

Contents

Background	2
Recommendations by the UN Special Envoy	5
(a) On Humanitarian Issues	5
Recommendation 1	5
Recommendation 2	9
Recommendation 3	20
Recommendation 4	22
(b) On Accountability and Legal issues	27
Recommendation 5	27
Recommendation 6	31
Recommendation 7	34
Recommendation 8	37
Recommendations for the United Nations and the International Community	38
Recommendation 9	38
Recommendation 10	39
Recommendation 11.....	40
Lessons Learned	44
Recommendation 12	44
Conclusions	45
Appendix 1	46
Recommendations from the second Action aid International Report (August 2005).....	46
Appendix 2	47
Recommendations from the third Actionaid International Report (November 2005)	47

Background:

It is more than one year since the launching of *Operation Murambatsvina*, (literally translated as clean-up the filth) or Operation Restore Order. In Harare this programme was put into operation by the Chairperson of the government-appointed Harare Commission but the programme was also implemented countrywide. It was supposedly aimed at putting a stop to illegal activities in contravention of municipal by-laws, such as the erection of illegal structures, illegal vending, touting by commuter omnibus rank marshals, illegal street garaging, illegal cultivation, dealing illegally in foreign currency and prostitution.

This operation caused major devastation and large-scale suffering and led to a highly critical report by the UN Special Envoy on Human Settlement, Ms Anna Tibaijuka.

This report makes an audit of whether or not the Government of Zimbabwe has addressed the concerns of the United Nations and implemented the recommendations of the UN Special Envoy.

The Zimbabwe Human Rights NGO Forum (the Forum) has previously issued two reports on the effects of *Operation Murambatsvina*,¹ and some of its member organizations have mounted legal actions on behalf of some of those affected, as well as providing various forms of relief to the victims. In the past, the Forum has issued reports subsequent to similar international missions or interventions in the Zimbabwe crisis, and has provided reviews of the benchmarks. This was particularly the case with the Abuja Agreement,² and was also the case with the Food Riots in 1998. The rationale for issuing such reports is very clear: in a situation where the Zimbabwe government both declines to follow agreements or recommendations, and even denies the findings of international bodies, it is incumbent upon Zimbabwean civil society to act as a watchdog upon the government, and to alert the international community to the failings of the Zimbabwe government.

This report will not provide a detailed audit of developments subsequent to *Operation Murambatsvina*, but will rather evaluate the recommendations of the UN Special Envoy with reference to the compliance of the Zimbabwe government to these recommendations. As will be seen below, the UN Special Envoy made twelve specific recommendations, and the Forum will evaluate these, both from the view-point of compliance or non-compliance with them by the Zimbabwe government, as well as providing some comment upon the validity of the recommendations themselves. There are a number of areas in which the report and its recommendations can be questioned, but, the Forum contends that these criticisms strengthen rather than weaken the UN Special Envoy's report.

It is worth commenting that the views expressed by the UN Special Envoy were supported by her UN colleague, Mr. Jan Egeland, the Humanitarian Special Envoy when he visited Zimbabwe in December

¹ See Zimbabwe Human Rights NGO Forum Order out of Chaos, or Chaos out of Order? A Preliminary Report on "Operation Murambatsvina". (Harare, June 2005); Zimbabwe Human Rights NGO Forum The Aftermath of a Disastrous Venture. A Follow up report on "Operation Murambatsvina". (Harare August 2005.).

² See Zimbabwe Human Rights NGO Forum Evaluating the Abuja Agreement (Harare 2001); Zimbabwe Human Rights NGO Forum Evaluating the Abuja Agreement: Two Months Report,(Harare 2003) Zimbabwe Human Rights NGO Forum Zimbabwe, the Abuja Agreement and Commonwealth Principles: Compliance or Disregard? (Harare 8 September 2003).

2005. In his report to the UN, Mr. Egeland was forthright in his assessment of the scale of the disaster deliberately inflicted on the Zimbabwean people. This is an extract from his statement to the UN Security Council on 19 December 2005.

Finally, Mr. President, I have just returned from Zimbabwe and South Africa. As I reported to you in April, the humanitarian situation in the sub-region is already very serious, due to severe food insecurity, widespread HIV/AIDS and inadequate basic services. More than ten million people in the region are in need of food assistance. The situation could deteriorate further in 2006 and beyond, particularly in Zimbabwe and Malawi, unless actions are taken to meet immediate needs and to reverse the decline in key sectors. In Zimbabwe, the humanitarian situation has worsened significantly in 2005. More than three million people - almost one third of the population - will receive food through the World Food Programme in January and even more will receive assistance come April. Annual maize production, the basic staple, is one third of what it was several years ago. Basic services continue to deteriorate, particularly in the health, water and sanitation sectors. Inflation currently reaches over 500 percent. In this context, and as I told the Government in my meetings in Harare, the massive urban eviction campaign of hundreds of thousands of people was "the worst possible action, at the worst possible time".

We are now entering the peak of the "lean season." Food prices are rising fast, placing some basic commodities out of reach for a growing portion of the population. I welcome the Memorandum of Understanding finalized by the Government and WFP, which will ensure these emergency needs are met, and I also hope it will lead to better collaboration between the Government and the humanitarian agencies in other sectors. Yet we must recognize that this huge need for food assistance is symbolic of the vicious cycle that we are caught in. It was raining when I was leaving Zimbabwe, but all expected that next year's harvest would be poor because of a lack of skilled agricultural labor force, the devastating toll of the HIV/AIDS epidemic, counterproductive agricultural policies and practices, and a lack of inputs such as fertilizer, seeds and tools. It is not sustainable to provide food assistance for millions of people year after year without making the necessary investments to get out of this situation. We can have a new approach that again will provide food security for all Zimbabweans. This will require major efforts from all, nationally as well as internationally. There is no substitute for engagement and dialogue at all levels in order to address the humanitarian crisis in Zimbabwe.

From my discussions with the Government of Zimbabwe, I am convinced that the UN and the humanitarian community at large must try to engage more actively with the Government to address the enormous humanitarian crisis. We did reach agreement on some issues during my mission: a more active and systematic dialogue on food security; a more hands-on approach to resolving bureaucratic problems for humanitarian organizations through "one-stop-shops" at both the Government and the UN; and the initiation of a shelter programme for households affected by the eviction campaign. However, sustained progress will require the following: The

Government must stop further evictions and be more flexible in allowing shelter and other programmes for those affected. It must ensure that beneficiaries are assisted solely on the basis of need; The UN and our humanitarian partners, as well as the donors, should be guided in their own response by the needs of the population. We should provide the appropriate level of assistance where and when we identify the needs. Beyond food aid, we need to invest in food security, livelihoods and basic services; The Governments in the region and Africa at large should engage more proactively with Zimbabwe to find constructive solutions, also given their interdependence and the risks of increased migratory movements; All parties must understand the importance of neutral and impartial humanitarian assistance.

There has been little or no attempt by the Zimbabwe government to deal with any of these UN recommendations. This failure to address these issues has meant that the lot of ordinary Zimbabweans has significantly worsened. It would seem that the preoccupation by the Zimbabwe government with security and maintaining political power overrides any concern for the citizens that it is constitutionally bound to protect.

Recommendations by the UN Special Envoy

a) *On Humanitarian Issues:*

The UN Special Envoy, Ms Tibaijuka made a number of recommendations in her report in respect of humanitarian issues,³ which are evaluated below.

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.

The UN Special Envoy had a very limited period in which to conduct her mission, and had to depend mainly on secondary sources. The UN report estimated 700,000 people were direct victims, whilst an additional 2.1 million were argued to have been indirectly affected. These figures were based mostly on figures provided by the Zimbabwe government itself. Subsequent studies reveal that the UN estimate of numbers of those affected was somewhat conservative.

The most reliable estimates, based on an empirical analysis, have come from ActionAid International. In two studies conducted in July and August 2005, ActionAid estimated, on the basis of community surveys, that nearly 1.2 million people had been affected by *Operation Murambatsvina*.⁴ ActionAid estimated that 70% of the sample had lost shelter, which would give a figure of 840,000 people directly affected, which is comparable to the UN figure.

A second study, based also on survey data, estimated that the effects were possibly greater than both of these. Based on a sample of 1094 ordinary respondents and 104 displaced persons, an Afrobarometer survey argued that the numbers of those affected was more substantial, with an estimate of 2.7 million people affected.⁵

In general, the ActionAid reports strongly corroborate the findings of the UN Special Envoy, but also extend these findings in important ways.

- A majority (70%) of urban dwellers were engaged in informal trading prior to Operation Murambatsvina;

³ See 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.

⁴ Here see ActionAid A Study on the Impact of "Operation Murambatsvina/Restore Order" in 26 Wards of Harare High Density Housing Areas ActionAid International in Collaboration with Combined Harare Residents Association (CHRA) (July 2005); ActionAid A Study on the impact of "OPERATION MURAMBATSVINA/RESTORE ORDER" in Zimbabwe, ActionAid International Southern Africa Partnership Programme (SAPP-ZIMBABWE) in collaboration with Combined Harare Residents Association (CHRA) and Zimbabwe Peace Project (ZPP), (August 2005).

⁵ See Afrobarometer Popular Reactions to State Repression: Operation Murambatsvina in Zimbabwe, Working Paper No. 59.(2005)

- the primary sources of income that were cited to have been disrupted (70%) as a result of the Operation include: tuck shop ownership (9%), flea market (12%), fruit and vegetable vending (17%), offering accommodation (15%), cross border trader (7%), skilled trade/artisan (13%) and petty trade (6%) such as sale of firewood;
- formal employment was only cited by 16% of the respondents as a primary source of income, whilst a further 4% claimed not to have any source of income or livelihood activity before the Operation.

The ActionAid survey also examined a wide range of factors in peoples' lives that may have been affected by *Operation Murambatsvina*:

- **Shelter:**
A majority (70%) of respondents reported that they had lost shelter. Loss of shelter was two-fold: tenants being evicted as a result of demolitions, and landlords losing sections of their homes as a result of the demolitions.
- **Source of income:**
76% of interviewed households reported that they had lost their sources of income. This figure was similar to the 73% that had lost primary sources of income (livelihoods) as a direct result of the Operation reported in the earlier ActionAid International report.
- **Education for children:**
The school drop-out rate was reported to be 22%. However, a further 44% of households interviewed reported that they were in a precarious position in funding and accessing schools for their children, currently and in future.
- **Property:**
Forty eight percent (48%) of households visited reported that they had incurred losses of property.
- **Health;**
Slightly over 25% of people interviewed attributed the deterioration of health of their loved ones as a direct result of the operation.
- **Food security:**
Approximately, 54% of households sampled claimed that they had become food insecure as a consequence of the Operation.
- **Household safety and security:**
Almost half (44%) of the homesteads reported that household safety and security had been compromised as a result of the operation.

- **Disruption of family unit:**

More than three quarters of the respondents reported losing shelter. Almost 40% of homesteads visited reported that family units had been disrupted as a result of the operation. Mostly children and spouses had been relocated to the rural homesteads or other suburbs, if this was possible.

- **Increased vulnerability for women, children and orphans:**

35% of the interviewed homesteads acknowledged that women and children had become more vulnerable to abuse as a consequence of the Operation. Furthermore, a high proportion of this group was from female-headed households.

A number of these findings were re-examined in a third study undertaken by ActionAid, and, specifically, four areas were examined further: trauma, HIV/AIDS, legal issues, and the effects on property.⁶

As regards trauma, it was conservatively estimated that about 820,000 individuals were in need of psychological assistance as a result of *Operation Murambatsvina*, but the actual figure is likely to be considerably higher. As corroboration of this estimate, statistical analysis indicates a number of significant relationships between psychological disorder and traumatic events, and these strongly implicated the effects of *Operation Murambatsvina*. The ActionAid data indicated the following:

- a significant relationship between current psychological disorder and the number of trauma events reported;
- a significant relationship between current psychological disorder and trauma due to OVT [organized violence and torture];
- a significant relationship between current psychological disorder and trauma due to displacement events [*Operation Murambatsvina*], or displacement items;
- a significant relationship between current psychological disorder and repeated exposure to trauma.

There were also significant relationships found between psychological disorder and the contribution of trauma reported by time period. The frequency of trauma has been increasing over the decades since 1980, with significant increases since 1998, and the strongest relationship between trauma and psychological disorder was reported for 2005.

As regards HIV/AIDS, the third study extended the findings of the first two, and suggested a whole range of negative consequences for sufferers from HIV/AIDS that accrued from *Operation Murambatsvina*. As ActionAid commented:

⁶ See ActionAid An in-depth study on the impact of Operation Murambatsvina/Restore Order in Zimbabwe. ActionAid International in collaboration with the Counselling Services Unit (CSU), Combined Harare Residents' Association (CHRA) and the Zimbabwe Peace Project (ZPP). (November 2005).

