) states that “everyone has the right to freedom of movement and residence within the borders of each state.” These rights are also protected in the Constitution 1978, Section 14.

The militant groups abducted their victims for a variety of reasons such as ethnic hatred, punishment of alleged collaboration with a rival group or for not following orders, or the desire to obtain some kind of information. Abductions were always committed together with other human rights violations like torture and ill-treatment, which in some cases caused even the death of the victim, or sexual violence. Victims of abduction were both men and women. In a

situation where the state had lost the control over the upholding of law and order, the perpetrators could act with complete impunity.

None of the militant groups had a formal place – like a prison or some sort of concentration camp – to congregate abducted persons. Victims were haphazardly tied to trees and sometimes left there for several days; in other cases the perpetrators made use of empty houses or an abandoned police station. After the Rove armory raid, when a great number of police officers colluded with the militants, the Malaita Eagle Force could use also police stations that were still in service.

The time of confinement varied, though in the majority of cases it was short; often it took only a few hours until the perpetrators obtained the underlying objective of the abduction or realized that they had caught the wrong victim. Most of the victims were forced to pay compensation before they were released.

The cases presented below prove that each one of the militant groups committed the human rights violation of abduction, though motives and modalities might have been slightly different.

3.1.1 Guadalcanal Revolutionary Army/Isatabu Freedom Movement

The TRC received 100 statements that refer to the GRA/IFM as the perpetrator in a case of abduction, more than to any other militant group (see below, Figure 4.2.2-6).

From the beginnings of the tension until the Townsville Peace Agreement, militants of the IFM were in control over most of the rural areas of Guadalcanal. They made use of their power by restricting the free movement of people; access to Honiara had to be granted by commanders of the checkpoints, as is shown in the following statement which was arbitrarily chosen out of a great number of similar testimonies:

My wife was expecting a new baby. We came down to the GRA bunker to ask for permission if my wife could go to the hospital to have her baby there. Unfortunately she was not allowed to go. This was a very awkward situation for her because she should have her baby at the hospital. We were told to wait for the Boss to ask for permission. We waited and waited until evening but the Boss did not turn up, so we came back. The next day we tried again, and they said the same thing to us. I asked if I could be allowed to go and buy some baby clothes but they would not allow me either. The militants might have thought that if we went through we would pass information to the other group because my wife is from Malaita.

Statement N° 1397

Restriction of movement expressed a situation of generalized mistrust of people of the same regional and ethnic background. For example, if someone planned to go to Honiara it was almost automatically assumed that the person would release information about the situation in the areas controlled by the GRA/IFM, as is shown in the statement quoted above. Visitors from other areas, even if Guadalcanal persons, were treated with the same suspicion, as is shown in the following case where the victim was arbitrarily detained by militants when he visited the village where his father worked as a teacher:

My father was a teacher at Kolivovo village. I wanted to go over to visit him and I asked one of my uncles to assist me. On our way to Kolivovo we met a lot of GRA militants near Ora village; they escorted us to where my father was. I went straight to my father and he whispered to me in a low voice, “Why did you have to come?” Then my sister came and the militants demanded compensation from my father. My uncle talked with them and they told him that I might be a spear. He told them that I had been with them the whole time. They came to me and told me to follow them and they took me to their commander. Arriving there, the commander told them to apprehend me and my uncle, they took us to a house and sat us down and interrogated me. They questioned me for three hours, and the commander was planning to hold me prisoner and to wait for Harold Keke. From then I knew that if I was held as a prisoner waiting for Keke I would definitely be killed. Somehow, I managed to talk my way out of it and in the end they were convinced and released me.

Statement N° 0902

In most of the abduction cases attributed to the GRA/IFM the motive was alleged collaboration of the victim with the enemy, which in the concrete case means being a “spear” for the Government, the police or the MEF. The overwhelming majority of persons abducted by militants from Guadalcanal were thus co-ethnics from the same island (see below, Figure 4.2.2-11).

The allegations of being a “spear” were usually a matter of mere speculation and not sustained by any evidence. On the contrary, abduction and torture were used to force a confession from the victim. In most of the cases the suspects had to bear severe ill-treatment and were demanded compensation of before they were released:

My story happened in the year 2000 when the militants came and harassed me. They caught up with me while I was walking along the road; they assaulted and harassed me along the way. I was helpless and could not defend myself; I suffered severe body injuries. They alleged that I assisted the RSIPF in their operation to catch or kill Guale militants. They assaulted me with their rifles, sticks and stones, and when I fell on the ground they kicked me and stepped on me. Then they took me to a place and tied both my hand and feet, there was nothing I could do and I told them that if they wanted to kill me they should do as they wish since I was totally helpless

from the injuries. My face and body were covered in blood. They demanded \$1,500 plus two pigs from my brothers and me. There were more than 20 of them, and they consisted of different dialect groups, mostly from the Weather Coast and along the Guadalcanal plains. They were all men, wearing *kabilatos*. It was a time of great pain and suffering, there was nothing we could do, and the only thing in the back of my mind at that time was death. I left all my trust and hope in the hands of our Lord God almighty. They took us from our place in Verani to Roha. There we were kept as prisoners under tight guards. After giving the money and the pigs they demanded, I was released.

Statement N° 1131

Suspicious were particularly persistent when the person was known to have contact with Malaitans. These could be even casual acquaintances, like in the case of the Guadalcanal woman who was detained at an IFM checkpoint because the driver of the taxi she travelled in was from Malaita:

I went to Honiara. At that time our militants were based at Vila and they stopped us and they gun pointed me. The taxi driver was from Malaita, and they told me to wait for Harold Keke and when he would come in the morning we would be judged for bringing this Malaita man with me. Harold came and he asked me why did you come with the man from Malaita and he pointed the gun at my chest. I told them that the man I came with had married to this island and he lived here and had made some sort of custom ceremony before he came to stay. I was fortunate at that time that Harold Keke warned me and he told me not to do it again.

Statement N° 0180

An employee of SIPL was taken by force to a camp of the militants and ill-treated because he had carried out instructions of his superiors and evacuated Malaitans to Honiara in a truck belonging to the company after the IFM raided CDC in June 1999:

At that time people from the CDC area were seen escaping over to Honiara in truckloads, fear was evident all around and the situation was getting tenser. My husband was employed at SIPL, he worked with the company in transporting people over to Honiara and one day he was stopped along the road. The militants seized the vehicle and abducted my husband he was taken over to their camp. Along the way they severely bashed him, butting him with their rifles. Arriving at their camp one of the Gualale commanders saw my husband and he instructed the boys to release him and return him back to his family; he told them that he was an innocent man and was only an employee for SIPL. They argued for some time and one of the men really wanted to kill my husband. In the end he was released.

Statement N° 2163

Another motive for abduction was the ethnic identity of the victims, as the following case in which two young men were abducted and ill-treated by IFM militants because they were from Malaita. The statement was given by their father:

My son Basil was arrested by the GRA militants at Foxwood and was taken to Okea. The militants made a big fire and put a piece of iron inside and told him that they would put that hot

piece of iron on his back. When he saw this he was very frightened. When their boss arrived and saw what they were going to do to him, he told them to release Basil. So he was released and he came back to Foxwood and found his way to town. My other son Philip had been tied up and taken to CDC I. When they got there he was forced to stand on one leg. He was standing on one leg until the same person who had released Basil came and told the militants to release him too.

Statement N° 5008

A similar case happened to employees from SIPL: while one of the victims, who was from Makira, was released, the Malaitan who was abducted with him never returned and apparently was killed by IFM militants:

My story begins on a Saturday when two of our heavy machine operators went out to work that day and did not return back to their families. We waited for them until we heard that the GRA militants had abducted and held them captive. They released one of the operators who was from Makira and held the other one from Malaita; we don't know what happened to him because we never heard from him since that day. He was abducted and killed and his body dumped in an unknown location. After this incident I took my family and we return back to Malaita, we remained back in the village up until today. I have been unemployed since the tension.

Statement N° 2409

IFM militants also targeted the families of MEF militants from whom they demanded compensation for their relative's involvement with the enemy. If they were not able to meet the demands they ran the risk of detention and ill-treatment:

They came after me because they knew that one of my brothers had joined up with the MEF group and they wanted to kill him. When this was unsuccessful, they decided to kill me. On one occasion they came looking for me but I was not at home. The second time they came they caught up with me while I was sitting down at my house. They told me that they had been looking for my brother who had joined the MEF but they could not find him, so I should pay the compensation on behalf of him. I was so scared and I tried to protest, but they did not allow me to speak. I was led out of the house and they demanded compensation money from me. Unfortunately, I did not have any money at that time since I have just returned from Western Province. I told them that I would have to travel over to Rere village to get the amount of money they demanded. I was apprehended for three days without food; I was tied by my hands and feet outside the house on a tree and was left exposed to rain, sun and the cold night. All the time I was provoked sarcastically and they used abusive languages towards me and my family, saying that I will be killed on behalf of my brother who had joined up with the MEF.

Statement N° 1122

The TRC received several statements where the victims of abduction were police officers. Some of them were still in service (see below, Statement N° 0820); while others were already retired and suspected of hiding weapons:

I was a police officer and attached in the Police Field Force unit. In the year 2000, when the tension reached its height, I left my job as an officer and returned home for my own safety. One morning I was at home when a group of GRA militants arrived, at that time all the people in our village had already fled into the bush. I was alone at home since my wife had taken all our children and moved out for safety reasons. There were ten of them arriving at that time. When they saw me they shouted from a distance claiming that I was a spear. I greeted them by saying good morning, but they did not respond. They grabbed me and pulled me out of my house; they lead me outside and pointed their guns at me. They claimed that I was hiding weapons in my house, and they would search my house. I told them that I did not have any weapons and I managed to convince them that there were no weapons in my possession. They continued accusing me of being spear and they marched me up to Roha village to find another colleague officer. Along the way I was continuously gun pointed with a homemade gun. Luckily along the way a friend saw us and advised the militants not to harm me. It was a 20 minute walk from my village to Roha. Arriving there they went and abducted the other police officer and I was released. I panicked because they were using homemade guns and I did not know if it was loaded, besides it was not a proper weapon and it could discharge accidentally at any moment.

Statement N° 1132

Finally, there were also many cases where the victims never understood why they were deprived of their liberty:

It was on a Wednesday evening and my family was having our meal and after that we were just sitting around chatting. We did not know that the militants were around and would use their guns against us. All of a sudden they appeared and pointed their gun at us. They pushed us with their guns and told us that we should go to Vila. They led us to Vila and all the way they were pointing their guns at us, we were at the front and the militants were behind us. One of them was talking to us while we were on the way, he said that we had to move quickly otherwise he would shoot us. When we got to Vila we were told to sit on a stool. One of their bosses came to me and scoffed me that I wanted to be somebody. He talked to my husband and he replied him, but the militant did not want him to reply so he smacked him. He pushed him with the gun and kicked him and he used abusive words at him. While he was doing that he asked the other militants to pass him the gun so that he could shoot him. The militants did not listen to his request and they went away with the guns because they knew we did not commit anything against the militant group. He kept on talking to us and in the end he released us and we came back to our place.

Statement N° 1059

Almost all of the abduction cases perpetrated by the Guadalcanal Revolutionary Army/Isatabu Freedom Movement show a high level of arbitrariness and improvisation. They were not part of a designed war strategy but were committed out of a spontaneous decision of some individual militants. Sometimes, as in some of the cases quoted above, they were later even rectified by their leaders.

The way the abductions were committed bears witness of the organizational chaos and precariousness that distinguished the militant group. In one case, for example, a police officer

was kidnapped by the GRA/IFM for interrogation. The militants took him to different villages in search for a chief who would question him. In the end they did not find anybody willing to carry out the interrogation and they had to release him:

Harold's group captured him and first they took him to Ngalipapa. They kept him the whole day and then they went out to ask for the Chief to come and interrogate him. They waited for the Chief to come but nobody came. So they went to Raeavu and they went to see To; they asked Chief To if he could come and interrogate the prisoner. Chief To told them that he did not know what he had been doing, so they went back to the bush and then untied his hands and legs. Then they took him to Haleatu to see the Chief there, but the day before my in-law had reported the case to the police at Marau. The police helicopter came and there were two police officers who took statement of the incident. The two boys who had watched and my son came ashore and they took him to the village. The boys apologized to my son and then he was released.

Summary of statement N° 0820; the statement was given by the mother of the victim

On the other hand, the cases demonstrate the complete breakdown of state control in the areas dominated by the militant group, whose members could act at their will. Witnesses who tried to intervene and prevent them from harassing people were easily converted into victims themselves.

When we went to Verahuraa, we went to church and after we came back and on our way we came across a group of militants who arrested my husband's uncle and beat him up. My husband Francis tried to intervene, then they turned around and arrested my husband. They tied his hands and legs and tied him to a tree and beat him up, too. They were Harold Keke's group.¹⁰⁶ He was tied to that tree until the next morning and in order to release him we had to give them \$1,000 and a pig. We gave this and he was released. They did this to him because he was trying to assist his uncle. I took him to the clinic to dress his wounds.

Statement N° 1347

By that time, Malaitan settlers had already been evicted from the rural areas of Guadalcanal and police officers from Malaita were no longer allowed to participate in operations outside of Honiara. MEF militants were too well armed to be "available" for kidnapping. This explains why most of the IFM's abduction victims were also people from Guadalcanal; it is only one example that demonstrates the quick expansion of ethnicity as an indicator of the conflict. This situation reached its peak after Keke's refusal to sign the Townsville Peace Agreement and the formation of the Guadalcanal Liberation Front (GLF) on the Weather Coast, which provoked not only the Joint Operation but also the appearance of another militant group in the Gold Ridge area of Guadalcanal, led Stanley Kaoni

¹⁰⁶ The abduction cases summarized in this section were committed before the TPA when Keke was still with the IFM.

3.1.2 Guadalcanal Liberation Front (GLF)

The TRC received 53 statements that name the Guadalcanal Liberation Front as perpetrator of an abduction case. Most of them are related to punishments inflicted on persons who allegedly disobeyed the strict rules of social control that Harold Keke imposed on the Weather Coast after his separation from the other IFM leaders, and particularly after the first patrol boat incidents in March 2001 (see chapter 3.2.2). The control of territory and restriction of mobility by the GLF was much more severe than that exercised by the IFM over rural Guadalcanal before the TPA. No one was allowed to go to Honiara, and trying to do so ended up in arrest and physical ill-treatment. Those punishments were applied to any disobedience of Keke's orders:

This incident happened to us while on a fishing trip one Sunday. At that time Keke had enforced strict rules for people to follow, especially during Sundays; no one is allowed to go out fishing. While out in the sea fishing we saw Keke's boat approaching. They came straight to us and gun pointed us in our canoes. There were six of us from the same village in separate canoes. They told us to paddle our canoes over to their base at Inakon; it was quite a distance and it took us around one hour before we got there. Arriving there his boys were already waiting for us at the beach. They instructed us to sit in a circle and they stood around with their gun. They butted us, took stones and threw it on our heads, bodies, legs and knees. Later Harold came and told his boys to set us free; he instructed us to leave our canoes and walk back to our village. We walked home all night and we arrived at our village at 3:00 a.m. Luckily we had a nurse in our village and she assisted in nursing our wounds and bruises.

Statement N° 0835

Keke's radicalism was proverbial even before the GRA split up. When still with the IFM, he kidnapped the brother of the then Deputy Prime Minister Allan Kemakeza on Savo island and demanded one million dollars to liberate him; the hostage was released by his brother Joseph Sangu. In September 2000 Keke hijacked a Solomon Airlines plane at Mbabanakira and abducted the pilot; he was released when the company paid a ransom of SBD\$200,000:

As a schedule flight the plane left Honiara for Mbabanakira on Saturday. We contacted Henderson and they confirmed that the plane already took off and on its way. We took the folder and the manifest and we went down to the airstrip. The plane arrived and Nathaniel took the manifest and handed it to the pilot. I opened the cargo hold and took out luggage. The pilot and Nathaniel discussed the manifest and when we looked two kilometers down the airstrip we could see the militants coming up. They came with a three-legged gun and two higher powered guns. There were 15 of them. When they got to us they said, "don't move, surrender." We did not move. My colleague stood at one side, the pilot stood at the front and I was on the other side. When they got to us they fired three shots. They went to the pilot and demanded that he should contact the Airline to give \$500,000. When the airline office was contacted they said they would not give that \$500,000. They told us to look after the pilot. Upon hearing that they tied up

Captain Eric and took him to the other side of the river. Then they chased us that we must go back. They told everyone at the airstrip to leave the site and go back home.

Statement N° 6019

Hostilities against Malaitans or part-Malaitans were another motive for abductions perpetrated by GLF militants, as is shown in the following testimony where the victim was released after paying compensation:

That evening the Guale militants came and asked for my husband; I told them that he is in the house. I then noticed that the three of the men were armed with guns. My husband came outside and they escorted him away and then another four men appeared with two more rifles. Seven men came and marched him over to Vila area; Harold Keke was camping there. The men that escorted my husband away were Keke's men. The whole night he was tied onto a cat-nut tree. I was pregnant at that time and it was also my due month; I was beginning to feel pain since it was about time. Around 5 a.m. I gave birth to my baby. My husband then arrived, he had been released. Luckily one of the local *Tasiu* [Melanesian Brothers] approached Keke and told them to release my husband since he was innocent. When he arrived I asked him why he was detained by Keke's men; he showed me his face and the bruises on his ribs and he told me that they had assaulted him. When he returned, they followed him and demanded that he must hand over his OBM engine to them along with \$500 cash as compensation. My father is from Malaita and I am part Guadalcanal, they suspected that my husband was giving information to the MEF group because all my brothers were in Malaita. Besides, my husband normally went over to Savo, so they suspected that he was meeting my brothers when he went over to Savo. That is one of the reasons why my husband was assaulted and intimidated.

Statement N° 1055

Several statements refer to abduction as punishment for alleged collaboration with the Joint Operation. These cases always implied torture, which could cause even the death of the victim.

My story will tell how my two brothers were killed by militants. My two brothers were living at Ogio village and some members of Harold Keke's group were living at Veravaolu. They came and claimed that my brothers were involved with the Joint Operation. When they got to us there was a boy sleeping outside the verandah, they tied him up and took away the gun from him. They entered the house and shot one of my brothers in the leg and threw him outside. They then burnt the house and my other brother was burned alive. They took away my brother who was still alive to Veravaolu and along the way he was tortured, they pushed a screw driver into his mouth. When they got to their hideout, they tied him up like a pig and started to whip him until he died.

Statement N° 0848

One case that received nationwide attention was the kidnapping and eventual murder of seven Melanesian Brothers (see chapter 3.2.2).

3.1.3 "Satan's" group

After the Townsville Peace Agreement, a local leader in the Gold Ridge area – Stanley Kaoni, also known as “Satan” – formed another militant group, supposedly to fight Harold Keke’s GLF. Even though there were some minor clashes between the two militant groups, “Satan’s” group was mainly known for harassing local villagers and demanding compensation of them. In some cases they resorted to abduction to press their claims; the following statement tells how the victim was detained for some time in a container:¹⁰⁷

We were at our village and the militants came and destroyed our properties. They lined up some of our things and destroyed them, they urinated in our cups, cut up our pots and plates and cut our bags of rice poured them out. We were frightened and ran away into the bush. When we came back there was nothing left, they also destroyed our beddings and other things including boxes and kitchen trays and others things they could get hold on. It was Satan’s group. They lined up the cups and urinated in them and said they were cups of tea. They pulled down our houses and cut our boxes and after destroying all our properties they came and looked for us so that they could kill us too but we already fled into the bush. They did this to us because they said that we were supporting Harold Keke. They abducted my husband’s uncle and beat him up and brought him down here and put him in a container. His name was Garebola Golu. They beat him up and put him in the container and after some time they released him. This took place when Satan went to Honiara.

Statement N° 1346

3.1.4 Malaita Eagle Force (MEF) and Marau Eagle Force

TRC received 47 cases of abduction in which the MEF is mentioned as perpetrator. The majority were detentions of supposed IFM militants or persons from whom the militants hoped to get some relevant information regarding the militant groups from Guadalcanal; the absolute majority of victims were thus Guadalcanal people also.

After the Rove armory raid, the MEF took full control over Honiara and carried out a few operations outside the capital to capture IFM militants or collaborators. Militants patrolled the city with a blacklist of suspects and checked the identity of drivers who passed the checkpoints at Alligator Creek and Kakabona. Given that Solomon Islands has no ID document other than passports, identification was usually based on oral interrogation which led to many equivocal and arbitrary detentions.¹⁰⁸ Most of the victims were from Guadalcanal, but the detentions also affected persons from Langa Langa in Malaita who were suspected to form part of the “Seagull” group. The abduction was usually the first link in a chain of human rights violations:

¹⁰⁷ In the statistical analysis, cases attributed to “Satan’s” group were associated with the IFM.

¹⁰⁸ Solomon Islands driver’s licenses do not indicate island of origin and are often not carried.

I was about to turn in to the road which led to my house when I could see a truck full of militants and they drove towards me. Just before I walked up to my house one of the militants came and grabbed me. They told me that they would take me to their camp for interrogation. I was still in my company uniform when they took me. I refused. There were lots of betel nut vendors along the road and they witnessed what happened. I did not cooperate with them and I struggled to get free because I did not have any involvement with any militia group. Then they started to punch and kick me. They blindfolded me and threw me in the pickup truck, they kicked me and butted me with their guns and they drove me off. Some of the men spoke out and said that I was innocent and probably he was the wrong person to be arrested. The location of the camp was at Alligator Creek. When we got there they tied me up on two poles. Those two poles were just like goal posts with poles at each end. They tied me with one hand to one pole and the other hand to the other pole. They tied another rope around my neck and I was standing just like tiptoe, by then it was about 10:30 p.m. They started to question me that I was a spear and I joined the Seagull group. I just learnt that time that it was another Malaita group, a group from Langa Langa. I told them that I did not know anything about that group and I never had heard of that before, it was a new group to me. They harassed me and they kicked me, they butted me with their guns and forced me to say yes that I was a spear. I knew they must have confused me with another person. The way they questioned me and how they put across their questions were meant for a different person but they got me instead. They kept on beating me and then they started to cut me with their knives in the face and in my back and I started to lose blood. They even urinated on me.

Statement N° 4402

Platoons of MEF militants were also sent out to rural areas in Malaita with the order to arrest suspects and bring them to one of the camps in Honiara for interrogation.

While settling back in our village on Paipai, another incident happened. Around between 7 and 8 in the morning a group of MEF militants arrived in our village. As soon as they arrived they came and asked for my in-law. He was married to one of my aunties. We were so scared since all of them were armed and had masks on. However, they told us to remain calm and not to move. My in-law came out with his children and wife, and they told him that they had come to take him over for interrogation and were carrying out orders given by their commanders. My in-law's wife tried to stop the men from taking him away but her husband calmed her down and called all his children to gather around him and they prayed together. The MEF men had come in an OBM, after he finished praying with his family they lead him at gun point over to their boat. His children cried in agony as he was led away, fearing that it would be the last time to ever see their father. The boat took off for Auki.

Statement N° 1501

In Honiara, the MEF detained some Guadalcanal officers of the RSIPF and the prison service, accusing them of supporting the IFM; some of them were maltreated in the correctional center at Rove, a public institution that belongs to the state:

During the period of the tension I was a prison officer at that time and had got caught up in a very bad situation where I was ill treated by the MEF group. One day I came over to Point Cruz and the MEF group captured me along with other three Guadalcanal officers. They took us over to the main police headquarters at Rove. They took us into custody and they panel-beat us; we were unlawfully detained for 14 days. Luckily the Red Cross came and released us and dropped

us off at Kakabona. All of us were severely injured, especially my uncle who was also an officer. I was supposed to be admitted along with my uncle at the main central hospital but I refused fearing that they would come later and kill me inside the hospital. Their reason for capturing us was they suspected that we were aiding the Guale militants, in spite of the fact we were Police officers. We have no link with the Guale militants but were only carrying out our duty as Police officers when we were captured by these MEF men.

Statement N° 1428

The TRC received also testimonies of cases where the MEF detained alleged IFM militants and brought them to the police station where they obliged the officers to lock them up. Even though these orders were not always carried out, it was evident that after 5 June 2000 important sectors of the public infrastructure were under the command of the Malaita Eagle Force. The mingling of public institutions and the MEF was most obvious in joint operations carried out by the Police Field Force together with militants. Again, abduction cases were committed with complete impunity:

One day while all Ngalitatae a group of men came and abducted my brother. All of us were so scared and watched in fear; none of us attempted to go over and try to save him because of fear. I braved myself and ran over to the men and tried to save him. My brother had gone over to check our house at Tematanga very early that morning, it was still dark when he set off with his little daughter. We were shocked when we saw his daughter running back crying; it was then that I anticipated that something bad must have happened to my brother. I quickly informed my wife and ran over to see what had happened; I am married to a woman from Malaita. I ran over to the river and saw him being dragged to the other side of the river where their vehicle was parked. They were members of the MEF and Joint Paramilitary Force. They came in large numbers; they were all armed with high power rifles. All of them had masks on except for one of them, I recognized him since he lived here in Tavaruhu. I ran over to them and tried to talk to the men to release my brother, but I was scared as well. The MEF men told me not to interfere, and my brother told me to go back and look after his children. He was not physically assaulted but he was led at gunpoint over to their vehicle. He looked calm, so I hoped nothing bad would happen to him. I returned to my house and we decided to move out for our own safety because of what had happened. I told my wife to take our children and return over to Malaita.

Statement N° 1560

3.1.5 Militants in Western Province and Choiseul

The TRC received very few statements about abductions attributed to militant groups that operated in Western Province and Choiseul. A notorious case was the one related in Winston Pitavoka's testimony at the public hearing in Gizo, where the victims were abducted and ill-treated by the Lauru Civilian Security Force (LCSF) led by William Amalo, because one of their

relatives had stolen Amalo's gun. A brother of the person who took the gun was taken hostage and left on a small raft in the open sea:

I was walking home from school when a group of armed men gun pointed me and took me over Taravangara. When we arrived there I was tied with a rope onto a chair and was not given any food until the next morning. Then they took me over to Gizo. Between Gizo and Kolombangara I was dropped off at a raft and they took off for Vella. I was left on the raft until later in the evening when they returned and collected me back. Then they took me over to Gizo and later I was taken back to my village. They told me that they were angry and suspected that my brother had stolen their gun; their leader told me that if my brother failed to return their gun I would be killed. They still kept me under their custody, later someone came and pleaded them to release me. He claimed that my brother had already returned their gun and I was released.

Statement N° 4033

3.2 Illegal detentions

The TRC received 95 statements about detentions by the police. During 1998 and 1999, those detentions still followed the procedures established by law and the detained persons had to be presented to a judge within 14 days after detention. However, some statements contained allegations of inadequate conditions at the Rove prison; some even mention physical ill-treatment of the detainees while under custody. Towards the end of 1999, police detentions ceased to be based on legal grounds:

I was at Ngilibiu at CDC 1. One day I was at home with my family and some boys from the village. We were watching a movie when all of a sudden two armed men kicked the door and entered our house cocking their rifle; it was a very frightening and shocking moment for us since we had never seen anything like that before in our lives. They had captured one of my little brothers who was on his way to buy petrol for my boys who were milling timber. There were around six of them, all armed with high-powered guns. They kicked the door open, pointed their guns at us and asked for my little brother. They then took my brother and led him over to their Hilux; one of them pointed his gun onto his head and butted him. My brother was so scared that he fainted inside the truck. He was detained for three months, later he was released when they discovered that he was innocent. The next day we decided to move out from our house because of fear.

Statement N° 1256

The MEF had set up their road block at the Alligator Bridge and we were unable to come over to Honiara. At that time a woman from our village was about to give birth; there was no one to accompany her so I was requested to go. Arriving at the hospital the PFF officers abducted and took me over to Rove prison where I was severely bashed up. I stayed in prison for more than a week and they told me to wait for the MEF; they would come and get me over to be executed. They pointed their guns right onto my head and accused me of being a member of the GRA group. They claimed to have received information from my own relatives in Honiara that I was a member of the GRA. It was from that information that I was apprehended and bashed up by the PFF officers. While in prison they continued to interrogate me, forcing me to give them

information concerning the GRA activities and plans. Whenever they asked questions and I could not answer them they would beat me up. They butted me with the bottom of their rifle. I still experience a sharp pain on my back up until today; at that time I thought they had broken my back. I was there for more than a week and luckily one of the prison officers from Renbel assisted us to escape; we fled that evening along with other Guadalcanal inmates.

Statement N° 1210

This situation worsened after the Rove armory raid and the institutional breakdown of the RSIPF, many of whose officers colluded openly with the MEF. By mid-2000, the MEF was the *de facto* power in Rove prison; Malaitan prisoners were released while inmates from Guadalcanal suffered multiple abuses:

I was captured by the Police Field Force during that period. They accused me that I was a member of the GRA from circulating rumors. I was captured on the 20th of October 1999 by the PFF, they captured me very early that morning at gunpoint and I was placed in the cell at Marau Police station. Later I was transported down to Central Police Station in Honiara and spent two nights in cell, then I was then moved down to Rove prison. They laid nine charges against me: some of these charges were being a member of an unlawful society, being in possession of a firearm without license, and other charges. I attended my court hearings and was remanded in custody for a period of nine months. While remanded there, in June 2000 the MEF and the Field Force took over the armory. After the takeover they came into the prison vicinity and threatened us; they labelled us as Prisoners of War since we were seen as members of the GRA group. While in custody there was violation of human rights, we were treated like animals. Most of the prison officers and other police officers came and released Malaitan men who were also held in custody, while they threatened to kill us and we were labelled as pigs kept in fences and would be slaughtered anytime they wished. Only one particular officer treated us very well and with respect. Then came the news that the Red Cross wanted to release us on cash bail, but the MEF group disallowed us from being released on cash bail withholding the keys from the prison officers. However, we managed to escape with the help of another officer. News reached us that on a Sunday at 8 p.m. they would come and execute all of the 28 inmates from Guadalcanal who were in prison at that time. That particular evening the officer came and released us, it was about 6:30 p.m. in the evening. We escaped while the MEF members who were manning the gate had gone out to have their dinner; within this short period we managed to escape.

