



**Report of the Fact-Finding Mission to Zimbabwe
to assess the Scope and Impact
of
Operation Murambatsvina
by the
UN Special Envoy on Human Settlements Issues in
Zimbabwe
Mrs. Anna Kajumulo Tibaijuka**

Acknowledgements

In May 2005 the Government of Zimbabwe launched a clean-up operation of its cities known as “Murambatsvina”. It was described as a programme to enforce bylaws to stop all forms of alleged “illegal activities in areas such as vending, illegal structures, illegal cultivation” among others in its cities. Concerned by the adverse impact of the Operation on the lives of the urban poor, the Secretary-General of the United Nations appointed a Special Envoy on Human Settlements Issues to assess the situation and present recommendations on how the conditions of those affected may be addressed. This report provides the findings and recommendations of the Special Envoy for her mission undertaken between 26 June and 8 July, 2005, in Zimbabwe.

A number of people assisted the Special Envoy on her assignment. First, the Special Envoy would like to acknowledge the warm welcome extended by H. E. President Robert Mugabe, who gave free access and full support to the mission. She would also like to acknowledge the assistance provided to her by several Members of Cabinet in the Government’s Inter-Ministerial Task Force responsible for coordinating “Operation Garikai”, especially its Chairperson, Minister of Local Government, Public Works and Urban Development, Dr. Ignatius Chombo.

The Special Envoy would like to thank the Governors of the Provinces of Matebeleland, Midlands, Manicaland and the Mayors of the cities and towns she visited, especially those of Harare, Headlands, Rusape, Mutare, Gweru, Bulawayo, Hwange and Victoria Falls, for facilitating her tour around the affected areas. The Special Envoy gratefully recognizes the many interviews and submissions made by Parliamentarians, political parties, civil society organizations, women groups, the private sector, professional associations, religious leaders, faith-based organizations, as well as non-governmental and community-based organizations. Most of all, the Special Envoy would like to thank the many individuals, especially those in the camps and those sleeping out at night, for their patience in providing personal testimonies under the most trying conditions.

The briefings provided by members of the international and diplomatic community both within Zimbabwe and outside were much appreciated. A mission of this nature would not have been successful without the support provided by the UN Country Team under the able leadership of Mr. Agostinho Zacarias, the UN Resident/Humanitarian Coordinator for Zimbabwe.

The Special Envoy would like to acknowledge the team that accompanied her to Zimbabwe for their hard work in preparing and finalizing the report. The team consisted of the following: Ms. Mari Yamashita, from the UN Department of Political Affairs; Mr. Alf Ivar Blikberg, from the UN Office for the Coordination of Humanitarian Affairs; and, from UN-HABITAT, Mr. Alioune Badiane, Ms. Sandra Baffoe-Bonnie, Ms. Nelly Kang’ethe, Mr. Sharad Shankardass and Mr. Nicholas You. She would also like to thank all staff at UN-HABITAT who assisted her in finalizing the document and braving a night shift to make sure this report reaches the Secretary-General in time, especially Mr. Roman Rollnick, Mr. Francisco Vasquez, Ms. Rhoda Kalaule and Ms. Margaret Mburu. Mr. Haile Menkerios of the Department of Political Affairs and the staff at the UN-HABITAT New York Office, Ms. Axumite Gebre-Egziabher, Ms. Yamina Djacta, Mr. Christopher Hutton, Mr. Angel Gómez and Ms. Anne Kuria – all gave invaluable editorial support and logistics.

Finally, the Special Envoy would like to thank the UN Secretary-General, Mr. Kofi Annan, for his confidence in her to undertake this challenging assignment. She hopes that the findings and recommendations will be helpful to the Government of Zimbabwe and useful in mobilizing international assistance for the victims of Operation Murambatsvina and the people of Zimbabwe.

Anna Tibaijuka
18 July, 2005.

List of Abbreviations

AU	African Union
CAP	Consolidated Appeals Process
DPA	Department of Political Affairs
ECOSOC	Economic and Social Council
ESAP	Economic Structural Adjustment Period
HCC	Harare City Council
IDPs	Internally Displaced People
IOM	International Organization for Migration
MDC	Movement for Democratic Change
NGO	Non-governmental Organizations
OCHA	Office for the Coordination of Humanitarian Affairs
SADC	Southern African Development Community
SESG	Special Envoy of the Secretary-General
UN	United Nations
UNAIDS	The Joint United Nations Programme on HIV/AIDS
UN-HABITAT	United Nations Human Settlements Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNCT	United Nations Country Team
UNDP	United Nations Development Programme
WFP	World Food Programme
WHO	World Health Organization
ZCTU	Zimbabwe Congress of Trade Unions
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZIMCORD	Zimbabwe Conference on Reconstruction and Development
ZRP	Zimbabwe Republican Force

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Executive Summary

On 19 May 2005, with little or no warning, the Government of Zimbabwe embarked on an operation to “clean-up” its cities. It was a “crash” operation known as “Operation Murambatsvina”, referred to in this report as *Operation Restore Order*. It started in the Zimbabwe capital, Harare, and rapidly evolved into a nationwide demolition and eviction campaign carried out by the police and the army. Popularly referred to as “Operation Tsunami” because of its speed and ferocity it resulted in the destruction of homes, business premises and vending sites. It is estimated that some 700,000 people in cities across the country have lost either their homes, their source of livelihood or both. Indirectly, a further 2.4 million people have been affected in varying degrees. Hundreds of thousands of women, men and children were made homeless, without access to food, water and sanitation, or health care. Education for thousands of school age children has been disrupted. Many of the sick, including those with HIV and AIDS, no longer have access to care. The vast majority of those directly and indirectly affected are the poor and disadvantaged segments of the population. They are, today, deeper in poverty, deprivation and destitution, and have been rendered more vulnerable.

Operation Restore Order took place at a time of persistent budget deficits, triple-digit inflation, critical food and fuel shortages and chronic shortages of foreign currency. It was implemented in a highly polarized political climate characterized by mistrust, fear and a lack of dialogue between Government and local authorities, and between the former and civil society. There is no doubt therefore that the preliminary assessment contained in this report constitutes but a partial picture of the far-reaching and long-term social, economic, political and institutional consequences.

In assessing the scope and impact of the operation and the ability of the Government of Zimbabwe and of the humanitarian community to respond, the Special Envoy’s mission, supported by the United Nations Country Team, met with President Robert Mugabe, a cross-section of members of his cabinet and various people and institutions. These include central and local government officials, political parties, religious leaders, civil society organisations, the private sector, professional and trade associations, academia, the donor and humanitarian community, as well as some of the people affected. The mission was further informed by hundreds of written submissions and testimonials, official records and legal documents, interviews, articles and reports made by the media, and by site visits across the country. Furthermore, the mission witnessed first-hand the process of demolition and eviction and met with many of its victims.

The Special Envoy’s findings and their implications are as follows:

- (i) Operation Restore Order, while purporting to target illegal dwellings and structures and to clamp down on alleged illicit activities, 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. Immediate measures need to be taken to bring those responsible to account, and for reparations to be made to those who have lost property and livelihoods. In parallel, other confidence-building measures need to be taken to restore dialogue between the Government of Zimbabwe and civil society.
- (ii) Even if motivated by a desire to ensure a semblance of order in the chaotic manifestations of rapid urbanisation and rising poverty characteristic of African cities, none the less Operation Restore Order turned out to be a disastrous venture based on a set of colonial-era laws and policies that were used as a tool of

segregation and social exclusion. There is an urgent need to suspend these outdated laws and to review them within the briefest time possible to ensure the sustainability of humanitarian response and to set the stage for meaningful physical reconstruction and the restoration of livelihoods;

- (iii) The humanitarian consequences of Operation Restore Order are enormous. It will take several years before the people and society as a whole can recover. There is an immediate need for the Government of Zimbabwe to recognise the virtual state of emergency that has resulted, and to allow unhindered access by the international and humanitarian community to assist those that have been affected. Priority needs include shelter and non-food items, food and health support services.
- (iv) Any humanitarian response can only be meaningful and sustainable if it contributes to the long-term recovery and reconstruction efforts of the Government and of its people. Zimbabwe is not a country at war and it remains peaceful. By African standards, it has a well maintained physical infrastructure. The international community should engage the Government of Zimbabwe and help it to address some of the issues and causal factors that led to the present predicament. These include, first and foremost, the lack of security of tenure for the poor. They also include conflicting and outdated housing and urban development policies, overlapping jurisdictions, and a lack of clear definition of and respect for the respective roles and competencies between central and local spheres of government. The humanitarian response provides a unique opportunity and entry point to link the provision of temporary shelter and other forms of humanitarian assistance with immediate security of tenure for all those affected and to prepare the ground for overcoming the failures and inherent weaknesses in governance.

In view of the above, the Special Envoy proposes the following recommendations for the Secretary General's consideration:

A. Recommendations that the Government of Zimbabwe should be encouraged to undertake:

a. On Humanitarian Issues

Recommendation 1: An estimated 700,000 people in cities across the country have either lost their homes or their livelihoods or both. The Government of Zimbabwe should immediately halt any further demolitions of homes and informal businesses and create conditions for sustainable relief and reconstruction for those affected.

Recommendation 2: There is an urgent need for the Government of Zimbabwe to facilitate humanitarian operations within a pro-poor, gender-sensitive policy framework that provides security of tenure, affordable housing, water and sanitation, and the pursuit of small scale income-generating activities in a regulated and enabling environment.

Recommendation 3: There is an immediate need for the Government of Zimbabwe to revise the outdated Regional Town and Country Planning Act and other relevant Acts, to align the substance and the procedures of these Acts with the social, economic and cultural realities facing the majority of the population, namely the poor.

Recommendation 4: There is an immediate need to revive dialogue and restore trust between different spheres of government and between Government and civil society. This process should emerge from a broad-based consultation among all Zimbabwean stakeholders.

b. On Accountability and Legal Issues

Recommendation 5: The Government of Zimbabwe is collectively responsible for what has happened. However, it appears that there was no collective decision-making with respect to both the conception and implementation of Operation Restore Order. Evidence suggests it was based on improper advice by a few architects of the operation. The people and Government of Zimbabwe should hold to account those responsible for the injury caused by the Operation.

Recommendation 6: The Government of Zimbabwe should set a good example and adhere to the rule of law before it can credibly ask its citizens to do the same. Operation Restore Order breached both national and international human rights law provisions guiding evictions, thereby precipitating a humanitarian crisis. The Government of Zimbabwe should pay compensation where it is due for those whose property was unlawfully destroyed.

Recommendation 7: The wrecking of the informal sector by Operation Restore Order will have detrimental effects at a time that the economy remains in serious difficulties. Apart from drastically increasing unemployment, the Operation will have a knock-on effect on the formal economy including agriculture. The Government of Zimbabwe has to undertake corrective policy reforms in macro-economic management and governance issues, focusing on land reform and land tenure with a view to provide secure tenure for the poor both in rural and urban areas.

Recommendation 8: The Government of Zimbabwe should grant full citizenship to those former migrant workers and their descendants who have no such legal status.

B. Recommendations for the United Nations and the International Community

Recommendation 9: Operation Restore Order has precipitated a humanitarian crisis of immense proportions. In an apparent response, the Government of Zimbabwe has launched a counter programme, Operation Garikai (Rebuilding and Reconstruction). The Government itself, even with the best efforts, has limited capacity to fully address the needs of the affected population without the assistance of the international community. The United Nations should therefore work with the Government of Zimbabwe to mobilize immediate assistance from the international community to avert further suffering, and encourage the Government to create conditions for sustainable relief and reconstruction for those affected.

Recommendation 10: The United Nations, working with the African Union and the Southern African Development Community, at the highest levels, should assist the Government of Zimbabwe to promote real internal dialogue among its various constituencies on the one hand, and dialogue with the international community on the other hand, with a view to working out the modalities of returning Zimbabwe into the international fold.

Recommendation 11: Although a case for crime against humanity under Article 7 of the Rome Statute might be difficult to sustain, the Government of Zimbabwe clearly caused large sections of its population serious suffering that must now be redressed with the assistance of the United Nations and the broader international community. The international community should encourage the Government to prosecute all those who orchestrated this catastrophe and those who may have caused criminal negligence leading to alleged deaths, if so confirmed by an independent internal inquiry/inquest. The international community should then continue to be engaged with human rights concerns in Zimbabwe in consensus building political forums such as the UN Commission on Human Rights, or its successor, the African Union Peer Review Mechanism, and in the Southern African Development Community.

Lessons Learned

Recommendation 12: Operation Restore Order has to be understood within the broader context of the urbanization crisis in Africa. It is recommended that the international community draws lessons from the Zimbabwe crisis for the entire African continent and actively support the implementation of the Habitat Agenda. It makes a clarion call to the international community to realize that without a more concerted approach to promote urban environmental sustainability (Goal 7, target 10 on water and sanitation, and target 11 on slum upgrading and prevention of the Millennium Declaration), the other countries in Africa could well experience another "Operation Restore Order" sooner than later.

Section A
**Social, Economic and Political Context of “Operation
Murambatsvina” (Operation Restore Order)**

1 Social, Economic and Political Context of “Operation Murambatsvina” (Operation Restore Order)

1.1 Introduction

On 19 May 2005, with little or no warning, a military-style “clean-up” operation started in the Zimbabwe capital, Harare. It quickly developed into a deliberate nationwide campaign, destroying what the Government termed illegal vending sites, structures, other informal business premises and homes, literally displacing hundreds of thousands of people. Termed “Operation Murambatsvina” by the Government (hereafter referred to as Operation Restore Order), and commonly referred to by the people as “Operation Tsunami”, the army and police were mobilised to carry out the demolitions and evictions.

1.2 Operation Murambatsvina (Operation Restore Order)

The first official announcement that a comprehensive “operation” was underway in Zimbabwe, came in a speech by the Chairperson of the Government-appointed Harare Commission, Ms. Sekesai Makwavarara, on 19 May 2005 at the Harare Town House.¹ She characterized it as “a programme to enforce bylaws to stop all forms of illegal activity”, and said it would be enforced “in conjunction with Zimbabwe Republican Police (ZRP).” Five days later, the City of Harare issued a notice, indicating to the people in the Greater Harare area that persons who had erected illegal structures should demolish them by 20 June 2005. There is no evidence that advance notice was given in other cities in Zimbabwe to which the Operation was extended.

One day prior to this speech, the Governor of the Reserve Bank of Zimbabwe, Dr. Gideon Gono, had announced his *Post Election and Drought Mitigation Monetary Policy Statement*. In it he outlined structural and operational deficiencies of the financial system. Reference was made to the various forms of corruption and indiscipline in the economy and the need for the reorientation of the law enforcement systems in fighting such challenges.² There has been speculation as to the timing of the speech, and the Governor’s role in triggering the operation.³

On 25 May, only a few days after the notice appeared, and in complete disregard of the deadline announced, a massive military style operation started in Harare, Bulawayo and other cities, targeting first and foremost vendors’ markets, flea markets, other informal market premises and “illegal” housing structures. Twenty thousand vendors countrywide were reported arrested within a week of the operation. The operation involved the destruction of flea markets and housing used for many years by informal traders and vendors. It also involved the bulldozing, smashing and burning of structures housing many thousands of poor urban dwellers.

Eyewitnesses said the police beat some people who offered resistance, or who did not demolish their houses quickly enough.⁴ Throughout the month of June the operation targeted practically

¹ Entire text of the speech was published in *The Herald* on 28 May 2005 and is attached to this report as Annex 3 of Section A.

² “*Perspectives on the Ills of Corruption*” Supplement 4 of 5 to the *January-April 2005 Monetary Policy Review Statement Delivered by the Governor of the Reserve Bank of Zimbabwe, Dr. G. Gono (May 2005)*

³ In his meeting with the Special Envoy, the Governor claimed, however, that it was mere coincidence and that he had absolutely no idea about Operation Restore Order.

⁴ “*Order out of Chaos, or Chaos out of Order? A Preliminary Report on Operation Murambatsvina*” a report by the Zimbabwe Human Rights NGO Forum, June 2005.

every town and business centre in the country, as well as countless homes, leaving a trail of destruction in Bulawayo, Chinhoyi, Gweru, Harare, Kadoma, Kwe Kwe, Marondera, Mutare, Rusape and Victoria Falls. The destruction and demolition first targeted so-called shanty towns in high-density suburbs and informal vending and manufacturing operations. It was then extended to settlements on farms in peri-urban and rural areas. More than 52 sites were affected and practically no area designated as 'urban' was spared.

The most devastating and immediate effect of this operation was the fact that hundreds of thousands of people were rendered homeless and left without any viable form of livelihood. People were told to return to their 'rural origins', but many simply did not have a rural home to go back to. Civil society and humanitarian agencies tried to reach people who had been affected to protect and assist them. They were denied full access by the police.⁵

Zimbabwean churches were among the first to publicly voice their concern.⁶ The National Association of Non-Governmental Organizations issued a statement on 5 June calling on the Government "to stop the Operation immediately until alternative mechanisms are put in place". As the human suffering continued unabated, international pressure against the Government increased. The Special Rapporteur of the UN Commission on Human Rights on the Right to Adequate Housing, Dr. Miloon Kothari, issued a statement on 3 June urging the Government "to immediately halt the mass forced evictions". The European Union also issued a statement on 7 June condemning government actions. The timing and magnitude of the operation had led to much speculation, and a need emerged for more information to obtain a clearer picture of the situation in Zimbabwe.

It was against this background that in early June the Secretary-General of the United Nations, Mr. Kofi Annan, and the President of Zimbabwe, Mr. Robert Mugabe, decided that the Secretary-General should send an expert on human settlement issues to Zimbabwe for a first-hand review of the circumstances surrounding the operation. UN-HABITAT's Under-Secretary-General and Executive Director, Mrs. Anna Tibaijuka, was appointed on 20 June 2005 as the Special Envoy of the Secretary-General on Human Settlement Issues in Zimbabwe, to lead a fact-finding mission to the country.

1.3 Scope of the Fact-finding Mission

The fact-finding mission comprised of experts in human settlements issues, humanitarian affairs, legal affairs, political affairs and the media. The mission was supported by the Resident Coordinator and by the UN Country Team. The mission visited Zimbabwe from 25 June to 8 July 2005. Against a backdrop of growing concerns by the international community for the violation of human rights and for the human suffering caused by the Operation, the terms of reference for the mission included: (i) assessment of the scope and extent of the recent mass evictions, the humanitarian needs and the impact on the affected population; (ii) assessment of the adequacy of the Government's arrangements for the displaced and its capacity to address the basic needs of the affected population; (iii) assessment of the capacity of the humanitarian community to

⁵ The mission was not able to ascertain on whose orders the police were acting.

⁶ On 30 May, the Zimbabwe National Pastors Conference issued a press statement noting 'with great concern' the clean-up operation and called upon the Government to "engage in a war against poverty and not a war against the poor". On 2 June the Zimbabwe Catholic Bishops' Conference General Secretariat issued a press statement warning "the perpetrators of this crime that history will hold ... individually accountable".

respond; and (iv) the preparation of a comprehensive report to the Secretary-General on the situation with recommendations on how the condition of those affected may be addressed.⁷

The mission had unimpeded access and freedom of movement and received good cooperation on all fronts from the Government of Zimbabwe. The Special Envoy consulted widely with Government officials, including President Mugabe, Ministers, Ministers of State, Governors of four Provinces and four Mayors, as well as the Governor of the Reserve Bank of Zimbabwe. She met with senior political party representatives, including some members of the ruling Zimbabwe African National Union–Patriotic Front (ZANU-PF) party’s Politburo and Central Committee, as well as members of the opposition Movement for Democratic Change (MDC).⁸ The mission also consulted widely with civil society organizations in Harare, Headland, Rusape, Mutare, Gweru, Bulawayo, Hwange and Victoria Falls. The Special Envoy also met with various religious leaders and other individual Zimbabweans, including evictees, as well as the wider diplomatic community and international and national NGO’s. She held group consultations with African Ambassadors on the one hand, and with Ambassadors of donor countries and Heads of bilateral aid agency missions in Harare on the other. In addition, mission members were able to conduct in-depth consultations with a cross-section of personalities and organizations, including Government authorities, as well as representatives of the private sector and trade unions.⁹

The mission formally started on the same day as the Government paper, *The Herald*, announced that the clean-up operation was “winding up”.¹⁰ However, a few days later the Special Envoy and mission members witnessed the ongoing destruction of houses and structures in at least two locations, Porta Farm near Harare, and Luveve in Bulawayo. The mission visited the Caledonia ‘transit camp’ for those displaced near Harare, run by a special unit of the police and currently holding an estimated 5,000 displaced people.¹¹ It was clear that the Operation was not over by the day the Special Envoy and her team left Zimbabwe on 9 July, seven weeks after it had started.

1.4 Historical, Socio-economic Context

The social, economic and political circumstances in which the Operation took place were first and foremost specific to Zimbabwe. They share, however, many common and similar aspects with historical and present trends that characterise the rapid and chaotic urbanisation occurring in many African countries and cities.¹³ The following chapters provide a brief overview and analysis of the likely causal factors and context leading up to the Operation and their implications in terms of addressing the humanitarian crisis in the short-term and to forge enlightened policies and programmes to bring Zimbabwe, and its afflicted human settlements, sustainable relief and reconstruction in the medium and long-term.

1.4.1 The Historical Context

⁷ Terms of Reference of this mission are attached to this report as Annex 1.

⁸ The Special Envoy met the following members of the MDC: Hon. Gift Chimanihire, MP for Mbare, Harare; Hon. Trudy Stevenson, MP for Harare North; Hon. Thokozani Khupe, MP for Makokoba, Bulawayo; and Hon. Paurina Mtshirwa, MP for Mufakose, Harare. The leader of the MDC Mr. Morgan Tsvangirai was not in the country throughout the duration of the mission.

⁹ A complete list of persons and groups consulted cannot be attached on grounds of confidentiality.

¹⁰ *Herald* 26 June 2005.

¹¹ A description of the implementation of Operation Murambatsvina, as seen by the local press, is given in the Annex 2 of Section A. The annex provides an insight into the scope and pace of the Operation’s implementation, as well as of the reaction to the visit of the Special Envoy and her mission team.

¹³ *In our Common Interest*, Report of the Commission for Africa, March 2005 page 227

While Zimbabwe entered independence in 1980 with promises for peace and prosperity, enlightened by President Mugabe's policy of reconciliation, several underlying and unresolved issues became the root causes of future conflicts and, arguably, laid the grounds for the circumstances which allowed for a disastrous clean-up operation to take place. Among such causes one could list the failure to meaningfully address the land question and governance problems.

Since independence in 1980, Zimbabwe has been governed by ZANU-PF. Zimbabwean nationalism was forged in opposition to colonialism, and socialism became the basis of party ideology (though not necessarily of the economy) in the years following independence. The ruling party attempted, but failed, to introduce a one-party political system in the late 1980s. However, it maintained a highly centralised style of governance in which dissent and political opposition were hardly tolerated. The historical relationship of ZANU-PF and the minority party Patriotic Front-Zimbabwe African People's Union (ZAPU-PF) during the liberation struggle and the subsequent civil war formed the basis of the ZANU-PF's policy and attitude towards political opposition¹⁴.

While the Government successfully provided social services such as education, health care, higher wages and better working conditions to the black majority during the early years of independence, underlying socio-political and economic problems were left unresolved that would eventually produce a national crisis. Of these, the land question was the most profound, as the liberation war was fought over land and the promise to return it to the indigenous African population. Historical inequity was embedded in the constitutional settlement (the 'Lancaster House Constitution') that preserved the colonial settler pattern of white ownership of most of the fertile land and, despite legislation in 1992 to address the inequities, the process of redistributing land remained slow and did not produce equitable results for the majority population. Some of the reasons for this failure included ineffectiveness of the willing-seller willing-buyer policy stipulated in the 'Lancaster House Constitution', as well as non-availability of funding.

With respect to the funding issue, some in the Zimbabwe political elite and intelligentsia, as well as others of similar persuasion around the continent, believe that the international community is concerned more with "regime change" and that there is no real and genuine concern for the welfare of ordinary people. They cite the fact that, following independence, many donors who pledged resources for the reconstruction of the country at the Zimbabwe Conference on Reconstruction and Development (ZIMCORD) held in 1981 did not honour their pledges. To the minds of many Zimbabweans, the international community did this because the 'wrong party' had won the elections at independence. Over the years, when Zimbabwe appealed for funds to buy land from white farmers, on a willing-seller willing-buyer basis, the international community is considered to have turned a deaf ear. Even when it was apparent that the African communal areas (former tribal trust lands) were congested and no longer able to sustain the increasing population. Western countries did not provide the necessary funds, even where these had been promised, as in the case of UK.¹⁵

Subsequently, a draft constitution that finally proposed compulsory acquisition of land without compensation, was rejected in a referendum in 2000. Spontaneous commercial farm invasions by peasants had started in February 1998, followed by violent invasions in some parts of the country.

¹⁴ Shortly after independence, Zimbabwe entered into a protracted civil war (1982 and 1987) including a brutal military campaign in Matebeleland, Gukurahundi, which claimed the lives of some 20,000 people. The repression was mainly against the minority Ndebele population which also became a strong basis for the opposition Patriotic Front of the Zimbabwe African Patriotic Union (PF-ZAPU). A unity accord was signed between ZANU-PF and ZAPU in 1987, cementing the basis of a strong dominant party system.

¹⁵ Confidential submission by a Professor from the University of Zimbabwe.

This mounting pressure forced the Government to initiate its “fast-track land reform programme” in 2000.¹⁶

The institutional framework of governance in post-colonial Zimbabwe retained structures, laws and an “elite” attitude and culture used during colonial times despite the liberation from minority rule in 1980.¹⁷ The nationalist elite seemed to have perpetuated the colonial mentality of high standards for a few at the expense of the majority. In the end, while the liberation struggle was against the ‘white settlers’ and the economic and political power they monopolized, the Government was not able to reverse the unequal and exploitative nature of colonial capitalism itself¹⁸.

1.4.2 The Economic Crisis

The background to the current economic crisis has several aspects: the inherited ‘colonial economy’ of Rhodesia, the post-independence Economic Structural Adjustment Period (ESAP) of the early 1990s, and the result of the economic policies undertaken since. By Sub-Saharan African standards Zimbabwe at independence in 1980 inherited a relatively sophisticated and diversified economy, but it already suffered from a large fiscal deficit, low economic performance, high unemployment, price controls, and a lack of foreign currency¹⁹. Many analysts point to the failure of ESAP in the early 1990s as a major negative economic turning point. The austerity measures imposed by the ESAP led to, inter alia, the massive retrenchment of skilled and unskilled labour and of the civil service; the closure of many manufacturing industries; general price increases; and the deterioration of social services. These factors, combined with the liberalisation of the economy, led to the gradual but systematic decline of the formal economy and to the growth and emergence of the informal sector, especially in the rapidly growing towns and cities of Zimbabwe.