Our data on the consequences for the sufferers of HIV/AIDS are a cause for the deepest concern. The picture is wholly negative, and ranges from loss of care, even from families, and loss of nutritional support, through to the loss of vital medication, and finally to higher rates of psychological disorder. These are not unexpected results, and could have easily been anticipated in the planning of Operation Murambatsvina; certainly these consequences could have, and should have been pointed out by the Ministry of Health if it had been consulted.

The government of Zimbabwe has consistently asserted that the displacements were of slum dwellers, but it is evident that the numbers affected were far in excess of any reliable estimate of the number of slum dwellers in Zimbabwe. As UNHABITAT has estimated, in 2003, Zimbabwe had a slum population of about 157,000 [3.4% of the total population], a position that was very different to the general picture in Africa.

The ActionAid data strongly supported the views of UNHABITAT: it did not suggest a large population of slum-dwellers, but rather a population of ordinary citizens, with a majority paying rates, and a majority of these having some form of authorization for their occupancy.

Thus, it would appear that the estimates of the UN Special Envoy were similar to those disclosed by subsequent reports, with the same type of factors identified.

In general, the response of the Zimbabwe government has been to deny the consequences of the displacements, and continually to focus upon its so-called programme of re-construction, *Operation Garikai* (Stay Well). The effectiveness of this programme is evaluated below [see Recommendation 2 below]. The response of the Government to the call to halt further evictions is also examined below.

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.

The government clearly did not carry out this operation with humanitarian motives it claimed it had. During and after the operation, few efforts were made to adopt a pro-poor framework. The UN recommendations in this regard were almost entirely ignored, despite the grandiose government claims in respect of its programme of reconstruction, *Operation Garikai*, as well as its programme to increase food production, *Operation Taguta* (We are full).

Under International law as reflected in the UN Guiding Principles on Internal Displacement, the Zimbabwean government has 'the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction'.⁷ The government refused to acknowledge the crisis and it deliberately obstructed humanitarian aid. This was the main obstacle preventing the U.N. country team in Zimbabwe from providing adequate assistance and protection to the internally displaced.⁸ The conditions at the camps where these people were moved to following Operation Murambatsvina are deplorable, e.g. Calendonia and Hopley. The government has gone as far as denying humanitarian NGOs access to these camps to provide food, clean water and blankets.

The people affected by *Operation Murambatsvina* are relying on assistance from the very government that displaced them in the first place. There is no guarantee that the promises made to ensure that these people will be taken care of will be honoured. Over a year later the lives of the affected have not greatly improved, most of the houses promised under *Operation Garikai* have not materialized. There are still people living at the camps and a large number of people have returned to the ruins of their homes, this being seen as a better option than remaining at the camps or going to the rural areas.

The government claimed that the operation was aimed at clearing out illegal dwelling and the criminal activities allegedly taking place from those dwellings. Had this been the real intention, it would surely have carried out consultations and investigations to ensure no legal occupants were affected. These consultations would also have revealed that the local authorities had encouraged people to occupy the dwelling settlements or had condoned the building of the structures and waived the enforcement of relevant by-laws. Such consultations would also have disclosed that many of the people concerned were carrying out legal business activities. The legitimate dwellers had their rights trampled and have a right to redress and compensation.

The excessive use of force during the operation, the callous nature of the demolitions, the indiscriminate destruction of property, the large scale evictions from residential and business places,

⁷ See UN Guiding Principles on Internal Displacement; UN Document E/CN.4/1998/53/Add. 2; November 11, 1998.

⁸ See Human Rights Watch Zimbabwe: Evicted and Forsaken Internally displaced persons in the aftermath of Operation Murambatsvina, December 2005. NEW YORK: HUMAN RIGHTS WATCH.

and the forced migration to rural areas, points to an arrogant government that knows it has lost popularity and is attempting to punish its citizens for the lack of support.

Continued Displacements

Displacements have continued until the present, despite the assurances of the government that this was a specific activity that was completed in July 2005. These displacements have been of two kinds, as they were during the main *Operation Murambatsvina* period: the arrests and harassment of vendors and people working in the informal sector, and the destruction of dwellings.

The arrests of vendors and informal sector workers has continued unabated. In August 2005, it was reported that the Zimbabwe Republic Police were arresting up to 200 people daily.⁹ As police spokesman, Edmore Veterai commented, teams of police were patrolling the streets of Harare "and are scoring successes against criminals". Later the same month, it was reported that the Municipal authorities in Harare were planning a major campaign to rid the city of beggars and street children.¹⁰ The rationale was that the vendors and other groups needing to make their living in the informal sector were returning to the streets.

'As council, we are not going to allow that,' Sekesayi Makwavarara, chairperson of a government-appointed commission that is running the city told Newsnet in a report late on Monday. 'We are going to make sure that these street kids are taken out of the city.'

It is plain that the arrests and harassment were targeting people once again in a very broad fashion, with all groups in the informal sector being identified as "undesirable": vagrants, touts, and street vendors were all being lumped together.¹¹ Once again the same reasons were being offered: criminal activities were the concern of the authorities, but it was not clear from the reports how many real criminals were being arrested as opposed to people being arrested and fined for merely trying to make a living in the informal sector. However, it was apparent that the dragnet operations were creating considerable income for the state.¹² This continued through September and October 2005.¹³

Assuming that the operations in October 2005 were generating the same income in fines as in September, when the ZRP spokesman indicated that Z\$18 million had been taken in fines, then the October operations would conservatively have raised Z\$54 million. The rationale behind this

⁹ "Zimbabwe police arresting 200 daily". The Mail & Guardian (SA), 8 August 2005.

¹⁰ "New Harare clean-up to target street kids, beggars". The Mail & Guardian (SA), 16 August 2005.

¹¹ "Over 300 arrested in Zimbabwe". News24 (SA), 20 August 2005.

¹² "Police operation nets 5 000, rakes in \$18m in fines". The Sunday Mail, 25 September 2005.

¹³ "Harare police arrest 15 000 in quest for 'clean city'". The Mail & Guardian (SA), 3 October 2005.

criminalizing the ordinary life of Zimbabweans seemed to be to impose a tax on the informal sector. According to the the Afrobarometer study this seemed to be a “purposive strategy of a bankrupt government that increasingly finds difficulty in covering the salaries of police and army officials”. The Afrobarometer study also noted that the percentage of Zimbabweans that believed the ZRP were involved in corruption had increased significantly.

In February 2006, a new initiative was launched, code-named “*Operation Valentine*”.¹⁴ The Zimbabwe *Herald* reported that of the 355 arrested, 120 were arrested for vending, 148 for obstruction on pavements or traffic lights, 50 for touting, 5 for street garaging, 5 motorists for dangerous parking, 2 for conduct likely to provoke breach of peace and 25 people were arrested for public drinking. Given that the specific reason provided by the ZRP was that the operation was aimed at illegal vending of foodstuffs and preventing the spread of cholera, none of the offences cited involve illegal vending of foodstuffs.

It is the continued destruction of accommodation that provides the greatest concern. It was reported in May 2006 that the ZRP had rounded up 10,000 people in order to send them to the rural areas.¹⁵ This is of course an enormous number of arrests, and raises several concerns about the underlying reasons for this operation. There is a strong suspicion that these round-ups were predicated more on security concerns than a desire for civic order and cleanliness, as this was the time when there were numerous reports that the MDC was planning mass action, as were other civic groups such as the ZCTU and the NCA.

These round - ups continued during November 2005,¹⁶ provoking strong comment from the United Nations.¹⁷ Agostinho Zacarias, the top UN official in Zimbabwe, sent a protest note to the Foreign Ministry expressing his deep concern over the new evictions, in which he said “make it hard for the provision of humanitarian assistance to the affected populations.”

Despite the claims that displacements had been completed in 2005, President Mugabe in his Independence day speech, on 18 April 2006, made it plain that the government would continue to demolish illegal settlements. Immediately afterwards, the ZRP raided and demolished a squatter camp in Masvingo.¹⁸

Masvingo police spokesman Charles Munhungei on Monday cited Mugabe's Independence speech in defending the police's demolition of the squatter camp. He said: 'We are just complying with the government policy to get rid of illegal settlements in our urban areas. Even the President in his speech at independence made it clear that illegal structures will be destroyed and we are doing just that.'

¹⁴ “355 people arrested in Harare”. The Herald, 14 February 2005.

¹⁵ “Squatters rounded up in Harare”. DPA, 15 May 2006.

¹⁶ “Zim authorities evict squatters”. News24 (SA), 14 November 2005.

¹⁷ “UN protests latest evictions”. Reuters, 16 November 2005.

¹⁸ “Armed Zimbabwe police demolish squatter camp”, Zim Online, 25 April 2006.

These displacements continued unabated, with further police actions taking place in June 2006,¹⁹ and again in July 2006. These new displacements are confirmed by new reports.²⁰

Providing housing

It is evident that *Operation Garikai* has been a complete fiasco, and it has been bedeviled by poor planning, insufficient resources, corruption, and nepotism.²¹ Those displaced have not been provided with adequate housing as promised by the Zimbabwe government, but have had to fend for themselves, facing both further displacements as well as the depredations of greedy landlords.²²

When *Operation Murambatsvina* commenced it was evident that no provision had been made for those persons and families that were displaced as a result of their housing being demolished.²³ Some provision had been made for some groups, but these were not satisfactory, as an Amnesty International report shows.²⁴ Amnesty International released footage it said had been smuggled out of Zimbabwe. The footage showed people sheltering in an area known as Hopley Farm under little more than blankets and sheets of plastic and lining up with buckets at a mobile water tank. Amnesty said it feared the problem was widespread and it called on the Zimbabwean government to say whether other areas like Hopley Farm existed and ensure aid agencies had access to them.

In the wake of the UN Special Envoy's visit and report, the UN made continual efforts to provide support to the victims, but the Zimbabwean government refused to accept this assistance.²⁵ The Zimbabwe government denied that it was rejecting such support. It said it was merely rejecting the provision of temporary shelter in the form of tents and was instead demanding the construction of permanent structures. As Permanent Secretary in the Ministry of Information and Publicity, George Charamba, said:

The UN statement is not true. Our stand as government is that the inter-governmental organization must fund a program for permanent structures, not temporary. The people affected are permanent citizens.

Then there began a long wrangle between the government, the UN, and other agencies over the provision of shelter to the affected. Within a short time it became clear that the Zimbabwe government's claims that it could provide housing on its own were dramatically different to the reality. At first there were reports that the Zimbabwe government had accepted UN assistance in providing

¹⁹ "Zim police raze shacks in renewed clean-ups". AFP, 15 June 2006.

²⁰ See Solidarity Peace Trust "Meltdown" Operation Murambatsvina one year on. August 2006.; Amnesty International (2006), Zimbabwe No justice for the victims of forced eviction. LONDON: AMNESTY INTERNATIONAL.

²¹ "Mugabe Shifts Housing Reconstruction Burden to Localities". Studio 7, VOA. Washington, 15 July 2005.

²² "Greedy landlords squeeze lodgers". John Mokwetsi, Zim Standard.

²³ "Shacks replace houses in Zimbabwe's urban renewal". Dingilizwe Ntuli, The Sunday Times (SA), 14 August 2005; "Living in fear after Harare evictions". BBC News, 19 August 2005.

²⁴ "Zimbabweans dumped in slum camps". Associated Press, 20 August 2005.

²⁵ "Zimbabwe rejects UN assistance to provide shelter to victims". The People's Daily (China), 3 November 2005.

emergency shelter,²⁶ but it rapidly became clear that this was not an unequivocal acceptance and there were subsequent reports that donors were convinced that the government was lukewarm on outside assistance. There was a suggestion that the two groups – the Zimbabwe government and the donors – were talking about very different types of interventions: the Zimbabweans were talking about temporary housing, whilst the donors were talking about temporary shelter. Furthermore, the donor countries were unhappy about the precedent that such a programme would set.²⁷ As was reported at the time:

Imagine the precedent we will be setting - any country can go ahead, demolish informal settlements and ask the international community to rehabilitate them.

Each unit is now going to cost between US \$500 and \$1,000, and the total cost is going to climb beyond the \$18 million figure earmarked for the initial proposal, which involved the construction of wooden shelters - for that amount of money we could have helped everyone affected by the clean-up operation, another envoy remarked.

The UN then applied further pressure during the visit of the second UN Envoy, Mr. Jan Egeland,²⁸ but the offers to provide temporary shelter were reportedly rejected by the President, Robert Mugabe.²⁹ The UN Envoy pointed out that the building of substantial housing would not be a simple task, and would take “decades”³⁰, but there was some progress, according to the Envoy, with the government apparently allowing the United Nations to build 2,500 semi-permanent structures, and also undertaking to cut some obstacles to doing humanitarian work, giving the World Food Programme greater access to rural areas. The UN then began an appeal for funds to support the homeless in Zimbabwe and Pakistan.³¹

While the wrangling was going on, the Zimbabwe government's own housing programme was running into problems. In Chinoyi, 20 houses were washed away by the early rains, raising deep concerns about the construction process.³² One month later, the government handed over “incomplete houses” to some of the displaced in Chinoyi, openly admitting that the government did not have sufficient funds for the construction programme.³³ Paradoxically, the next development was a demand from the

²⁶ “Zimbabwe agrees to UN aid for demolition victims”. The Mail & Guardian (SA), 16 November 2005.

