

ZIMBABWE HUMAN RIGHTS NGO FORUM

The Aftermath of a Disastrous Venture A Follow-up report on “Operation Murambatsvina”



**A report by the
Zimbabwe Human Rights NGO Forum**

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Executive Summary

This report is a follow up to the previous Zimbabwe Human Rights NGO Forum preliminary report entitled *Order out of Chaos, or Chaos out of Order? A Preliminary Report on Operation "Murambatsvina"* issued in June 2005.

This latest report traces developments that have taken place since our June report and gives an overview of the main consequences of *Operation Murambatsvina* since it commenced on 19 May 2005. It also locates the Operation in the context of events that have happened in Zimbabwe over several years.

The Vice-President announced on 27 July 2005 that *Operation Murambatsvina* was now over, following the receipt of the highly critical report of the UN Special Envoy. This report generally castigated the Zimbabwe Government for a highly inappropriate programme, and made a number of specific recommendations.

The report of the UN Special Envoy was criticised by the Zimbabwe Government on a number of specious grounds, but the report has been corroborated in virtually every respect by local Zimbabwean research. Research conducted in the Greater Harare area by ActionAid International and the Combined Harare Residents Association indicated that 97% of the sample had been affected adversely by *Operation Murambatsvina*, and the report raised significant concerns about a number of vulnerable groups. This research has now been complimented by a national survey.

Whilst the Government's position on further displacements, evictions, and harassment of informal traders remains unclear, there are reports that indicate that such actions have continued after the announcement by the Vice-President of the suspension of *Operation Murambatsvina*. Buildings have been demolished, and arrests of vendors continue unabated.

Significantly, the report of the UN Special Envoy holds the Zimbabwe Government responsible for the humanitarian disaster that has followed *Operation Murambatsvina*, but was unable to apportion any specific responsibility. However, as this present report indicates, the scale of the operation must implicate the Government, a number of Government ministers, Council officials, and the senior management of the Zimbabwe Republic Police [ZRP].

Whilst it is evident that the victims have generally had little opportunity to seek legal redress, and that the Zimbabwe courts have generally been unhelpful, a recent judgement in the Bulawayo High Court has found that the Zimbabwe Republic Police [ZRP] were acting unlawfully in the destruction of property and the confiscation of goods.

It is evident that many of the concerns raised by the UN Special Envoy are being dismissed or minimised by the Zimbabwe Government. As this report indicates, the Zimbabwe Government has a long history of renegeing on international agreements, as was the case around the Abuja Agreement, or failing to respect the recommendations of international treaty bodies, as was the case with the recommendations of the UN Human Rights Committee in 1998.

When it is the subject of adverse reports, the Zimbabwe Government has shown a tendency to vilify and denigrate the authors of such reports, and then resorts to various delaying tactics in order to prevent discussion of such reports. This was most clearly exemplified by the events following the submission of a critical report of a mission of the African Commission on Human and Peoples' Rights. The same trend seems evident in respect of the report of the UN Special Envoy.

Introduction

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This latest report traces developments that have taken place since our June report and gives an overview of the main consequences of *Operation Murambatsvina* since it commenced on 19 May 2005. It also locates the Operation in the context of events that have happened in Zimbabwe over several years.

This Operation continued to take place despite pleas by a whole succession of local and international church bodies and non-governmental organisations for government to halt it. The Operation continued after the arrival, on 27 June 2005, of the Special Envoy sent by the United Nations to investigate what was happening, despite a public announcement at that time that the Operation had ended. It also did not stop after the public release of the highly critical Report of the Special Envoy on 22 July 2005, in which one of the main recommendations was that the Operation should immediately be halted. On 27 July 2005, the Acting President Joyce Mujuru announced at a meeting that *Operation Murambatsvina* was now over.¹ It remains to be seen whether it has indeed ended, as, on the very day that the Acting President made this statement, bulldozers knocked down the Kwekwe offices of the main opposition party, the MDC, with a large number of police and Council officials looking on.

This new report takes its title from UN Special Envoy's apt description of *Operation Murambatsvina* as "a disastrous venture."

Mention should be at the outset of the blocking by the Zimbabwean Government of another probe into the Operation by the African Union Commission's Representative. In early July 2005, the African Union Commission designated a Special Rapporteur of the African Commission on Human and People's Rights to visit Zimbabwe to investigate the impact of the Operation on its behalf. The Zimbabwean authorities refused to allow him to carry out his investigations, saying that they were too busy dealing with the visit by the UN investigator. They also claimed that the African Union Commission had breached protocol by sending the official without first notifying the Zimbabwean Government. It is quite clear that the main reason why the Government blocked this

¹ As reported in *The Herald* 28 July 2005

investigation was simply because it feared that the AU investigator would give an adverse report.²

Impact of Operation Murambatsvina

In our previous report, the Forum looked at the human impact of *Operation Murambatsvina*, the Operation that commenced on 19 May 2005. That report described the humanitarian disaster that the Operation had created by devastating the lives of large numbers of urban people and rendering completely destitute already poor and highly vulnerable people.

A number of subsequent reports and statements have strongly corroborated what we said in our previous report.

The UN Report

The foremost report is the exhaustive United Nations report. This is a damning indictment of *Operation Murambatsvina*, an operation that the report refers to as “a disastrous venture”. It says that the Operation was carried out in “an indiscriminate and unjustified manner, with indifference to human suffering and, in repeated cases, with disregard to several provisions of national and international legal frameworks.” It says further that the Operation was conducted with little or no warning and involved the “wanton destruction of homes, business premises and vending sites”. The report estimates that some 700 000 people lost their homes or jobs and that a further 2.4 million people have been affected by the countrywide campaign and has precipitated “a humanitarian crisis of immense proportions”. The Secretary-General also declared the Operation to be “a catastrophic injustice” and has endorsed the report of his Special Envoy.

One important aspect of the UN report is the trenchant criticism of the forced relocation of urban people to rural areas. As pointed out in the previous Forum report, it is completely unacceptable to force people who live or work in the urban centres, and who want to continue to stay there, to move to the rural areas. People should have the freedom to decide where they live and work, and no one has the right to compel them to relocate to places that they do not wish to go. In many rural areas, there is no work available, so those relocated there will be left destitute. Many urban

² The African Commission on Human and Peoples Rights undertook a fact finding mission to Zimbabwe in June 2002 on the invitation of the Zimbabwean Government.

dwellers of foreign origin have no right of abode in the rural areas.³ In this regard the UN Special Envoy says at p.63 of her report

“The Government’s policy stating that all Zimbabweans have a rural home, and that all those who have been evicted should return to their rural homes, implies a lack of freedom to choose one’s own residence. This has particularly serious implications for those Zimbabweans of foreign origin who have no rural home. The mission visited Caledonia Camp, which was set up by the Government. The camp manager confirmed that the residents were waiting to be transported back to villages.”

Speaking in Bulawayo during her visit to that city, the UN Special Envoy told Government officials that demolishing slums to force the poor back to the countryside was not a solution to the country’s housing problems. She said that rural repatriation does not work, as, all around the world, people want to come and work in urban centers, and there was no way in which they can be forced to live in the countryside.⁴

Additionally, the Special Envoy pointed out that, prior to *Operation Murambatsvina*, Zimbabwe was not regarded as country in which slums were a problem. According to UN-HABITAT, the percentage of Zimbabweans living in slum-conditions was only 3.4% of the urban population, a figure much lower than even many industrialised countries⁵.

In her conclusion the UN Special Envoy has this to say at p 71:

“ . . .the unplanned and over-zealous manner in which the Operation was carried out has unleashed chaos and untold human suffering. It has created a state of emergency as tens of thousands of families and vulnerable women and children are left in the open without protection from the elements, without access to adequate water and sanitation or health care, and without food security. Such conditions are clearly life-threatening. In human settlements terms, the Operation has rendered over half a million people, previously housed in so-called substandard dwellings, either homeless or living with friends and relatives in overcrowded and health-threatening conditions. In economic terms, the Operation has destroyed and seriously disrupted the livelihoods of millions of people who were coping, however poorly, with the consequences of a prolonged economic crisis.”

We fully agree with this description of the impact of the Operation. In our previous report on the Operation, we expressed similar sentiments.

³ A senior ZANU (PF) MP and deputy minister made the startling assertion in Parliament that displaced urban dwellers should suffer because they are not “indigenous”. This was reported in an article in Business Day on 6 July 2005.

⁴ *Cape Times* 7 July 2005.

⁵ See page 25 of the report of the Special Envoy, as well as Footnote 44, where it is commented:

“UNHABITAT: *Slums of the World: The Face of Urban Poverty in the New Millennium, 2003*. Slums are defined by the United Nations as settlements which are lacking one or more of the following: secure tenure, access to improved water, access to improved sanitation, durability of dwelling, and sufficient space to avoid over-crowding. Most of the Zimbabwean backyard extensions could not be considered or captured by this definition as slums, thus the low figure.”