Three political factors deepened the economic crisis in the late 1990s. First the appeasement policy towards war veterans adopted in 1997 when the Government decided to issue cash handouts to ex-combatants who had threatened to destabilize the government with a public display of discontent at the time. The handout sparked an inflationary spiral from which the economy has still to recover²⁰. Secondly, Zimbabwe’s military intervention in the conflict in the Democratic Republic of Congo had serious consequences in terms of budgetary allocations and deficits. Thirdly, the ‘Fast Track’ land distribution programme of 2000 negatively affected agricultural production, the mainstay of the Zimbabwean economy. It prompted the imposition of targeted sanctions from the European Union, the US and several Commonwealth countries.²¹ While these sanctions were not directed against the economy *per se*, they contributed to the polarization of national and international media and the domestic political environment and also led to negative travel advisories that heavily affected the tourism industry. The Zimbabwean

¹⁶ The invasions were mainly led by war veterans but also by peasants from the largely communal lands and unemployed city residents (Report of UNDP Mission to Zimbabwe, October, 2000)

¹⁷ Submission by Deprose T. Muchena.

¹⁸ Ibbo Mandaza, Zimbabwe: The Political Economy of Transition, 1980-1986. Codesria, Dakar Senegal.

¹⁹ Zimbabwe’s economy was also heavily subsidised (mainly by South Africa) during the Smith regime that was under economic sanctions. It led to a relatively self-sufficient economy, which after independence and liberalisation of the economy and loss of subsidy, became unsustainable.

²⁰ The cash hand-outs in 1997 are often attributed to have kicked off the downward spiral of the economy, as the Zimbabwe dollar fell from 1:10 to 1:27 in the same year. Today, the official exchange rate is 1:10,000 (and 1:23000 in the parallel market).

²¹ These were imposed on select members of the Government and ZANU-PF members, banning them from travelling to and freezing assets in these countries.

economy has been on a downward spiral since, registering a growth rate of 0.9% in 1998, declining to 0.5% in 1999, and negative growth rates since 2000-2001.

There were no “real” economic solutions in sight at the start of 2005, despite the Governor of the Reserve Bank of Zimbabwe declaring an imminent turn-around of the economy. The recent IMF mission, under Article IV of the consultation framework, has indicated that the economy is likely to decline by a further 7% this year (2005), that inflation, currently running at about 140%, would not be arrested to any significant levels, and that foreign currency reserves were down to three days. Foreign exchange shortages have restricted essential imports needed for industrial and agricultural production, fuel, energy and basic commodities, further exacerbating the decline of the formal economy and the Government’s revenue base. The budget deficit is estimated to exceed 14% of GDP and domestic debt is estimated at USD 1 billion. Unemployment currently stands at 75% with over 70 % of the population living under the poverty line. Zimbabwe also has one of the highest divides in Africa both in terms of access to resources and in consumption with about 80% of the population sharing less than 20% of national wealth.²² Food shortage exacerbated by drought affecting the entire sub-region has been an additional challenge faced by the country since 2001-2002, particularly in the rural areas, leading to a humanitarian crisis²³. The food deficit is estimated at 1.2 MT of maize for the 2005-6 season.

1.4.3 Rise of the Informal Economy

In 1980 the informal economy was relatively small, accounting for less than 10% of the labour force. This was attributed to the various laws and bylaws that prohibited the free movement of indigenous people, especially from rural to urban areas. With deregulation after independence and economic stagnation and decline, the informal sector share of employment grew to 20% by 1986/87, 27% by 1991 and an estimated 40% by 2004. The informal economy had effectively become the mainstay for the majority of the Zimbabweans. ILO reported in June 2005²⁴ that 3 to 4 million Zimbabweans earned their living through informal sector employment, supporting another 5 million people, while the formal sector employed about 1.3 million people. Most local authorities derive substantial revenues from fees levied from informal sector activities.²⁵

1.5 The Political Context

Against this backdrop of a deeply weakened economy is a country faced with a series of challenges in the political, legal and social areas.

Zimbabwe had been ruled by one political party for 20 years before a real opposition could emerge²⁶. The country has been led by a Founding President, a towering and influential political personality, viewed with respect in Zimbabwe and in all of Africa for his historical role in the colonial liberation struggle. A combination of this reverence and the inherited colonial administrative structures contributed to a heavily centralised Government in Zimbabwe and also

²² SADC Human Development Report (1999)

²³ WFP, Hunger in Africa, A report to the Security Council in 2005

²⁴: cited in *the Zimbabwean* (24-30 June 2005, p.8)

²⁵ For instance, Bulawayo City Council was receiving US \$75,000 from vendors. (Source: *submission from Zimbabwe Congress of Trade Unions*, 28 June 2005)

²⁶ More than 12 opposition parties were formed in the early 1990s but remained weak and small, poorly led and having almost no political impact.

partially explains the common attitudes of regional leaders who have opted for quiet diplomacy rather than criticize his Government openly.²⁷

During the 1990s, a number of civil society organizations, especially the Zimbabwe Congress of Trade Unions (ZCTU), emerged as pressure groups to oppose the dominant rule of ZANU-PF, challenging emerging corruption, human rights violations and poor governance in general. This political space for civil society also allowed for the emergence of strong leadership²⁸ that ultimately led to a powerful alliance of forces that mobilized Zimbabwe's public opinion. By the time the Government tabled a draft constitution for a popular referendum in 2000, which, among other things, proposed to strengthen presidential powers and to allow the government to expropriate white commercial farmland without compensation, a segment of civil society organizations were successfully mobilised to vote against the constitutional draft²⁹.

Against the foregoing, the 2000 referendum marked the first political defeat for the leadership of ZANU-PF and became a watershed year in Zimbabwe's political history. It prompted a fierce campaign for the legislative elections in June that year. As ZANU-PF was fighting for its political life, the campaign period provided the perfect opportunity for the war veterans to consolidate their interests in order to augment their political power. It was in this charged political context that land reform became a tool for economic redistribution and political mobilisation. The 'fast-track land reform programme' became an integral part of the campaign process. Many people, including the MDC were supportive of the land acquisition and redistribution exercise. It was, however, expected that the Government would ensure an orderly and fair process, free of corruption³⁰. Yet, as a pay-off for their electioneering role, the war

²⁷ President Mugabe is part of that exclusive club of African statesmen, including the likes of Nelson Mandela, Kwame Nkrumah, Julius Nyerere, Kenneth Kaunda, Samora Machel etc who fought colonialism and racial discrimination. A long serving member on the OAU Liberation Committee informed that President Mugabe's own contribution to South Africa's independence is especially important. Apparently, had it not been for South Africa's liberation, land acquisition might have come much earlier in Zimbabwe and independently of MDC politics. However, President Nyerere of Tanzania is reported to have prevailed over this issue, arguing that "a forced land take over in Zimbabwe would forever jeopardize the South African liberation project and that Zimbabweans must wait before they could get back their land". With Nelson Mandela free, South Africa out of Apartheid and with promised donor assistance to buy back the land not forthcoming, a forced acquisition of land in Zimbabwe was inevitable.

²⁸ Morgan Tsvangirai was then Secretary-General of the ZCTU.

²⁹ There are conflicting views on the constitutional process. At least 2 independent scholars maintained NGOs are believed to be "Donor stooges" because of their rejection of the 2000 draft constitution. It claims, the constitutional process had involved nation-wide consultations, including with NGOs, which had more or less endorsed the contents of the draft constitution until the President, when the draft finally reached him, realizing that it was completely silent on the land question, decided to introduce "the land acquisition without compensation article" himself. They further submitted that it was the rejection of the 2000 draft constitution that kept President Mugabe in office. This view claimed that of the two, Joshua Nkomo, Zimbabwe's First Vice-President and former leader of ZAPU, had been especially anxious to see the land issue settled, and that at his death bed, he asked President Mugabe to promise him that he would not leave office before solving the land question. Following the rejection of the referendum, the President, infuriated by the rejection of the 2000 draft constitution which, in his view, would have launched the final stage of his 'independence mission', announced that the Government would still expropriate land without compensation. This would eventually become the 'fast-track land re-distribution programme', which legalized land acquisition by the state with compensation only for improvements on to the land. The opposing view obtained was that the President had deliberately launched a constitutional review exercise knowing that it would not be approved in the timeframe given thus paving the way to create a crisis and re-run for re-election. None of this could be confirmed.

³⁰ In the end, the major beneficiaries turned out to be senior ruling party officials, ministers and their families. A number of these are not using land intensively if at all, and there have been concerns that it is a virtual return to the "feudal system".

veterans were promised ownership of 20% of the land taken over by the state in the period 2000-2002.³¹ The war veterans had become an important (but disgruntled) interest group and became key players in this campaign, mobilised by ZANU-PF as ‘political shock troops’ on a large scale. The systematic use of intimidation and violence against opposition candidates and supporters became the modus operandi, particularly in commercial farming and communal areas, effectively sealing those areas off from opposition access.³²

Thus, the MDC emerged, against this background, as a formidable challenge to the ruling party. Although ZANU-PF eventually won the 2000 parliamentary elections, the process was criticised by international observers and many did not consider the elections free or fair. This period also saw increasing unemployment and urban violence, as well as an influx into towns of former employees of recently dispossessed white farmers, all of which became manifest in widespread disenchantment with the Government. Towns and cities emerged as strongholds of opposition to the ruling party and have since been viewed with suspicion by the government.

The presidential elections held two years later further polarised Zimbabwean society as well as the international community. While Western Governments considered the elections not free and fair, the African Union and SADC, considered them as representative of the will of the people. The recent legislative elections of 2005 thus followed years of increased polarisation, politically related violence and mistrust of the ruling authorities. Though election day on 31 March 2005 marked a relative calm and violence free environment, a sense of fear and distrust had prevailed over the entire population. The elections did not resolve the underlying tensions between ZANU-PF and MDC.

The 2000 and 2002 elections and the fast-track land reform programme triggered the deterioration of relations with the international donor community and the start of isolation of Zimbabwe from the wider international community. It also prompted the imposition of targeted sanctions by the European Union, the US and several Commonwealth countries.

On the regional front, the Commonwealth suspended Zimbabwe’s membership in 2002 and Zimbabwe formally withdrew from the organization after a divided meeting of Heads of Government in Abuja decided to extend the suspension for another year in 2003. That year, Zimbabwe’s membership rights in the IMF were also suspended. The Southern African Development Community (SADC) has also shown some division on Zimbabwe, though the majority continue to openly support President Mugabe. While the African Union (AU) has not

³¹ “*Between Authoritarianism and Democracy: Politics in Zimbabwe since 1990*” Lloyd M. Sachikonye (in *Unfinished Business, The Land Crisis in Southern Africa*, ed. Margaret C. Lee and Caren Colvard, Africa Institute of South Africa, 2003)

³² “Order out of Chaos, or Chaos out of Order? A Preliminary Report on Operation “Murambatsvina”, Report by the Zimbabwe Human Rights NGO Forum

³⁵ At the time the fact-finding mission was in the country, the Chairperson of the AU Commission designated the Special Rapporteur Responsible for Refugees, Asylum Seekers and Internally Displaced Persons in Africa, to carry out a fact-finding mission in Zimbabwe from 30 June to 4 July 2005. The AU Summit held soon after in Libya, however, did not discuss Zimbabwe at any open forum. Subsequently, the AU Envoy, Tom Nyanduga, a Tanzanian lawyer and diplomat, could not undertake his mission and was courteously asked to leave. It was later explained that he had arrived without clear blessing from the President of the African Union

specifically addressed the situation in Zimbabwe, a Ministerial Meeting in 2004 adopted a report critical of the human rights situation in Zimbabwe for the first time.³⁵

The context in which the clean-up operation was conducted, therefore, shows a country with a history of inequities that the national government has not been able to redress, a Government that inherited difficult structural economic problems that are difficult to solve without support by the international community. Its programme for equitable land redistribution could have been better justified by a transparent and fair redistribution of land to full-time farmers with secure tenure to safeguard investments and productivity. This is yet to happen.

1.6 The Motivations behind the Operation

Against the background described above, a number of factors have been advanced as explaining the motivation and timing of Operation Restore Order held 48 days after the general election. The Government of Zimbabwe has given the following main justifications for the Operation: arresting disorderly or chaotic urbanization, including its health consequences; stopping illegal, parallel market transactions, especially foreign currency dealing and hoarding of consumer commodities in short supply; and reversing environmental damage caused by inappropriate urban agricultural practices. From the wide range of individuals and organizations interviewed by the Special Envoy and her team, a number of other alleged motivations emerged. They believed that the Operation:

- a. was a result of general concern over increasing chaos and congestion in the central business district of Harare and other major cities over which the Government was being blamed by the middle class; nostalgia over the role of Harare as the “Sunshine City” was on the rise;
- b. was an act of retribution against areas known by the Government to have voted for the opposition during the last few presidential and parliamentary elections;
- c. could have been conceived by a number of individuals as part of the politics of succession to President Mugabe;
- d. was a means of checking the power and influence of the war veterans, or ex-combatants;
- e. was a means to increase the flow of foreign currency through the “Homelink” scheme;³⁶
- f. was a pre-emptive strategy designed to prevent popular uprising, in light of deepening food insecurity and other economic hardships;
- g. was a mechanism designed to re-possess control of the conduct of business by some political leaders in the ruling party, thus establishing a system of political patronage over urban areas
- h. was a scheme to divert the attention of the President away from his increasing concerns over the underutilization of newly acquired commercial farms in rural areas; and
- i. represented a desire on the part of some political leaders to engineer a reverse urban-to-rural migration process, on the wrong belief that this was good for Zimbabwe’s national development.

Many of the individuals holding the views above generally saw Operation Restore Order as a “smokescreen” for motives that had little to do with addressing the problem of informal structures

³⁶ “No War in Zimbabwe”, Solidarity Peace Trust November 2004. The “Home Link” scheme was devised by the Reserve Bank of Zimbabwe to assist Zimbabweans in the Diaspora estimated at 3 million to utilize official channels to send their remittances back home thus increasing the inflow of foreign currency into the official banking system. Initially it worked very well when recipients were allowed to draw the money in foreign currency. This policy changed to local currency and the scheme could no longer attract funds as the parallel market rate was more than double what was offered by the official exchange.

and restoring order within urban areas.³⁷ Whatever the real motivations behind the Operation, it is clear that Zimbabwe, like most other African countries, is confronted by serious and mounting challenges related to rapid urbanization, including inadequate shelter and rising pressure on urban infrastructure and services. Chapter 2 of this report turns to an examination of these challenges.

³⁷ David Coltard, an MDC Member of Parliament, argued that Operation Restore Order was symptomatic of the Government of Zimbabwe's general lack of respect for the rule of law and that the Operation had breached a series of laws, including those related to housing and urban councils. He also highlighted the fact that no budgetary provisions had been made for the construction of new housing in the wake of the Operation which, in his view, showed that the Operation had neither been conceived nor planned before the parliamentary elections of March 2005, as claimed by the Government of Zimbabwe.

2 The Urbanization, Housing and Local Governance Crisis in Zimbabwe

From a human settlements perspective Operation Restore Order did not occur in a policy vacuum. It can be seen, in many ways, as a genuine attempt, albeit a misguided reaction, to cope with rapid urbanization and urban governance. Two distinct periods can be discerned: the first phase starting in 1980, and a second phase starting in the late 1990s to the present.

2.1 Rapid Urbanization, the Impoverishment of Cities and Poor Policy Responses

The transition to majority rule in 1980 saw the lifting of decades of racial restrictions to the “Right to the City”. The urban population of Zimbabwe rose rapidly from 23% in 1982 to 30% by the early 1990s. This trend, typical of many developing countries, can be described as the “challenge of rapid urbanization” whereby people migrating to urban areas improve their livelihoods in terms of income opportunities and access to social services, while cities, as economic units, witness impoverishment. This impoverishment arises from two inter-related phenomena. First, many migrants to the city operate in the informal economy, despite their active contribution to the urban economy, and they rarely pay taxes or fees in direct proportion to the services they use. Second, most local authorities depend to a large extent on central government transfers which rarely increase in proportion to demographic growth, thus contributing to declining municipal revenues and expenditures in per capita terms. This vicious circle translates into a serious erosion of local government capacity in terms of planning, environmental management and the provision of basic services.

Table 1: Comparative Levels of Urbanization

	Level of Urbanization %			Urban Population (000)		
	2000	2010	2020	2000	2010	2020
Africa	37.2	42.7	47.9	295,228	425,596	589,408
Asia	37.5	43	48.7	1,375,519	1,783,600	2,231,108
LAC	75.4	79	81.8	391,342	469,755	543,166
Zimbabwe	35.3	42.5	49.1	4,459	6,380	8,652

Source: Global Report on Human Settlements 2003, UN-HABITAT

Zimbabwe is no exception. The major cities of Harare, Bulawayo, Mutare and Gweru attained population growth rates of over 5% per annum throughout the 1980s. This strained the capacities of both central and local spheres of government to provide housing and basic urban services for the urban poor.

A series of events, starting in the 1990s, further contributed to the dramatic decline of Zimbabwe’s cities. These included:

- A failed attempt at Economic Structural Adjustment (1991 to 1995) which led to contraction of the civil service, the collapse of the domestic industrial sector, and to massive layoffs;
- A bitterly disputed Fast Track land reform programme (since 2000) which resulted in the transfer of land mostly from experienced white commercial farmers to inexperienced

- African, mostly absentee landowners or to smallholder producers poorly supported by agricultural extension and support services;
- Cash handouts to appease grievances of War Veterans in 1997 sparking an inflationary spiral;
 - Military intervention in the conflict in the Democratic Republic of Congo leading to budgetary constraints and overspending; and
 - Persistent drought.

Food shortages, a negative balance of payments, budget deficits, and chronic shortages of foreign exchange led to a contraction of the economy and rising urban and rural poverty. Urbanization accelerated rapidly leading to 6 to 8% per annum increases of the urban population, explosive growth of the urban informal economy, and the proliferation of alternative housing solutions, many of them informal and unauthorised.

Table 2: Urbanization trends, exchange rates, inflation and per capita income trends, Zimbabwe, 1985-2005

	1985	1990	1995	2000	2005 (est'd)
Total Population (000s)	8,392	10,241	11,190	12,627	13,805
Urban Population (000s)	2,116	2,797	3,556	4,387	5,370
Urbanization level (%)	25.2	28.4	31.8	35.3	38.9
Households (000s)		2,031	2,331	2,664	3,088
Household average size		4.88	4.83	4.70	4.48
Z\$ to 1 USD	1.64	2.64	9.31	55.07	9,896.02
Inflation %	8.49	17.38	22.59	55.86	140
GDP per cap. (const. Z\$)	1,995	2,099	1,988	1,986	<1,000
% GDP growth pa. per cap.	3	4	-2	-7	-7

Source: UNHABITAT, Global Report 2003, Financial Gazette, IMF

2.2 The Rise of the Informal Urban Economy, Conflicts and Crisis in Urban Governance

By the mid 1990s, the major cities of Zimbabwe began to witness rising unemployment. Government provided the impetus for the ascendance of the informal sector through a series of policies. These included reducing regulatory bottlenecks to allow new players to enter into the production and distribution of goods and services, supporting indigenous business development and black empowerment, and relaxing physical planning requirements. Statutory Instrument 216 of 1994 of the Regional Town and Country Planning Act effectively allowed for the development of non-residential activities in residential areas. Many activities such as hairdressing, tailoring, book-binding, wood or stone carving were deregulated. Similarly, small and medium enterprises employing 5-10 people in such areas as welding, carpentry, tin-smithing, shoe repair and small scale car repair were accorded special consent. While these latter activities were subject to local planning permission, Statutory Instrument 216 sent a clear signal to local authorities of the government's desire to promote the informal economy in residential areas.

Statutory Instrument 216 was a centrally driven policy that was not espoused by all local authorities as it was perceived as taking away part of their powers to regulate and control the development process within their respective jurisdictions. However, as the economic crisis continued unabated, Statutory Instrument 216 provided a pretext for many local authorities, including the City of Harare, to turn a blind eye to what could best be described as an explosion

of the informal economy. By 2004, the informal economy was estimated to have accounted for 40% of all forms of employment. The informal economy had effectively become the mainstay for the majority of the urban population, 70% of whom are estimated to be officially unemployed, and 75% living below the poverty line. Another indicator of the importance of the informal economy is provided by associations of informal traders, the biggest one of which has a membership of 1.8 million.³⁸ Besides flea markets, vending stalls and home-based service industries, cities and towns throughout Zimbabwe witnessed the growing phenomenon of street hawkers and makeshift stands, many of which were supplying the same range of goods sold by stores in front of which they plied their business, clearly violating the rights of the formal sector which continued to pay taxes. The Central Business District of Harare was often described by many stakeholders as an eyesore and as totally chaotic. Many middle class persons³⁹ blamed this situation on the Government.

At the other end of the spectrum, formal ties, including sub-contracting, were established between the formal and informal sectors in manufacturing (e.g. furniture-making, wood and metal-working industries), building and construction and between the urban informal sector and the rural economy.⁴⁰

2.3 Unrealistic Housing Standards

The combination of economic decline, rapid urbanization, and poverty growth was also evident in the housing sector. Serious shortfalls in housing delivery were recognised by the National Housing Delivery Policy of 2000 which acknowledged a cumulative backlog of over 1 million housing units. It further recognised the need to adopt a more flexible approach to housing delivery and the lack of security of tenure as a causal factor of the housing crisis in Zimbabwe.⁴¹ A subsequent policy document – the National Housing Programme of 2003 further acknowledged the inability of Government to provide decent and affordable housing. It noted that Government plans for housing fell far short of the annual target of 162,000 units between 1985 and 2000 with actual production ranging between 15,000 and 20,000 units per annum. It further noted that the formal sector housing production rate was decreasing and that by 2002 only 5,500 plots were serviced in eight major urban areas compared to an estimated annual demand of 250,000 units.⁴²

Government reiterated the need for a broader response, including incremental housing production as a means of responding to demand which was not foreseen in the law.

2.4 Inconsistencies between central and local government roles and responsibilities

A variety of instruments were applied to encourage alternative housing supply. These included the allocation of un-serviced stands (plots) to individuals, housing cooperatives and building

³⁸ Zimbabwe Chamber of Informal Economy Associations

³⁹ Confidential sources.

⁴⁰ Several studies show the intricate two-way relationship between the urban informal sector and the rural economy that includes the supply of foodstuffs including produce and meat, tobacco and wood from rural areas, and commodities, shoes and clothing, cosmetics, consumables and agricultural inputs, tools and hardware from urban areas.

⁴¹ National Housing Policy for Zimbabwe, National Task Force on Housing, Ministry of Local Government and National Housing, February 2000

⁴² The National Housing Delivery Programme, Ministry of Local Government, Public Works and National Housing, 2003

societies to encourage self-help incremental housing schemes. The Government did not, however, reform the colonial-era Regional Town and Country Planning Act or the Housing Standard Act. This effectively placed local authorities in an impossible situation as these Acts require municipalities to service plots with infrastructure prior to land allocation for self-help building. It further requires local municipalities to ensure strict compliance with minimum standards prior to authorizing occupation. The norms and standards contained in these Acts, which were applied by the colonial regime as instruments of apartheid, include individual connection to water supply and water-borne sewage for high-density low-income neighbourhoods, previously known as African Townships. Water-borne sewer systems, which are particularly costly to build and to maintain, are not only unrealistic in the present economic circumstances, but are not required of medium and low density areas occupied by middle and high-income segments of the population which are authorized to use on-site sanitation and septic tanks. Similarly, the prevailing building codes and standards are also unrealistic and exceed standards currently used in several developed countries.

43

Despite the gap between supply and demand for housing, Zimbabwean cities remained largely immune to the explosive growth of slums and squatter settlements, characteristic of African cities. Official statistics compiled by UN-HABITAT showed in 2001 that only 3.4 % of the urban population lived in slums, a figure even much lower than that for industrialized nations that had about 6.2% of their population considered to live in slum-like conditions.⁴⁴

The explanation of this unique case for a developing country is attributable to two factors; firstly, the enforcement of stringent building bylaws and standards, and secondly, the lack of access to public land as most of the land surrounding cities was primarily privately owned farms. The acquisition of peri-urban farms during the Fast Track land reform programme in 2000 provided one of the first opportunities for the urban poor to occupy land in the vicinity of the city and establish slum pockets all of which have now been demolished.

Unable to squat on public land, low-income urban dwellers resorted to what is commonly referred to as “backyard extensions” of legal dwellings. These extensions, many of which were built with durable building materials and on serviced plots, proliferated as a form of affordable rental housing catering to effective demand by the majority of the urban population and providing a source of much needed income for their owners.

⁴³ The Act further requires access roads to be 8 to 10 meters in width, tarred or gravel and does not allow for houses to be built out of wood or mud (adobe), a commonly accepted practice in North America and Australia and Oceania. Although water-borne sewage systems may be recommended in areas with high water tables, technological alternatives, such as small diameter sewer systems and bio-sanitary or composting latrines have not been propagated to date in Zimbabwe.

⁴⁴ UNHABITAT: *Slums of the World: The Face of Urban Poverty in the New Millennium*, 2003. Slums are defined by the United Nations as settlements which are lacking one or more of the following: secure tenure, access to improved water, access to improved sanitation, durability of dwelling, and sufficient space to avoid over-crowding. Most of the Zimbabwean backyard extensions could not be considered or captured by this definition as slums, thus the low figure.

Table 3: Levels of urbanization, urban population and percentage of slums

	Total Pop, (000s)	Urban Pop (000s)	% Urban	% Slum	Slum Pop (000s)
Europe	726,315	534,263	73.6	6.2	33,062
S.S. Africa	667,022	231,052	34.6	71.9	166,208
Lat. Am. & Caribbean	526,657	399,385	75.8	31.9	127,567
East Asia	1,364,438	533,182	39.1	36.4	193,824
West Asia	192,445	124,943	64.9	33.1	41,331
CIS	282,639	181,182	64.1	10.3	18,714
Zimbabwe	12,800	4,600	36.0	3.4	157

Source: UNHABITAT, 2003

As in the case of the informal economy, local authorities turned a blind eye to these developments. Neither their own resources nor those transferred from central government enabled them to supply the requisite infrastructure and services to meet housing demand.

By 2004, backyard tenancy had become a dominant source of housing for low-income households living in urban areas. In Mutare, for example, the mission was informed that there were 34,000 backyard extensions compared to 27,000 legally recognised and approved dwellings. In Victoria Falls, they comprised 64% of the housing stock.