Statement N° 0921

Arrests made by the Joint Operation on the Weather Coast, which was made up of regular police force and former militants sworn in as special constables, no longer respected any legal procedures. Detainees were not properly informed about the reasons of their arrest; they were not put at disposition of a judge on time, nor were their detentions published in the Judicial Gazette.¹⁰⁹ These were illegal detentions, committed because the arrested persons were

¹⁰⁹ Constitution 1978 – Section 16 – (1) “period of public emergency”:

suspected to be supporters of Harold Keke's GLF; however, there were no previous investigations at all to confirm the suspicions. Rather the victims were tortured in the camp of the Joint Operation to confess and confirm the allegations, and to reveal information about Keke's organization:

During the attack at Marasa the militants wanted to capture us, too. We ran away in the bush before they could get us. While we were in the bush the Joint Operation came and arrested us. They gun pointed us and marched us to their camp; there were five or six of us from the same village. The camp was at Charamate. We were tied together with a rope and they questioned us; if you answered them properly you could be released, if not you would remain in the camp. We were held for about 10-12 hours. After questioning each one of us we were released. They were not satisfied with what they heard, those were only unfounded stories. Those whom they were not satisfied with, they were still held up. One of them was the chief; he was released the next day.

Statement N° 6035

The Government sent the Joint Operation and when they came to our area they tied us up and harassed us. They took us to their base and they questioned us about Harold Keke and his group; the name of their base was Charamate. When we got there they tied us up and they asked questions about Harold Keke's militants. We were not involved with the militants, we were only civilians.

Statement N° 6030

In one case of massive abduction, the Joint Operation forced hundreds of persons from different villages to congregate in Malaheti village where they had to stay for ten months, until the arrival of RAMSI, under severe surveillance. During this time they had to accept harassment and humiliation from police officers and special constables:

The Joint Operation burned our houses down and after that they took us to Malaheti. They threatened and harassed women, men, old men, old women and children. They told us that we would be there for only three days. So they led us to Malaheti, and when we got there we stayed for almost a whole year and not three days as promised before we left. They told us that we were prisoners of war. They gave us orders that we should not go back to get food from our gardens and if we did, we should be escorted by the Joint Operation. If and when we were allowed to go to the garden they would have to tell us, the time set was between 7:00 a.m. and 12:00 noon. We had to come back within that time frame. Sometimes we did not get back at the right time, so the Joint Operation came and escorted us back and threatened us and even some of the women and men were beaten. When we were at Malaheti we suffered very much under the Joint Operation. It was sad to see the Joint Operation badly treating our young boys during that time; they pointed their guns at them and even beat them up.

Statement N° 0946

(b) the announcement of his detention shall be made as soon as possible, and not more than fourteen days after the commencement of his detention a notification shall be publish in the Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorized.

One day we heard the sound of guns coming from the eastern direction; that was at Kuma. That was the patrol boat. When we heard this we ran and hid in the bush. The shooting went on and on until late in the evening. While we were in the bush Field Force Officers came and told to come back home. They told us that we should go to Malaheti. When we got to Kolohoivara, they started to harass and gun point us. They told us that we were supposed to go to Malaheti and stay there. We had no choice but to go. We were taken there as prisoners. They told us to stay for only three days, the next day they told us to go and get our pots, plates, spoons and other cooking utensils. Then we were told to build our houses at Malaheti. The Joint Operation officers told us that we were not going back to our respective villages. We were told not to go back to our villages until they told us to go back.

Statement N° 1042

Many prisoners taken by the Joint Operation were tortured before they were brought to Honiara and put at the disposition of the judiciary:

I was about to return to my family in the bush when the Joint Operation caught up with me. They told me that I was one of the men they were looking for because they suspected that I was involved in the killing of a man on board the ship *MV Atobimo*. However, I was suspected because I had a pony tail hairstyle similar to that of the man they were looking for, so they thought it was me. They led me into the bush and pointed a pistol at me and they told me to identify all the militants in my village. We came through the bush track and arrived at Veramo while the patrol boat followed the coast. Arriving there we caught up with four other boys, they were held at gun point, too, and along the way they caught more boys and the Joint Operation men assaulted them. They led us back down to the coast and we walked over to Kuma River. They wanted us to help them identifying Keke's men in the surrounding communities. However, we did not know of their whereabouts since we were all civilians who were not involved. . . . They continued to lead us along the beach back towards Manakatcho; along the way they swore and assaulted us until we reached their base at Manakatcho. Arriving there they continued to accuse us and they claimed that we were Keke's men. They told us that they will bind our hands and feet with wires and dump us in the sea, or they will shoot us in a military style execution. All the options they gave ended up with the word death, so for us at that time we felt that our death was near. Somehow one of their leaders instructed that we will be tied and beaten and should not be killed, one of them went and brought pliers and some wire, it was really inhumane. They told us to sit on the ground with our hands at the back and they tied our hands and feet with the wires using the pliers to tighten the wires around our flesh. You could feel that blood had not circulated well through the body system, after binding our feet and hands they started to beat us up. They bashed and beat up so badly until we could not feel anything anymore, our bodies were numbed and blood was pouring from our nose, ears, eyes and other parts of our bodies, our faces were completely rearranged and swollen. After assaulting us we stayed for an hour to wait for a dingy to take us onboard the patrol boat. We were then taken to Moro's village and we stayed there for a day and a half before we were transported over to Honiara. They untied the wire on our hands and feet before we were taken on board the dinghy. While on the patrol boat they did not give us any food, they only gave us water since our mouths were swollen and some had their jaws dislocated, so we could not eat any hard food. Arriving in Honiara, a truck came and took us straight in the police cells at Rove. They charged us as members of Harold Keke's group. We were kept there for two months at the police custody.

Statement N° 0843

When the detainees arrived at the prison, ill-treatment often continued. After the armory raid, most of the police and prison officers who remained at Rove were from Malaita and ill-treated inmates suspected to form part of the GLF, while MEF militants were waiting at the prison gate in case some of them were released:

The group that came and forced us to join with the GRA instructed us to go over to Aokolava and board the *Aokolava* ship. We boarded the ship without any knowledge of what was the actual plan or where the ship would drop us off, they did all the arrangements. We followed as instructed for our own safety. We were on board the ship when the patrol boat caught up with us at Aola; they boarded the ship and they were the Police Field Force. They came and assaulted us, hitting us with the back of their rifles. From there the patrol boat escorted us to Honiara straight to Rove prison. The first three days we were not given food or water to drink, we almost died of hunger and dehydration. We appeared before the magistrate, after appearing before the court we were sent straight to Rove prison for a period of 14 days. After that period we had to appear before the magistrate again, and they continued remanding us for another 14 days. Our hearing was continuously adjourned for another 14 days until we spent a total of two years in custody.

We really suffered in jail because the situation was very hostile. Besides most of us had families at home, all of this time we were worried about the safety of our families. We remained in custody until the court registrar made a ruling to release us since there was insufficient evidence for prosecution.

During the period when we appeared for hearing before the court, the crowd of public present would insult us using abusive languages, directed towards our mothers and sisters and our ancestral spirits and beliefs. The police officers in the CID department also assaulted us; they pointed their guns at our foreheads and mockingly asked each other which one of us they should kill first. During the first year in custody we found it very difficult, at that time law and order was slowly deteriorating in the RSIPF and the prison service. After we were granted release we had to spend a night in custody since the MEF militants had heard of our release and were waiting for us at the main entrance of the prison compound. The other boys were so scared and we remained back for another two days in custody. Then I left and explained to the MEF members at the gate that we are not part of the GRA militants but boys from Marau who were threatened by the GRA, and they left. I called my brother who was also an officer; he came and took us to one of our in-laws who was also an MEF supreme commander. Bishop Adrian Smith followed up with our case and came to collect us; he took us to Holy Cross Cathedral and accommodated us with Father Tingge from Visale.

Statement No° 0914

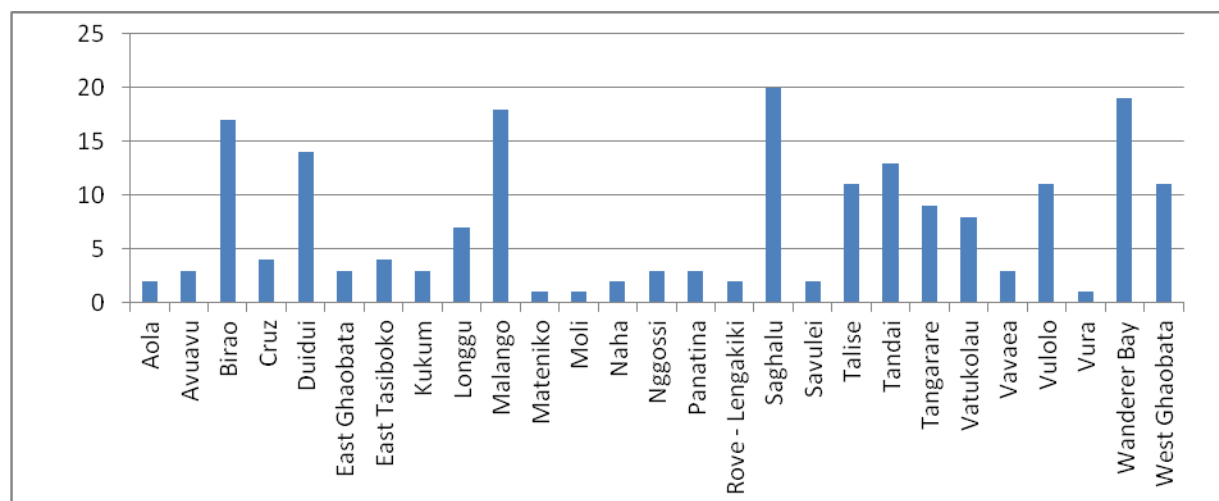
Most of the detainees who gave their statements to the TRC were freed by the court because of lack of evidence.

4. Magnitude

TRC received 307 cases in which individuals were deprived of their liberty. 212 were cases of abduction committed by one of the militant groups, and 95 illegal detentions committed by the

RSIPF and the Joint Operation. 195 abduction cases (92% of the total) occurred on Guadalcanal; Saghalu with 20 cases (10% of the total) and Wanderer Bay with 19 cases (10%) were the most affected wards. The other wards with more than ten abduction cases reported to TRC were: Birao, Duidui, Malango, Talise, Tandai, Vulolo, Wandere and West Ghaobata.

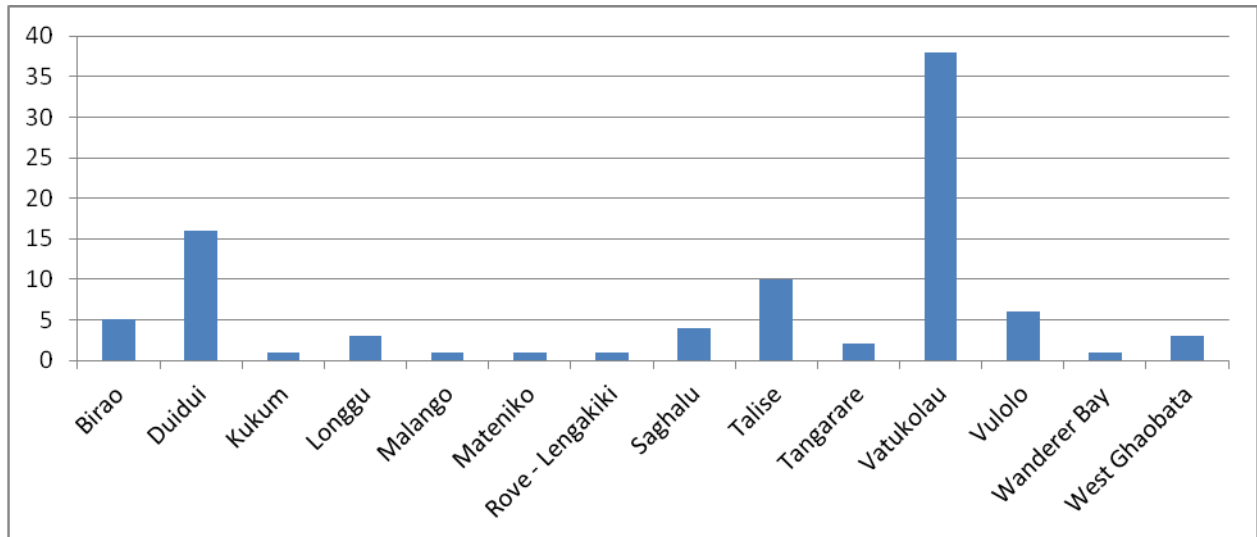
Figure 4.2.2-1
Location of abduction cases on Guadalcanal



The remaining 17 abduction cases reported to the TRC occurred in Malaita ('Are'Are and Auki), Choiseul (Batava and Viviru) and in Western Province (Gizo, Kolombangara and Noro).

All 95 of the illegal detentions perpetrated by the Joint Operation or the RSIPF occurred on Guadalcanal. The most affected wards were Vatukolau (38 cases, or 63%), Duidui (16 cases, 27%) and Talise the (10 cases, 17%).

Figure 4.2.2-2
Location of illegal detention cases on Guadalcanal

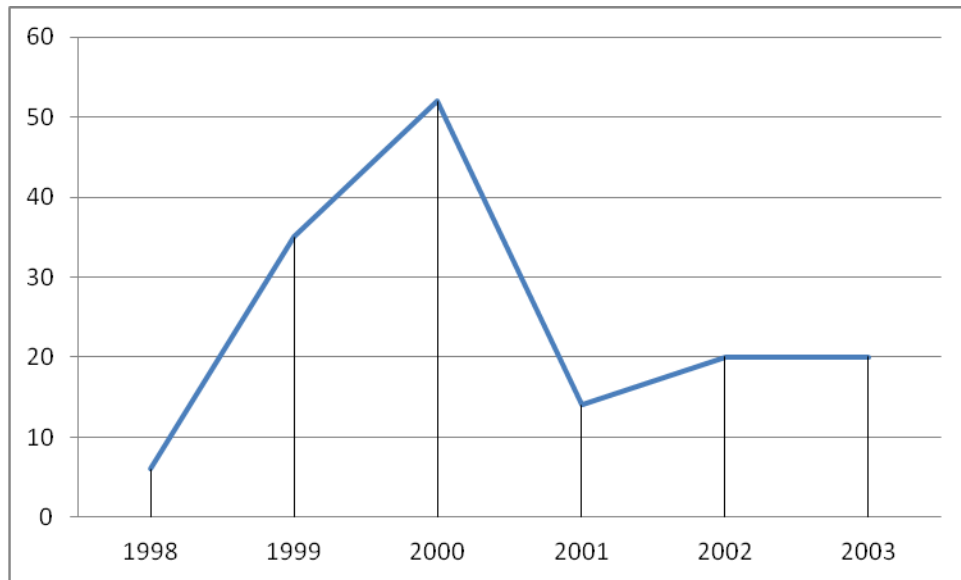


5. The Dynamic

The majority of the cases occurred in 2000, after the appearance of the MEF. On the one hand, the IFM abducted many people, accusing them of being “spies” and collaborating with the MEF. On the other hand, the MEF had control over Honiara and captured people suspected of being IFM militants or supporters. After the signing of the TPA and the formal dissolution of IFM and MEF, the perpetrators were GLF and Joint Operation on the Weather Coast.

Figure 4.2.2-3

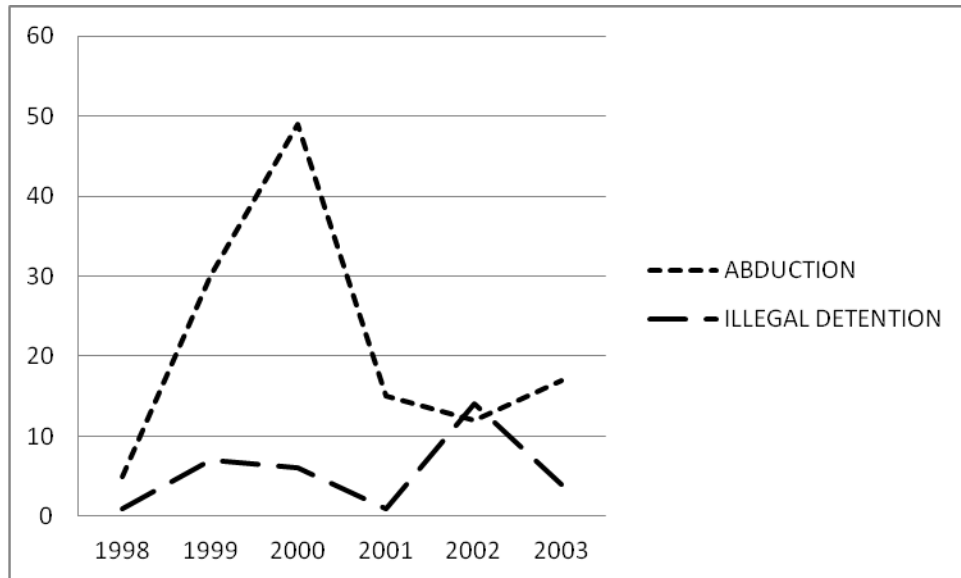
Number of abduction/illegal detention cases reported to the TRC by year



Separating abduction cases committed by one of the militant groups (non-state actors) from illegal detentions committed by the police (state actor), the statements provided to TRC reveal that violations from non-state perpetrators were much more numerous than those from state perpetrators. However, this ratio changes in 2002, when the Joint Operation was sent to the Weather Coast; at that time abduction cases perpetrated by militant groups, most of which occurred in the year 2000, were already in decline.

Figure 4.2.2-4

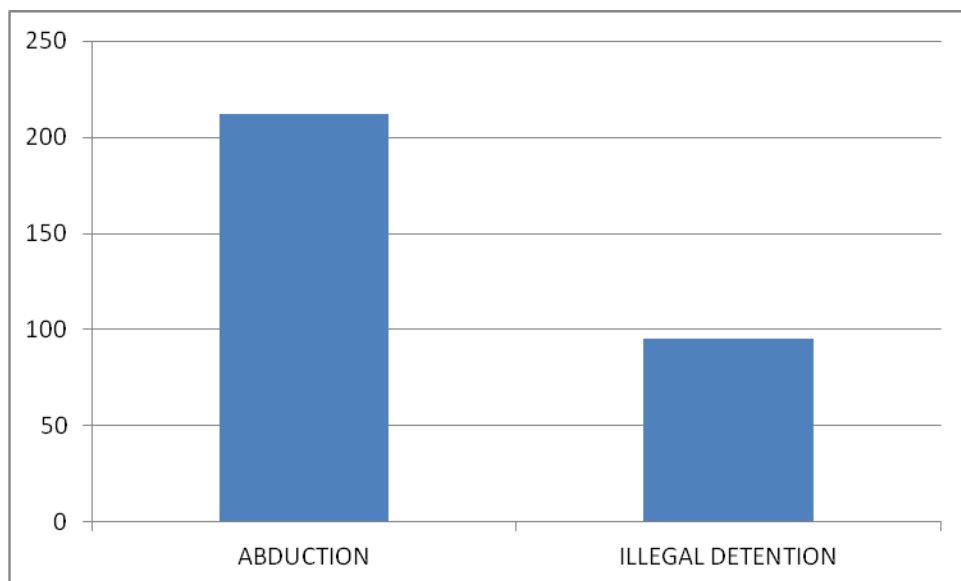
Abduction compared to illegal detention cases reported to the TRC by year



6. Responsibilities

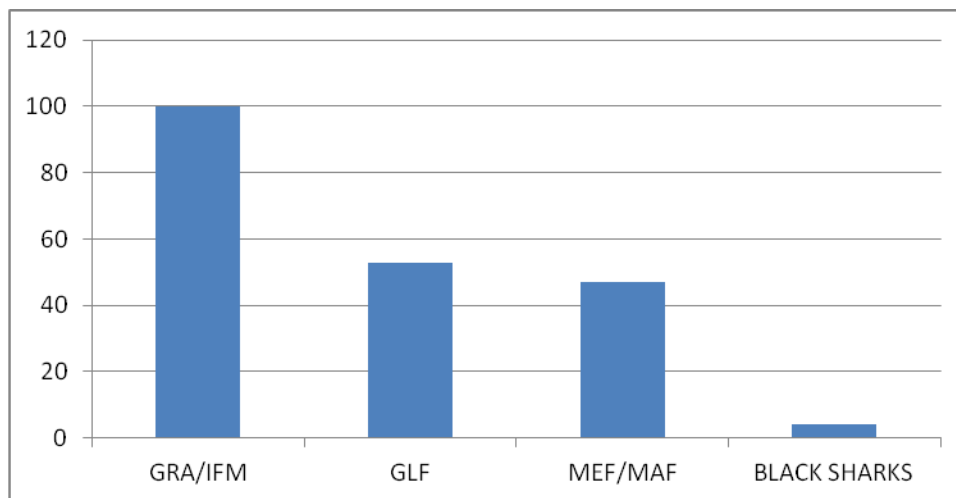
Sixty-nine percent of the cases of deprivation of a person's liberty were abductions perpetrated by one of the militants groups; 31 percent were illegal detentions where the perpetrator represented the state.

Figure 4.2.2-5
Abduction/illegal detention: perpetrators



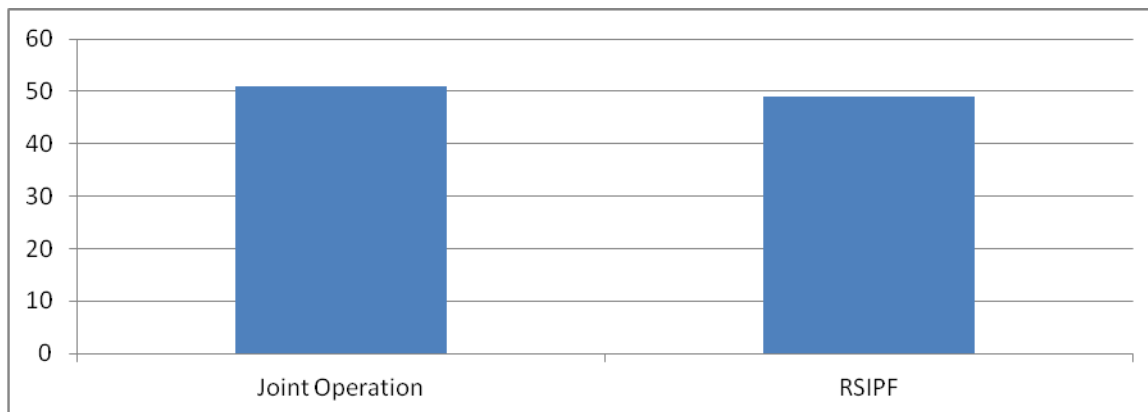
The TRC received 212 cases of abduction committed by non-state actors. In 47 percent of these cases, the perpetrator was the IFM, in 25 percent the GLF, in 22 percent the MEF and in two percent the Black Sharks (including the Luru Civilian Security Force).

Figure 4.2.2-6
Abduction: perpetrators



The TRC received 95 cases of illegal detentions committed by a state force; 51 percent by the Joint Operation and 49 percent by the RSIPF. A very special case is the illegal detention of several hundred villagers in Malaheti village, where the population of other villages was detained by the Joint Operation for almost one year.

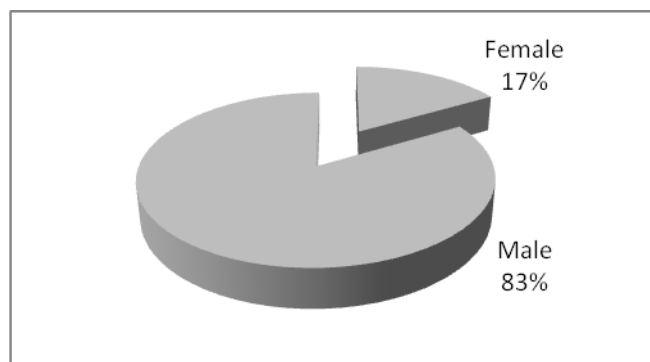
Figure 4.2.2-7
Illegal detention: perpetrators



7. Identity of the victims

83 percent of the victims who suffered abduction or illegal detention were male and 17 percent were female.

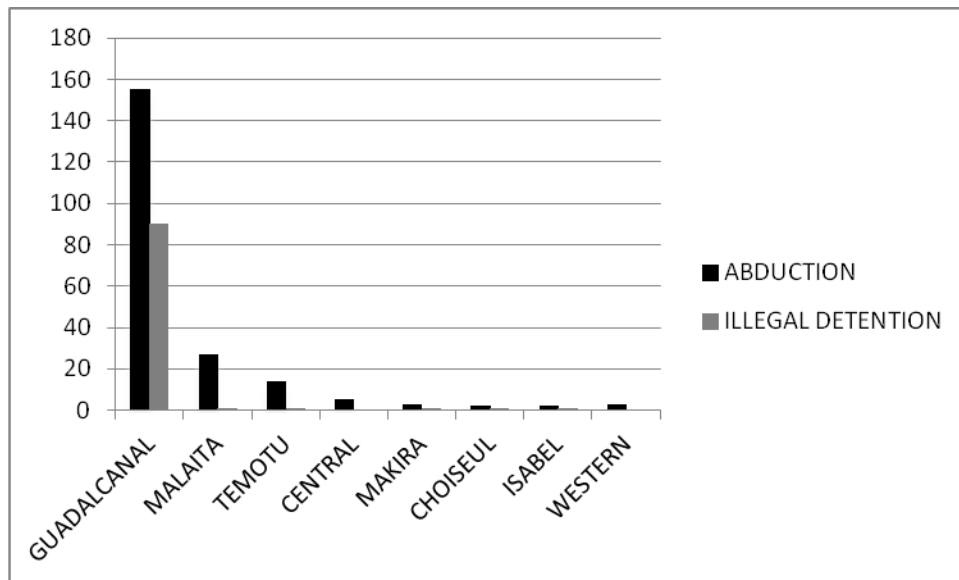
Figure 4.2.2-8
Abduction/illegal detention: victims by sex



73 percent (155) of the abduction victims were from Guadalcanal, 13 percent (27) from Malaita; the remaining 14 percent were victims from Temotu, Central, Makira, Choiseul, Isabel and Western Province; in one case there is no information about the home province of the victim. In the case of illegal detention, 95 percent (90) of the victims were from Guadalcanal, the remaining five percent (5) were from Malaita, Temotu, Makira, Choiseul and Isabel.

Figure 4.2.2-9

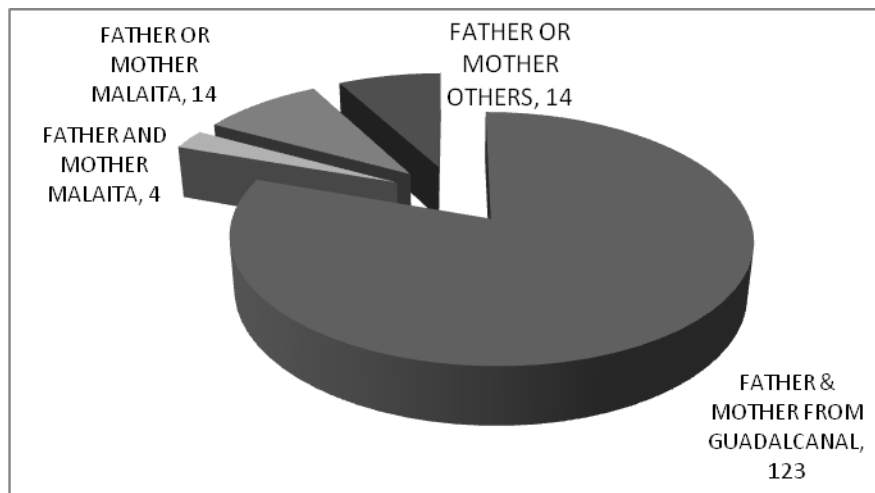
Abduction/illegal detention: victims by place of birth



Of the 212 victims that suffered abduction 155 (73%) were born on Guadalcanal. 123 (79%) of them have also their father and mother born on Guadalcanal; 4 (3%) have their father *and* mother Malaita, 14 (9%) have the father *or* the mother from Malaita. The remaining 14 victims (9%) have a father or mother from another island.

Figure 4.2.2-10

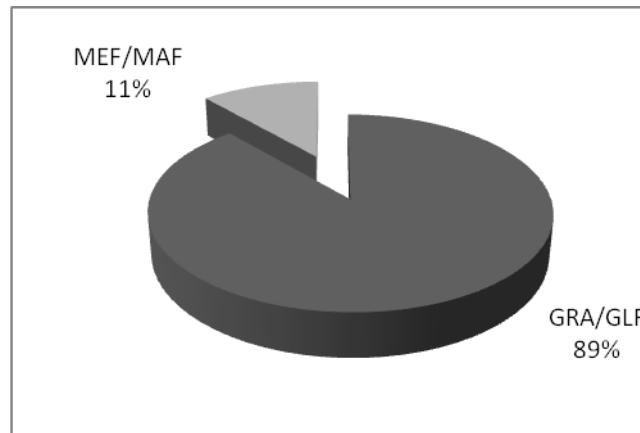
Abduction: place of birth of victim's parents



For 109 (89%) of the 123 victims who were born on Guadalcanal and whose father and mother were also born on Guadalcanal – which means, they can probably be considered ethnically as

“pure Guadalcanal” – the perpetrator was or the IFM or the GLF; that is, a militant group from their own island. Only in 14 (11%) of the cases the perpetrator was MEF/MAF.

Figure 4.2.2-11
Victims of abduction from Guadalcanal by perpetrators



Even considering the limited amount of statements recollected by the TRC, these figures demonstrate clearly that most of the abduction cases were intra-ethnic; perpetrator and victim belonged to the same ethnic group.

8. Window Cases

The following is a description of the situation at Malaheti:

In March 2002 when the JOG arrived in Buabua, Weather Coast in south Guadalcanal they started swearing at everyone in the village. They swore at the chiefs and the rest of the people in the village including Harold Keke. They used the last of every cursing in the world on Harold Keke and the people of the village. One of the men said they should kill the rest of people in the bush but much discussion they instructed everyone to go to Malaheti. They told the people that there would be an operation the next morning so everyone has to move to Malaheti. The people had to leave the next morning because they were to inform the rest of the people in the bush.

So the next day the other Joint Operation Group arrived and they marched the people to Malaheti without taking any of their belongings with them. The rest of their belongings were left in the bush and they went to Malhetti with the only clothes they wore at that time. They were just about to leave Buabua when the other Joint Operation Group started burning their houses; they could not do anything but just stand and watch. They were then led to Malaheti and one of them had to carry a flag to show them that they were their victims. . . . When they got to Malaheti they were instructed to sit in the sun. They sat under the blazing sun for about three hours and some of the women and children lost conscious because they were hungry.