²⁷ “Donors wary of funding housing programme”. IRIN (UN), 17 November 2005.

²⁸ “UN envoy vows to help Zim victims”. The Star (SA), 6 December 2005.

²⁹ “Mugabe rejects UN tents for homeless”. The Mail & Guardian (SA), 7 December 2005.

³⁰ “Housing will take decades UN”. News24 (SA), 9 December 2005.

³¹ “UN agency meets donors on shelter recovery in Pakistan and Zimbabwe”. The UN, 15 December 2005.

³² “Rains destroy ‘Garikai’ houses in Chinoyi”. The Zimbabwe Standard, 28 November.

³³ “Mugabe hands over incomplete houses to clean-up victims”. Zim Online (SA), 23 December 2005.

Zimbabwe government that the UN demolish its prototype houses on the grounds that they were substandard.³⁴ This seemed ironic when it emerged later that the Government's own housing was hopelessly sub-standard, without sewerage or water provision, which could not be provided subsequent to the building of the houses without severely damaging the houses themselves.³⁵ It was evident from later reports that the houses were generally incomplete, but nonetheless they were being allocated.³⁶

It also emerged that there was political partisanship in the allocating of the newly-built houses, with preference being given to those not necessarily deserving housing. This was admitted by a government Minister of Home Affairs, Kembo Mohadi, who said:

We came up with this Operation Garikai as the government in order to address a simple situation whereby our people had their houses destroyed and those were the people who were supposed to be allocated houses. But unfortunately, especially in my constituency or in my town of Beitbridge, it hasn't been so.³⁷

It also emerged that government officials were being given priority, even though they may not have been affected under *Operation Murabatsvina*.³⁸ None of this made any difference to the actual victims, who, by May 2006, were still without adequate shelter.³⁹

Two recent reports have now provided hard data on the building programme. According to the Solidarity Peace Trust, in Bulawayo 1,003 houses were promised to deal with a housing backlog of 80,000 families, but only 464 had been completed, with another 236 in various stages of completion.⁴⁰ Nationally, the Trust estimates that 562 houses had been built,⁴¹ but a further 1,159 were in various stages of completion. On the basis of figures provided by government sources Amnesty International estimates that about 92,460 houses were destroyed, but of a target of 15,825 houses, only 3,325 were built. Both reports strongly dispute the Zimbabwe Government's view that the targets under *Operation Garikai* were even vaguely attained.

Food security

Ordinary Zimbabweans face severe food insecurity, and it is evident, and admitted by the Zimbabwe government, that its programme to increase food production has been a failure. Independent reports

³⁴ "Harare demands that UN demolish prototype home for displaced". Blessing Zulu, VOA News, 28 December 2005.

³⁵ "Operation Garikai hits snag". Augustine Mukaro/Loughty Dube, The Zimbabwe Independent, 6 January 2006.

³⁶ "20% 'Garikai' houses for civil servants". Nqobani Ndlovu, The Standard, 19 March 2006.

³⁷ "Zim housing allocation unfair". News24 (SA), 6 February 2006.

³⁸ "20% 'Garikai' houses for civil servants". Nqobani Ndlovu, The Standard, 19 March 2006.

³⁹ "Zimbabwe's demolition victims still roughing it". The Mail & Guardian (SA), 14 May 2006.

⁴⁰ See Solidarity Peace Trust "Meltdown" Operation Murabatsvina one year on (August 2006. Zimbabwe and South Africa)

⁴¹ See Amnesty International Zimbabwe No justice for the victims of forced eviction. London (2006)

clearly demonstrate this failure,⁴² and there are now reports emerging from the government's own agents that severe food insecurity is commonplace. Even worse, demonstrate that the political abuse of food, seen so clearly during the 2005 Parliamentary elections, is continuing to be used as a method of inducing political obedience.⁴³

From the outset, the Zimbabwe government made it difficult for groups to provide food to the victims. There was a long and rancorous exchange between the Zimbabwe government and the South African Council of Churches over an attempt by the latter to bring into Zimbabwe food and other relief supplies. First, the government stopped the convoy on the grounds that the SACC might be importing GM maize into Zimbabwe, a charge denied by the church group.⁴⁴ This did not move the Zimbabwe Government, and one week later the convoy was still stuck at Beit Bridge (the border post between South Africa and Zimbabwe),⁴⁵ as was the case another week later.⁴⁶

While this was going on there was even more controversy developing over the state of the nation's grain reserves. The controversy was acute during the Parliamentary Elections in the early part of 2005, when many organizations accused the Zimbabwe government of using access to food as a political tool. The National Constitutional Assembly pointed out that 74% of the constituencies monitored reported the political use of food, with the most common report being the fact that ZANU (PF) was distributing food to its card carrying members only.⁴⁷ A more comprehensive analysis, using the NCA data, indicated that, where state agencies, militia bases and militia were present, political violence, forced attendance at meetings and the political use of food would be found.⁴⁸ So clearly food was a significant political issue before *Operation Murambatsvina*.

In September 2005, the Permanent Secretary in the Ministry of Agriculture caused an uproar and was reprimanded for stating that the country had only three weeks reserve of maize.⁴⁹ This was contradicted in October 2005, by the Director of Social Welfare, Sydney Mhishi, who stated that Zimbabwe would only need to import 300,000 metric tons of maize for drought relief, and did not therefore need to appeal for international food aid.⁵⁰ The debate re-emerged in 2006 about the time that the estimates of the harvest should have come out, and one of the first signs of the Zimbabwe government's lack of transparency was the calling off of a joint crop and food supply assessment

⁴² "Three million Zimbabweans will need food aid, Parliament hears". Deutsche Presse Agentur (DPA), 25 April 2006; "Zimbabwean Humanitarian Aid Providers Find Capacity Stretched." Carole Gombakomba. VOA, Washington, 27 June 2006; "Food aid agencies warn of shortages in Zimbabwe". Zim Online, Thu 20 July 2006.

⁴³ See Solidarity Peace Trust Operation Taguta/ Sisuthi. Command Agriculture in Zimbabwe: its impact on rural communities in Matabeleland. (April 2006 Zimbabwe and South Africa)

⁴⁴ "No GM maize in our food aid, church tells Zim". Basildon Peta, The Cape Argus (SA), 9 August 2005.

⁴⁵ "Zim red tape blocks food aid", The Sunday Independent (SA), 14 August 2005.

⁴⁶ "Zim food aid still held up by paperwork". The Mail & Guardian (SA), 22 August 2005.

⁴⁷ See National Constitutional Assembly, The 2005 Parliamentary Election. Flawed, Unfree and Unfair! (April 2005)

⁴⁸ See Reeler, A.P., & Chitsike, K.C Trick or Treat? The effects of the pre-election climate on the poll in the 2005 Zimbabwe Parliamentary Elections. (June 2005. Pretoria IDASA.)

⁴⁹ "Yet another Great Grain Lie". Comment from The Financial Gazette, 15 September 2005.

⁵⁰ "Zim does not need food aid: official". The Daily Mirror, 5 October 2005.

survey with the FAO.⁵¹ The FAO was prevented from carrying out similar surveys in 2004 and 2005. Two independent surveys previously published, by the Famine Early Warning Network and the US Department of Agriculture, both forecast very large deficits, with maize production estimated at between 700,000 tonnes and 900,000 tonnes, compared to a domestic demand of 1.4 million tonnes. With all this confusion over such a serious issue, small wonder that even senior ZANU (PF) supporters, like former army commander, Vitalis Zvinavashe, were expressing concern.⁵²

However, the confusion continued, and, in May 2006, a government spokesperson claimed that Zimbabwe would harvest 1.8 million tonnes of maize, or more than twice the amount estimated by the independent assessments, and even more than needed by domestic demand.⁵³ This was once again disputed by independent sources, with the Zimbabwe Grain Producers' Association estimating a harvest of 700,000 tonnes.⁵⁴ However, all these claims were arguably resolved when the results of an independent assessment were announced, and it was evident that the Zimbabwe government's estimates were apparently not far out: the FAO estimated total maize production at between 1 to 1.2 million tonnes, and hence the need to import about 300,000 tonnes to meet domestic consumption.⁵⁵

However, it was also evident that there was significant hunger in the country, with allegations that 29 children had died of malnutrition-related illnesses in Bulawayo in January 2006.⁵⁶ Of considerable more concern were the reports that the Zimbabwe National Army (ZNA) was taking control of food production in parts of Zimbabwe, as well as reports that the army was seizing maize harvests.⁵⁷ There were also continued reports of the government denying access to organizations trying to provide food relief to vulnerable groups,⁵⁸ and, despite the warming picture that the state of food security was no cause for alarm, NGO's were reported to be running out of food to provide such relief.⁵⁹

Most recently there have new reports of ZNA soldiers seizing grain supplies, and attempts by the Zimbabwe government to try to force small producers to sell their grain to the Grain Marketing Board.⁶⁰ Neither of these actions suggests a government that has confidence in its own projections on production, or its capacity to feed the nation, nor does the report that Zimbabwe has signed a deal with a South African bank to import maize, wheat and fertilizer.⁶¹ However, the most startling admission

⁵¹ "Joint food survey off". IRIN (UN), 18 April 2006.

⁵² "Former Zimbabwe army chief wants frank assessments on food crisis". Zim Online (SA), 28 April 2006.

⁵³ "Zim maize to help inflation". News24 (SA), 14 May 2006.

⁵⁴ "Zimbabwe accused of inflating maize harvest figures". Zim Online (SA), 17 May 2006.

⁵⁵ "Zimbabwe maize production update". FAO (UN), 7 June 2006.

⁵⁶ "29 children die of hunger-related illnesses in Bulawayo". Zim Online (SA), 5 May 2006.

⁵⁷ See Solidarity Peace Trust Operation Taguta/ Sisuthi. Command Agriculture in Zimbabwe: its impact on rural communities in Matabeleland. (April 2006 Zimbabwe and South Africa)

⁵⁸ "Harare bars relief agency from assisting displaced families". Zim Online, 6 April 2006.

⁵⁹ "Relief agencies run out of food in Zimbabwe". Zim Online (SA), 8 May 2006.

⁶⁰ "Zimbabwe soldiers seize maize from farmers". Zim Online (SA), 14 June 2006.

⁶¹ "Zim signs \$45m maize, fertiliser deal". Reuters, 28 June 2006.

about the potential food insecurity in Zimbabwe came from President Robert Mugabe himself, who admitted very recently that there had been gross under-utilisation of the former commercial farms, with only 40% of the 11 million hectares seized since 2000 being occupied and used by black farmers.⁶² And in the midst of all of this confusion, the ordinary people continue to suffer, and even the government is beginning to admit that there is a serious food shortage with a recent report alleging that 650,000 people in Masvingo alone will need food aid in the coming year.⁶³

In respect of land reform generally, recent analyses of the impact of the land reform process identify the Zimbabwe government's strategy for land reform as the greatest single factor in producing the economic decline in the last seven years.⁶⁴ An international organisation that monitors food supply trends [the United States-based Famine Early Warning Systems Network (FEWSNET)] has warned that Zimbabwe faces severe bread shortages this year predicting that the country's wheat harvest will fall below 35 percent of the national requirements.⁶⁵ More recently, it has been confirmed by the Grain Marketing Board itself - and not contradicted by the Zimbabwe government - that Zimbabwe will import 565,000 tonnes of maize in 2007 from Zambia and South Africa.⁶⁶

Health issues

The displacements have had a significant effect on the health of those affected. The concerns about the health consequences of *Operation Murambatsvina* were clearly expressed by the Zimbabwe Association of Doctors for Human Rights [ZADHR],⁶⁷ that stated strongly its concerns about the spread of infectious diseases, epidemic diseases [such as cholera and typhoid], increases in malnutrition, and the exacerbation of the HIV epidemic, with the probable result of widespread drug-resistant HIV due to the disruption of treatment programmes. Ironically, the prevention of disease was amongst the reasons advanced by the Zimbabwe government for embarking on *Operation Murambatsvina*.⁶⁸ The Zimbabwe government argued that it would be "inhuman and abuse of human rights if the authorities fail to action", but, as ZADHR pointed out, the prevention of communicable diseases required a carefully planned exercise if this was to be avoided.

It is probably too early to determine the consequences of *Operation Murambatsvina* on the HIV problem, but it is evident that many of the concerns of ZADHR were wholly justified. The Zimbabwe government appeared to show little concern in the immediate aftermath of the Operation, responding negatively to repeated calls for a programme of humanitarian assistance.⁶⁹ The UN sought a

⁶² "Only 40% of Zim's seized farms are used". The Mail & Guardian (SA), 21 July 2006.

⁶³ "650 000 people need food aid in Masvingo province", Zim Online (SA), 24 July 2006.

⁶⁴ See Craig J. Richardson, "Property Rights, Land Reforms, and the Hidden Architecture of Capitalism", DEVELOPMENT POLICY OUTLOOK, No. 2, 2006. American Enterprise Institute.