The sudden decision by central government to enforce laws and standards is clearly inconsistent with its own policy statements that had previously identified those same instruments as an obstacle to the provision of housing for low-income groups.

The implementation of the Operation was effected without consultation with local authorities responsible for compliance and enforcement of the said standards and norms. Furthermore, the Operation was conducted, in the vast majority of cases, in contravention of many of the statutory procedures laid out by Government's own Regional Town and Country Planning Act regarding prior notice to households concerned and the possibility of ex-post regularization.

The Operation has unleashed a humanitarian crisis by destroying homes, assets and means of livelihood for hundreds of thousands of women, men and children people at a time when the economy is already on its knees.

A Tale of Two Evictions

Operation Restore Order was not the first experience of evictions in post-independence Zimbabwe. For example, an estimated 20,000 residents of **Churu Farm**, lived on a tract of 260,000 hectares on the outskirts of Harare acquired in 1979 by the late opposition leader and onetime archrival of President Mugabe, Ndabaningi Sithole, who subdivided the land and rented out plots. By 1993, Churu Farm had become a well functioning community with a primary school and other amenities. In November of that year about 300 armed police, acting on government orders, moved in after giving the community a week's notice to leave, and evicted them. Many of the families were resettled by the Government on Porta Farm, 40 Km south of Harare. Porta Farm was later demolished on 28 June 2005.

For over twenty years, the **Killarney Farm** community lived on government land on the northern outskirts of Bulawayo. They numbered some 800 people. On 8 June, police told them to remove their belongings pending demolition of their homes. Four days later, on 12 June, the police launched a dawn raid. Giving people barely enough time to wake up, they set homes alight and razed the place to the ground. Many people lost not only their homes, but their possessions as well, along with their livelihoods in the informal sector. Save for 17% of the community, no-one had rural or other homes to which they could go.

2.5 Concluding Observations

It is the informed opinion of the mission that the Government of Zimbabwe has to come to terms with rapid urbanization; that rapid urbanization is not only inevitable but brings with it equally rapid social and economic changes; that the scale and pace of rapid urbanization are attributable only in part to rural-urban migration; and that there are no known sustainable means of reversing these trends in a democracy.

The physical manifestations of rapid urbanization are often chaotic. They are symptomatic of profound and far-reaching demographic, social and economic transformations affecting the entire continent, indeed the entire developing world. They require pro-poor gender-sensitive policies that are applied, and perceived to be applied, by all stakeholders in an inclusive and consensual manner.

There is an urgent need on the part of all stakeholders and the Government of Zimbabwe to harmonise policies and strategies vis-à-vis the informal economy and housing for the majority of the urban population. It is equally imperative that the Government of Zimbabwe, in consultation with local authorities and stakeholders, reform its Regional Town and Country Planning Act and the Housing Standards Act as a pro-active instrument of enablement and empowerment rather than exclusion.

Similarly, urban local authorities have a critical role to play in an increasingly urbanising and globalising world. Government needs to recognise that cities, as engines of economic growth, are in the best position to mobilise and put to good use the human, technical and natural resources within their respective jurisdictions. As the sphere of government closest to the people, they are also in the best position to strike a balance between demand and supply for housing, infrastructure and basic services. Lessons learned from successful practices in meeting the social, economic and aesthetic challenges of rapid urbanization and globalisation indicate that positive and sustainable outcomes are indeed possible. They depend, to a large extent, on recognising that housing and urban development is a process, however imperfect, that is best managed through socially inclusive dialogue and participatory decision-making. To be effective, local authorities need to be delegated with the power to make policies and the means to implement them without undue interference and control from central government. UN-HABITAT has been working to help UN Member States devise internationally agreed norms and principles on decentralization and the empowerment of local authorities. The Zimbabwean urban crisis has made this exercise all the more urgent.

Harare: The Growing Urban Crisis



Salisbury: the exclusive colonial city.



Salisbury: the exclusive colonial city.



1990's Harare: city of boulevards and clean streets.



1990's Harare: city of boulevards and clean streets.



Harare: before Operation Murambatsvina .

Courtesy: "The Herald" Newspaper



Harare: before Operation Murambatsvina.

Courtesy: "The Herald" Newspaper

Operation Murambatsvina



Market stalls demolished in Mbare, Harare.



Family Demolishes own house in Epworth, Harare.



Owners demolishing their own house in Epworth, Harare.



Backyard demolition in Chitungwiza, Harare.



Demolitions outside rural town of Rusape.



Demolished house at Hatcliffe.

Section B
Scope, Extent and Impact of the Operation and Capacity of
the Government of Zimbabwe and the Humanitarian
Community to Respond

3. Scope, Extent and Impact of the Operation

3.1 Introduction

Operation Restore Order started on or about 17 May 2005. Still underway as the mission left Zimbabwe on 9 July 2005, it has affected a wide cross-section of Zimbabwe's urban and rural population. Initially targeted at street vendors and those operating in the informal urban economy, the Operation rapidly extended to the demolition of informal and formal settlements, and small and medium enterprises countrywide. Although a cross-section of the population was affected, the poor and disadvantaged are the worst off. They include those who lost their homes, those who lost their livelihoods, and those who lost both.

3.2 Scope and Extent of the Operation

The Operation has had a major economic, social, political and institutional impact on Zimbabwean society. The effects will be felt for many years to come, across all four dimensions. In social terms, the Operation has rendered people homeless and destitute, and created humanitarian and developmental needs that will require significant investment and assistance over several years. Economically, substantial housing stock has been destroyed, and the informal sector has virtually been wiped out, rendering individuals and households destitute. Local municipalities that used to collect taxes from informal traders have now lost this source of income. In political terms, the Operation has exacerbated an already tense and polarized climate characterized by mistrust and fear. It has resulted in a virtual breakdown in dialogue between Government and civil society. Institutionally, the Operation was conducted by central Government authorities, including the military, in an area that legally falls under the purview of local government.

3.2.1 Methodological considerations

The full scope and extent of the Operation cannot yet be determined or assessed with any degree of certainty, and perhaps never will. Firstly, the Operation was still underway as the mission left the country. Secondly, no independent and systematic assessment has been carried out. Thirdly, organizations involved in enumeration were using different methods and focusing on different but overlapping groups.

The mission was able to draw on four sources of information on the number of people affected. The first source is comprised of data collected by the United Nations Country Team (UNCT). Based on effective demand for assistance, it does not include people who have found temporary shelter with, for example, relatives. Nor does it include those unable to get assistance or having sought assistance from parties that are not in contact with the UNCT.⁴⁵ These figures are considered **low-end estimates** and are presented in various sections dealing with sectoral issues.

The second source of information includes reports from special interest groups and membership organisations. These figures are considered **high-end estimates** owing to overlaps in enumeration. They are presented as part of the testimonials in this report.

⁴⁵ Mobility is highly restricted owing to nation-wide shortages of fuel for transport.

A third source of information is based on observations derived from extensive field visits by the mission team and on-site interviews.

The fourth source of information is based on official figures provided by the Government to the on the last day of the mission. They are provided in Annex 1 – Households Affected by Operation Restore Order and "Murambatsvina".

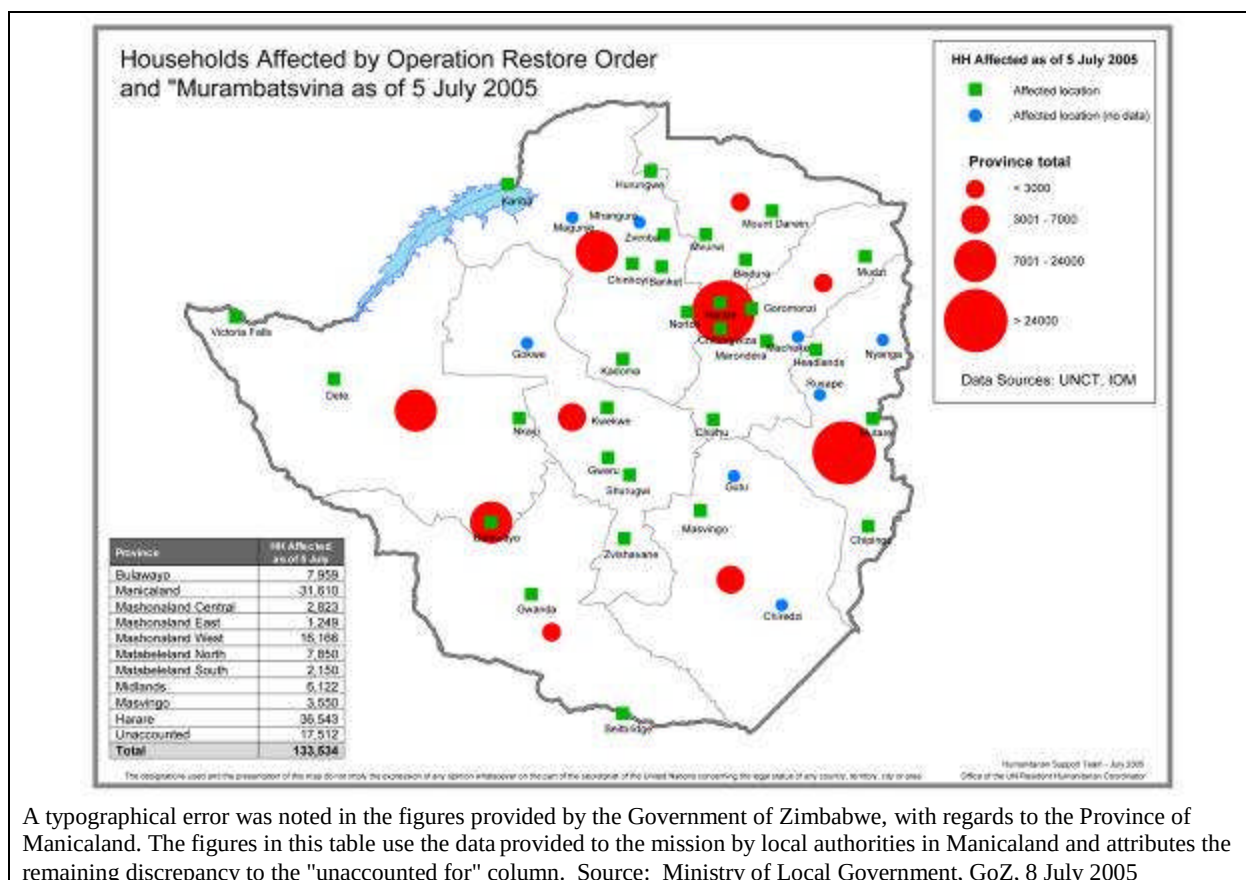
The present assessment is based on Government figures while taking into account other indicators, such as the percentage of the population engaged in the informal economy, reports from various stakeholder organizations and academic research. The figures are broken down into two broad categories – those directly affected and those indirectly affected through knock-on effects and the inter-relationships that characterize the survival mechanisms of the poor and disadvantaged segments of the population.

3.2.2 Population directly affected by Operation Restore Order

Official Government figures released on 7 July 2005 revealed a total of **92,460** housing structures that had been demolished directly affecting **133,534** households⁴⁶. At the same time, the structures of **32,538** small, micro and medium-size enterprises were demolished. Based on average household size derived from the 2002 census, and authoritative studies on the informal economy, the population having lost their homes can be estimated at **569,685**, and those having lost their primary source of livelihood at **97,614**.⁴⁷

⁴⁶ For the purpose of this report, households include conventional family structures, multi-generational and/or extended family structures and individuals. The average family size has been taken to be 4.2 persons.

⁴⁷ Official sources have intimated that most demolished structures were occupied by 1 or 2 people. This appears to be highly improbable given the significant number of households affected which is likely to be a representative sub-sample of national and provincial averages. Furthermore, independent studies including Government surveys and policy statements systematically refer to overcrowding in informal settlements as a major issue. Some surveys have indicated 4-6 people per room as the norm, with some shacks harbouring up to 8 people.



While there is a degree of overlap between those who lost their homes and those who lost their businesses, the total figure of **650,000 to 700,000** people directly affected by the Operation is considered plausible. This takes into account other reports of the number of people arrested for alleged illegal or criminal activities (40,000), the substantial number of street vendors and hawkers who were omnipresent in all cities and towns prior to the Operation, and discrepancies noted between the figures provided by the Central Government, and those provided directly to the mission by Resident Ministers (Governors) and Mayors in the course of on-site visits.

3.2.3 Indirectly affected population

The above figures does not, however, include those whose livelihoods are indirectly affected by, for example, loss of rental income and the disruption of highly integrated and complex networks involved in the supply chain of the informal economy. The upstream and downstream linkages include, for example, transport and distribution services, suppliers of foodstuffs from rural areas and, conversely, suppliers of inputs to rural areas, formal and informal micro-credit institutions, and a wide range of part-time and casual labour. Based on several studies and surveys conducted in the past five years, a reasonable multiplier effect would bring the number of indirectly affected people to over **2.1 million**.

Another approximation is based on the percentage of the active population engaged in the informal economy. Several authoritative studies indicate a steady growth in the share of the informal economy, from 10% of the labour force in 1982 to 20% by 1986/87, 27% by 1991 and close to 40% by 1998. As the formal economy is estimated to have shrunk by up to 40% over the last six years, it is safe to assume that the informal economy, at the time of the Operation was

providing jobs and a source of income for at least 40% of the labour force, compared to 16% for formal sector employment and 44% for communal sector occupations, including farming. Interviews conducted with a broad cross section of the population tend to confirm that the informal sector has been, for all intents and purposes, wiped out. Assuming that 10% of this sector was still active at the time of the mission⁴⁸, the total population indirectly affected by the Operation would be **2.56 million**.

Based on the above, the mission estimates that the total population directly and indirectly affected by Operation Restore Order is about **2.4 million** or 18% of the total population. This figure, which is still increasing owing to ongoing evictions and destruction of structures, will have considerable short-term and longer-term impact in social and economic terms.

3.3 Impact on population and categories of victims

There are three main categories of victims: those who have lost their homes, those who have lost their livelihoods, and those who have lost both. The impact is particularly severe for vulnerable groups such as orphans, widows, pregnant women, women and child-headed households, the chronically ill, the elderly and the disabled. Among those who have lost their homes⁴⁹, there are a number of sub-groups, namely:

- j. People who remain where their housing structures were destroyed, sleeping either in the open or in remaining structures. With nocturnal winter temperatures as low as 8°C, many people are likely to fall ill or could die of exposure;
- k. People who stay with family and friends in urban areas. While this traditional coping mechanism based on kinship ties is capable of ensuring survival for periods ranging from a few weeks to a few months, it translates into very high densities of occupation, congestion, increased stress, and in the higher propagation of communicable diseases;
- l. People who are temporarily being sheltered in churches across the country. While the churches have offered invaluable, life-saving assistance, they often lack the resources to respond to all the needs of the displaced persons over long periods of time;
- m. People who have found alternative rental housing in urban areas. As the Operation eliminated a substantial portion of available housing stock, rents have doubled or tripled, exacerbating poverty and forcing households to make trade-offs between expenditure items such as food, schooling, health care and remittances to rural areas;
- n. People who have no fixed place to stay, but move around in urban areas and sleep mainly in the open (parks, roadside etc.). This category is likely to suffer the most in terms of breaking up of families, parental care and supervision, spouse abandonment, interruption of education, extreme hunger and destitution. Contrary to the claim of fighting crime, youth in particular are likely to resort to illicit or illegal activities as a means of survival;⁵⁰
- o. People who have moved to transit points/camps. At the time of the mission, the main such camp was Caledonia Farm near Harare, which held about 5,000 persons. Another camp located in the Sports Oval of Mutare held about 100 persons, while an additional camp was planned in Bulawayo, and;
- p. People who have moved to rural areas.

⁴⁸ Statements made by various Government officials during the mission intimated that Operation Restore Order was 90% complete.

⁴⁹ In addition, a number of people previously living in the street, including unaccompanied children, have been placed in institutions.

⁵⁰ The crime statistics provided by the Ministry of Home Affairs for the period 2003-2005 indicate that there was no statistically significant impact on crime incidences.

A rough estimate of where people are located is as follows: 114,000 or 20% living in the open with no shelter; 114,000 or 20% having gone or forced to go to rural areas; 170,000 or 30% absorbed by families, friends or the extended family; and 170,000 or 30% seeking refuge within the community in churches and other temporary accommodation.

Those affected include tens of thousands of people of Malawian, Mozambican and Zambian origin who have established themselves for decades, and in some cases for generations, in Zimbabwe. They have no rural home to go to. Similarly, many widows and divorcees have no rural homes to return to, because property often stays with the former husband's side of the family. Others are in need of medical care which is difficult to get in rural areas. The mission was also presented with testimonials of families transported to rural areas had been rejected by traditional leaders who claimed that they did not want to be exposed to "the immorality of urban lifestyles and increased risks of HIV propagation."⁵¹

Government officials repeatedly asserted in the press and in official statements to the mission that a major expected outcome of Operation Restore Order is the "return" of people to rural areas. It is the informed opinion of the mission, based on two decades of research by UN-HABITAT and its partners, that this is a misinformed assumption. Rural-urban migration is driven by economic factors. It lies in the search for better livelihoods and escaping rural poverty. Moreover, urban-rural relocation, whether forced or voluntary, would exacerbate the present situation in rural Zimbabwe, characterized by several years of continuous drought, shortages in food supply and falling incomes.

In **Mutare**, a group of churches reported that immediately following the demolitions of about 32,000 housing structures at the end of May, some 50,000 people were sleeping in the open near the sites of the evictions. However, this number had dropped to 3,000-5,000 when the mission arrived on 1 July. Approximately 15% of those rendered homeless in Mutare were reported chronically ill. At the time of the mission, there were 17 churches in **Bulawayo** sheltering evicted persons.

3.4 Impact on livelihoods and the Economy

The livelihoods of all directly affected households have either been destroyed or placed in serious jeopardy. In many instances, there is compounded suffering as homeless and displaced people are unable to pursue their occupation or maintain their source of income. All households accommodated in transit centers have become entirely dependent on emergency relief for their survival. People who moved in with relatives or neighbors are, without a doubt, taxing the capacity of their hosts in meeting their basic needs.

For many of those rendered homeless, housing structures were their most valuable asset. Many traders in the informal sector, including vulnerable groups such as people living with HIV/AIDS and widows with disabled children, have had their stock confiscated or destroyed.⁵² The loss of capital is therefore substantial. Many people who had taken out loans to build a home or start a small business now have no means of repaying their debts.

Homeowners who used to rent out parts of their plots to shack dwellers have lost this source of income as a result of the demolitions. Many of them were retired public sector employees whose

⁵¹ Confidential submission.

⁵² Confidential submission.

pensions had been eroded by hyperinflation to as low as USD 2 per month. However, remaining landlords are reported to have sharply increased rent, increasing the pressure on tenants and making it more difficult for evictees to find alternative accommodation in urban areas. In Mutare, rents tripled in the weeks following the demolitions, while in Victoria Falls rents doubled.⁵³

Thousands of those who used to work in the informal sector have lost their livelihoods as a result of the crackdown on flea markets, tuck-shops, craft markets, vending stalls and urban agriculture. At least seven office buildings in Harare's central business district have been temporarily shut down for overcrowding and breach of licensing agreements.⁵⁴ A large group of small businesses and college students using these buildings have been affected. Markets in rural growth points have been closed and roadside vending has been banned, resulting in net loss in livelihoods. The economic environment, with unemployment levels between 70% and 80%, provides few immediate prospects for rebuilding livelihoods.

Agriculture and export horticulture has also been adversely affected. Wholesale businesses which used to sell their produce to informal vendors have now lost a major portion of their retail network. Some workers have been dislocated and the small-scale supply chain disrupted.

In some examples, formally employed people have been forced to leave their jobs as a result of the loss of shelter or the forced relocation. Street people have also been forcibly removed, and many street children have been rounded up and transferred to transit camps or overcrowded centers for delinquents. These youth centers are generally unable to provide adequate care, support and follow-up assistance for street children.

3.5 Humanitarian consequences of the Operation

Depending on their location, the population affected by the evictions is in immediate need of tents, blankets, food, water, sanitation and medical assistance. Many households which have temporarily absorbed evictees are congested and increasingly strapped for resources, and also require support including shelter, blankets and food.

There is a special need to protect and assist women and children and vulnerable groups such as orphans, widows, the disabled and chronically ill. The paragraphs below attempt to assess the consequences for each of these groups and for major sectors.

What is evident is that Operation Restore Order took place against the backdrop of deepening vulnerability in the Zimbabwean society. Factors fueling this vulnerability include food insecurity, HIV/AIDS and limited capacity in basic services.

3.6 Analysis of impact by sector

3.6.1 Shelter and non-food items

A large number of displaced persons are staying on or near the site of their demolished homes with very limited shelter. Tens of thousands are in immediate need of tents and blankets, especially with the onset of winter. The shelter situation at Caledonia Farm, which now holds an

⁵³ Fact sheet submitted by a group of churches on 1 July 2005 in Mutare and interviews conducted in Victoria Falls.

⁵⁴ "7 city buildings closed", *The Herald*, 25 June 2005.

estimated 5,000 persons, is woefully inadequate. In urban areas such as the Mbare neighborhood of Harare, the mission observed a large number of plots where there had previously been one main house surrounded by 3 to 4 additional housing structures. In most cases only the main house remained and was becoming overcrowded as the community had sought to absorb as many evicted families as possible. Because of overcrowding in what have now become multi-family homes, many men reportedly sleep outside at night, while women and children sleep inside.

A 19 year old woman from Chitungwiza in Harare told the mission: *“I was living in a cottage with my younger sister and my disabled brother. My parents had already passed away. Then the clean-up operation came and destroyed the cottage. Now we have nowhere to go and we are sleeping outside. Our blankets and our other property were stolen. We are not going to school because we have no place to stay. We are sleeping outside with my disabled brother in a cold place.”*

In other testimony to the mission, the affected population expressed a strong wish to be allocated stands/plots where they could settle permanently, with secure tenure. Several people forcibly moved from the settlement at Porta Farm to the transit camp at Caledonia Farm told the mission that they had been displaced up to three times in recent years.⁵⁵ Evicted families at Hatcliffe Extension also testified that they had been moved upon the Government’s insistence several times in the past.⁵⁶

Without legal reform, any future allocation of stands/plots would not in itself provide a solution, since the current laws and regulations do not allow people to live on “un-serviced stands/plots”. The mission met with several people and households across the country who had been allocated stands/plots as far back as five years ago, but were unable to build their houses because local authorities had not connected the stand to the sewer network. The limited resources of local authorities, combined with the high regulatory standards, have been a major and unnecessary obstacle to people’s own efforts in creating permanent housing solutions in Zimbabwe.

The Special Envoy brought this anomaly to the attention of the authorities, and there were indications in the local papers that this recommendation would be considered.

The UNCT interim response plan aims to provide temporary shelter and non-food items for 40,000 households (200,000 persons), at a cost of USD 4.5 million over three months. Priority short-term interventions include the provision of tents, plastic sheeting, blankets, cooking utensils and soap.

It is the view, however, of the mission that such assistance would be meaningful only if people are provided tents with stands/plots and the right of occupation during construction, and security of tenure, together with a relaxation of the provisions of the Regional Town and Country Planning Act to enable affected households to gradually rebuild their homes. UN-HABITAT is fielding a resettlement specialist to assist the UN Country Team with this approach.

3.6.2 Water and Sanitation

Many of the displaced are staying in overcrowded conditions or out in the open without adequate access to water and sanitation. Unless their situation is improved, there is a serious risk of transmission of disease and of epidemic outbreaks related to water-borne diseases such as diarrhea,

⁵⁵ Visit of the mission of the Special Envoy to Caledonia Farm on 1 July 2005.

⁵⁶ Visit of the mission of the Special Envoy to Hatcliffe Extension 30 June 2005.

dysentery and cholera. This threat is exacerbated by the lack of access to safe drinking water and basic sanitation. Many displaced persons were observed to be collecting drinking water from rivers, streams and unprotected shallow wells while using open areas for sanitation. The risk of an epidemic is likely to increase dramatically with the start of the rainy season towards October-November.

The UNCT interim response plan aims to provide assistance in water and sanitation to 40,000 households (200,000 persons), at a total cost of USD 1.7 million over three months. Immediate required interventions include: water supply to affected populations; distribution of water treatment tablets; plastic containers and soap; plastic sheeting for temporary pit latrines; supply of chloride/lime for environmental disinfection; and management of solid waste.

It is the opinion of the mission, however, that this figure will have to be revised upwards.

3.6.3 Food and Nutrition

The displacement of people has reduced access to food, owing to loss of income as well as loss of supply from the informal sector, the latter having been largely dismantled. Furthermore, commodities such as bread, oil and sugar are in short supply and prices have been rising. In the month prior to the Operation, prices of sugar and cooking oil went up by 61% and 53%, respectively.⁵⁷

It is therefore likely that a high number of affected households will be hard placed to purchase food and to ensure adequate nutrition in coming months.⁵⁸ This will have considerable impact on pregnant women, breast-feeding mothers and children.

Because many among the displaced remain scattered in different locations and are highly mobile, it is difficult to identify all those in need of immediate food assistance. Furthermore, many among those being moved to rural areas are arriving in communities that are already food insecure, where there is little humanitarian presence.

The UN interim response plan is targeting 27,000 households (135,000 persons) for food assistance over three months, at a cost of USD 1.1 million. Priority interventions include: the provision of food packs to particularly vulnerable households; distribution of cooked meals at transit camps; interventions to prevent deterioration of nutrition among children; and the establishment of a nutrition surveillance system in areas where people have resettled.

It is the opinion of the mission, however, that this figure will have to be revised upwards.

3.6.4 Basic Health Services

The combination of overcrowding for evicted persons living with friends and relatives and hardship for those sleeping out in the open will have a direct consequence in terms of other communicable diseases such as pneumonia and tuberculosis. Anecdotal evidence suggests that this trend is already emerging with reported deaths among displaced children due to respiratory infections. The most affected group will likely be the chronically ill and people living with

⁵⁷ FEWS: Zimbabwe Food Security Update, May 2005.

⁵⁸ WFP Zimbabwe: Critical Resource Needs, June 2005.

HIV/AIDS, while pregnant women as well as young children will also be at high risk. Furthermore, several cases of women giving birth in the open⁵⁹ after being cut off from reproductive health services were reported in the areas visited by the mission. In Caledonia Farm, the mission observed that some of the people were infected with scabies.