After some time Andrew Te'e came and told them to go into the village. They cooked some food and fed them but later they told them to find our place to sleep. Later that evening they sorted out all the people and placed some of them at Malaheti Kuma and the rest at Malaheti Lava.

My family at that time went and shared a house which was allocated to the Joint Operation Group, but most of the time they got drunk and harassed us and swore at us. We stayed there for nine months. They told us to build our houses where people used as a lavatory sometime back. I used to watch them going up and down every day getting drunk almost every day. They even told us we were prisoners of war. We stayed at Malaheti, Kuma for nine months until the arrival of RAMSI. When we knew RAMSI was in the country, that very day we heard the news we started to move back to Buabua the same day. They asked us to wait to move the next day but we could not wait any more so we moved back to village. It was sad to see the rest of the houses were burnt down but the others were still standing but were in bad conditions. Some of our people whose houses were burnt down had to stay in the church for about three months while they built new houses. Seeing that everything was damaged and we were away from our village for nine months we had to start all over again, building new houses, making new gardens and starting a new life all over again.

Statement N° 1010

9. Conclusions

The overwhelming majority of abduction cases (92%) reported to the TRC occurred in Guadalcanal. The remaining eight percent occurred in Malaita and the West of the Solomons (Western Province and/or Choiseul). All of the illegal detentions (100%) reported to the Commission occurred on Guadalcanal.

b. Abduction was committed by each one of the militant groups: IFM, GLF, MEF/MAF and the Black Sharks.

c. The overwhelming majority of victims of abduction and illegal detention were born on Guadalcanal; they represent 79 percent (244 cases) of the total cases reported to the TRC. Separating the human rights violations, 73 percent of the abduction victims were from Guadalcanal and 13 percent from Malaita, while in the case of illegal detention, 95 percent of the victims were from Guadalcanal.

d. The perpetrators of 89 percent of the 123 abductions of victims who were born on Guadalcanal and whose father and mother were also born on Guadalcanal, were militants from the IFM or GLF.

e. State forces that did not follow the legal procedures were responsible for all 95 cases of illegal detentions reported to the TRC. They were also responsible for retaining approximately 400 civilians in Malaheti village on the Weather Coast for almost one year.

4.2.3 TORTURE/ ILL-TREATMENT

*They kept on beating me and even they started to cut me with their knives in the face and on my back and I started to lose a lot of blood. They even urinated on me ...*¹¹⁰

*They told us to sit on the ground with our hands at the back and they tied our hands and feet with wire using pliers to tighten the wires around our flesh. You could feel that the blood had not circulated well through the body system, after binding our hands and feet they started to beat us up, there was nothing any of us could do.*¹¹¹

1. Introduction

Torture and ill-treatment were inflicted on innocent civilians during the whole period of the conflict. Disrespect for physical integrity was a common practice of all armed actors. According to more than 1,400 statements received by the TRC which report a case of torture or ill-treatment, this human rights violation reached its peak in 2000.

The ethnicity of the victim, accusations of being a “spy”, punishments for real or alleged wrongdoings, and the demand for information were the main motives. In some cases, the torture caused the death of the victim.

Victims interviewed by the TRC reported that the trauma of ill-treatment is still present. Many asked for counselling, and almost all of them are still waiting for some kind of compensation they never received.

2. Incidence

The TRC received information about different types of torture and ill-treatment committed by all the armed actors.

2.1 Royal Solomon Islands Police Force

During the first stage of the conflict, the Rapid Response Unit (RRU) of the Royal Solomon Islands Police Force (RSIPF) used illegal methods to control the events.

¹¹⁰ Statement N° 4402

¹¹¹ Statement N° 0843

So that particular morning the RRU came and raided our village. I was not sure what their plans were but they came and arrested us and handcuffed us and took us away to Tetere Police Station. We were beaten up and were badly injured and our faces were swollen and people could not recognize us. Those were the actions taken by RRU during that time.

Statement N° 1039

2.2 Guadalcanal Revolutionary Army/Isatabu Freedom Movement

The GRA resorted to physical ill-treatment right from the beginning of the conflict, and the victims were often people from Guadalcanal. Harold Keke's inclination towards violence was already manifested during this early stage, long before he split up with the IFM and formed the GLF on the Weather Coast. There are many examples of a "first beat, then ask" attitude, as in the story that is told in the following statement:

When I got to the house the militants were back. One of the 25 kg. bags of rice was opened and when Harold Keke came he asked the boys who stole the rice and two boys showed up at my house. They called me and asked what my name was; I told them my name. You come with us to Vila to see Harold Keke. When I got there he asked me to sit down then I said to him what did I do wrong? Harold Keke said to me, don't ask any more questions. I was so frightened so I stood up and wanted to run away, some the militants stood up and pulled my shirt, jumped on me and butted me up. I was dizzy and I fell down, they beat really hard and I was bleeding and then I thought I was going to die. They took a pump gun and a SR 88 and put them to my head. They asked me to confess something I did not know anything about. If you don't say anything we will shoot you. By then my mouth was full of blood and I could not talk. After beating me they told me that I should go back to my house. I was badly injured; I could not swallow any food.

Statement N° 0693

The TRC also received a number of statements where torture was used by IFM militants to extort money from their victims:

One of the boys from IFM went to the boat with him and they butted him with a gun. They put a chisel through his neck and put him in a dingy after he was already weak and they took him to the Station. Before they left our village they shouted back to the shore and said that if we wanted Alfred to live, we should go to the station with \$2,000. We had to run to Babasu to inform the management of the *Akolova* that the Captain was taken captive by the GRA militants and was kept at the station. They demanded \$2,000 to get him out. The manager of the *Akolova* went to the station and he gave them the \$2,000 and he took him back, but he was badly wounded.

Statement N° 1454

They blindfolded us and they took us into one of their bases in the bush and when we reached that place they then started to beat us. They bashed us and they demanded us to pay them \$7000. So my elder brother gave them that amount.

Statement N° 0574

Innocent persons were also tortured because of their ethnic identity. Several statements report how Malaitans were ill-treated only because they were Malaitans:

Clay was married to a Guale woman, but he was from Malaita and this raised a lot of suspicions because of his ethnic identity. He was visiting his wife and family in West Rarata in Tasimboko along the Mbalasuna River when this incident occurred.

It was somewhere in May of 2000 when a group of GRA arrived at their home. It was 8 p.m.; armed men came and demanded him. They threatened him with their guns and they ordered him to go with them to their camp for questioning since they suspected him of being a spy for the MEF group since he just had come back from Honiara. They grabbed him and started pulling and shoving him out of the house; they assaulted him and butted him with their rifles. He fell in a drain near the house but struggled to get back on his feet. He stood up as they continued to assault him by punching and kicking him.

They tied his hands on the back and they escorted him to their camp. He did not understand why they were ill treating him but he concluded that it was simply because he was from Malaita. Arriving at the camp they tied his hands and feet again and blindfolded and tied him to a tree upside down. He was left like that the whole night until afternoon of the next day.

The militants returned in the afternoon and their boss insisted that he should be taken quickly to the nearby hospital for treatment, fearing he would die since he had lost a lot of blood. He was then rushed to the Bible College which was turned into a clinic. There they discovered eight deep cuts in his head. On his legs bears the mark of wires was tightly squeezing his flesh. There were several knife marks on his body as well. Two of his teeth were had also been removed. During the first two months after the incidence he could not eat any hard food.

Extract from Statement N° 1217

Very common cause of torture cases committed by the IFM was accusing the victim of being a “spear” for the Malaita Eagle Force. These accusations were never sustained by any kind of proof and often they were a mere excuse for extorting compensation. The first of the following two statements shows that even women were cruelly ill-treated:

At that time they stopped everyone from going to Honiara and I went to Honiara and I stayed with my relatives and then I returned home and they came to my house and they bashed me and I was badly hurt. When I came back from Honiara they called me a spy. They took me to Tambea; they bashed me when we were still on the truck until we arrived. They demanded of me compensation and I gave them \$50 and then they released me

Statement N° 0029 (the victim was a woman)

I was at my house and I was carrying my little boy and then we were caught by surprise. They came and they gun pointed me. I asked them what did I do wrong and they called me a spear. I did not understand what that meant and when I asked them they cut me with a knife. I tried to ask them again and they did not say anything but continued cutting me. I was wounded and I tried my best to clear my eyes from the running blood. My body was spilled with blood, and then one of them butted me with his rifle. My eyes were swollen and my hand was broken, and then another person came with an axe and he cut me at my neck and I fell on the ground. I think they thought I was dead, so they left me and fled. Then my wife came and she also thought I was dead.

Statement N° 0284

The statements leave no doubt that torture and ill-treatment committed by IFM militant had no foundation at all in the Bona Fide Demands or any other political justification of the conflict by Guadalcanal leaders. They were crimes perpetrated by individuals who used the power of their weapons to obtain some kind of personal benefit. They could do so because no public institution was able to control them; for most of the time, the IFM exerted absolute control over the population of rural Guadalcanal.

2.3 Malaita Eagle Force

Torture and ill-treatment were also common practices of the Malaita Eagle Force, who used them with preference during their “interrogations” to get some kind of confessions. The following statement, given by a victim who was suspected to be a member of the “Seagull” group, is just one example:

I could see a truck full of militants and they drove towards me. Just before I walked up to my house one of the militants came and grabbed me. They told me that they would take me to their camp for questioning. I was still in my company uniform when they took me. I did not cooperate with them so I struggled to get free because I did not have any involvement with any militia group. By then they started to punch and kick me. They blindfolded me and threw me in the pickup truck, they kicked me and butted me with their guns and they drove me off. Some of the men spoke out and said that I was innocent and probably was the wrong person to be arrested. Those who did that to me refused to listen to me because they were under alcohol. The location of their camp was at Alligator Creek Bridge. When we got there they tied me up to two poles. Those two poles were just like goal posts with poles at each end. They tied me with one hand to one pole and the other hand to the other pole. I stood there just open handed. They also tied another rope around my neck. I was standing just like tiptoe.

They started to question me that I was a spear and I joined the Seagull group, I just learnt that time it was another Malaita Group, it was a group from Langa Langa. I denied that I did not know anything about that group and I have heard of that before, it was a new group to me. They harassed me and they kicked me, they butted me with their guns and forced me to say yes that I was a spear. I stood on the grounds I was innocent and I did not know what they were asking me about. They kept on beating me and even they started to cut me with their knives on the face and on my back and I started to lose of blood. They even urinated on me which is very inhumane and against human rights. They continued to beat me up and also butt me with their guns. In between questioning they stopped beating me and later they came back again and did the same thing, until somebody came and noticed who I was. By that time I was already weak and I lost quite a lot of blood and my body was covered in blood. One of their Commanders came around at 5:00 a.m. the next morning; he came and started to question me again. While he was still questioning me he found that it was not me whom they were looking for, there should be another person and not me. They wrongly apprehended me and he told those militants to release me. So they untied the ropes from my hands and neck and he ordered to get a bucket of

water to wash me up. He ordered them to take me to the hospital. I knew most of them and they were my friends and they were members of the Malaita Eagle Force.

Statement N° 4402

After the breakdown of the RSIPF, some Malaita Eagles assumed police functions in Honiara and in Auki; as in the above case, suspects were often ill-treated during “interrogations”:

One evening a group of armed men from the MEF came and arrested me from my house. They took me over to Auki and started questioning me; they pointed their gun to my head and put a sharp knife across my neck. I responded and told them that I was a leader and not involved in any criminal activities; they took me and forced the officer to put me behind bars.

Statement N° 2214

The following statement shows that not even Red Cross volunteers were safe from torture when MEF militants supposed that they could provide some important information about the IFM:

In the year 2000, during the course of my work as a Red Cross volunteer I accompanied my boss to transport women from our area to go over to Honiara. The militants fired shots in the air and seized the vehicle we were using and tied our hands and feet, we were then illegally detained at their bunker. They then started questioning us about how many Guadalcanal militants were there, where are their camps located, how many weapons they had, and if we knew of any of their plans. They further questioned us of how many Malaitans were killed by the GRA militants. We were unable to answer their questions and they started assaulting us by hitting us with the butt of their rifles, cursing us, urinating on our face and threatening to kill us on several occasions by pointing their guns on our heads. We were accused of being spies for the GRA militants. I tried to convince them that we were just volunteers and not involved in one way or the other with the civil unrest. They kept on torturing and tried to suffocate us by squeezing our necks, the torturing and interrogation went on until the evening, both of us almost died.

Statement N° 1200

2.4 Guadalcanal Liberation Front

The GLF was responsible for many acts of cruelty as Keke sought to maintain control over the communities of the Weather Coast. Cases like Marasa and the murder of the ten Kwaio and the Melanesian Brothers, which are presented with detail in chapter 3.2.2, give evidence of it. But beyond these cases which were reported at length in the media, the TRC received information about a great number of human rights violations unknown so far, which prove that Keke in fact imposed a reign of terror on the Weather Coast. Physical violence was one of the main means to maintain control over the population. Any transgression of Keke’s strict rules was severely punished, as is shown in the following sample of statements:

They instructed us to sit in a circle, and they stood around with their guns, they butted us with their guns, they took stones and threw them on our head, bodies, legs and knees. Harold came and told us to lie face up and struck his gun on our face. There was blood coming from our faces and noses, some of us fell unconscious and fainted. Harold went out and returned later seeing us all covered in blood, he told his boys to set us free. He instructed us to leave our canoes and walk back to our respective villages. Luckily we had a nurse in our village and she assisted in nursing our wounds and bruises.

Statement 0835

He imposed those rules because of religious beliefs. He set aside three days of the week for church services. One was on Sunday, then on Saturday and the third on Thursday. If we did not attend church services on those three days, we would also be punished by beating us up.

Statement N° 0929

They did not agree with me because I chewed betel nut. They asked me to come and stand in front of them. They took a stick and told me to stand up, that stick had just been cut from the bush and it was still fresh. They whipped me with the stick and I moved away but they went after me and whipped me again. I was in great pain so I could not stand any longer.

Statement N° 0647

The situation reached its depths of despair when the Joint Operation arrived at the Weather Coast and attracted many young men from the area who were tired of Keke's abuses. Again, the killing of two young men in Marasa who were accused of supporting the Joint Operation gives evidence of the level of violence that the GLF had achieved at that time. Suspicion that someone was a "spear" for the Joint Operation had become a common motive for torture and ill-treatment of civilians on the Weather Coast:

My brother went over with other boys to one of my sisters. Arriving there, the militants from the Weather Coast grabbed him, he was physically assaulted, and he was shot with bow and arrow. They accused him of being a "spear" for the MEF and Police.

Statement N° 1011

2.5 Joint Operation forces

The Joint Operation, a state-endorsed actor in the conflict, also ill-treated civilians while "interrogating" them to elicit information about Keke's hideouts:

The Joint Operation team came to our area and apprehended my elder brother. They took him for questioning, as they were leading him away they put a cuff on his hand and started butting him with their rifles; they led him to their base at Kwaisuhu and he was kept there. They accused him of being one of Keke's men and that he knew of the location of Keke's hideout, so they took him for questioning.

Statement N° 0649

The Joint Operation officers came and tied our hands and legs and forced us to lie down. While we were lying on the ground, the officers were drinking and smoking. Some of them poured hot water over us and burned us with their cigarette butts. Early the next morning, they asked us to sit up and then walk around, while they hit us with their guns. Not long after that the patrol boat arrived and we were commanded to go on board. On board the patrol boat we were placed in the exhaust which was very hot. We were in the exhaust until we got to Sughu in Wanderer Bay. They told us to go to the front of the patrol boat and wave our hands to say good-bye to our island because they were going to shoot us. After that, one of the police officers urinated and tried to force us to drink his urine. Only one of us drank his urine, he was a 14-year-old boy. When we got to the wharf, they rang the police van to come and take us to Rove to be kept in custody. When we were in police custody, they stripped off our clothes and bashed us again. After 14 days in custody, we were brought to court and after the hearing we were acquitted of the charges laid against us.

Summary of Statement N° 0718

They punched, kicked and stepped on me while I was lying on the ground, up until today the spot on my body where they stepped on is still aching; I attended medical treatment but it has not fully improved. After that incident I had a permanent disability, I am not fully capable in doing the physical work that I used to do in the past, it all happened because of these physical abuses.

Statement N° 0961

The TRC also received cases where victims were tortured to death by members of the Joint Operation:

I did not know why they arrested him and beat him up, but there were whispers that Harry knew where Harold was. They questioned him and he told them he did not know where Harold was. So they tied them up for one night and released him towards the evening of the next day. Harry was badly beaten and he could not move, so one of the policemen came and told me about his condition. So he gave me some sugar and tea leaf and told me to go and make some tea for him. I made tea but when I gave it to him he could not swallow. He had been inhumanely treated by the members of the Joint Operation. He had been tied and thrown outside face up and was stepped on from head to toe. During the time they beat him, his back was bruised, his belly was bruised, actually all parts of his body were bruised. After the beating he felt his stomach ache and he had bleeding teeth. From 5 May 2003 to end of September 2003 he was admitted at the Central Hospital. One day we were discharged and went to live with relatives at Mbokonavera and he went back to the Hospital on Thursday morning, and on Saturday morning at 2 a.m. he died. After he was beaten, his health deteriorated and he was vomiting blood until he died.

Statement N° 0181

2.6 Quasi-militant groups in the West

In the Western Province and in Choiseul, the presence of militants of the Bougainville Revolutionary Army and local quasi-militant groups like the Black Sharks or the Lauru Civilian

Security Force (LSCF) created its own dynamic. The TRC received several statements referring to ill-treatment committed by those groups, especially by William Amalo's LCSF.

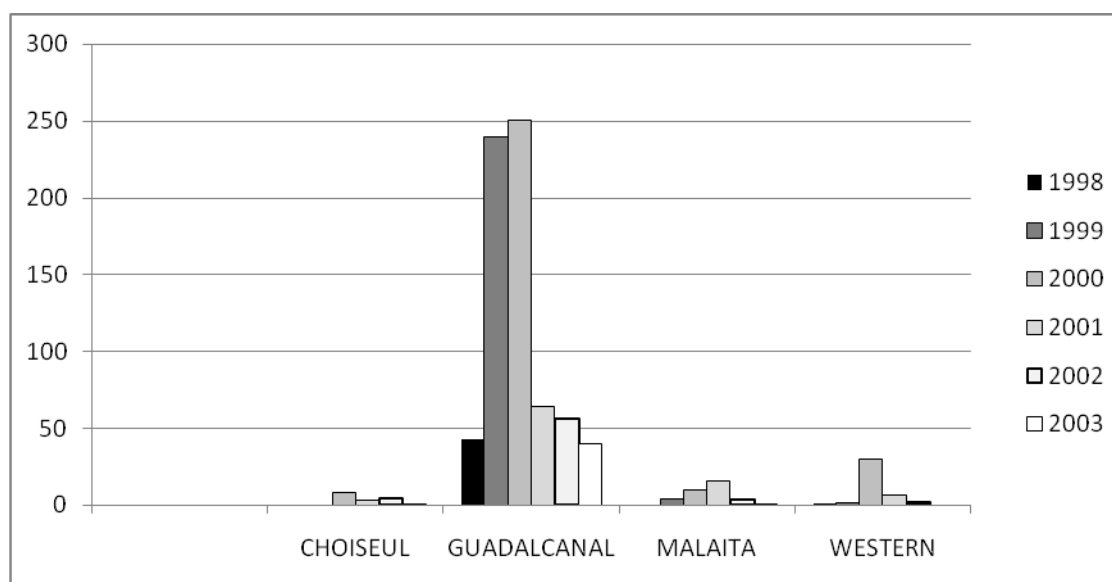
During that time William Amalo came and took me and my twin brother and he tied us up for three days. He took us to Gizo and then he took us back in his boat and he left us in the raft between Gizo and Kolombangara. He returned and picked us up and then we went back to Choiseul. When we got back home we stayed and the Minister went to sort out the matter, the guns were returned. I was at Kere when they came and called me and butted me with their guns and they also took my twin brother and he told them to take us to his house. That was at Taravangana Point. They kicked and beat us until blood came in our mouths. He tied us up and beat us up. I thought he was going to beat us to death. They kicked and beat us very badly, we had injuries all over our bodies and we were bleeding. We were also weak because we were not given any food for those three days.

Statement N° 4664

3. Magnitude

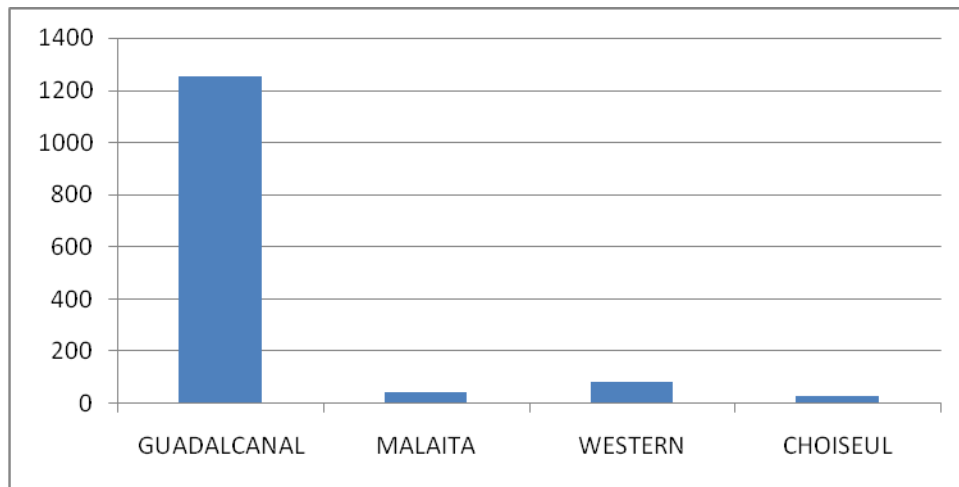
The TRC received 1,413 statements of torture or ill-treatment. Figure 4.2.3-1 shows that the overwhelming majority of these cases were committed on Guadalcanal. From 2000 on, this human right violation was extended to Malaita and the Western Province and Choiseul.

Figure 4.2.3-1
Torture/Ill-treatment cases received by the TRC by region and year



89.8 percent of the cases reported to the Commission (1,255) occurred on Guadalcanal, 3.1 percent on Malaita (44 cases), 6.0 percent in Western Province (85 cases) and 2.0 percent in Choiseul (29 cases).

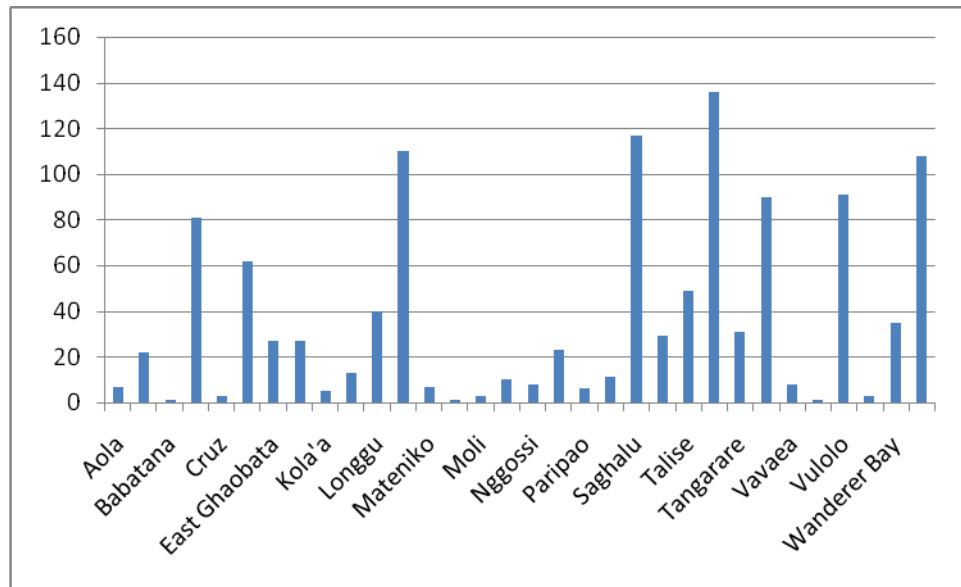
Figure 4.2.3-2
Torture/ill-treatment cases by region



Torture/ill-treatment cases covered almost all of the wards of Guadalcanal, including Honiara. Most affected were Tandai (12%, 136 cases); Saghalu (10%, 117 cases), Malango (9%, 110 cases), West Ghaobata (9%, 108 cases), Vulolo (8%, 91 cases), Vatukolau (8%, 90 cases), Birao (7%, 81 cases), and Duidui (5%, 62 cases).

Figure 4.2.3-3

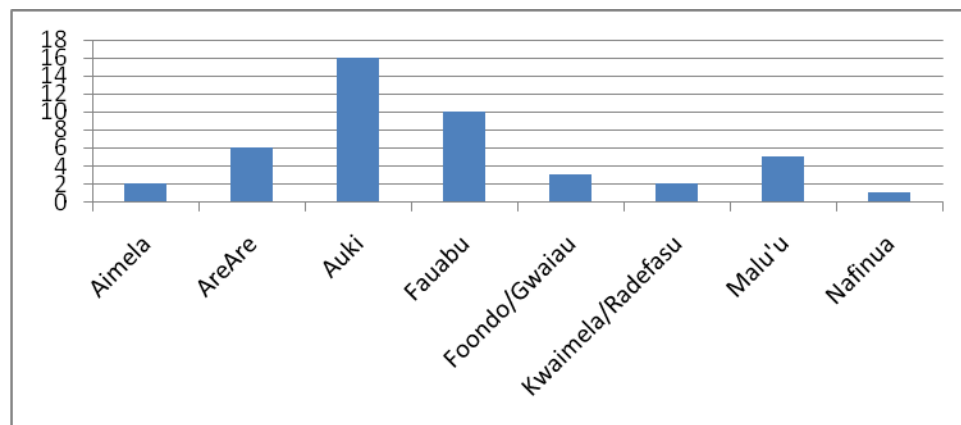
Torture/ill-treatment cases on Guadalcanal by wards



In Malaita, 36percent of the cases reported to the TRC (16) took place in Auki, 22 percent in Fauabu (10 cases); 13 percent in 'Are'Are (6 cases), and 11 percent in Malu'u (5 cases).

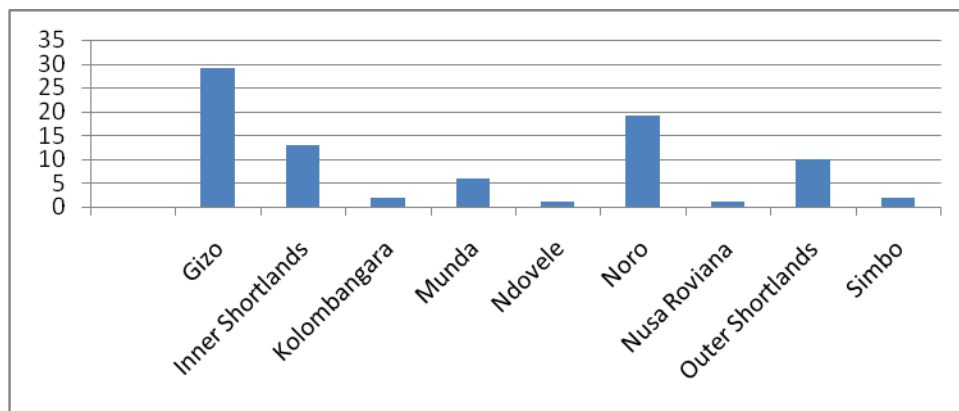
Figure 4.2.3-4

Torture/ill-treatment cases on Malaita by wards



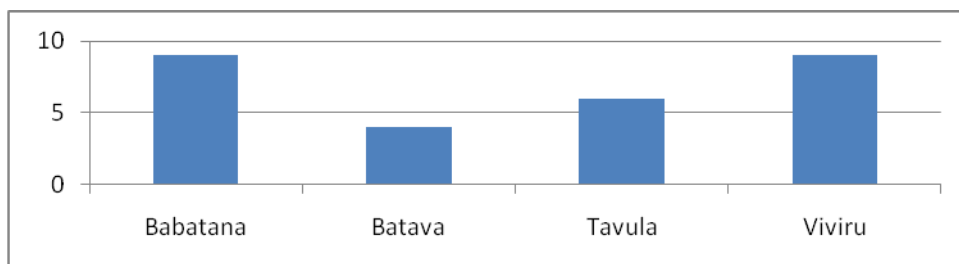
The cases reported to the TRC from the Western Province occurred mainly in Gizo (35%, 29 cases), Noro (23%, 19 cases), Inner Shortlands (16%, 13 cases) and Outer Shortlands (12%, 10 cases). The majority of the statements pointed the Black Sharks as perpetrators.

Figure 4.2.3-5
Torture/ill-treatment cases in Western Province by wards



Finally, in Choiseul the TRC received 28 cases from Babatana (32%, 9 cases), Viruviru (32%, 9 cases); Tavula (21% , 6 cases) and from Batava (14%, 4 cases). The majority of the cases pointed to William Amalo's group as the perpetrator.

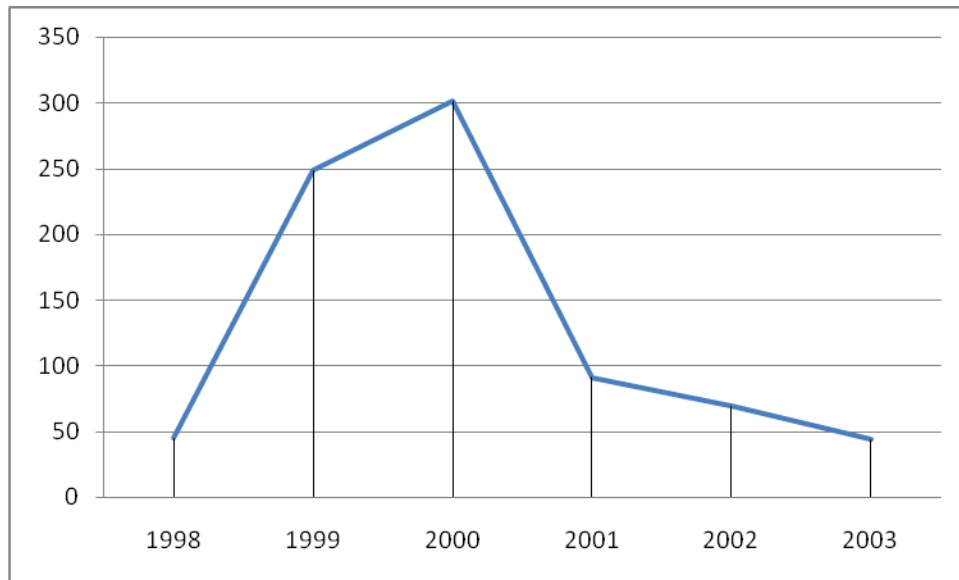
Figure 4.2.3-6
Torture/ill-treatment cases in Choiseul by wards



4. The dynamic

The highest number of torture/ill-treatment cases reported to the TRC occurred in 2000. This was the year when the MEF appeared on the scene. During 1998-1999 almost all of the violations were attributed to IFM, and only a few cases pointed to the police as perpetrator. In 2000, the MEF was mentioned in 43 percent and the IFM in 26 percent of the cases as perpetrators. Between 2001 and 2003, the main perpetrators were the Joint Operation and the GLF.

