“Clear the Filth”

Mass Evictions and Demolitions in Zimbabwe

(September 11, 2005)

Summary

On May 19th, the government of Zimbabwe launched Operation Murambatsvina (Clear the Filth)[1], a program of forcible eviction and demolition of tens of thousands of houses and informal building structures of urban residents in Zimbabwe. With little, or in some cases, no warning, often with great brutality and in complete contravention of national and international standards, tens of thousands of homes, and thousands of informal business properties as well as legal housing and business structures were destroyed without regard for the rights or welfare of those who were evicted.

The scale of destruction is unprecedented in Zimbabwe. Indeed, there are few, if any precedents of a government so forcibly and brutally displacing so many of its own citizens in peacetime. The victims are mainly the poor and vulnerable in Zimbabwe's cities and towns, many of the households already devastated by the HIV/AIDS pandemic.

The United Nations Special Envoy, Anna Tibaijuka, sent by UN Secretary General Kofi Annan, reported 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."[2]

According to UN estimates, 700,000 people—nearly 6 percent of the total population—have been forcibly evicted from their homes, made homeless or lost their source of livelihood since May 19, 2005 while 2.4 million people—some 18 percent of the population—have been either directly or indirectly affected by Operation Murambatsvina.

The Zimbabwean authorities claim that the destruction of homes and other properties is part of a long-term plan to clean up the urban areas, restore order, rid the cities of criminal elements and restore dignity to the people. There are many alternative analyses of Operation Murambatsvina, several of which allege that the operation was part of the

[1] The official government translation for "Operation Murambatsvina" is "Operation Restore Order," however the word "Murambatsvina" literally means "clear the filth or dirt" in the Shona language.

[2] Report of the UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-Finding Missions to Assess the Scope and Impact of Operation Murambatsvina, July 22, 2005.

government's efforts to intimidate the urban poor and prevent mass uprisings against the deteriorating political and economic conditions in high density urban areas.

Whatever the true justification for the widespread demolitions and evictions, the government has violated the human rights of hundreds of thousands of its own citizens by arbitrarily forcing them to destroy or cede their property without due notice, process or compensation; by forcibly displacing many of them against their will into the rural areas without any basic services such as health care, education, clean water or means of economic support; by restricting their freedom of movement; and by failing to provide adequate remedies to those whose rights were violated.

The humanitarian consequences of the operation have been catastrophic. Thousands of people—some living with HIV/AIDS—are living in the open without shelter or basic services; many receiving treatment for HIV/AIDS, including children, have lost access to the clinics and centres that were providing them with treatment, with serious repercussions for their long term health. Inevitably, the most affected have been those already vulnerable: children with disabilities; child headed households; widows and people living with HIV/AIDS. And to add insult to injury, the Zimbabwean government, angry with the United Nations in particular at the harsh words of the Special Envoy's report, has refused to co-operate with the UN humanitarian agencies seeking to bring assistance to those who have been evicted and left destitute.

Zimbabwe is already in a profound political economic and human rights crisis—created by a government with a well known record of abusing its own citizens. This latest human rights catastrophe can only push the country closer to total devastation. With acute food shortages looming in the rural areas, the government's call for a mass return to the rural areas is a recipe for humanitarian disaster.

This report tells the stories of the mass evictions and house demolitions and the continuing suffering of those affected, mostly in the words of victims. Women, children and men recount how they were forced to destroy their own houses, often at gunpoint. They describe how the police in some cases beat them if they did not tear down their own houses and how their homes and sometimes their possessions were destroyed by bulldozers and armed police carrying pickaxes and hammers, or burnt and razed to the ground. They tell how the evictions were carried out with little or no warning and how police gave them almost no time to collect their belongings and leave their homes. And they tell, in often heartbreaking detail, of their destitution and utter vulnerability, in the light of the government's indifference to their suffering.

Human Rights Watch calls on the government of Zimbabwe to urgently co-operate with the international community and to ensure complete and unrestricted humanitarian access to all those affected. It also calls on the government to respect the right to freedom of movement, and take immediate action to provide legal remedies and necessary compensation including alternative accommodation to those that have been affected by the evictions in compliance with national, regional and international human rights standards. The use of excessive force by the police and other human rights abuses related to the evictions should be immediately investigated and the perpetrators brought to justice.

The international community, especially regional bodies such as the African Union and the Southern Africa Development Community and neighbouring countries must exert far more sustained political pressure on the Zimbabwean government to rein in the government's excesses and to call for accountability for those responsible for planning and executing Operation Murambatsvina. Given the lack of credibility of the Zimbabwean justice system, only an independent, international inquiry can be trusted to establish the truth and identify the perpetrators.

In June 2005, Human Rights Watch spent two and a half weeks in Harare and Mutare in Zimbabwe, and interviewed ninety-three Zimbabweans including sixty victims and witnesses to the evictions, representatives from nongovernmental organizations and international humanitarian organizations including the United Nations; lawyers, church representatives, local city council officials, human rights activists and monitors, and embassy representatives. Names of victims and witnesses have been changed to protect their identities.

Recommendations

To the Zimbabwe government

- Allow local and international humanitarian organizations full and unimpeded access to all parts of Zimbabwe to ensure that humanitarian assistance is delivered to all those in need and in accordance with humanitarian principles.

- Protect all victims of the evictions, in particular women and vulnerable groups such as children, the elderly and chronically ill persons, including those living with HIV/AIDS.

- Take immediate steps to provide assistance including alternative accommodation to those affected, and legal remedies including appropriate compensation or other forms of reparation to all those affected in a speedy, impartial and transparent manner.
- Co-operate with an independent, international investigation into the events of Operation Murambatsvina. Bring to justice those whose actions in planning or executing Operation Murambatsvina violated national law or international human rights law.

- Develop a legal framework free from gender discrimination, for conferring security of tenure on those who do not yet have it, including those in informal settlements or who are occupying land or housing.

- Investigate allegations of excessive use of force and other human rights abuses by police and other state officials involved in the evictions and bring all those responsible to justice.

- Allow and co-operate with visits by Special Rapporteurs of the Commission on Human Rights, the Representative of the Secretary General for Internally Displaced Persons and relevant human rights mechanisms of the African Union to further investigate the human rights situation in the country.

To the Southern African Development Community

- Strongly condemn the mass evictions and demolitions; call on the UN Secretary General to set up an independent and impartial commission of inquiry to investigate the manner in which the evictions were carried out and for those responsible to be brought to justice.

- Urge the government of Zimbabwe to take immediate action to address the impact of the evictions and demolitions on the hundreds of thousands of homeless and destitute Zimbabweans.

To the African Union

- Strongly condemn the mass evictions and demolitions and urge the government of Zimbabwe to take immediate action to address the impact of the evictions and demolitions on hundreds of thousands of homeless and destitute Zimbabweans.

- Call on the UN Secretary General to set up an independent and impartial commission of inquiry to investigate the manner in which the evictions were carried out and for those responsible to be brought to justice.
- Continue to inquire into the human rights situation in Zimbabwe and appoint another Special Envoy to investigate the impact of the mass evictions and demolitions.

To the African Commission on Human and Peoples' Rights (ACHPR)

- Follow through on recommendations from the ACHPR's mission report in 2002 that address the poor human rights conditions in Zimbabwe.

- Put Zimbabwe on the agenda of the next session of the ACHPR in November 2005.

To International Humanitarian agencies

- Enhance the protection and welfare of the evicted population by putting in place mechanisms that identify the needs of those that have been evicted, in particular homeless persons sleeping in the streets and in the rural areas. These mechanisms could include direct interventions by humanitarian officials with relevant government officials, to prevent any human rights abuses from taking place.

To the United Nations

- The Secretary General should establish a Commission of Inquiry to identify those responsible for planning and carrying out Operation Murambatsvina and

whose actions violated the human rights of hundreds of thousands of Zimbabweans.

- The Secretary General should call on the government of Zimbabwe to provide internally displaced persons with protection from and remedies for alleged human rights abuses.

- The UN Country Team should place human rights protection at the centre of all interactions with the government of Zimbabwe. More specifically, it should support civil society groups working for human rights protection in Zimbabwe and urge the government of Zimbabwe to adopt a constructive approach with local nongovernmental organizations in the development and implementation of assistance programs and permit them to carry out their work free from intimidation, threats and human rights violations.
- The UN High Commissioner for Human Rights should urgently follow up on recommendations in the UN Special Envoy's report on the evictions, in particular the deployment of monitors to observe compliance with human rights standards.

Background

Political and economic crisis

Zimbabwe is in the midst of a profound political and economic crisis. Parliamentary elections held in 2000 and presidential elections in 2002 were marred by political disturbances and violence between the opposition Movement for Democratic Change (MDC) and the ruling Zimbabwe African National Union Patriotic Front (ZANU-PF).[3] The government has routinely used repressive legislation and other violent means to suppress criticism of its political and economic policies by civil society activists and the opposition.

The most recent parliamentary elections were held on March 31, 2005. Human Rights Watch reported on the conditions leading up to the elections and documented a series of

[3] Human Rights Watch report, "Under a Shadow: Civil and Political Rights in Zimbabwe," June 2003; Amnesty International report, "Rights Under Siege," May 2003.

human rights violations including political intimidation of opponents by ruling party supporters, electoral irregularities and the use of repressive legislation by the government.[4]

ZANU-PF won the elections by a majority but the MDC declared that the elections were not free and fair.[5] The elections were widely criticized by local civil society organizations, international organizations and the international community including the European Union (EU), and the governments of the United Kingdom and the United States.[6] The elections, however, were endorsed by the African Union (AU), the Southern African Development Community (SADC) and South African observer teams.[7]

The Zimbabwe economy is in a state of prolonged crisis provoked by massive mismanagement and corruption as well as the devastating impact of the HIV/AIDS pandemic: 25 percent of adults aged 15-49 are HIV positive.[8]

The country's main macroeconomic problems include an annual inflation rate of 258.4 percent,[9] declining GDP, high domestic debt, an unemployment rate of 80 percent, an overvalued exchange rate, persistent foreign currency shortages and weak investor confidence.[10] The economic crisis has led to increasing poverty and food insecurity.[11]

In 2000, the government of Zimbabwe embarked on a controversial land reform program which led to the forced displacement of thousands of farm owners and farm

[4] Human Rights Watch report, "Not a level playing field: Zimbabwe's parliamentary elections in 2005," March 2005.