Testimony by, an 18-year old woman from Zengeza: *“Both of my parents left me when I was very young and I stayed with my grandparent living in the city. Then my grandparent fell ill and died in 2000, and my neighbors helped since I was homeless. I pushed myself into a marriage because of the living conditions. I don’t know any of my relatives. Before the clean-up operation, I was a pregnant housewife and my husband was working in one of the tuck-shops. We used to pay rent with that money and it bought enough food for us to survive. Life changed when our cottage and the tuck-shop were destroyed. I gave birth in the open space where we are now staying with our seven days old baby. We don’t have enough blankets to cover our baby. We are spending the whole night outside with our newborn baby and our property.”*

There will also be need for psycho-social support to help individuals and households overcome the traumatic experience of having witnessed the destruction of their homes and, in many cases, having been forced to demolish their homes with their own hands. Testimony from the affected population suggests that there are examples of people adopting self-destructive behavior patterns following the evictions.⁶⁰

Some people also suffered physical injuries during the demolitions. In one case reported to the mission, a man sustained fatal head injuries on 19 June 2005 when a wall he was breaking down collapsed on him, leaving his family and relatives in mourning.⁶¹

According to the UNCT, priority needs in basic health services including child health (diagnosis and treatment of common illnesses; immunization; Vitamin A supplement), maternal health (antenatal care; delivery, post-natal care) and care of the chronically ill. The UN interim response plan is targeting 40,000 households (200,000 persons) for basic health care over three months, at a cost of USD 600,000.

The view of the mission is that these figures will have to be revised upwards.

3.6.5 HIV and AIDS

An estimated 24.6% of adult Zimbabweans are infected with HIV/AIDS.⁶² Assuming that the displaced population had an HIV/AIDS prevalence rate similar to the rest of population, the mission estimates that over **79,500 persons over 15 years of age living with HIV/AIDS have been displaced**. The Operation has led to an increase of vulnerability and, probably, risky sexual practices and gender-based violence. It has also led to a disruption in HIV/AIDS services, particularly ARV treatment, home-based care and prevention. Immediate consequences likely include shortened life expectancy and death owing to lack of treatment and care in a situation where life expectancy has already dropped to only 33 years, malnutrition and exposure to the elements. Medium to long-term consequences include increased transmission of HIV, leading to higher infection rates and a more rapid progression of the disease that may only be detected over the next few years.

⁵⁹ Confidential source.

⁶⁰ Testimonies submitted by women’s groups in meeting with the Special Envoy in Harare.

⁶¹ Confidential source. The mission did not receive confirmation or negation of this fatality from the authorities.

⁶² UNAIDS: AIDS epidemic update, December 2004.

Testimonies from the affected population and service providers indicate that a number of AIDS patients have had their ARV treatment disrupted as a result of the evictions. Several hundred persons receiving such treatment have been reported displaced in Harare alone.⁶³ As many displaced persons are reported to have requested formal transfers to alternate ARV treatment providing sites, it is difficult at this point to assess to what extent the Operation has led to higher ARV treatment default rates.

In cases where ARV treatment has been interrupted, this could result in drug resistance, declining health, and ultimately death. Furthermore, displacement could affect the ability of ARV patients to maintain a healthy and balanced diet, thereby undermining the treatment regime. The Zimbabwe Association of Doctors for Human Rights have expressed grave concern that the displacements could lead to an increase in HIV across the country, and that a large proportion of the new infections could be resistant to first-line treatment (Nevirapine).⁶⁴ Other medical groups have also expressed concerns that a more aggressive strain of TB⁶⁵, which was previously only found in Harare and requires more expensive, complicated treatment, could spread to other parts of the country.⁶⁶

Home-based care (HBC) for AIDS sufferers has been disrupted in many places, and several organizations have indicated a 15-25% reduction in the number of patients accessing their programmes. A significant number of HBC clients and other chronically ill patients appear to remain without adequate shelter, with serious health consequences. Some also have problems accessing hot meals even if they are able to obtain food rations, as water, firewood and cooking facilities often are missing. Many trained volunteers have themselves been displaced, leading to interrupted services for those patients that have not been directly affected by the evictions.

One volunteer caregiver, a single mother whose story was shared with the mission, described how her 24-year old daughter had been receiving home-based care for HIV long before the Operation.⁶⁷ Following the demolition of their home, the care programme for the sick daughter was interrupted. The mother also had to spend most of her time looking for alternative accommodation and was therefore unable to look after other HIV patients in the community whom she had assisted in the past. Furthermore, she was unable to take care of her sick daughter, whose condition was worsening as a result of homelessness, destitution and lack of care.

HIV prevention is an area of great concern following the evictions, as displacements often put people at greater risk of being infected with the virus. Potential risk factors in the current situation include the separation of couples, increased stress, transactional and commercial sex, sexual violence, as well as interruption of services and supplies. Family separation is a particularly important risk factor in the spread of HIV, and previous experience indicates that displacement and separation of couples could lead to an increased frequency in unsafe sex.

Access to services such as HIV information, counseling and condom distribution has been severely disrupted in many places as a direct consequence of the Operation. Nationwide sales of male condoms are reported to have dropped by over 20% from May to June 2005, while sales of

⁶³ “Interim United Nations Multi-Sectoral Response Plan to the Recent Evictions in Zimbabwe”, 27 June 2005.

⁶⁴ Submission from Zimbabwe Association of Doctors for Human Rights.

⁶⁵ The spread of HIV/AIDS and TB are closely related in developing countries.

⁶⁶ Confidential source.

⁶⁷ Story shared during meeting of the Special Envoy with women’s groups in Harare.

female condoms dropped by about 40%.⁶⁸ Condom marketing programmes in some areas have reportedly come to a complete standstill, mostly because outlets such as tuck shops and informal vendors have been shut down. For example, at least half of the hair saloons involved in one NGO's marketing program of female condoms had stopped functioning by the time of the arrival of the mission.

The UN interim response plan includes targeted assistance to 10,000 persons living with HIV/AIDS, in addition to broader prevention interventions, at a cost of USD 1.7 million over three months. Priority interventions include: care for the chronically ill; continued home-based care; monitoring ARV compliance; information on HIV prevention; voluntary counseling and testing; promotion of condoms; and care for orphans and vulnerable children.

It is the view of the mission that the target of this plan will have to be revised upwards.

3.6.6 Education

Between 2000 and 2005, Zimbabwe experienced a reversal of gains previously made in primary education. The trend has been characterized by reduced enrolment rates, increased dropout rates, re-emergence of gender disparity and deterioration of the quality of teaching. Since 2000, net attendance has dropped by about 24%, from 85% to 67% for boys and from 86% to 63% for girls.⁶⁹ Moreover, primary school completion rates that had peaked at 83% in 1990 declined to 75% by 2000, and dropped further to 63% in 2002.

Education for a substantial portion of the school age children directly affected by the Operation has been disrupted, as the evictions took place in the middle of the academic/school year.

An estimated 113,000 children aged between 5 and 11 while 109,000 children aged 12-18 were directly affected by the Operation. While there is, at present, no means of assessing the number of children not attending school as a result of the Operation, the UN inter-agency working group on the protection of children has reported that school enrollment may have dropped by about 25% following the Operation.

Many displaced children are no longer within their original school catchment areas and have no ready or affordable means of transportation.⁷⁰ One women's organization told the mission that as many as 300,000 children were out of school as a result of the operation, but the mission was unable to verify this information.⁷¹ In Sakubva Township in Mutare, 80% of school-going children were reported as seriously affected by the operation.⁷²

Furthermore, many teachers have also been displaced and are unable to get to work, thus compromising the quality of services offered in remaining schools. The mission saw several schools that were closed, as well as schools where teachers had to refuse pupils because of overcrowding.

⁶⁸ Confidential submission.

⁶⁹ The State of the World's Children 2005.

⁷⁰ "Interim United Nations Multi-Sectoral Response Plan to the Recent Evictions in Zimbabwe", 27 June 2005.

⁷¹ Testimony made during meeting with the Special Envoy with women's groups on 30 June 2005. GoZ did not provide school statistics to the mission, while several newspapers reported that 300,000 children were out of school.

⁷² Fact sheet submitted by a group of churches on 1 July 2005 in Mutare.

The education of children in rural areas has also been affected by the evictions. Some of the rural children were living with friends or relatives in towns while attending school on weekdays. In Mvurwi, for instance, 226 commuting farm children are reported to have dropped out of primary and secondary school following the Operation, 28% of whom were orphans.⁷³ In Bindura, a primary school located near a farming area reported that 20% of its enrolled students had recently left school as families were forced to relocate.

In a few areas such as Dzivarasekwa Extension and Hatcliffe enrolment in some primary schools reportedly went up during the first phase of the Operation, following the destruction of other schools deemed illegal and the influx of evictee families from other areas.⁷⁴ Owing to uncertainty over rules governing transfers of evicted teachers and children, school heads are reportedly reluctant to offer placement for children who have moved into a new area. It is still not clear how displaced children registered for the June examinations will be accommodated.

There are currently no education facilities in or near the Caledonia Farm transit camp despite the growing number of children living in the camp. There are also no education facilities in the camp at the Sports Oval in Mutare. Many displaced parents who lost their homes as well as their livelihoods can no longer afford to send their children to school. For example, all school children residing at the Caledonia Farm 26 km from the city of Harare, were expected to pay their bus fares to attend school in the city. Many could not afford to do so.

3.6.7 Children and Youth

Highly vulnerable children, including orphans as well as children with disabilities or HIV, and those with special needs, were generally disregarded by the authorities during the Operation. An estimated **83,530** children under four were directly affected by the Operation.

Child-headed households are particularly vulnerable following the evictions. There have also been examples of children being accidentally separated from their parents during forced relocations.⁷⁵ The mission was unable to identify any comprehensive measures by the Government to: prevent further separations; register separated children; ensure appropriate care and protection; and institute immediate measures for tracing and reunification. The destitution has also made children more vulnerable to various forms of abuse. The psycho-social impact on children worst afflicted is likely to be profound.

The UN interim response plan is targeting 50,000 children for educational assistance at a cost of USD 460,000 over three months. Priority interventions include: rapid assessment of schools, children and teachers affected; advocacy for a Government policy on access to education for evicted children; setting up of temporary learning spaces; procurement of tents and movable boards; play and learning materials for displaced children; psycho-social support services for affected children; and help for displaced orphans with school fees, uniforms and other support.

The view of the mission is that this figure will have to be revised upwards. Special support must also be targeted for affected teachers.

⁷³ Confidential submission.

⁷⁴ "Interim United Nations Multi-Sectoral Response Plan to the Recent Evictions in Zimbabwe", 27 June 2005.

⁷⁵ Confidential submission.

Many of Zimbabwe's 1.3 million orphans have been affected by the operation. These include orphans who had been living in orphanages which have now been destroyed; orphans left alone because guardians are forced to look for accommodation or take care of other family members; and street children rounded up and placed in institutions and transit camps.⁷⁶

The forced placement of street children into institutions meant for delinquents is generally not considered appropriate under international humanitarian standards such as the Inter-Agency Guiding Principles on Unaccompanied and Separated Children. It recommends that institutionalization of unaccompanied and separated children should be avoided in favour of community and family-based care.⁷⁷

According to UN agencies working on child protection in Zimbabwe, there have been reports that some children are being prevented from enrolling at schools in rural areas because they cannot obtain letters of transfer from their previous school, which may no longer be in operation. In some cases, these letters are reportedly being withheld until all overdue fees and levies are paid. As most heavily affected households have had both their home and their source of livelihood destroyed, they are unlikely to be able to raise the necessary funds.

3.6.8 Women and Girls

Already socially and economically disadvantaged, many women and girls have suffered greatly and been rendered more vulnerable through the sudden loss of homes and livelihoods. Single mothers, widows and mothers with sick or disabled children have been put in a particularly difficult situation. While households are being encouraged to "return" to the rural areas, many widows, divorcees and those married to men of foreign origin do not have a rural home to go to.⁷⁸

In Sukubva, Mutare, the mission met a 44-year old woman living in the open with her 4 children. She said she is of Zimbabwean origin, but would not go back to her rural home, even though she had lost her home as well as her work trading vegetables, because that would mean that her children would have to drop out of school. Now she and her children were sleeping in the open on the remnants of the foundation that used to be their home. With nocturnal temperatures as low as 8° Celsius, the family was huddled around an open fire. *"Our family stays around the fire until we run out of wood, and then we fall asleep from sheer exhaustion – and hope to wake up alive"*

An estimated **40,800** families directly affected by the operation were headed by women. The mission heard testimony from many female-headed households severely affected by the demolitions. For example, a widow with a 6-year old disabled son and a 5-month old baby explained how her home had been demolished and her informal business destroyed during the Operation.⁷⁹ She had previously been selling tomatoes in the market, but was now unemployed. A friend had provided temporary shelter, but the loss of livelihood had made the small family destitute. Other single mothers explained how family and friends in many cases had proffered shelter at first, but later been obliged to give priority to close family members as the scale of the crisis grew.

⁷⁶ "Interim United Nations Multi-Sectoral Response Plan to the Recent Evictions in Zimbabwe", 27 June 2005.

⁷⁷ See Art. 4 of Inter-Agency Guiding Principles on Unaccompanied and Separated Children.

⁷⁸ Confidential submission.

⁷⁹ Story shared during consultation of the Special Envoy with women's organizations on 30 June 2005.

An 82-year old woman who lost her cottage during the demolitions told the mission how she had previously lost all her children and now was looking after nine orphaned grandchildren. Rent from the cottage was her sole source of income, and helped provide funds for school fees, uniforms, water, electricity and food. However, the cottage had been demolished leaving her and her dependents completely destitute, with nowhere to go.⁸⁰

A Catholic priest told the mission how he had met three women taking care of 11 children, all Zimbabwean-born, but of Malawian origin. They had been evicted from their homes in the Mbare neighbourhood of Harare and had nowhere to go. The priest decided to provide them with water and sanitation at his church, but had no long-term solution to offer. In the end, the women and the children got a ride to Mount Darwin with a driver who promised them a place to stay. The women knew neither the driver nor the area they were going to, and were leaving to an uncertain future.

Many of the evicted traders in informal markets were women who have now lost their livelihoods. The impact on these women and their dependents is therefore very serious, and the burden of family care for some can become too heavy to bear. For female-headed households, a complicating factor is that women in many cases do not own land in the rural areas from which they can earn an independent livelihood.⁸¹ In particular, there is a risk that displaced women and girls could be forced into transactional sex, because of economic destitution. One women's organization noted that the displacement of women to rural areas made them more vulnerable, as they were moving to an unfamiliar environment often without their husbands.⁸² There is therefore a strong need to assess the added vulnerabilities of women created by the Operation and to provide adequate support and protection. The rhetoric by some officials that the operation was meant to curb prostitution was not only offensive, but hardly credible. As one observer retorted angrily during civil society consultations in Mutare "Does prostitution cause poverty or vice versa?"

3.6.9 Refugees

UNHCR reported that there were about 10,000 registered refugees in Zimbabwe prior to the Operation. Eighty percent of the refugees were staying in urban areas in contravention of official encampment policy. However, during the Operation, Government started to implement this policy more aggressively. Arrests of refugees and asylum seekers in urban centers have continued throughout the Operation, and many refugees staying in urban areas have lost their homes. While many of these refugees used to be self-reliant, they are now entirely dependent on assistance. UNHCR reported that, although it had earlier managed to secure the release of refugees on the condition that they relocate to Tongogara Camp, it had become increasingly difficult to gain access to the refugees and asylum seekers detained as part of the Operation.⁸³

Government policy is to relocate all refugees and asylum-seekers to the official Tongogara Camp. By 6 July, the camp population had swollen to 2,500 which exceeded the camp's maximum capacity of 2,000. If this trend continues without the necessary expansion of facilities (shelter, water, sanitation etc.), living conditions in the camp are likely to deteriorate sharply.⁸⁴ UNHCR

⁸⁰ Testimony made during consultation with women's organizations on 30 June 2005.

⁸¹ Confidential submission.

⁸² Confidential submission.

⁸³ Submission by UNHCR, 6 July 2005.

⁸⁴ Submission by UNHCR, 6 July 2005

has made repeated appeals to the Government for sufficient time to plan and mobilize resources for expanding the camp's facilities, but is yet succeeded in establishing a constructive dialogue.

3.6.10 Other Vulnerable Groups

The clean-up operations have had a particularly severe impact on vulnerable groups such as the disabled, the chronically ill, the elderly as well as widows taking care of many children. These groups often require additional support and generally find it more difficult to cope with the evictions. There is little evidence that the Government had made special provisions for particularly vulnerable groups before launching the "clean-up operation."

An estimated **26,600** people aged 60 and above were directly affected by the Operation. Many of these victims relied on renting out backyard shacks to supplement their retirement or disability pensions that have been seriously eroded by inflation over the years.⁸⁵

Testimony provided to the mission showed that the increased mobility and insecurity triggered by the sudden loss of shelter and livelihoods have pushed the victims deeper into poverty, reduced their access to basic services and left women and girls more vulnerable to sexual and physical abuse. This is supported by official crime statistics, which show an increase in assault during the period of the Operation. Furthermore, existing programmes to assist vulnerable populations have been affected or disrupted by the Operation.⁸⁶ In some cases, evictions have led to the disruption of family units, as men have opted to stay temporarily near the site of the evictions while sending women and children to rural areas. The context of economic decline adds further to the vulnerability of these victims.

In Caledonia Farm, the mission found a group of about 50 physically and mentally challenged persons who were being held separately from the rest of the people living in the camp. This group was in dire need of special attention and support, but it was not clear that such assistance was forthcoming.

According to the UNCT, priority interventions for the protection of especially vulnerable populations include: improving situation assessment and increasing capacity for child protection partners to respond; preventing family separation and providing rapid reunification; sensitizing affected people on prevention and abuse of children and women; and providing emergency support to targeted groups including the disabled, those suffering from mental illness, orphans for whom support has been interrupted; children without adult caretakers and children taking care of sick adults.

3.7 Concluding Observations

While arbitrary evictions are being documented and monitored worldwide by UN-HABITAT and its partners, and such evictions are underway in several African countries, Operation Restore Order has rendered people homeless and economically destitute on an unprecedented scale. Most of the victims were already among the most economically disadvantaged groups in society, and they have now been pushed deeper into poverty and have become even more vulnerable. The scale of suffering is immense, particularly among widows, single mothers, children, orphans, the elderly and the disabled persons. In addition to the already significant pre-existing humanitarian

⁸⁵ Interviews indicated that some pensions amounted to less than 2 USD per month.

⁸⁶ Confidential source.

needs, additional needs have been generated on a large scale, particularly in the shelter, water, sanitation and health sectors.

The humanitarian/development response to the Operation will have to take into account:

- a. Economically disadvantaged and vulnerable populations pushed deeper into poverty by the Operation;
- b. Humanitarian programming must be based on a comprehensive assessment of the humanitarian needs of the population as a whole, including those affected by the Operation;
- c. Hundreds of thousands of people have had their basic rights infringed upon and their dignity violated during the Operation;
- d. Work in the informal sector, once the primary source of livelihood for the majority of the urban poor, has been eliminated at the same time as people have suffered economic and social shock;
- e. Traditional support structures and safety nets have been undermined by the disruption of family and community life;
- f. The UNCT's early estimates for the number of affected people will need to be revised upwards, and;
- g. A major effort will be needed to provide sustainable housing and livelihood solutions in the medium term.

4. Government Ability to Address the Impact of Operation Restore Order

4.1 Introduction

Operation Restore Order will have short and longer term effects on the capacity of the Government to address the basic needs of those affected and its population as a whole. The Operation has caused the destruction of livelihoods, homes, personal belongings and business premises, and the displacement of an estimated 570,000 people. Immediate needs include food, shelter, access to water and sanitation and health care. Longer term needs include the restoration of livelihoods, provision for affordable housing, education and other social services.

4.2 Food Security

Operation Restore Order took place at a time of acute food shortages in the country. The failure of the 2005 harvest due to drought has led to an officially acknowledged food deficit of 1.2 MT of maize for the 2005-2006 season. Meeting this deficit will require importing food at an estimated cost of USD 250 to 300 million⁸⁷ at a time of chronic shortage of foreign exchange and competing import demands, especially for fuel, energy and inputs required for agriculture and industry.⁸⁸ The Government has allocated to date Z\$ 100 billion (USD 10 million) to feed 2.4 million people in need of food aid.⁸⁹ The fact that Zimbabwe has no ready access to international credit, as well as a serious lack of foreign exchange implies that it is highly unlikely that Government will be able to fulfill basic food requirements without substantial external assistance.

A major concern is timely delivery of food and transport. Meeting the bulk of the deficit would imply the transport of about 120,000 to 140,000 metric tonnes per month. Such an amount is likely to require recourse to more expensive road transport as it exceeds the capacity of the rail system by an estimated 50,000 to 70,000 MT per month.⁹⁰

4.3 Shelter

Operation Garikai (Reconstruction/Resettlement) was officially launched during the mission as a reconstruction effort. This new operation involves an announced capital outlay of Z\$ 3 trillion (USD 300 million) with housing topping the priority list, followed by factory shells and market stalls⁹¹. A first installment of Z\$ 1 trillion (USD 100 million) is due for immediate disbursement and is scheduled for completion by August 2005. This expenditure was not foreseen and was not subject to a specific allocation in the 2005 budget.⁹² Its effective implementation would imply

⁸⁷ Including transport, clearing and forwarding and distribution

⁸⁸ Identifiable foreign exchange earnings are projected to be around USD 1.4 billion for 2005 while expenditures on fuel are projected to be around USD 900 million. Foreign currency reserves are estimated at 3 days.

⁸⁹ The Herald, 7 July 2005.

⁹⁰ Assuming that contracts are signed and payments are made by August for regular delivery starting from September 2005 through to the next harvesting period in April 2006, and that the rail system is properly maintained.

⁹¹ Sunday Mail, 26 June 2005, Presentation by Minister Chombo to the SESG at the Inter-Ministerial Task Force meeting, 30 June 2005

⁹² Statement by Herbert Murerwa, Minister of Finance, in parliament, reported by The Herald, 7 July 2005

reductions to the Statutory Liquidity Ratio resulting in an increase in money supply, budgetary reallocations, or a combination of the two. All three scenarios, within a context of chronic budget deficits, a strained fiscal base and hyperinflation, are potentially problematic and could affect efforts to curtail inflation and restore budgetary discipline. Many critical observers doubt that Operation Garikai will actually materialize.

4.3.1 A Questionable Strategy and Questionable Methods

Operation Garikai is based on the scenario that Government will provide stands (plots) upon which those rendered homeless will build their new homes. This assumption poses several questions. These include:

- q. The capacity of local authorities to provide the access roads, trunk infrastructure and basic services to enable displaced people to build new homes in compliance with the Government's Regional, Town and Country Planning Act;
- r. The need for interim solutions between the time of allocation of stands (plots) and the completion of homes by the affected people in compliance with building bylaws and standards. For the majority of displaced people, such interim arrangements would necessarily include temporary shelter/housing solutions that would resemble the structures and settlement patterns originally targeted by Operation Restore Order;
- s. The sourcing of readily available and affordable building materials previously supplied in part by the informal sector. As the informal sector was the initial target of and largely destroyed by Operation Restore Order, it will take some time before the supply chain can be restored. It can also be assumed that prices will rise as a result of the disruptions and inflationary pressure;
- t. The availability of credit facilities to ease the financial burden of the poor and limited income households to construct new homes. A number of civil society organizations that have provided such assistance in the past have not made much headway in terms of dialogue with Government to implement solutions outside the framework of government channels.

Another consideration and area of concern is the method envisaged by the Government. Senior government officials, on several occasions, announced that the preparation of stands and related infrastructure would be carried out by the military assisted by youth brigades. The mission was able to witness the early stages of capital-intensive preparations in several locations, which raise the following concerns:

- e. While the use of machine and capital-intensive site preparation and construction methods can speed up implementation, they involve a foreign currency component. Based on past experience of similar schemes, this component is estimated at 35% to 40%. The first phase of Operation Garikai would therefore involve USD 35 - 40 million in foreign exchange which would place a further strain on fuel shortages and foreign currency reserves;
- d. The use of the military and youth building brigades, while also effective in speeding up site preparation and construction, is inimical to ownership of the product and the process by the community and by local authorities. Again, according to past experience, such operations pose downstream issues of sustainability and maintenance;
- e. Government's track record of supplying serviced sites in recent years has been less than 5,000 stands (plots) per year, compared to the nation-wide objective of Operation Garikai to deliver 4,900 stands within a few months.

In summary, Operation Garikai gives the impression of being hastily put together. It does not appear to have accounted for the immediate shelter needs of people who have been rendered homeless at the onset of winter. The mission was able to witness thousands of people, including small children, pregnant women and the elderly, who were sleeping in the open without adequate protection from the elements either on the rubble of their destroyed homes, in rural areas or in official transit camps. The mission visited one of the transit camps known as Caledonia Farm on the outskirts of Harare where an estimated 5,000 people were being sustained by *ad hoc* humanitarian assistance at the time of the visit.⁹³ While this camp is intended to be a temporary facility pending relocation to other destinations, it was evident that Government capacity to provide basic needs and sustenance is severely limited. The conditions of those living in the camp clearly did not meet SPHERE standards and are worse than those found in refugee camps.

Mother, 25 years old, with infant born at Caledonia Farm.

I am from Mureywa. I was born in Harare. I was living in Hatcliffe Extension where we had been relocated from Churu Farm. Now my parents are also here [at Caledonia Farm]. We are waiting for the government to help us. My husband is a builder. He was born here but he is from Malawi. [We do not go back to my rural home because] it is not the custom for the man to move to the woman's home, the woman moves to the man's home.

In Hatcliffe at least we had our place. This is not our place and we are not aware of what will happen next. Most of our goods were left with relatives. We expect to be allocated a place to live. We welcome a stand [plot] but at the moment it is not easy for us to build a house, we couldn't afford it.



Man, 34 years old, evictee from Hatcliffe.

I am 34 years and I am in Caledonia camp with my wife Edellie and children Petronella, 10 years, Theofellas 7 years and Victoria 3 years old.

We were moved here from Hatcliffe Extension. The situation [at Hatcliffe] was rather better. We used to have decent shelter, facilities like clinics, shops, a bus shelter. Here the shelter is tattered and torn like that. If the rain comes everything will be wet and I don't know how I can prevent it. [It is] now three weeks since we came here. I am unable to feed my family. Relief is being given to ten people [at a time] and the first group who came here come first. As for us we haven't yet received any food because we came here last. I feel depressed, the way they drove us here was not safe.



⁹³ See also Chapter 5: Capacity of the Humanitarian Community to Respond

Man, 23 years old, newly arrived at Caledonia Farm.