⁶⁵ "Food security group warns of bread shortages in Zimbabwe" Zim Online (SA) 12 August 2006.

⁶⁶ "Zimbabwe Contracts To Import 565,000 T Maize Report". Zimbabwejournalists.com 17 October 2006

⁶⁷ See Appendix A in Zimbabwe Human Rights NGO Forum The Aftermath of a Disastrous Venture. A Follow up report on "Operation Murambatsvina". (Harare August 2005)

⁶⁸ See Operation Murambatsvina/Operation Restore Order. June 2006. Zimbabwe Embassy. Pretoria.

⁶⁹ "UN demands unfettered access to those in need". IRIN (UN), 22 August 2005.

Memorandum of Understanding with the Zimbabwe government to ensure the effective implementation of humanitarian assistance:

Humanity, neutrality, impartiality, non-discrimination, are key principles that guide humanitarian work, and these should be [included] in the MOU, Zacarias commented. There should be no room for 'different interpretations' of the general rules of engagement of the UN in this country, and that kind of communication must filter down to local levels.

This approach was rejected by the Zimbabwe government, accusing the UN of exaggerating the extent of the problems, which the government claimed were mainly a consequence of the economic, social and security problems facing the country.⁷⁰

The consequences of *Operation Murambatsvina* were soon in coming, despite the government's claims that it could manage the situation. In September 2005, there were reports that the National Blood Transfusion Service was running critically short of blood supplies, and amongst the reasons was the displacement of many of its regular donors.⁷¹ Then, as predicted by ZADHR, the more serious health consequences began to show themselves, with dysentery outbreaks being reported in Harare.⁷² Whilst the primary cause appeared to be polluted water, it was not clear whether this was due to collapse of services, both water and sewerage, or the difficult conditions under which people were now living.

There were further reports of dysentery in November 2005,⁷³ as well as a number of deaths in children due to food poisoning.⁷⁴ It was not only the infrastructure of Harare⁷⁵ and Chitungwiza that was under threat. There were reports of the spread of dysentery outside of Harare and the forced migration of people around the country may have been an important factor spreading the disease.

The UN humanitarian envoy, Mr. Jan Egeland, made a strong statement in December 2005,⁷⁶ stating that the Zimbabwe crisis was deepening and he made an appeal to other African countries to get involved in the crisis.⁷⁷ Again this intervention did not produce a change in the Zimbabwe government's attitude to displacements or their victims, and soon there were reports of an even more serious health problem. In January 2006, there were reports of deaths due to cholera in Buhera, as well as reports of

⁷⁰ "Mugabe rebuffs UN plans for \$30 million emergency aid". By Evelyn Leopold, Reuters, 26 August 2005.

⁷¹ "Zimbabwe's blood bank runs dry". BBC News, 7 September 2005.

⁷² "Dysentery hits Harare: report". SABC News, 11 November 2005.

⁷³ "Food poisoning kills 14 children in Harare". The Mail & Guardian (SA), 12 November 2005. In this report, there was reference to the increase in cases of dysentery in Harare and Chitungwiza.

⁷⁴ "Food poisoning kills 14 children in Harare". The Mail & Guardian (SA), 12 November 2005.

⁷⁵ "Dysentery spreads in Zim". News24 (SA), 22 November 2005.

⁷⁶ "UN envoy says Zimbabwe's crisis is deepening". Business Day (SA), 7 December 2005.

⁷⁷ "UN envoy urges Africa to address Zimbabwe crisis". IRIN (UN), 7 December 2005.

100 cases of cholera being treated in Chikomba, 150 kilometres south of Harare.⁷⁸ The Ministry of Health and Child Welfare took immediate steps when 14 suspected cases of cholera were reported in Harare.⁷⁹ It was not evident that the steps taken by the Harare Municipality in closing the market in Mbare were sufficient, but this was unlikely to solve the health problem as the vendors were relocated to an even more insecure and risky situation.⁸⁰ More cases of cholera were reported and more deaths took place in greater Harare area, as well as deaths being reported from Buhera, Chikomba, Chivhu, Gokwe and in the midlands city of Kwekwe.⁸¹

Contagious diseases such as cholera are best prevented by keeping the outbreaks contained in circumscribed areas, as was done in the cases with the outbreak of cholera amongst Mozambican refugees in the early 1990s. Forced migrations, such as those in November and December 2005, can only be seen as grossly irresponsible, even though the government sought to play this down, and assert that it was normal to have cases of cholera during the rainy season in Zimbabwe.

The government says it is nothing unusual, that we have seen cholera in Harare before, said Peter Iliff, the secretary of Zimbabwe Doctors for Human Rights. They're wrong. It's in the heartland now. Before, cases in Harare were traced to people who had brought the disease with them from neighbouring countries like Mozambique and Malawi. Now it's home-grown. There is transmission inside the city now. There is going to be a lot of cholera.

These views were endorsed by other medical experts,⁸² and the cases of cholera or diarrhea continued to be reported.⁸³

Thus, Zimbabwe government has failed to take steps to fulfil its responsibility to protect and ordinary citizens of Zimbabwe are in a parlous position as a consequence of the failure of the government to take even the most rudimentary steps to alleviate their suffering, and prevent further suffering.

⁷⁸ "Zimbabwe cholera outbreak claims 14". Zim Online (SA), 4 January 2006.

⁷⁹ "State bans fish, meat vending". Municipal Reporter, The Herald, 10 January 2006.

⁸⁰ "Chombo's chaos", By Caiphaz Chimhete, The Zimbabwe Standard, 15 January 2006.

⁸¹ "Cholera outbreak kills five more in Zimbabwe capital". Reuters, 13 February 2006.

⁸² "Zimbabwe capital a cholera time-bomb". Jan Hennop, The Mail & Guardian (SA), 6 March 2006; "Pit latrines a health hazard in cities, warn experts". IRIN (UN), 16 March 2006.

⁸³ "Seven die of diarrhea". News24 (SA), 7 March 2006.

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.

Some of these issues were dealt with in the second Human Rights Forum report, but it is again evident that there has been no meaningful attempt by the Zimbabwe government to address the UN's concerns.

Colonial statutes were used to legitimize the implementation of *Operation Murambatsvina* that resulted in displacements, homelessness and loss of life and livelihoods for millions of innocent people who ordinarily look to the State for protection. Victims of *Operation Murambatsvina* are still homeless over a year after they were dumped. The Zimbabwe government inherited the Regional Town and Country Planning Act [Chapter 29:12] ("the Planning Act") and the Housing Standards Control Act [Chapter 29:08] ("the Housing Act") from the Rhodesian government but hardly used them. In fact, policies in direct contradiction were adopted without the required legislative reform process until 2005 when these Acts were used to justify *Operation Murambatsvina*. For example, Statutory Instrument 216 made in terms of the Planning Act allowed for non-residential activities in residential areas. This instrument thus sent a message that the government recognized the informal sector, and many activities such as tailoring, wood and stone work, hairdressing were deregulated. Small to medium enterprises including shoe repair, welding and carpentry were given special consent, and, although these should have required local authority permission, the local authorities turned a blind eye and allowed the informal industry to mushroom.

Urbanization, increasing poverty and the general economic decline meant that there was a lack of adequate housing for most Zimbabweans. This was acknowledged by government as in 2000 the National Housing Delivery Policy stated that there was a backlog of a million housing units. Faced with such a daunting challenge the government and its local authorities, for several years acquiesced and in some instances encouraged the establishment of these so called 'illegal' settlements. At the height of the Fast Track Land Reform Programme in 2000, government encouraged the setting up of Housing Co-operatives for war veterans and other individuals who needed housing. The government through various officials such as the Minister of Local Government, Ignatius Chombo, Resident Minister of Harare, Governor Witness Mangwende, the then Minister of Local Government, John Nkomo, recognized and approved a number of the so-called 'illegal' housing projects in Harare. In some instances, the City of Harare surveyed land to be divided into housing stands for these so-called illegal settlements and in other areas constructed roads and other basic amenities such as schools and clinics.⁸⁴

The National Housing Programme document of 2003 showed the inability of the government to provide decent housing. Without adhering to the Housing Act, the government allocated un-serviced stands to individuals, building societies and co-operatives. This meant that the local authorities were

⁸⁴ The Forum's Monthly Political Violence Report, No. 37 July 2005.

not able to enforce the norms and standards stipulated in the Act yet these provisions were then invoked as a justification for demolishing illegal structures during *Operation Murambatsvina*. Backyard tenancy had become the norm in most urban areas by 2005, e.g. in Victoria Falls these illegal structures made up 64% of all housing.⁸⁵ The government and the local authorities were fully aware of this and did nothing about it for years but then sprung *Operation Murambatsvina* on the unsuspecting public.

Other oppressive Acts that were retained from the colonial era include the Miscellaneous Offences Act and the Law and Order (Maintenance) Act that was repealed and resuscitated as the Public Order and Security Act (POSA) in 2002, Thousands of Zimbabweans have been deprived of their liberty and other fundamental rights since then, being arbitrarily arrested and detained just as they were in the Rhodesian era, if not worse. The government has not made any moves to amend these acts to align them with the social, economic and cultural situation on the ground, using them rather to justify the demolitions and commit other human rights abuses.

When the cases were taken to court by the Zimbabwe Lawyers for Human Rights on behalf of some of the victims, one judge acknowledged that the notice given by the Commission for Harare was inadequate.

It would be naive of me to conclude this judgment without mentioning the fact that the action taken by the respondents, however has caused untold suffering to a number of people It is my considered view that notwithstanding the fact that the action taken and the manner in which it was taken was lawful, hardships which have befallen the affected people would have been avoided by giving adequate notice to the affected people to relocate and re-establish themselves. A few days notice was, in my view, not adequate.⁸⁶

⁸⁵ 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, page 26.

⁸⁶ Dare Remusha Cooperative vs. The Minister of Local Government, Public Works & Urban Development &

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.

When the operation was begun it was clear that there was no consultation between the different arms of government, as one department did not know what the other was doing. However, once they were made aware, one government department publicly voiced a strong opinion against it.

There has been no revival of dialogue between government and civil society. If anything, relations between government and civil society have worsened as there is complete disagreement with government on the need for humanitarian assistance to the victims. Government has stated that it is capable of providing the assistance needed by those in the camps but this is not the case. There are those affected by *Operation Murambatsvina* not in the camps who have not received anything from the government. Well wishers from within and out the country have provided food, clothing and shelter for these affected people and these efforts were coordinated by civil society but moves were made by the government to halt these efforts. The relationship between civil society and government, particularly where human rights are concerned, is strained as government has stated that NGOs are funded by the West who are bent on destroying Zimbabwe's image and that the NGOs fabricate reports on the human rights situation in the country.⁸⁷ As far as *Operation Murambatsvina* is concerned, the human rights violated were numerous and the UN Special Envoy referred to this in her report.

The Zimbabwe government has not been eager to confer with stakeholders since the humiliation at the 2000 Referendum. This has created an uneasy relationship between the government and the citizens and many government actions take place without consultation with the people. The extent of the distrust created between the Zimbabwe government and the citizens has been clearly demonstrated by a recent survey by the Afrobarometer.⁸⁸ This survey, conducted in October 2005, indicated a number of important consequences, quite apart from extending understandings about the nature and extent of *Operation Murambatsvina*. The data indicate that the displacements were not specific in regards to party affiliation, although there was a slight tendency for MDC supporters to be more likely to have been a victim. It seems that the displacements targeted disaffected and the potentially disaffected people. As the Afrobarometer comments:

All told, however, we find that the OM dragnet was cast so wide that it caught supporters of the ruling party as well as its opponents. While opposition individuals or blocs may have been singled out, an equally plausible story allows that the security apparatus cracked down on any young unemployed or underemployed, or informally employed person who was a potential recruit for anti-state protest.⁸⁹

⁸⁷ The government announced in March 2006 its plans to establish a Human Rights Commission to counter the embellished reports being churned out by non-governmental organizations.

⁸⁸ See Afrobarometer (2005), *Popular Reactions to State Repression: Operation Murambatsvina in Zimbabwe*, Working Paper No. 59.

⁸⁹ See Afrobarometer (2005), p.10.

However, it is in the area of trust in the State that *Operation Murambatsvina* would appear to have the most deleterious consequences.