[5] MDC preliminary report on 2005 elections, March 31, 2005.

[6] BBC Online, "Straw condemns elections," April 5, 2005.

[7] News 24.com, "SADC endorses elections," April 3, 2005; see also News 24.com, "SA accepts Zim election result," April 2, 2005.

[8] UNAIDS datasheet, http://www.unaids.org/en/geographical+area/by+country/zimbabwe.asp accessed August 31, 2005.

[9] The Herald Online, "Record inflation rise," August 18, 2005.

[10] IMF Country Report No: 04/297, September 2004.

[11] World Development Indicators database, April 2005.

workers, and according to economic analysts, worsened the economy and helped create acute food shortages.[12]

In the months after the March 2005 elections, there were a number of peaceful protests by men and women in some urban and rural areas around the country against economic conditions and food shortages. In the process, police arrested scores of people and charged them with violating the Public Order and Security Act.[13]

Urbanization and the housing crisis

The failure of the government to introduce effective policies that would benefit the poor has led to disillusionment in both the rural and urban areas.[14] Harsh economic policies in recent years have led to an increase in informal urban settlements as people have been unable to access much needed but expensive housing in the formal sector.[15] Increasing unemployment in the rural and urban areas in the past five years—as the economy has declined—has also led to an increase in the number of people operating in the informal business sector.[16]

The increased movement of people into the urban areas began in the late 1980s and continued into the 1990s.[17] Those in the rural areas originally moved to urban areas to improve their livelihoods. The land reform program in 2000 and 2001 also accelerated the influx into the urban areas due to an increase in rural unemployment, uncertainty over tenure for a large number of people, and lack of access to productive land leading to an increasingly desperate food security situation not only for former farm workers but for most of those living in the rural areas.[18] Thousands of ex-farm workers moved to

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[12] Human Rights Watch report, "Fast track land reform in Zimbabwe," March 2002; United Nations Humanitarian Coordinator, "An overview of vulnerability within the newly resettled commercial farming areas," November 2003.

[13] The Daily Mirror, "Food protests at Chief's homestead," May 23, 2005; Human Rights telephone interview with Police Officer, Insiza, May 22, 2005; The Daily Mirror, "Residents demonstrate over water shortages," May 13, 2005.

[14] Human Rights Watch interview with Thomas Deve, economic analyst, Harare June 25, 2005. See also Dashwood, H.S. "Zimbabwe: The Political Economy of Transformation, 2000."

[15] Ibid.

[16] op cit.

[17] Human Rights Watch interviews with members of housing associations and local city council housing officials, Harare, June and July 2005.

[18] Human Rights Watch report, "Fast track land reform in Zimbabwe, March 2002; S.Moyo and P.Yeros, "Land Reform in Zimbabwe: Towards the National Democratic Revolution," February 2004; United Nations Humanitarian Coordinator, "An Overview of vulnerability within the newly resettled former commercial farming areas," November 2003.

the urban areas. Political violence during elections in 2000 and 2002 in the rural areas also increased the influx of people to the urban areas.[19]

Over the past ten years, the huge demand for housing in cities such as Harare, and expensive city council rental rates, has led to the spread of unplanned (and thus illegal under national law) cottages behind legal dwellings, including small cottages and cabins in the poor high density urban areas of Zimbabwe.[20] Instead of waiting years for the local city council to allocate accommodation to them, many of the urban poor built their own unplanned cabins and cottages behind legally recognized and approved dwellings. Many of those affected by the recent evictions were lodgers renting these small cabins behind main houses. In many cases, divorced and widowed women built and rented out cottages and cabins in the backyards of their houses to earn a living.

Many residents of all these areas worked in the informal economic sector.[21] They owned market stalls and sold fruits, vegetables and other wares. Others owned small businesses such as salons and carpentry shops. Other informal settlements were also formed when in 1993, the government of Zimbabwe forcibly removed up to 20,000 people from a farm called Churu on the outskirts of Harare and resettled them on Porta Farm and in the high density urban neighborhood of Hatcliffe. These people were all affected by Operation Murambatsvina.[22]

In the late 1990s, the central government also encouraged the formation of housing cooperatives in the urban areas in an attempt to reduce the housing deficit. Some housing cooperatives on the outskirts of Harare were formed on farm land appropriated by the government during the land reform program in 2000.[23] Women—who were identified as being most in need of housing—were encouraged to join housing cooperatives in an effort to ensure they had affordable housing. Local city council authorities allocated housing stands (plots)[24] after interested buyers paid a deposit for their development. The authorities provided such buyers with forms to sign, and plans

[19] Human Rights Watch interviews with local city council housing officials, Harare, June 25, 2005

[20] Zimbabwe State Party Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights, September 25, 1995

[21] IMF Country Report No: 04/297, September 2004.

[22] Human Rights Watch interviews with residents of Porta Farm, MDC MP for Harare North Constituency, Trudy Stevenson, and Mike Davies, Committee of Harare Residents Association, June and July 2005; See also reports by Zimbabwe Human Rights NGO Forum and UN Envoy's Report.

[23] Human Rights Watch interviews with members of cooperatives, June and July 2005.

[24] Demarcated pieces of land for building a house or property.

and documents proving their ownership and then allocated the stands. Those with sufficient funds were then given permission by local authorities to build houses on the stands. People who built houses on the stands either moved in or rented them out to others. Many of the cooperatives had electricity and water supplies provided by the council and the owners paid monthly water and electricity rates.[25]

In 1995, in an initial state report to the Committee on Economic and Social Rights on the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the government of Zimbabwe acknowledged that it had a housing crisis manifested by: "the mushrooming of illegal backyard extensions in most high density areas resulting in overcrowding; the continued existence of substandard houses which require upgrading; and overcrowded households."[26]

In its state report, the government accepted that no legislation existed in Zimbabwe to regularize the situation of those living in the "illegal" sector or that prohibited forced evictions.[27] But it stated that in the circumstance of "illegal settlements," it had the option to either upgrade any "illegal" settlements or resettle the people on other planned residential sites in line with international law. However, in carrying out Operation Murambatsvina, the government did not pursue either option.

In response to Zimbabwe's report, the Committee on Economic Social and Cultural Rights (CESCR) noted, "the situation to the right to housing remains clearly inadequate. The committee is particularly concerned about the precarious situation of persons living in illegal structures or unauthorized housing. Persons should not be subjected to forced eviction unless this is done under conditions compatible with the covenant."[28]

The Committee enquired about the measures that the government had taken to resettle the inhabitants of the "illegal" sector on other planned residential sites or to upgrade the illegal settlements.[29] The Committee recommended to the Zimbabwean government that it take appropriate measures to effectively guarantee the right to adequate housing and in

[25] Human Rights Watch interviews with members of cooperatives, June and July 2005.

[26] Zimbabwe State Party Report. op cit.

[27] Ibid.

[28] Concluding observations of the Committee on Economic, Social and Cultural Rights in response to Zimbabwe's state party report, May 20, 1997.

[29] See paragraphs 43 and 47 of the summary record of the 10th meeting by the Committee on Economic, Social and Cultural Rights on Zimbabwe's state party report, June 6, 1997.

particular, to ensure that no forced evictions would be carried out without offers of alternative housing in accordance with the Committee's General Comment No. 4 that calls on state parties to confer legal security of tenure to all persons lacking such protection thus protecting them from forced eviction and harassment.[30]

However, Human Right Watch received information that in the early to late 1990s, when the extent of the numbers of unplanned backyard extensions became known to the local city council, concerns were raised and were repeatedly ignored by central government authorities in the Ministry of Local Government.[31] As one Harare City Council official told Human Rights Watch, "the city council was aware about the unplanned settlements and extensions but could not do anything about it. When we wanted to do something, we were politically stopped but now we are being politically encouraged to evict the people. At the time, it did not seem politically expedient for the government to evict people or solve the situation."[32] The government's reluctance to address the housing crisis resulted in the continued growth of informal urban settlements. By 2005, the national waiting list for accommodation was reportedly up to 2 million persons.[33]

The human rights crisis

Over the past five years, Human Rights Watch has been monitoring, investigating and reporting on its concerns about serious human rights violations in Zimbabwe. The government has increasingly turned to repressive and at times violent means to suppress criticism from the opposition and civil society. Some of the violations Human Rights Watch has documented include the excessive use of force by members of the army and police, reports of ill-treatment and torture by the police and other state-sponsored agents, disregard for the rule of law, restrictions on the rights to freedom of opinion and expression, peaceful assembly and association, and discrimination in access to food aid. Human rights abuses continue to take place with impunity with few perpetrators being brought to justice.[34]

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[30] Paragraph 21 of the concluding observations of the Committee on Economic and Social and Cultural Rights on Zimbabwe's state party report.

[31] Human Rights Watch interview with city council housing officer, Harare, June 25, 2005.

[32] Ibid.

[33] op cit.

[34] See Human Rights Watch reports, "Under a Shadow: Civil and Political Rights in Zimbabwe," June 2003; "The Politicization of Food in Zimbabwe," October 2003; "Not a Level Playing Field: Zimbabwe's Parliamentary Elections in 2005", March 2005.