Figure 4.2.3-7
Torture/ill-treatment cases reported to the TRC by year



5. Responsibilities

The majority of statements refer to physical injuries with the use of weapons and threats against life. Guadalcanal militants (IFM and GLF) were responsible for the majority of cases in all types of torture and ill-treatment, followed by MEF/MAF and the Joint Operation /RSIPF.

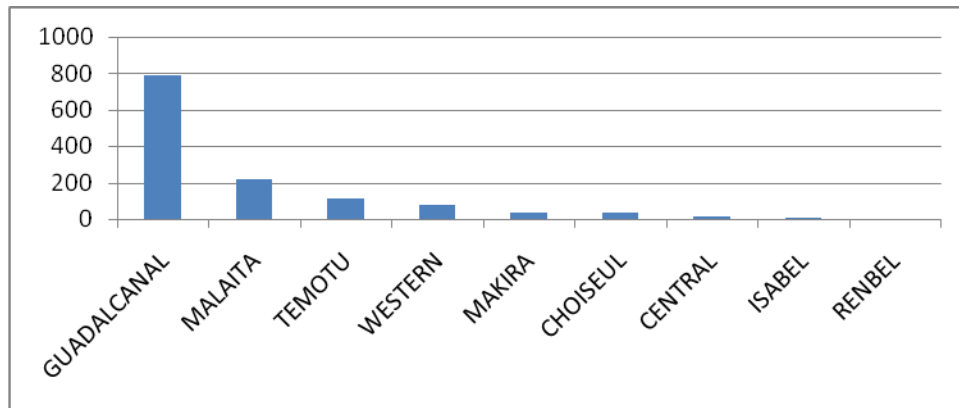
Table 4.2.3-1
Modalities of torture/ill-treatment by perpetrators

IFM/GLF	MEF/MAF	JOP/RSIPF	BLACK SHARKS
Beating	Beating	Beating	Beating
Insults/Swearing	Insults/Swearing	Insults/Swearing	Insults/Swearing
Threats Against Life	Threats Against Life	Threats Against Life	Threats Against Life
Use of Fire	Use of Water	Use of Water	Use of Weapons
Use of Water	Use of Weapons	Use of Weapons	Others
Use of Weapons	Others	Others	
Others			

6. The victims

Most of the victims (61%, 786 cases) were born on Guadalcanal. Considering that the main perpetrators were also militant groups from Guadalcanal, we can conclude that a great number of torture/ill-treatment cases were committed against people from the same ethnic background.

Figure 4.2.3-8
Torture/ill-treatment: origin of victims



The following figures demonstrate that the torture/ill-treatment human rights violation was indeed very much intra-ethnic. This is particularly true for the case of Guadalcanal: 50 percent of the victims from Guadalcanal were tortured or ill-treated by militants from the IFM or the GLF (Figure 4.2.3-9). On the other hand, 32 percent of the victims of the MEF were Malaitans (Figure 4.2.3-10).

Figure 4.2.3-9
Torture/ill-treatment: victims from Guadalcanal by perpetrators

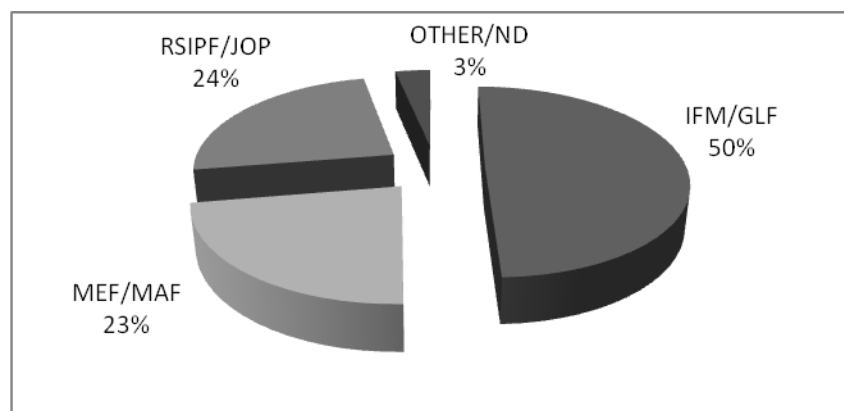
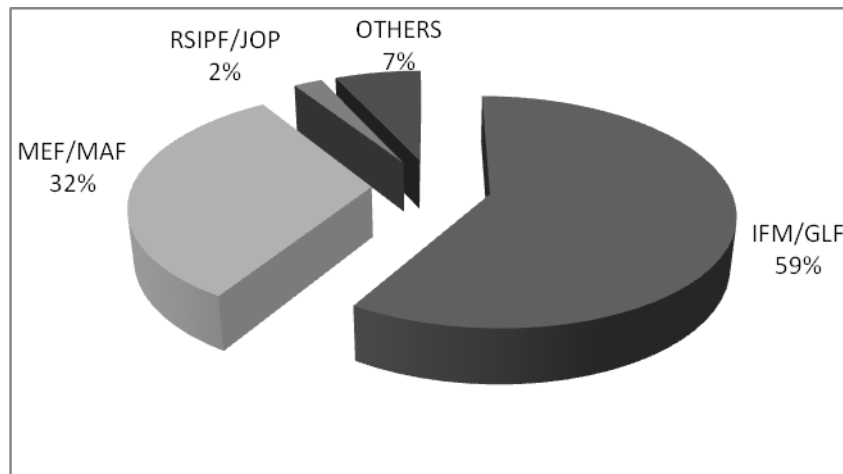


Figure 4.2.3-10

Torture/ill-treatment: victims from Malaita by perpetrators



7. Window cases

For illustrative cases of torture, see the transcriptions of the testimonies of Mr. Selwyn Kei during the national public hearing in Honiara, in March 2010 and Father Lionel Longarata during the regional public hearing in Visale, June 2010. Both are available in Annex 1.

8. Conclusions

- a.** Torture and ill-treatment were human rights violations suffered mostly by defenceless civilians, but also by combatants at any time the conflict between 1998 and 2003. They were inflicted by all armed actors.
- b.** Torture and ill treatment were used indiscriminately by armed groups to “punish” or to obtain information, but also to humiliate persons and impose fear and pain to subjugate people to their power. Much of the torture/ill-treatments was intra-ethnic, that is, committed by a militant group against people of their own ethnic background.
- c.** There was no state institution capable either of protecting citizens or of preventing the impunity with which the crimes were committed.

4.2.4 SEXUAL VIOLENCE

*One of the bad things they did was they took some our girls had sex with them. They were from this village and one of them was my real niece.*¹¹²

*They then raped my sister in front of me . . . it was the worst moment in my life.*¹¹³

1. Introduction

The definition for sexual violations adopted by TRC is forcing a person to engage in or be exposed to an act of a sexual nature by force, the threat of force, or by coercion by a state actor or a rebel group.¹¹⁴ Statements of sexual violations which occurred during the tensions were classified and identified according to the following categories: forced sexual relations; forced nakedness; violence against sex organs; forced to witness behaviour of sexual nature. The TRC received 63 cases of sexual violation. Many other statements and testimonies referred to cases of sexual violence inflicted to another person. Of all the reported cases of sexual violence, girls and women were the sole victims of rape cases. Boys and men, however, were also victims of sexual violence such as forced nakedness, violence against sexual organs and being forced to witness behaviour of a sexual nature, as outlined below.

Sexual violation cases represent three percent of the total statements received by the TRC. Additional testimonies provided to the TRC, however, suggest that rates of occurrence were much higher. Cultural and religious taboos, shame, trauma, and humiliation serve to prevent disclosure of sexual violence by many victims and their families. It can therefore be assumed that the cases presented here are the “tip of the iceberg” of sexual violence which occurred during the tensions.¹¹⁵

The sexual violations reported to the TRC had different motivations. In some cases, sexual violence was used to punish a person or family believed to be collaborating with the enemy or accused of being a “spear” or spy. This was a factor in the majority of the reported sexual violence cases against boys and men. In the cases of sexual violence against women, some were

¹¹² Statement N° 0669

¹¹³ Statement N° 0857

¹¹⁴ Rome Statute

¹¹⁵ See chapter 5.1.

directly accused of being a “spear”, while in other cases a male relative of the female victim was accused of collaborating with the enemy before the rape of their daughter or sister as a form of punishment.

Some cases reported rape of girls and women by militants in front of relatives, including male relatives. In other reported cases, militants demanded compensation, and if the family didn’t have money or goods of value to provide them, the daughter or sister of the family was raped instead. Women and girls were also victims of rape as militants and their commanders exploited their power to coerce forced sexual relations as they had the opportunity to do so. Cases of militants’ taking girls who were walking along the road, or taking girls from houses to give to their commanders were also reported to the Commission. In some of these cases the militants were under the influence of drugs or alcohol. Many reported cases described gang rape of women or girls, or sexual violations of male victims perpetrated by several men at once. Sexual violations also occurred in the forced displacement of Malaitans from Guadalcanal.

Some cases describe situations of sexual slavery, where the girl was coerced into residing with a militant for several weeks. Children were not protected from being victims of sexual violence. Statements described many incidents of sexual violence against young girls and boys, taking the form of rape for girls and violence against sexual organs for boys. In all the cases reported of sexual violence the perpetrators were in a position of power, usually possessing guns or weapons.

Access to justice for victims of sexual violence has been limited. Many people are unaware of the formal judicial process, and some women believe they must pay compensation to their family before reporting such cases to police. Although rape is defined as a criminal act in Solomon Islands domestic law, there were no court sentences or prosecution of rapes which occurred during the conflict. The Penal Code’s definition of rape is currently not gender inclusive and therefore does not consider men as victims of rape. This definition is currently under review by the Law Reform Commission.

3. Incidence

Sexual violence occurred in different forms during the conflict and affected women, men and even children. The cases reported in the 63 statements include rape cases, sexual slavery, forced nakedness, violence against sexual organs and being forced to witness behaviour of a sexual nature. The TRC found no evidence of forced pregnancy or enforced prostitution.¹¹⁶

3.1 Rape

Rape against women happened during the whole period of the conflict. The TRC received statements about violations perpetrated by individuals and from women who were attacked and gang-raped by groups of militants. In other cases the perpetrators arrived in a village under influence of alcohol and arbitrarily took women by force, often very young women.

In most of the cases the perpetrators took advantage of a situation of chaos and lawlessness, and that they were in possession of firearms and the power with which this afforded them. But rape was also used as a measure of sanction. In some cases the target was the woman herself for alleged support of the rival militant group. In other cases the targets of the punishment were males who had to witness the rape of a woman from their close family. The TRC also received testimonies from victims who were raped because of their ethnic identity.

According to the Elements of Crimes of the Rome Statute, rape is defined by penetration of any part of the body by force or by threat. The following selection of statements proves that this type of human rights violation occurred during the tension, and that all of the actors in the conflict were involved:

In **case 1**, militants of the IFM arrived in a plantation and the entire group raped a woman, leaving her unconscious after committing the crime:

I was working for the SIPL during that time when a group of men attacked me in the plantation. The men walked towards me, pointed their guns to me and commanded me to undress myself.

¹¹⁶ International Criminal Law defines forced pregnancy as cases where “the perpetrator confined one or more women forcible made, *with the intent of affecting the ethnic composition of any population* or carrying out other grave violations of international law.” This does not apply to the cases reported to the TRC in Solomon Islands, even though there were women who became pregnant from a rape case (see below, point 4.2).

They then played with my private parts and one after the other they forced sex on me until I was unconscious. When I woke up I realized that it was already dark and the perpetrators had already left.

Statement N° 0211

In **case 2** a woman was returning from the garden when six militants took advantage of her being without protection in a remote place and raped her:

The victim was returning from the garden when a group of six men gun pointed her and ordered her to follow them to a nearby camp. When she refused, they beat her and tore off her clothes and one by one each man raped her, and later they released her to walk her way home.

Statement N° 0775

In **case 3** a member of the IFM tried to force a woman to have sex with him; because the woman resisted, the militant forced/penetrated sticks and leaves into her vagina. According to the Elements of Crime of the Rome Statute, this counts as a rape case:

The victim was on her way to collect drinking water at the spring when a member of the IFM grabbed her by the hand and pulled her to a nearby bush where he commanded her to have sexual intercourse with him. The victims refused to follow his orders so the perpetrator tore her clothes and penetrate some sticks and leaves into her private parts and left.

Statement N° 0774

Case 4 was committed by a militant of the Malaita Eagle Force who violated a girl in a MEF bunker under the eyes of uninvolved witnesses; one of them gave the corresponding statement to the TRC:

One Sunday in June 2000 I was at one of the MEF bunkers when a dark glass car came and stopped about 15 meters away from where we were standing. One man came out, he was wearing an army uniform and he was a MEF militant. The man opened the door of the back seat and led a girl out to the back of the car. The girl was crying; the men were talking until one of them pointed his gun at the girl and ordered her to undress herself. She slowly undressed herself. The man then forced her to perform oral sex but the girl refused, so he brutally raped her. After that he got into the car and drove off. The girl could not do anything, she just cried. We managed to help her and took her back to her house in town.

Statement N° 1700

Case 5 was committed by members of the Joint Operation on the Weather Coast:

The Joint Operation they burned everything, they bashed us and mistreated us, some of them they even raped my sister.

Statement N° 0938

In **case 6**, an officer of the RSIPF raped a married woman who had to stay overnight at the police station in Kakabona because roadblocks set up by Guadalcanal militants prevented her from returning to her village:

At that time I was at Aruligo, and then one day I went to the Central Market. After selling our market products we decided to go back to the village. When we got to Kakabona, the police officers told us that the Guadalcanal militants had put up a road block at Tamboko. It was getting dark, so they told us to get to the bus and go back to town. At that time, the people along the road to west Guadalcanal already had fled to the bush. The police officers asked if we could stay around Kakabona or go back to town, so those who had *wantoks* in town went to town. The officers gave me biscuits and tea and told me to go and sleep in one of the empty houses. I got frightened because one police officer was a bit drunk. He sat down and started talking nonsense to me. I told him that I was married and that I had children. The officer said, it's all right, when I heard that, I started to cry. He said, OK you can go to sleep; by early morning you can catch the bus and go to your village. After a while he came back, by then he started to harass me, he started to take off my shirt. I knew those police officers had guns, so I was very frightened but I could not shout or even fight back. He took off my clothes; I told him I could not do that because I have respect for my husband and children back at home. He did not listen to me and he raped me.

Statement N° 0705

In **case 7**, a young girl was abducted by force of arms from her parents' house and forced to have sex with an IFM commander, whose name was identified in the statement, in a village in eastern Guadalcanal; her father, who gave the statement to TRC, was unable to defend his daughter against the offenders holding guns:

They came to my house and then we knew that the militants were in the village and they were armed and we saw one of them was holding a .303 rifle and he came and sat with us at the veranda of the house. We asked him why he came and he replied that they were sent by their boss and they told us that the boss said no one was allowed to move around and everyone had to stay in house. So the boy was there and we did not sleep, we just stayed awake with him. Then he saw our two girls coming, one her name was NN, the other was YY and she was just a little girl, and they were coming towards the house. He asked who were those girls and my wife told him they were our daughters.

Well we stayed and were telling stories, and there was one of the boys, his name is David and he was the nephew of Alebua. He came and he pointed to YY and ordered her to go to him to see the Boss. Then she asked me what to do and then I told her to go and see what they wanted. Really we could not say anything at all. That man was holding the rifle and he ordered her to go with him. So from there I did not know what they might have done. We stayed there just waiting and then my daughter arrived alone.

So she arrived and then I asked her, "what did he do to you?" She said, "he made trouble with me" [had sex with me]. I could not say anything; it was a very difficult situation. That was what really happened that night. I said it was okay. We could not do anything or even say anything.

Statement N° 0345

This case, which was also reported by the grandparents of the girl, shows that the militants did not even have mercy to girls who were still children:

[The GRA boss] grabbed one of my granddaughters. She was very young and he yelled at us, saying, “this is mine”. The young girl cried and he took her with him through the plantation to the other side to one of the houses. She cried all the time. The couple who owned that house were there but they could not say a word. I tried to approach her but he ordered me to go back or he would fire his rifle. He slept with her the whole night and then he left the next day.

Statement N° 0347

On the Weather Coast of Guadalcanal, Harold Keke’s GLF stayed for almost one year in the village of Inakona where the militants forced women to cook for them, wash their clothes and give massages to Keke and his men.

Case 8 is a summary of a statement that reveals how they also raped women under the threat of their weapons:

My daughter was also affected during Harold Keke’s time here. There were several of them who were raped at gun point, including my own daughter. During that time all the women and girls were kept at his place. They were under their care and did all the work for them. She was one of them and while she was there, she was threatened and raped by Harold Keke’s men. After what they did to her she came back to the house crying, but we could not say much because if we talked about it they would have killed us. So I said just forget about what had happened. Two of my nieces too were raped as my daughter, but their parents would be in a better position to tell you that. There also others who were violated with sexual acts because these women and girls were always there with them. They did their cooking, washed their clothes, they were asked to massage them. Not only girls from here at Inakona were asked to do this, all the girls from the surrounding villages too.

Statement N° 0474

Each one of the indicated cases meets the condition of rape as defined in Penal Code Section 136 and/or in international humanitarian and criminal law. The body of the victim was invaded with a sexual organ or an object, and this invasion was committed by force or by threat of force. The victims of rape cases reported to TRC were all women.

3.2 Sexual slavery

Sexual slavery refers to a situation where the perpetrator(s) deprive their victim(s) of their liberty and forced sexual favours over a certain period of time. The following selection of statements and other testimonies received by TRC give evidence that this type of human rights violation also occurred during the tension.

In **case 1**, an IFM leader is accused of forcing a young woman to live with him for two weeks; when people started to comment on this, he demanded compensation from her family:

She lived with them by force and then one of them wanted her and he was Joe Sangu. There was news circulating around our area that my niece was with the militants etc., and so they were not happy and they came and demanded money. She was with them for about two weeks. They demanded \$900 because Joe Sangu did not want to hear people talking about him regarding the relationship with the girl.

Statement 0669

In **case 2**, a militant of the Bougainville Revolutionary Army (BRA) in Gizo forced sexual favours from a woman for the period of a week; the victim was interviewed by a member of the TRC research team:

I used to stay at the Fishery area so he came and pointed the gun at me, so I was frightened and went with him. I followed him and he used me at the hotel. I was frightened but he used me under the barrel of the gun. I lived with him at the hotel for about a week.

Testimony of JK

The perpetrator in **case 3** was also a BRA militant who forced the victim to accompany him to Bougainville for a week:

I was with the victim at a night club in Gizo when I witnessed a BRA militant threatening the victims with a knife and talking of guns, and then leading the victim away. The victim entered in a relationship with this BRA because of fear. They went to Bougainville for a week and later she returned.

Statement N° 4409

In **case 4**, a perpetrator who belonged to the IFM abducted a girl by force from her home with the help of another militant; after two months she was released when the militant chose another women:

This incident occurred when I was at Kochichi village. One day a man with a bush knife and a high-powered rifle came to our house and demanded us that he wanted the young girl living with us, slashing his knife on the entrance door. My mother was so scared that she told him to take the girl with him. The militant was accompanied by another man who was holding on to a radio tape. The girl left with him and there was nothing we could do. The girl went and stayed with him. After two months we heard that he had left her for another woman.

Which militant group do you think these two men were from?

The two men were from the militant group called the Isatabu Freedom Fighters.

Statement N° 1306

On the Weather Coast, GLF militants forced women to give them massages and have sex with them during the time they established themselves in their village:

The victim and her family were living with me during the tension after fleeing from Konga. On several occasions Harold Keke would come and demand her at gunpoint to go with him to their camp at Ghaliatu and give a massage for him and his men. She would stay with the perpetrators for a while and then return later. A lot of such girls were forced to have sex with Harold and some of his men. The victim was forced to sleep with Harold Keke whenever she was taken there.

Statement N° 0806

The above cases are examples of forced sexual relations over a period of time and the deprivation of liberty of the victim; they thus prove that sexual slavery was a human rights violation committed during the tension. The TRC has received cases that involved the Isatabu Freedom Movement, the Guadalcanal Liberation Front and the Black Sharks/Bougainville Revolutionary Army in the Western Province. The victims of sexual slavery reported to TRC were all women.

3.3 Forced nakedness and violence against sexual organs

Cases of forced nakedness and violence against sexual organs come under the general definition of sexual violence in the Elements of Crime: the perpetrator(s) committed an act of a sexual nature against one or more persons or caused such person or persons to engage in an act of a sexual nature by force or threat.

Case 1 gives evidence of a rape case that was committed not (only) with the objective to satisfy the sexual desire of the perpetrators, but foremost to *humiliate* the victim, a woman who was accused of being a “spy” for the MEF. Apart from being a rape victim, the woman suffered further abuses that also count as sexual violence:

I was accused by the perpetrators as a spy for the MEF. It was in 2000 they gun pointed me and commanded me to follow them to a nearby bush. There they ordered me to strip off and the four boys committed offences with my breast and private parts. They later raped me and left.

Statement N° 0852

In **case 2**, a woman was raped and additionally humiliated in a similar way, by being “exposed” to her violators who forced her to stand naked in front of them before they raped her.

In 2000 I was on my way to Noto when a group of militants grabbed me and forced me to tear off my own clothes and stand naked in front of them. I was later forced to have sex with them and later I was released. I do not know why they did that to me.

Statement N° 0772

Forced nakedness was committed not only against women, but also against males. In these cases, no penetration occurred, but the victims were often obligated to manipulate their sexual organs. Here, the only purpose was humiliation. The perpetrators in **case 3** were militants from the IFM who forced their victim, an 18-year old boy, to undress in front of them and play with his genitals; they accused him of being a “spy” for the MEF:

In 2000 I was on my way to the beach when a group of four men suddenly attacked me and beat me with their guns. After I was beaten they commanded me to take off my clothes and play with my scrotum. After that I was told to walk on home naked. They said that I was a spy for the MEF. I was 18 years old.

Statement N° 0757

Case 4 is similar to the previous one; this time the perpetrators were from the Guadalcanal Liberation Front (GLF) on the Weather Coast:

It was early in the morning in 2000; the victim was woken up by the call from the militants. He came out of his house to see about five militants waiting for him. They told him to put on his clothes and follow them. On the way they beat him and tied his hands together and led him to one of their camps. The perpetrators tore off his clothes and forced him to play with his sexual parts. They did this to him because they claim that he was a spy for the MEF.

Statement N° 0760

Case 5 occurred also on the Weather Coast, but the perpetrators were members of the Joint Operation who forced the victim to masturbate in front of them:

The victim was making his way to Malaheti when four masked men attacked him and beat him up at Bolotola. They stripped him and commanded him to masturbate while they watched him.

Statement N° 1901

Case 6 shows that not even children were safe from this kind of sexual harassment; one of the victims was eight years old and the other ten years old:

One Friday morning I was on my way to school, and when I got half way I thought of picking up some mangoes. I was with my other two brothers and while we were picking mangoes, William Amalo came and asked us to put up our hands. He asked us what time Rev. Leslie Boseto will come around for his campaign. I replied that he was coming around on Sunday to our area. He asked us again if we heard anything about who would be the favourite candidate and I told him that it could be the Rev. Leslie Boseto. He was very cross and he told the other brother to strip off and skin his penis. One of the boys peeled his mango, took the skin and rubbed the other boy's

penis with it. The names of those two were [name withheld] and [name withheld]. [One of them] was ten years old at that time and [the other one] could have been eight years old at that time, too. The two boys were afraid so we decided to go back to the house. So we were absent from class that morning.

Statement N° 4670

Forced nakedness and violence against sexual organs was committed against women and men. The main objective of this human rights violation, primarily in the cases of sexual violence against boys and men, was to humiliate the victim. In most of the cases the victim was accused of being a “spy” for the rival militant group, usually the MEF. In some cases, as the one committed by the Joint Operation, sexual humiliation might have been used to get information about the hideouts of Keke and the GLF militants.

3.4 Being forced to witness behaviour of a sexual nature

The TRC received statements where women were raped in front of their husbands, fathers or brothers. In **case 1**, a woman was violated by IFM militants because she was accused of being a “spy” for the Malaita Eagle Force; as a form of additional punishment, her brothers were forced to witness the violation:

The perpetrators gun pointed her and then raped her inhumanely in front of her brothers at her residence. They claimed that she was a spy for the MEF; that’s why they committed such violation on her.

Statement N° 0857

One evening four men arrived at our residence and ask for compensation from my family because they claimed that my father was a spy for the Malaita Eagle Force. They demanded that if there is no money for compensation then they will get his daughter instead for the compensation. There is no compensation since my family cannot afford the amount of money they demanded so they took me and raped me in front of my family members.

Statement N°0853

3.5 Sexual harassment/violations not fully consummated

Rape cases are defined by invasion of a part of the victim’s body by force or threat; however, not all intended rapes were consummated in the sense that penetration was avoided. The TRC considers that even the *attempt* of rape or other acts of sexual violence is the violation of a human right.

To give an example, MEF militants, after taking control over Honiara with the Rove armory raid, used to drive around the city in - often stolen - vehicles and harass women; this is shown in **case 1**:

I was on my way to town when one of the MEF militant threatened me with his gun and forced me to get into his car. I was afraid and could not do anything. He pulled me and dragged me into his car and drove us to Mt Austin. The militant tried to rape me but after much effort of lying I was able to convince him and escaped from him.

Statement N° 1753

As is shown in **case 2**, the same happened in Malu'u, in northern Malaita, after the Townsville Peace Agreement when many MEF militants returned to their home province:

During the period of the tension I was in Malaita Province; I was there as a student at the nursing school in Malu'u. Armed men would go around and grab the girls and force them inside their car, although their brothers were watching. There was nothing the girls could do since these men were armed so they had to do whatever they wanted.

Statement N° 4236

Harassment of women and girls by the Black Sharks/BRA was a common feature in many of the testimonies collected by the TRC in Western Province.

Case 3 is a statement about a rape attempt given by the victim:

I opened the door and there was another man there and he told me that his boss wanted to come and rest in my house. I told him no and in the same moment his boss came in and he pushed the door and grabbed me. He told me to take off my clothes and I was so scared and I started to cry and begged him to stop what he was doing. He forced me to take off my clothes and I tried to beg him but he would not listen. He got me stripped off, he got me naked. He tried to rape me but he couldn't as he was so drunk and that night he did not have sex with me.

Statement N° 4261

The following **case 4** tells how the militant leader from Guadalcanal commonly known as "Satan" tried to force a woman to have sexual intercourse with him; the woman was rescued by friends:

While on the way they stopped the truck and told us that there was a mechanical problem. We started to make our way up the hill and then Satan pulled my skirt and told me that we should go back to the truck. I told him that I just had a little baby and I had a husband and it would not be right for me to commit anything of that nature. I held onto Rex's shoulder and cried, but Satan said that we should go back to the truck but I refused. Satan kept on asking me but I still refused and then he pulled my skirt and tore it and pointed his gun at me. He tried to force me to have

sex with him and then Rex and the other boy came and rescued me and told me to hide in the bush. So I ran and hid myself. I felt bad about what Satan did to me that time.

Statement N° 1343

On the Weather Coast, women lived in permanent risk of being sexually harassed by members of the Joint Operation or by Harold Keke's GLF:

Most of them were sexually abused by the militants under the barrel of guns. I got so tired of that and when I got to Honiara I sent my child back to my parents in Malaita. So one day Harold Keke came and looked for NN; I called him and asked why he was looking for her. He already had burned down her daddy's house. I told him that he had to treat NN as he treated me and leave her alone. So he made a joke and left our house and went his way.

Statement N° 0891

These cases show that sexual harassment of women, even if rape was not consummated, was common in all regions where any one of the armed groups was present.

4. Consequences

4.1 Trauma

The impact sexual violence continues well after the crime, resulting in devastating situations for individuals, families and communities who must cope with consequences such as unplanned pregnancies, stigmatization and rejection, diseases and reproductive health issues, psychological trauma, and disintegration of social fabric. These events had subsequent consequences for victims of crimes who had no access to formal justice, psycho-social support, counselling or debriefing, and resulted in a high level of trauma which clearly remains with many victims today.¹¹⁷

4.2 State of fear

On a more universal level, the most common consequence of sexual violence was a generalized *state of fear* mainly among women. As stories about rape cases were spreading, women grew afraid that something similar could happen to them at any time. In the words of a woman from Malaita:

¹¹⁷ See chapter 5.1.

It caused fear and the feeling of insecurity loomed around everywhere you went. Being a female we felt really insecure in our own home.

Y, displaced from Honiara to Malaita, Kibokosi

In Malaheti on the Weather Coast, for example, women lived under permanent fear that they could be raped by one of the members of the Joint Operation who had abducted them from their home village; as is shown in **case 1**, they knew about rape cases that had happened and were conscious that they were also at risk:

During that time there we had to go to our gardens and we had to do it within an hour. If we were late we had to go back home with nothing. And they could bash us on our way back home. During those times we suffered very much and they threatened us every time. They had raped young girls and even married women, and no one wanted this to happen to herself.

Statement N° 0945

Becoming victim of sexual violence was always a danger for women and girls. In **case 2** threats from IFM militants against a girl were settled by payment of compensation; but the victim was aware that things could have been worse:

They claimed that I used bad words to students who are from Guale. On the following day they arrived at the school again to demand compensation, accusing me of swearing at their boy. They threatened me, so the school had to pay compensation for my safety and my life. I was fortunate enough not to be a victim of sexual violation but I cannot deny that quite a number of girls and women were being raped during this time.