The ActionAid Report⁶

Another important document that has recently been published is a report on a study carried out into the impact of the Operation in Harare. An international non-governmental, organisation, ActionAid, and the Combined Harare Residents Association [CHRA] conducted this study.⁷ These organisations carried out an extensive survey in 26 out of the 30 high-density areas of Harare, sampling 81 955 people. According to the report, 97% of households sampled said they had been affected by the operation in some way. They have been affected in one or more of these ways: losing accommodation, losing shelter, losing livelihood or by way of children not attending school. 76% of respondent said they had lost shelter; 79% said they had lost income; 45% of households reported losses of property and 22% reported school dropouts (but 45% said they would now have financial problems that would stand in the way of sending their children back to school).

Additionally, some 60% of households sampled claimed they had become food insecure as a result of the Operation and just over 20% of people interviewed alleged that they had observed a deterioration in their loved ones' health as a consequence of the displacements. Furthermore, 40% of the respondents, and 82% of child-headed households, claimed to have been psychologically traumatised by the events⁸.

The ActionAid/CHRA study also pointed out that the disruption of the informal sector went far beyond the population of people who lost their homes, as the study demonstrated that a majority (73%) of urban dwellers were engaged in informal trading prior to *Operation Murambatsvina*. The primary sources of livelihood that have were cited to have been disrupted (73%) as a result of the Operation from the sample include: tuck shop ownership (9%), flea market (11%), fruit and vegetable vending (17%), offering accommodation (18%), cross border trader (6%) and petty trade (5%) such as sale of firewood.

⁶ The ActionAid report has now been updated through a more comprehensive national study. The study confirms and extends the findings of the previous report on Harare. See *A Study on the impact of "OPERATION MURAMBATSVINA/RESTORE ORDER" in Zimbabwe, ActionAid International – Southern Africa Partnership Programme (SAPP-ZIMBABWE) in collaboration with Combined Harare Residents Association (CHRA) and Zimbabwe Peace Project (ZPP), August 2005.*

⁷ *A Study on the Impact of "Operation Murambatsvina/Restore Order" in 26 Wards of Harare High Density Housing Areas* ActionAid International in Collaboration with Combined Harare Residents Association (CHRA) July 2005. See also Appendix B for the Executive Summary of this report.

⁸ Previous work in Zimbabwe with former commercial farm-workers who were internally displaced has shown similar rates of psychological disturbance. A report from the Amani Trust showed a point-prevalence rate for clinically significant psychological disorder of about 80% in the sample seen. Here see AMANI *Preliminary Report of a Survey on Internally Displaced Persons from Commercial Farms in Zimbabwe* (Harare, Zimbabwe 2002)

The humanitarian programme manager for ActionAid pointed out

“The bulk of those affected by this operation are invisible and have had to resort to various coping mechanisms. Those without shelter have had to find support from relatives who are already living in congested accommodation. Many of those who lost their livelihoods depend on well-wishers for cash or other entitlements, since most don't have any money at all to buy food.”⁹

Statement of Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons

The Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, Professor Walter Kälin has issued a statement on Operation Murambatsvina¹⁰ in which he said this:

"The Zimbabwean Government's action is incompatible with international law in many respects. The UN's Guiding Principles on Internal Displacement set forth the rights of internally displaced persons under international law and the obligations of States. These Principles are based upon and reflect human rights obligations also accepted by Zimbabwe. They protect against arbitrary displacement in the first place and require due process, adequate notice, appropriate relocation and minimisation of adverse effects. They also require appropriate provision of the necessities of life to displaced persons, protection of their property, as well as offer voluntary choices to displaced persons as to where they will return. On each and every of these points, the Government of Zimbabwe has fallen far short of its obligations".

Responsibility for Operation

In her report, the UN Special Envoy correctly observes that the “Government of Zimbabwe is collectively responsible for what has happened”. The campaign was carried out in the name of the Government, and at no stage did the Government dissociate itself from the campaign, or try to put a stop to it. On the contrary, various the State President and various Government Ministers, as well as ruling party Members of Parliament¹¹, vigorously supported the programme and advanced justifications for it. The Special Envoy, however, points out that there was apparently no collective government decision to undertake this Operation.

She observes at p 76:

⁹ IRIN report 25 July 2005

¹⁰ The full text of this statement is reproduced in Appendix A to this report.

¹¹ A motion in Parliament to condemn the Operation failed because ruling party MPs voted against it.

“Oral evidence heard from senior Government officials, including Ministers, as well as subsequent reports in the local press and discussions in the Parliament of Zimbabwe, suggest that Operation Restore Order was neither conceived collectively in the Cabinet, nor in the ruling party’s (ZANU PF) Politburo and Central Committee. It also appears that there is now a division in Zimbabwe’s political leadership over Operation Restore Order, and that some of the leaders were caught by surprise when it was suddenly initiated as a police and military exercise. While the team was in Zimbabwe, one political leader, Mr. Pearson Mbalekwa, resigned in protest at the Operation from both the Parliament of Zimbabwe and ZANU-PF’s Central Committee. Some senior ZANU-PF politicians were also reported to have expressed directly to President Mugabe their concern and objections to the manner in which the clean-up of cities was being conducted. It has also been reported in the press that the Minister of Local Government had written to the Minister of Home Affairs, under whose portfolio the Zimbabwe Republic Police falls, urging him to stop demolishing houses belonging to several cooperatives that had been established with the blessing of the Ministry of Local Government, and were, therefore, ‘legal’.”

The State President has claimed that the clean-up Operation was planned before the March 2005 elections, but was put on hold until after the election to avoid any impression being created that the Government was clamping down on urban opposition supporters ahead of the elections. However, a former Cabinet Minister, who is now an independent Member of Parliament, maintains that this matter was never discussed at Cabinet or by other party organs before the election. The campaign was certainly not in any way budgeted for prior to it being undertaken; the Minister of Finance has had to include as a supplementary budget item the announced expenditure on the huge building campaign that is supposed to follow up on *Operation Murambatsvina*.

The UN Special Envoy also says that the people and Government of Zimbabwe should hold to account those responsible for the injury caused by the Operation.

Exactly who conceived *Operation Murambatsvina* still remains unclear. As stated in our previous report, there must have been considerable planning and preparation for such a massive country-wide campaign conducted by the police, and the police must have been given authority by the government, or by Government Ministers, to carry it out.

The State President must either have been involved in the planning the overall nature of the campaign, or must have at least been informed about the plan and gave his approval. (As indicated above the President says the campaign had been conceived - presumably with his approval – prior to the March 2005 election.)

The UN Special Envoy suggests the campaign “was based on improper advice by a few architects of the operation.” The Special Envoy expresses her firm opinion *that* “*Operation*

Restore Order” was, in all likelihood, implemented on the basis of improper advice and by over-zealous officials, each with their own agendas.” She notes that, just before the campaign commenced, the Governor of the Reserve Bank gave a speech saying that there was a “need to cleanse the individual rot on the streets of the nation and the need to destroy the shadow forces in the economy.” In Harare, the Chairperson of the Harare Commission (the body appointed by the Minister of Local Government to replace the sacked City Council) gave a speech announcing the start of the clean-up campaign, and describing in some detail the far-reaching nature of this campaign.

Apart from these two officials, the question must be asked who else bears responsibility for this calamitous campaign? Most mayors of urban councils, such as Bulawayo, Gweru and Mutare, have disowned or distanced themselves from the campaign. Apart from Harare, the only other head of a council who says he supported the campaign, and authorized the police action, was the mayor of Bindura.

Clearly, the Ministry in charge of the Police, the Ministry of Home Affairs, must have been involved, probably influenced by the Governor of the Reserve Bank. The police fanatically implemented the Operation. The Commissioner of Police and various police spokesmen enthusiastically endorsed the campaign, and provided various justifications for it as it expanded to cover more and more areas, and more and more supposedly illegal activities, such as offices located in urban areas. The police apparently took the campaign too far, as their action to deal with settlements on farms occupied during the land invasions and with urban produce producers was overruled.

Two particularly zealous proponents of the Operation were the Chairperson of the Harare Commission and one of the City Council administrators.

Whoever are the prime movers of this disastrous campaign, what is clear that the head of State and the Government bear overall responsibility for this campaign, as well as all individuals who are proven to be the actual architects of the campaign¹².