Police and other state-sponsored agents routinely attack and harass government critics including members of civil society organizations, human rights lawyers, journalists and trade unionists. At the same time, the police have used repressive laws such as the Public Order and Security Act to silence critical or dissenting voices within civil society.[35]

The government of Zimbabwe has a long history of circumventing and at times blatantly disregarding the rule of law, with state officials on occasion ignoring high court orders. The judiciary has been severely weakened and compromised, and in several instances, judges have reportedly been threatened, harassed or attacked by police and ruling party supporters.[36] As a result, internationally agreed fair trial standards are not always guaranteed.

The Implementation of Operation Murambatsvina (Clear the Filth)

In the days and weeks after "Operation Murambatsvina" (Clear the Filth) was launched on May 19, 2005, police burnt, bulldozed and destroyed tens of thousands of properties around the country. The destructions resulted in the mass evictions of urban dwellers from housing structures and the closure of various informal sector businesses throughout the country. According to the United Nations, 700,000 people—nearly 6 percent of the total population—have been forcibly evicted from their homes, made homeless or lost their source of livelihood since May 19.[37] The evictions and demolition of houses and markets stalls, and the manner in which they were carried out, constitute serious human rights violations.

The operation was jointly organized by the Minister of Local Government and Urban Housing, Ignatius Chombo, the Minister of Home Affairs, Kembo Mohadi, the Commissioner of Police, Augustine Chihuri, the Chairperson of the government-appointed City of Harare Commission, Sekesai Makwavara and the Governor of

[35] Human Rights Watch report, "Under a shadow: Civil and political rights in Zimbabwe," June 2003; Amnesty International report, "Rights under siege," May 2003.

[36] Human Rights Watch reports, "Under a Shadow: Civil and Political Rights in Zimbabwe," June 2003; "The Politicization of Food in Zimbabwe," October 2003; "Not a Level Playing Field: Zimbabwe's Parliamentary Elections in 2005, March 2005.

[37] UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-finding missions to assess the scope and impact of Operation Murambatsvina, July 22, 2005.

Metropolitan Harare, David Karimanzira.[38] The official launch of the operation took place on May 19 at the Harare Town House when the Chairperson of the Harare Commission Sekesai Makwavara gave a speech informing the public that the City of Harare was officially launching Operation Murambatsvina in conjunction with the Zimbabwe Republic Police.[39]

On May 24, five days later, the Harare City Council published a notice in the state-owned newspaper, *The Herald,* of an enforcement order under the Regional Town and Country Planning Act, giving occupants the option to either regularize their houses or demolish them and was to become effective on June 20, 2005.[40]

Two days later, Ignatius Chombo speaking on state television also said that the government would give the public "June and July" as notice to legalize their structures.[41] But on the very next day and in to the months of June and July, the government evicted thousands of people and destroyed their homes in high density suburbs such as Epworth, Mbare and Chitungwiza in Harare and in Sakubva, Mutare. The evictions then moved on to other parts of the country such as Gweru and Bulawayo.

Not all the victims were aware of the enforcement order that was published in the papers. Victims of the evictions informed Human Rights Watch that local city council authorities and the police gave them varying notice periods to leave their houses, ranging from one or two days, to a week. For example, in some instances, local city council authorities and police would visit neighborhoods a few days in advance and warn inhabitants that their houses would be demolished. In many other cases, victims received no advance warning.[42]

The operation began with the police destruction of flea markets and informal trading shops in Harare. Thousands of informal market traders were arrested in the process.[43] It quickly moved onto high density suburbs and informal settlements in Harare and other

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[38] Human Rights Watch interview with city council housing officer and UN officials, Harare June 25 and 30, 2005; See also Zimbabwe Human Rights NGO Forum report " Order out of chaos or chaos out of order: A preliminary report on Operation Murambatsvina," June 2005.

[39] Ibid.

[40] As published in the Herald Newspaper of May 24, 2005.

[41] Speaking on Zimbabwe Television, May 26, 2005.

[42] Human Rights Watch interviews, Harare and Mutare, June and July 2005.

[43] Interview with Otto Saki, human rights lawyer, Zimbabwe Lawyers for Human Rights, June 21, 2005; See IRIN report, "Informal traders hit back at government crackdown," May 23, 2005.

cities around the country.[44] As the demolitions and evictions progressed, the government established a transit camp on Caledonia Farm, on the outskirts of Harare to hold evictees, whilst vetting was reportedly carried out to determine relocation to their final place of origin.[45] Two other camps were established in Mutare and Bulawayo.

Patterns of evictions and demolitions

The criteria used to carry out the evictions were not only extremely broad but poorly defined. The government not only destroyed legal and illegal dwellings but failed to take into account the individual status of the dwellings. The evictions took place in all ten provinces of Zimbabwe, including the cities of Harare and Bulawayo.[46] Over twenty districts and fifty towns and neighborhoods were affected by the evictions and demolitions.[47]

The mass forced evictions and demolition of houses and properties included: houses built without a council permit such as unplanned houses built behind legal dwellings; houses built as part of informal settlements after residents were initially moved and resettled there by the government, for example on Porta Farm and at Hatcliffe Extension in Harare; houses built as part of housing cooperatives sometimes on farms appropriated by the government;[48] and legal houses and buildings where the owners had valid leases and planning permission. Flea market stalls and business structures in the informal sector were also destroyed,[49] and hundreds of licensed informal traders operating in the cities' markets had their stalls destroyed by the government.[50]

Reasons for Operation Murambatsvina

As justification for the evictions, city council officials claimed that they were merely enforcing municipal by-laws and getting rid of criminal activity. According to

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[44] Ibid.

[45] Human Rights Watch interview with city council housing officer and UN officials, Harare June 25 and 30, 2005.

[46]UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-finding missions to assess the scope and impact of Operation Murambatsvina, July 22, 2005.

[47] Interim-United Nations Multi Sectoral Response Plan to the Recent Evictions in Zimbabwe, July 5, 2005.

[48] In its initial state party report to the ICESCR, the Zimbabwean government stated,*"* The Government is encouraging the formation of cooperatives which will put their resources together and build houses for their members. To facilitate this, the Government has urged local authorities to provide cooperatives with serviced or unserviced land for housing development. The Government for its part provides technical assistance to cooperatives in such areas as preparation of topographical survey maps, preparation of lay-out plans, and coming up with civil engineering designs, etc."

[49] Human Rights interviews with victims, Harare, June 25, 2005.

[50] Human Rights Watch interview with Otto Saki, Zimbabwe Lawyers for Human Rights, June 21, 2005.

government officials including Sekesai Makavara, the evictions and demolitions were "aimed at restoring order and sanity throughout the capital."[51] Other justifications by government officials responsible for planning the evictions included the need to prevent disorderly urbanization and stopping illegal market transactions in the informal economic sector.[52]

Others, however, such as local human rights lawyers and local NGOs questioned the government's motives. They informed Human Rights Watch that they believed the evictions were an act of retribution against those who voted for the opposition during the recent elections in March 2005. Others including local NGO activists and victims of the evictions told Human Rights Watch that it was their view that the evictions were designed to prevent mass uprisings against deepening food insecurity and worsening economic conditions.[53] Whatever the government's justifications or alleged motives, the evictions created unnecessary chaos and misery and even those with valid leases and proper planning permission were unlawfully victimized and suffered extensive damage and suffering.[54]

Human Rights Watch interviewed James, an employed urban dweller, from New Park in Harare whose house was demolished even though he had a lease agreement from the city council and papers showing that he was a member of a housing cooperative. He said:

> I borrowed 15 million Zimbabwean dollars from the bank to build the house which I am still repaying. I would not have borrowed that amount of money if I thought that what I was doing was illegal. We all had files showing that we belonged to the cooperative. All the payments we made every month were kept in a file. The file would have a photocopy of your ID and your cooperative membership card[55].

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[51] As stated in an address on Zimbabwe National Television, May 20, 2005.

[52] UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-finding missions to assess the scope and impact of Operation Murambatsvina, July 22, 2005; see also Zimbabwe Human Rights NGO Forum, "Order out of chaos or chaos out of order? A preliminary report on Operation Murambatsvina," June 2005; International Crisis Group Report, "Zimbabwe's Operation Murambatsvina: The tipping point?" August 17, 2005.

[53] Human Rights Watch interviews, June 2005; See also UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-finding missions to assess the scope and impact of Operation Murambatsvina, July 22, 2005; Zimbabwe Human Rights NGO Forum, "Order out of chaos or chaos out of order? A preliminary report on Operation Murambatsvina," June 2005; International Crisis Group Report, "Zimbabwe's Operation Murambatsvina: The tipping point?" August 17, 2005.

[54] Human Rights Watch interviews with human rights lawyers and local NGOs, June 2005.

[55] Human Rights Watch interview, Harare, June 20, 2005.

Human rights lawyers interviewed by Human Rights Watch in Harare also argued that the government's rationale for the evictions of "the need to restore order" did not legitimize the government's failure to adhere to principles of natural justice and proper administrative procedures especially where the government failed to provide adequate notice and/or alternative accommodation for those affected—indeed no rationale would justify the egregious human rights violations associated with the operation and its aftermath.[56]

Failure to adhere to legal procedures

In Harare, local human rights lawyers informed Human Rights Watch that the Harare City Council notice was vague in that the affected persons were not clearly identified and the action required to be taken by each category of people affected was not clearly stipulated, leading to confusion about which dwellings would be demolished.[57] The evictions were also not carried out in accordance with procedures set out in Zimbabwe's national laws, including section 32 of the Regional, Town and Country Planning Act.