Statement N° 0891

The TRC received one statement where a girl committed suicide because of the fear of being raped by an IFM militant; the statement of **case 3** was given by her father:

I will share on what happened to my daughter during the tension. A boy who had joined in with the GRA militia gun pointed my daughter and demanded sex from her. She was with another girl at that time and they managed to escape from him at Manekarako station to our house. The following day the same boy came to our village and gun pointed the father of the other girl of because he was angry with him. The girl's father told the militant that he was not angry with him and did not know what he was talking about in the end the militant left. My daughter was so afraid that the militant may come and harm her and she took some chloroquine tablets and drank them all. We lost our daughter that same day from drug overdose just because she was so afraid of that militant and decided to commit suicide.

Statement 1396

4.2 Pregnancy

Some women become pregnant from their violators. However, the perpetrators did not recognize any responsibility (see **case 1** and **case 2**):

The first time I went out with this man was at night, at that time he was carrying a gun with him. I went out and sat down with him; I was frightened to say no because he had a gun. He asked me for sex and I refused, but because I was afraid of being shot I finally gave in.

The other night the same thing happened, the same person sent for me through some girls. He asked me to go out with him again. I said to the girls, tell him I do not want to go. The girls accompanied me back to him and I asked what are going to do now. He said let's go out again and he was still in possession of the gun. I tried to say to him I do not want to have sex anymore. I did not mention anything about being pregnant to him because I was too frightened; but later on I told him that I was pregnant; but he said, I should not tell lies to him otherwise he would shoot me. I told my parents that I mentioned to the boy that I was pregnant but he did not accept that I was pregnant.

Statement N° 0002

The IFM came and they took me to the bush and they asked me if I was a spy and they gun pointed me and they told me that if I was a spy they would shoot me right at the spot. They gun pointed me and I could not do anything at all. There was another incident that had happened to me and I got pregnant; it happened in February 1999.

Statement N° 1477

In **case 3**, a woman was forced against her will to live with a militant from the MEF, in a situation usually referred to as "*kastom* marriage"; after giving birth to a boy she was abandoned:

I was residing with relatives when this member of MEF came to our house and demanded that I marry him. My relatives could not refuse because of fear. I stayed with the militant for a while and later I became pregnant. I gave birth to a baby boy but by then the militant disappeared and now am living as a single mother.

Statement N° 5038

4.3 Double victimization

Female rape victims, particularly those who became pregnant, often suffered an additional punishment from the members of their own family.

Case 1 is about a woman who was raped on several occasions by militants and became pregnant; after finding out about her pregnancy, her husband rejected her:

One day she went to the garden and one of the militants came. This person had been interested in her for quite some time but she was not interested because he was already married and had children. He threatened her that if she was not going to obey him he would cut her with her his knife. So he had intercourse with her and as a result she had a baby. After that incident "H" kept

quiet about what had happened until her pregnancy became known to others. When this was known, relatives came and asked for compensation and during that time life was hard and there was no money, but they could not do anything because all through those times people were living under threats. Her husband was back at Aruligo, so when he heard the story about his wife being pregnant he refused to take her back as his wife. She just remained at home until the baby was born. After the baby was born they had disagreements so she took her baby and came back to Aruligo. While on the Weather Coast, there were two men also threatened her with their guns. The first one also asked her for sex and if she refused he would shoot her. The other militant also asked for sex and if she refused she should be shot too. She was frightened and so the two militants had sex with her at different times and location.

Statement N° 0240

In **case 2**, it was the father of the rape victim who tried to force her to marry the perpetrator:

Satan's group was already around. When the militants came, one by the name of "M" came to [our daughter] and pointed the gun at her and sexually abused her. As the result of this sexual abuse she was pregnant. She had a baby girl but when she came back to us, she did not reveal what had happened to her. She only told her aunty about her pregnancy and that she was sexually abused. When we knew about this her dad was very angry with her. He asked her about the father of the child and she told her dad about the whole story. She told her dad that he was one of Satan's militants. He was very cross with her and told her that she should go and marry that man. In fact that girl did not marry that boy and she decided to stay single.

Statement N° 0554

Crimes of sexual violence committed during the conflict occurred against a background of pre-existing cultural protocol, disrupted social norms, debilitating fear and unrelenting threat. Sexual violence which occurred in different contexts during the conflict appeared to prompt different community responses and reactions (see chapter 5.1).

5. Causes and motives

The TRC found two basic modalities of underlying motives for sexual violence: one that was in a way directly related to the armed conflict, and another one where perpetrators chose their victims randomly, taking advantage of a situation of chaos and lawlessness when they were in possession of weapons.

Among the first modality are the cases where women were violated, accusing them or male members of their family of being "spears" for the MEF, usually in front of their relatives (see above, point 3.4). These cases were often related to compensation claims and the rape occurred as a form of punishment when the demands could not be met (see **case 1** and **case 2**).

One evening four men arrived at our residence and ask for compensation from my family because they claim that my father was a spy for the Malaita Eagle Force. They demanded that if there is

no money for compensation then they will get his daughter in place for the compensation. There is no compensation since my family could not afford the amount of money they demanded, so they took me and raped me in front of my family members.

Statement N° 0853

At about 6:30 p.m. one day in 2000, four armed men arrived at the victim's house. They demanded compensation from the father of the victims but there was no money. Instead they raped the victim. The father could not do anything at that time because these men were armed. The victim was held at gun point and one by one these four men raped her. She was later released at about 9 p.m., she was not able to walk because of what they have done to her. This happened because the militants claimed that her father was a spear for the MEF.

Statement N° 0758

There were also male victims of sexual violence because of unsuccessful compensation claims, as is shown **case 3** where a man was forced to masturbate in front of the perpetrators. Again, accusing him of being a "spear" was taken as a pretext for the demand:

The victim was at his home village eating his breakfast when a group of men arrived and demanded compensation from him for being a spear for the MEF. He hadn't got any pigs or money so he could not give compensation. The perpetrators beat him up and forced him to strip-off, then they forced him to masturbate with his sexual organs. After that they blindfolded him and left him.

Statement N° 0880

In another form of sexual violation cases directly related to the conflict, the victim was purposely chosen because of his or her ethnic identity. The eviction of Malaitan settlers during the first stage of the tension, for example, was often intensified through sexual humiliations, as is shown in **case 4** and in **case 5**:

The distance from LDA to Kakabona was seven kilometers, they marched us along the road as if we were prisoners or some kind of a domestic animal that was led to be slaughtered. They were walking all around us as we were marched along the main road; they abused us along the way and sexually harassed my sisters by touching their private parts. We were instructed not to look back or will be shot. It was a very tormenting moment in our life.

Testimony of Luke Suia, public hearing, Auki 27/05/2010

They came in large numbers and their age ranged between 10 and 40. They were armed with .22 rifles, homemade guns, knives, bows and arrows, all of them wore *kabilatos*. They caught up with me and started assaulting me along the road. They punched and kicked me and one of them slashed me with his machete, the scar is still remains on my arm. They asked me for my sisters, and told me straight into my face that they will rape all my sisters along with my mother. I lied to them and told them that my sisters were down at the river, so they went over to the river and I sneaked out and escaped. There was nothing I could do since they were all armed and could

easily overpower me since I was alone. They used abusive languages about Malaitans; they chased us out like animals and used abusive languages against our sisters. It was really humiliating.

Statement N° 2108

Sexual violence because of the ethnic identity of the victim was committed against women and men; in **case 6** a man was humiliated sexually by GLF militants because he was part Malaitan:

The victim was on his way from Haimaro to Kolotabu when four men attacked him and forced him to remove all his clothes. They then told him to play with his private parts and to curse at himself and to the rest of his family members down to his last generation. The victim could not see any reason why the GLF were doing this to him but he knew maybe it was because of the fact that he was partly Malaitan.

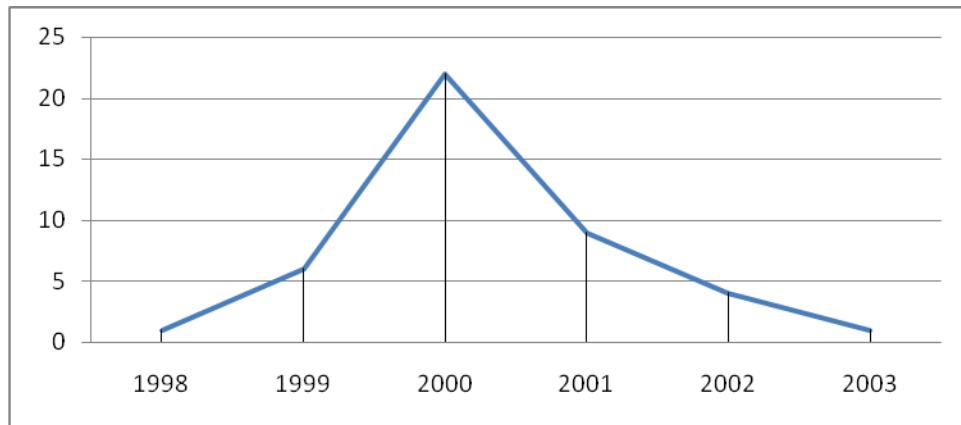
Statement N° 0771

Many of the sexual violence cases, however, were simply *opportunistic* in nature, meaning that they happened because the militants dominated the civilians with weapons and took advantage of the breakdown in law and order and absent security. The cases mentioned in the subchapters 3.2 (rape) and 3.3 (sexual slavery) are all examples of opportunistic cases of sexual violence.

6. Dynamics

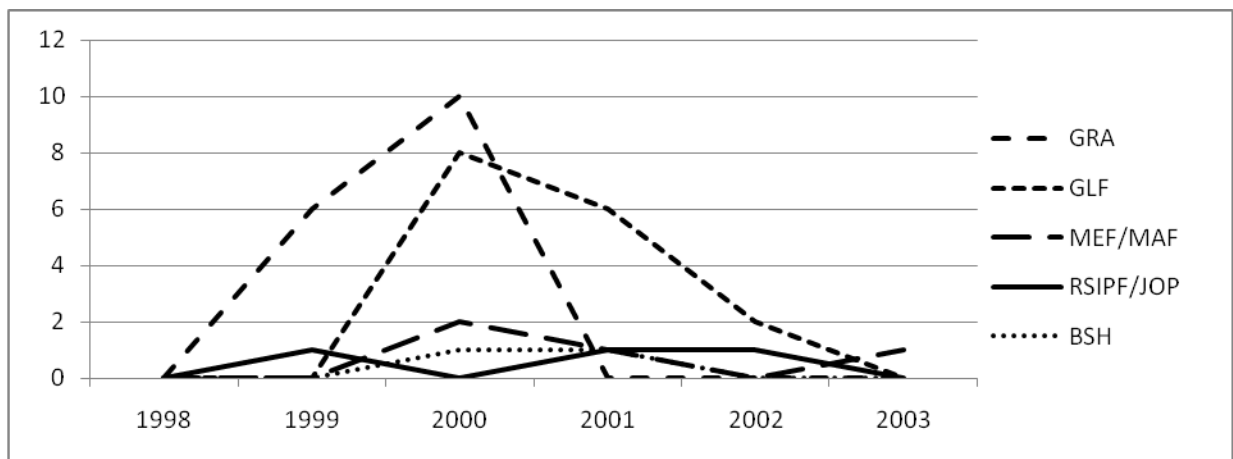
The highest number of sexual violation cases reported to the TRC occurred in the year 2000, with 51 percent (22) of the total cases. In 1998-1999 there were 16 percent (7), and during the period 2001-2003, 32 percent (14) of the sexual violence cases. In 20 cases there is no information about the date. This chronological distribution of sexual violence applies to all forms of sexual violence.

Figure 4.2.4-1
Chronological distribution of sexual violence cases reported to the TRC



When the MEF started to retaliate, the cases of accusation of collaborating with the enemy increased. The majority of the cases reported in relation of sexual violence are in relation to this situation. The TRC received many cases from the Weather Coast for 2001. According to reported cases of sexual violence, IFM was the perpetrator of most of the sexual abuses committed during 2000, followed by the GLF.

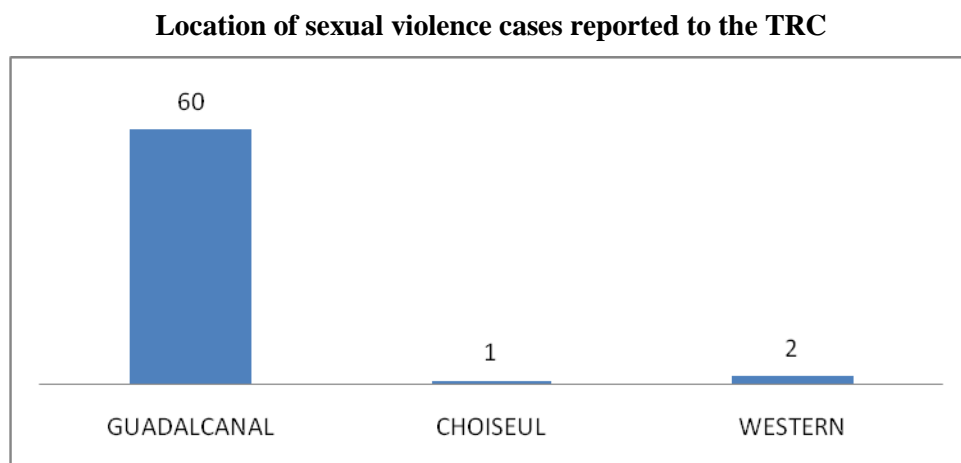
Figure 4.2.4-2
Chronological distribution of sexual violence cases according to perpetrator



7. Magnitude and regional distribution of sexual violence cases

The TRC received 63 statements of sexual violence and other statements from witnesses of rapes or that refer to rapes of the girls as a practice of the militants. Ninety-five percent of the events occurred in Guadalcanal (60); three percent (2) in Western and two percent (1) in Choiseul.

Figure 4.2.4-3



Ninety-five percent of the cases reported occurred on Guadalcanal, distributed in the following wards:

Table 4.2.4-1

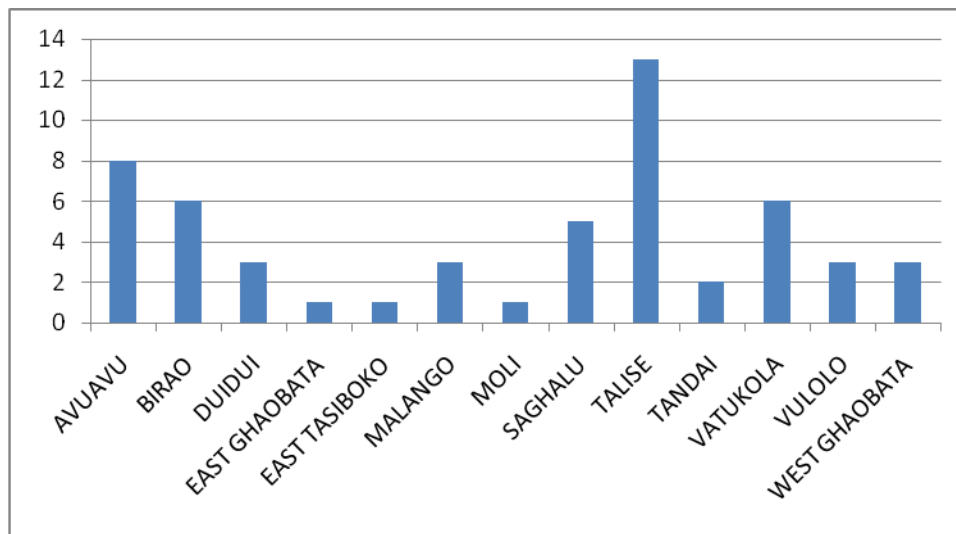
Sexual violence cases in Guadalcanal reported to the TRC by wards

AVUAVU	8	14%
BIRAO	6	11%
DUIDUI	3	5%
EAST GHAOBATA	1	2%
EAST TASIBOKO	1	2%
MALANGO	3	5%
MOLI	1	2%
SAGHALU	5	9%
TALISE	13	23%

TANDAI	2	4%
VATUKOLA	6	11%
VULOLO	3	5%
WEST GHAOBATA	3	5%
ND	5	

Figure 4.2.4-4

Sexual violence cases in Guadalcanal reported to the TRC by wards



In Choiseul the case occurred in Loimuni village, Babatana ward. The two cases in the Western Province happened in Gizo.

There are many testimonies that suggest that the incidence of sexual violence cases was much higher than is reflected in the statements received by the TRC; sexual harassment and even rapes were common during those times:

The criminal activities caused by the BRA men were rape, assault and harassment. When the women were washing clothes along the Tisi river, the Bougainville men went up to where the women were, threatened them with guns and forced them into having sex.

Did you ever witness any women being raped here in Gizo?

Yes, I witnessed one rape incident.

Statement N° 4219

The majority of these cases, however, remain silenced by cultural codes and because of the deep humiliation that the penetration of their body and/or the public exhibition of their most intimate

parts meant for the victims. Even their relatives often preferred to conceal events of sexual violence because of the shame that those events implied for the whole family. In the public memory about the conflict, however, sexual violence has a central position:

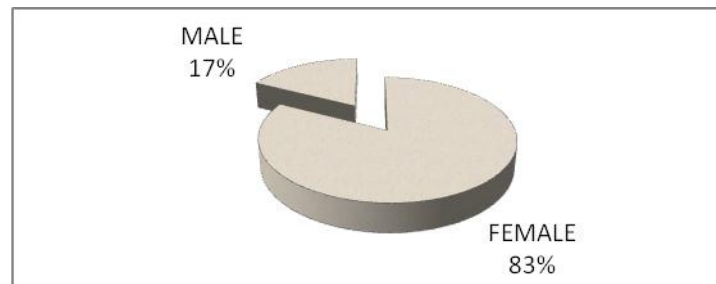
The tension had a huge impact on our lives, whatever happened during that time was unbearable, mothers and children were traumatized, girls were raped and people were abducted and murdered.

Statement N° 1741

8. Identity of the victims

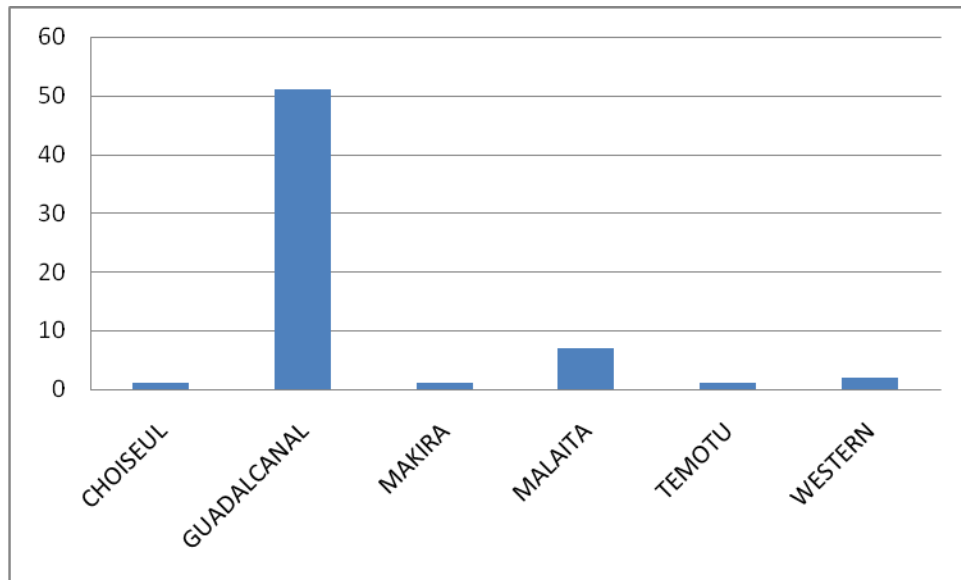
Eighty-three percent of the victims of sexual violence were women and 17 percent were male.

Figure 4.2.4-5
Victims of sexual violence by sex



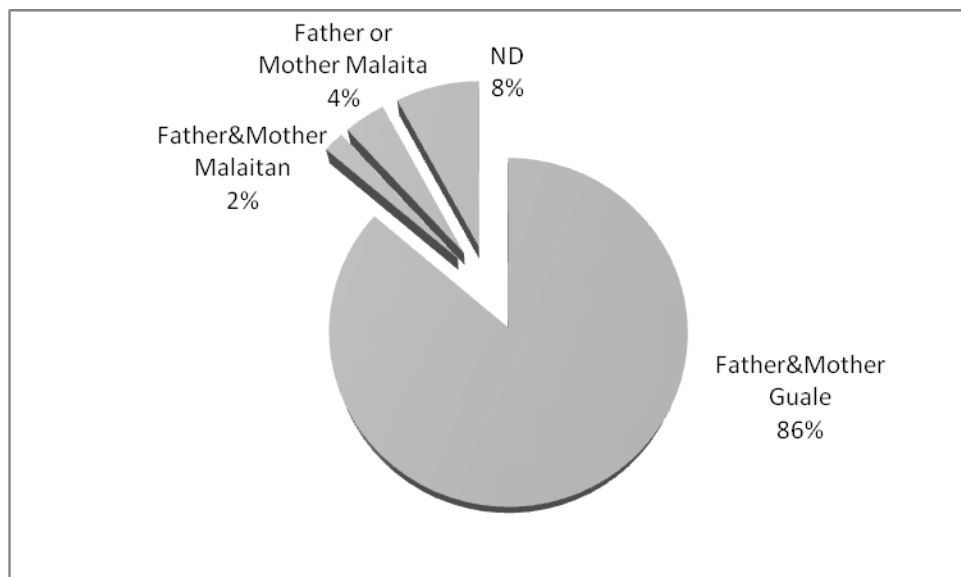
81 percent of the victims were born in Guadalcanal, 11 percent in Malaita, three percent in Western Province; and two percent in Choiseul, Makira and Temotu each.

Figure 4.2.4-6
Province of birth of sexual violence victims



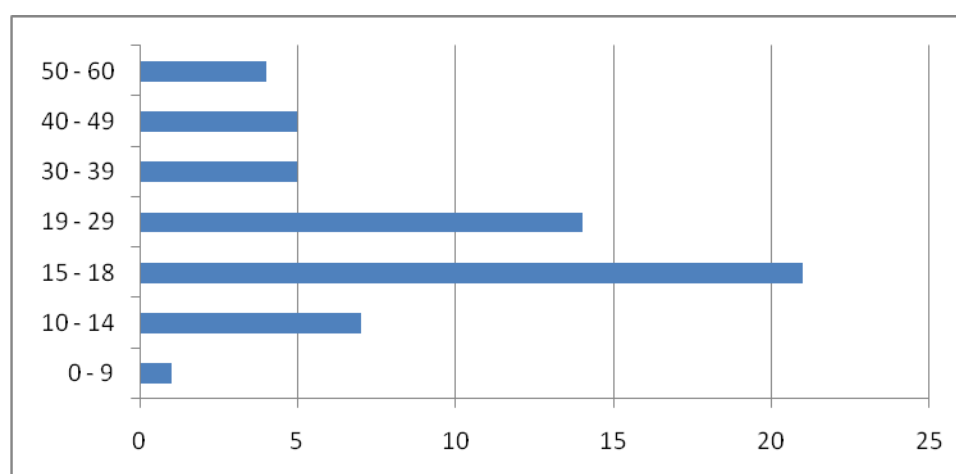
Most of the victims born on Guadalcanal (86) had both parents also from Guadalcanal; two percent of them have their father and mother from Malaita, and four percent have one of the parents, father or mother, from Malaita. These numbers lead to the conclusion that the great majority of the victims were of full Guadalcanal family background.

Figure 4.2.4-7
Ethnicity of victims



The TRC received eight statements (14%) where the victim was younger than 14 years old at the time of the event; one of them was only 8 years. The majority of the victims (21 cases or 37%) were between 15 and 18 years old at the time of the event. According to the definition of the Constitution of Solomon Islands, which defines a “child” as any person up to 18 years, more than half of the victims of sexual violence were children. Another 25 percent (14 cases) of the victims were between 19 and 29 years; nine percent (5 cases) between 29 and 39; another nine percent between 39 and 49; and seven percent (4 cases) between 50 and 60 years old.

Figure 4.2.4-8
Age of victims of sexual violence



9. Responsibilities

The statements received by the TRC about sexual violence against women mention perpetrators from all the armed actors of the conflict, including the militant groups from Guadalcanal (GRA/IFM; GLF) and from Malaita (MEF) and Marau Eagle Force (MAF); as well as the Black Sharks/Bougainville Revolutionary Army in the Western Province and Choiseul. The Royal Solomon Island Police Force and the Joint Operation as a government-endorsed actor were also responsible for sexual violations against women.

Table 4.2.4-2 shows the modalities of sexual violence committed by different perpetrators. The majority of the statements refer to two or three different violations that occurred during the same event: the victim suffered first forced nakedness, then violence against sexual organs and finally forced sexual relation. Some women were raped in front of their relatives and the family was

forced to witness the act. In some of these cases the women were used as an “instrument” to punish a male member of the family.

Table 4.2.4-2
Forms of sexual violence against female victims by perpetrator

SEXUAL VIOLENCE CASES WITH FEMALE VICTIMS				
Joint Operation	MEF/MAF	GRA	GLF	BLACK SHARKS
Forced Nakedness	Forced Nakedness	Forced Nakedness	Forced Nakedness	Forced Nakedness
Violence Against Sexual Organs	Violence Against Sexual Organs	Violence Against Sexual Organs	Violence Against Sexual Organs	Forced Sexual Relations
Forced Sexual Relations	Forced Sexual Relations	Forced Sexual Relations	Forced Sexual Relations	
Forced to witness behaviour of sexual nature	Forced to witness behaviour of sexual nature	Forced to witness behaviour of sexual nature	Forced to witness behaviour of sexual nature	
	Others		Others	

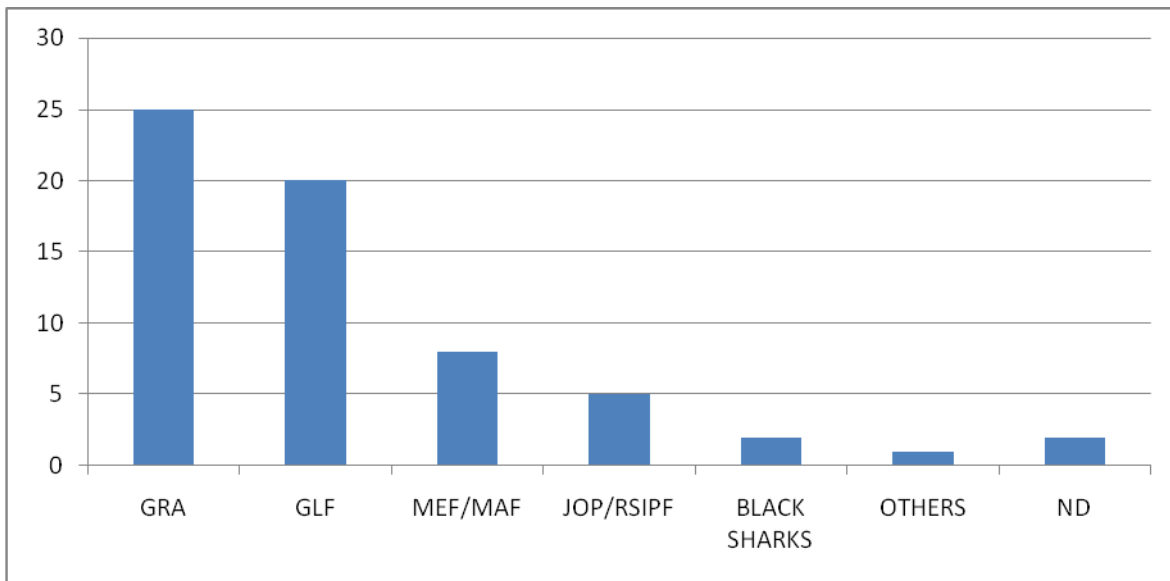
Statements about sexual violence against men also mentioned all of the militants groups and the Joint Operations.

Table 4.2.4-3
Forms of sexual violence against female victims by perpetrator

Joint Operation	MEF/MAF	GRA	GLF	BSH
Forced nakedness	Forced nakedness	Forced nakedness	Forced nakedness	Forced nakedness
	Forced sexual relations	Violence against sexual organs	Violence against sexual organs	Violence against sexual organs
		Forced sexual relations	Forced sexual relations	

In 40 percent of the statements received by the TRC, the GRA/IFM was mentioned as perpetrator. The GLF was responsible for 32 percent of the cases reported; MEF/MAF for 13 percent; the RSIPF/Joint Operations for eight percent; the Black Sharks/BRA for two percent and others for two percent. For two percent there is no information about the perpetrator.

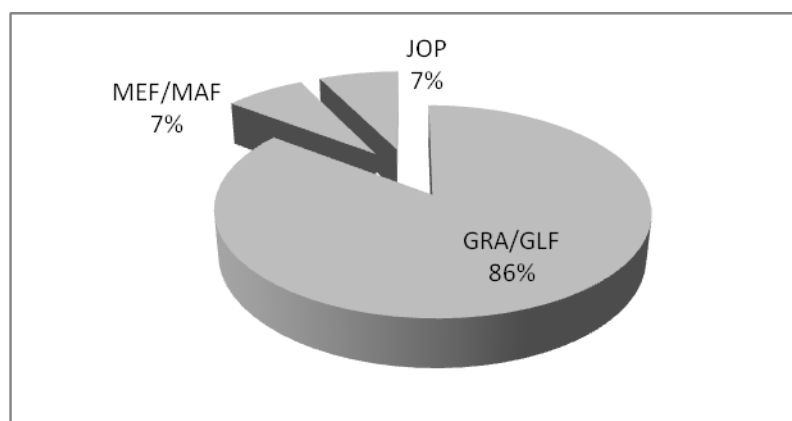
Table 4.2.4-9
Perpetrators of sexual violence cases reported to the TRC



Matching information about the ethnic identity of the victim with the perpetrator group, we find that 86 percent of the Guadalcanal-born victims, who have also both parents born on Guadalcanal, were assaulted by militants from the IFM or the GLF, seven percent by Malaita or Marau Eagles, and seven percent by members of the Joint Operation.

This means that, as a pattern, perpetrators and victims were of the same ethnic background, which is in contradiction to the usual pattern of ethnic conflicts where militants of one group violate women of the rival group as a form of war strategy.