I am from Mbare. I had little money or food, I was making Z\$100,000 a week. The other men from the street are given medicine to help them sleep, prescribed by a Doctor. I am originally from Madzira, it is just me here in the camp, my parents are in Madzira. I have been living in Harare for six years. At first I was at work, then I earned a living mending baskets. There was not hope. We were living like squatters. Now I work in the camp kitchen as a supervisor. In the future I want to have a job.



There is an urgent need for the Government to review its proposed strategy and methods for reconstruction and to use Operation Garikai as a means of restoring the livelihoods of those directly affected while addressing their longer-term shelter and housing needs. Lessons learned from over two decades of housing and urban reconstruction experience would indicate that a more effective and sustainable approach would be to distribute a major portion of the Z\$ 3 trillion in the following manner:

- a. One-time equity grants for those rendered homeless and the most needy to serve as compensation for loss of housing stock and as start-up funds for meeting their immediate shelter needs;
- b. Subsidized loans and guarantees to building societies, housing cooperatives and other community-based organizations to engage in incremental self-help housing for their respective members that have been affected;
- c. Interest-free start-up capital for the establishment of building materials depots and stores to be managed by non-for-profit organizations to provide a source of affordable building materials;
- d. Earmarked transfers to local authorities to employ labour-intensive public works to boost the supply of stands using more reasonable norms and standards such as footpaths rather than roads, on-site ventilated improved pit latrines and communal stand pipes. Site layout would provide for installation of standard infrastructure when funds eventually become available.

5 Capacity of the Humanitarian Community to Respond

5.1 Overview

The ability of the United Nations Country Team to respond to the scale of humanitarian needs resulting from Operation Restore Order is currently very limited. With 700,000 people already directly affected, it has had an overall impact on the lives of an estimated 2.4 million people representing 18 percent of the population. At the time of the mission, the humanitarian community was providing assistance to just a small fraction of the population directly affected by the evictions. Resources had mostly been diverted from ongoing humanitarian programmes without any assured replenishment and few additional resource commitments. Given the Government's earlier wish not to have a Consolidated Appeals Process (CAP) for 2005, the humanitarian community is suffering from weak resource mobilization and a lack of an overall framework, let alone an agreement with the Government, for a coordinated response. The Government has several times stopped assistance being provided to people near demolition sites, and nearly two months into the crisis, the United Nations has been unable to survey humanitarian needs in coordination with the authorities. Some NGOs and UN agencies are concerned their office premises could be earmarked for demolition. And some donors have concerns that aid channeled through Government might indirectly support policies to which they are opposed. These constraints have now been compounded by the burgeoning impact of the Operation Restore Order, a prevailing political climate of mistrust and fear, and the lack of information on, and access to the affected population.

5.2 Current Levels of Humanitarian Response

Many churches are providing life-saving, temporary assistance including shelter to evicted families. However, they do not have the capacity to take care of all their needs, including health care. Nevertheless, their strong links to the communities have been invaluable in reaching people with assistance in the first phase of the response.

UNICEF is providing assistance mainly in water and sanitation, child protection and temporary shelter. By 9 July, it had delivered close to one million liters of drinking water by truck to Caledonia Farm and started deliveries in Bulawayo. Similarly, it delivered 120 mobile toilets and soap in Caledonia Farm, Bulawayo and Mutare. In addition, it provided plastic sheeting, blankets, mattresses and cooking pots to affected persons at various locations, and provided transport for other kinds of assistance from the World Health Organization, the Red Cross and Christian Care. To cover these additional expenses UNICEF had reprogrammed some USD 300,000 and raised an additional USD 1 million mostly from national committees in Europe.

Early in the crisis, the authorities advised WFP that it should not provide direct food assistance to victims of Operation Restore Order. WFP is therefore providing food assistance to evicted households through IOM and other partners. Through the UN interim response plan, WFP and its partners are targeting 27,000 households for food assistance over three months at an estimated cost of USD 1,100,000. Priority interventions include: the provision of food packs to particularly vulnerable households; distribution of cooked meals at transit camps; interventions to prevent

deterioration of nutrition among children; and the establishment of a nutrition surveillance system in areas where people have resettled.

In addition, WFP's ongoing targeted feeding programmes, started prior to the evictions are reaching about 1 million vulnerable persons such as school children, orphans, AIDS sufferers and pregnant women, mainly through schools and hospitals. However, the Operation has automatically increased the number without secure food access by up to half a million. Pending the availability of additional resources from donors, WFP is hoping to augment its feeding programme to reach up to 3 million people from October 2005. However, there are few signs that these resources will be forthcoming, particularly as the Government of Zimbabwe has thus far refused to appeal for international food assistance.

IOM, through a network of local NGOs and churches, has so far distributed non-food items such as blankets, soap and cooking utensils to about 15,000 families affected by the evictions. It also plans to start distributing tents. Its regular, ongoing programmes to assist about 180,000 mobile and vulnerable persons have not been severely affected, although a group of 145 ex-farm worker households which had recently started receiving assistance from IOM were evicted from their homes in Kasam in the Makoni district of Manicaland.⁹⁵ IOM's own appeal for funds to cover the immediate response amounts to USD 3.7 million, and so far, USD 2 to 2.5 million in additional resources has been raised. However, the original needs assessment and timeframe of 12 months will have to be revised, owing to the increasing number of families affected.

On 30 June 2005, the United Nations Country Team finalized an interim response plan for three months pending a more detailed needs assessment. This plan calls for an immediate mobilization of USD 11.9 million. However, the polarized political climate and the continuation of Operation Restore Order are undermining resource mobilization efforts, particularly for longer-term development programmes. Although many donors have indicated their willingness to channel material assistance through NGOs, they are reluctant to commit funding out of concern of indirectly supporting policies and actions to which they are opposed.

5.3 Lack of an Overall Framework Guiding Humanitarian Response

The humanitarian response from the UN and its partners in Zimbabwe suffers from the lack of an overall agreement with the Government on the nature and scope of humanitarian assistance. Earlier in the year, the UNCT finalized a joint "Humanitarian and Developmental-Relief Plan for 2005" that identified the main challenges and their programmatic implications. This document has been presented to the Government on various occasions, but no substantive feedback has been received so far.

In the absence of the above, assistance continues to be provided in a largely ad-hoc manner, with the risks this entails. There is an urgent need to reach an understanding with the Government on the roles and responsibilities of all stakeholders, the status of people displaced by the Operation, and the policies and standards that will govern humanitarian response, including the SPHERE standards and the UN Guiding Principles on Internal Displacement.⁹⁶

The lack of an overall UN-Government plan is particularly apparent at Caledonia Farm, where the UN and its partners are currently responding to day-to-day government requests for food,

⁹⁵ Confidential source.

⁹⁶ United Nations Office for the Coordination of Humanitarian Affairs: "Guiding Principles on Internal Displacement", 1997.

tents and blankets and water and sanitation and other forms of assistance. UNICEF, for example, is delivering water for the camp by truck. At the conclusion of the mission, the Government had not yet allowed UNICEF to open the existing well on the site under the pretext that the camp is only temporary, and that people would soon be moved to other sites or rural areas. The camp continued to be run by a police unit, rather than humanitarian actors. The assistance and protection provided at Caledonia Farm did not comply with SPHERE standards, particularly in the areas of shelter, sanitation, protection of vulnerable groups and education. Furthermore, the organized transport of people to and from the camp was reported to be involuntary in many cases, which would not be in accordance with the UN Guiding Principles on Internal Displacement as well as other international instruments.⁹⁷

Although the authorities insist that the camp at Caledonia Farm is temporary, many of the displaced people have previously experienced long stays in “temporary holding centers” lasting for years and even decades. A top priority is to clarify the status of the camp and the people staying there, and to identify long-term solutions involving secure tenure. In this regard, UN-HABITAT has provided a settlements expert to support the UNCT to offer sustainable relief and reconstruction.

The objective of humanitarianism is to preserve and maintain human life, and the cycle of support is often never-ending. It creates dependency, and by virtue of its unconditionality, often disempowers its beneficiaries. While sometimes suitable for refugees who remain outside of their home countries for many years, it could be detrimental for IDPs in non-war situations like those in Zimbabwe. UN-HABITAT’s expert will help the UNCT’s humanitarian effort to create opportunity to “develop out” of the crisis that has befallen the IDPs. Emergency shelter in the form of tents will be linked to allocation of land to the beneficiaries by the Government as its contribution to remedy a crisis of its own creation.

5.4 Limited Opportunity for Humanitarian Access

The Government has, on several occasions, prevented humanitarian actors from providing shelter and basic services to the displaced population, particularly near the demolition sites, even though many of the affected persons remain without any form of shelter or ready means of sustenance. It has also impeded data collection.⁹⁸ Lack of access is therefore a serious obstacle to humanitarian action, with significant, adverse consequences for the affected populations.

Almost two months into the crisis, it has not been possible for the United Nations to conduct any comprehensive assessment of humanitarian needs in coordination with the authorities. Lack of information on the number of people affected, their profile, and their whereabouts makes programming, coordination and resource mobilization extremely difficult and onerous.¹⁰⁰

⁹⁷ International Federation of Red Cross and Red Crescent Societies: Sphere Handbook, 2004. United Nations Office for the Coordination of Humanitarian Affairs: Guiding Principles on Internal Displacement”, 1997.

⁹⁸ Confidential sources.

¹⁰⁰ The Government provided figures on the affected population on the last day of the Special Envoy’s mission.

5.5 Humanitarians as Potential Targets for Evictions

Staff members from humanitarian agencies have also been affected by the ongoing evictions. For example, one UN agency reported at the beginning of July that 20% of its staff had either been evicted or were providing shelter for evictees.¹⁰¹ Several NGOs as well as UN agencies expressed concern that their own offices could eventually be targeted for demolition, as they were located in residential buildings that had been converted into offices, and that they therefore had been forced to prepare contingency plans. The ongoing demolitions are thus contributing to an overall sense of insecurity, lowering staff morale and the effectiveness of agencies operating in Zimbabwe.

5.6 Limited space for Effective Dialogue

There is currently no regular forum for joint working-level consultations on the humanitarian response between the Government, the UN and the civil society. The establishment of such a forum is essential to improving dialogue, formulating joint strategies and action plans, and promoting the implementation of best practices.

Most international, regional and local NGOs have been requested by the Government to focus their efforts on their ongoing programmes and not to get involved in assisting victims of Operation Restore Order. Overall, the NGO community considers itself marginalized by bureaucratic restrictions such as difficulties in obtaining visas for key international staff and invasive investigations into finances and foreign exchange. These restrictions have driven up the cost of operations and oblige management to spend a disproportionate amount of their time dealing with administrative red tape. This constrained humanitarian space has led some NGOs to leave the country entirely (e.g. Medair in November 2004¹⁰²), while others have considered scaling down their operations and focusing their attention on other countries.

In meetings with the mission, many NGOs described a “climate of fear”, which has led both national and international NGOs to exercise “self-censorship” to avoid being closed down or evicted.¹⁰³ Anecdotal evidence shared with the mission suggests that these fears are not unfounded. For example, on 12 July, the police reportedly detained a staff member from Action Aid for seven hours after she took pictures of aid being distributed by another NGO at Caledonia Farm.¹⁰⁴ In meetings with civil society, several NGOs also expressed fears of retributions following their testimonies to the mission of the Special Envoy.¹⁰⁵

National NGOs are generally concerned about taking any actions that may provoke the Government. According to several NGOs, the new NGO Bill, which was passed by Parliament in 2004 but ostensibly rejected by the President, is *de facto* in place.¹⁰⁶

¹⁰¹ Confidential source.

¹⁰² <http://www.reliefweb.int/rw/rwb.nsf/0/b5b3e9c15ba87ea6c1256f580055f1ac?OpenDocument>

¹⁰³ Testimony made in the Special Envoy’s consultation with international NGOs in Harare.

¹⁰⁴ “Aid worker arrested for taking photographs”, South African Press Association, 12 July 2005.

¹⁰⁵ Fears expressed at a town hall meeting with civil society in Mutare on 2 July 2005, and during consultations with women’s organizations in Harare on 29 June 2005.

¹⁰⁶ In the SE’s consultation meeting with civil society in Bulawayo, it was observed that “President Mugabe” was aware of this and “was having his cake and eating it too”

5.7 Concluding Observations

The capacity of the humanitarian community to respond to the crisis caused by Operation Restore Order is inadequate. What assistance is being delivered is seriously hampered by Government insistence that people will return to rural areas and that Operation Garikai will cater to all shelter and other basic needs. Lack of access, bureaucratic red tape and an overall climate of mistrust are exercising a heavy toll both in terms of resource mobilization and effective response.

While immediate humanitarian measures need to be taken to prevent an imminent crisis of potentially far-reaching proportions, there is an urgent need for the implementation of confidence building measures to help establish pre-conditions for dialogue. The critical components of these confidence-building measures include:

- h. An immediate halt to all forms of eviction, demolition and, most importantly, relocation of populations by the Government;
- i. The establishment of a joint Government of Zimbabwe multi-stakeholder monitoring and assessment unit in all affected areas to identify area-specific priorities for humanitarian intervention and coordinated response;
- j. The appointment of a joint UN-Government Working Group to formulate a medium-term community development programme, engaging local authorities, and linking humanitarian assistance with secure tenure and good urban governance along the principles of sustainable relief and reconstruction.

6. Legal Analysis of Operation Restore Order

6.1 Background

The situation in Zimbabwe is both a humanitarian and a human rights issue. The Terms of Reference of the mission include an assessment of the ability of the Government of Zimbabwe and of the humanitarian community to assist the population affected by Operation Restore Order. The legal analysis of the Operation is intended to inform the assessment from a humanitarian and human rights perspective, and to provide a full appreciation of the responsibilities of both the Government and the international community to provide assistance to the affected people.

The human rights discourse in Zimbabwe is fraught with tension. The Government accuses those who raise human rights issues of applying double standards when it comes to African countries, and Zimbabwe in particular. Several officials cited recent alleged violations in Togo and Ethiopia during their respective elections and the fact that the outcry regarding those cases was nothing compared to what Zimbabwe is experiencing.¹⁰⁷

The legal context should be seen against a background of a general deterioration of the rule of law in Zimbabwe. Disregard for laws and court orders during the Fast Track land reform programme set a dangerous precedent. It also sent a signal that the rule of law could be subject to selective interpretation.

The legal context is mixed, and seems to reflect a set of conflicting legislation. On the one hand, there is the Regional, Town and Country Planning Act, and attendant municipal bylaws emanating from the colonial era meant to keep Africans out of the cities by setting very high housing and development standards beyond the reach of the majority of the people. On the other hand, there are the international commitments and obligations requiring Governments to provide adequate shelter to all its citizens. The national laws seem to have been subject to inconsistent policy statements that led them to be mostly ignored after independence, leading to the rapid formation of backyard extensions now dubbed illegal. The sudden application of the laws governing towns and cities under Operation Restore Order has exposed the clear conflict of these laws with human rights provisions under both national and international law.

The general view in Zimbabwe is that the debate around the Operation goes beyond legality, and borders on morality.¹⁰⁸ This debate notwithstanding, Operation Restore Order raises several legal issues under international and regional human rights frameworks, as well as national legal frameworks.

6.2 International and Regional Instruments

The fundamental right to human dignity, to shelter, to employment, to education and to health care are all entrenched in a variety of international and regional human rights instruments, all of which Zimbabwe is party to. The Government of Zimbabwe has a duty to protect and enforce the economic and social rights of its citizens as guaranteed by the Constitution of Zimbabwe and the

¹⁰⁷ BBC reported on 23 June 2005 that UK had announced a suspension of planned increase of aid to Ethiopia. This would suggest that other governance problems are not ignored as claimed. The debacle in Togo also attracted a lot of international condemnation.

¹⁰⁸ Several people the mission met including a law professor expressed this sentiment.

African Charter on Human and Peoples' Rights¹⁰⁹. The Government of Zimbabwe also has a duty to fulfil its obligations under the International Covenant on Economic, Social and Cultural Rights, which Zimbabwe ratified on 13th May 1991. General Comment Numbers 4 (13th December 1991) and Number 7 (20th May 1997) of the United Nations Committee on Economic, Social and Cultural Rights state that, "forced evictions are *prima facie* incompatible with the provisions of the Covenant and can only be carried out under specific circumstances". As a member of the United Nations Commission on Human Rights, Zimbabwe committed itself to advocating for the respect and implementation of key Resolutions on Forced Evictions passed in 1993 (Resolution 1993/77), 1998 (Resolution 1998/9, and 2004 (Resolution 2004/28).

The foremost statement of international law relating to housing rights is found in the International Covenant on Economic, Social and Cultural Rights which states in Article 11(1) that: "The State parties to the present Covenant recognise the right of every one to an adequate standard of living for himself [herself] and his [her] family, including adequate food, clothing and *housing, and to the continuous improvement of living conditions*. The States parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance to international co-operation based on free consent."¹¹⁰ The compliance with international law is treated as part of Section 6.4.

6.3 National and Domestic Legal Framework¹¹¹

6.3.1 Relevant National Laws

There are three main pieces of legislation in Zimbabwe relevant to the legal analysis of Operation Restore Order. These are the Regional Town and Country Planning Act 1976 [Chapter 29:12] ("Planning Act"); the Housing Standards Control Act 1972: Chapter 29:08; the Urban Councils Act: Chapter 29:15/ 1995; and several other municipal bylaws. The mission determined that although there were several legal instruments regulating use of buildings, structures and business activity, including in some cases clear procedures concerning violations, that could have been used by the government to justify the Operation, the Planning Act seems, however, to be the only one invoked through an enforcement order as the basis for the demolitions.

6.3.2 The Regional Town and Country Planning Act Chapter 29:12/ 1976

In instances where it is alleged that people have built structures without the prerequisite consent of the relevant authority, it is necessary for due process of the law to be followed. In terms of Section 32 of the Planning Act, it is necessary for the authorities to issue a prohibition order giving 30 days notice. The authority can also issue a prohibition order in terms of Section 34 of the Planning Act. If the order is not complied with, the authority has to take the requisite legal steps to destroy the offending structure. The person who has erected the unlawful structure has an opportunity to make presentations, and also has time to take steps to either regularise their position or find an alternative place to reside in or operate from. Similar provisions are provided

¹⁰⁹ African Charter on Human and Peoples' Rights Article. 14 provides that "the right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws. See also Articles 15, 16, & 18

¹¹⁰ International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), *Entered into force 3 Jan. 1976*, Emphasis added.

¹¹¹ For general discussions of the national legal framework see submissions of the Law Society of Zimbabwe 6 July 2005, Actionaid Zimbabwe, 8 July 2005, and Zimbabwe Lawyers for Human Rights, June 2005

by the Housing Standard Control Act 1972: Chapter 29:08, and the Urban Councils Act: Chapter 29:15/ 1997, and other bylaws

6.3.3 Enforcement Order

The City of Harare issued an enforcement order on 24 May 2005 a few days after the actual demolitions of structures had started.¹¹² The order was to become operative on 20 June 2005¹¹³. However, the demolition of business structures continued and that of homes started, thus giving the affected people no opportunity to apply for regularisation of their developments, which amounts to a violation of the law. With the exception of Harare, where an enforcement order was issued, in the press, under the Planning Act of the intending evictions and demolitions (albeit defective), no such order was issued under the Planning Act or any other legislation in the other areas where evictions and demolitions took place. The legal basis for the action by the police in destroying settlements and livelihood is questionable. The Cities of Bulawayo, Mutare, and Victoria Falls, which are the authorities responsible for any demolitions under their jurisdiction, were not consulted when the demolitions and evictions started in their respective cities.¹¹⁴ During discussions with the Government of Zimbabwe's technical team, the mission requested that it be provided with evidence that notices were given outside Harare. This evidence was not forthcoming. It is important to note that in all the laws, the body authorised to order and implement demolitions is the local authority and not the central government or the police, which was the case in Operation Restore Order.

6.3.4 Service and Adequacy of Notice

General practice requires notice to be served on individuals. The Planning Act does, however, make provision for notice to be served through publication in newspapers in certain circumstances¹¹⁵. Many people were of the view that in this instance notice should have been served on individuals. Adequacy of notice is a key principle of fairness and natural justice. Adequate notice of any action is to ensure that those who will be affected can make alternative arrangements within a reasonable time frame. The testimonies provided to the mission suggest that this did not happen in many cases. In some cases, as little as a few hours notice was given, leaving people unable to take action and resulting in the destruction of property as houses were demolished¹¹⁶. Some evictees had to leave their property behind because there was no room in the trucks used to transport them to transit camps.¹¹⁷ What was not collected was set on fire by the police in many cases.

6.3.5 Status of Evictees

The mission was provided with evidence of people evicted from their premises who are in possession of valid leases issued by the then Ministry of Local Government and National Housing

¹¹² See the Herald, 24 May 2005 and 26 May 2005

¹¹³ The Planning Act provides for 30 days notice. In the instance the notice was to become operative in 25 days.

¹¹⁴ See submission by City of Bulawayo on Operation Restore Order, 6 July 2005

¹¹⁵ With the exception of the Planning Act, it would appear that the other relevant laws does not provide for notice by publication

¹¹⁶ In some cases people were not home when their houses were demolished

¹¹⁷ This was witnessed by some of the Special Envoys team at Porta Farm on 29 June 2005

and/or by the local authority.¹¹⁸ It may well be that many of the evictees do not have leases, or have breached them; it remains essential that they be given the opportunity to raise such defences.

The mission was able to ascertain that in some cases the vendors, whose stalls and marketplaces were destroyed and whose goods were confiscated, held valid vendors' licenses. It would therefore appear that the actions against them were not in accordance with the planning regulations¹¹⁹. The mission obtained information that some properties, which had been constructed in compliance with relevant laws, were also destroyed.¹²⁰

Some affected people have filed applications in the Courts to prevent demolition and eviction. In some instances, provisional orders to interdict the police and relevant authorities from carrying out their actions and to restore possession to those who had been in possession of the same have not been heeded, while in other cases they have been.¹²¹

Notably, the High Court issued a provisional order on 29 June 2005 banning the government from allocating stands and constructing sample houses on property known as Whitecliff Farm, which is owned by a private individual.¹²² This site has been earmarked by Government to provide housing and livelihoods as part of Operation Garikai (Reconstruction /Resettlement) to provide stands/plots and vendor stalls in response to the consequences of Operation Restore Order. The Special Envoy had witnessed the launch of the reconstruction phase by the First Vice President on this very site. The sustainability of this intervention in terms of security of tenure can be seriously questioned as the very land allocated for reconstruction and resettlement soon became the subject of an unresolved legal challenge. The Special Envoy brought this serious development for Operation Garikai to the attention of the Minister of Local Government. He clarified, albeit verbally, that the new urban land acquisition law provides a landowner whose land has been earmarked for acquisition no option but to surrender the land while negotiations for compensation are ongoing. The Government further insisted that the courts had no basis to interdict its new plans, but this remains unclear.

6.4 When can Governments/State Parties be justified in law?

Under both relevant international law and national legislation forced evictions can be justified under certain circumstances. The Committee of Economic Social and Cultural General Comment 4, paragraph 18, states that instances of forced evictions are *prima facie* incompatible with the requirements of the Covenant and can only be justified under the most exceptional circumstances. These exceptional circumstances include persistent anti-social behaviour which threatens, harasses or intimidates neighbours; persistent behaviour which threatens public health or is manifestly criminal behaviour as defined by law, which threatens others; and illegal occupation of property without compensation.

¹¹⁸ *Tinashe Tafira & 6 others vs Harare City Council & 2 Ors Harare Magistrate Court Case No. 16596/05*. See submissions from Law Society of Zimbabwe, Action Aid, and Zimbabwe Lawyers for Human Rights. June/July 2005

¹¹⁹ See submission presented by the City of Bulawayo on the Clean-Up Operation, 6 July 2005.

¹²⁰ See the case of *Batsirai Children's Care vs The Minister of Local Government, Public Works & Urban Development & 4 Ors HC 2566/05*, in the submissions of Action Aid 8 July 2005

¹²¹ *Dare Remusha Co-operative vs. Ministry of Local Government and Public Works & Urban Development & 4 Ors HC 2467/05*

¹²² Submission of Law Society of Zimbabwe

The Government of Zimbabwe, in its written submission to the mission, appears to be relying on some of the above to justify its actions under international law.¹²³ However, there is no indication that procedural requirements were complied with. Forced evictions under the exceptions have to be in accordance with the law, which meets international standards. The Committee on Economic Social & Cultural Rights General Comment No 7, which provides the leading interpretation of article 11(1), calls on all state parties to ensure, prior to carrying out any evictions in exceptional cases, and particularly those *involving large groups* that certain procedural protections are ensured. These include:

- k. An opportunity for genuine consultation with those affected. The mission was informed that no consultations were undertaken prior to the evictions and when the Government of Zimbabwe technical team was asked, the mission was informed that “consultations” were undertaken because the affected people were informed of the evictions through their monthly bills, which included a fine levied on owners who had illegal structures!
- l. Provide adequate and reasonable notice for all affected persons prior to the date of the eviction. This was not provided. See discussion under section [9.3].
- m. Information on the proposed eviction should be made available in a reasonable time to those affected. This was not provided.
- n. Government officials or their representatives should be present during an eviction; persons carrying out the evictions should be properly identified. The Government said uniformed policemen were used making it easy to identify the persons carrying out the evictions. It is the view of the mission, however, that actions falling under the purview of local authorities should not be carried out by the (national) police or the military.
- o. Evictions should not take place in particularly bad weather or at night. At the time of Operation Restore Order, Zimbabwe was entering its winter season and experiencing very cold weather. The Government of Zimbabwe counter-argued that winter being a dry season is the best time to implement the operation. Operation Garikai is meant to provide alternative accommodation before the onset of the rains in October/November. It remains to be seen whether this will be accomplished and, in any case, not all those affected can be assisted.
- p. Legal remedies should be available and legal aid should be available to those in need of it to seek redress from the courts. Although legal assistance is being provided by some NGOs, their efforts are being hampered by a non-responsive judicial system. The High Court dismissed one case challenging the evictions, ruling that the Government was not in violation of the law to have illegal structures demolished.¹²⁴ The case did not consider the procedural aspect of the law. The case ignores the recommendation by the Human Rights Committee in its General Comment Number 16 where it makes the very important and pertinent point that appropriate procedures and due process are essential aspects of all human rights, and more so where forced evictions are concerned.
- q. Evictions should not result in individuals being rendered homeless; prior alternative adequate housing should be available. The Government did not provide alternative accommodation to those affected prior to the demolitions. In one of the areas affected (Porta Farm), an operative High Court order issued in September 2004 preventing the Government from evicting the residents until alternative accommodation including basic

¹²³ Paper on Legal Justification for Operation Murambatsvina/Operation Restore Order submitted to the mission on July 7, 2005 during a meeting with Ministry of Foreign Affairs chaired by Director of Multilateral Affairs

¹²⁴ *Dare Remusha Cooperative Vs. The Min of Local Government, Public Works & Urban Development & 4 Ors HC 2467 / 05*

infrastructure and services had been provided, was disregarded. The residents have since filed a contempt of court order on 28 June 2005. (See Box 1)

Box 1: The Porta Farm: A history of evictions and relocations of 15 years

1990:	A massive clean up campaign to rid the City of Harare of all “perceived unsightly dwellings” and squatter settlements takes place for HRM Queen Elizabeth II’s visit. Scores of people mainly ex-farm workers of foreign origin, and people who have lost their jobs, elderly and orphans and the really poor are moved from their homes in areas such as Epworth, Mbare, Borrowdale, Gumba and the area around the Mukuvisi River. The evictees are resettled on Porta Farm about 25 kilometres from the city. They are told to stay there by the government pending the finding and allocation of suitable accommodation alternatives.
1991:	The Harare City Council (HCC) threatens to remove the residents who obtain an injunction from the High Court [HC 3177/91] prohibiting the council from evicting them until it had found alternative accommodation with the necessary basic services for them.
1993:	Churu farm residents evicted against a High Court Judgment and some are settled at Porta Farm. The population is rising and reaches 5,000.
1995:	HCC tries again to evict the residents. Another court order [HC 4233/95] is obtained preventing the demolishing of houses and eviction of the residents. This order is still pending and HCC is yet to comply.
Aug. 2004:	Ministry of Local Government attempts to evict the residents. Another injunction [HC 10671/04] is obtained preventing the Ministry from evicting them.
Sept. 2004:	HCC files a suit in the High Court [HC 11041/04] seeking an eviction order. The case is dismissed with the court referring to the 1995 order, which had not been discharged.
Nov. 2004:	The Ministry responds to the 1991 and 1995 court orders stating that alternative accommodation has been made available to the residents and that the Government is now in a position to resettle them at the new location. The residents seek to verify the allocations and seek to visit the sites with the Ministry. This does not happen, so the order not to evict is still operative.
19 May 2005:	Operation Restore Order starts in Harare.
27 June 2005:	Police at 6:00am distribute flyers informing the residents that they would be moved to Caledonia farm the following day so they should pack their belongings.
28 June 2005:	Demolitions start at 11:30 am, an hour after lawyers representing residents have served the Government with a letter reminding it of the November 2004 court order! The police are shown copies of the 1995 and 2004 orders which they ignore. “The residents report that the police responded by saying that they were not in a classroom and that they could not read, and that they were not going to obey any court Orders as they are acting on orders from above”.
29 June 2005:	Special Envoy’s team visits Porta Farm and witnesses demolitions and transportation of residents to Caledonia Farm. The mission is shocked by the brutality. Population is estimated at 12,000. Residents file a contempt of court application against the Government for violating a court order, however the High Court is yet to hear the case.
30 June 2005:	Special Envoy visits Porta Farm in the evening and witnesses the serious humanitarian crisis and around 1000 evictees sleeping out in the open.