¹² The fact-finding mission of the African Commission on Human and Peoples’ Rights voiced similar comments about government responsibility in 2002. They commented in respect of events up to 2002:

“What we are prepared and able to rule, is that the Government cannot wash its hands from responsibility for all these happenings. It is evident that a highly charged atmosphere has been prevailing, many land activists undertook their illegal actions in the expectation that government was understanding and that police would not act against them – many of them, the War Veterans, purported to act as party veterans and activists. Some of the political leaders denounced the opposition activists and expressed understanding for some of the actions of ZANU (PF) loyalists. Government did not act soon enough and firmly enough against those guilty of gross criminal acts. By its statements and political rhetoric, and by its failure at critical moments to uphold the rule of law, the government failed to chart a path that signalled a commitment to the rule of law.”

Developments since previous Zimbabwe NGO Forum Report

This section describes some of the significant events that have occurred since our preliminary report was issued.

Porta Farm

Porta Farm, which is outside Harare, became a transit camp in when the Government decided to clear away hundreds of poor urban squatters from various locations in Harare ahead of the Commonwealth Summit in Harare, so that Queen Elizabeth would not have to see squalor as she went through Harare. This was another *Operation Murambatsvina*. The Government later pledged to provide proper housing for the people at Porta Farm, but this promise was never honoured.

The transit camp remained and grew, and Porta Farm became an established settlement as many people transformed plastic shelters into small brick houses. Over the years, Porta Farm evolved into a stable community with clinics, primary and secondary schools, pre-schools, and an orphanage. The numbers at Porta Farm increased to about 5 000 in 1993 when some of those evicted, contrary to a court order, from Churu farm settled at Porta Farm. By 2005, the population at Porta Farm had increased to about 12 000 people.

Several times in the past the authorities have tried to move the squatters from Porta Farm. In 1991, the Harare City Council threatened to remove the residents. The residents then obtained a provisional High Court interdict prohibiting the Council from evicting them until it had found alternative accommodation with the necessary basic services for them.¹³

In 1995, the Harare City Council again tried to evict the residents. Another High Court provisional order was obtained preventing the demolishing of houses and eviction of the residents.¹⁴

In August 2004, the Ministry of Local Government then attempted to evict the residents. A High Court order was obtained against the Ministry to prevent the eviction.¹⁵

¹³ High Court 3177 of 1991.

¹⁴ *Kuronga and 39 others at Porta Farm v Harare City Council* HH-4233 of 1995.

¹⁵ *Chiyuku v Minister of Local Government* HH-10671 of 2004.

In September 2004, the Harare City Council brought an application for an order to evict the people at Porta Farm. The court refused to grant the order, saying the 1995 High Court order had not been discharged and was still operative.¹⁶

At 6.00 am, on the morning of 27 June 2005, the police distributed flyers informing the residents that they would be moved to Caledonia farm the following day, so they should pack their belongings. The next morning demolitions of shacks and houses started, an hour after lawyers representing residents had served the Government with a letter reminding it of the November 2004 court order. The police were shown copies of the 1995 and 2004 orders, but they ignored them. The residents reported that the police responded by saying that "they were not in a classroom and that they could not read, and that they were not going to obey any court orders as they are acting on orders from above". After the evictions started, an interdict was obtained from the Norton Magistrates Court to try to stop the evictions.¹⁷ This interdict was also ignored.

It is alleged that that three, or possibly four, people died at the Porta Farm as a result of the evictions. A pregnant woman allegedly died when she fell from a truck on which she was being taken away, a five-year-old boy was allegedly run over by a truck, and a terminally ill woman allegedly died when being bundled into a moving truck.¹⁸

After the police had acted in violation of the court orders, the lawyers for the residents sought to obtain an order holding the police and the City Council Commission and the Ministry of Local Government in contempt. Without giving any reasons, the judge refused to grant this order.¹⁹ It is difficult to see on what possible basis the contempt order was refused.

On 29 June 2005, the UN Special Envoy's team visited Porta Farm, and witnessed the demolitions and the transportation of residents to Caledonia Farm. The mission said it was shocked by the brutality it witnessed. The next day, the Special Envoy visited Porta farm again, and saw what she described as a serious humanitarian crisis with around 1000 evictees sleeping out in the open.

Many of the evicted people had nowhere else to live, so they started to return to Porta Farm, and a large number of people were living among the ruins of their demolished houses. However, on the morning of 23 July 2005, the police returned to Porta Farm. The ruins of the houses were

¹⁶ High Court 11041 of 2004.

¹⁷ Norton Magistrates Court Case no 376 of 2005.

¹⁸ Report by Zimbabwe Peace Project 1 July 2005. See also *Zimonline* 8 July 2005. See also the appeal of the Zimbabwe Association of Doctors for Human Rights to other medical associations relating to Operation Murambatsvina.

¹⁹ *Chinyuku v Minister of Local Government, Minister of Home Affairs, Commissioner of Police and Chairperson, Harare Commission* HH-3225-2005.

bulldozed to ensure that they could not provide any remaining shelter for the people. The police told the people that they had to leave the farm by that evening, informing them that they would be back with police dogs to ensure that they had all left. One 65-year man told the press that “They broke our houses, and we ran away, but we came back because we have nowhere else to go. I have been here since I was a child. I have no rural home. I am looking after five grandchildren here because my daughter died. I have no rural home, I want to fix the house they destroyed and live here. Help us please.”²⁰

Displaced persons in Bulawayo

A series of episodes during July in Bulawayo, graphically illustrate the extreme callousness of the police in relation to displaced persons.

Various churches were giving shelter and food to several hundred people whose homes had been destroyed. The police then descended on the churches at dawn, forcibly removed many of the people, and took them to a holding camp on a farm outside Bulawayo, called Helensvale. This place had almost no facilities. Barely twenty-four hours after they had been taken to this camp, the police came to the holding camp, forcibly removed the inhabitants, and dumped them in various rural areas. Some street kids previously housed at a church were taken and dumped some 20 kilometres outside Bulawayo. The police must have been under orders to clear the holding camp without delay. Little or no consideration was given to the welfare of these destitute people rendered homeless just a few weeks ago, or to their chances of finding shelter, food, water or other amenities in the famine stricken areas where they were dumped.

One of the people dumped in the rural area said he had no family in the area where he was deposited, nor did he have any prospect of finding accommodation or employment there. It is likely that the same applied to many of the other people affected. A human rights activist said, “People have been told that if they don’t provide the name of a rural area to which they can go, they will be imprisoned. People born outside Zimbabwe are told that they will be sent to a farm in the Mashonaland province and will never be allowed to leave it. Or they are told they will be dropped in the Zambezi River.”²¹

Back to the beginning in Hatcliffe Extension

²⁰ *Sunday Independent* (SA) 24 July 2005.

²¹ Sources for the details on this case include Zimonline and Sokwanele.

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The large settlement at Hatcliffe Extension in Harare was targeted as part of *Operation Murambatsvina*. Houses and other shelters were destroyed. In a quite remarkable development, the Government then turned around and decided that Hatcliffe Extension would be transformed into a new housing project. It then allocated the stands to most of the same people whose dwellings it had previously destroyed and then evicted!²² . It invited the stand holders to build on the stands, and told them that they would be permitted to build temporary structures in the meantime. The Government provided only asbestos sheets to build shacks. So the people affected have come full circle. Those who had temporary dwellings at Hatcliffe are now being permitted to construct temporary dwellings. Those who had more substantial brick buildings now have to start from scratch with temporary structures.

After the closing of the holding camp at Caledonia Farm in July, many of the families have now moved back to their former stands at Hatcliffe Extension. However, some of the people at Caledonia have been taken by trucks and dumped in various rural areas.

Bulldozing of MDC offices in Kwekwe

On 27 July 2005, the Kwekwe offices of the main opposition party, the MDC, which are located in this Midlands town, were destroyed by bulldozers under the watchful eye of more than 50 heavily armed policemen accompanied by Kwekwe council officials. The building was purchased five years ago by the party and was being used as the party offices for Midlands Province.²³

Suspension of the Mutare mayor

When the UN Special Envoy visited Mutare, she was taken to a camp where displaced people were living under very poor conditions. The Provincial Governor, who is a member of ZANU PF, allegedly tried to prevail upon the Mutare mayor, who is a member of the MDC, to delay the Special Envoy's visit to this camp until people had been removed from the camp, and the camp had been cleaned up. The mayor did not follow these instructions, but instead took the Special Envoy to the camp so that she could see for herself the deplorable conditions under which the displaced persons were living.

Subsequently, this mayor and three other council officials were suspended for alleged "financial indiscipline", allegations that they flatly deny. The MDC has issued a statement alleging that

²² A list appeared in the *Herald* carrying giving details of those who had been allocated stands. See the Herald 20 July 2005.