The Act stipulates under section 32 that an enforcement order for evictions shall not be operative until the expiry of the period stipulated which gives occupants one month to vacate the premises. It also stipulates that an appeal against the order automatically suspends it. Another law, the Urban Council Act requires twenty-eight days notice during which time those issued with an eviction order can appeal to the courts. Under this Act, no action can be taken until the court issues its determination.[58]

Lawyers working for the organization, Zimbabwe Lawyers for Human Rights, sought a number of court injunctions against the evictions but reported that the manner of disposal of urgent challenges to the evictions was unduly prolonged by the High Court. They also argued that in some cases judges showed an unwillingness to deal firmly and decisively with those who violated the law, for example officials who showed disregard

[56] Human Rights Watch interviews with human rights lawyers and local NGOs, June 2005; See also Zimbabwe Lawyers for Human Rights press statement, "The Legal Implications of Operation Murambatsvina and Operation Restore Order, June 30, 2005; See also Zimbabwe Human Rights NGO Forum report " Order out of chaos or chaos out of order: A preliminary report on Operation Murambatsvina," June 2005.

[57] Human Rights Watch interview with Geoff Feltoe, University of Zimbabwe, June 20, 2005, Blessing Chimhini, SAHRIT, June 22 and Otto Saki, Zimbabwe Lawyers for Human Rights, June 21, 2005.

[58] Under the Urban Council Act, before taking any action, the council shall serve notice to the owner of a building or land specifying the nature of the action proposed and the grounds upon which it proposes to take that action.

for legal administrative procedures during the evictions. This led to people "losing faith in the ability of the judicial process to offer them protection or other satisfactory remedies."[59] In the cases where court injunctions against the evictions were successful, local authorities and police ignored court orders. For example, police and local city council authorities in Harare ignored two existing High Court orders on June 29 and 30 "barring them from removing people from Porta Farm, on the outskirts if Harare, assaulting them or destroying their property." The 10,000 inhabitants of Porta Farm were eventually evicted and their houses demolished by the police on June 29 and 30, 2005.[60]

In a meeting with representatives from NGOs and church organizations on June 15, 2005, Ignatius Chombo, claimed that the government knew what it was doing regarding the evictions and had a long term plan that was being operationalized by all the relevant ministries.[61] Yet the government failed to put in place adequate infrastructure or sufficient support plans to provide humanitarian assistance to those affected by the evictions, including well defined relocation sites, alternative accommodation or shelter and the provision of essential services as required by international law.[62]

The Zimbabwe government has refused to acknowledge that the evictions were unlawful. The Minister of Justice, Legal and Parliamentary Affairs reportedly told parliament that the state was not breaching any conventions, laws or treaties in carrying out the operation but merely applying the rule of law."[63]

On July 22, the government gave a strong response to the report on the evictions by UN Special Envoy on Human Settlement Issues in Zimbabwe, Anna Tibaijuka, that concluded that the evictions had taken place in an "indiscriminate and unjustified manner, with indifference to human suffering," and called for those responsible for the evictions to be brought to justice.[64] The Zimbabwe government's Foreign Minister described the UN Special Envoy's report as biased and false and accused her of using

[59] Zimbabwe Lawyers for Human Rights Press Statement, "The legal implications of Operation Murambatsvina and Operation Restore Order," June 30, 2005.

[60] Ibid.

[61] Minutes of consultative meeting on the forced evictions between government officials, representatives from local NGOs and church organizations, June 15, 2005.

[62] Human Rights Watch interviews with UN officials June and July 2005.

[63] The Herald newspaper, "State to relocate displaced people," June 23, 2005.

[64] UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-finding missions to assess the scope and impact of Operation Murambatsvina, July 22, 2005.

"judgemental language."[65] On August 17, in a forty-six-page response to the report, the government claimed that the evictions were carried out in the confines of Zimbabwe's national laws and were consistent with international provisions.[66]

Movement of people to the rural areas

Following the evictions, thousands of people—more than 100,000 according to the UN[67]—were left with no alternative but to move to the rural areas, often with traumatic consequences since these areas offer few employment opportunities and suffer acute food shortages. There has also been a reduction in the delivery of social services in the areas of health and education. In addition, many of those forced to the rural areas have no relatives there. This is particularly the case amongst Zimbabweans of foreign origin that were either brought up on farms or grew up in the urban areas. A number of people in this category told Human Rights Watch that they had no place to go to other than the urban areas.[68]

Women face particular hardship. One of the reasons many women—especially widows—are likely to have left the rural areas is that many were likely to be evicted by their in-laws when their husbands died. For such women, it would be almost impossible to return to the area where their property was taken from them. They may also face forced widow-inheritance (forced marriage to an in-law) if they return, as occurs in some rural areas of Zimbabwe. In addition, no guarantee exists that these women will have family in their rural homes willing to take them back, especially in the context of food shortages.[69]

Since the evictions began, the government has attempted to convince and coerce evictees into relocating to the rural areas. The government provided few transit camps and ignored the thousands of people sleeping in the streets in an attempt to force them to return to the rural areas. For example, at Porta Farm, police told victims that they had

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[65] See SABC News Online, "Zimbabwe says UN report biased, hostile, false," July 22, 2005. The Herald, "UN report on clean up biased says government," July 23, 2005.

[66] Response by Government of Zimbabwe to the report by the UN Special Envoy on Operation Murambatsvina/ Restore Order, August 17, 2005.

[67] UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-finding missions to assess the scope and impact of Operation Murambatsvina, July 22, 2005.

[68] Human Rights Watch interviews with victims, June 2005.

[69] Human Rights Watch interviewed a number of women in particular widows, who detailed their concerns about returning to the rural areas in June 2005.

a choice: to either go back to the rural areas or end up at the transit camp in Caledonia.[70] Victims reported to Human Rights Watch that they were threatened with fines and violence if they decided to remain in the area where their houses were demolished.[71] Witnesses told Human Rights Watch that police hired extra trucks and took a number of people to a designated transit camp for evicted people on Caledonia Farm. Others were driven fifty kilometers out of Harare and told to find other means of proceeding on to the rural areas.

Victims reported to Human Rights Watch that the police repeatedly told them to go back to the rural areas.[72] Police and government officials gave no justification for these calls. Instead, they told victims that all Zimbabweans had a rural home to which they belonged.[73] These statements were repeated by government officials on numerous occasions. For instance, in response to a question on the impact of the evictions and demolitions in Parliament on June 22, Justice, Legal and Parliamentary Affairs Minister Patrick Chinamasa informed Members of Parliament that evicted people would go back to their rural homes, and Zimbabwean citizens of Malawian, Zambian or Mozambican or other foreign origin would be sent to resettlement farms around the country.[74] But local NGOs argued that the weak economy has had a severe impact on the rural areas where there are few employment opportunities, poor social services and acute food shortages.[75]

Local church organizations and charities were left with the dilemma of either helping the government in its objective of relocating people to the rural areas, or watching women, children and sick persons suffer in the cold without any assistance. As a result, some organizations provided evictees with transport to the rural areas.

One local priest told Human Rights Watch:

> Sending the people back to the rural areas has been controversial because other organizations don't want us to send them to the rural areas. They say its doing the government's dirty work, helping the

[70] Human Rights Watch interviews with victims on Porta Farm, June 29 and 30, 2005.

[71] Ibid.

[72] op cit.

[73] Human Rights Watch interviews with victims in Harare and Mutare, June 16-July 3, 2005.

[74] The Herald newspaper, "State to relocate displaced people," June 23, 2005.

[75] Human Rights Watch interviews, June and July 2005.

> government with its relocation policy. But the people have asked us to. We have the names of 200-250 families still sleeping outside registered with us wishing to go home and asking for transport. They can't continue to sleep outside. Something has to be done.[76]

After the evictions: the rebuilding and reconstruction program

On June 29, the government announced a new phase of the operation called "Operation Garikai," (reconstruction), reportedly to provide decent accommodation to those affected by the evictions and to substantially reduce the urban housing waiting list.[77] President Mugabe announced that the government had set aside 3 trillion Zimbabwe dollars (US$300 million) to build up to 1.2 million houses.[78] According to the UN report on the impact of the evictions, the government claimed that it would build 4900 stands (plots) in the coming months.[79] But the report argued that Operation Garikai seemed to have been hastily implemented and did not account for the immediate shelter needs of people who had been rendered homeless by the evictions.[80] In any case, those affected would likely not have had their rights so seriously violated, if prior to the evictions, the government had undertaken a consultation process and looked at ways of minimizing the negative effects of the evictions. As Zimbabwe Lawyers for Human Rights argued, "such a program would have achieved more beneficial results if there had been a process of research, verification, consultation and subsequent action, including the regularization of any purported illegal structures rather than demolitions."[81]

In July, the government decided to close the transit camp that was set up for evicted people in Harare.[82] On July 21, Ignatius Chombo informed the inhabitants of Caledonia Transit Camp that the government would vet people to determine who would be re-allocated houses.[83] In violation of the right to freedom of movement and choice of

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[76] Human Rights Watch interview with local priest, Harare, June 28, 2005.

[77] The Herald Online, "Spear head Operation Garikai, councils told," July 15, 2005.

[78] The Herald Online, "Garikai, solution to housing woes," July 27, 2005.

[79] UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-Finding Mission to assess the Scope and Impact of Operation Murambatsvina, July 22, 2005.

[80] Ibid.

[81] Zimbabwe Lawyers for Human Rights Press Statement, "The Legal Implications of Operation Murambatsvina and Operation Restore Order, June 30, 2005.

[82] Human Rights Watch telephone interviews, July 21, 2005; see also News 24 online, "Zim closes camp for homeless," July 24, 2005.