Source: *Interview with Mbidzo, Muchadehama & Makoni, Lawyers of Residents*

There is general concern that the High Court's failure to safeguard the right of the victims of the Operation reaffirms the argument that the Zimbabwean Judiciary has generally failed to act and been seen to act as custodians of human rights in Zimbabwe and that there has been a regrettable failure by members of the Bench to remain independent from the national and local politics of the day.¹²⁵ The general view among many stakeholders is that this has had a severe impact on the rule of law and the administration of justice, and has caused the ordinary person on the street to lose faith in achieving justice through legal channels.¹²⁶ This problem is not limited to Zimbabwe. In its report, the Commission for Africa decries the crisis of the judiciary in Africa for its failure to ensure separation of powers between the State, the Judiciary and the Legislature.¹²⁷ Justice is said to be on "sale" for those who have money and "on hold" for those with political power and influence

6.5 Violations of Human Rights and Humanitarian Law

Although the Zimbabwe Constitution provides protection under Chapter III, Declaration of Rights, Operation Restore Order infringed upon many of these rights. The forced evictions and resultant displacements have rendered thousands of people homeless and thus vulnerable to the violations of a number of other rights. In addition to the violation of the right to adequate housing, other key rights including the right to life, property and freedom of movement have also been violated.¹²⁸

6.5.1 Right to Life and Property

Several allegations have been made of deaths in connection with Operation Restore Order by organisations such as Amnesty International, Human Rights Watch, Zimbabwe Peace Project and Zimbabwe Lawyers for Human Rights.¹²⁹ Of the six deaths alleged to have occurred as a result of demolitions, three involve a child hit by a truck, and another child and sick woman hit by falling debris alleged to have occurred at Porta Farm, Harare while the Special Envoy was present in Zimbabwe.¹³⁰ The Special Envoy had arrived at this demolition scene and was presented with a distressed crying baby whose mother could not be located in the commotion caused by the demolition.¹³¹ In all of these death claims the Government is yet to issue a certificate of

¹²⁵ Submission by Zimbabwe Lawyers for Human Rights: *Operation Murambatsvina, Public Interest Litigation*

¹²⁶ *ibid*

¹²⁷ Our Common Interest, Commission for Africa, see the section on Accountability pages 141-145, 2005

¹²⁸ See also Law Society Submission *op cit*

¹²⁹ See Amnesty International new release: "*Zimbabwe: More deaths mass evictions continue unabated*" 30 June 2005, Zimbabwe Peace Project news flash of July 1, 2005

¹³⁰ In the Zimbabwe Peace Project news flash of July 1, 2005, four people were identified as having died in Porta Farm as a result of Operation Murambatsvina. Mai Douglas (pregnant woman), Loyce Mandigora, Chrispen Kapenhure, (5 year old boy allegedly run over by government truck transporting evictees from Porta Farm, Rebecca Mupandani (terminally ill woman who died allegedly while being bundled into one of the moving trucks. This had been reported to the SE during her consultation session with NGOs in Harare. While at Porta Farm the SE inquired about the pregnant woman alleged to have fallen off the truck. The evictees still at the demolished site and sleeping out in the open denied this. If true this would support some of the Governments concern that some NGOs exaggerate.

¹³¹ The Special Envoy had to purchase a feeding bottle and milk which were given to another woman to care for the baby

confirmation or negation.¹³² Death allegations are coming from so many quarters that they warrant an independent inquest since the police carried out the operation. There also has been wanton destruction of properties. In some cases properties have been seized and even auctioned off with no accounting for the goods or the proceeds.¹³³ Arbitrary takeover of assets is happening against a backdrop of rhetoric of maintaining law and order.¹³⁴

Far less drastic measures could have been taken by the police implementing the enforcement order. It is a general principle of administrative law that when public authorities are exercising powers, they should do so in a manner that will seek to minimize loss. It appears this principle was not adhered to during the Operation, paving the way for holding those entrusted with implementing orders to be held accountable, including for criminal negligence charges where deemed appropriate by the Government.

6.5.2 Right to Freedom of Movement

The fact that a large number of people were evicted and their homes destroyed without any alternative accommodation is, in itself, unlawful. The movement of evictees has also been restrained in that those who are in camps can only go to the rural areas or other destinations of the Government's choice and are not allowed to move freely. The Government's policy stating that all Zimbabweans have a rural home, and that all those who have been evicted should return to their rural homes, implies a lack of freedom to choose one's own residence. This has particularly serious implications for those Zimbabweans of foreign origin who have no rural home. The mission visited Caledonia Camp, which was set up by the Government. The camp manager confirmed that the residents were waiting to be transported back to villages.¹³⁵ They are not being allowed to leave the camp, but children were allowed to go to school in the city, a considerable distance away. The proportion of people in the camps compared to the total number of evictees is however limited and this has implications for issues under the Rome Statute (see 6.7).

Box 2: Press Statement by the Law Society of Zimbabwe on Operation Restore Order, June 2005 In their submission the Law Society argued:

The justification for these actions is that illegal structures should not be allowed to stand, that businesses which operate without lawful authority should not be permitted to operate; and that unlawful elements of society should be arrested. It is however clear that the wholesale destruction of building and businesses and the mass arrest of citizens and non-citizens of Zimbabwe, without the due process of the law is a blatant and unacceptable violation of constitutional rights of those affected by these actions. Many people have been deprived of shelter, and thousands have been deprived of their livelihoods, and have lost their property and in many instances their liberty. A Government which genuinely respects the constitutional rights of individuals would have been expected to give warning of its intended actions, follow due process of law, and have made contingency plans for those who were suddenly left homeless or without an income. The stated purpose for these actions by the Government is to curb crime. However, the unfortunate consequences of such action is that persons who previously were able to earn an income in the informal sector, will in many cases, be forced to turn to crime to survive. The actions of the Government merits strong censure and the Law Society of Zimbabwe condemns these actions.

Source: *Submission by J. James, President, Law Society of Zimbabwe, 6 July 2005*

¹³² After she had left Zimbabwe the SE was faxed an unsigned Memorandum dated July 6, 2005 from Police General Headquarters. The document admits that one child was killed but not as a result of the operation. It is important to note that the memorandum is not on an official letterhead and is unsigned.

¹³³ Law Society of Zimbabwe, *op cit*

¹³⁴ *ibid*

¹³⁵ Some 5,000 people were being accommodated in one transit camp in Harare with totally inadequate shelter and protection from the elements.

6.6 Does Operation Restore Order warrant evoking the principle of “Responsibility to Protect”?

The Responsibility to Protect published in December 2001 by the International Commission on Intervention and State Sovereignty, outlines the core principles of how the United Nations and the wider international community should react when nations are degenerating into chaos. The principles were derived in direct response to the world’s failure to intervene in Rwanda, and the controversial interventions in Somalia, Bosnia and Kosovo. The basic principles the Commission arrived at are:

- e. State sovereignty implies responsibility, and the primary responsibility for the protection of its peoples lies with the state itself; and
- f. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.¹³⁶

The substance of the responsibility to protect is the provision of life-supporting protection and assistance to population at risk. According to the report this responsibility has three integral and essential components: responsibility to react; responsibility to prevent; and the responsibility to rebuild after the event.

With an estimated 700,000 people directly affected through loss of shelter and livelihoods, the mission sought to establish both the willingness and ability of the Government to protect its citizens, having clearly caused them to suffer in large numbers through the destruction of shelter and livelihoods. The Government, in apparent response to the crisis it had created, launched Operation Gerikai (Reconstruction and Rebuilding). The government’s response to the crisis has been discussed above and illustrates, to a large extent, recognition of its responsibility to protect its citizens. The issue remaining for the UN, however, is whether the Government of Zimbabwe is able to offer effective assistance to its people in practical terms. It is the view of the Special Envoy that the scale of the problem is too large and exceeds the present ability of the Government to address the basic needs of those affected by Operation Restore Order. The international community has a responsibility to protect those affected. The impact will not be easy to redress and requires immediate large-scale and unconditional humanitarian assistance to protect those in need.

6.7 Does Operation Restore Order Raise Issues Under the Rome Statute?

Several submissions received during the mission contend that the actions of the Government, in forcibly uprooting hundreds of thousands of its citizens from their homes, meets the criteria of a “crime against humanity”, as defined by Article 7 of the Rome Statute of the International Criminal Court.¹³⁷

It is important to note that this issue was not covered by the Special Envoy’s mandate. Zimbabwe is not a State Party to the Rome Statute therefore any referral would need a Security Council Resolution. The Terms of reference did not provide for the mission to assess the need for Security

¹³⁶ Report of the International Commission on Intervention and State Sovereignty para 2.30

¹³⁷ Rome Statute of the International Criminal Court 1998 *Entered into Force* 2002..

Council referral¹³⁸. Nevertheless given several submissions invoking the *Rome Statute* including Parliamentarians¹³⁹, church leaders and a broad spectrum of political figures, academics and civil society actors, and their expectations that this issue would be discussed, the Special Envoy has decided to include a brief analysis on the matter based on a legal opinion provided from a confidential source. The presentation below must therefore be understood as preliminary, it remains up to the Secretary General to decide whether an independent and more thorough investigation is warranted.

For brevity, within the context of Operation Restore Order, the relevant acts listed by Article 7 as constituting a “crime against humanity” when committed as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack are:

- r. “deportation or forcible transfer of population”. The Treaty defines deportation or forcible transfer of population as “forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law”; and
- s. “other inhumane acts of similar character intentionally causing great suffering or serious injury to body or to mental or physical health”.¹⁴⁰

*The outcome of the legal analysis was complex. But concluded that with available evidence it would be difficult to sustain that crimes against humanity were committed. Four reasons were advanced*¹⁴¹.

Firstly, with the exception of a few cases, there is general agreement that the building of shacks and extensions without approval, and hawking in streets without licences, were not lawful. Therefore arguably these evictees were not lawfully present in the areas under current Zimbabwean laws. As already discussed above, the strong legal case lies in the argument that it was the procedure of the exercise that did not provide adequate notices as required by law and not in the lawfulness of the occupation.

The second issue is related to forced expulsions of people from their homes. According to the legal opinion obtained, this would be countered by the fact that for many people, police threats were imagined rather than real. This would be evidenced by the fact that some people demolished their own structures out of fear, the threat of hefty fines, or to salvage building materials even before the police had arrived. Meanwhile, there were others, who, after demolitions, chose to remain on their demolished property, making it difficult to make a case for systematic forced expulsion. Apart from their relatively small numbers, even evictees sent to camps could be said to have voluntarily opted to do so as the other alternative was to remain out in the open, and many had chosen or were seen to be using this option. After all, not everyone went to the camps, it would be argued.

¹³⁸ In the Sudan case, where the Security Council referred the case to the International Criminal Court, the decision was made after an international Commission of Enquiry had submitted its report. The Commission of Enquiry’s mandate was given by the Secretary General and was specifically required to investigate violations of international humanitarian law and human rights law. This is not the case for the Zimbabwe Mission

¹³⁹ See submission by David Coltart, MP for Bulawayo South

¹⁴⁰ *ibid* Article 72 (1)(d) Emphasis added

¹⁴¹ Preliminary Legal Opinion: on the Application or otherwise of the Treaty of Rome to the Situation of Rome, July 2005 Confidential source.

The third issue is general principles of international law, which permit states to derogate the exercise of rights, and international law provides exceptional grounds under which forced evictions are permitted. The Government of Zimbabwe has attempted to argue some of these grounds in the rhetoric that has dominated the operation viz: it was fighting criminality; public health was at stake; public morality citing mostly prostitution also linked to the spread of HIV/AIDS was consistently invoked; and the rights of others, e.g. that registered shop owners in the central business district were having their rights infringed by hawkers blocking their shop entrances.

The fourth and final issue relates to whether there was criminal intent (*mens rea*) to cause harm and suffering. In a report to ECOSOC in 1996[5], the Government had brought to the attention of the international community that it was faced with housing crisis problems, that the country was also experiencing economic hardships due to ESAP and that it would not be able to meet its obligations without international support, which it did not get.¹⁴² In criminal law this means that this presents a defence of the absence of *mens rea*.¹⁴³ In other words, there has been a housing crisis that the government had brought to the attention of the world 10 years ago. In any case only a court can determine and decide the issue of criminal intent.

While the Government clearly violated its own national laws and the constitutional rights of its people, and that those responsible must be brought to account, it is the view of the Special Envoy that in view of this preliminary legal opinion, an international debate on whether the Statute of Rome could be successfully invoked is bound to be acrimonious and protracted. It would serve only to distract the attention of the international community from focusing on the humanitarian crisis facing the displaced who need immediate assistance¹⁴⁴.

Nevertheless, it remains the strong recommendation of the Special Envoy that the culprits who have caused this man-made disaster are best handled and brought to book under Zimbabwean national laws. The international community would then continue to be engaged with the dismal human rights record in Zimbabwe in consensus building political forums such as the UN High Commission for Human Rights, or its successor, the African Union Peer Review Mechanism, and the Southern African Development Community (SADC).

6.8 Conclusions and Recommendations:

The legal context for Operation Restore Order should be seen against a background of a general deterioration of the rule of law in Zimbabwe. Disregard for laws and court orders during the Fast Track land reform programme set a bad precedent. It also sent a signal that the rule of law could be subject to selective interpretation, paving way for the excesses now committed under the

¹⁴² See Zimbabwe 1995 Report to ECOSOC on its progress in implementing the Covenant on Economic, Social and Cultural Rights, E/1990/5/Add.28

¹⁴³ In addition the absence of a well laid out plan for the operation would support this defence. Special Envoy made several unsuccessful attempts to obtain a plan for the operation from the Minister of Local Government

¹⁴⁴ Under such a scenario, the Government of Zimbabwe might even be more belligerent as some officials repeatedly point out there is nothing to lose as the country is already being treated as pariah state because of its land reform programme. For those Zimbabweans who have now put their faith and trust in the UN and the international community, protracted wrangling and negotiations under Rome Statute would prove the international community after all, only cared about humiliating President Mugabe instead of offering tangible assistance.

clean-up operation, including destruction of legal businesses and homes paying taxes to local authorities.

Under both relevant international law and national legislation forced evictions can be justified under certain circumstances, viz: criminality; public health; public morality; and the rights of others. The Government of Zimbabwe appears to be relying on some of the above to justify its actions under international law. However, there is no indication that any of the procedural requirements were complied with: consultations were not undertaken; notices were not given in time if at all; information was not given on the proposed evictions; government officials or their representatives were not present during the demolitions conducted brutally as a national police and military exercise; the evictions took place during harsh weather; legal remedies were not available; and evictions resulted in thousands of people being rendered homeless without being provided viable alternatives.

There is general concern over the failure of the High Court to safeguard the right of the victims of the Operation and that there has been a regrettable failure by members of the Bench to remain independent from the national and local politics of the day.

With an estimated 700,000 people directly affected through loss of shelter and livelihoods, it has been established that while willing, the ability of the government's response to the crisis is limited, and the international community has a responsibility to protect those affected. The impact will not be easy to redress and requires immediate large-scale and unconditional humanitarian assistance to protect those in need.

Several submissions received during the mission contend that the actions of the Government, in forcibly uprooting hundreds of thousands of its citizens from their homes, meets the criteria of a "crime against humanity", as defined by Article 7 of the Rome Statute of the International Criminal Court. A preliminary legal opinion suggests that with available evidence it would be difficult to sustain that crimes against humanity were committed. In light of this the Special Envoy believes an international debate on whether the statute of Rome could be successfully invoked is bound to be acrimonious and protracted. It would serve only to distract the attention of the international community from focusing on the humanitarian crisis facing the displaced who need immediate assistance.

Nevertheless, it remains the strong recommendation of the Envoy that the culprits who have caused this man-made disaster be brought to book under Zimbabwean national laws. The international community would then continue to be engaged with the dismal human rights record in Zimbabwe in consensus building political forums such as the UN High Commission for Human Rights, or its successor, the African Union Peer Review Mechanism, and the SADC.

Other specific recommendations would include:

- t. The Government should make efforts to pay compensation to those whose properties and homes were illegally destroyed, seized and auctioned off;
- u. Deployment of monitors to observe compliance with human rights standards, and help reassure communities or groups at risk of their safety and rights; and
- v. The international community should engage with the Government to observe the rule of law in all its future undertakings; and to reform its laws in order to ensure that the minimum standards guaranteed in international conventions are conformed with, and to eliminate the unrealistic high standards for housing development.

The Humanitarian Situation



Living amidst the rubble in Mbare.



Mother living in the open in Porta Farm, June 30, 2005.



Over 4,000 people in Caledonia Transit Camp.



Makeshift shelter in Caledonia Transit Camp.



Sheltering in Agape Mission Church, Bulawayo.



Sleeping out at Sakubva Sports Oval Camp, Mutare.

UN Special Envoy's Tours and Visits



Official launch of Operation Garikai, Whitecliffe.



Visiting new stalls for informal traders, Harare.



Visiting Caledonia Transit Camp.



Being briefed about Ngozi demolitions, Bulawayo.



Interviewing woman living in the open, Mutare.



Interviewing families, Agape Mission Church, Bulawayo.

Section C

Conclusions and Recommendations

7 Conclusions and Recommendations of the Special Envoy

7.1 Overview

Operation Restore Order was presented as an attempt at implementing internationally agreed goals and objectives. Its stated purposes to “clean up the city”, to have “cities without slums”, and “to secure people’s long-term interests” resonate with the goals of the Habitat Agenda and of the Millennium Declaration, particularly Goal 7, target 10 on water and sanitation, and target 11 on slum upgrading. However, the unplanned and over-zealous manner in which the Operation was carried out has unleashed chaos and untold human suffering. It has created a state of emergency as tens of thousands of families and vulnerable women and children are left in the open without protection from the elements, without access to adequate water and sanitation or health care, and without food security. Such conditions are clearly life-threatening. In human settlements terms, the Operation has rendered over half a million people, previously housed in so-called sub-standard dwellings, either homeless or living with friends and relatives in overcrowded and health-threatening conditions. In economic terms, the Operation has destroyed and seriously disrupted the livelihoods of millions of people who were coping, however poorly, with the consequences of a prolonged economic crisis. Politically, the Operation has exacerbated an already tense and polarized climate characterized by mistrust and fear. It has resulted in a virtual breakdown in dialogue between different spheres of Government, between Government and civil society, and once again put Zimbabwe in the limelight of international scrutiny.

Efficiently executed in a militaristic manner, Operation Restore Order provides clear indications that the Government of Zimbabwe has the wherewithal to implement policies at a lightning speed when it has the political will. This political will should be used to advantage to redress the humanitarian crisis, so created, to embark on a sustainable reconstruction and rehabilitation effort, and to bring to account those who have acted, or caused others to act, with impunity and outside the framework of international and national law.

While there is an urgent and immediate need to address the humanitarian crisis resulting from Operation Restore Order, there is an equally urgent and compelling need to establish a strong link between the humanitarian response and longer-term human settlements and governance issues for the following reasons. Firstly, the humanitarian crisis resulting from the Operation was not caused by war or conflict. It was caused by a policy failure of the Government of Zimbabwe to come to terms with rapid urbanisation, its chaotic manifestations, and people’s “Right to the City”. Secondly, the human suffering resulting from the Operation was not caused by sheer negligence alone. It has its roots in a historical economic decline and a governance crisis evidenced by major gaps and overlaps between conflicting jurisdictions, and between central and local government. It also stems in part from a lack of respect for the rule of law by certain State actors and their apparent indifference to human suffering. Thirdly, the effectiveness of any humanitarian response, in terms of reaching those most in need and directly affected by the Operation, will depend almost entirely on instilling a climate of trust between different spheres of government and establishing dialogue and terms of engagement between government, civil society, the humanitarian community and the people affected themselves.

The international community cannot afford, however, to squander the biggest asset and opportunity that Zimbabwe has, namely that Zimbabwe is not in a state of conflict or war. Despite

the human suffering of the people of Zimbabwe, they are still patient and hopeful that human solidarity will prevail.

While the methods used by Operation Restore Order must be condemned, and the Government of Zimbabwe encouraged to take corrective measures to reform itself, the immediate concern of the international community should be to offer immediate and urgent assistance to those affected by the Operation. This should pave way for a frank dialogue with the Government of Zimbabwe concerning its human rights record.

7.2 Conclusions and Recommendations

The following conclusions and recommendations address the socio-economic and humanitarian consequences that have resulted from Operation Restore Order. They also propose a series of measures for tackling some of the underlying structural causes that need to be addressed for the humanitarian response to be sustainable.

7.2.1 Humanitarian Response

There is an urgent need for the Government of Zimbabwe to facilitate humanitarian operations within a pro-poor, gender-sensitive policy framework that provides security of tenure, affordable housing, water and sanitation, and the pursuit of small-scale income-generating activities in a regulated and enabling environment.

The most urgent issue at present is to help the people who have been evicted, estimated to be over half a million people. Many of these people are living in the open. Some have found alternative rental accommodation, while others have been taken in by their extended families in both urban and rural areas. Their immediate needs include food, water, blankets, temporary shelter and toilets. In the medium- to long-term, they will need to be provided with alternative housing and structures for their small-scale income generating activities sector activities. This will entail the design and implementation of low-income housing projects on properly surveyed plots, with security of tenure, all on the basis of revised and more appropriate planning standards. These housing projects will need to be close to the original homes of the evicted households, as children will need to continue in their old schools and adult household members will need to reconnect with their sources of livelihood. Parallel projects addressing the needs of small scale operators will also be necessary, probably involving the designation of central sites for markets and the establishment of an effective trade licensing system in which the rights of operators are fully protected. The UN has to play an important role with regard to these initiatives.

Entry points for the implementation of this recommendation include:

- a. The establishment of a joint Government of Zimbabwe/United Nations framework agreement establishing norms, priorities and roles governing humanitarian response;
- b. The immediate undertaking of a joint assessment exercise to determine the impact and the needs created by Operation Restore Order has created in both humanitarian and human settlements terms, and to ascertain the location of those who have been displaced;
- c. The Government of Zimbabwe should commit itself to a moratorium on all demolitions, evictions and displacements to facilitate this exercise;
- d. The immediate launch of a Joint Humanitarian Appeal and the assurance by the Government of Zimbabwe of unhindered access by the United Nations Country Team

- and by members of the international and humanitarian community to identify and provide emergency humanitarian assistance to those affected by Operation Restore Order;
- e. The implementation of an emergency Shelter Task Force and Operation to be coordinated and monitored by the UN Country Team. The Shelter Task Force and Operation will link the provision of tents, blankets and other basic needs with the provision of plots/stands, guarantees of secure tenure and an extended time frame for completion of structures pending a review of the Regional, Town and Country Planning Act and other relevant Acts. The Government of Zimbabwe should commit itself to allocating all plots/stands to be distributed under Operation Garikai, and any other similar land distribution exercises, to those who have lost their homes, dwellings and livelihood, in accordance with internationally accepted norms guiding resettlement, before allocating plots to anyone else. It should also allow the Shelter Task Force to monitor and assess progress.

There is an immediate need for the Government of Zimbabwe to review the Regional, Town and Country Planning Act and other relevant Acts to align the substance and the procedures of these Acts with the social, economic and cultural realities facing the majority of the population, namely the poor.

This alignment will necessarily result in the change of current norms, standards and bylaws governing high density, low-income settlements in general and to technical norms governing access roads, plot sizes, water and sanitation technology and building materials, in particular. It will also review and establish a clear definition of the roles and responsibilities between different spheres of government in ensuring compliance and enforcement with provisions of the law in the spirit of enablement of the people and the empowerment of local authorities, in accordance with the principle of subsidiarity. Key entry points for the implementation of this recommendation include:

- a. The immediate suspension of non-voluntary displacement of people to rural areas that will only exacerbate the humanitarian crisis; and
- b. The immediate convening of a multi-stakeholder Shelter Forum to come up with concrete proposals for fast track approval by the parliament within an agreed time frame for a new Regional, Town and Country Planning Act and other relevant Acts.