Figure 4.2.4-10
Victims from Guadalcanal by perpetrators

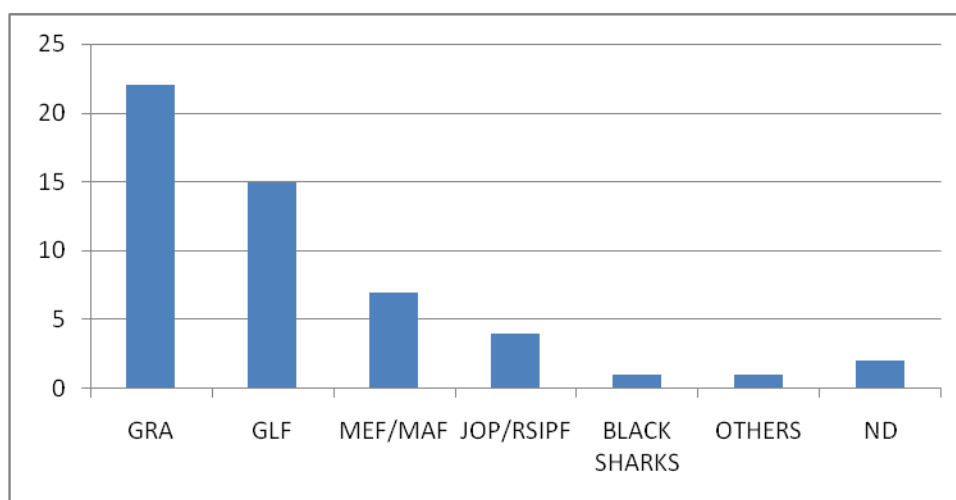


Of the 52 sexual violence cases against females, the GRA/IFM was mentioned as perpetrator in 42 percent, the GLF in 29 percent, the MEF/MAF in 13 percent; the Joint Operation/RSIPF in eight percent; and the Black Sharks/BRA and others in two percent, respectively. In two cases the victims could not identify the perpetrators.

Table 4.2.4-4
Perpetrators of sexual violence against female victims

GRA	22	42%
GLF	15	29%
MEF/MAF	7	13%
JOP/RSIPF	4	8%
BLACK SHARKS	1	2%
OTHERS	1	2%
ND	2	4%
	52	

Figure 4.2.4-11
Perpetrators of sexual violence against female victims

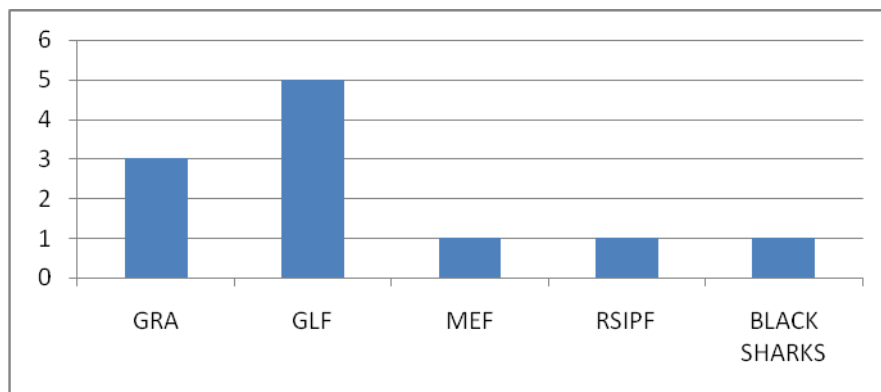


Regarding the 11 statements of male victims, 45 percent were committed by the GLF and 27 percent by the GRA. The MEF, the RSIPF/Joint Operation and the Black Sharks/BRA are responsible for nine percent of the cases each.

Table 4.2.4-5
Perpetrators of sexual violence against male victims

GRA	3	27%
GLF	5	45%
MEF	1	9%
RSIPF	1	9%
BLACK SHARKS	1	9%
	11	

Figure 4.2.4-12
Perpetrators of sexual violence against male victims



10. Window cases

Case 1

It was in June, 1999, the GRA came to the Tangarare School and start looking for any students who are from Malaita. Some of the other Guadalcanal people came and informed us that the GRA will be coming. About 9 p.m. a group of GRA men came to the Form 3 dormitory where we were staying with some much older boys. There were five of them and their leader came into the dorm and asked for any Malaita students. He was holding a *loiaken*¹¹⁸.

The students from Malaita at that time have already left and went to Tulagi settlement near the shore to wait for the patrol boat to come and take them back to Honiara. But the militants did not believe what we told them. They have with them pistols and home-made guns and threatened to use them if we are lying.

There were three boys from Malaita who remained back at that time. They were to leave the school the following day. We cannot deny the militants any longer; fearing for our lives we told them that there were three boys staying in one of the dormitories in the middle. They went to the boys and led them to the clinic and started to bash them. There were eight of them bashing and

¹¹⁸ A whip made out of cane grass.

insulting those three Malaita boys. They ordered the boys to remove their clothes and when they were naked the men continued to bash them and beat them with the *loiaken*.

At that time one of the other men let the other boy go free and later chased him. The boy who escaped was also naked. They thought he fled through the drain along the road but instead he took a different direction and came to the Catholic Sisters' place. There they took him in and clothed him.

As for the other two boys, after beating them the GRA men left them. We went and took them and washed their bodies full of blood and bruises from what the men have done to them. Later the principal came and told us to leave them with him. After that we do not know where he took them to but I think he must have arranged for them to be transported to Honiara.

Statement N° 0234

Case 2

In Marau, East Guadalcanal Margaret and her husband have a house there. They bought land through the province and built their house on that land. During the tension period they were living in Tetere, north Guadalcanal and their daughter was looking after their house in Marau.

One night in around June of 1999 when their daughter was asleep in their home at Marau a group of militants broke into the house and one by one raped her. These men were wearing *kabilatos* and carrying guns. They told her not to shout or else they will shoot her. After raping her they threatened her that if she told anyone of what they did to her she would not see the sunset of the next day. She was terrified, shocked and cried all night long. She could not keep it to herself and told one of Margaret's good friends of what the militants have done to her in the night and that she wanted to see her parents. That friend then contacted Margaret and her husband in Tetere and told her that their daughter wanted to speak with them.

She could hardly pour out the ordeal she went through to her mother through the phone. She managed finally somehow to say that she was raped by a group of men and that she wanted to leave Marau. She pleaded with her mother that she must leave or she would not see the sun set. Her parent bought her plane ticket and then went to the Henderson airport and waited for her.

Margaret and her husband claimed that they do not have any grudges with anyone in Marau or anyone at all. They said that they do not have enemies that would be a threat to them in any way. What happened is men with guns took advantage of the situation and made their daughter a victim.

Statement N° 5239

11. Conclusions

a. Sexual violence was committed predominantly against females (83 percent of the cases reported to TRC, or 51 out of 63 cases), but there were also male victims. The human rights violations were perpetrated by all of the armed groups, including the Police and Joint Operation, and consisted of rape, sexual slavery, forced nudity, sexual harassment and violence against

sexual organs, and being forced to witness behaviour of a sexual nature. No evidence of forced pregnancy or enforced prostitution was reported to the TRC.

b. Sexual violence comprised three percent of the human rights violations reported to the TRC but testimonies suggest that the real incidence was considerably higher. Cultural codes and the stigma and shame surrounding sexual violence were significant obstacles for victims or their families coming forward. This factor is especially pertinent to Malaitans, who reported that discussion of sexual violence was especially taboo.

c. There were reported cases where women and girls were used as sexual slaves, or forced into relationships with militants who exhibited possession over them. Women in these circumstances reported being used until they fell pregnant, after which they were abandoned or returned to their families. Some became social pariahs deserted by their husbands if they were married or rejected by their families because they had been shamed by their experience. It was immaterial that these women and girls were victims in circumstances beyond their control.

d. There were incidents where females and males were sexually violated when either they or their families were unable to pay compensation demanded by militant groups. This compensation was a form of extortion imposed upon weak and vulnerable groups by virtue of force by men in possession of weapons and power.

e. Situations of forced nudity usually formed part of a sequence of events which led to violence or invasion of sexual organs before victims were sexually violated or, for women, raped. Forced nudity was applied to women and men who were suspected of spying or collaborating with the enemy. Forced nudity in front of close male and female relatives shamed both the victim and her relatives equally.

f. Sexual violence was not used as a widespread strategy by militant groups against their enemies but was often applied as punishment for someone suspected of either being a spy or collaborating with the enemy. Women reported being sexually violated if they were suspected of being spies. If a man or boy was alleged to be a spy, his sister, daughter, mother or other female relative would be sexually violated in that person's presence. Given the context of avoidance between male and female relatives throughout Solomon Islands this was the ultimate form of humiliation and degradation to human dignity.

- g.** Of the total number of cases reported, 85 percent (51 cases) of the victims were from Guadalcanal. While the numbers are insufficient to draw general conclusions, the large proportion of sexual violations by the IFM and GLF, or 75 percent of cases reported requires some explanation. It partly lies in the nature of the Guadalcanal uprising and how it affirmed and reinforced group loyalty and identity. The bonding and group mentality it engendered appears to have played some part in the sexual violations committed during the armed conflict.
- h.** It is important to note the number of testimonies of women and girls in which they mentioned their fear of guns and how frequent a factor it was in their giving in to the sexual advances of armed militants. The militants for their part knew how potent their guns made them and they exploited this fear to full effect. The fear of death or injury was very real for female victims.
- i.** The TRC received cases where the victims (men and women) were reportedly targets of sexual violence due to their ethnic identity.
- j.** The state, through the Joint Operation, committed sexual violence during the operation in the Weather Coast. An individual RSIPF officer was also reported to perpetrate rape against a female statement giver.
- k.** Not one of the cases of sexual violence from the conflict has ever been punished in the Solomon Islands judicial system.

4.2.5 PROPERTY VIOLATION

*We had lost everything at that time, as I had said the feeling was
so bad and we could not bear it.*¹¹⁹

*We lost everything behind except for the clothes we had on that
day.*¹²⁰

*. . . we lost everything and we did not have anything with us
anymore.*¹²¹

1. Introduction

Property violation was one of the most common human rights violations committed by all of the armed actors who were involved in the conflict. The largest number of cases reported to the TRC is related to forced displacement, when houses of defenceless civilians were pillaged and burned down. This destruction happened mostly during the first (“ethnic”) stage of the conflict. During the second and third stage (roughly between the Rove armory raid and the arrival of RAMSI), property violation was at the center stage of the conflict, when greed prevailed over grievances and militants were concerned mainly about their own material benefits.

The TRC divides property violation into three different modalities: *a.* loss of houses, and land and crops or plantations, all of them cases which usually were associated with forced displacement; *b.* pillaging and robbery (including loss of livestock); and *c.* extortion. Together, these cases represent 32 percent of the total human rights violations reported to the TRC.

However, it is important to consider that many of the offences committed mainly by Malaitan militants after the Rove armory raid, like extortion of civil servants and ransacking the Public Treasury, legally do not qualify as human rights violations. They are common crimes and as such they are not registered in the TRC database which was elaborated on the basis of human rights violations reported by individual victims.

¹¹⁹ Statement N° 14 94

¹²⁰ Statement N° 1775

¹²¹ Statement N° 0344

2. Incidence

2.1 Loss of houses, land and crops or plantations

a. Loss of houses and household goods

Most of the statements regarding property violations refer to the loss, usually burning, of houses and as a consequence of this, the loss of household goods. The victims were defenceless civilians who did not belong to any of the militant groups.

Thousands of properties were destroyed and violated this way. The armed groups usually arrived in the village, expelled the inhabitants and burned their houses to prevent them from returning, though there were also many cases where people had already abandoned their village because of fear. The following statements are only a small sample of a great number of more or less identical testimonies:

In the New Year evening 1999 they came and burnt our house, and that was the GRA. They came and they poured petrol and they burnt the house and everything inside. That is my story. I was at my aunties' place and I could see from there when they burnt our house. I came and saw them burning it and I could not say anything. I kept quiet and could not do anything.

Statement N° 0182

I don't know the reason why they did that to us. On Tuesday we could see them picking up dried coconut leaves. They prepared these so that they could use them to burn our houses. We did not know what to do, we were helpless. They burnt down all house to ashes, there was nothing left. The people living inland saw the flames and they started running away, too. When the burning was over we came back to check our individual houses but there was nothing left. The priest told us that we all should go to the Church and stay there. We really went through the worst experience of our lives.

Statement N° 6024

We fled over and settled in town. After awhile news reached us that the Guale militants had burnt down our house at Tenaru Mala. We had anticipated that the fighting will get worse, so my husband and I decided that we should move out for our children's safety.

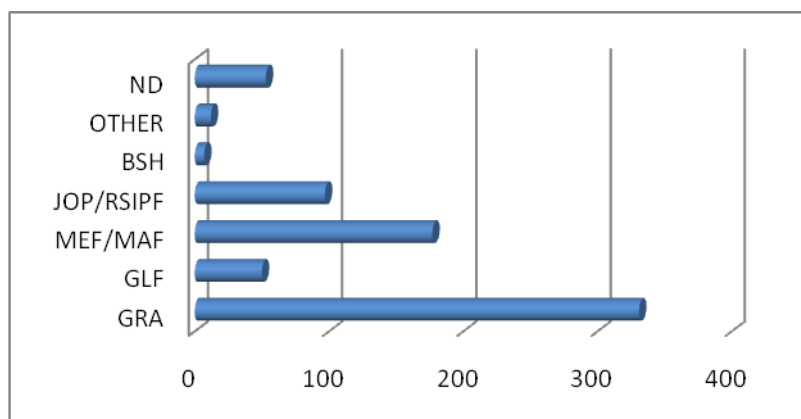
Statement N° 4025

Luckily, before the GRA arrived a woman came and warned us in advance and somehow the truck arranged came in time and we manage to leave unharmed; shortly after arriving in Honiara we learnt that our houses were burnt down.

Statement N° 1512

Victims could usually identify which one of the armed groups burned their house down. Figure 4.2.5-1 shows all the militant groups and also the state actors, i.e., the Royal Solomon Islands Police Force and the Joint Operation that committed this human rights violation. However, in most of the cases one of the Guadalcanal militant groups was responsible.

Figure 4.2.5-1
Destruction or arson of houses: perpetrators



Together with their houses, the victims lost all their belongings that were inside, often valuable things which were impossible to recover. Losing everything was a traumatic experience for the victims who were obliged, in the words of one statement giver, “to build up their livelihoods again.”

All the houses were burnt down both at Marau Sea and Marau Bush and people were homeless. Members of the Eagle Force arrived and most of the people at Marau Bush ran away to the bush. The MEF came and destroyed all our properties. After that we did not own anything, we were left without anything and just tried to build up our livelihoods again.

Statement N° 0038

b. Loss of land

The TRC received 282 cases of loss of land. Settlers from Malaita and from other islands often had purchased land on Guadalcanal years or even decades ago, and some of them had accumulated considerable extensions over the years. Even though they had paid for their parcels and followed the requisites of local custom, they were the first victims of the conflict, which began as a violent effort of Guadalcanal people to recover land from outsiders. As with the loss of houses, loss of land was thus usually related to forced displacement.

We used to settle on Guadalcanal on an area called Koli. We bought the land from the Guadalcanal land owners. We stayed until the fighting started, we heard of rumors that several people were killed, assaulted, threatened and their houses burnt to the ground. We stayed despite of the rumors, however then we learned that the fighting was coming closer to where we were. The landowners came and warned us to leave since the militants had planned to attack our settlement towards midnight. We then decided to leave for our safety, we left without carrying any of our belongings and properties since we were so scared and wanted to move out quickly before the militants arrived. We left without taking any of our properties and belongings. Arriving in Honiara we stayed with my brother and later we came over to Malaita. We left our food gardens, coconut and cocoa plantation as well. Unfortunately, we did not receive any money from the lost property payment over the things we lost on Guadalcanal.

Statement N° 7426

We lost all our properties during the course of the tension. I bought a land down at Aruligo and built a house there, including a very big coconut plantation. I also bought another area at Kakabona and I built a big warehouse on top and it was one of my buying points for cocoa and copra, including a house. I also bought a spot along the seafront where today you can see the women selling cooked BBQ foods. Besides I also bought another area on the plains along the Mberande River from Guale land owners. I lost a lot of properties, assets and lands I had bought from the Guale land owners.

Statement N° 7356

From the time we were forced to leave all our assets and valuable properties behind, I find it hard to comprehend and to forget everything I lost on Guadalcanal. It is still like a scar in my heart. My vehicle truck was also taken by the militants. I actually went to give my side of the story to the commissioner of inquiry into Guadalcanal land dealings last year”.

Statement N° 7344

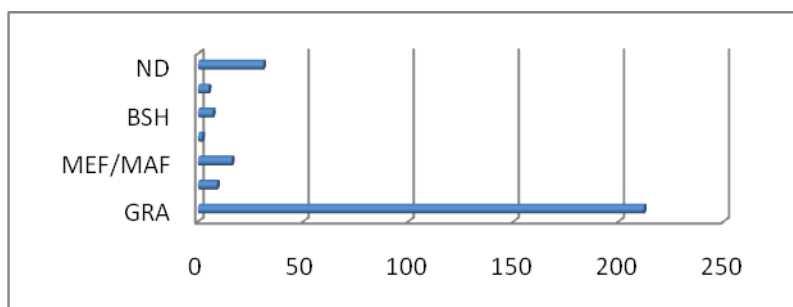
We bought the land on Mberande from the land owners; a few weeks later news reached us that the GRA militants had burnt down my permanent house there. I still have the receipts of the land I bought from the land owners and the total expenditure and cost of my house. I really appreciate the help from our Guadalcanal friends at that time, they came and warned us beforehand and helped in collecting our belongings.

Statement N° 7343

Most of the cases occurred during the first stage of the conflict when the Guadalcanal militants evicted settlers from other islands, particularly Malaitans. This explains why by far the main perpetrator was the GRA/IFM, although the TRC received also some statements referring to other perpetrators.

Figure 4.2.5-2

Loss of land: perpetrators



c. Loss of crops and plantations

The TRC received 831 cases of loss of crops or plantations. Loss of crops and plantations is also closely connected to forced displacement, though in this case more people from Guadalcanal were affected who were forced to live for several months in the bush from fear of retaliation by the MEF. While forcedly displaced families from Malaita who had to return to their island usually also lost their land and their crops and plantations, this was not the case with Guadalcanal refugees.

This explains why there are more cases of loss of crops of plantation with the MEF as perpetrator than in loss of land, though the main perpetrator of this human rights violation was still the GRA/IFM (see figure 4.2.5-3):

A few months before the period towards the tension my father bought land at the Mberande area. We settled there and cultivated the land to produce crops to generate income. We planted potatoes, taro, cabbage, yam and we also raised pigs and chickens thinking that nothing will happen to us. We also planted coconuts and sago palm leaves. Then we started hearing stories of the fighting, and that Guadalcanal will chase every Malaitan out from their land. We were worried, thinking we had just bought the land from the Gualandowners and my husband had just started building our new permanent house on the land. Besides all the food we had cultivated would be ready for harvesting the following month. Not long afterwards we started hearing that fighting had escalated along the coastal areas and guns shot can be heard, we were petrified and the sound of warning was heard. We quickly gathered whatever we could carry that day and we fled over to Honiara on board a truck.

Statement N° 7381

We left all our properties behind, permanent buildings, farms, and other assets that generated income for our family. The land that we settled on was legally registered after purchasing it from Guadalcanal landowners; we still hold the title up until today. When we settled on grass-

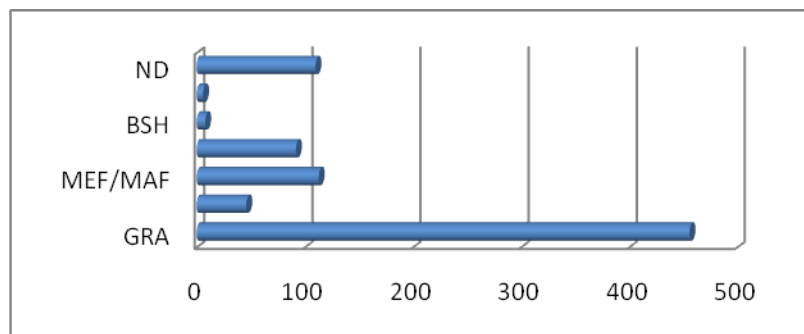
hill area all of us engaged in farming initiatives to get some income: we raised pigs, chickens, planted cocoa, copra and vegetables. For me personally, I raised 50 pigs and 1000 live chickens. My father acquired a loan from the DBSI Bank and he later handed over the business to me and I continued with the loan repayment since he was too old to work. I was repaying the loan when the ethnic tension came about.

Statement N° 7334

I was deeply affected since I lost many of my properties at that time: pigs, cocoa, coconut, house and garden and my steady job. I found it very difficult since I was born on Guadalcanal and treated that place as home. When I returned we struggled for some time before adapting to the new environmental setting there, since life on Malaita was quite difficult in terms of earning money compared to that of Guadalcanal. In Malaita we did not have anything to help us to generate income, it really affected our lives.

Statement N° 7332

Figure 4.2.5-3
Loss of cops and plantations: perpetrators



2.2 Pillage and robbery

Pillage and robbery were also often related to forced displacement, mostly when the militants looted the houses before they burned them down. Militants also robbed shops and even plundered big companies. The consequences for the small shopkeepers were usually drastic because they lost all their capital; likewise, hundreds of people lost their jobs when their companies had to close down (SIPL was a case in point). Worst of all, militants did not even spare clinics and schools, severely affecting health and education services for most of the population.

a. Loss of livestock

After chasing families out of their houses, militants usually took their livestock with them. In some cases they shot the animals to make sure that the evicted family would not come back for them:

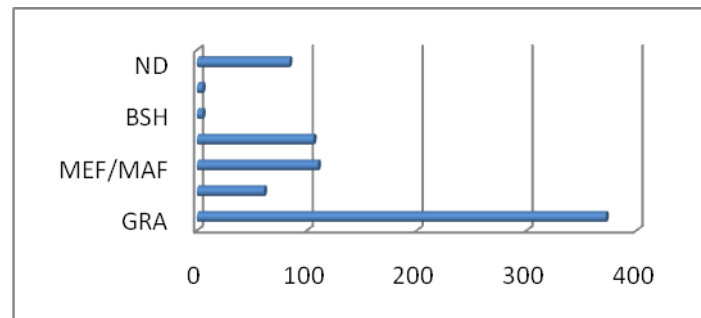
In July 2000 the Malaita Eagle Force came and went ashore at Visale. The early morning on that day they started their operation with firing that big gun from the ship. People started panicking and run away into the bush. We tried our best to save some of our household items, but could not manage to do it due to fear. We did not take anything with us that time except the clothes we were wearing and our bush knives. While we were in the bush the MEF came to our place at Tamale and what they did was they burnt down the whole village. They burnt our boats and took all our engines, also our pigs and chickens. When we were in the bush, we built our own small houses and we lived there. We lived in the bush for one year and when peace was achieved we decided to go back to the village but there was nothing left. We tried our best to get sago palm to rebuild our houses and start our livelihood again.

Statement N° 0063

The men went around fired shots at our water tank, and our OBM engine, and canoes, they entered our house removed valuable items, and they even killed our pigs and destroyed anything they could see.

Statement N° 4011

**Figure 4.2.5-4
Loss of livestock: perpetrators**



b. Loss of money

Families lost also money, both cash and shell money, when their houses were burned down or looted by militants:

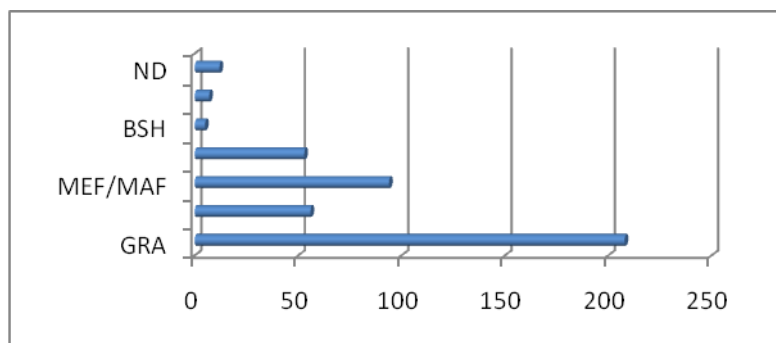
In the morning the GRA militants arrived at our settlement, there were about 30 of them, all wearing *kabilatos*. They searched our house and bags, removing anything valuable they could find, shoes, money and shell money.

Statement 7443

They burnt all our valuable properties, including 15 red money, ranging from the low value to the highest value.

Statement N° 6091

Figure 4.2.5-5
Loss of money: perpetrators



c. *Destruction or arson of shops or businesses*

Private businesses operating in Guadalcanal also experienced pillage and destruction of their properties by militants. These were mere criminal acts with no relation to any justification of the conflict, be it Bona Fide Demands for the IFM or defence from harassments for the MEF.

When I saw the vehicle I told my wife the vehicle was coming straight to our house. I knew the IFM would come and try to threaten us. They took all the store stocks and nothing was left and also they took the cash of \$1,500.

Statement N° 6039

I remained behind with my family, we stayed until it was late evening on Sunday, my uncle who was married to a Guadalcanal woman sent for us to go over and live with him at his house for safety reasons. I was a bit hesitant to leave our house since I had a small canteen and a small second hand business, but we went to his house late the Sunday evening and spent the night there. That same night the militants broke into our house and ransacked and looted the small canteen and threw everything outside. We came over to check next morning and found everything ransacked, damaged, looted and stolen.

Statement N° 2202

On the 29th of January in year 2001, I was on my way to work. When I arrived there I saw roughly about 20 armed militants; they came and entered the company compound and behaved aggressively. I was shocked to see these men; they damaged the building, went inside and looted whatever they found. I then managed to run and watched from a distance as the men continued to damage the building; they damaged all the goods inside the company house. After that they were satisfied with what they did they left. I was jobless after the incident until today.

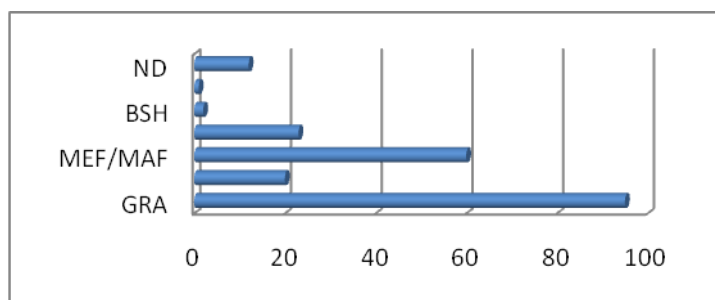
Statement N° 1706

We saw a boat coming and we thought that boat was from Ngela. When they arrived we were surprised to see them carrying high powered guns, we heard stories that the MEF were going around armed with guns breaking into stores and carrying out some other criminal activities. They threatened us and took away our petrol for their engine. Whatever they took away belonged to the logging company. They came around four times, so we were instructed by our boss to hide the drums of petrol in the bush.

Statement N° 0202

Figure 4.2.5-6

Destruction or arson of shops or businesses by perpetrators



d. Destruction and damage of clinics

Health services provided by the state are a fundamental right for all persons. During an armed conflict the health services and patients deserve a special status of protection. Guadalcanal and Malaitan militants systematically violated the fundamental right to health by looting or destroying hospitals and clinics such as Kilu'ufi Hospital in Malaita, the Gizo Hospital, the National Referral Hospital in Honiara; the clinic in Visale; and clinics on the Weather Coast:

They broke the door and went in and destroyed the clinic. They destroyed the medicines and other things

Extract from Statement N° 0699, referring to the assault of MEF to Visale clinic

The so called Black Shark group visits our area frequently. When we saw them approaching we thought they had come to seek medical attention from Tomua clinic. When the boat landed on the shore all the passengers jumped out and run towards us. Their leader asked for the keys to the clinic. The nurse said the key was with Mr. Sisiko. They took Sisiko and led him towards the clinic. Arriving there they ordered us to remove the solar panel.

Extract of Statement N° 4234, referring to a case in Gizo

The militants just came in and took our fuel used to run the emergencies of our clinic.

Statement N° 0484, referring to a GLF militants on the Weather Coast

e. Destruction and damage of schools

Education was also affected because militants burned down schools and stole equipment. The Pacific Island Marine School at Aruligo, for example, was burnt to ashes. The charred remains can still be seen today. The same happened to many schools in the CDC area, in Foxwood area, on Marau east of Guadalcanal, and from Kakabona to Visale in the west.

2.3 Extortion/ Forced compensation

Extortion was another form of property violation, being the most common form forced “compensation” which was practiced both by the Guadalcanal and Malaitan militant groups. Militants, specifically the MEF, also extorted companies and forced them to pay for the “security” they provided in the city of Honiara.

Compensation was demanded for the most diverse and absurd reasons. The range is so wide that we can present here only a random selection.

Guadalcanal militants, for example, often accused their victims arbitrarily of being “spears” for the MEF:

I am one of the teachers who usually came to Honiara to receive my salary. During those times when I came to Honiara and went back those militants would threaten me and demand money from me and suspected that I was a spear woman. They did this to me three times. The first time when I came to Honiara and went back they demanded me to give \$50. After some time I came to Honiara and went back home they killed one of my pigs because they thought I was still a spear woman. So when I got home that time I had to give another \$50. The third time when I came to Honiara and went back, the militants were ready on the seashore for me. When I got to the seashore I learnt that all my belongings were held up by the militants. They took all my things and left them in another man’s house. The militants told me that I had to pay some more compensation before I could get back my belongings. So I gave another \$50 and then they returned my personal belongings.

Statement N° 0294

On the Weather Coast, Harold Keke imposed strict rules on the population; any infringement was punished with compensation claims:

The GLF Commander advised his boys to look for girls who had just arrived from Honiara and if they dress in a fashionable way they might have arrested them. If they found anyone, that person must pay compensation. My daughter had just arrived from Honiara and she did not know what was going on and she went along with her sister’s to attend a Sunday prayer. The GLF asked compensation otherwise if she does not give she might be taken to their camp and that’s what I had heard and she had to pay fifty dollars.

Statement N° 0747

Guadalcanal people married to Malaitans had to pay compensation “for the head” of their spouse to the IFM:

My husband had to pay a fine for life because I am from Malaita. After my husband had already paid compensation to the militants in respect of being a Malaita woman they came and demanded for some money. I told my husband just give them what they asked for.

Statement N° 0667

Some MEF militants made their victims pay compensation because of their ethnic identity:

They demanded money from my father simply because he was from Guadalcanal. They were members of the MEF group; they were from the Kwara’ae area. They demanded \$1,500 cash; if my father did not have the amount he should give them SBD 1,000 plus one pig.