²³ Report from the MDC Secretary for Information and Publicity 27 July 2005.
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these suspensions are blatant retribution for the action of the mayor in revealing to the Special Envoy the bad conditions at the holding camp.²⁴

Discrimination in the allocation of new housing

Vice President Msika has declared that Government would build houses for whoever needed them, and would not discriminate in the allocation of housing on the basis of party political affiliation. However, there have already been reports that members of the main opposition party are being discriminated against. In one report from Bulawayo, it is alleged that the non-Constituency Member of Parliament representing ZANU PF has been tasked with compiling the list of beneficiaries for the Bulawayo area, and that the list he had drawn up was full of ZANU PF supporters and excluded MDC supporters.²⁵

Continued arrests of vendors

Contrary to the Government abiding by the recommendations of the UN Special Envoy, and the Government's own statement that *Operation Murambatsvina* has ceased, the ZRP continue to arrest vendors. A recent newspaper report indicated that the ZRP are arresting more than 200 people daily. Quoting police spokesperson, Edmore Veterai, the report stated that "teams of police were patrolling the streets of Harare, and are scoring successes against criminals". It is clear that desperate citizens are being forced back into informal trade in order to survive, but the state continues to criminalise these people.²⁶

The failure of the courts to dispense justice

Resort was had to the courts to try to prevent or stop the various forms of illegal action being perpetrated in the name of *Operation Murambatsvina*. Regrettably, apart from in one case in Goromonzi, the courts have conspicuously failed the litigants. One particularly glaring example of this failure is the High Court decision in the case brought by members of a housing co-operative in Harare. This case was referred to in our previous report. Essentially, although the judge says that the forced displacements caused untold suffering, and that the hardships could have been avoided by giving the people affected adequate notice to relocate, remarkably he found that the

²⁴ Statement from the MDC Secretary for Information 23 June 2005.

²⁵ SW Radio Africa 22 July 2005

²⁶ See the Mail & Guardian, "Zimbabwe police arresting 200 daily", 8 August 2005.
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evictions were lawful. This was despite the fact that the evictions had taken place well before the notice period actually given to the people had expired!

Although, in the Porta Farm case, the evictions had taken place in defiance of court orders, the High Court again failed the litigants by failing to hold the police and others involved in contempt. In a Bulawayo case, a judge due to hear a legal challenge to the evictions ducked the case, saying he was unable to hear it due to pressure of other work. Such cases lead to a lack of confidence that the court will dispense justice. They are also symptomatic of a breakdown of the rule of law in Zimbabwe. The UN Special Envoy comments on this matter in these terms at p 62:

“There is general concern that the High Court’s failure to safeguard the right of the victims of the Operation reaffirms the argument that the Zimbabwean Judiciary has generally failed to act and been seen to act as custodians of human rights in Zimbabwe and that there has been a regrettable failure by members of the Bench to remain independent from the national and local politics of the day. The general view among many stakeholders is that this has had a severe impact on the rule of law and the administration of justice, and has caused the ordinary person on the street to lose faith in achieving justice through legal channels.”

By contrast with the Zimbabwe courts, the South African courts have taken a position under the South African Constitution that protects the poor against arbitrary eviction. In a recent case, the Constitutional Court of South Africa ruled against the Port Elizabeth Municipality evicting 68 families who were squatting on private land²⁷. In a unanimous judgment, Justice Sachs emphasised the importance of interpreting and applying the above provisions in the light of historically created landlessness in South Africa. He stressed the need for dealing with homelessness in a sensitive and orderly manner, and the special role of the courts in managing complex and socially stressful situations. Municipalities must show equal accountability to occupiers and land owners. Ordinarily, justice and equity would require that all reasonable steps be taken to procure a mediated solution before an eviction order is made.

As Justice Sachs commented:

“It is not only the dignity of the poor that is assailed when homeless people are driven from pillar to post in a desperate quest for a place where they and their families can rest their heads. Our society as a whole is demeaned when state action intensifies rather than mitigates their marginalization. The integrity of the rights based vision of the Constitution is punctured when governmental action augments rather than reduces denial of the claims of the desperately poor to the

²⁷ See in the Constitutional Court of South Africa , Port Elizabeth Municipality v Various Occupiers CCT 53/03, Decided on 1 October 2004.

basic elements of a decent existence. Hence the need for special judicial control of a process that is both socially stressful and potentially conflictual"²⁸.

Here, it is also relevant to point out the recommendations of the Committee on the Economic, Social and Cultural Covenant of the UN²⁹.

The Committee points out that, even when evictions are unavoidable, there should be certain procedural guarantees, as follows:

- Opportunity must be given for genuine consultation with those affected;
- Adequate and reasonable notice to all affected persons must be given prior to the scheduled date of eviction;
- Evictions should not take place in particularly bad weather or at night, unless the effected persons consent otherwise;
- Provision of legal remedies;
- Provision where possible of legal aid to persons who are in need of it to seek redress from the courts, including adequate compensation for property affected;
- Evictions should not result in individuals being rendered homeless or vulnerable to violations of other human rights. Where those affected are unable to provide for themselves, the state must take all appropriate measures, to the maximum of its resources, to ensure that adequate housing, re-settlement, or access to productive land, as the case may be, is available.

In the case of *Operation Murambatsvina*, it would appear that the Zimbabwe Government has violated each and every one of these recommendations.

However, in a recent development, saving the face of the judiciary, Justice Cheda of the Bulawayo High Court ruled that the conduct of the ZRP in destroying shacks and buildings, and in confiscating goods from vendors, was unlawful.

"This conduct on the part of the police was unlawful. Police are empowered to enforce the law but can only do so within the confines of the law and not outside it. The indiscriminate and wanton destruction as described by applicant and not denied by first and second respondents cannot be allowed."³⁰

Rebuilding after destroying

At the end of June, the Government announced the end of *Operation Murambatsvina* and the launch of the Z\$3 trillion *Operation Garikai/Hlalani Kuhle* ('Stay well').

²⁸ See again, Justice Albie Sachs, in the Constitutional Court of South Africa, *Port Elizabeth v. Various Occupiers* (CCT 53/03).

²⁹ See General Comment No. 7 of 1997 of the Committee on the Economic, Social and Cultural Covenant of the UN.

³⁰ See Zimbabwe Independent, 'Police blitz unlawful', 13 August 2005.

A number of things need to be said about this new programme.

Firstly, international law provides that people should not be evicted from their homes until alternative accommodation is made available for them. In Zimbabwe, large numbers of homes were destroyed when no such alternative accommodation had been provided. Some displaced persons were taken to holding camps such as Caledonia and Helensvale, where there were almost no facilities and the conditions were deplorable. Many others had to sleep out in the open in freezing weather, and many more were simply dumped in rural areas, with no regard being paid to their welfare.

Secondly, *Operation Garikai* was apparently not conceived prior to the commencement of *Operation Murambatsvina*. No budget had been provided for *Operation Garikai* and frantic efforts had to be found to find some money to commence this Operation. It appears to have been hastily formulated as an afterthought in order to give the impression that, right from the start, there had been a “noble” objective to ensure that people no longer would live in squalor, but instead they would have decent accommodation. If this indeed had been the objective right from the beginning, surely houses would have been built first before demolishing the only shelter that people had. It is totally insensitive to render people homeless and then promise to give them decent accommodation at some indefinite time in the future.

Finally, there is considerable scepticism as to whether the huge sums of money will be found to build all the houses necessary to replace the destroyed dwellings of people. With an estimated domestic debt of Z\$12 trillion, and this debt rising at the rate of, conservatively, Z\$1 trillion a month³¹, it is extremely unlikely that the Zimbabwe government will be able to finance re-building on the scale that they claim is needed, never mind the scale that is estimated to be the actual need in the wake of *Operation Murambatsvina*. In any event, the whole idea of embarking upon such an expensive venture at a point in time when the economy is in dire straits³² is highly questionable. By comparison with many other countries, the size of the problem of urban slums in Zimbabwe was relatively small and certainly did not justify the brutal *Operation Murambatsvina* campaign.

Context of Operation

The designation of the campaign as “*Operation Murambatsvina*” is very revealing.

³¹ This is an estimate from the economics department of the Zimbabwe Congress of Trade Unions [ZCTU].

³² A World Bank director recently said that Zimbabwe’s rapid economic decline over the past six years is likely unprecedented for a country not at war. He attributed the deterioration to poor government policies.
Zimbabwe Human Rights NGO Forum: The Aftermath of a Disastrous Venture
A Follow up report on “Operation Murambatsvina”.

Firstly, the use of the term “operation” is apposite, given the fact that the campaign was carried out in military fashion. The police were armed with firearms and riot-control equipment. They used heavy-handed tactics, on occasion using teargas, assaulting, threatening to assault people, or threatening to use police dogs against them. “*Murambatsvina*” means to clean up or sweep away dirt or filth, but it was people and their livelihoods that were swept away. The people against whom these brutal tactics were employed were unarmed civilians, amongst whom there were men, women, children, babies, elderly people, and sick people.