There is an immediate need to restore a climate of trust and dialogue between different spheres of government and between Government and civil society. This process should emerge from a broad-based consultation among all Zimbabwean stakeholders. The United Nations could facilitate this process.

The suggested entry points for implementing this recommendation include:

- a. The appointment of a credible mediator (e.g. a religious or spiritual leader) to help the Government establish confidence-building measures and to help establish terms of engagement and constructive dialogue between all national stakeholders, including local authorities, NGOs, professional associations, academics, the private and informal sector, trade unions, and political parties;
- b. The organization of city-wide consultations to help affected communities develop their own community-based reconstruction and livelihood restoration plans in close consultation with their respective local authorities. The Government should commit itself to respect the outcomes of these community-based participatory planning exercises;

- c. The establishment of a Compensation Trust Fund, including the funds earmarked for Operation Garikai, to assist those directly affected by the Operation to restore their livelihoods. Part of this fund should be allocated for grants, low-interest loans and special vehicle instruments to building societies and housing cooperatives to assist their respective affected members in reconstruction. Part of the fund should be devoted to strengthening community-based micro-credit instruments, thus assisting those affected in re-establishing their small scale income-generating activities.

7.2.2 Addressing socio-economic issues and reconstruction

Operation Restore Order has precipitated a humanitarian crisis of immense proportions. In an apparent response, the Government of Zimbabwe has launched a counter programme, Operation Garikai (Rebuilding and Reconstruction). The Government itself, even with the best efforts, has limited capacity to fully address the needs of the affected population without the assistance of the international community. The United Nations should therefore work with the Government of Zimbabwe to mobilize immediate assistance from the international community to avert further suffering, and encourage the Government to create conditions for sustainable relief and reconstruction for those affected.

The Government of Zimbabwe was not able to produce any written documentation showing that the Operation was planned. This means that evictions took place before alternatives could be provided, thereby violating human rights and several provisions of national and international law. The *International Covenant on Economic, Social and Cultural Rights*, to which Zimbabwe is a party, clearly states that a government cannot forcibly evict people without having made alternative plans to house them. Had this principle been observed, much suffering of the urban poor could have been avoided or minimized by offering alternative solutions for housing and informal businesses well in advance of the demolitions, within the context of a humane and well-planned urban renewal programme.

There is a belief among some of Zimbabwe's government leaders that what matters now is to focus on reconstruction. To this end, the Special Envoy received elaborate presentations and witnessed a launch of a USD 300 million follow-up programme meant to address the plight of households affected by the demolitions. The programme, Operation Garikai, intends to provide land for housing sites, rehabilitation of markets and trading stalls, including small micro-enterprise sites. It was inaugurated by the First Vice President, the Minister of Local Government and the Resident Minister of Harare.

Whilst the reconstruction intervention is much welcome, and a sign that the Government of Zimbabwe acknowledges the existence of the crisis it has created, and is willing to accept its responsibility to take corrective measures, it is the view of the Special Envoy that Operation Restore Order has precipitated a humanitarian crisis which the Government itself, even with the best of intentions and efforts, has limited capacity to fully address without the assistance of the international community. Firstly, the scale of announced expenditure (USD 300 million), was not foreseen in the 2005 budget, and if it were to somehow materialise, it could exacerbate the inflation rate which is running at over 140%. Secondly, as conceived, Operation Garikai is predominantly a developmental intervention. It does not address immediate needs, such as shelter, food, water, sanitation health and education. There is a concern about the top-down approach adopted by the Government for the programme implementation by the military. Operation Garikai continues to be premised on the false assumption that evictees would "return to their rural homes" while the majority in fact have not, or are not in a position to do so. In any case, transporting people to rural areas is problematic on two fronts: many rural areas are already

suffering from food shortages, and transport is constrained by a chronic shortage of fuel. At the same, time transport assistance from humanitarian actors poses a moral dilemma as it is tantamount to collaboration in forced expulsion of the poor out of cities. The UN will have to take a position on this matter.

Overall, the Government of Zimbabwe should be advised to stop any further demolitions and displacements forthwith, and to work with the UN to mobilize immediate assistance from the international community to avert further suffering, while creating conditions for sustainable relief and reconstruction for those affected. Furthermore, the Government of Zimbabwe should grant full citizenship to those former migrant workers and their descendants who have no such legal status. Mostly people of Malawian, Zambian and Mozambican origin, they are among the most vulnerable and adversely affected group. This group comprises every third person found sleeping out in the open by the team – a total of some 114,000 people. Yet, these are people who have given their best years to Zimbabwe's commercial farms. Most of them have never been to their so-called countries of origin and repeatedly told the Special Envoy they would not even know where to go if they were repatriated. However, those who are interested in pursuing agriculture should be given opportunities for resettlement to become smallholder farmers like other Zimbabweans under the Land Reform Programme – without discrimination. Similarly, many widows and divorcees have no rural homes to return to, as property often stays with the former husband's side of the family. Others are in need of medical care which is difficult to access in rural areas. They too deserve attention and priority under Operation Garikai in a joint effort by the Government of Zimbabwe, the UN and other partners.

7.2.3 Addressing the land issue, macro-economic reform and governance

The wrecking of the informal sector by Operation Restore Order will have detrimental effects at a time that the economy remains in serious difficulties. Apart from drastically increasing unemployment, the Operation will have a knock-on effect on the formal economy including agriculture. The Government of Zimbabwe has to undertake corrective policy reforms in macro-economic management and governance issues, focusing on land reform and land tenure with a view to provide secure tenure for the poor, both in rural and urban areas.

At the heart of Zimbabwe's current socio-economic problems is the issue of land reform and the related severe decline in agricultural production, which is also partly a result of recent successive droughts. Other problems cited in this report include: massive inflation; a significant drop in agricultural production; a serious shortage of foreign currency; a drying up of foreign direct investment; a very significant shrinkage of the entire economy, estimated by the IMF to have been 40% in recent years; serious periodic shortages of basic consumer commodities, including fuel, maize meal, milk, bread, cooking oil, soap etc; a massive rise in unemployment, estimated at present to be between 75% and 80%; and a significant increase in poverty – it is estimated that 70% of Zimbabwe's population now lives below the poverty line. Through Operation Garikai, the informal sector that employed 40% of the labour has been wiped out.

Key policy reforms include:

- a. Land reform, including a UN Trust Fund to offer meaningful compensation for commercial farmers who can demonstrate that their properties were either confiscated or that they were not adequately compensated, thereby contributing to the healing of the Zimbabwean Nation from historical factors. The Government should also accept to

- institute a transparent land allocation programme to full-time young and trained African commercial farmers, on the one hand, and to put in place effective agricultural support services for smallholder farmers who have been allocated land, on the other. Concerns were expressed over the present situation where land is occupied by absentee or part-time farmers, and the absence of tenure.
- b. Revival of the economy by appropriate macro-economic reforms more in line with a rapidly globalizing world economy; and
 - c. Good governance at both the national and local levels.

From all available evidence, Zimbabwe is currently experiencing severe socio-economic and political problems that were unimaginable ten years ago. From being a bread-basket of Southern Africa and a model of post-colonial, multiracial co-existence, Zimbabwe's economy has deteriorated very significantly and its relations with most donor countries have been fraught with tension and animosity in the last five years. The United Nations should engage the Government of Zimbabwe to help it deal with the consequences of Operation Restore Order, as well as its present socio-economic and political problems.

7.2.4 Addressing the issue of accountability

The Government of Zimbabwe is collectively responsible for what has happened. However, it appears that there was no collective decision-making with respect to both the conception and implementation of Operation Restore Order. Evidence suggests it was based on improper advice by a few architects of the operation. The people and Government of Zimbabwe should hold to account those responsible for the injury caused by the Operation.

Oral evidence heard from senior Government officials, including Ministers, as well as subsequent reports in the local press and discussions in the Parliament of Zimbabwe, suggest that Operation Restore Order was neither conceived collectively in the Cabinet, nor in the ruling party's (ZANU PF) Politburo and Central Committee. It also appears that there is now a division in Zimbabwe's political leadership over Operation Restore Order, and that some of the leaders were caught by surprise when it was suddenly initiated as a police and military exercise. While the team was in Zimbabwe, one political leader, Mr. Pearson Mbalekwa, resigned in protest at the Operation from both the Parliament of Zimbabwe and ZANU-PF's Central Committee. Some senior ZANU-PF politicians were also reported to have expressed directly to President Mugabe their concern and objections to the manner in which the clean-up of cities was being conducted. It has also been reported in the press that the Minister of Local Government had written to the Minister of Home Affairs, under whose portfolio the Zimbabwe Republic Police falls, urging him to stop demolishing houses belonging to several cooperatives that had been established with the blessing of the Ministry of Local Government, and were, therefore, "legal". But this was to no avail. Except for Harare, now run by a Government-appointed City Commission following the dissolution of the elected MDC-controlled City Council, the mission confirmed that the local authorities of the affected cities and towns were not consulted. Yet, under Zimbabwean law, matters to do with the enforcement of planning standards and building regulations, and matters dealing with urban management and development, fall generally under the jurisdiction of local authorities. Whilst under the Urban Council Act the Minister of Local Government has powers to overrule local authorities, none of the Mayors met by the Special Envoy said they had been advised, orally or in writing, by the relevant Minister. The police simply moved in with demolition orders. Out of fear, local authorities either complied or watched helplessly as informal trades, businesses and homes were destroyed. A good number of businesses and houses torn down were legal and paying local council taxes.

It is the firm opinion of the Special Envoy that Operation Restore Order was, in all likelihood, implemented on the basis of improper advice and by over-zealous officials, each with their own agendas. The people and Government of Zimbabwe should hold those responsible for providing this disastrous advice accountable. This would have to be done within the context of Zimbabwe's laws, and in light of the international agreements to which the Government of Zimbabwe is signatory. There is also the need to redress all wrongs committed against evicted households, individuals and businesses. Those whose properties were destroyed unlawfully, and in some instances in contempt of court, should be compensated. This redress would also be consistent with Zimbabwean culture. The mission learned that justice, in local tradition, is premised on the concept of *Zvirikumbwa Nekutsuro*. Literally translated, this means "enjoy eating the rabbit while punishing the dog that helped kill the rabbit in the neighbour's fence, thereby disturbing good neighbourliness". This Shona logic implies that the cleaning up of cities is, in itself, not a bad thing and, in some respects, was even long overdue. However, the operation was ill-conceived, hardly planned and done in such an ad hoc and crude manner causing misery and precipitating a humanitarian crisis. As part of promoting good governance, those responsible must therefore be identified and punished to prevent them from engaging in procedural impropriety and violating human rights with impunity in the future.

7.2.5 Addressing the issue of human rights

Disregard for laws and court orders during the Fast Track land reform programme set a bad precedent. The Government of Zimbabwe should set a good example and adhere to the rule of law before it can credibly ask its citizens to do the same. The government also, having breached both national and international human rights law provisions on evictions, thereby precipitating a humanitarian crisis, should pay compensation where it is due for those whose property was unlawfully destroyed. Although a case for crime against humanity under the Rome Statute might be difficult to sustain, the Government of Zimbabwe clearly caused large sections of its population serious suffering that must now be redressed with the assistance of the international community. The government should prosecute all those who orchestrated this catastrophe and caused criminal negligence leading to deaths, if so confirmed by an independent inquiry/ inquest. The international community should then continue to be engaged with the human rights record in Zimbabwe in consensus building political forums such as the UN High Commission on Human Rights or its successor, and the African Union Peer Review Mechanism.

The legal context for Operation Restore Order should be seen against a background of a general deterioration of the rule of law in Zimbabwe. Disregard for laws and court orders during the Fast Track land reform programme set a dangerous precedent. It also sent a signal that the rule of law could be subject to selective interpretation and application, paving way for the excesses now committed under the clean-up operation, including destruction of legal businesses and homes paying taxes to local authorities.

Under both relevant international law and national legislation, forced evictions can be justified under certain circumstances, viz: criminality; public health; public morality; and the rights of others. The Government of Zimbabwe appears to be relying on some of the above to justify its actions under international law. However, there is no indication that any of the procedural requirements were complied with: consultations were not undertaken; notices were not given in time, if at all; information was not given on the proposed evictions; government officials or their representatives were not present during the demolitions, which were conducted brutally as a national police and military exercise; the evictions took place during harsh weather; legal

remedies were not available; and evictions resulted in thousands of people being rendered homeless without being provided viable alternatives.

There is general concern over the failure of the High Court to safeguard the right of the victims of the Operation and the regrettable failure of some members of the Bench to remain independent from the national and local politics of the day.

With an estimated 700,000 people directly affected through loss of shelter and livelihoods, it has been established that while willing to protect those affected (eg. through Garikai), the Government has limited capacity to do so. Therefore, the international community has a responsibility to assist in the protection of those affected. The impact will not be easy to redress and requires immediate and adequate humanitarian assistance to protect those in need.

Several submissions received during the mission contend that the actions of the Government, in forcibly uprooting hundreds of thousands of its citizens from their homes, meets the criteria of a “crime against humanity”, as defined by Article 7 of the Rome Statute of the International Criminal Court. However, a preliminary legal opinion suggests that with available evidence it would be difficult to sustain that crimes against humanity were committed. In light of this, the Special Envoy believes that an international debate on whether the statute of Rome could be successfully invoked, is bound to be acrimonious and protracted. It would serve only to distract the attention of the international community from focusing on the humanitarian crisis facing the displaced who need immediate assistance.

Nevertheless, it remains the strong recommendation of the Special Envoy that the culprits who have caused this man-made disaster be brought to justice under Zimbabwean national laws. The international community would then continue to be engaged with the human rights record in Zimbabwe in consensus building political forums such as the UN Commission on Human Rights or its successor, the African Union Peer Review Mechanism, and SADC.

7.3 Lessons Learned

Operation Restore Order has to be understood within the broader context of the urbanization crisis in Africa. It is recommended that the international community draws lessons from the Zimbabwe crisis for the entire African continent and actively support the implementation of the Habitat Agenda. It makes a clarion call to the international community that without a more concerted approach to promote urban environmental sustainability, Goal 7, targets 10 (on water and sanitation) and 11 (on slum upgrading and prevention) of the Millennium Declaration, the other countries in Africa could well experience another Operation Restore Order sooner than later.

The Government of Zimbabwe has experienced negative coverage in the international media in recent years and has complained that it is being demonized because of the Fast-Track Land Reform Programme which commenced in 2000. It has been pointed out that Zimbabwe is not alone in arbitrarily evicting households in informal settlements and informal sector operators. It is argued that this is also happening in other African countries and elsewhere in the world. The Government of Zimbabwe may well be justified in asking why Zimbabwe is being singled out for criticism on this particular issue of arbitrary evictions. However, on the basis of the mission’s findings and the Zimbabwe Government’s own statistics, it is clear that what is different in the case of Operation Restore Order is the scale of the operation, which is unprecedented both in terms of its geographical coverage and the number of people affected. Apart from historical

factors of liberation struggle solidarity, the unwillingness of the neighbouring countries and of the African Union to publicly comment on the operation has to be understood within this broader context of their own policies and arbitrary eviction experiences. The current Global Campaigns on Secure Tenure and Good Urban Governance, which are spearheaded by UN-HABITAT, could play an important role in addressing the present problems in Zimbabwe, including principles of property restitution. The Campaigns are already doing this in some African countries, as well as in other developing countries in Asia, Latin America and the Caribbean. The following appendix presents an overview of the slum challenges facing other African countries.

Appendix to Chapter 7 - Slums and Forced Evictions: The Broader African Context

Africa has the dubious distinction of being the fastest urbanising continent in the world as it experiences the greatest influx of rural dwellers into urban areas the continent has ever known. The annual average urban growth rate is 4%, twice as high as Latin America and Asia. Already, 37 per cent of Africans live in cities, and by the year 2030 this is expected to rise to 53 per cent. Sub-Saharan Africa also has the world's largest proportion of urban residents living in slums. These slums are home to 72 per cent of urban Africa's citizens. That percentage represents a total of 187 million people. They constitute 20% of the world's urban slum dwellers.¹

According to the latest research of UN-HABITAT, the UN agency for cities and other human settlements, the statistics show that these slum dwellers have so few services, such as water and sanitation, electricity, or telephones compared to their wealthier compatriots, that African cities appear starkly divided. Even those with these services are far fewer, proportionately, than in other regions of the developing world.

In sub-Saharan Africa only 48 per cent of urban households have a water connection, but in the informal settlements only 19 per cent have such a connection. Only 31 per cent of urban households are connected to the sewerage system, but in the informal settlements only 7 per cent are connected. Just 54 per cent have electricity in their homes, but in the slums this figure is 20 percent. While just 15.5 per cent have a telephone, only 3 percent have this luxury in the slums. These figures speak of the urban divide in Africa.

In a process known as the urbanisation of poverty, more and more people are seeking a better life in towns and cities. In Africa, this urbanisation has occurred in an environment of consistent economic decline over the past 30 years. Today, two out of five of these urban residents live in circumstances deemed to be life and health threatening. The United Nations Millennium Declaration recognises the dire circumstances of the world's urban poor. It articulates the commitment of Member States to significantly improve the lives of at least 100 million slum dwellers by the year 2020 and to promote Cities without Slums. UN-HABITAT is tasked with coordinating action towards meeting this goal.

Whatever the myriad reasons behind this urbanisation – the quest for a better chance in life, fleeing conflict, drought in the countryside, or rural economic decline – it is characterised by worsening access to adequate shelter and security of tenure, and all the problems of overcrowding; by growing vulnerability to environmental health problems, and natural disasters; by growing inequality and increasing crime and violence, which has a disproportionate impact on women and the poorest of the poor; and finally by a lack of community participation in decision-making.

Thus the challenges of sustainable urbanisation in Africa are many and varied: security and safety, environmental degradation, growing slums, a lack of human and financial resources at the municipal level, insufficient decentralisation of powers and resources, and poor urban governance that leads to divided cities.

Indeed, this shift towards increasing urbanization is a normal and irreversible progression of human development. Migration to the cities is an economic process that is not reversible in a

¹ *The Challenge of Slums*, UN-HABITAT Global Report on Human Settlements 2003.

democracy. It should also be noted that a significant proportion of Africa's growth is also attributed to natural population growth within cities.

In many cities, there has been a continuing reliance on the classical rigid master plans, which are often unrealistic, rather technocratic, and too expensive to implement. Often the lack of an inclusive perspective in city visions, the mismatch between old standards, and lower levels of affordability, all lead to unsustainable urban development and growing exclusion, compounding the proliferation of slum and squatter settlements.

And whether through occupying vacant lands, setting up home in existing neighbourhoods, the settlements tend to be haphazard, with no allowance for modern and public infrastructure. There also prevails a general lack of awareness and appreciation for rules and regulations in constructing such neighbourhoods. At the same time, partly due to limited capacities, and sometimes also due to political expediency, local authorities in a number of cases fail to proactively guide the development of these new settlements or to contain at an early stage their further growth and consolidation. As a consequence, when left for a number of years, such seeming violation of municipal rules and regulations develops into a sense of de-facto regularity among the population, and the subsequent rectification becomes a source of tension and conflict.

An immediate response to this problem by many urban authorities has been to initiate forced evictions, and this has been widespread in Africa. In Angola, between 2001-2003 large-scale evictions took place in Boavista, Soba Kapassa and Benfica where over 5,000 houses were demolished. Thousands of evictees had to live in tents for two years until alternative accommodation was found. Half of the evictees are still homeless and without a livelihood. About 3.5 million people live in slums in the capital Luanda, most with no legal security of tenure. Similarly, in Kibera, Nairobi, Kenya, evictions have also taken place. Indeed, Kibera is considered Africa's largest contiguous slum settlement, with over 750,000 people, on only 240 hectares of land. In 2004 an estimated 2,000 persons occupying 400 structures in Kibera were removed as part of a government initiative to clear settlements located on road reserves. Aside from homes, the demolished structures included homes, schools, churches and a clinic ². Other recent examples include Nigeria, where in June 2005 forced evictions were carried out in Kubwa, one of the popular satellite towns of Abuja, the Federal Capital Territory. Similarly, in January 2005, some 6,000 residents of Aboru Abesan, in Ikeja were rendered homeless when officials of the Federal Ministry of Housing and Urban Development in Lagos State demolished their homes. The Centre for Housing Rights and Evictions reckons a survey of selected Nigerian newspapers for 2004 and established that, in the course of the year, over 30,000 households (that is, more than 150,000 people) were forcibly evicted.

In all the above cases, and in many others, the scale of evictions remained limited and hence has not degenerated into a humanitarian crisis. In some cases even a certain degree of restraint was exercised, recourse to due legal process was provided and redress affected. The case of Zimbabwe conforms to the pattern described above, except in regard to scale which is unprecedented. The systemic issues, which need to be dealt with by most African countries, including Zimbabwe, to prevent evictions, include:

² The President of Kenya suspended the operation before it could get out of hand after the intervention of the Vatican in the context of the UN-HABITAT-Government of Kenya-Kenya Slum Upgrading Programme.

- w. Land tenure. Generally there has been a focus on the provision of individual land titles. Individual land titling delivers tenure security but it does so at great human and financial cost. Countries such as Kenya, which have been rolling out titles for a hundred years, still only have 15 percent coverage of the national land surface. Instead it is suggested that a range of different types of tenures have to be introduced by countries to deliver security of tenure for the urban poor and to make adequate housing for all a reality. Examples of these tenure types include occupancy rights, anti-eviction rights, adverse possession, unregistered leases and rentals.
- x. Land administration. These systems are vital as it is not possible to supply land rights and security of tenure without an appropriate technical and institutional (governance) system to underpin these rights, such as for example land records, administrative procedures, and appropriately decentralised delegation of functions. Thirteen Sub Saharan African countries have already started experimenting with new forms of tenure linked to new forms of land administration (such as Namibia, Ethiopia, Mozambique). Conventional land registration (titling) systems are highly centralised, expensive, rely on scarce professionals, and are based in the capital city. This means that the poor, illiterates, and those living outside of the capital city cannot easily use or access the conventional systems.
- y. Strategic Planning. Too often the systems of managing and planning urban development have not changed significantly after independence to fit with African urbanisation patterns. Strategic planning approaches have to be strengthened and ensure that development control and land use management is sustainable. City-wide and affordable planning approaches and standards, including plot sizes and service standards, need to be developed and agreed upon.
- z. Decentralisation and improved local governance capacity. In many cities, decentralized frameworks have not been accompanied by adequate devolution of resources, authority and qualified manpower, transparency, or the participation of communities in development decisions.
- aa. Building standards. Most countries still have colonial building standards appropriate for middle class housing, yet the majority of the population is low income and poor.
- bb. Financing mechanisms. In most countries it is necessary to own a registered land title to be able to obtain a mortgage or housing loan from a commercial bank. Institutional strengthening of the financial sector is required accompanied by supportive legal instruments and pro-poor foreclosure laws.
- cc. Housing delivery. The Habitat Agenda encourages governments to create a framework that facilitates housing delivery by the involvement of all stakeholders particularly the private sector (including informal sector), in partnership with the public sector. Housing co-operatives remain under-developed despite their proven ability to cater for low-income groups in other parts of the world accompanied by the capacity to promote services for all to justify the taxes.
- dd. Land tax. In most countries, land tax uses the land registration (cadastral) system as the information system to indicate who should be paying taxes. If the majority of the population is living outside of the land titling system then a country or municipality cannot increase its tax, or tax the rich who are not living in the formal system.

Appropriate approaches to tax parcels, tax records and tax procedures have to be developed. The Zimbabwe urban crisis should serve as a wake up call for the international community to assist more seriously in the implementation of the Habitat Agenda in the African continent.

The underlining principle in dealing with the challenge of slum settlements is that emphasis should be given to a pre-emptive approach that is directed to guiding and facilitating orderly urban and housing development. As much as possible forced eviction of a segment of the population who mostly have no place to go and have been trying to survive with no other alternative housing and income generating facilities needs to be avoided. While evictions may sometimes be necessary, they should be a last resort.

UN-HABITAT, through its Global Campaigns for Secure Tenure and Good Urban Governance, has developed methods and tools to help developing countries dealing with chaotic rapid urbanisation that do not infringe on human rights. The agency has also assisted Member States wishing to take advantage of its expertise in land tenure and property administration reforms, including property restitution in post-conflict areas. However, while UN-HABITAT has the expertise to guide cities towards sustainable human settlements' development, and this is needed in most African countries, its capacity is still limited to deal with the task because of inadequate funding.

Annexes to Section A

Annex 1 – Households Affected by Operation Restore Order and “Murambatsvina”.

	Harare	Mash. E	Mash. C	Mash. W	Manicaland	Midlands	Bulawayo	Mat. N	Mat. S	Masvingo	Unaccounted	Total
Number of families affected by clean up operations	36,543	1,249	2,823	16,166	31,610	6,122	7,959	7,850	2,150	3,550	17,512	133,534
Number of illegal structures affected	38,065	886	2,886	12,331	20,000	3,009	4,904	7,691	915	1,845	Na	92,460
Number of houses/stands required	116,465	826	3,005	44,452	2,100	21,456	70,000	6,960	15,754	3,550	Na	284,565
Numbers of stands that are serviced	519	Nil	Nil	Nil	Nil	821	1,003	1,620	444	392	Na	4,799
Number of unserviced stands	107,572	1,873	3,129	20,408	2,100	16,955	10,997	9,777	9,360	80,120	Na	262,291
Number of illegal SME structures demolished	8,945	88	1,747	3,514	4,000	2,250	4,915	849	1,785	4,445	Na	32,538
Number of SME structures required	7,765	36	1,626	1,069	80	2,673	10,740	445	3,800	3,663	Na	31,897
Number of SME serviced stands	49	3	16	69	3	97	46	31	Nil	5	Na	319
Number of SME unserviced stands	603	10	7	224	8	1,453	Nil	29	1,096	232	Na	3,668
People’s markets	78										Na	78
Unaccounted affected households	Na	Na	Na	Na	Na	Na	Na	Na	Na	Na	Na	17,512

Source: Ministry of Local Government, Public Works and Urban Development, 8 July, 2005.

Annex 2 - Forty Days of Operation Murambatsvina: A Media Log

From the launch of Operation Murambatsvina or Operation Restore Order, on 19 May 2005, to the announcement of Operation Garikai to rebuild and reconstruct, on 26 June 2005, was a period of about 40 days.

This section provides an overview of this period, which saw the arrest of hawkers and street traders, the demolition of tuck shops and houses, and the displacement of numbers of people, through the eyes of the Zimbabwean press.