The government may have expected that OM would help to consolidate state power. But we find that it generally had the opposite effect: state legitimacy was undermined. From the perspective of public opinion, state institutions appeared less trustworthy after the crackdown than before it. To illustrate, the proportion of the adult population who expressed trust in a core array of state institutions – the parliament, the electoral commission, the courts of law, and the army – fell by 6 percentage points between April 2004 and October 2005 (from an average 48 percent to an average 42 percent).⁹⁰

Here public trust in the Zimbabwe Republic Police [ZRP] showed the most dramatic decline. Previous Afrobarometer surveys have shown that an appreciable percentage of Zimbabweans had retained trust in the ZRP, about 52% of respondents in 2004, but this had declined by a very significant percentage in October 2005, to only 39% of respondents. More seriously, many Zimbabweans now see the ZRP as being implicated in corruption:

Indeed, *Operation Murambatsvina* seems to have had the effect of increasing graft within the police force. By October 2005, 62 percent of adult Zimbabweans thought that “some” or “all” of the ZRP were “involved in corruption,” a figure that was up sharply from 42 percent in 2004. By bringing police officers into close contact with the populace in an intensive campaign to seize or destroy property, the government created new opportunities for extortion and payoffs. This may have been an unintended effect. Alternatively, it could also be a purposive strategy of a bankrupt government that increasingly finds difficulty in covering the salaries of police and army officials.⁹¹

The survey also indicated that it was likely that *Operation Murambatsvina* has seriously eroded support for the ZANU (PF) government:

Whereas fewer than half of adult Zimbabweans trusted ZANU (PF) in April 2004, fewer than a third did so just eighteen months later (44 versus 31 percent). The key intervening events between these two measurements were, of course, the disputed parliamentary election and *Operation Murambatsvina*, which suggests a causal narrative. This inference is strengthened by the observation that, among the minority who still trusted the ruling party in October, OM victims were only half as likely to do so as those who remained unaffected (22 percent versus 44 percent). In short, the crackdown undercut the ruling party's already dwindling base of support.⁹²

⁹⁰ See Afrobarometer (2005), p.12.

⁹¹ See Afrobarometer (2005), p.12.

⁹² See Afrobarometer (2005), p.13

Overall, the Afrobarometer report certainly indicates that *Operation Murambatsvina* has broken the social contract between the citizens of Zimbabwe and the government, and strongly endorses the view of the UN Special Envoy that it was a “disastrous venture”. As the Afrobarometer concludes:

Certainly, the people of Zimbabwe condemn their government's actions. The OM campaign has few domestic defenders. Only two out of ten of adults interviewed say they agree with the official view that “the government's recent cleanup campaign was a good thing that helped rid our society of criminals and illegal activities” (21 percent). And this sentiment is common only among those who “feel close to ZANU(PF)” (47 percent). By contrast, almost seven out of ten Zimbabweans consider that “the government's cleanup campaign was a bad thing that caused unnecessary hardship and violated people's human rights” (69 percent). This figure rises to 88 percent for those who “feel close to MDC,” to 84 percent for those who were internally displaced, and even to a clear majority (63 percent) among rural dwellers.⁹³

It is evident that no process of consultation with stakeholders has been undertaken by the Zimbabwe government, and rather all evidence suggests the contrary: the Zimbabwe government has intensified its repression of ordinary citizens and intends to create legislation aimed at further repressing the citizens of Zimbabwe such as the the Interception of Communications Bill. These new measures are designed to further control and repress any possible dissent instead of building confidence amongst the citizens of Zimbabwe.

The government has also announced its intention to establish a Human Rights Commission. Instead of being designed to enhance protection of human rights this proposal seems instead to be aimed at covering up human rights abuses and silencing organizations critical of the government's human rights record. This has been quite clearly expressed by the Minister of Justice, Legal and Parliamentary Affairs, Mr. Patrick Chinamasa, both in introducing the proposed Bill and his remarks to the opening session of the new UN Human Rights Council. In his remarks he condemned human rights organizations for fabricating reports of human rights abuses. The Minister's remarks are completely contradicted by a recent report of the Zimbabwe Human Rights NGO Forum, which showed that the Zimbabwean courts had been awarding damages for various human rights abuses with the State often conceding that gross human rights violations are indeed being committed by state agents mainly the ZRP and the ZNA.

It is always a matter of deep concern when the democratic bond between citizen and state breaks down: the continued breakdown of this contract all too often leads to mass violence, and almost always to increased violence by a government under threat. At this point, there are no indications that the Zimbabwe government appreciates the long-term risks of its actions, or is willing to take the steps necessary to restore the faith of Zimbabwean citizens in the state.

It is also the case, as seen in the Monthly Political Violence Reports of the Zimbabwe Human Rights NGO Forum, that gross human rights violations increased in 2005 over previous years, and, the

⁹³ See Afrobarometer (2005), p.15.

indications, from the same reports, are that 2006 will not be any different. The Human Rights Forum now reports a total of 18,412 cases of human rights violation since July 2001, and, as will be seen from Table 1 [below], 38% of these are accounted for in 2005 and 2006. Indeed, as can also be seen from the table below, if the trend in 2006 continues, it will be the worst year since 2001, with a probable 5,700 cases.

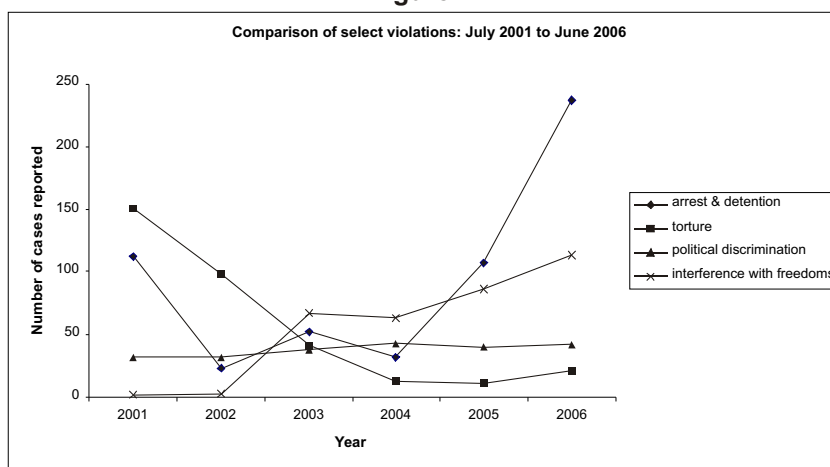
Table 1.
Comparison of violations monthly averages and totals July 2001 to June 2006.

Source: Monthly Political Violence Reports of the Human Rights Forum.

	2001	2002	2003	2004	2005	2006
Average per month	381	263	275	221	348	474
Total no. of cases	2285	3155	3295	2656	4176	2845

Furthermore, there are distressing signs that some violations, that were previously thought to be declining, have increased in 2006. As can be seen in Figure 1 [below], torture has increased slightly, whilst unlawful arrests and detentions have sky rocketed during 2005 and 2006.

Figure 1



Most recently, there has been the unlawful arrest, detention and torture of members of the Zimbabwe Congress of Trade Unions [ZCTU].⁹⁴ This has been a particularly egregious example of the Government's destruction of trust on the part of its citizens by its gross abuse of human rights. The ZCTU had announced that its protests would be peaceful and within the Constitution. The Zimbabwe Government however continually threatened the ZCTU with violence, and this came to pass with the severe torture of ZCTU members, and especially senior officials of the Union body.⁹⁵

⁹⁴ Press Statement. Torture and Denial of Access to Treatment of ZCTU Members. Zimbabwe Association of Doctors for Human Rights. 15 September 2006.

⁹⁵ Statement on the unlawful arrest and ill-treatment of the ZCTU. Zimbabwe Human Rights NGO Forum. 15 September 2006.

Thus, it seems clear that there has been no meaningful attempt by the Zimbabwe government to address the concerns expressed in this recommendation, and rather that the Zimbabwe government shows a stronger commitment to repression than it does to fostering dialogue and re-building its relations with the general citizenry.

b) On Accountability and Legal Issues

The UN Special Envoy made a number of strong comments about accountability, and these were endorsed by her colleague, Mr. Jan Egeland, during his visit.⁹⁶

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.

As indicated above, these views of the UN Special Envoy were re-endorsed by the UN Special Envoy, Mr. Jan Egeland, shortly after he visited Zimbabwe in December 2005. Human Rights Watch recommended that the government of Zimbabwe:

- Provide effective remedies to the victims of the evictions, including access to justice and appropriate forms of reparations and compensation.
- Take urgent measures to prevent and halt cases of harassment and abuse of the internally displaced persons (IDPs) by the police or other state agents.
- Investigate any reports of such abuses and bring the perpetrators to justice.⁹⁷

Operation Murambatsvina was a shock to the nation. The operation was carried out without consulting the people involved to find solutions to the perceived social problems. This led to a widespread belief that this operation was aimed at disrupting and dispersing opposition members who reside in the high density areas and to nip in the bud street protests mimicking the Ukraine's so-called "orange revolution". It is believed that Zimbabwean security agencies triggered the operation as a pre-emptive move against a groundswell of public anger directed at the government.⁹⁸ It was reported that the operation was the brainchild of Zimbabwe's intelligence community. If the operation had been genuinely aimed at the enforcement of municipal laws and preserving public health, the authorities would surely have given the inhabitants adequate notice instead of dispatching the police to destroy structures on a widespread basis without giving proper notice.

Other analyses suggest that the operation was part of the government's deliberate move to weaken the urban dwellers by forcing them to move to the rural areas and prevent mass uprisings culminating

⁹⁶ "Aid chief urges charges over mass slum clearance". Andrew Meldrum, The Guardian (UK), 8 December 2005.

⁹⁷ See again HRW (2005), Zimbabwe: Evicted and Forsaken Internally displaced persons in the aftermath of Operation Murambatsvina, December 2005. NEW YORK: HUMAN RIGHTS WATCH.

⁹⁸ This was reported by Baffour Ankomah, (a staunch defender of ZANU PF policies) the Ghanaian editor of United Kingdom-based New African magazine, (www.allAfrica.com), October 2005. The article was reproduced by the state-controlled newspaper, The Herald on 5 October 2005.

from the deteriorating economic and political conditions.⁹⁹ This goes to further the argument that the government carried out the attack as a pre-emptive move against likely civil unrest in the urban areas, for, if the operation was indeed meant to ensure that the municipal by-laws were upheld, and health standards maintained, then the police would not have been called to destroy structures without adequate notice as they did.

These analyses of the real underlying motives for the operation are at complete variance with and contradictory to the government's statements that the operation was a well planned exercise and carried out with the public's best interests in focus. The government stated in its response to the UN report that the operation was undertaken for these reasons below:

- a) to stem disorderly or chaotic urbanization and the problems that hinder the Government and local authorities from enforcing local authority by laws from providing service delivery, water, electricity, sewage and refuse removal;
- b) to minimize the threat of major disease outbreaks due to overcrowding and squalor;
- c) to stop economic crimes especially illegal black market transactions in foreign currency;
- d) to eliminate the parallel market and fight economic sabotage;
- e) to reorganize micro, small and medium enterprises;
- f) to reduce high crime levels by targeting organized crime syndicates;
- g) to arrest social ills, among them prostitution, which promotes the spread of HIV/AIDS and other communicable diseases;
- h) to stop the hoarding of consumer commodities and other commodities in short supply;
- i) to stop the environmental damage and threat to water sources caused by inappropriate and unlawful urban settlements.

This omnibus collection of justifications strongly suggests that there was no collective decision-making with respect to both the conception and implementation of the operation, and there was no consultation with other departments, such as the Ministries of Health and Child Welfare, Environment, and the Department of Social Welfare.

The International Criminal Court established by the Rome Statute has jurisdiction to deal with crimes against humanity. Article 7 of the Rome Statute defines crimes against humanity. *Operation Murambatsvina* probably violates three of the sub-species of this crime, namely:

- “forcible transfer of population”;
- “other inhumane acts of similar character intentionally causing great suffering or serious injury to body or to mental or physical health”.
- “persecution against any identifiable group or collectivity on ... grounds that are universally recognized as impermissible under international law.”

⁹⁹See International Crisis Group “Zimbabwe's Operation Murambatsvina: The Tipping Point?” Africa Report No: 97, 17 August 2005; Zimbabwe Human Rights NGO Forum “Chaos out of Order or Order out of Chaos? A preliminary report on Operation Murambatsvina,” (Harare June 2005).; Zimbabwe Human Rights NGO Forum “The Aftermath of a Disastrous Venture: A Follow Up Report on Operation Murambatsvina” (Harare August 2005).

Certain individuals were responsible for organizing *Operation Murambatsvina*, namely the Chairperson of the government-appointed City of Harare Commission, Sekesai Makwarara, the Minister of Local Government and Urban Housing, Ignatius Chombo, the Minister of Home Affairs, Kembo Mohadi, the Commissioner of Police, Augustine Chihuri¹⁰⁰ and the Governor of Metropolitan Harare, David Karimanzira. It is difficult to pinpoint exactly who was the mastermind behind the operation but it is clear that the operation had the support of the Head of State as he made his support known.¹⁰¹ Although the above persons were not the actual perpetrators, they can be held criminally responsible as the Rome Statute Article 25 states that any person who ordered the commission of the crime is guilty and the statute also recognizes superior responsibility in relation to military commands. There has to be evidence against each person for them to be held criminally liable. Collecting evidence would be difficult especially in respect of the actual perpetrators.

The Special Envoy's recommendation states that the government of Zimbabwe is collectively responsible for the operation, but it is extremely doubtful that the same government will admit that it acted wrongly and that it will seek to punish the architects of the operation. It is unlikely that any of the culprits will be held accountable as long as the situation remains as it is. All the persons who may be responsible for conducting the operation remain in post.