Far from the people feeling a sense of “joy”³³ because, at some indefinite time in the future, they might be provided with decent accommodation, they were miserable as a result of being rendered homeless and jobless.

As the UN Special Envoy comments at p.31, “Politically, the Operation has exacerbated an already tense and polarized climate characterized by mistrust and fear.” Whilst this is entirely correct, it needs to be emphasised that *Operation Murambatsvina* is not an isolated event when viewed in the context of the events that have occurred in Zimbabwe since 1980. This is by no means the first time that large-scale military style campaigns have taken place. There have been a series of *Murambatsvina*-like events in the past.

Since it came to power in 1980, the ruling party has been in an almost perpetual revolutionary mode, and has been constantly “at war” with one sector of the Zimbabwean community or another. Targets have included the people of Matabeleland, political opponents, the intelligentsia, the independent press, white farmers, farm workers, and the urban poor.

It has embarked on many radical actions with little consideration as to the drastic adverse consequences of these actions. These actions have resulted in many human rights abuses and great suffering. In the nineteen eighties, the people of Matabeleland were subjected to the infamous Gukuruhundi campaign, where several thousand people were massacred by the National Army and innumerable people were injured or tortured³⁴. In the late nineteen nineties, there were widespread human rights abuses during and after the occurrence of food riots³⁵. From 2000 onwards, the Government orchestrated massive-scale land invasions that ultimately resulted not only in the displacement of most white commercial farmers, but also in the violent ejection from the farms of many thousands of farm workers.³⁶ The entire land reform programme

³³ President Mugabe is quoted as having said the people had joy that they would be provided with decent accommodation.

³⁴ See Catholic Commission for Justice and Peace/ Legal Resources Foundation *Breaking the Silence. Building True Peace: A Report on the Disturbances in Matabeleland and the Midlands, 1980 to 1988* (Harare, Zimbabwe, 1997)

³⁵ See Zimbabwe Human Rights NGO Forum *A Consolidated Report on the Food Riots, 19-23 January 1998, Report compiled by the Amani Trust on behalf of the Zimbabwe Human Rights NGO Forum* (Harare, Zimbabwe, 1999)

³⁶ It is estimated that up to 400 000 farm workers were displaced.

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took place without adequate planning and has severely undermined the entire commercial farming sector.

Thus, it is clear that *Operation Murambatsvina* is merely one of a series of serious violations of human rights that have taken place under the ZANU PF Government of Robert Mugabe. Since 1998, the Forum has made continuous representation to the Zimbabwe Government, as well as international bodies, but these representations have been wholly disregarded. Furthermore, as will be seen below, the Zimbabwe Government has also paid scant regard to even international bodies.

The Zimbabwe Government's adherence to international standards

Below we detail briefly a number of instances in which the Zimbabwe Government has allegedly been in breach of international agreements, and ignored the recommendations of international bodies.

The Commonwealth

The engagement by the Commonwealth on the crisis in Zimbabwe should leave no one in any doubt that the Zimbabwe Government does not take its obligations to international agreements seriously. Following the land invasions and a disputed Parliamentary election in 2000, the Commonwealth attempted to resolve the crisis, mainly by focusing on the land problem. This led to a high-level meeting of various Commonwealth government ministers in Abuja, Nigeria, in 2001. The ***Abuja Agreement*** was reached in Nigeria on 8 September 2001. This Agreement seemed to mark a significant development in addressing the crisis in Zimbabwe. President Robert Mugabe agreed to its terms and the ZANU (PF) Politburo accepted it in principle. The Zimbabwean Government, however, made no clear public statement indicating its complete acceptance of the Agreement.

The Abuja Agreement committed the Zimbabwe Government to do the following:

- To "take firm action against violence and intimidation";
- To comply with the standards contained in the Harare Declaration and the Millbrook Commonwealth Action Programme;
- To observe human rights, the rule of law, transparency and democratic principles;
- To take a series of confidence-building measures that will lead to immediate and observable changes in the domestic situation.

After the signing of the Abuja Agreement, there was immediate doubt as to whether the Zimbabwe Government was sincere in its commitment to take various measures to build confidence amongst all sectors of Zimbabwean society. When a delegation of SADC Presidents arrived on a follow - up mission, the Government of Zimbabwe prevented several important civil society groupings from meeting with and giving testimony to the SADC Presidents. Even more worrying was the statement reportedly made by Zimbabwe's Information Minister on 25 September that there was no condition in the Abuja Agreement requiring the Government to put a stop to violence on farms³⁷.

A subsequent Forum report – *Complying with the Abuja Agreement: Two Months Report* - examined the Zimbabwe Government's compliance with the Abuja Agreement two months on³⁸.

As indicated in this second report, there was no credible evidence that the violence had ceased, either on the commercial farms, or in the country generally. The evidence also indicated that there was no significant reduction in the perpetration of gross human rights generally. As regards credible attempts by the Government to adhere to principles of democracy, transparency and human rights, the evidence suggested rather that the Government was taking steps inimical to such principles agreed at Abuja. Thus, the Forum concluded that only conclusion that could be drawn was that the Zimbabwe Government had no serious intention to adhere to the Abuja Agreement in any of its aspects. The actions of the Government suggested that it intended to hold elections against a background of organized violence and torture and, furthermore, to hold elections within a framework that was inimical to common standards for free and fair elections.

The final phase of the process around the Commonwealth and the Zimbabwe Government's adherence to the Harare Declaration ended with the Zimbabwe Government resigning from the Commonwealth in 2003³⁹. Over this three-year period, the Zimbabwe Government showed no sign ever of adhering to the agreement to which it had voluntarily signed in 2001, and indeed all the evidence demonstrated that it had violated virtually every term of the Abuja Agreement. Its final step was to withdraw from the Commonwealth when it became apparent that it would be suspended.

³⁷ See Zimbabwe Human Rights NGO Forum *Evaluating the Abuja Agreement* (Harare Zimbabwe 2001).

³⁸ See *Zimbabwe Human Rights NGO Forum Evaluating the Abuja Agreement: Two Months Report* (Harare Zimbabwe 2001).

³⁹ The Human Rights Forum concluded in its final report on the Abuja Agreement, submitted prior to the Commonwealth Heads of Government Meeting in 2003 that: "The majority of evidence seems to indicate that the Zimbabwe Government has failed to abide by Commonwealth Principles enshrined in the Harare Declaration, the Millbrook Commonwealth Action Programme on the Harare Declaration, the Abuja Agreement itself and subsequent communiqués in the form of the Marlborough House Statement on Zimbabwe and the Zimbabwe Mid-Term Review Statement". Here see Zimbabwe Human Rights NGO Forum *Zimbabwe, the Abuja Agreement and Commonwealth Principles: Compliance or Disregard? 8 September 2003*, (Harare Zimbabwe 2003)

Zimbabwe Human Rights NGO Forum: *The Aftermath of a Disastrous Venture*
A Follow up report on "Operation Murambatsvina".

Conformity with UN Standards

It is not only in respect of the Commonwealth that it can be seen that the Zimbabwe Government fails to take its international obligations seriously; the Government has also disregarded the UN itself.

The first example relates to the Food Riots in 1998, the first serious disturbance in Zimbabwe for more than a decade. Sparked by the wide dissatisfaction at rapid increases in prices, citizens across Zimbabwe erupted in protests, provoking a violent response from the State. The human rights NGOs in Harare swung into action, following the many reports of human rights violations, and the Zimbabwe Human Rights NGO Forum (The Forum) was formed. This group, a loose alliance of NGOs, provided assistance to detainees, persons complaining of human rights violations and ill-treatment, and produced a report on the riots — *Human Rights in Troubled Times: An Initial Report on Human Rights Abuses During and After Food Riots in January 1998*⁴⁰ — which was forwarded to the President and Parliament in support of the request for an the setting up independent commission of inquiry to investigate these events.

There was no response from either the President or parliamentarians, and thus the Human Rights Forum took the step of lobbying the UN Human Rights Committee at its meeting to consider the implementation by Zimbabwe of the International Covenant on Civil and Political Rights. When the Committee produced its final report in September 1998, it made a strong statement endorsing the call by the Forum for an independent commission of inquiry. The UN Committee made two specific recommendations in respect of the Food Riots:

16. The Committee expresses its concern over recent reports of excessive use of force by the police and the army during food riots in 1998. The Committee urges that all cases of alleged excessive use of force committed by members of the police or the army be investigated by an independent and impartial body, that action be taken against those officers found to have committed abuses and that compensation be paid to the victims; the State party should report to the Committee thereon. Intensive training and education programmes in the field of human rights for members of the army and law enforcement officials are recommended. The Committee urges that the list of situations in which the use of lethal force is allowed under domestic law be reduced.