[83] Minutes of address of meeting with Caledonia Farm residents by the Minister of Local government Ignatius Chombo, July 21, 2005. People at Caledonia Transit Camp were told that if they had lease agreements they would be given priority to return to their stands; those paying membership fees and registered with housing cooperatives would be allowed to go back and stay on allocated pieces of land; all people that have jobs in

residence, those without formal jobs and no offer letter for housing stands were told that they would be compulsorily transported to their rural areas of origin.[84]

Those with valid lease agreements were told that they would return to properly demarcated housing stands.[85] Although a number of people from the camp were transported to housing stands in places such as Hatcliffe Extension, many others were reportedly transported to the rural areas.[86] In addition, police relocated over 2000 men, women and children from the transit camp to a place called Hopley Farm along Masvingo road, reportedly for further vetting by government officials.[87] Lawyers and UN officials informed Human Rights Watch that people initially spent weeks at the farm without shelter, food or other basic necessities, as the government at first refused to allow humanitarian agencies on to the farm. The agencies were later able to negotiate access to assist the people.[88]

It is an open question as to who will benefit from the reconstruction operation. The criterion for allocating houses seems to discriminate against those without formal employment or housing.[89] The government has yet to clarify whether the thousands that have moved to the rural areas will be compensated for the houses and businesses they lost. The government has claimed that the reconstruction phase of the evictions will restore dignity to the affected population.[90] But thousands of people are now internally displaced and remain homeless and destitute with little or no access to shelter, food or water.

Human Rights Consequences of Operation Murambatsvina

Harare but have no housing stands would need to prove their status to camp management before they were granted permission to seek alternative accommodation in Harare; those without jobs and no offer letter for housing stands were told they would be compulsorily transported to their rural areas of origin.

[84] Ibid.

[85] op cit. See also ReliefWeb, “Zimbabwe to relocate people affected in demolition campaign,” July 21, 2005.

[86] Human Rights Watch telephone interviews, August 17 and 18, 2005. See also The Sunday Mail, Zimbabwe, “Caledonia officially closed,” July 24, 2005.

[87] Ibid.

[88] Ibid. See also IRIN News online, “UN hopes for greater access to displaced,” August 15, 2005.

[89] This report has documented the fact that the majority of people affected by the evictions work in the informal sector and lived in informal housing and thus do not qualify to receive housing. See also report by the UN Special Envoy op cit.

[90] Response by Government of Zimbabwe to the report by the UN Special Envoy on Operation Murambatsvina/ Restore Order, August 17, 2005.

Human Rights Watch conducted interviews with many people who were affected and displaced as a result of Operation Murambatsvina. They represent a vivid cross-section of the Zimbabwean population in the affected areas. Women, children, persons living with HIV/AIDS and persons of foreign origin were particularly hard hit by the evictions as documented in the accounts below. While the victims who spoke to Human Rights Watch have unique stories, their accounts share a common thread: all cited a similar process of forced, indiscriminate and often violent displacement at the hands of police and consistent orders to move to the rural areas.

In contrast to government claims that people voluntarily destroyed "illegal" houses,[91] many of those affected by the evictions informed Human Rights Watch that the police forced them to destroy their own houses often at gun point. One interviewee told Human Rights Watch:

> When the police came they were forcing people to demolish their homes or they would beat them up. I saw them beating people up and forcing them to demolish the house. They were beating them up with baton sticks. Some of the police were armed and they were threatening people. At some houses they would sit by the house and wait until it was demolished. They announced on loudspeakers that they would be coming on Sunday so I demolished the house before they came.[92]

Police also destroyed houses and structures without care for the safety of people or their possessions. A number of people reported that they had to risk their lives trying to retrieve their belongings while police demolished their houses.[93]

Human Rights Watch interviewed a number of people who were beaten by the police and others who witnessed the police beating people who refused to destroy their houses or did not do so quickly enough. To date, no investigations into the brutality and excessive use of force of the police have taken place and those responsible brought to justice.

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[91] Ibid.

[92] Human Rights Watch interview, Harare, June 29, 2005.

[93] Human Rights Watch interview, Harare, June 29, 2005.

Tapiwa told Human Rights Watch about the brutal methods use by police to evict her from her home, "The police are showing no mercy. They have given us a deadline that we must destroy our houses. They were beating us with baton sticks and their boots if we didn't destroy our houses quickly enough. It doesn't matter, women, children, and elderly people. They were all beaten up. What we want to know is why is God doing this to us?"[94]

Women

Those made most vulnerable by the evictions and demolitions are women and children who continue to have no or minimal access to shelter, food and other basic services.

Women have increasingly become the sole bread winners in the home, as unemployment has reached unprecedented levels in Zimbabwe.[95] A significant proportion of those interviewed by Human Rights Watch were from female headed households, due to the high rate of HIV/AIDS which has left many women widowed and HIV positive.[96]

Operation Murambatsvina took place in an environment of profound gender discrimination against women in Zimbabwe with respect to property inheritance and ownership, highlighting the failure of the government to adequately legislate for women's equality in the areas of inheritance and division of family property upon divorce, and in particular the problem of courts bowing to discriminatory customary laws.[97]

This has been particularly exacerbated by the HIV/AIDS pandemic. Reasons for the high proportion of women in the informal settlements include a plethora of abusive and discriminatory practices including property grabbing when their spouses die,

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[94] Human Rights Watch interview, Porta Farm, June 30, 2005.

[95] For more on unemployment in Zimbabwe see Dashwood, H S. "Zimbabwe: The Political Economy of Transformation, 2000; see also African Development Bank, "Gender, Poverty and Environmental Indicators on African Countries," 2005.

[96] Human Rights Watch interviews with local NGOs working with HIV positive women and widows, June 2005; see also policy document on gender by the Gender Department in the Ministry of Youth Development, Gender and Employment Creation, Zimbabwe 2001.

[97] Centre on Housing Rights and Evictions: "Bringing Equality Home: Promoting and Protecting the Inheritance Rights of Women," Geneva, Switzerland. Also available at http://www.cohre.org/downloads/womens-inheritance-rights-africa.pdf. See also Mildred T. Mushunje, "Women's land rights in Zimbabwe," (2001); AS Tsanga and V Nkiwane, "A critical analysis of women and children's constitutional and legal rights in Zimbabwe in relation to the women and children's conventions," August 2001.

discrimination in inheritance, lack of equal property rights upon divorce, difficulties in obtaining credit to purchase property, and discriminatory attitudes of public officials handling issues such as the registration of deeds to property and the approval of land transfers.[98]

Many of the women evictees Human Rights Watch interviewed were renting out cottages and cabins and selling vegetables as a means of survival. They informed Human Rights Watch that as part of a drive to empower women in the 1990s, the government encouraged widows and divorced women to build and rent out cabins in their back yards as a means of survival.[99] As one woman told Human Rights Watch, "The government told us that the power is in our hands, that the land is ours and that we should build where we want to build."[100]

Priscilla, a sixty-year-old widow with one daughter and two grandchildren lived in her own cottage with her family. When her house was destroyed during the evictions, she ended up sleeping out in the streets until her family was given refuge in a church:

> We were all living together in Mbare in a cottage. I was in Bulawayo for a wedding. I came back on Monday and found people demolishing their cabins and cottages and then I was told that a notice came on Friday telling people to demolish their properties. Riot police were there in their numbers and they were beating people and forcing people to demolish their cottages. Since I was away, I found my nineteen-year-old grandson doing it alone. They were shouting at us to quickly demolish the house. There was no time to look after the property. I am not working but my daughter is working. She is a cleaner. We came to the church. People were sleeping outside under a tree. People were looking for lorries to carry their luggage and belongings. Some managed to find transport and went.
>
> There was havoc because the riot police were going around checking to see if we had demolished the houses. They wanted it razed the ground and told us to get rid of the rubble and were forcing people to burn the

[98] Ibid. Human Rights Watch interviews with women and women's organizations, Harare, June and July 2005.

[99] Human Rights Watch interviews, Harare, June 2005.

[100] Human Rights Watch interview, Harare, June 25, 2005.

> wooden planks. We were told to break down bricks into small pieces. Elderly people were forced to demolish the cabins in their backyard. People were sleeping outside including newborn babies.
>
> People were gathering together in groups. The police said they didn't want people to gather. They told us to disappear back to our rural homes or they would take us to a farm somewhere in Goromonzi. We are staying in the church but we are desperate. The church is not an accommodation. At my age I need my own home. I don't have a home in the rural areas. Our culture says once you are married you belong to your husband's family and now he is dead. I would not be welcome in his rural homestead. My daughter is also a widow. Getting accommodation is very difficult.
>
> I tried to apply for a house with the city council in 1970 but never got one. Since then I have been renewing my applications. I had a lodger's card, and was paying rent every month to prove that I qualified to get a house. Eventually I gave up. Sometimes they needed bribes. There was corruption in the city council.[101]

Eileen, who was pregnant, described the indignity of almost giving birth in the open to Human Rights Watch:

> I gave birth yesterday. We have been sleeping in the open for three weeks. It was terrible because I was heavily pregnant. Then yesterday I got contractions and well wishers quickly put up a wooden shack so that I wouldn't give birth in the open and that is where I had my child. For now I am sleeping with the newborn in this shack while my husband and two other children sleep outside. We don't know what to do.[102]

Human Rights Watch also interviewed a number of women who had children with disabilities. They were reluctant to go to the rural areas where their children were unlikely to receive adequate medical treatment. Justina told Human Rights Watch:

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[101] Human Rights Watch interview, Harare, June 29, 2005.

[102] Human Rights Watch interview, Mutare, June 24, 2005.