The Committee on Economic, Social and Cultural Rights (CESCR) states in General Comment 4 that everyone has the right to due process and legal recourse should forced evictions take place. Anyone affected has the right to receive compensation for any property lost. However, the judiciary in Zimbabwe has been so politically compromised that there is little chance of those affected receiving redress through the legal process. Indeed the decisions in the few cases that were brought to court went against the claimants.

Here it is important to point out the culture of impunity that prevails in Zimbabwe. The nature and consequences of a culture of impunity has been described as follows:

A culture of impunity is "the failure to bring to justice those who commit serious violations of human rights. By ignoring the violation the state compounds it. The absence of justice and redress prolongs and intensifies the pain.... This failure by the state gives a green light to the perpetrators to continue."¹⁰²

Such a culture exists in Zimbabwe, and it has been reinforced as state agents, the militia, and supporters of the ruling party carry out politically motivated violations, which the state condones by either turning a blind eye to them or enacting amnesties that pardon these deeds. Between 1975 and

¹⁰⁰ Chihuri said that Operation Murambatsvina was meant to clean the country of the crawling mass of maggots bent on destroying the economy. The Times (UK) 17 June 2005.

¹⁰¹ Mugabe claims that the clearances are needed in order to carry out "a vigorous clean-up campaign to restore sanity" and he has described the programme as an "urban renewal campaign". Ignatious Chombo has described the operation in terms of 'restoring order': "It is these people who have been making the country ungovernable by their criminal activities actually" Zim Online 28 May 2005

¹⁰² See Amnesty International Zimbabwe: The Toll of Impunity. (London June 2002).

2000, there were 8 amnesties; the Indemnity and Compensation Act of 1975; Amnesty Ordinance of 1979; General Amnesty Ordinance of 1980; Security Forces Indemnity Regulations 1982 (SI 487/1982, amended by SI 159/1983); Clemency Order No 1 of 1988; General Notice 424A of 1990; Clemency Order No 1 of 1995; and Clemency Order 1 of 2000.

Thus, it would be naive to think that this government will hold anyone accountable for the injury caused by the Operation. There have been numerous documented cases of human rights abuses committed by the government,¹⁰³ and, to date, there has no acknowledgement of wrongdoing or apology therefore. Hence, Government is most unlikely to admit to any wrongdoing in respect of *Operation Murambatsvina*. The closest utterance to an apology for past human rights abuses was given by President Mugabe, at the funeral of former PF-ZAPU leader Joshua Nkomo on the 5th July 5, 1999, when he declared the atrocities during Gukurahundi,¹⁰⁴ were committed during "a moment of madness which shall never be repeated".

¹⁰³ The Zimbabwe Human Rights NGO Forum produces monthly violence reports and has recently published a report 'An Analysis of the Zimbabwe Human Rights NGO Forum Legal Cases, 1998-2006' detailing all human rights cases taken to court in Zimbabwe. Other local and international organizations have documented such abuses.

¹⁰⁴ In 1982 after allegations of a plot to overthrow the government, the ZAPU leaders were dismissed and conflict in the new army broke out. The ex-ZAPU commanders were arrested and some charged with treason but even after being cleared of all charges, were not released. Dissidence continued particularly in Matebeleland and parts of Midlands between 1982 and 1985. Government reaction was brutal and was referred to as Gukurahundi.

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.

It is clear that the government of Zimbabwe has not made and still does not make any credible attempt to adhere to the rule of law. The government continues to disregard court orders where it disapproves of the outcome of cases. This undermines the courts and fosters a culture of lawlessness. There is no equality before the courts as most of those well-connected to the ruling party escape the wrath of law. The judiciary is no longer independent as judges that continued to hand down impartial judgments were forced to resign through general intimidation and specific threats to make way for their politically correct counterparts. No government action was taken to protect the affected judges. The Law Society of Zimbabwe has been under siege as it continues to press for independence of the judiciary and a return to the rule of law.¹⁰⁵ Perhaps the most egregious recent example is the pressure applied by the government on magistrates tasked with hearing the case against the Minister of Justice, Legal and Parliamentary Affairs, Mr. Patrick Chinamasa. Chinamasa was charged with bribery, the allegation being that he tried to stop a prosecution witness from testifying against State Security Minister Didymus Mutasa who was accused of inciting violence.¹⁰⁶ All magistrates in the Eastern town of Rusape declined to hear the case citing intimidation and threats. A retired magistrate had to be recalled to hear the case. The prosecutor in the case is reported to have received threatening phone calls advising him to leave the country or face the consequences.¹⁰⁷

Human rights groups in Zimbabwe have made attempts to test the legitimacy of the government's actions in a number of cases, mostly mounted by Zimbabwe Lawyers for Human Rights on behalf of a number of victims. The Zimbabwe government mentioned one of these in its response to the UN Special Envoy's report,¹⁰⁸ but significantly mentioned a case in which the government had received a favourable ruling.¹⁰⁹ There have been other decisions not so favourable to the government,¹¹⁰ as well as clear evidence that the government, through the ZRP, has refused to obey the decisions of the courts.¹¹¹ For instance, in a case which involved the now-notorious Porta Farm, in contempt of court

¹⁰⁵ Tafataona Mahoso the Chairperson of the government appointed Media and Information Commission stated in an article entitled 'Lawyers' Body Fights for Return of Rhodesia' in the Sunday Mail, 6 August 2006 that the Law Society of Zimbabwe (LSZ) is a puppet of Western organizations and wants to bring back colonization. He inferred that LSZ will be subject to government action if it continues to work in opposition to the government. This resulted in comments from the Zimbabwe Lawyers for Human Rights, the Standard 27 August 2006 and the International Bar Association Press Release 23 August 2006

¹⁰⁶ Mr Chinamasa was acquitted on 4th September 2006.

¹⁰⁷ 'Zim Minister Acquitted' Zim Online 5th September 2006

¹⁰⁸ See Operation Murambatsvina/Operation Restore Order. June 2006. Zimbabwe Embassy. Pretoria.

¹⁰⁹ See Dare Remusha Cooperative v The Minister of Local Government, Public Works & Urban Development & 4 Ors HC 2467/05 (Supreme Court Appeal No. 169/05)

¹¹⁰ See Phillan Zamchiya & Anor v Officer In Charge Goromonzi Police Station & 2 Ors Goromonzi Magistrates Court Case No. B51/05; Tinashe Tafira & 6 Ors v Harare City Council & 2 Ors Harare Magistrates Court Case No. 16596/05.

¹¹¹ See Ashgtony Shumba & Ors (Porta Farm Residents) v Officer in Charge Norton Police Station & Ors Norton Magistrates Court Case No. 376/05.

members of the Zimbabwe Republic Police, continued to force people and their property off the farm although a court order barring evictions had been served on the Officer-in-Charge at Norton police station and the Commissioner of Police on the 29th and 30th of June 2005 (respectively). When the police officers who were forcing people onto the trucks were served with the Order, they told the lawyers that the ZRP would not be stopped by a court order.

These actions, and many more, do not create a sense of confidence in the Zimbabwe government, and, unsurprisingly, many ordinary Zimbabweans express little trust in the government. The most recent "re-valuation" of the Zimbabwe currency has worsened the situation, with the evidence to date being that many thousands more Zimbabweans may be suffering additional financial hardship as a result of this poorly-conceived and executed government policy. This new policy has affected both the rich and the poor,¹¹² local vendors and cross-border traders,¹¹³ despite the fact that both vending and cross-border trading are essential to the basic survival of more than 50% of Zimbabwean households.¹¹⁴ More than 2,000 people have been arrested since the beginning of the re-valuation process, and there are credible reports of human rights violations taking place during these arrests.¹¹⁵ Women complained of being stripped naked and losing their money and valuables to over zealous militia to the extent that the Governor of the Reserve Bank issued an apology for this behaviour. He did not however discuss any possible compensation for the persons who suffered abuse.¹¹⁶

The losses suffered by Zimbabwean citizens as a consequence of *Operation Murambatsvina* have yet to be fully assessed. In the first Human Rights Forum report on the operation, it was estimated that the costs may have been in the order of US\$700 million, or between 15 and 20% of GDP.¹¹⁷ These estimates were verified to some extent by the findings of the ActionAid report.¹¹⁸

¹¹² "Knives out for Gono", The Sunday Mail, 6 August 2006.

¹¹³ "Harare seizes Z\$100 billion at border posts", Zim Online. 3 August 2006.

¹¹⁴ See Bracking, S., & Sachikonye, L (2006), Remittances, poverty reduction and the informalisation of household wellbeing in Zimbabwe. GPRG-WPS-045. GLOBAL POVERTY RESEARCH GROUPS.

¹¹⁵ "Soldiers, militia on the rampage". Zim Standard. 6 August 2006; "Human rights abused in currency searches", Zimbabwe Independent. 4 August 2006.

¹¹⁶ "Gono says Sorry" The Standard 27 August 2006

¹¹⁷ See Zimbabwe Human Rights NGO Forum Order out of Chaos, or Chaos out of Order? A preliminary report on Operation Murambatsvina. (Harare June 2005)

¹¹⁸ See again ActionAid An in-depth study on the impact of Operation Murambatsvina/Restore Order in Zimbabwe. ActionAid International in collaboration with the Counselling Services Unit (CSU), Combined Harare Residents' Association (CHRA) and the Zimbabwe Peace Project (ZPP). (Harare November 2005).

As can be seen from Table 2, it was estimated that there was an average loss of about Z\$37 million per household. Extrapolating these figures to the larger survey conducted by ActionAid, 69% represents 16,223 households with lost earnings, whilst 63% represents 14,812 households with losses of property.

Table 2
Actual reported losses of earnings & property

Source: ActionAid.2005.

	Loss of earnings N=823[69%]	Loss of property n=761[63%]
Total reported	Z\$5,482,817,867.00	Z\$23,463,846,404.00
Average reported	Z\$6,661,990.12	Z\$30,832,912.49

If, however, the estimate is based on the whole Zimbabwe population, and assuming that at least two persons were economically active in each household, then the estimated losses are much higher, around Z\$3,975,109,573,476, with a total of Z\$4,431,806,673,260 [US\$2,685,943,438].

Table 3
Estimated losses [whole sample by household]

Source: ActionAid.2005.

	Loss of earnings	Loss of property
total reported	Z\$5,482,817,867.00	Z\$23,463,846,404.00
average reported	Z\$6,661,990.12	Z\$30,832,912.49
total sample loss	Z\$108,077,465,682.07	Z\$456,697,099,784.56
loss over six months	Z\$648,464,794,092.40	
All losses [total]	Z\$1,105,161,893,876.96	
	US\$66,979,508.72	

The Zimbabwe government, in its response to the UN Special Envoy's report, blithely commented that the victims would have recourse to the law and the courts, but this is clearly dissimulating, since most victims would be unable to meet the costs of civil litigation, which is a problem not peculiar to *Operation Murambatsvina*.¹¹⁹ In any event the claims against the State have now prescribed and the victims will now only receive compensation if the State is prepared to acknowledge wrongdoing and provide ex gratia payments.

¹¹⁹ Here see Zimbabwe Human Rights NGO Forum An Analysis of the Zimbabwe Human Rights NGO Forum Legal Cases, 1998 - 2006. Published by the Zimbabwe Human Rights NGO Forum. (Harare June 2006) It is instructive to note that the Human Rights Forum has recorded at least 17,000 violations to date, but less than 300 victims have instituted proceedings through the agency of the Human Rights Forum. All of these litigants could not have mounted these actions on their own, due to the costs involved, and it is doubtful that NGOs or other charitable groups could take on many more cases than they do at present.

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.

As the largest single employer, the informal sector plays a crucial role in providing livelihoods to Zimbabweans. This was true even during the 1990s, when formal sector employment was still growing, but since the collapse of the economy which started in 1999, the importance of the informal sector has increased substantially. Zimbabwe this year is in the eighth consecutive year of GDP decline, the cumulative effect being a loss of national output of more than 30%. Formal employment has probably declined even more sharply, by around 45% (from 1,348,000 in 1998 to an estimated 740,000 in 2006).