Despite the highly controlled nature of the media environment in the country, it is felt that local journalistic reports, from both pro-government papers and those against*, provide an understanding of the different phases of the operation. More importantly, though this survey is not comprehensive, it gives a valuable insight into the public debates and perceptions about the demolitions and displacements.

Sunshine City: The days before Murambatsvina

Once known as the sunshine city, Harare had increasingly become an eyesore.^{lxxxv} Local journalists regularly describe the garbage at every corner, the potholes and the numbers of hawkers everywhere. Government officials and members of the opposition, each provide their own particular spin on the reasons for the deterioration of the city.

Just after the 31 March election, the ZANU-PF Politburo discussed how the collapse of Harare has alienated Harareans from the party and notes that more has to be done to address the problems of the city.^{lxxxvi} President Mugabe is reported to have said that “Throughout my many encounters with the urban voter, it was clear that our municipalities have failed or, as is the case with Chitungwiza, collapsed....These simple yet important concerns must provide useful signposts as we respond to the needs of the urban voter.”^{lxxxvii}

The proliferation of hawkers and informal traders, of which there are 25,000 registered and 50,000 who operate illegally^{lxxxviii} in Harare alone, is quoted as evidence of the failure of ZANU-PF economic policies.^{lxxxix} The constant tussle between local authorities, many of which are governed by the opposition Movement for Democratic Change, MDC, and the central Government is seen by some journalists to be detrimental to the running of cities.^{xc}

The City Commission of Harare, which was established in 2004 further to the suspension of the city council, sets in motion a process to unbundle the provision of services early in May. It establishes a strategic plan to restore the battered image of the city.^{xc} On 4 May the Reserve Bank of Zimbabwe is also reported as having made a commitment of Z\$ 3 trillion (USD 300 million) to bank roll the Commission of Harare.^{xcii}

* The Access to Information and Protection of Privacy Act, the Public Order and Security Act and the Broadcast Services Act provide the legislative framework for the media. The print media, from which this survey is drawn, comprises mainly of nine national newspapers. The state controlled papers The Herald (daily), The Chronicle (daily), The Sunday Mail (weekly), The Sunday News (weekly). The private papers: the Daily Mirror (daily), The Sunday Mirror (weekly), The Sunday Standard (weekly), The Zimbabwe Independent (weekly) and the Financial Gazette (weekly). It should be noted that the Daily News, the Daily News on Sunday, together with the Tribune and the Weekly Times, were shut down in 2003 for not being registered under the AIPPA.

The Immediate Crisis

Immediately prior to the launch of the clean up there are articles in the press about food shortages which the Government argues are being withheld and sold on the black market. The country is suffering from fuel shortages, so much so that by 29 June there is a 300 percent increase in price.^{xciii} The IMF also notes that inflation is set to worsen,^{xciv} There is also an active parallel market for foreign exchange with few people using the official channels.

The Official Launch of Operation Restore Order

It is against this background, that the Chairperson of the Harare Commission, Sekesai Makwavarara makes a speech at Town House on 19 May at 12 noon to launch Operation Murambatsvina. She advises the public that the City authorities will embark on the clean-up in conjunction with the Zimbabwe Republic Police to enforce the bylaws and to stop all forms of illegal activity. “The Operation Restore Order is going to be a massive exercise that will see to the demolition of illegal structures and removal of all activities at undesignated areas.”^{xcv}

The next day, the Governor of the Reserve Bank of Zimbabwe, Gideon Gono, releases a report which warns of ‘the need to cleanse the individual rot on the streets of the nation and the need to destroy the shadow forces in the economy.’^{xcvi}

24 May, in the Herald, the City of Harare publishes an enforcement order based on the Regional Town and Country Planning Act ordering all illegal residential property owners and users of plots and properties to cease using illegal structures or immediately apply for regularisation. It then calls on them to demolish illegal structures or plots erected without the prior approval of the properties and remove the debris. The order states it will come into operation on 20 June 2005.

Arrests and Demolitions

One day before the Chairperson launches the clean-up, the ‘Police Blitz nets 550’, with 127 supermarkets being fined \$47.5 million for overcharging and hoarding.^{xcvii} Already on 9 May, 28 supermarkets and 400 vendors are arrested and charged a total of Z\$ 31 million for stashing basic commodities.^{xcviii}

21 May, there is an initial clampdown with 725 criminals, illegal foreign exchange dealers, flea market operators arrested in Harare, and 230 in Bulawayo.^{xcix} On 23rd May it is reported that 36 tonnes of sugar and considerable sums of foreign exchange have been recovered in Harare. Also recovered are litres of petrol and diesel.^c In Harare alone 9,725 people are rounded up,^{ci} even the flower sellers, who had their stalls in the central business district for many years, are targeted.

24 May, the same day of the announcement by the Harare City Commission, the clean up campaign moves into residential areas. Reports indicate that the clean up is spreading across the country and in Mashonaland West Province, 654 people were arrested, 509 of whom were for gold panning. In Masvingo, police arrest 518 people.^{cii}

27 May is considered the day when the demolitions in Harare begin in earnest.

The Commanding Officer of Police for Harare province states that according to their strategic plan, the clean up would go through to 2008.^{ciii} Police are accused of brutality and being unnecessarily vindictive; later there are complaints about the way the police has handled the disposal of the confiscated goods.^{civ}

Harare Governor Karimanzira states that even those who settled on farms after 2001, when government ordered that haphazard settlement be stopped, will be targeted. The headlines read that 'War vets dumped' and the clean up will include housing cooperatives established by war veterans and target White Cliff, Hatcliffe and Porta Farm.^{cv}

31 May, papers announce that the demolitions have already been undertaken in Chitungwiza; Bindura; Mashonaland East Province and Victoria Falls. The Herald states that a number of locations such as Tongogara Park, Hatcliffe Extension etc. 'now resemble the aftermath of a devastating earthquake.'^{cvi}

Announcements are made that future demolitions will include Tarisa, Lowdale, Kawagari, Chitamba, Caledonia, Solomiyu, Waverly, Oda and Lindhurst farms. Also cooperatives: Joseph Chinotimba in Glen View, Ivhurakauya in Aspinslae, Chazezesa in Kuwaszana 3, Tashinga in Dzivaresekwa 2, Mapopoma, Cain Nkala, Lake View, Tanganyika, George Nyandoro and Masango.^{cvi}

6 June, Harare residents demolish their own structures before police bulldozers cause additional damage to nearby property.^{cvi}

13 June, in Bulawayo, it is reported that more than 350 illegal structures were destroyed and that Killarney and Ngozi had been razed to the ground. According to Chief Superintendent Maphosa 12,000 people were arrested in Bulawayo. By 22 June 5,000 people are being vetted and provided temporary shelter by the Red Cross with help by WFP.^{cix}

16 June, there are 'Homeless people camping along the river bank' who do not know where to go this includes people born in Zimbabwe of foreign born parents.^{cx} There are regular headlines referring to the arrest of foreigners.^{cx}

Reactions by Officials

28 May, for the first time, there are headlines that the President backs the clean up. The Herald reports that 'President Mugabe yesterday threw his weight behind the ongoing campaign as police razed to the ground Harare's biggest illegal settlement –Tongogara Park at White Cliff.'

The President is quoted as saying, "Our cities and towns are a real cause for concern. Apart from the failing reticulation systems and broken roads and streets, our cities and towns, including Harare, the capital, have become havens for illicit and criminal practices and activities which just could not be allowed to go on.....From the mess should emerge new businesses, new traders, new practices and a whole new and salubrious environment. That is our wish and vision."^{cxii}

Police Commissioner Augustine Chihuri is quoted as saying that the Government is not punishing people; but that the operation would clean the country of the 'crawling mass of maggots bent on destroying the economy and also to spruce up the image of our cities'^{cxiii}

The Mayor of Bulawayo and the Mayor of Gweru are quoted as being openly against the evictions.^{cxiv} Subsequently, the registered vendors of Bulawayo take the Police and the City

Council to court.^{cxv} On 25 June, the Mayor's office states that the banning of vendors was costing the Bulawayo council Z\$66 million a month.^{cxvi}

Morgan Tsvangirai, leader of the MDC, asks if the blitz is about scattering the urban electorate to reconfigure the demographic distribution of the victims.^{cxvii}

MDC Member of Parliament David Coltart is reported as asserting that the Government was committing a crime against humanity in terms of Article 7 of the Treaty of Rome on the forcible removal of people. This is denied by the Minister of Justice, Legal and Parliamentary Affairs, Patrick Chinamasa.^{cxviii}

The Zimbabwe Congress of Trade Unions, the MDC, the Zimbabwe National Pastor's Conference, the Zimbabwe Lawyers for Human Rights and the NGO community (NANGO), human rights groups, faith based groups, women's groups and others all go to press with statements protesting the evictions and demolitions.

Public Debate

The Herald consistently hails the clean up campaign. There are letters in the paper supporting the ongoing clean up campaign stating that it is beneficial to Zimbabwe and should be applauded.^{cxix}

26 May, the Daily Mirror reports that there are riots in Glen View and Budiro high density suburbs and asks about the mayhem and untold suffering in Harare. Even the Herald says some areas look as if there has been an earthquake.^{cxx}

Commentators begin to label the operation a Tsunami and ask if the clean up is a punishment stating that 'though some residents had first welcomed the clean up of the hawkers and criminals, there was now widespread speculation that the government was hitting at the city's residents for voting for the MDC'.^{cxxi}

29 May articles appear asking whether the brutality was worth the price of cleanliness. There is concern about the increasing gap between the rich and poor.^{cxxii} There is criticism about the way the operation is being handled, calling for a viable plan. Commentators relate the clean up operation to the crisis of African urbanisation and the failure of housing policy. 'Housing for all, an elusive dream' points out that the government had planned to roll out 1, 250,000 residential plots by 2008. There had also been plans to help the Zimbabwean diaspora to invest in housing through Homelink, the official bank for foreign exchange. However, to date only 1,400 people have used the Homelink Housing Development Scheme.^{cxxiii}

10 June, the bungling of the anti-blitz protest is subsequently questioned as being a failure of the opposition MDC to act.^{cxxiv}

The Alternatives: Rural Repatriation or Caledonia Farm.

30 May, after the demolitions in Mbare, 'scores ditch city life' and head for the rural areas. They are said to be leaving the city lights and heading for the country to go home despite the difficulties and expenses of getting transport during the prevailing fuel crisis. Some are quoted as saying that they 'will try their hand at gardening'.^{cxxv}

In a speech at the launch of a rural project in Lupane, Vice President Joice Mujuru is quoted as saying that "Women in rural areas have a habit of running to urban areas to seek

employment.....We want people in urban areas to leave their homes and come and invest in rural areas because this is where the money can be generated.”^{cxxvi}

The Police Officer Commanding Harare tells reporters that “No one in Zimbabwe comes from nowhere. Everybody belongs somewhere.”^{cxxvii}

30 May, while describing the police demolitions in Mbare, Joburg Lines section, considered the country’s most densely populated urban settlement and a notorious criminal hideout for decades, the article states that the best option for those affected is to ‘head back to their rural homes.’^{cxxviii}

The most desperate of the displaced are ferried by the police to Caledonia Farm which acts as a three day transit point while people are vetted and sent to their respective rural homes.^{cxxix}

17 June, there are concerns that cholera may break out in Caledonia camp^{cxxx} followed by articles stating that with only 6 toilets for 1,000 people, there might soon be a health crisis in the camp.^{cxxxi} This results in an announcement, on 23 June, that there are now mobile toilets and a mobile clinic at the camp.^{cxxxi}

Concerns are expressed that the clean up operation is endangering the lives of people living with AIDS^{cxxxiii} and also affecting the education of about 300,000 schoolchildren.^{cxxxiv}

Accommodation costs are said to be soaring with rents doubling or tripling. The Herald describes the rent increases in Mbare which climb from Z\$350,000 to Z\$800,000, in Hatcliffe Extension from Z\$250,000 to Z\$750,000.^{cxxxv}

Role of the Churches and NGOs

17 June there are reports that the Government bars help for the ‘blitz victims’ from UN agencies and NGOs. Senior officials at the Social Welfare Ministry are reported as saying that governors of provinces had been ordered to block donor groups from distributing food and clothes to the victims of the clean up campaign because such aid would expose the shortcomings of the controversial campaign. The Governor of Manicaland is reported to be stopping NGOs from distributing food.^{cxxxvi}

There are reports of a clash between the Government and NGOs over the blitz at a meeting in Silveira House with Minister Chombo and Minister Marumahoko and the Harare Governor Karimanzira, this is partly over government policy to repatriate people to rural areas.^{cxxxvii}

Government Preparations and Operation Garikai

In June, there are reports that Operation Restore Order has created a split in ZANU-PF.^{cxxxviii} On 19 June, there is reference to the fact that some Government officials think that the clean up has been bungled and the President has asked Vice President Joice Mujuru to look into the matter. It also points out that the Ministry of Finance is to launch a Z\$1 trillion facility to mitigate the effects of the clean up.^{cxxxix}

The Police are barred from making policy statements regarding the on-going clean up saying that the Ministry of Local Government, Public Work and Urban Development would issue all policy statements pertaining to the clean up.^{cxl}

Regular announcements are made of Government arrangements for plots and alternative flea markets. The Government is said to have drawn up plans to relocate informal traders with 17 sites across Harare being identified for home industries.^{cxli}

28 May, Minister Chombo hands over to Minister Sithembiso Nyoni, the Minister of Small and Medium Enterprises, 400 plots at the Siyaso Industrial Complex in Mbare. SEDCO unveils a Z\$ 23.2 billion loan facility for informal traders. Minister Nyoni says they are spearheading the decongestion of the city through the creation of green and other markets.^{cxlii}

17 June, the names of 4,470 beneficiaries of plots out of a total of 20,477 are announced in Harare.^{cxliii} Minister Chombo goes on record saying that government would soon come up with less stringent standards for housing construction that would cut costs by 68%. He says that local authorities were failing to adapt and that council requirements were “British oriented”.^{cxliv}

24 June, a rebuilding campaign is announced. This is to be a military operation with the formation of an inter-ministerial committee chaired by Major-General Chingombe.^{cxlv}

Though the official reaction to the UN Human Rights Rapporteur has been negative, the UN Special Envoy on Human Settlement Issues in Zimbabwe is welcomed by President Mugabe. Just prior to Mrs. Tibaijuka’s arrival, the President is quoted as saying that the clean-up has promoted orderliness.^{cxlvi}

Media Log of the visit of the UN Special Envoy on Human Settlements Issues in Zimbabwe, 26 June – 9 July 2005

The arrival of the Special Envoy

On the day of the arrival of the Special Envoy, 26th June, there are major headlines and articles about the Presidential announcement that Murambatsvina is winding up and will be replaced by Operation Garikai/Hlalani Kuhle to aid reconstruction and resettlement. Z\$ 3 trillion (USD 300,000) are set aside for this new operation. The construction process, which includes houses, accommodation for small and medium enterprises and overall infrastructure, is to be coordinated by a new Inter-Agency National Operations Committee. The work is expected to be complete by 30 August 2005.^{cxlvii}

President Mugabe is quoted as saying “I have agreed to receive the UN SESG in the country so as to enable the Secretary-General to understand and appreciate what we are trying to do for our people who deserve much better than the shacks that are now being romanticised as fitting habitats for them.”^{cxlviii} While talking about his hopes for Operation Garikai, the President states that the year has been difficult in terms of food security at a time of drought.

On the same day, the government explicitly announces that it is giving civil society the green light to assist the displaced.^{cxlix}

After the meeting between President Mugabe and the SESG, the papers state Mrs. Tibaijuka has been given free access to the country and its people. The President is also quoted as saying that he had told the SESG that the government had intended to clean the city prior to the elections but had chosen to postpone it until afterwards so as to avoid criticism.

Overall Concerns

For the next 14 days, the local press is full of articles that are directly or indirectly aimed at providing the SESG with background information about the operation. These range from Government pronouncements that it is rolling out a housing programme and how the operation will leave the informal sector more focussed, to private letters of support.^{cli} Others detail the humanitarian crisis, the political background and call upon the UN to help.^{cli}

Concerns are expressed about the SESG's visit, whether she will come with an open mind; whether she will be free to travel and meet people or whether the Government will try to mislead her.^{clii} Articles describe the government panic over the arrival of the envoy and the fears of security council action. The SESG is called upon not to be swayed by the political agenda of leaders at the G8 Summit.^{cliii}

The articles around the visit include the positive descriptions of the results of the campaign, including describing the clean and orderly cities and towns, applauding the fact that the demolitions have created jobs for those who clear the rubble^{cliv}. Others describe in great detail the crisis of the homeless.

As the visit proceeds, and the SESG tables some the principles of the Habitat Agenda in her meetings, commentators in The Herald begin to refer to a selective understanding of the United Nations' *Cities without Slums* strategy to support the clean up operation.^{clv}

Other papers highlight the failure of the Government to use participatory methods of community development that are encouraged under UN-HABITAT'S urban governance campaign. They emphasise that the clean up operation should have used negotiated tactics prior to eviction and resettlement and before demolishing properties.^{clvi}

Other Missions and Statements

4 July, ZANU-PF Central Committee member Pearson Mbalekwa resigns from the ruling party in protest against the 'government's ongoing clean-up operation which has left millions of people homeless'.^{clvii}

The International Monetary Fund team leaves Zimbabwe, after a 12 day tour, stating that a rebuilding of relations with the international community is a critical part of the economic decline. The team calls for more comprehensive economic reforms and painting a grim outlook for the economy. They are quoted as being particularly concerned about the proposed, unbudgeted for, expenditure of \$3 trillion, USD 300 million, in addition to an earlier \$1 trillion, USD 100,000, pledged for reconstruction.^{clviii}

A US Congressional delegation consisting of two members, Mr. Gregory Simpkins and Dr. Pearl-Alice Marsh, also visits the country to hold discussions with individuals and institutions aimed at enhancing bilateral relations between Zimbabwe and the US.^{clix}

An African Union envoy, a member of the African Commission on Human Rights and Special Rapporteur responsible for Refugees, who has been sent to assess the ongoing clean up in Zimbabwe leaves without being able to complete his mission.^{clx}

Tours and Visits

As Mrs. Tibaijuka begins her tours and visits, her reactions and statements are reported and interpreted in ways that reflect the editorial policy of each paper. Headlines blare that the UN envoy thinks that ‘Zim shows vision’^{clxi}, others confidently state that ‘UN Envoy upset’.^{clxii}

30 June, Operation Garikai is officially launched at Whitecliff in the presence of SESG with the Vice President Joseph Msika and Minister Chombo of Local Government. The ceremony includes the handing over of plots to the local community and a tour of some model homes. Later there are reports that the owner of the farm has issued a statement saying that he still owns the property; this is followed by a provisional court order was issued barring the government from continuing.^{clxiii} Commentators also call for transparency and accountability in the allocation of plots.^{clxiv}

Based on descriptions of ongoing evictions and demolitions at Porta Farm and the possible deaths of some of the residents, the SESG and her team visit the location to see for themselves.^{clxv}

The first field visit to Manicaland is covered by all the papers with information on the arrangements made by each local inter-ministerial task force to proceed with Operation Garikai.

There are headlines about the visit to Caledonia, the transit camp sheltering over 4,000 people including statements that the SESG commits the UN to help.^{clxvi}

There is coverage about the stop over to meet people on the road to Mutare, and about the meetings with the Governor of Manicaland, from ZANU-PF and the MDC Mayor of Mutare. There are talks with families sleeping out in the open in the Sakubva Sports Oval in Mutare.

Local and international journalists follow the convoy on the second leg of the journey through Midlands to the city of Bulawayo and Victoria Falls Municipality. In Gweru there are visits to the proposed sites for flea markets and informal stalls.

In Bulawayo, there is coverage of the meetings with the Governor, the Minister, the MDC Mayors and Council. There are accounts of the visit of the SESG to the recent backyard demolitions in Luveve, a suburb of Bulawayo and to the families being sheltered in churches.

In Victoria Falls, after visits to proposed sites and developments for housing and the informal sector, there are night visits to families sleeping out in the open.

As the mission concludes, articles describe the SESG as having been open minded, the Herald confidently asserts that Mrs. Tibaijuka and the ‘UN back the clean up of cities’^{clxvii}, and by implication Operation Restore Order. Others equally confidently proclaim that the ‘UN envoy slams blitz’.^{clxviii}

The UN Special Envoy on Human Settlements Issues in Zimbabwe, Mrs. Anna Tibaijuka’s fact-finding mission concludes on 8 July 2005 after a final meeting with President Mugabe.

Annex 3

Press Clip of Speech by the Chairperson of the Government-appointed Harare Commission, Ms. Sekesai Makwavarara



CITY OF HARARE

**SPEECH BY THE CHAIRPERSON OF THE
HARARE COMMISSION CDE. SEKESAI
MAKWAVARARA ON THE OCCASION OF
THE OFFICIAL LAUNCH OF “*OPERATION
MURAMBATSVINA*” AT THE TOWN HOUSE
ON 19TH MAY, 2005 AT 12 NOON**

The City of Harare wishes to advise the public that in its efforts to improve service delivery within the City, it will embark on ***Operation Murambatsvina***, in conjunction with Zimbabwe Republic Police (ZRP). This is a programme to enforce by-laws to stop all forms of illegal activities.

These violations of the by-laws are in areas of vending, traffic control, illegal structures, touting/abuse of commuters by rank marshals, street-life/prostitution, vandalism of property infrastructure, stock theft, illegal cultivation, among others have led to the deterioration of standards thus negatively affecting the image of the City. The attitude of the members of the public as well as some City officials has led to a point whereby Harare has lost its glow. We are determined to bring it back.

Harare was renowned for its cleanliness, decency, peace, tranquil environment for business and leisure; therefore we would like to assure all residents that all these illegal activities will be a thing of the past.

Transcript of Speech by the Chairperson of the Harare Commission Cde Sekesai Makwavarara on the occasion of the official launch of “Operation Murambatsvina” at the Town House on 19th May, 2005 at 12 noon.

The City of Harare wishes to advise the public that in its efforts to improve service delivery within the City, it will embark on **Operation Murambatsvina**, in conjunction with the Zimbabwe Republic Police (ZRP). This is a programme to enforce by-laws to stop all forms of illegal activities.

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Harare was renowned for its cleanliness, decency, peace, tranquil environment for business and leisure, therefore we would like to assure all residents that all these illegal activities will be a thing of the past.

To intensify **Operation Murambatsvina**, an ongoing exercise, the City of Harare will work hand in glove with other enforcement units of the Government which include the ZRP to make sure that this exercise is realised. It is not a once-off exercise but a sustained one that will see to the clean-up of Harare.

The eradication of chaos that currently prevails in the City, the seat of Government, home to all diplomatic missions, headquarters of major business and commercial activities requires the co-operation of all authorities, businesses and individuals. The people of Harare must all appreciate that the City is ours, it is our pride and belongs to us all; thereby let us be responsible citizens.

Pursuant to this objective the City is calling upon all stakeholders to report any cases of corruption or incompetence by municipal workers and any form of vandalism and abuse of municipal property at any municipal office.

Furthermore, I urge all organisations and residents to cooperate during this ongoing exercise, which is intended to bring sanity back to the City of Harare.

....**Operation Murambatsvina** is going to be a massive exercise in the CBD and the suburbs which will see to the demolition of all illegal structures and removal of all activities at undesignated areas, among the prior mentioned activities.

I, as the Commission Chairperson of Harare declare **Operation Murambatsvina** officially launched and I urge all residents to remember **kuramba tsvina**.

Our aim is to keep Harare clean. What is your aim?

Your aim will help.

[28 May 2005: The Saturday Herald: page 5]

12 Thursday 26 May 2005



CITY OF HARARE

REGIONAL, TOWN AND COUNTRY PLANNING ACT CHAPTER 29:12 REVISED EDITION 1996 ENFORCEMENT ORDER SECTION 32

These orders relate to all residential properties in Greater Harare for illegal developments.

To the owners, occupiers and users of such stands/properties.

Enforcement Order Section 32: Whereas it appears to the City Council of Harare, being the Local Planning Authority that development or use of land is being or has been carried out on the said stands/properties in Greater Harare in contravention of the Act.

Unauthorised erection and use of illegal structures - namely illegal outbuildings, wooden and metal shanties mostly used for human habitation purposes and other illegal businesses.

And whereas it appears expedient to the Local Planning Authority and having regard to the provision of the said Town Planning Act for the areas zoned residential wherein the erection and use of illegal structures without approved plans is **PROHIBITED**, to save on you as the owners, occupiers and users of the said stands, an Order in pursuance of **Section 32** of the **Regional, Town and Country Planning Act (Chapter 29:12) Revised Edition 1996**.

Therefore take note that in terms of the said **Section 32** you are hereby ordered to cease using the illegal structures OR immediately apply for regularisation in terms of the Act. Demolish all illegal structures erected without approved plans on the said stands/properties as more particularly stated hereto and remove the debris, bricks, materials and rubbish arising from the demolition of these illegal structures.

Annex 4 – Terms of Reference for the Special Envoy

SPECIAL ENVOY OF THE SECRETARY-GENERAL FOR HUMAN SETTLEMENT ISSUES IN ZIMBABWE

TERMS OF REFERENCE

1. The Government of Zimbabwe has embarked on a systematic operation to round up suspected illegal currency traders, street vendors and squatters and to evict them from informal settlements in urban and peri-urban areas throughout the country. The affected population is estimated at over 200,000, though no accurate figures are available. There are concerns over the humanitarian impact and the capacity of the Government to provide adequate assistance to the affected population. As agreed by the President of the Republic of Zimbabwe, the Secretary-General has appointed an Envoy for Human Settlement Issues in Zimbabwe, who will visit the country from as soon as possible..
2. The Terms of Reference for the Special Envoy are as follows:
 - (a) assess the scope and extent of the recent mass evictions, the humanitarian needs and the impact on the affected population;
 - (b) assess the adequacy of the Government's arrangements for the displaced and its capacity to address the basic needs of the affected population;
 - (c) assess the capacity of the humanitarian community to respond; and
 - (d) prepare a comprehensive report to the Secretary-General on the situation with recommendations on how the condition of those affected may be addressed.
3. One Political Affairs Officer from DPA and one Humanitarian Affairs Officer from OCHA will provide substantive support to the Special Envoy in preparation of the mission, throughout the mission and for any necessary follow-up action. DPA and OCHA will liaise closely with the UN Resident/Humanitarian Coordinator and the Country Team in the preparation of the mission and for follow-up actions.
4. The mission will take place as soon as possible and will last up to two weeks. The fact-finding mission will need to travel to key areas in the country.

DPA
17 June 2005

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