> My husband abandoned me when my son was born. He was born with Downs syndrome. I used to stay in a cabin and it was demolished and now I sleep outside in the streets with my kids. This is our second week of sleeping in the open. I used to be a vendor (informal trader) but I can't work anymore. I can't go back to the rural areas because both my parents are dead. I can't think anymore.[103]

Sheila, a mother of two children, lived with her unemployed husband in a one room cottage in Highfield group. Her twelve-year-old daughter was born with cerebral palsy. Sheila owned a flea market stall and was able to feed her family. Her daughter attended the Ruvimbo School for the Disabled every day. She recounted her story:

> The house I am staying in has been demolished. It happened last week on June 8. Support unit police and soldiers and people from the city council came to demolish the house. They came and told us that it was illegal and started to demolish the house with hammers. I arrived in Highfield in 1993. I was just lodging with my husband. The land lord had papers for the house.
>
> They didn't even inform us that they were coming. We were not given any warnings; we just heard that in Mbare they were coming to demolish the house. When they started demolishing I immediately took my property and threw it outside. We have been sleeping outside for a week at Highfield with our property. We are sleeping outside me and my children including my disabled child and now she is having fits. The government has not provided us with any food, shelter or medicine. They want us to move. We have no village or anywhere to stay in the rural areas. My husband is from Masvingo but I have had problems with my in-laws because they don't like my disabled child. My disabled child was at a disabled school and there is no school in the rural areas. We also have no money to build anything in the rural areas.
>
> My child now has no access to physiotherapy or the hospital because we have no money for transport to take her there. We have received no

[103] Human Rights Watch interview, Harare, June 22, 2005.

> help whatsoever even from local and other NGOs. I have no lawyers or anyone helping me. I am desperate. I am worried about my children. We haven't been able to talk to anyone from the government.
>
> My flea market was demolished and I don't have anything to do and I am so worried about how I am going to survive. In Highfield we are six mothers with disabled children who are now homeless. The number will increase because they will still demolish the other houses. I don't know what I am going to do next. I am so desperate.[104]

Anita, a twenty-year-old widow had four children including twins. One of the twins had a disability and spent most of her time in and out of hospital. She was able to survive by selling fruits and vegetables. On the day the evictions took place she was in the hospital with the twins. She said:

> The doctor discharged me because the child's condition didn't change. When I reached home, I discovered the house pulled down. My belongings were looted and I had nothing to do. So I have to stay out in the open with the kids. At first, I gave my two other children to their grandmother who lives on a near by farm but then she had to work and the children weren't allowed on the farm where she is working.
>
> My four children and I are now sleeping outside. I was living in a shack which belonged to my in-laws. My in-laws were allocated a stand during the 2002 elections. We weren't given any notice. They (the local authorities) told us it was an operation and that they didn't want any illegal structures.
>
> One of my children is still going to school but now has to move very far. What worries me is where will he go and I have to transfer him. It pains me because the school he went to offered high quality education. We have now been sleeping outside for about two weeks. I am planning to go and stay with my step sister if things get worse. I am able to get help from a local NGO food point. Other NGOs are not allowed to

[104] Human Rights Watch interview, Harare, June 22, 2005.

> give us help because they (the government) say we should go to the rural areas.[105]

Children

Children have also been affected by the demolitions and evictions. UN agencies concluded that a significant percentage of children throughout the country had been "prejudiced of humanitarian support, shelter and support systems."[106] The UN report on the impact of the evictions estimated that up to 223,000 children were directly affected by the operation.[107] The Child Protection Working Group consisting of local and international organizations working with children, also expressed concern that a number of children, who became separated from their families during the evictions, were being held in institutions, including those normally used to hold children in conflict with the law.[108] Child headed households in the high density urban areas were also affected by the evictions.

Mable sixteen:

> I was living in Tafara with my six younger brother and sisters. Our parents died in 2002. We were renting a cabin and it was demolished and now we are living on a farm. We have built a temporary structure there. It is made of plastic sheeting and some cardboard. Before we used to survive by selling freezes (ice lollies) and vegetables but now we are just living without anything to do. We are now eating food we were given by well wishers sometime ago. No one has visited the farm to help us. It's now been a week since we were evicted.[109]

Despite the difficulties in school enrolment due to families relocating in the aftermath of the evictions, a United Nations Children's Fund (UNICEF)-led UN assessment of the

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[105] Human Rights Watch interview, Harare, June 22, 2005.

[106] Special Bulletin "Operation Restore Order and Murambatsvina," Office of the Humanitarian Coordinator/ Humanitarian Supports Team, June 20 2005; See also UNICEF press statement "UNICEF steps up action in Zimbabwe, though concerned that all affected cannot be reached," June 24, 2005.

[107] UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-Finding Mission to Assess the Scope and Impact of Operation Murambatsvina, July 22, 2005.

[108] Submission to the United Nations Special Envoy, "Concerns about the impact of "Operation Clean-up" on children," June 27, 2005.

[109] Human Rights Watch interview, Harare, June 25, 2005.

impact of the evictions found that 90 percent of children affected by Operation Murambatsvina remained in school.[110] However, Human Rights Watch interviewed a number of victims who were unable to keep their children in school.

Beatrice, a mother of three children from Rugare, is now unable to pay for her children to attend school:

> Last Saturday the police came and told us to destroy the cabin I was renting out. I was a landlady and my livelihood was destroyed. I have a boy in Form Four and another in Form Three while another is in Grade Six. Now I can't afford to send my children to school because I can't afford the transport. My husband died a long time ago and I was renting out the cabin for ten years. I was getting 350,000 Zimbabwe dollars per month for rent plus water and now I have lost it.[111]

Witnesses told Human Rights Watch that those children who went to the rural areas with their parents found enrollment into new schools difficult without a transfer letter from their previous school. The nature of the evictions, carried out with little or no notice meant that few parents were able to secure transfer letters for their children. A number of schools and crèches were also reportedly destroyed during the evictions in and around Harare.[112]

People living with HIV/AIDS

Almost 25 percent of the adult population aged 15-49 in Zimbabwe—a total of around 1.6 million people—are affected by HIV.[113] The high rate of HIV infections in the urban areas has resulted in the formation of HIV/AIDS centers that provide home based care to those living with HIV/AIDS, and counseling and medication. HIV prevalence rates have in the last ten years alone reduced life expectancy from sixty-two to about thirty-eight and a half years.[114] The evictions led to the disruption of scores of HIV/AIDS

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[110] UNICEF press release, "Against odds, Zimbabweans keep their children in school," August 23, www.unicef.org/media/media_28025.html.

[111] Human Rights Watch interview, Harare, June 25, 2005.

[112] Human Rights Watch interviews with victims, lawyers and local MPs, Harare, June 2005.

[113] UNAIDS: http://www.unaids.org/en/geographical+area/by+country/zimbabwe.asp (accessed August 31, 2005).

[114] World Development Indicators database, April 2005.

home based care and treatment programs around the country. In carrying out the evictions, the government failed to provide for the care of chronically ill persons including those living with HIV/AIDS many of who were sleeping in the open or had moved to the rural areas.

One HIV/AIDS home based care centre official informed Human Rights Watch that fifteen out of twenty of its home based care volunteers, all of whom were HIV positive, were evicted and rendered homeless in Harare.[115] None of the center's twenty-seven child clients on free anti-retroviral drugs, turned up to receive new supplies of anti-retroviral drugs since the eviction program started.

Matthew, a home based care volunteer informed Human Rights Watch that five of his clients had died in the open in Mutare after being evicted from their homes:

> We have been providing counseling and home based care to our clients and throughout these suburbs since last year. The evictions have hit us hard. Almost all twenty of the clients in this suburb were affected and their houses demolished. It's a terrible tragedy.
>
> Out of my twenty clients, five have already died while sleeping out in the open. If you look just across (pointing to a pile of furniture with a plastic sheet on top), underneath there's a very sick woman in there. Just this morning we attended the funeral of one woman who died leaving behind a five-year-old child. They were sleeping in the open. These conditions are not good for already sick people and as you can see today it has been raining. We don't have the statistics of all those that have been affected and where they might have gone and that is why we are trying to collect data so that we can follow up on them. The Ministry of Health hasn't even been in touch or the local council. They are just not interested.[116]

According to local NGO health personnel in Harare, the disruption of treatment programs is likely to lead to resistance to anti-retroviral drugs and an increase in opportunistic infections. One local NGO health official told Human Rights Watch:

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[115] Human Rights Watch interview, Director of Home based care Centre, Harare, July 1, 2005.

> Hundreds of people are now going to die because they will develop resistance because they can't get access to the drugs. People who are on the six combined anti-retroviral drugs one of which is Nevirapine will develop resistance because it has a long shelf life in the body. Those who are borderline stage 3 and 4 are going to become terminally ill. Those who were in recovery are going to regress. A lot of new born babies and small babies are going to die.
>
> The effect of stress on people living with HIV is unchronicled but it is there. When you add malnutrition and the cold it is terrible. When you treat people with HIV you are constantly treading a fine line to ensure they don't regress and this has pushed us over the line. For every person we don't treat here, it affects another ten.[117]

Women and children are disproportionately affected by HIV.[118] Chipo was confirmed HIV positive in 1996. She told Human Rights Watch:

> We found out about our (HIV) status when my child was three months old. My husband died in 1998 and my child and I were very ill but then I became a member of a centre which looks after HIV positive people. My son and I have been on ARVs and we were both doing fine. We received counseling, spiritual and psychological as well as nutritional help. But now I am under stress.
>
> Three weeks ago the police came and told us to destroy our houses. They had guns and we had no choice. We destroyed them. My son and I have been sleeping outside with our furniture for the past two weeks. I used to sell vegetables to survive but now I can't anymore. I rely on an organization that looks after widows for food. It's very difficult. My son and I are still able to get treatment but I don't know what will happen if the police come back. They have said they will come back to make sure that we have all left for the rural areas. I am very worried. My mind is

[116] Human Rights Watch interview, Mutare, June 24, 2005.