30. The Committee requests the State party to ensure the wide dissemination in Zimbabwe of the Covenant, the State party report and the Committee's concluding observations.

⁴⁰ See Zimbabwe Human Rights NGO Forum, *A Consolidated Report on the Food Riots 19—23 January 1998*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

When there was no response from the Zimbabwe Government, the Forum issued a second and more comprehensive report, calling on the Government to adhere to the recommendations on the UN Human Rights Committee. Again there was no substantive response from the Government, and the Forum was forced to undertake civil litigation on behalf of the victims. The courts upheld the claims of the plaintiffs in most cases, but, as far as the Forum has been able to establish, no disciplinary action has been taken against any of the perpetrators and no offender has been prosecuted. Thus, the recommendations of the Human Rights Committee were wholly ignored.

The Zimbabwe Government has also wholly ignored the recommendations of the United Nations in respect of Chief Inspector Henry Dowa. Chief Inspector Dowa was alleged to have been involved in torture in the course of his duties in the Law and Order Section of the Zimbabwe Republic Police⁴¹. He was seconded to UNMIK in 2003, and, when this was discovered, the Redress Trust made application to UNMIK for this arrest and prosecution⁴². UNMIK declined to do this, and repatriated Dowa to Zimbabwe, with a request that the Zimbabwe Government undertake an investigation into Dowa and prosecute him if the allegations were substantiated. This has not happened, and there have been subsequent reports of Dowa's involvement in further torture. Once again the Zimbabwe Government has shown contempt for the United Nations and has failed to honour its obligations under the international instruments to which it voluntarily became a party.

Zimbabwe, the African Commission on Human and Peoples' Rights, and the African Union

Zimbabwe was a member of the Organisation of African Unity, and subsequently became a founding member of the African Union in 2002. The African Commission on Human and Peoples' Rights undertook a fact-finding mission to the Republic of Zimbabwe from 24th to 28th June 2002.

The report of the fact-finding mission was subsequently submitted to the African Commission on Human and Peoples' Rights, and thereafter to the African Union. Throughout this process the Zimbabwe Government vehemently denied the findings of the fact-finding mission, vilified its members and the NGO community that had made representation to the mission, and sought by all means to delay or avoid any discussion of the report in the councils of the African Union.

⁴¹ Torture by the Zimbabwe Republic Police has been reported upon in the past. Here see Zimbabwe Human Rights NGO Forum *Torture by State Agents in Zimbabwe: January 2001 to August 2002* (Harare Zimbabwe 2003)

⁴² See Redress Trust *The Case of Henry Dowa: The United Nations and Zimbabwe under the spotlight, January 2004*.

There is a very similar to the response by the Zimbabwe Government of the report on *Operation Murambatsvina* by the UN Special Envoy.

Thus, instead of taking a positive and responsible attitude to its obligations under international and regional instruments, to which it had voluntarily acceded, the Zimbabwe Government has always denied the allegations, sought to delay discussion, and avoided taking any action. This again does not augur well for its response to the report of the UN Special Envoy.

Conclusions

Throughout the years, the Zanu PF Government has displayed complete intolerance towards any political opposition, and has waged an ongoing campaign of violent suppression against opposition leaders, office bearers, and supporters. When a strong opposition party emerged in the late nineteen nineties, its violence against the opposition greatly intensified. Many political opponents have been assaulted or tortured, many of their houses and families have been attacked and many have been arrested and incarcerated on bogus charges⁴³.

The ruling party has thus created crisis after crisis with its brutal and repressive actions, actions usually aimed at smashing opposition and strengthening the autocratic grip on power. In other words, these man-made crises result from bad governance and anti-democratic tendencies. Whenever these wounds are inflicted on the community, the international community is then expected to help clean up the mess and to treat the wounds. What Zimbabweans desperately need is that the wounds are not inflicted in the first place. In other words, what is needed is the restoration of true democracy in which the Government is responsive to the people's needs, and avoids engaging in actions that are palpably detrimental to the interests of the people. What the Zimbabwean people need is a Government that respects and abides by the rule of law and does not inflict unnecessary suffering upon its own people.

Whilst it is arguable that on its own the inhumanity of *Operation Murambatsvina* does not constitute a crime against humanity under the Rome statute, it is strongly arguable that, in combination, the whole succession of repressive measures taken by the Zimbabwean Government over a number of years do constitute a crime against humanity. Even if this

⁴³ See *Zimbabwe Human Rights NGO Forum (2000), Who is responsible? A preliminary analysis of pre-election violence in Zimbabwe*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM. See also *Zimbabwe Human Rights NGO Forum (2001), Who was responsible? A consolidated analysis of pre-election violence in Zimbabwe*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM. See again *Zimbabwe Human Rights NGO Forum (2002), "Are They Accountable?: Examining alleged violators and their violations pre and post the Presidential Election March 2002"*, HARARE: ZIMBABWE HUMAN RIGHTS NGO FORUM.

argument cannot be sustained, what is certain is that gross human rights abuses have been committed by the Government, and, in recent years, when called upon to do so, the courts have often failed to provide redress in respect of these abuses.

APPENDIX A.
**Further statements by local non-governmental organisations and others on
 Operation Murambatsvina.**

Zimbabwe Association of Doctors for Human Rights

Appeal to the Zimbabwe Medical Association, the South African Medical Association, other national medical associations in Southern Africa and worldwide, Health and Human Rights organisations, and the World Medical Association

The tragic deaths of three people, including two children (a 4 year old and an 18 month old baby) during the forced destruction of dwellings at Porta Farm on the outskirts of Harare on the 30th June serves to confirm the ruthless nature of Operation Murambatsvina. To date at least eight deaths have been confirmed nationwide.

In the intervening 14 years Porta Farm evolved into a stable community with clinics, primary and secondary schools, preschools and even an orphanage. This community was obliterated in the space of a day. In clear violation of the International Convention on the Rights of the Child, hundreds of orphans and vulnerable children, together with the families caring for them, have joined the thousands already deprived of shelter, education and health care by Operation Murambatsvina. Seven hundred primary school pupils, 150 of whom were about to write their Grade 7 examination, and 183 secondary school students have been forced to abandon their education, in addition to an estimated 300,000 children similarly affected countrywide.

ZADHR's particular concern for health leads us to emphasise the manifest and predictable effects of Murambatsvina in terms of

- (1) the likelihood of further deaths due to arbitrary physical trauma, as incurred this week in Porta Farm, as a result of the thoughtless violence of the demolition methods,
- (2) deaths due to exposure and hypothermia among already vulnerable children, chronically ill adults and the elderly, forced to live through nights in the open at the coldest time of the year,
- (3) the spread of infectious disease due to the lack of proper sanitation or water supply for hundreds of thousands of people,
- (4) the generation of ideal conditions for the spread of epidemic disease (eg cholera and typhoid) from those directly affected into the general population,
- (5) the increase in incidence of malnutrition due to the breakdown of food supplies as family income generation methods are destroyed, in a context in which basic foodstuffs are already at a premium,
- (6) the exacerbation of the HIV epidemic as community structures are fractured and dispersed and the vulnerability of women, adolescents and children to sexual exploitation is magnified,
- (7) the inevitable emergence of widespread drug-resistant HIV as treatment programmes are disrupted.

Since the arrival in Zimbabwe of the UN envoy, UN-Habitat Executive Director Anna Kagumulo Tibaijuka, to investigate Operation Murambatsvina, the government has attempted to recast the destruction as a facet of a long-planned national housing scheme and subsequently announced

plans for the immediate construction of thousands of new homes to replace those destroyed, Operation Garikayi (good living). This is completely devoid of credibility. Disregarding the fact that Zimbabwe is effectively bankrupt and has no capacity to implement an enterprise of this scale, there was no public announcement or record of such a plan prior to the unleashing of Operation Murambatsvina. Any government with even the most basic concern for the welfare of its citizens would have ensured that replacement housing was in place prior to the destruction of existing dwellings and that such an exercise was carried out in a phased and orderly manner.

The speciousness of the government claim is further evidenced by the total lack of preparedness of the key Ministries of Health, Social Welfare and Education to respond to the ensuing humanitarian and health crisis. It is clear that these ministries were not even consulted let alone involved in any planning process.

ZADHR calls upon the Zimbabwe Medical Association, the South African Medical Association and other regional medical associations to apply whatever influence they have, in whatever quarters, to seek an immediate end to Murambatsvina and the initiation of appropriate measures to reverse its catastrophic effects.

UN REPRESENTATIVE CALLS ZIMBABWE CRISIS MASSIVE INTERNAL DISPLACEMENT UN Press Release

The Representative of the Secretary-General on the Human Rights of Internally Displaced Persons issued the following statement today:

The Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, Professor Walter Kälin, today called for recognition of the evictions in Zimbabwe as a situation of massive internal displacement.