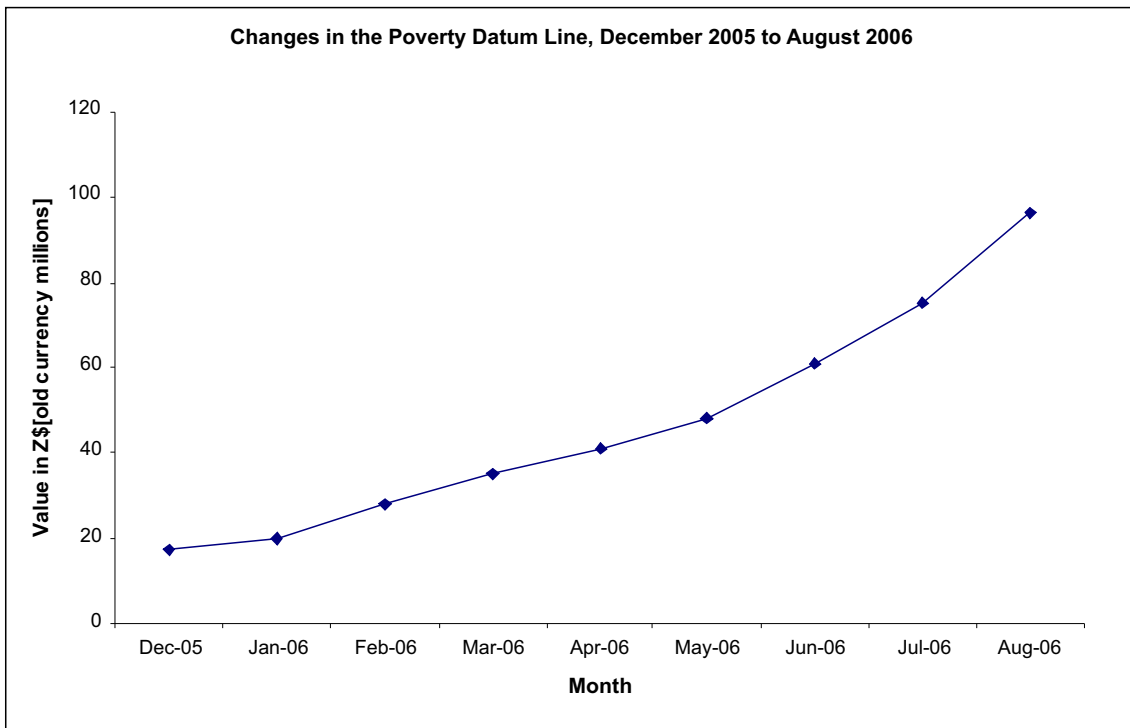
This means that over 600,000 laid-off workers have had to compete with hundreds of thousands of others without jobs plus the young people coming onto the job market each year for the first time. The response of many has been to move (mostly illegally) to neighbouring countries, or even further afield and to send income or goods back to family members still resident in Zimbabwe.¹²⁰ For the majority, however, there has been no choice but to eke out a living in increasingly competitive informal sector activities. The biggest areas of growth have been connected with the economy-wide shortage of foreign currency and hence shortage of imported goods of all kinds.¹²¹

By 2005, even people with formal sector jobs were found to be almost as likely to be engaging in informal activities in order to counter the declining purchasing power of their wages and salaries.¹²² This is a reflection of the fact that wages have not kept pace with the dramatic increase in the cost of living. The graph below shows the increase in the urban poverty datum line (monthly income required to support a family of six at a minimal level). By August 2006, the PDL was \$96,000, as against minimum wages of \$17,000 (\$96 million and \$17 million in old money).

¹²⁰ See, for example, Bracking, S., & Sachikonye, L (2006), Remittances, poverty reduction and the informalisation of household wellbeing in Zimbabwe. GPRG-WPS-045. GLOBAL POVERTY RESEARCH GROUPS.

¹²¹ A recent analysis is available in Ndlela, Daniel B "Informal Cross-Border Trade: The Case of Zimbabwe" Institute for Global Dialogue Occasional Paper No 52, Johannesburg, June 2006.

¹²² See Bratton, Michael & Eldred Masunungure "Popular Reactions to State Repression: Operation Murambatsvina in Zimbabwe" Afrobarometer Working Paper 59, April 2006, page 11



It is against this background that the destruction of many thousands of informal enterprises during *Operation Murambatsvina (OM)* must be seen as deliberate destruction of the survival strategies to which Zimbabweans had had to resort as a result of the economic decay deliberately wrought by a government determined to retain power irrespective of the costs imposed on others.

The importance of the informal sector as a residual supplier of some form of income was highlighted in the Reserve Bank Governor's December 2004 Monetary Policy Statement (presented in January 2005):

Whilst estimated formal unemployment levels still remain high, a considerable amount of viable economic activity has been growing in the SME, informal and micro enterprise sectors, accounting for an estimated 15% 20% of GDP. (para 14.20).

This assertion did not prevent the Governor subsequently from publicly endorsing and supporting *Operation Murambatsvina*. If indeed the informal sector contributes 15% to 20% of GDP, the widespread destruction of the informal sector half-way through the year would have reduced 2005 GDP by between 7.5% and 10%, surely something the Governor, supposedly intent on 'turning the economy around', would have striven at all costs to prevent.

In reality, the lack of alternatives that people had to provide for themselves and their families implied that the attack on the informal sector was bound to be short-lived. In the case of *Operation Murambatsvina*, this was confirmed by a survey carried out in October 2005, just a few months after the informal sector activities had been suppressed. Two out of three interviewees directly affected by *Murambatsvina* reported that they were continuing to buy and sell goods in informal markets. Furthermore, "one in ten OM victims reported starting to engage in informal trade in the aftermath of OM, even when they had never done so before".

Nonetheless, there were a number of informal enterprises which were permanently removed by *Operation Murambatsvina*. The government has perpetrated systematic human rights abuses against its people. There has been a lack of international economic support for the government's programmes but this does not amount to economic 'sanctions'. The curtailment of aid and lines of credit arise from rational appraisal of the lack of coherence of the economic policies and of the systemic corruption that has become an entrenched aspect of the way the country is being mis-governed.

None of the economic-oriented recommendations made in the Tibajuka report have been followed. The most recent macro-economic policy changes (announced in the fiscal and monetary statements issued at the end of July 2006) have actually worsened the inflationary outlook while doing nothing effective to put the economy back on a path of increasing production and output.¹²³

The governance framework has also worsened, with further abuses of the rule of law and confirmation that significant shareholdings of mining enterprises are to be taken over without compensation.

Far from improving land tenure rights, nothing has been done in the urban areas, while the precariousness of the rights of the 'new farmers' has been highlighted by those expressing disagreement with government policies having their farms removed.¹²⁴

The anti-developmental framework that has been put in place in Zimbabwe is the antithesis of the international norms and commitments expected of an underdeveloped country. The interests of the few, who are given the chance to exploit the highly distorted environment to accumulate wealth rapidly and entrench their control of major segments of the economy, are riding roughshod over the well being of the majority of Zimbabweans. The government's own estimate of the proportion of the population living in poverty was 80% in 2002.¹²⁵ Since that time, poverty has clearly increased significantly in extent and depth. There will be no reversal of this situation until there is the political change that is needed for the framework conditions for positive growth to be restored and the long process of reconstructing the country to begin.

¹²³ See Robinson, Peter. "Zimbabwe's Hyperinflation" FES Discussion Paper, (Harare, August 2006).

¹²⁴ A recent analysis is available "Informal Cross-Border Trader: The Case of Zimbabwe." Institute for Global Dialogue Occasional Paper No 52, Johannesburg, June 2006.

¹²⁵ See Govt of Zimbabwe and United Nations "Zimbabwe Millennium Development Goals 2004 Progress Report" Harare, December 2004.

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

There are no signs that the government has taken any steps in this direction. There remains significant concern about the lot of former commercial farm workers, and there has been no meaningful attempt by the Zimbabwe government to provide new opportunities for this population. It is evident that few of the former commercial farm workers, who comprise the major “migrant” population in Zimbabwe, have any wish to return to their countries of distant origin, as evidenced by the Zimbabwe government's own reports.

The preference survey by the Ministry of Public Service, Labour & Social Welfare (MPSL&SW) before the Fast Track Land Reform Programme (FTLRP) in 2001 showed that less than 3% of the migrant former farm workers wanted to return to their countries of origin, since most of them have lived and worked in Zimbabwe for the greater part of their lives, and some are second or third generation 'citizens'. The Repatriation Unit in the MPSL&SW has not handled any requests from former farm workers who wished to return to their motherland since the beginning of the FTLRP. This can be attributed to the fact that those former farm workers who wished to be repatriated are not aware of the availability of such facilities from the GoZ. However, it is possible that some migrant former farm workers might have returned on their own to their countries of origin without seeking assistance from the MPSL & SW.¹²⁶

The continued displacement of Zimbabwean workers is also an issue of extreme concern, more particularly in the wake of a recent report on the plight of Zimbabweans working on the farms in Limpopo Province in South Africa.¹²⁷ As this reports demonstrates, not only are Zimbabweans living in conditions of adversity and exploitation, but also that their rights under South African law are routinely being violated by employers and state agents.

¹²⁶ See Report of the Presidential Land Review Committee under the Chairmanship of Dr Charles M B Utete Volume II: Special Studies to His Excellency the President of the Republic of Zimbabwe, August 2003.

¹²⁷ See Human Rights Watch (2006), South Africa. Unprotected Migrants: Zimbabweans in South Africa's Limpopo Province. July 2006. Vol.18, NO.6(A).

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.

Although there have been determined attempts by the United Nations and its agencies to provide the humanitarian support needed, there has been equally determined blocking and obstruction by the Zimbabwe government. It seems that the major problem here is the unwillingness of the Zimbabwe government to admit that the operation had serious negative consequences, as evidenced by the government's response to the UN Special Envoy's report. Obviously any admission of failure on the part of the Zimbabwe government raises issues of liability, and these are covered in greater detail below in respect of Recommendation 11.

However, issues of culpability and liability aside, it is clear that Zimbabwe is now in a "complex emergency", and this raises the need for the international community to consider most seriously the Responsibility to Protect.¹²⁸ The Responsibility to Protect was raised by the UN Special Envoy in her report on *Operation Murambatsvina*, but it would seem that her comments here were overshadowed by the comments around Crimes against Humanity. The matter of sovereignty is endlessly trumpeted by the Zimbabwe Government as a basis for rejecting any possible intervention or liability, and this position has unfortunately been strongly supported by many African countries as well as some other countries outside Africa. However, the Responsibility to Protect has not been sufficiently considered in respect of countries, such as Zimbabwe, where the government, either through malevolence or incompetence, places the ordinary people in a hazardous situation. In such situations, such as that of Darfur, the notion of state sovereignty has to be set aside, and international action should take place to prevent further suffering for the ordinary people.

In this regard, it is submitted that the international community has not been sufficiently assertive, and at the very least the issue of Zimbabwe should be discussed at the UN Security Council. The Human Rights Forum has noted the great difficulty in tabling the UN Special Envoy's report before the Security Council, and regards the lack of serious consideration of this matter by the UN Security Council with the greatest possible concern. Here the Human Rights Forum would strongly support the Office of the Secretary-General of the United Nations in its efforts to intervene or mediate in the current crisis, and strongly deprecates the actions of the members of the Security Council in not supporting these initiatives.

¹²⁸ See "The Responsibility to Protect. Report of the International Commission on Intervention and State Sovereignty. (December 2001. CANADA: INTERNATIONAL DEVELOPMENT RESEARCH CENTRE.)

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.

There have been attempts by the United Nations to develop such dialogue, most of which have been rebuffed by the Zimbabwe government. The latest development has been for the United Nations to withdraw in favour of a proposed mediation by the former President of Tanzania, Benjamin Mkapa. Whilst any attempt at mediation in the Zimbabwe crisis is to be welcomed, it is not clear that former President Mkapa is sufficiently neutral to be an effective mediator. His remarks over the past few years do not indicate that he has a sufficient understanding of the complexities of the problems, and especially the scale of the gross human rights violations, to provide a basis for trust by the majority of Zimbabweans. In particular, the Tanzanian government, under his leadership, has too easily accepted elections that, at the very least, were unsatisfactory, and, at the worst, were beset by violence and rigging.

Furthermore, past experience with attempts at mediation have shown that the Zimbabwe government has mostly used such opportunities to delay any serious steps towards political change. This was the case with the Abuja Agreement,¹²⁹ the attempts by the South African President to mediate, and the internal political dialogue between ZANU(PF) and the MDC. Since ZANU (PF) is fixated on the succession issue and the securing of any political and legal responsibility for past misdeeds, any mediation towards meaningful political negotiation are problematical.

It is therefore disappointing that the United Nations has withdrawn from the attempt to settle the Zimbabwe crisis, even if this is a temporary withdrawal. Here again the Human Rights Forum would once again raise the concept Responsibility to Protect, and requests the UN Secretary-General to seek a discussion at the level of the UN Security Council.

¹²⁹ See Zimbabwe Human Rights NGO Forum Zimbabwe, the Abuja Agreement and Commonwealth Principles: Compliance or Disregard? (Harare 8 September 2003)

Recommendation 11: Although a case for crimes 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.

Contrary to the tentative conclusion by the UN envoy that it may be difficult to sustain an argument that *Operation Murambatsvina* was a crime against humanity, a number of legal opinions have been given which strongly argue that the Operation does indeed amount to a crime against humanity¹³⁰

According to Article 7 of the Rome Statute, deportation or forced transfer of a population means “forced displacement of the persons concerned by expulsion or coercive acts from the area in which they are lawfully present without grounds permitted under international law”.

The operation was without a doubt a systematic attack against a civilian population, with full knowledge of what was going on, looking at the size and extent of it, as well as the fact that it was conducted by the Zimbabwe government through its own agents.