[117] Human Rights Watch interview, Harare, July 1, 2005.

[118] Human Rights Watch. Policy Paralysis, December 2003.

> not at ease. And my son and I, what will we do if we go to the rural areas? I don't know if we will be able to get treatment. My mind is not at peace. I don't know.[119]

A UN agency assessment report on June 20 stated: "The hardships and high mobility triggered by the operation have seen patients either receiving less attention and care or being abandoned all together." It went on to observe that quality and holistic care was in jeopardy and that prevention activities had been discontinued including ARV distribution due to the evictions.[120] This was echoed by Zimbabwe Association of Doctors for Human Rights (ZADHR) who in a press statement stated that the mass forced evictions and demolitions would result in "the exacerbation of the HIV/AIDS epidemic as community structures are fractured and dispersed."[121]

Persons of foreign origin

The status of people of foreign origin—mostly from neighboring countries—is also in limbo, following Operation Murambatsvina. Interviewees told Human Rights Watch that police repeatedly told them to go back to their countries even though most were born and raised in Zimbabwe or have lived legally in Zimbabwe for many years.[122] Such persons are now also without protection, no rural villages to return to and no access to a remedy.

Blessing, married with three children, thirty-eight:

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[119] Human Rights Watch interview, Harare, June 25, 2005.

[120] Special Bulletin 'Operation Restore Order and Murambatsvina,' Office of the Humanitarian Coordinator/ Humanitarian Supports Team, June 20, 2005.

[121] SW Radio Africa, "Evictions disrupt HIV/AIDS treatment programmes," July 6, 2005.

[122] Human Rights Watch interviews with victims in Harare and Mutare, June 16-July 3, 2005. In 2001 the government introduced the Citizenship Amendment Act to prohibit dual citizenship. Under the act those Zimbabwean citizens in possession of foreign passports who did not formally renounce their foreign citizenship within a stipulated period of time were classified as aliens or foreigners. In 2003 the Citizenship of Zimbabwe Act [Chapter 4:01] was amended again to allow people who were born in Zimbabwe, but whose parents came to the country as migrant workers from a SADC country, to confirm their citizenship of Zimbabwe by signing a special form renouncing their foreign citizenship. However, the amendment was published after most of the people concerned had already lost their Zimbabwean citizenship, and were therefore unable to confirm their Zimbabwe citizenship.

> I have no where to go because I am originally from Mozambique. I came here in 1983. My wife is Zimbabwean from Seke but she has no home there. The police told us to go back where we came from.
>
> The police came without notice and told us to demolish our house on June 4. We slept outside for sixteen days and then we started sleeping in the church office. The police came with guns and told me to destroy the house. My wife was at work. I have been living in Mbare since 1996. I was a lodger living in a two room cabin. My wife works in an orphanage.
>
> People who were refusing to demolish their houses were being beaten by the police. I never went to the city council because there was a long waiting list and I don't have a plan at the moment to find a house because I don't have the money.
>
> Right now I am sick and I have malaria. We are sleeping on the floor of the church office. My youngest has a big sore on the back of his head and we went to the hospital where we were given a prescription but we can't afford the drugs. I can't go back to Mozambique because there is no one there. My wife can't speak the language so how will she work? I don't know what we will do.[123]

Elube of Malawian parentage described her family's predicament to Human Rights Watch:

> The police came three weeks ago and told us to destroy our house and go back to the rural areas but we are of Malawian origin and we can't go back. We were paying 600,000 Zimbabwe dollars for one room. For three weeks my husband, two children and I have been sleeping out in the open and yesterday it rained. Our property is now wet. My husband had a barbershop and I had a salon and the police destroyed them. Now we have nothing. I lived in Old Tafara for four years and was born and brought up in Zimbabwe, but the police were saying we want you to go

[123] Human Rights Watch interview, Harare, June 29, 2005.

to Malawi, Zambia, Mozambique; we don't want you to stay here. Now we are no where.[124]

The Humanitarian Response

Once the extent of the evictions became clear, local, international humanitarian organizations and UN agencies established a humanitarian assistance program to provide food and other basic necessities such as shelter to the victims. In July, rough estimates by the UN showed that 20 percent (114,000) of the affected population of 700,000 were living in the open with no shelter; 20 percent (114, 000) had gone or were forced to go to the rural areas; 30 percent (170,000) were absorbed by families, friends or the extended family; and 30 percent (170,000) sought refuge in the community in churches and other temporary accommodation.[125]

The pace of humanitarian assistance has been slow for a number of reasons. At first, the government of Zimbabwe hampered the humanitarian response. The authorities were reportedly reluctant to give humanitarian organizations access to those affected by the evictions.[126] For example, in early June, two humanitarian food trucks were turned back without reason by the local governor in Bindura.[127] Secondly, the scope and scale of the evictions was unexpected. Local and international NGO representatives told Human Rights Watch that they were unaware of how extensive the evictions were in the first two weeks.[128] Since the evictions were countrywide, it was difficult to put together the resources to reach more people in particular those sleeping in the open where their houses were demolished.[129]

These obstacles have made it understandably difficult for humanitarian agencies to operate. By August 26, out of an estimated 133,535 households affected, only 33,600

[124] Human Rights Watch interview, Harare, June 25, 2005.

[125] UN Special Envoy on Human Settlement Issues in Zimbabwe, Report of the Fact-Finding Mission to Assess the Scope and Impact of Operation Murambatsvina, July 22, 2005.

[126] Human Rights Watch interviews with UN officials, and representatives from local organizations, Harare, June and July 2005.

[127] Human Rights Watch interview, local NGO representatives and UN officials, Harare, June and July 2005.

[128] Ibid.

[129] op cit.

(about 20 percent) of households were receiving UN humanitarian assistance.[130] A countrywide assessment by the responsible agencies to ascertain the location and needs of those affected by the evictions ended in early August. Nonetheless, UN and other humanitarian agencies are finding it difficult to trace those that have been internally displaced especially in the rural areas.[131]

As documented in this report, thousands of people remain destitute and have not yet received any assistance or protection. Human Rights Watch is particularly concerned about women and children sleeping in the open who are vulnerable to further human rights abuses including sexual abuse and harassment, and the situation of persons living with HIV/AIDS.

The conclusions of the UN Special Envoy's report have produced tension between the government of Zimbabwe and the UN in particular the UN Country Team which has the task of negotiating the terms of humanitarian assistance with the government. Deplorably the government of Zimbabwe continues to place unnecessary obstacles in the way of the humanitarian assistance program.[132] On August 29, the UN Under-Secretary General for humanitarian affairs, Jan Egeland complained that a lack of cooperation from government was hampering efforts to aid those affected by the evictions. The government has raised objections to the contents of a draft emergency appeal proposed by the UN, which would have helped those hardest hit by the eviction program, and refused to sign an agreement with the UN to mobilize much needed relief and reconstruction aid. On August 30, the UN and the Zimbabwean authorities agreed to rework the text of the emergency appeal and to agree on a humanitarian plan.[133] However, unless the government agrees to the contents of the UN appeal, hundreds of thousands of people will remain homeless and destitute.

Harassment of NGOs and civil society groups

On a number of occasions, the government has proved reluctant to allow civil society groups and local NGOs access to those in need of humanitarian assistance. For example in June, the Bishop of the Anglican Diocese in Mutare was reportedly questioned by the

[130] United Nations Factsheet on Zimbabwe, Office for the Coordination of Humanitarian Affairs, August 26, 2005.

[131] Human Rights Watch telephone interviews with UN officials, August 18, 2005.

[132] Press conference on Zimbabwe evictions by Under Secretary for Humanitarian Affairs, Jan Egeland, New York, August 29, 2005.

[133] IRIN news online, "Zimbabwe: UN and govt to rework text of $30m flash appeal," August 30, 2005.

police for three hours when the parish tried to distribute food to people. Police also threatened to close the offices of the Anglican parish.[134] One local NGO described how police visited their offices on three occasions and accused them of distributing food to victims of the evictions.[135] A couple of local NGOs involved in the humanitarian assistance program told Human Rights Watch that they did so in secret because they were afraid of being harassed and intimidated by state authorities.[136] Other local NGOs used their own food reserves and other basic necessities to clandestinely provide assistance to those in need.

The government's harassment of local NGOs has a huge impact on the numbers of people receiving basic humanitarian assistance and protection. This is especially so in the case of women, children and vulnerable groups, a number of whom informed Human Rights Watch that their survival depended on the food, shelter and other forms of protection they received from local NGOs.

International Response

The mass forced evictions were widely condemned by western governments in particular the governments of the United States, United Kingdom and other European Union governments.[137] Many African governments including the South African government once again refused to publicly condemn human rights violations in Zimbabwe and chose to remain silent on the issue of the evictions.[138] The South African government indicated that it would await a UN report on the crisis before responding. It has yet to respond to the findings of the report. Nonetheless, the South African government has become increasingly concerned with the human rights conditions in Zimbabwe. In his weekly statement on the African National Congress website in August, President Thabo Mbeki in a rare but subtly phrased public reproach of the government of Zimbabwe pointed out that what happens in one country, directly affects other countries within the region.[139]

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[134] Human Rights Watch interview with local NGOs and church representatives, Mutare, June 24, 2005.

[135] Human Rights Watch interview, Mutare, June 24, 2005.

[136] Human Rights Watch interviews with local NGOs providing humanitarian assistance, Harare and Mutare, June and July 2005.

[137] EU statement: "Declaration by the Presidency on behalf of the European Union concerning the recent events in Zimbabwe," June 7, 2005; BBC news online, "Why Africa wont condemn Zimbabwe blitz," June 24, 2005.