Statement N° 2178

Compensation claims were most prevalent in northern Malaita after the TPA. Many of them were related to land matters, while others were arbitrary in nature as shown by the following testimonies:

I gave compensation, five traditional shell money, to militants that demanded [from] my family with guns because of an issue that was solved long ago, where my son was having an affair with one of their sisters while at secondary school. (“Patty”)

I paid compensation to militants because I brewed *kwaso* and one of their younger relatives got drunk and caused problems to his own family (“John”).

At Kwaiana community in Bita’ama, some men with guns from the mafia group and ex-militants demanded about ten traditional shell money (*tafulia’e*) from the people claiming the village was established on their land destroying one of their taboo places (“Charles”).

MEF forced companies to pay them for the “security” they provided:

MEF group came and demanded \$8000 from us, they claimed to be looking to be providing security for the whole Honiara city; we were so scared and do not know what to do; we tried to explain to them that the money we get for selling the timber belongs to our church, we argued for some time and in the end one of the *Tasiu* [Melanesian Brother] intervened but the group approached the Honiara Export Timber management and threatened them to give the money or they will burn down the whole building; the *Tasiu* then dared them to kill all of us if they want. We argued that the timbers belong to our church; Maelanga was the leader of the group. He then butted one of the officers with his rifle and continued to insist that we must give them the amount demanded and if we fail to give them the money by 3:30 p.m. that afternoon they will return and kill us all; they left two of their men to watch us over us and they left; they returned around 1 p.m. with more men we were so terrified and eventually we decided to give them the amount demanded since they also threatened to burn down the company as well.

Statement N° 5070

Later, after the arrival of the loan from the EXIM Bank and other funds made available by the Government, the payment of compensation was made in circumstances where institutions were barely functioning and chaos and anarchy prevailed:

We then resubmitted our claim to the people administering the payment, all the amount we submitted was the amount we expect to receive; unfortunately the former MEF group were also influential in controlling the lost property payment and in overlooking the administering of the lost property payment.

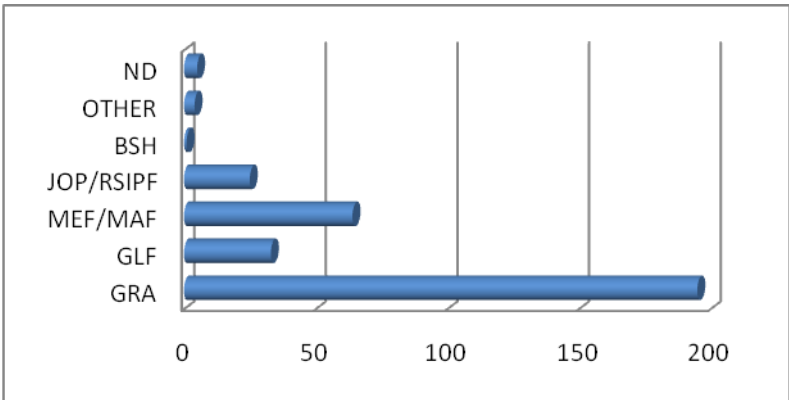
My property claim was SBD\$50,000 – when the MEF group controlled the payment I was only given SBD\$17,000.

Statement N° 1627

Some of them were related to the eighteen people killed. However, the MEF group demanded SBD\$5 million out of the total amount SBD\$6.8 million, leaving only SBD\$1.8 million back to compensate for the 18 lives of innocent Malaitans killed during the tension at SBD\$100,000 each per deceased. The remaining money was then paid out to the immediate families of the 18 deceased. We have to give the MEF group the SBD\$5 million since our lives were at risk and we gave into their demand

Statement N° 2136

Figure 4.2.5-7
Forced compensations: perpetrators

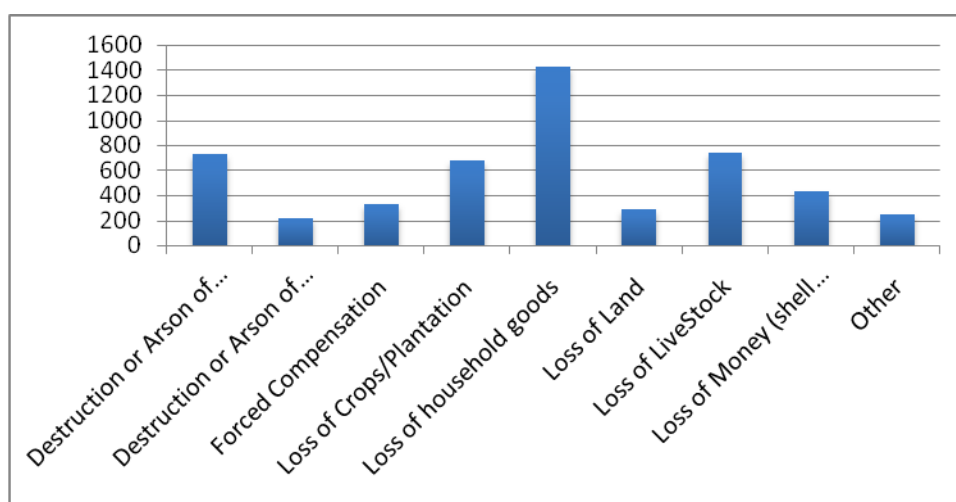


3. Magnitude

The TRC registered 1,856 statements about property violation. Needless to say, one statement could relate two or even more of these violations, so the number of violations was much higher than the number of statements. The overwhelming majority were committed in Guadalcanal.

The most frequent violations were: loss of household goods (26% ; mentioned in 1,277 statements), loss of livestock (14%; 743 statements); destruction or arson of houses (13%; 727 statements), loss of crops/plantations (12%; 831 statements); loss of money (cash or shell money) (8%; 435 statements); forced compensation (6%; 327 statements); loss of land (5%; 282 statements); destruction or arson of shops or business (4%; 213 statements).

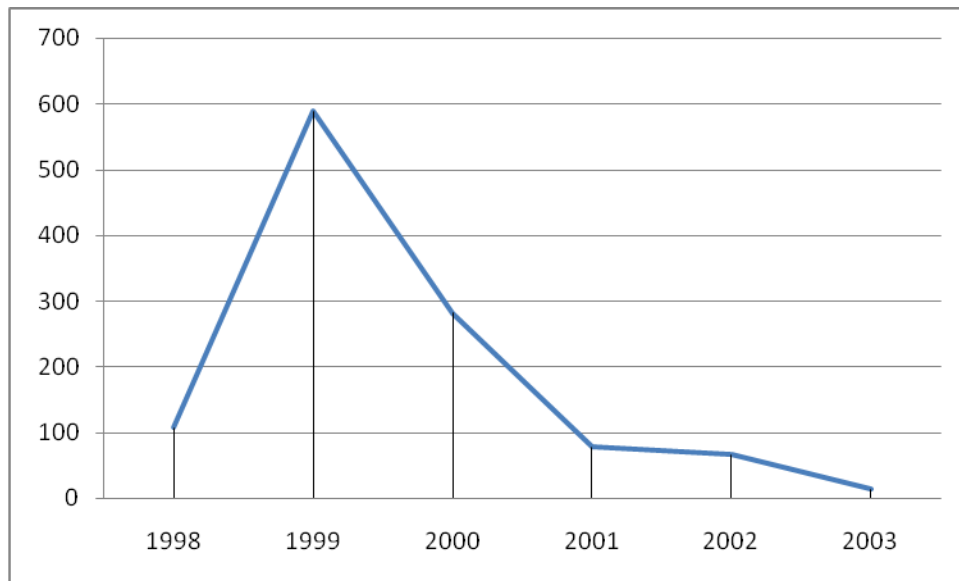
Figure 4.2.5-8
Property violation: incidence



4. Dynamic

Property violation was often associated with forced displacement; the dynamic of both human rights violations is thus similar. The climax of property violations was in 1999, which was also the year with the highest number of forced displacements.

Figure 4.2.5-9
Incidence of property violations by year



The destruction of clinics and schools was not reported in the statements.

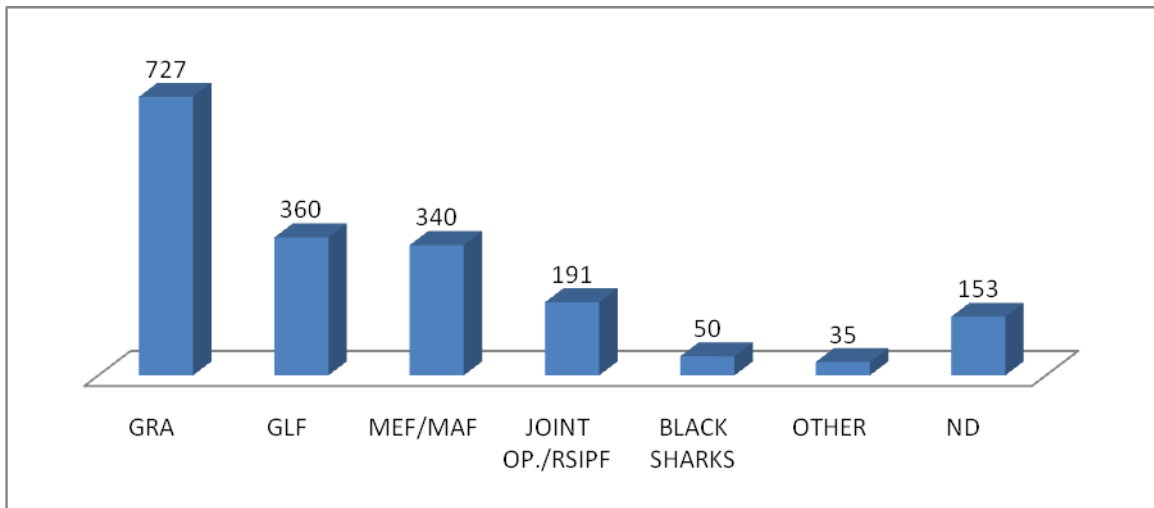
Robberies found in the stories of the statement givers were not reflected in the forms because forms only registered human rights violations and not common crimes. That is the reason why they do not appear in the graphs or figures.

5. Responsibilities

According with the statement received by TRC, the GRA/IFM was mainly responsible for property violations (39.17%), followed by the GLF (19.40%), the MEF/MAF (18.32%) and the Joint Operation (10.29%). The Black Sharks/BRA (2.69%) and others not identified (10.13%) make the rest of the registered cases.

Figure 4.2.5-10

Perpetrators of property violations



The two main groups responsible, GRA/IFM and MEF/MAF displayed a similar behaviour in relation to property violation.

Figure 4.2.5-10

Property violations committed by Malaita Eagle Force/Marau Eagle Force

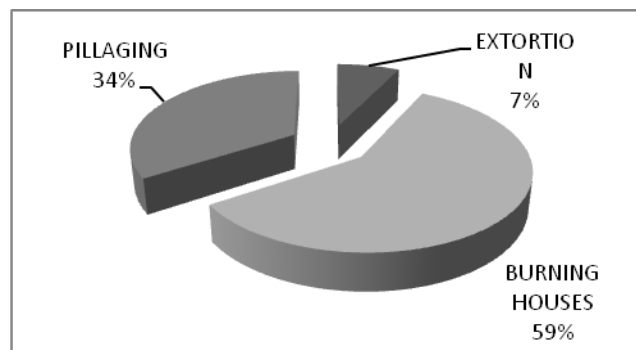
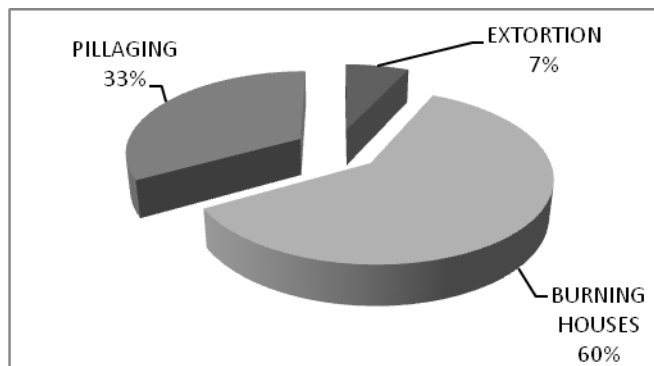


Figure 4.2.5-11

Property violations committed by the IFM



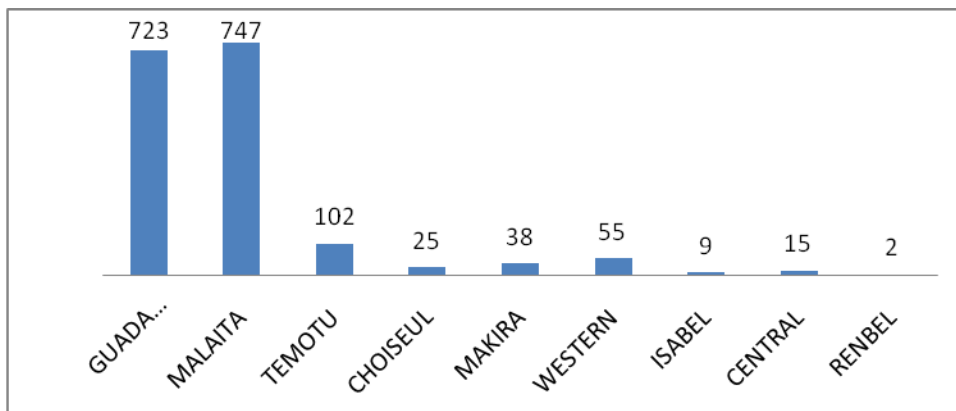
The difference between the IFM and MEF/MAF was the time of their intervention in the conflict. During 1998-1999 the Guadalcanal militants acted alone. From 2000 until the end of the conflict, MEF/MAF became the new force that dominated Honiara.

6. Victims

The majority of the victims were from Malaita (40.2%) and from Guadalcanal (38.9%).

Figure 4.2.5-12

Victims of property violations reported to the TRC¹²²



¹²² In 140 statements there is no information about the origin of the victim.

7. Window cases

Case 1

I forgot the date but we were still asleep when some of the people went to the seaside and they could see the ship from a distance which anchored off Visale Clinic. When they came back and woke us up. We questioned each other about the ship because at that time movements of ships and boats were restricted due to shortage of petrol and also in fear of the militants. They told us about the ship so everyone woke up. We ran to the sea and we witnessed the ship. Before daybreak we could hear the gun fire, by this time they started shooting the clinic. We thought these were GRA militants but in fact it was the MEF militants. Some of the boys ran towards the sea and saw the ship and they knew the ship. They ran back and told the ship belonged to the MEF. In not very long time, two GRA militants came and ordered to run away to the bush. We carried all our children and ran up the hill. We went up and sat down and watched what was going on at the Station. After the shooting the MEF left and GRA militants went up to the hill that everything was ok and that we should come down. That time the MEF came and destroyed the clinic and also shot dead a boy and an old man. That old man could not walk so they carried him and left in the Church. They shot the old man while he was in the Church. He was Doko and from Lambi Bay. The GRA militants came and ordered us to go to the bush and make houses there. Everyone went up to the bush and built small houses in the bush. The whole community moved up to the bush and lived there. We stayed in the bush for about three years. My grandmother was sick at that time; she had pneumonia due to cold because of sleeping out in the open. There was no medicine and the clinic too was damaged. We did not know where to take her to so they just stayed in the bush. My grandmother was too sick so we took her down to the village.

After only three weeks a second shootout by MEF took place. It was then my grandmother could not eat or move she was only waiting for her dying day. The boys of were alert and they went down to the sea side and were watching for any ship or boat. By 5:00 a.m. the same ship was anchored off at the same spot. The boys and spread news that the *Daula* is back so all we ran away to the bush. We came to stay with the old woman so that if anything happened then we could bury her and go back to the bush. We started hearing gunshots so we left the old woman and ran away to the bush. My brother thought of the old woman so he ran back to the house. Their aim was to destroy Visale Catholic Station but the head of the Nuns told them not to touch anything within the Mission area. So they walked along the seashore until they came to our village and started burning the houses. My brother went and got our grandmother and left her under a banana tree and then ran away again further up the hill. We got to the top of the hill and looked down and we could see the whole village was in flame. By then the children started to go hungry because we did not expect that anything would take place that morning. Late in the afternoon the boys and came and told us to go down to town because the MEF had already left after burning all the villages along the road from Visale to Tamale. My dad asked my brother to come and check my grandmother so he took her to the house and after a while my grand passed away. We stayed during the night and early in the boys came and dug a grave for her and we buried her that day. We did not know what to do with my grandmother, because there were no clothes, no timber to make a reasonable coffin. So we went to the Sisters and they gave us two pieces of masonite and the boys nailed them together and we put her inside and buried her without wrapping her with any clothes. As soon as she was buried we ran back to our camp. We stayed and did not what to do; we faced the reality of hard life. There were no kerosene, no soap and other basic goods; we could not manage to get anything from the shops because we could not come to town. We had to struggle to make ends meet. Most of our properties in the house were burnt; also our trucks, chainsaw, video and other things were all burnt.

Statement N° 0675

Case 2

Maria recalled during the ordeal, “We came back to our village and not long after RAMSI came to the Solomons. Our village was overgrown with bushes so we had to commit our time to clean up the place. We had to build new houses to replace the burnt down ones. Also most of our properties were destroyed and smashed by members of the Joint Operation. They also helped themselves with our domestic animals like pigs and chickens as well as other fruit trees.”

Statement N° 1044

8. Conclusions

- a.** Armed groups of militants acted as criminal gangs, committed atrocities that violated the Geneva Conventions on internal armed conflicts and threatened to steal the goods and money of the undefended population and to restrain in an abusive and arbitrary way their fundamental liberties and rights.
- b.** The forcible displacement objective was accompanied by massive property violations. The majority of the property violations cases were associated with forced displacement or part of the same event. Other significant cases of property violations were associated only with criminal acts, some of which were related to the distortion of the traditional use of compensation.
- c.** Property violations occurred at all stages of the armed conflict from 1998 to 2003 without distinction as to who was the predominant armed group at different stages of the conflict. Power was wielded by local commanders and fighters who aided and abetted criminal activity rather than controlling it.
- d.** Schools, clinics and Government facilities were also destroyed or pillaged by militant groups, adversely affecting the provision of essential services as health and education.
- e.** The EXIM Bank loan for compensation payments announced by the Sogavare Government in the period after the removal of the Ulufa'alu Government in turn triggered a tide of extortion activity that was extreme. Large amounts of Government money were diverted at gunpoint by MEF militants for personal use.
- f.** Property violations occurred in the manner and on the scale that they did because the RSIPF was in no position to maintain law and order effectively in Guadalcanal.

4.2.6 FORCED DISPLACEMENT

*They marched us along the road as if we were prisoners or some kind of domestic animals that were led to be slaughtered, and they [GRA] were all around.*¹²³

1. Introduction

The TRC received 1,882 testimonies of forced displacement with the names of 11,292 persons who had to leave their homes because of the conflict. Forced displacement was the human rights violation that affected the highest number of persons who gave their statements to the TRC. In a way, together with property violation it represents the “showcase” of the conflict in Solomon Islands.

Perpetrators and targets could change, but the patterns remained the same. There were two basic methods: households were often forced to leave through application of direct violence against them by the perpetrators; or (in most of the cases) households decided to leave before violence reached them as they became aware that violent displacement could happen at any time. According to the statements received by the TRC, 33 percent of the displaced households left because they received direct threats from one of the militant groups, and 67 percent of the families decided to leave because the general situation had become too insecure for them.

The TRC identified three stages of forced displacement between 1998 and 2003:

The **first stage** was the period from the beginning of the conflict in 1998 until the end of 1999 when the Malaita Eagle Force (MEF) started to retaliate. During this stage 64 percent of the forced displacement cases reported to the TRC took place. Most of the victims were Malaitans (59%), but even in this early phase there were already many people from Guadalcanal (31% of the victims) who decided to leave their home because of a generalized state of insecurity. The retaliation of the MEF from January 2000 onwards initiated the **second stage** of forced displacement, which reached its peak after the Rove armory raid in June of the same year when MEF launched “Operation Eagle Storm”, attacking communities surroundings of Honiara and forcing many villagers to live for several months in the bush. The second stage ended with the

¹²³ Testimony of Nelly Misiboe, TRC regional public hearing at Airahu in Malaita.

TPA. The **third stage**, finally, corresponded to the Joint Operation on the Weather Coast, when the paramilitary Police Force and former militants converted into special constables also forced hundreds of families to live for a long time in the bush.

2. Incidence

2.1 First stage: 1998-1999.

Forced displacement started in 1998 with the eviction of settlers, mostly Malaitans, from Guadalcanal. This was not a sudden, unpredictable outburst of violence, but was prepared during several months in village meetings where Malaitan settlers were excluded from participating. Rumors began to spread:

During this time we started to hear rumors that something was going to happen. Small arguments happened between my brothers and sisters and the children from Tangarare area. You would hear them say to them that they should go back to Langa Langa, they are not from Tangarare.

Testimony of Nelly Misiboe, TRC public hearing in Malaita

Malaitans and settlers from other islands organized their own meetings to discuss the situation. People started asking each other and friends from Guadalcanal if the rumors were true. Some Malaitans decided to leave in this early stage because they felt threatened by weapon-carrying men who visited their villages. At the same time the emerging militant group exerted pressure on their own people from Guadalcanal, who were obliged to support them and forced to wear *kabilato* and grass skirts. This made some of them feel that something bad was going to happen, so they also decided to leave:

I left my village on Watusu in 1998 after hearing stories that the tension will take place. My husband and I had five children. We were very concerned about the safety of our children, so we decided to move out from the Watusu village.

Statement N° 1588

Most of the settlers, however, decided to wait and see what would happen. Many Malaitans had lived on Guadalcanal for generations; most of them had purchased the land and observed all the legal and cultural obligations, so they were convinced they would be safe:

We settled on Aruligo on an area where my parents and my uncle had bought from the landowners for more than 20 years; we planted large scale plantations of coconut and cocoa; we raised chicken and pigs. We continued to settle there and had no plans of returning back to our home province in Malaita, thinking that we will settle there for the rest of our lives. We did all

the requirement of acquiring land according to the Guadalcanal custom; apart from money we gave pigs and other food items which they called *chupu* in their dialect, in order for us to feel free to make gardens and cut trees.

Testimony of Ofaisui Suiasi, TRC regional public hearing at Airahu in Malaita

Others were allowed to stay because they were married to women from Guadalcanal, though they had to “pay for their head”; a few of them even joined the GRA. Some landowners encouraged settlers who had purchased land from them to stay, assuring them that nothing would happen to them. When things started to get worse, people from Guadalcanal often informed their Malaitan friends about imminent attacks to their homes and advised them to leave:

Before the tension we used to live at the Kakabona area. At that time I had a very good friend from Lambi, his name was John. He came and informed us of the planned upheaval plotted by the Guadalcanal people – he told us to pack our things in preparation to leave since all the rumors we had been hearing about the Guale militants is true; when he first came he told me that it was the Weather Coast people who are taking up the leading role in the uprising. A few weeks later my friend came to our house one night around 11 p.m. towards midnight and warned us to leave since the GRA militants are now closing in on Lambi; he warned us to leave for our own safety.

Statement N° 2725

Towards the end of 1998, the Guadalcanal Revolutionary Army increased their operations to evict Malaitan settlers. This is the time when the first massive wave of displacement began:

One evening the GRA militants arrived in front of our houses and warned us to leave immediately; they were armed with homemade guns. After that unexpected visit we started packing up our belongings and in the morning we boarded the company truck and came over to Honiara. In town we were accommodated at KGV School.

Statement N° 1935

We decided to leave the area after we learned that the GRA militants had burned down houses owned by Malaitans around CDC and the Mberande area and were planning to set up roadblocks along the road. Someone returning from town got information from one of the Guale men; he informed us that the GRA militants were planning to attack the whole CDC areas. We were so scared and gathered what we could carry and put it in our small canoes and paddled down along the Betikama River. Arriving at Betikama School we boarded the trucks arranged and came over to Burns Creek area where we lived with my brother Sio. We left all our properties and belongings behind, our house, pigs, cows, chickens and gardens.

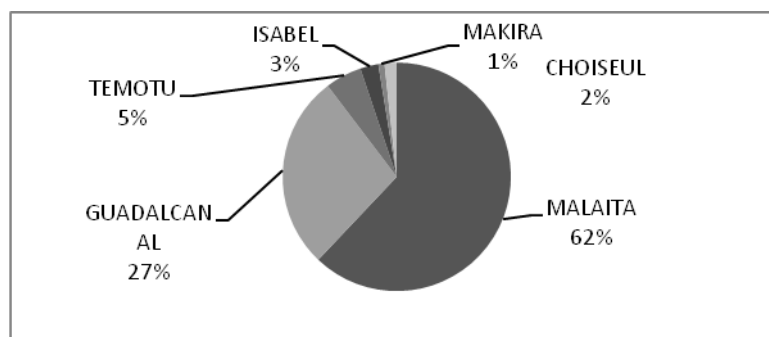
Statement N° 2013

According to the statements received by the TRC, 62 percent of the victims who were forced to leave their homes in 1998 were from Malaita. Nevertheless, families of other islands were also affected: five percent of the victims were from Temotu, three percent from Isabel, two percent from Choiseul, and one percent from Makira. And significantly, 27 percent of the families

displaced in 1998 were from Guadalcanal. The aggressive attitude of GRA/IFM militants affected also their own people and forced some of them to hide in the bush for long periods of time.

Most of the statement givers to TRC who were affected by forced displacement in 1998 had settled in Tandai ward (32%, out of which 61% were from Malaita and 28% from Guadalcanal); nine percent lived in Malango ward and seven percent in Saghalu.

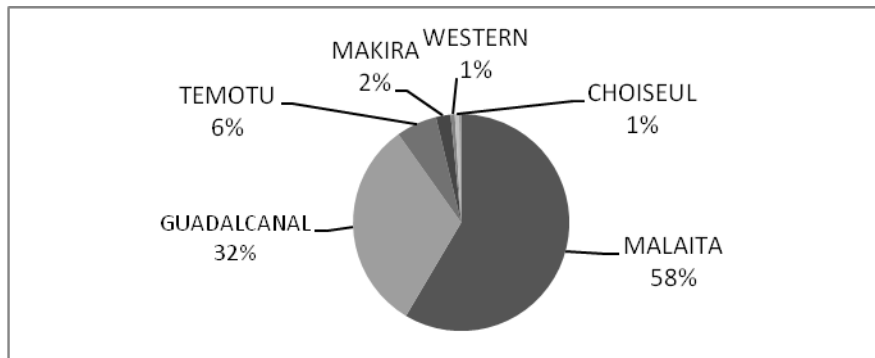
Figure 4.2.6-1
Origin of forced displacement victims, 1998



Forced displacement reached its peak in 1999, with 54 percent of the cases received by the TRC. As in 1998, the majority of the victims were born in Malaita, though their share diminished slightly from 62 to 58 percent, while forcibly displaced persons from Guadalcanal increased from 27 percent in 1998 to 32 percent in 1999. Six percent of the displaced persons in 1999 were from Temotu; two percent from Makira, one percent from Western and 0.3% from Isabel. The ward with the highest numbers was again Tandai with 21 percent (of which 60 percent were Malaitans and 34 percent from Guadalcanal), followed by West Ghaobata plantation workers with 18 percent and Malango with 12 percent.

Figure 4.2.6-2

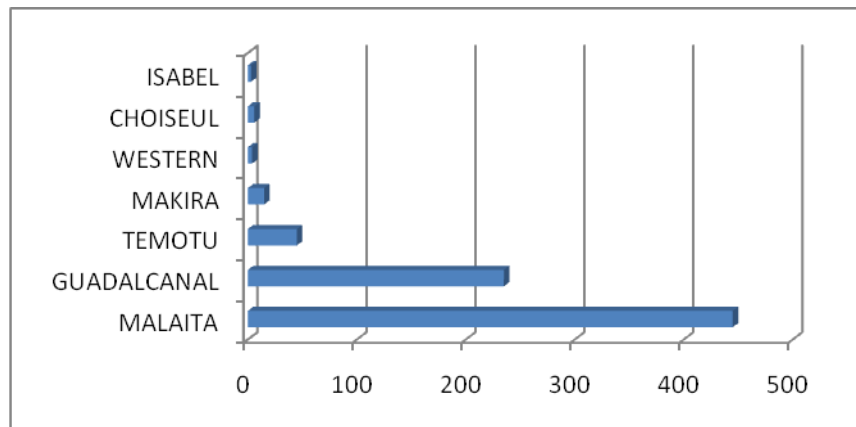
Origin of forced displacement victims, 1999



The years 1998 and 1999 – which represent the first stage of forced displacement – made up 64 percent of all the cases received by the TRC. Fifty-nine percent of the victims were from Malaita; 31 percent from Guadalcanal, six percent from Temotu; two percent from Makira; one percent from Western; one percent from Choiseul and 0.4% from Isabel.

Figure 4.2.6-3

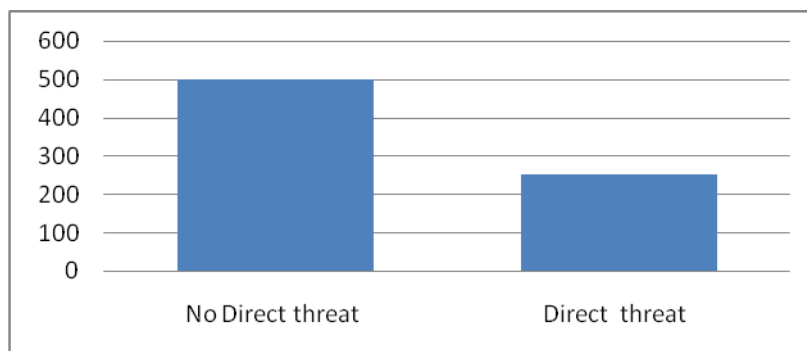
Origin of forced displacement victims, stage 1 (1998-1999)



Most of the victims decided to leave their home because the situation had become insecure, even without suffering direct threats from the militant group.

Figure 4.2.6-4

Circumstances of forced displacement, stage 1 (1998-1999)



The objective of the Guadalcanal militants was to remove all Malaitan settlers and plantation workers from Guadalcanal. Malaitans became the target irrespective of how they acquired the land on which they lived in or how they came to settle on it. Whether or not they had caused any trouble or damage to the community, the sole aim was to remove them from the land because of the perception that the Malaitans were mercenary and acquisitive, having little or no respect for Guadalcanal customs and values. Although the *bona fide demands* were directed at the Government, the Malaitans were singled out because they were the largest settler community on Guadalcanal.