"What has been suspected has now become clear following the report of the Secretary-General's Special Envoy Anna Tibaijuka last Friday: in Zimbabwe we are facing a situation of massive internal displacement", Mr Kälin said.

The Envoy's report, issued last Friday, cited 2,460 homes destroyed, within a matter of weeks, affecting an estimated 569,685 people.

"Destruction of homes and forced movement of people on such a scale comes squarely within the definition of internal displacement, which covers people forced to leave their homes to avoid human rights violations and other disasters, whether human-made or natural". "What underscores the tragedy", the Representative added, "is that this crisis has been, from the start, entirely avoidable".

"The Zimbabwean Government's action is incompatible with international law in many respects", the Representative said. The UN's Guiding Principles on Internal Displacement set forth the rights of internally displaced persons under international law and the obligations of States. "These Principles", the Representative stated, "are based upon and reflect human rights obligations also accepted by Zimbabwe". They protect against arbitrary displacement in the first place and require due process, adequate notice, appropriate relocation and minimisation of adverse effects. They also require appropriate provision of the necessities of life to displaced persons, protection of their property, as well as offer voluntary choices to displaced persons as to where they will return. "On each and every of these points, the Government of Zimbabwe has fallen far short of its obligations".

The Representative called on the Government of Zimbabwe and the United Nations presence in Zimbabwe to respond urgently to the needs of the internally displaced. "What has already

happened cannot be undone. What is now critical is that swift action be taken to protect the rights

of the displaced - they are entitled to proper shelter, food, water and health care, and equal access to education for their children. They also have the right under international law to compensation for the loss of lawful possessions, and to freely choose their future place of residence". The Representative was confident that with rapid action on the part of the United Nations in conjunction with the Government of Zimbabwe, "ongoing violations of human rights on the massive scale we have witnessed can be quickly brought to an end, and the task of putting people's lives back together again can begin. The half-million displaced deserve, and are under law entitled to, no less than that".

Statement from Zimbabwe Lawyers for Human Rights entitled Report of United Nations Special Envoy Welcomed

Dated 27 July 2005

Zimbabwe Lawyers for Human Rights (ZLHR) welcomes the report of the UN Special Envoy on Human Settlements Issues in Zimbabwe and considers it a vindication of the concerns raised by all right-minded sectors of civil society against the unlawful conduct of the state authorities during the course of Operation *Murambatsvina* and Operation Restore Order.

Mrs Anna Kajumulo Tibajuka confirmed that the Operations had commenced without warning, were carried out **"in an indiscriminate and unjustified manner, with indifference to human suffering"** affected some 700 000 people (directly) and a further 2.4 million people (indirectly) around the country, and precipitated **"a humanitarian crisis of immense proportions"**.

The Report concludes that the Government bears collective responsibility for actions which disregarded several provisions of national and international law, and was **"based on a set of colonial-era laws and policies that were used as a tool of segregation and social exclusion"**. It recommends that those responsible be brought to account and that reparations be made to those who have lost their property and livelihoods.

In particular ZLHR notes and supports the following recommendations made by the UN Special Envoy:

- That the government should immediately halt any further demolitions and create conditions for sustainable relief and reconstruction
- That the government should immediately revise the Regional Town and Country Planning Act and other relevant statutes to ensure they conform to recognised international human rights standards and do not negatively impact on economic, social and cultural rights of those affected by their implementation
- That the government bears collective responsibility for the violations that have occurred, that they should bring to account those responsible for the violations suffered due to the implementation of the Operations, and should pay compensation to those whose property was unlawfully destroyed, seized and auctioned off
- That the government **"should set a good example and adhere to the rule of law before it can credibly ask its citizens to do the same"**
- That monitors should be deployed to observe compliance with human rights standards and reassure communities of the risk of their and rights

- That Zimbabwe be engaged on its “**dismal human rights record**” in political forums such as the UN Human Rights Commission, the African Peer Review Mechanism and SADC mechanisms.

What should be of particular concern to the government is the fact that the UN Special Envoy was forced to consider whether the violations that occurred and continue to occur as a result of these Operations constituted **crimes against humanity**. Although the conclusion reached was that it would be difficult to sustain such an allegation at present, the fact that the state authorities have continued with the unlawful actions despite conclusions from national and international bodies that the actions are illegal and should be terminated immediately, may be sufficient to raise the threshold and meet the requirements necessary for successful prosecution of officials for this crime under international law. ZLHR is considering this matter seriously and will continue compiling evidence relating to such a crime.

ZLHR welcomes, although regrettably, the confirmation by the UN Special Envoy that there has been a general deterioration of the rule of law in Zimbabwe and that the judicial system has been “non-responsive” in offering protection where violations have occurred or are occurring. This has been further highlighted in the last few weeks, where we have witnessed court orders being disregarded by state authorities and the judiciary becoming complicit in condoning such a culture of contempt and impunity.

ZLHR has no hesitation in concurring with the Special Envoy’s conclusion that the High Court has failed “to safeguard the right of the victims of the Operation and that there has been a regrettable failure by members of the Bench to remain independent from the national and local politics of the day”.

It is hoped that the government will consider the contents of this well-researched and comprehensive Report with the gravity it deserves, and will act swiftly to implement the recommendations, thus assuring the Zimbabwean nation, as well as the international community, that it takes its responsibilities under national and international law seriously and is committed to the preservation of the rule of law and administration of justice, adherence to minimum international norms and standards, and the economic, social and cultural uplifting of all the people of Zimbabwe.

ZLHR has some reservations on government’s commitment to such a process, in light of the fact that the recommendations have thus far been ignored, and demolitions and destruction of property and livelihoods continues unabated around the country, and in particular at Porta Farm. State authorities can act to reassure the nation by ceasing these human rights violations immediately and publicly asserting their intention to implement all recommendations as a matter of urgency. In addition the Judiciary should consider seriously the implications of the conclusions reached by the UN Special Envoy and act publicly and decisively to assure the nation that they will protect the human rights of all people in Zimbabwe without fear or favour, thus restoring confidence in the justice delivery process.

Statement by the Zimbabwe Human Rights NGO Forum on the Report on “Operation Murambatsvina” by the UN special Envoy on Human Settlement Issues in Zimbabwe.

Date: 26 July 2005

The Zimbabwe Human Rights NGO Forum welcomes the timely publication of the report on the recent “Operation Murambatsvina” (Restore Order) by the UN Special Envoy and her team. The Report records the effects of the humanitarian disaster inflicted on the poorest and most vulnerable sections of the population in the height of winter and purportedly in the interests of arresting disorderly or chaotic urbanization, reversing inappropriate urban agricultural practices and stopping illegal foreign currency dealings.

The Secretary General of the United Nations himself describes “Operation Murambatsvina” as a “catastrophic injustice.....carried out indiscriminately and with disquieting indifference to human suffering”. In her “profoundly distressing report”, the Envoy records that the Operation “render (ed) people homeless and economically destitute on an unprecedented scale” and that “in addition to the already significant pre-existing humanitarian needs, additional needs have been generated on a large scale particularly in the shelter, water, sanitation and health sectors”

The Operation was carried out in a military fashion by the police and army with minimal notification from the authorities and in contravention of the Constitution of Zimbabwe and the International Covenant on Economic, Social and Cultural Rights, to which Zimbabwe is a signatory.

An “estimated 700 000 people in cities across the country lost either their homes, their source of livelihood or both”, which has indirectly “affected 2.4 million people.....in varying degrees”

While the Zimbabwe Government is said to have permitted unfettered access by the Mission to all areas, its response to the report has been characteristically critical, dismissive and accusatorial.

The Human Rights Forum would like to congratulate the Mission on the speed with which the exhaustive report was prepared and the sincerity and professionalism with which the Envoy and her team conducted their wide and energetic consultations with all stakeholders in Zimbabwe.

The Human Rights Forum calls on the Government to implement the recommendations of the Report with the utmost urgency in order to address the humanitarian crisis “Operation Murambatsvina” has left in its wake.

APPENDIX B.

Executive Summary of ActionAid International & Combined Harare Residents' Association Report on Operation Murambatsvina.

The Harare Operation Murambatsvina Survey represents a unique opportunity to gain insights into the impact of Operation Murambatsvina on communities and households where the Operation was executed since 18 May 2005. This report attempts to give a factual account of the impact Operation Murambatsvina/Restore Order. This is done through analysis of the impact at both household level and community level.

A structured questionnaire was used in the collection of data from 14,137 respondents distributed in 26 affected high density suburbs. The quantitative household survey was designed to collect the following types of information from the interviewed households: 1) household demographics, 2) Livelihood activities affected by the operation, 3) household impact, 4) current coping mechanisms being employed by the communities in response to the operation, 5) assistance communities are currently receiving 6) assistance currently being offered and assistance perceived as required by the communities.