[138] BBC news online, "Why Africa wont condemn Zimbabwe blitz," June 24, 2005.

[139] ANC weekly newsletter, "Letter from the President," http://www.anc.org.za/ancdocs/anctoday/2005/text/at33.txt

The United Kingdom has pledged to provide humanitarian aid towards the crisis. The UK ambassador to the UN also urged other leaders to extend humanitarian assistance.[140] On August 10, the US Ambassador to the UN Agencies in Rome, Tony P. Hall visited Zimbabwe to assess the impact of the evictions. Ambassador Hall urged the government of Zimbabwe to remove bureaucratic obstacles preventing NGOs from delivering humanitarian assistance to those in need.[141] During his visit, Zimbabwean security forces prevented him from visiting Hopley Farm a camp with up to 2,000 people displaced by the evictions.

There is little consensus on what should be done to engage with the Zimbabwe government on its human rights record at the level of the UN Security Council. Members of the United Nations Security Council remain divided about how the situation in Zimbabwe should be resolved. A number of member states including Russia, China and Tanzania voted against a UN Security Council briefing by Anna Tibaijuka to discuss the report but were outvoted by other governments including the United States and the United Kingdom.[142]

It is unclear what the UN Security Council will do next. A resolution on Zimbabwe at the UN Security Council is unlikely to take place. China, Russia and other African countries do not believe that Zimbabwe warrants discussions at the Security Council or the UN Human Rights Commission because they claim that it is not a country in conflict and is not a threat to international peace or security.[143] The United Nations Secretary General Kofi Annan has accepted an invitation by President Mugabe to visit Zimbabwe and assess the conditions although it is not clear when the visit will take place.[144]

Attempts by African governments and the AU to resolve Zimbabwe's human rights crisis have so far yielded little. The government of Zimbabwe refused to accept the AU appointment of former president Joachim Chissano as an envoy to broker talks between the ruling party and the opposition MDC, claiming that such talks would not be taking

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[140] Ibid.

[141] United States Agency for International Development, "Zimbabwe: Complex Emergency Situation Report No.2," August 16, 2005.

[142] Mail and Guardian Newspaper, "Fur flies in UN briefing on Zimbabwe," July 28, 2005; BBC News Online, "Zimbabwe report discussed at UN," July 27, 2005.

[143] Ibid.

[144] Mail and Guardian Online "Kofi Annan to visit Zimbabwe," July 25, 2005.

place.[145] In addition, the commendable effort by the Chairperson of the African Union Commission, Alpha Oumar Konare to appoint a special envoy to investigate the evictions was blocked by the Zimbabwe government, which refused to grant the envoy permission to do so, until he was forced to leave the country on July 7.[146] The Zimbabwe government claimed that the African Commission had failed to follow protocol in sending the envoy to investigate the evictions.[147] The African Union has yet to respond to the government's actions. The Southern African Development Community also failed to discuss Zimbabwe at its annual summit on August 17.[148] Zimbabwe has not signed on for peer review at the level of the African Union, making it difficult to initiate any discussion on its human rights record.

As this report has documented, the unlawful manner in which the evictions were carried out, necessitates an independent investigation into how the evictions took place. This can only be done through the establishment of an international commission of inquiry to identify who at the highest levels was responsible for planning and executing the evictions.

Zimbabwe's Obligations under International Law

Evictions conducted by a state can give rise to serious human rights violations. This is particularly true when they are carried out by force or without procedural guarantees. Zimbabwe acceded to the International Covenant on Economic, Social and Cultural Rights (ICESCR) in May 1991 and is bound by its provisions. Zimbabwe also ratified the African Charter on Human and Peoples' Rights in 1986. The Charter does not specifically provide for protection against forced evictions, but has extensive provisions on the protection of human rights that are typically affected by the practice of forced evictions, such as the right to freedom of movement and residence, the right to personal security and the rights to education and to enjoy the best attainable state of physical and mental health. Decisions by the African Commission have articulated the obligations of state parties in protecting these rights.

[145] VOA news online, "Zimbabwe officials rule out talks with opposition," August 16, 2005.

[146] African Union news update, June 29, 2005.

[147] See Amnesty International Press release, "Zimbabwe: Government must not be allowed to silence African Union," July 8, 2005.

[148] Financial Gazette, "SADC reluctant to ruffle Mugabe's feathers," August 25, 2005.

As the testimonies in this report show, the way in which the evictions were conducted in Zimbabwe had a devastating impact on the most vulnerable sections of the population. Many sick individuals were denied their right to basic medical attention. Children in the areas affected by evictions and relocated though displacement, were unable to receive the education they are entitled to. Zimbabwe is also a state party to the International Covenant on Civil and Political Rights (ICCPR). The ICCPR regulates among others, the right to freedom of movement and to choose residence, and the right to an effective remedy to prevent or seek redress in the event of human rights violations.

There may be highly exceptional circumstances where it is justifiable for the state to conduct forced evictions.[149] In terms of Article 4 of the ICESCR, evictions can be done when they are in accordance with national law which is compatible with international instruments, and the purpose of the evictions is to promote the general welfare in a democratic society. In such cases, important procedural guarantees in the conduct of evictions must be followed. The Zimbabwe government failed to follow any of the required procedures. Prior to the evictions, the authorities did not consult with those to be evicted. The evictions were carried out with little or no notice, without due process and frequently by force, using harassment and intimidation. Finally, they rendered most of the people affected homeless and vulnerable.

Zimbabwe's national laws such as the Regional, Town and Country Planning Act and the Housing Standards Act refer to certain procedures for carrying out evictions which the government failed to follow.[150] These include the provision of adequate notice and court orders by local council authorities. However, Zimbabwe's national laws on the right to adequate housing are only partly in line with international standards. No law exists in Zimbabwe that prohibits arbitrary evictions and grants a measure of protection of tenure to the persons who could be affected.

Right to freedom of movement and choice of residence

By compelling people to move to the rural areas against their wishes, Zimbabwe is violating article 12 of the ICCPR which declares that everyone shall have "the right to liberty of movement and freedom to choose his residence." It is widely agreed that

[149] The CESCR, in its General Comment 4 on the right to adequate housing, paragraph 18, states that "[t]he Committee considers that instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law." In its General Comment 7, the Committee makes it clear that forced eviction and house demolition as a punitive measure are also inconsistent with the norms of the ICESCR.

[150] Refer to section 32 of the Regional Town and Country Planning Act and sections 16-22 of the Housing Standards Act.

incorporated in the freedom of residence is the right not to be moved. As noted by article 12 (3), restrictions on the freedoms of movement and to choose residence are permitted only when provided by law and for reasons of "national security, public order, public health or morals, or the rights and freedoms of others." Such restrictions must narrowly be interpreted so as to not to "impair the essence of the right."[151] The restrictions must be proportionate and suitable to achieve the lawful end intended, that is, the protection of fundamental values such as the rights and freedoms of others. Finally, the restrictions must also be consistent with other rights recognized by the ICCPR.

Right to adequate housing

The right to housing is a fundamental component of the right to an adequate standard of living and is vital to the enjoyment of other human rights.

Article 11.1 of the ICESCR calls on state parties to "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. State parties will take appropriate steps to ensure the realization of this right."

The right to adequate housing not only includes adequate privacy, space, security, protection from the elements and threats to health, ventilation at a reasonable cost, but also, among other things legal security of tenure—including protection against forced eviction, harassment and threats.[152]

Security of tenure

A basic protection against forced eviction is for the state to take prompt steps to confer legal security of tenure on people who lack such protection and, as soon as possible, to develop legislation to prevent forced eviction in accordance with human rights standards.

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[151] Human Rights Committee, General Comment 27 on freedom of movement. Para 13.

[152] CESCR, General Comment 4, paras 7 and 8.

The Zimbabwe government has no legislation which regularizes the situation of those living in the "illegal" sector.[153] The result is that few people in Zimbabwe—especially those living in informal houses in urban high density areas—have legal security of tenure. But, Zimbabwe has an obligation to respect the right to housing, not only in the case of those who can show documents to prove legal title, but also to those living on informal settlements.

Both the Committee on Economic Social and Cultural Rights and the UN Commission on Human Rights[154] have called on states to provide legal tenure to those threatened with forced eviction. In its General Comment 4, paragraph 8, the ICESCR lists various types of tenure, including informal settlements, and adds: "[n]otwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with the affected persons and groups."[155]

General Comment 7 of the ICESCR on forced evictions calls for legislative measures which "(a) provide the greatest possible security of tenure to occupiers of houses and land, (b)conform to the Covenant and (c) are designed to control strictly to the circumstances under which evictions may be carried out."[156]

Due process and the right to effective remedy

The CESCR holds that the right to adequate housing is at least consistent with the provision of legal remedies such as legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions and legal procedures seeking compensation following an illegal eviction.[157]

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[153] Zimbabwe State Party Report on the implementation of the International Covenant on Economic, Social and Cultural Rights, 25 September 1995.

[154] See Commission on Human Rights resolution 1993/77a on forced evictions.

[155] CESCR, General Comment 4, para 8.

[156] CESCR, General Comment 7.

[157] CESCR, General Comment 4, para 17. See also the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, who in paragraph 46 (c) of his 2002 report to the Commission on Human Rights, called on governments to "[g]uarantee access to judicial remedies for violations of the right, such as forced evictions, deliberate denial of civic services, including reparations for damages suffered…"

Article 2 (3) of the ICCPR requires that State Parties, including Zimbabwe, ensure that any persons whose rights or freedoms spelled out in the Covenant are violated has a right to an effective remedy, determined by a competent authority.

As state party to the ICESCR, Zimbabwe is required to "…see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected."[158]

[158] CESCR, General Comment 7, para 13.