Sadly the campaign of threat and intimidation achieved its purpose and also obliged other non-Guadalcanal settlers to leave, and even Guadalcanal people themselves were forcibly displaced. Overnight thousands of people became refugees in their own country as the IFM militants pursued their campaign.

2.2 Second stage: 2000

The second stage of forced displacement began in 2000 with the appearance of MEF. The statements received by TRC hold MEF responsible for 53 percent of forced displacements in 2000 as a result of operations carried out in the outskirts of Honiara. After the Rove armory raid on 5 June, the MEF attacked villages they suspected of being IFM strongholds, but could not distinguish between militants and civilians. So they attacked indiscriminately, forcing all the villagers to escape into the bush and burning down their houses:

Our relatives came and told us that one of the elders of the village was sick, we took a pig and some bags of rice and went to visit the old man. When we got there, it was raining and it was

getting dark so we could not go back that evening. We spent the night there and at 12:00 midnight we received information that our houses were burned down to the ground. All our belongings were burned down with our houses. The only things we had left were the clothes we wore when we went to visit the old man.

It was the Malaita Eagle Force militants. We did not know that the MEF was going to do that to our village. We lost everything that time. They came to kill us and because we were not there they burned down our houses before they went back. If we had been there they would have killed us.

We stayed at the Gold Ridge Relocation Village and then later we went to NAC to stay there. The fight got worse and again we ran away to CDC and lived there for some time. Later we moved to the mountains.

Statement N° 1461

Access to landing craft and earthmoving equipment enabled the MEF adopted to attack the IFM and displace civilians. The LC *Muva* and the MV *Daula* were deployed to attack villages and places MEF believed were harboring Guadalcanal militants, such as Aruligo and Visale:

Then one morning the LC *Muva* came and went ashore at the Aruligo Fibreglass area. When they went ashore they released a bulldozer from the ship and it was driven along the road towards ICLAM and they started shooting the area. All the villagers from Vatukulau, Duidui and Horabau settlements ran away to the bottom of the Seven Brothers Hill. As soon as the bulldozer was released on the shore, it started shooting at Aruligo Fibre Glass area. The LC *Muva* left and waited at Doma for the bulldozer to get there. So the MEF carried out their operations until they had burned down all the houses along the roadside including the ICLAM compound. We could see that Pisei village was burning and the MEF militants were on the way back to the LC *Muva*.

Statement N° 0200

These retaliation attacks were inflicted on defenceless villagers and MEF encountered no resistance but only empty villages which they duly torched:

A week later, when we woke early in the morning the children went to the seaside. They could see the MV *Daula* unloading those MEF members to come ashore at Visale. When we saw we all ran away to the bush. We took all the children and whatever we could take with us and we ran away to the bush. While we were in the bush we could hear the sounds of guns. The MEF were shooting everywhere at the Visale Station. They shot one of our young boys and also an old man was shot at the clinic, this old man was from Lambi. After the MEF left, some of our people went and took the boy and put him in one of the houses. Others went to the bush and told us that one of our boys was killed by MEF members. So our catechist came and held a funeral service for the boy and he was buried. After the burial we had to go back to the bush and stay there. We stayed in the bush for a long time before coming home. The next time the MEF came they started to burn the houses starting from Legarauna. They kept on going until they got to Visale Station. After burning all those houses along the road they went to Savaulu and then on to Chapuru and Tamale and beyond the post light. They destroyed the church and fired in the air. They stole some of the things as well as pigs and chickens.

Statement N° 0314

The MEF burned down houses irrespective of who owned these houses. Again, militants on both sides created victims of their own people. On some occasions people found themselves caught between MEF and IFM, often with nowhere to turn except the bush. The MEF militants simply assumed that all Guadalcanal people would support IFM. This was true in some places and not others. Despite this assumption, significant numbers of people were ill-treated by both sides:

The MEF landed on the beach and started firing shots indiscriminately, on one the man from our village was mentally ill, he went down the road the MEF kidnapped him, he was severely bashed and stabbed to death and his body was found at the shoreline at Doma station. All the people in the settlements fled and hid in the bush that morning – we were so terrified we fled to save our children. The MEF group looted and burnt down all the houses along the coast, we were so terrified upon hearing the sound of high power rifles; we fled further in the bush. On that day we do not have anything to eat our children were crying and several mothers as well.

To make matters worse the GRA group enforced strict rules to control our movement, we remain inside of our house most of the time during that specific period, if you are found breaching these rules you will be asked to pay a large sum of compensation and if you fail to do as instructed you will be severely bashed and assaulted physically. It was after peace was signed before we were able to move around again freely. As a mother I do not accept the sufferings and the pains we go through at that time. I would like to call and ask the responsible bodies concerned what are the plans you have in place to help us recover from the loss and sufferings we incurred and experienced during that period.

Statement N° 0075

We were here when the MEF group came over to Aruligo onboard the LC *Muva*. We carried our children and we fled into the bush, while the MEF group aided our village and the area of Aruligo.

We took refuge in a place called Seven Brothers. When the MEF left we returned and discovered that they had burned down most of the houses. We feared that they might return, so we carried our children and walked all the way to Selwyn College. Arriving at Maravovo the families there felt sorry for us and invited us to stay with them. We stayed for a few weeks and later we returned back to Aruligo. We tried to rebuild our lives despite of the situation. We stayed for some time until the GRA came and fired shots at Aruligo on the ICLAM center. I was there at that time; the militants pointed their guns at my daughter and me and instructed us not to move. They opened fire into the air. I was shocked in fear and did not know what to do. I felt to the ground in fright and crawled on my tummy like a lizard. Luckily it was going towards late dusk so we crawled in the grasses and hid, and at that time I was so petrified that my whole body went numb.

Statement N° 0053

What emerges from the accounts just cited was the wanton destruction and random killings the MEF inflicted on the Guadalcanal communities and villages. The MEF were focused on burning houses, damaging properties and looting, to convey a message to the Guadalcanal community that there was a heavy price to be paid for supporting the IFM and a payback for what the IFM did to Malaitan settlers in west and east Guadalcanal.

The other Malaitan militant group that carried out attacks on the Guadalcanal people was the Marau Eagle Force. This group of 'Are'Are-speaking militants retaliated for being chased out of their villages on islands in the Marau Sound; they were first displaced to Marapa Island by the IFM. They carried out attacks mainly to secure their domain thereby forcibly displacing Guadalcanal people in the process:

My name is Peter, and was deeply affected during the tension on Marau. At that time I was a single person and I was responsible for looking after my parents who were very old. During the height of the tension I lost my big permanent building which was fully furnished to accommodate visitors and tourists; it was a rest house. All my belongings and the contents inside were lost in the fire. It was the Marau Eagle Force that came and burned down our properties; they came along with the RSIP patrol boat *Lata* and shelled our area. I tried to get my parents out from the danger zone, but my mother died of shock and fright at the spot when she heard the sound of the machine gun. I carried her body and buried her at her parents' place. My father was also helpless so I carried him all the way to safety. We fled away further inland, hiding and settling on a place called Kolina.

Statement N° 0913

I was on my way to check my house to get some of my belongings out. When I got there I could feel that something was around; I could see some of the militants of the Marau Eagle Force were in the house. I started to run away but they shot at me, but I just kept on running. In my mind I only prayed to God for his protection. It was a big group, I could see some of them going into my house and taking some of my properties out. When my house was burned down at Onetete, we moved to another village, Ponetasi. We then decided that we should move to Oa village. We stayed at Oa but still in the bush. When we stayed at Oa we felt that we were safe. We returned to our respective villages after the Marau Peace Agreement was signed.

Statement N° 0923

The Malaita Eagle Force and the Marau Eagle Force were both responsible for compelling Guadalcanal people to move from one place to another to another, running away from the threats and situations that put their lives at risk:

Members of the Malaita Eagle Force told us that we must move out otherwise they would kill us or burn down our village. When we heard that we moved from our place to go and hide behind the mountains. When we left our village then we went up to Kogulai and stayed there. After a week our village was burnt down by the MEF. We stayed at Kogulai for about a week then the MEF came there and started shooting at Kogulai village. When the MEF burned Kogulai we ran way to Tamuni. We lost all our belongings both at Verava and Kogulai, we did not run away with any of our belongings to Tamuni. They also came and attacked us at Tamuni and we ran away further up the bush. They took some of our valuable things at Tamuni, like money, raincoat, knives and other things. When they attacked at Tamuni we moved up to another location.

Statement N° 940

At the same time, the IFM continued with the eviction of Malaitans from rural Guadalcanal:

The tension started in year 1998 and in year 2000 it reached its height. It was that time when the GRA militants were attempting to advance into Honiara from the Mt. Austin area. At that time all the Malaitans living around the outskirts of the town had fled over to Honiara. My garden was on the outskirts of Gilbert Camp close to Betikama. I also spotted a group of militants wearing *kabilatos* near my garden and I was so scared that I gathered all my children and we fled over to Malaita, leaving my garden and house behind. That was in year 2000.

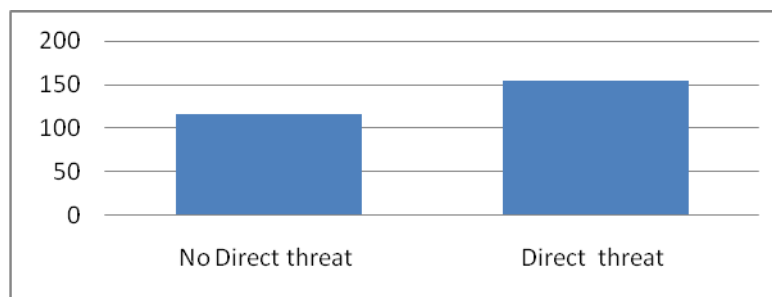
Statement N° 2377

In 2000 I was a student at Ruavatu Secondary School. One evening we experienced threats from the IFM militia group, they entered the school compound causing a lot of disturbance and started harassing students. They entered the boys' dormitory and later the girls' dormitory. All the students fled out towards the school playground and later the school staff called all students to assemble in the dining hall. We gathered together there to wait for what the teachers would say. The IFM militants mistreated us Malaitan students; they told us that they would kill all of us. The IFM commando ordered the school truck to transport us over to Honiara the next day. We left that day leaving all our belongings behind, things such as school materials and beddings. We came over to Honiara only with the clothes we wore that day. Many of the staff and teachers had to leave as well since the IFM militants had taken full control over the school.

Statement N° 2170

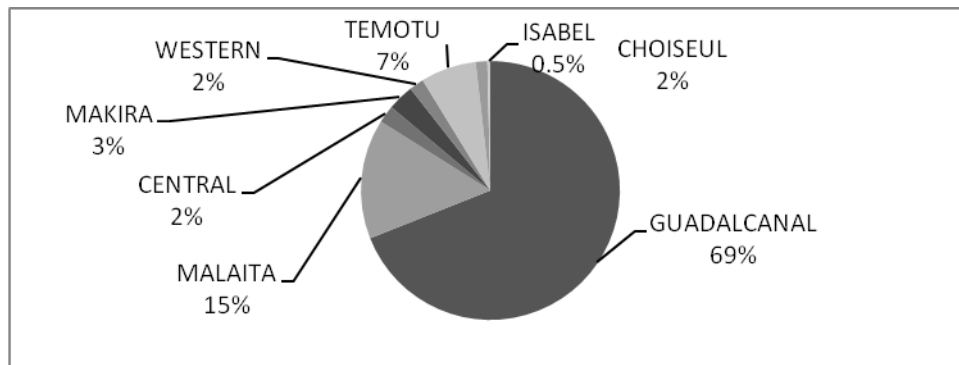
According to the statements received by TRC, during the second stage 57 percent of the families left their homes because they received direct threats and 43 percent left because they felt the situation had become too dangerous for them to stay.

Figure 4.2.6-5
Circumstances of forced displacement 2000



Retaliation of the MEF and Marau Eagle Forces resulted in a considerable increase of forced displacement victims from Guadalcanal during the second stage.

Figure 4.2.6-6
Origin of forced displacement victims, stage 2 (2000)



2.3 Third stage: 2001 - 2003

The third stage of forced displacements was related to the Joint Operation on the Weather Coast starting in 2001 but especially from 2002 until the arrival of RAMSI in July, 2003. This stage represents 12 percent of the total forced displacement cases reported to the TRC.

The pattern was more or less the same as in the previous stages. Joint Operation forces would appear, force people to leave their villages and then set fire to the houses, commandeer the livestock such as pigs and chickens, and destroy food gardens close to the villages. These actions cannot be seen in isolation from the main objective of the mission. The emptying and burning of the villages, related to the Government's objective to capture Harold Keke and defeat the GLF, was not random but a deliberate tactic to starve Keke and the GLF of the support he was able to receive from the villages whether by intimidation or commitment.

In this third stage, the pattern followed was complemented by the strategy pursued at Malaheti: several hundreds of victims from different villages on the Weather Coast were compelled to abandon their houses and move to Malaheti. They were from Buabua, Pite and other villages. As the villagers were being rounded up and escorted to Malaheti, they suffered incidents of mistreatment:

Members of the Joint Operation marched us to Malaheti but when we got to Hoivara we could see that our boys were threatened and beaten up. While we were on our way they also harassed us and threatened us and used very bad language on us. They treated us just like animals.

Statement N° 1036

When we got to Hoivara, two members of the Joint Operation pointed guns at one of the chiefs, another boy and myself, one was a PG and one was an SLAR. They asked to put down whatever we had at that time in the river. So the chief put down his kettle and basket into the river and he watched these items going down the river to the sea. One of them came and kicked the chief and butted him with a gun. I was also stopped and sworn at and then I was allowed to go. I was carrying my little child. When we got to Malaheti we were instructed to sit in the sun.

Statement N° 1010

Detaining groups of villagers on the Weather Coast at Malaheti was a deliberate forced displacement strategy by the Joint Operation forces with the purpose of depriving Keke and the GLF of any support base, further isolating them. It is the only known instance where one of the parties in the conflict held large numbers of persons under armed guard for a considerable period.

Those who were not held captive in Malaheti, simply survived in the bush as best as they could:

One day when we were not expecting anything to happen then we heard the sound of the patrol boat coming towards our area. Then we heard heavy sounds of gun firing. At the same time we saw another group of the Joint Operation coming down from the bush. We did not know there was a war being fought on us by the Government Joint Operation. The group coming from the bush fired shots at us and told us to leave our village. We did not know what to do, so we ran into the bush without taking anything with us. We left our houses, all our properties and ran into the bush. There were no shelters in the bush, so for the first night we had to sleep in the open or in caves and during the night it was raining. Even when we were in the bush we lived in fear because we could hear a lot of shooting from the patrol boat. We stayed in the bush for about three months. We had gardens in the bush so we managed to harvest our potatoes, taro and cassava gardens. Then our crops in the garden ran out, we did not have time to do any replanting because we were frightened. So we managed to look for wild crops like yams and wild cabbages to last us for the duration while we were in the bush. We did not have extra clothes because we left all our belongings in the village. In our village the young boys formed up a group to look after us. These boys went down to the village and checked what the situation was like; then they came and reported that some of the militants had left and some of our people were arrested and taken to Honiara. We came down to the village after we knew RAMSI came and there was peace in Honiara.

Statement N° 0996

Because there was no shelter, people had to camp out in the open or in caves if they could find them. Many were drenched from frequent rain and it took a few days to build temporary shelters. It was particularly difficult for young children who had to cope as best they could. After a period of time, they returned to villages that had been destroyed and vandalized, and had to begin their lives over again with nothing.

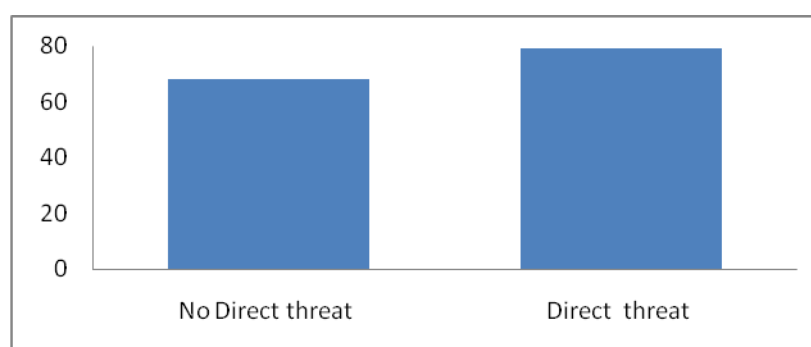
The Joint Operation forces were on one side, Keke and the GLF on the other, and the people of the Weather Coast in the middle. They had no one to turn to or to help them. When Joint

Operation forces encountered GLF members, fighting broke out. But in most cases, innocent civilians were deliberately involved by both sides in their confrontation. Statements TRC received revealed that GLF also had responsibility the forced displacements during this period, terrorizing villagers with crimes they committed. The GLF forced villagers to abandon their homes and some who feared for their lives fled as far as Ruhu, before moving on to Sughu, Isunavutu and Tangarare.

During this third stage, victims that declared to TRC pointed to the GLF as responsible for 27 percent of the cases of forced displacement, while the Joint Operation forces were responsible for 68 percent of the cases known by TRC that occurred in this stage.

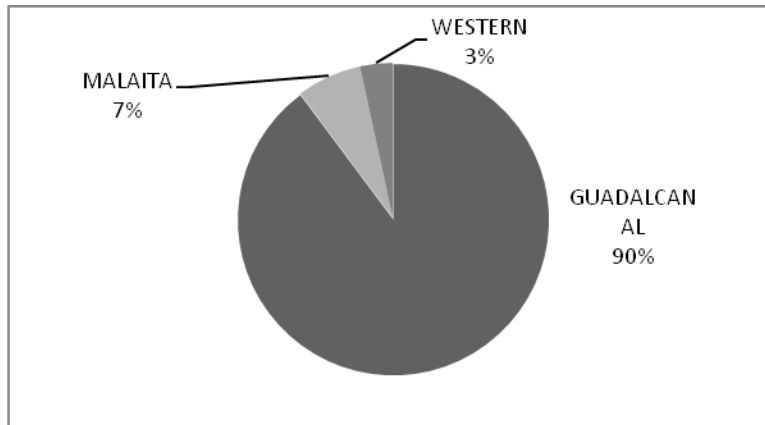
In the third stage of the displacement the majority of the people had to move because they received a direct threat: 54 percent of the statement-givers explained that they left because they were directly threatened and 46 percent said they ran away because of the situation in the other villages.

Figure 4.2.6-7
Circumstances of forced displacement 2001-2003



Ninety percent of the forcibly displaced people in this third stage were from Guadalcanal, seven percent from Malaita and three percent from Western Province; the concentration of Guadalcanal-born victims marks a significant difference from the other two stages of forced displacement.

Figure 4.2.6-8
Origin of victims of forced displacement, stage 3 (2001-2003)

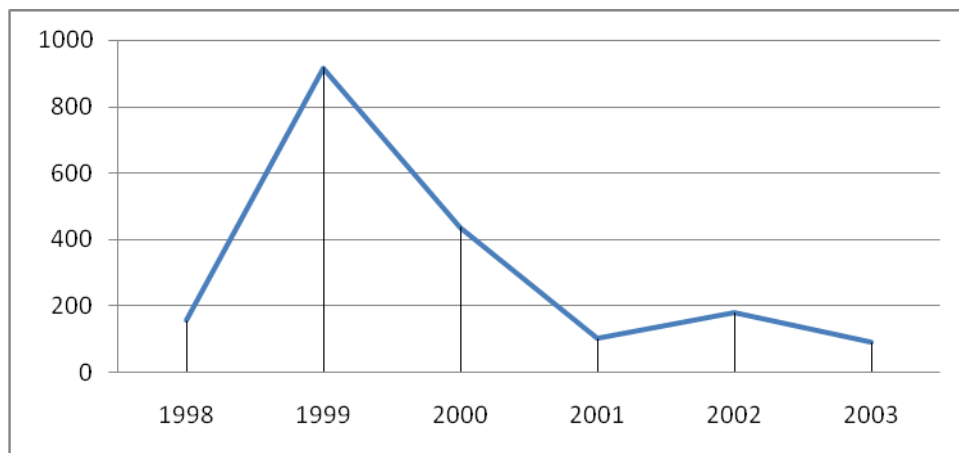


Forced displacement during this period was concentrated on the Weather Coast: 22 percent of the forcibly displaced were from Vatukolau, 18 percent from Talise; 15 percent from Duidui and 14 percent from Wanderer Bay.

3. Dynamic

Figure 4.2.6-9 shows the incidence of forced displacement between January 1998 and July 2003 according to the statements received by TRC:

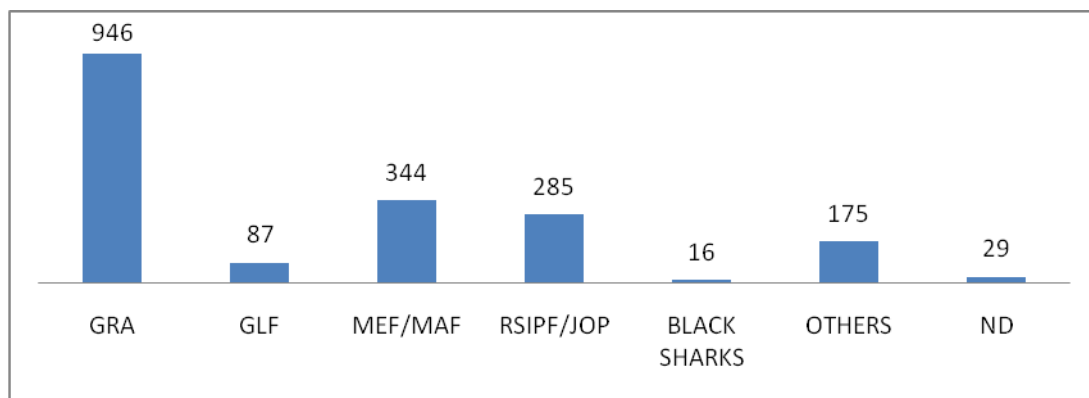
Figure 4.2.6-9
Dynamic of Forced Displacement 1998-2003



5. Responsibilities

The main perpetrator of forced displacement identified in the statements given to the TRC was the Guadalcanal Revolutionary Army/Isatabu Freedom Movement with 50.2 percent (946 cases), followed by the Malaita/Marau Eagle Forces with 18.2 percent (344 cases), the Joint Operation/RSIP with 15.1 percent (285 cases), the Guadalcanal Liberation Front with 4.6 percent (87 cases) and the Black Sharks in the West with 0.8 percent (16 cases). In 10.7 percent of the statements (204 cases) the perpetrators could not be identified (see Figure 4.2.6-10).

Figure 4.2.6-10
Forced displacement 1998-2003: perpetrators



8. Window cases

Case 1

In the year 2000, there were rumors that there was going to be a fight between Guadalcanal and Malaita. When I heard this, I could not believe it, but the militants started to carry out criminal activities. My family decided not to move around too much to avoid running into the militants. The tension was getting worse, so most people from the other villages decided to run away to another village, Obo Obo, but my family still remained at Doe. When we saw that most of the people were leaving their villages, we decided to go, too. I worked at Ross Mining and each day I left my children at our village and went to work. After work I went home and took my children and we went up to Obo Obo, too. All people from the surrounding villages went to Obo Obo to take shelter, not knowing that militants would soon get there.

One day the militants came and started shooting. At that time the Police Field Force officers were deployed at the Ross Mining, so when they heard the shooting they came down and fired back to scare the militants away. Most of the parents of the children were at work at that time. So the PPF officers came in and started shooting in the air, but the militants had already left Obo Obo.

After that incident at Obo Obo we went back to Doe, and after a while the fighting started again so we had to run away to another village, Bemuta. At Bemuta the militants burned down three houses, they also demanded money from us. We had to mind what we said, because if we said something which they did not agree to they would demand compensation from us. I think the militants on the east side demanded too much from their own people; they demanded pigs and money during the tension. We could not say too much because we were frightened. When all the other people left the village only my family remained, so the militants came and demanded that I give some more money and pigs. So we gave them two pigs and two red money and then we left our village and went to another village. When my family got to that village, once more the militants demanded some more money and pigs before we could temporarily stay at the village. After a while when the tension was calmed down, we went back to our village but had to find out that most of our properties were either destroyed or stolen. This was because our house was located near the road and the militants had an easy access to our property.

Statement N° 1323

Case 2

It was a Wednesday morning. Nelly Misiboe was alone with her brothers and sisters at their home in LDA near the Poha River, West Guadalcanal. Her mother was in Malaita and she was to arrive that afternoon so her father left early to wait for her at the Point Cruz wharf. They stayed at home when he elder brother decided to go to town, as he was walking down towards the main road he saw two truckloads of GRA militants; at that time the helicopter was circulating around the area so the militants took no notice of him. Her brother was afraid and so decided not to go to town as he planned and returned to the house. They waited for their parents until it was dark. Their parents did not return that day, during the night they could not sleep they heard gunshots and noises along the road.

In the morning, Nelly woke up and prepared breakfast for her brothers and sisters; she was about to share food for them, when one of the land owner came to their house and told them that they must all leave and go to town, just as he was warning them they heard the militants shouting and were coming straight at their house.

They quickly ran into the house and closed the door; the militants were provoked when they saw them closing the door, they shot at Nelly and her brothers and sisters but the bullet went under the house. It was a terrifying moment and Nelly because of fear and shock urinated on herself the very instant moment. The militants came to their house smashed the louvers and broke the door down; they entered and ordered Nelly and her siblings to go outside of the house.

They were grouped together and as the militants continued to check other houses around the LDA married quarters; after checking they escorted them down the road, pushing, shoving and assaulting them along the way. Nelly was carrying her youngest sister and her sister's weight was weighing them down; at one point because of her sister's weight Nelly wanted to leave her behind. But Nelly's conscience told her not to, but to continue so she struggled to walk all the way.

On the way they could see that trees were cut onto the road, they were instructed to jump over the trees. Nelly's other younger sister at one stage fell when she was attempting to jump over the fallen trees; seeing her fell Nelly cried she then struggled to help her back on her feet. . . . "It was a very heartrending moment in our lives."

Nelly struggled to keep up with her sister's weight until they reach the other side where the Field Force officers were manning. . . . "The distance from LDA to Kakabona was seven kilometers,"

Luke, Nelly's younger brother recalled. "They marched us along the road as if we were prisoners or some kind of a domestic animal that was led to be slaughtered, and they were all around us".

"As we were marched along the main road, they abused us along the way and sexually harassed my sisters by touching their private parts; we were instructed not to look back or will be shot at; it was a very tormenting moment in our life; they cursed us in all unspeakable forms that contradicts our culture, and laughed sarcastically in a state of great enjoyment. They used abusive language and swore at the Prime Minister. I was 13 years of age and understand all the developments that unfolded."

When we reached their bunkers at Kakabona and they told us to walk all the way to where the Field Force officers were standing using abusive language about us towards the Field Force officers.

Our parents could not come through because of the roadblock and were standing on the other end waiting and looking for us; the whole of the time we were looked after by my elder brother and sister; the Field Force officers arranged for a truck to come and pick us up and we were sent to one of the makeshift centers at the Multipurpose Hall.

Nelly and Luke's parents rejoined their children the next day at the Multipurpose Hall. They later went to Malaita and settled there. In Malaita, two years later their father suffered from very grim stress and trauma that he died leaving their mother to take care of the eight children.

Testimony, TRC regional public hearing at Airahu in Malaita

Case 3

We were still asleep when the MEF came and started shooting at our village in Visale, West Guadalcanal. The GRA militants came and woke us up and told us to flee for our lives because the MEF are about to attack us. We ran away into the bush but I forgot my child in the house and I ran away. When I got to the bush I remembered my child and was about to go back for him but luckily the GRA militants brought her to me. When we heard the noise of the guns then we just ran further up the bush. We did not make fire in the bush because we were frightened; later on the GRA militants came and advised that we could cook our meals. After the shooting we did not come to take any of our clothes, we had the same clothes until the next day. The militants came and told us to go back to the village and get some of our belongings. We lived for two weeks and then we decided to come back to the village.

After a week or so the MEF came back and carried out their shooting again. The MEF came and landed close to the clinic but our house was situated close to the Sisters' place. So the MEF started burning down our houses and shooting along the road. When we heard this we ran away and hid at the bottom of a hill. Before we ran away we gathered together because our grandfather was at the point of death. When we ran away and went up the hill then we could see our houses were on fire. When we ran away we went and hid our grandfather in the bush then we ran away up the hill, so after the burning and the MEF left the area we came down to check our grandfather but he was already dead. If we left in the house he could have burnt in the house but we took him and left him under some cassava trees and we ran away up the hill. We did not bury him our grandfather because the militants did not allow us to come down so he was buried by the GRA militants. We asked permission from the militants if we could move to another place so they allowed us and they came and took us and we went to another place and put up temporary houses. We could not settle down at the first site because there was no water close so we had to find to a place where water was easily accessible.

Statement N° 0032

9. Conclusions

- a.** Forced displacement was the human rights violation with the highest number of victims and was committed by all armed groups that were involved in the conflict.
- b.** Victims of forced displacement were civilians who were obliged to leave their homes as a direct effect of the armed conflict; this could occur under direct threat or because they heard what had happened to others and feared for their lives.
- c.** The TRC identified two types of forced displacement. The first type affected families from other islands who were evicted from Guadalcanal by the IFM; most of the victims were settlers and plantation workers from Malaita. The second type of forced displacement affected families who were forced to abandon their homes and live in the bush for long periods of time; here, the overwhelming majority of victims were Guadalcanal people.
- d.** The Commission identified three stages of forced displacement between 1998 and 2003. The first type comprised the time from the beginning of the conflict until the end of 1999 when the Malaita Eagle Force started to retaliate. This was the time that forced displacements reached their peak; the victims were mainly Malaitans and most of the displacements were of the first type. The second stage comprised most of 2000 until the Townsville Peace Agreement; and the third stage corresponded to the Joint Operation on the Weather Coast in 2001 through 2003. The second and third stages affected mostly families from Guadalcanal who were forced to live in the bush.
- e.** Forcibly displaced families usually lost all their properties. They also lost education and business opportunities. Forced displacement was a traumatic experience that affects their lives up to the present.
- f.** Forced displacement did not only affect the displaced families but the whole country, because it had a huge impact on the economy and the social services provided by the state.
- g.** Until the present, no apology or reparation has been offered by the Government to the victims.