Initially 26 team leaders for each ward were trained on the administration of the questionnaire and sampling procedures. Thereafter, a further 9 researchers were trained by the team leaders at ward level. Therefore, 260 researchers collected this information over a two day period. At least 500 homesteads were visited during the course of the study. This represents a third of households per ward. Data collected was entered stored and exported into Statistical Package for Social Science (SPSS) Version 13. Subsequently, analysis was done to generate frequencies, descriptive and derived variables.

Socio-demographic data of the sampled wards

Assumptions:

1. At least 3 households stay at one homestead
2. Average household size is 5.8
3. Assume the remaining 4 high density residential wards are not different from the other samples wards.
4. 97% of households affected by the operation

Calculation Process:

1. 14,137 households were surveyed
2. total population surveyed is 81,995

Based on these figures and assumptions, the following are projected households that were affected by the operation;

Adding the remaining 4 wards – $30/26 * 14,137 = 16,311$ households in all 30 wards

Total population affected, households sampled*average household size*average households per homestead*

$16,311 * 5.8 * 3 = 283,811$

However the sample is only a third of the population in the wards. Therefore, the total population would be:

$283,811 * 3 = 851,434$

From the data generated from the survey, 97% (n = 13,712) of homesteads visited in the 26 wards were affected by the Operation in varying proportions and different ways. Demographic data for the general population is discussed below:

- Overall population sampled is 81,995 with an average household size of 5.8
- The majority of respondents and household heads were male (56% and 61% respectively)

- The total number of households affected by the operation (which includes; households that lost accommodation, had shelter lost, lost livelihoods, children not attending school as a result) was 97% (13,712) of sampled households.
- The average age of the head of household is 41 years, with the youngest reported as 12 years old and the oldest as 89 years old.
- Female household heads are slightly older than male household heads, 43 and 39 years old, respectively.
- Approximately 12% of homesteads visited are above 60 years (elderly headed) and only 1% (142) were headed by minors (commonly referred to as child headed, below 18 years).
- 32% of interviewed households were hosting orphans, whilst a further 13% were hosting at least a chronically ill individual. A minority of 6% were hosting at least a mentally/physically challenged person.
- As a measure of vulnerability, the analysis classified all households in five categories (see table below). Most households interviewed fall in 3 categories (39%), whilst in 1 category: 15%; 2 categories: 31%; 4 categories: 11% and only 4% in the 5 categories.
- Out of the 14,137 sampled homesteads, 22% of them reported that children were not attending school as a direct result of the Operation.

Livelihoods

The household survey inquired on primary sources of income of those affected by the Operation, since secondary information suggests that the Operation has had an adverse effect on the livelihoods.

- A majority (73%) of urban dwellers were engaged in informal trading prior to Operation Murambatsvina/Restore Order from the sample.
- The primary sources of livelihood that have been cited to have been disrupted (73%) as a result of the Operation from the sample include: tuck shop ownership (9%), flea market (11%), fruit and vegetable vending (17%), offering accommodation (18%), cross border trader (6%) and petty trade (5%) such as sale of firewood.
- Unfortunately, the vulnerable strata mentioned earlier were mainly engaged in the informal sector as captured below:

Proportions who were engaged informal and formal sectors:

Strata	Informal sector	Formal sector
Female headed households	91%	9%
Child headed households	100%	0%
Households hosting orphans	92%	8%
Households hosting chronically ill members	91%	9%
Households hosting mentally/physically challenged persons	91%	9%

Impact of the Operation at household level

The extent to which a households or communities were affected has not been quantified. Scant, inconsistent and at times conflicting information is available on this issue. Therefore as one of the key findings of the survey, it was to explore and detail what it is that households lost during the exercise. This are discussed below:

Shelter

- A majority (76%) of respondents reported that they had lost shelter. Loss of shelter was two fold 1) a tenant being evicted as a result of demolitions, 2) a land lord losing a section of his home as a result of the demolitions.

Source of income

- Overall, 79% of interviewed households reported that they had lost their sources of income. This figure is similar to the 73% that had lost sources of income (livelihoods) as a direct result of the Operation. The increase may be attributable to multiple sources of income that households are engaged in to ameliorate vulnerability.
- Strikingly this generally affected all households in the same proportion.

Education for children

The welfare of children especially in terms of their ability to attend school is a basic fundamental right, was affected by the operation.

- School drop out was reported to be 22%. However, 45% of households interviewed reported that they were at a precarious position in funding and accessing schools for their children, currently and in future. This may be a clear indication on the future prospects of school enrolment for children in the near future.

Property

- Forty five percent (45%) of homesteads visited reported that they had incurred losses of property. Unfortunately, the survey was not able to quantify in Zimbabwean dollar value what it was exactly the affected communities had lost and also the nature of the property.

Deterioration in health

- It is sad to note that slightly over 20% of people interviewed, attributed the deterioration of health of their loved ones as a direct result of the operation.

Food security

- Approximately, 60% of households sampled claimed that they had become food insecure as a consequence of the Operation. Being urban areas, most of the food supply to the family is sourced from the market. Little or no food finds its way from the rural areas if a family has rural linkages exists.

Household safety and security

Household safety and security was defined as the family ability to protect and safe guard its assets (physical) and from exploitation.

- Almost half (49%) of the homesteads reported that this indicator had been compromised as a result of the operation.

Disruption of family unit

Housing waiting list runs into hundreds of thousands in Harare and all other urban areas in Zimbabwe. Sharing of homesteads and extension of houses was a way in which Harareans sought to mitigate the accommodation problem.

- More than 75% of the respondents reported losing shelter.
- It is worrying to note that over 40% of homesteads visited reported that family units had been disrupted as a result of the operation. Mostly children and spouses had been relocated back to the rural homesteads if this was plausible.

Women status and dignity

Humiliation and loss of dignity as a direct result of the operation was also reported. Prior to the demolition exercise, it is reported and accounted by respondents that the authorities would move around marking what they deemed as illegal structures using paint. The marked buildings were to be destroyed. Such actions resemble a war situation. This is witnessed by 39% of the interviewed homesteads claiming that they had lost their dignity as a result of the Operation.

Increased vulnerability for women and children

It is saddening to note that 37% of the interviewed homesteads acknowledged that women and children had become more vulnerable to abuse as a consequence of the Operation. Furthermore, a high proportion of these were from female-headed households.

Psychologically affected (traumatised)

Almost 40% of respondents interviewed claimed that they had been traumatized by the graphic, detailed and heavy handedness of the implementers of the Operations. From the analysis done, this was generally the same across board. Despite the low proportion of child headed households, this seemed to be reported in 82% of child headed households.

Coping mechanisms adopted by households

- Currently, only 37% households reported that they were using their own resources to sustain the family.
- A further 22% claimed to be getting assistance from relatives, whilst government, community based organizations and non-governmental organizations accounted for a mere 6%.
- More importantly is the realization that 35% of households were not managing at all. In this bracket, the majority were child- and women headed households accounting for 76% of the responses.

Assistance currently being received

Of those that reported receiving assistance from the various sources, the following categories are the nature of assistance being received; food (17%), shelter (15%), monetary (8%), education for children (7%), relocation (5%), psycho-social support (5%) and legal help (4%). This clearly suggests that there are major gaps in the support that is being offered to the communities.

Perceived assistance required

Table clearly demonstrates the areas that when cited by respondents. From the preceding paragraphs, it has been documented that major support gaps are in existence in the 26 wards.

Proportion of assistance required

Area of need	Proportion (%)
Shelter	73%
Food	83%
Compensation	4%
Relocation	45%
Education	56%
Legal help	4%
Monetary (financial help)	74%
Psycho-social support	42%

RECOMMENDATIONS

The range of recommendations presented in the report is mentioned in summary form below. These are aimed at those involved and responding to the crisis. Policy analysis is urgent and will be subsequent to this report.

General Recommendations:-

1. There is urgent need to resolve the accommodation/ shelter question for all affected families.

2. Urgent restoration of livelihoods for affected families should be prioritised to ensure recovery and long term sustainability of income for affected communities.
3. There is urgent need to grant and guarantee access to appropriate treatment and quality care for people living with HIV/AIDS.
4. There is urgent need to conduct an in-depth national survey to better inform responses and to develop a commonly agreed national data set of the current situation.
5. There is urgent need to scale up the national response and meet the needs of the affected families.
6. There is need to consolidate the different coordination processes and ensure the meaningful sharing of information and activities by all stakeholders involved.
7. Need for urgent donor commitment for additional support to affected communities.
8. Urgent need to create awareness on the impact, extent and effects of the operation on affected communities.