It is argued that most of the people affected by *Operation Murambatsvina* were not 'lawfully present' as required by the Rome Statute, but many of them were so lawfully present, and it is in respect of this group that crimes against humanity can be evoked. The Statute does not state that all the displaced persons should be lawfully present; as long as there is a significant number affected, this will suffice, and it is evident from the ActionAid report that many people do fit this category. There were people that had valid leases and permits from the local authority and/or the Ministry of Local Government and Housing, and some of these people even secured interdicts from the courts prohibiting the evictions and demolitions, but these were ignored by the police.

According to criminal law, one requires *mens rea*, the intention to commit a crime, for one to be held liable. In international criminal law, for one to be held responsible for crimes against humanity, and in particular, forced transfers, a person must have knowledge of the attack at the time it was committed. The element of knowledge,

should not be interpreted as requiring proof that the perpetrator had knowledge of all characteristics of the attack or the precise details of the plan or policy of the State or organization. In the case of an emerging widespread or systematic attack against a

¹³⁰The Oxford Pro-Bono-Publico Group entitled 'Are the Activities Conducted During Operation Murambatsvina Crimes Against Humanity Within the meaning of Article 7 of the Rome Statute?' This opinion concluded that the operation did amount to crimes against humanity. See also 'Possibilities of Criminal and State Responsibility in Relation to the Murambatsvina Case' by the Amsterdam International Law Clinic.

civilian population, the intent clause of the last element indicates that this mental element is satisfied if the perpetrator intended to further such an attack.¹³¹

As this Operation was undertaken by members of the police, it is safe to assume that the Operation was part of a state policy and that there was prior knowledge that there was to be an attack upon the civilian population. Both the actual perpetrators and those who ordered or directed the attack should be held responsible. It is immaterial that the perpetrators did not share the goals of the attack, as long as they understood that the action was part of a plan to carry out a systematic attack against a civilian population.

Close inspection of the various international covenants and conventions which Zimbabwe has ratified, all indicate that the government disregarded international law. The Committee on Economic, Social and Cultural Rights (CESCR) in General Comment 7/3 defines forced evictions as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or lands which they occupy, without the provision of and access to, appropriate forms of legal or other protection.” It went on to add that this prohibition against forced evictions did not “apply to evictions carried out by force in accordance with law and in conformity with the International Covenant on Human Rights.”

Zimbabwe acceded to the International Covenant on Civil and Political Rights (ICCPR) in May 1991, which, as Article 12(3) states, ensures “everyone has a right to freedom of movement and choice of residence and has a right to redress in the event of human rights abuses”. Zimbabwe is also a state party to the African Charter on Human and People's Rights, which, although it does not expressly prohibit forced evictions, does however have provisions on the protection of people affected by forced evictions. The African Charter protects the freedom of movement and residence [Article 12(1)], as well as the right to property [Article 14], and the right to mental and physical health [Article 16 (1)]. In addition, Zimbabwe committed itself to UN resolutions on forced evictions, including Resolutions 1993/77, 1998/9 and 2004/98, and each of these resolutions agrees that forced evictions result in a wide range of human rights violations.

The Special Rapporteur on Adequate Housing at the United Nations Commission on Human Rights, Miloon Kothari, stated clearly: “It's a gross violation of human rights in terms of Zimbabwe's international obligations”.¹³² The Universal Declaration of Human Rights [Article 13] protects the freedom of movement and choice of residence, and, according to the UN International Covenant on Economic, Social and Cultural Rights (ICESCR), which Zimbabwe ratified in 1991, there is an obligation to provide an adequate standard of living, and housing is an integral part of this right. Article 11(1) calls on states to “recognize the right of everyone to adequate standard of living for himself and his family, this includes adequate food, clothing and shelter and to continuous improvement of living conditions.” State parties are required to take appropriate steps to ensure the realization of this right”.

¹³¹ 'Elements of Crimes' adopted by the Assembly of States Parties to the International Criminal Court (9 September 2002) ICC Doc. ICC-ASP/1/3.

¹³² As reported in the New York Times, 11 June 2005.

Operation Murambatsvina does not fall under these exceptional circumstances allowing for evictions permitted under international law. There are instances where forced evictions are legally done in accordance with domestic law, but this law must be compatible with international law. The ICESCR in Comment 4 [paragraph 18] states that “instances of forced evictions are prima facie incompatible with the requirement of the Covenant and can only be justified in the most exceptional circumstances and in the principles of international law”. The purpose of the evictions must be to promote the welfare of a democratic society, and there are certain procedures that must be followed. This was not the case in Zimbabwe, as the government did not consult, did not give adequate notice, and the evictions took place in the height of winter, showing total disregard for human rights.

The government in its defence of the operation stated that it was acting within the confines of the domestic law,¹³³ using the basis apparently provided in the Regional, Town and Country Planning Act [*Chapter 29:12*]. However, it did not act in conformity with this law. Section 32, states that, if there is any development in contravention of the Planning Act, the local authority is empowered to serve the owner of the property or anyone else affected with an enforcement order. This enforcement order must state the contravention and specify the exact nature of action to be taken, and may require the demolition of any building. The notice period must be at least one month's notice from the date the order is served. This is the major point of contention, as notice was published in the daily newspaper on the 24th and 26th May 2005, and demolitions begun on the 25th May. This is obviously inadequate notice, and is a point also mentioned by the judiciary in a case mentioned above.¹³⁴ The Urban Councils Act [*Chapter 29:15*] requires 28 days notice during which time those given notice can appeal to the courts. During this time no action can be taken unless there is a court determination. It is obvious that the manner in which the evictions were done did not comply with the mandatory legal procedures.

Thus, it is evident that the conclusions of the Special Envoy may be disputed, and strong arguments may be made that the government of Zimbabwe committed not only a crime against humanity, but also violated many other aspects of international law. Whilst it may be difficult to establish the whole chain of command in relation to the operation, many members of the government, government officials, and municipal officials have openly expressed support and approval for the operation, with the most egregious of these coming from the Minister for State Security, Didymus Mutasa.¹³⁵

¹³³Government of Zimbabwe, “Response of the Government of Zimbabwe to the Report by the UN Special Envoy on Operation Murambatsvina/Restore Order (Harare, 2005). The Herald reported on the government's response on August 17, 2005

¹³⁴ Dare Remusha Cooperative vs. The Minister of Local Government, Public Works & Urban Development & 4 Ors.

¹³⁵ Special Report: “Mengistu hatched and directed Operation Murambatsvina”. ZimOnline. Mon 20 February 2006. Asked for comment on the assertion that Ethiopian ex-President, Haile Mariam Megistu, was responsible for the planning of the operation, Minister Mutasa stated, “That is totally untrue, believe you me, I am Minister of our government and I am also a member of the politburo (ruling ZANU PF party inner cabinet). All the decisions to do with the operation emanated from the politburo and were sent through me to the government”.

Given that the Zimbabwe government shows no inclination to take any action against those who have publicly expressed responsibility for the displacements, the government as a whole has implied taken responsibility for this operation. Hence it seems unnecessary to establish actual lines of command during the operation. However, there is no obvious route to justice for the thousands of victims apart from the UN Security Council, which has already shown itself to be divided even over the small matter of receiving the report of its own Special Envoy. It is doubtful therefore that the Security Council will be more willing in the more serious matter of pursuing the issue of commission of crimes against humanity.

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.

Whilst this is a clearly important recommendation, there is also a broader context that should be considered. Without a clear commitment to democracy, the rule of law and the upholding of human rights, it will be very difficult for African governments to solve the underlying problems of socio-economic development.

It will not be possible to address the urbanization crisis in Africa without a root-and-branch approach to governance, and this is the most obvious lesson of *Operation Murambatsvina* and Zimbabwe. It is evident from the UN's own report that Zimbabwe was not regarded as a priority problem, with a very low number of people in "slum" settlements, and it is also evident that the UN itself does not accept the Zimbabwe government's explanations for the so-called slum clearance. Hence, the major lesson to be learned is not in respect of the problems caused by "urbanization", but is rather how to contain an irresponsible and unaccountable government from creating an artificial crisis and taking action that caused widespread suffering. Zimbabwe provides a lesson in when the international community should invoke the doctrine of Responsibility to Protect, and a lesson in deciding when to contest the sovereignty of a state.

Conclusions

More than one year on there is no evidence that the Zimbabwe government has paid any heed to the recommendations of the UN Special Envoy. This is not unusual. There are many previous examples of the Zimbabwe government wholly disregards its commitments under international conventions that it ratified. The Zimbabwean government has frequently made commitments that it has failed to honour. This has been demonstrated in the reports of the Human Rights Forum on the Abuja Agreement and the Food Riots¹³⁶ In respect of the the Food Riots in 1998, the United Nations Human Rights Committee made specific recommendations to the Zimbabwe government in respect of the violations that took place during the Food Riots, and none of these were followed. Similarly, the Abuja Agreement was wholly ignored for all practical purposes, and, in the end, the Zimbabwe government avoided the problem by withdrawing from the Commonwealth.

Faced with international criticism, indeed with any criticism, the Zimbabwe government generally does a number of things: casts aspersions on the critic, invokes the bogey man of imperialism, and demands the right to sovereignty. It has been no less the case with *Operation Murambatsvina*. As was pointed out, it can legitimately be asked of the international community, how long will it accept that this is the behaviour of a responsible member of the community of nations? And, furthermore, what action of the Zimbabwe government will finally invoke the doctrine of the Responsibility to Protect imposed on the international community?

As has been seen in this report, all the arguments of the Zimbabwe government that *Operation Murambatsvina* was an action to improve the lot of Zimbabwe citizens are rebutted by the evidence of the past year. The facts on the ground show that none of the ostensible reasons for the operation were fulfilled. The informal sector remains [as it must], corruption and crime do not seem to have been reduced [and corruption amongst the ZRP seems to have increased], no meaningful re-housing has taken place, and the economy has significantly worsened. On the other hand, if the real reason for the operation was security considerations¹³⁷ then the operation did achieve its objective of undermining opposition to government and making it more difficult to organize protests against the government. This objective, however, was achieved at enormous human cost to ordinary Zimbabweans and the suffering the operation created continues.

Operation Murambatsvina was a crime against humanity. The operation also moved Zimbabwe from a political crisis to a “complex emergency”. It is unacceptable that the international community has failed to respond appropriately to this situation. As has been done in the case of other situations of serious human rights abuse such as that in Darfur, the Zimbabwean problem must be discussed by the UN Security Council. For the ordinary Zimbabwean, it matters little whether the Zimbabwe government is malevolent or incompetent, or both; all that they can look forward to is a life of extreme hardship, and the certainty that any complaint about their lot will be met with brutal repression and denial from a government that few believe has a legitimate right to be in power.

¹³⁶ See Zimbabwe Human Rights NGO Forum A Consolidated Report on the Food Riots 1923 January 1998, (Harare 1999); Zimbabwe Human Rights NGO Forum Zimbabwe, the Abuja Agreement and Commonwealth Principles: Compliance or Disregard? (Harare 8 September 2003)

¹³⁷ Special Report: Mengistu hatched and directed Operation Murambatsvina, Zim Online. 20 February 2006.

APPENDIX 1

Recommendations from the second ActionAid International Report [August 2005]

ActionAid (2005), A Study on the impact of "OPERATION MURAMBATSVINA/RESTORE ORDER" in Zimbabwe, ActionAid International Southern Africa Partnership Programme (SAPP-ZIMBABWE) in collaboration with Combined Harare Residents Association (CHRA) and Zimbabwe Peace Project (ZPP), August 2005]

ActionAid International, and its partners, made a number of recommendations for the support and assistance of those affected:

Immediate Humanitarian Support

1. Immediate support to restore school attendance to at least 24,332 children recorded in the survey who are not attending school as a direct result of the operation.
2. Medium term measure support to ensure a further 26,244 children do not drop out of school.
3. Direct livelihood restoration support to at least 164,602 households of small traders who lost their livelihoods as a result of the operation.
4. Immediate assessment of people rendered homeless by the operation, where they are, and immediate provision of emergency shelter for this caseload.
5. Immediate targeted food aid to at least 811,899 individuals (139,982 households) affected not in holding camps and churches.
6. Immediate access to ART and quality care for people living with HIV and AIDS and are currently displaced.
7. Targeted support for displaced women-headed households to reduce the multiple vulnerabilities that they face.
8. Humanitarian agencies should increase their coverage and scale up their responses to ensure greater and holistic support to the affected households.

Medium term policy support

1. Legislation review to support informal sector activities and restore income security for affected families that constituted 73% of the respondents in this study.
2. Inclusive planning and recovery process to ensure appropriate, pro-poor and people-centred recovery and rehabilitation process.
3. The Government of Zimbabwe should be accountable for the upholding of civil and human rights for all affected households.
4. Greater donor response to the humanitarian imperative, and support to civil society response programmes for more effective coverage.
5. Deliberate scaling up of access to information and awareness to ensure that affected households are informed of their entitlements and where to secure them.

Appendix 2

Recommendations from the third ActionAid International Report [November 2005]

An in-depth study on the impact of Operation Murambatsvina/Restore Order in Zimbabwe. ActionAid International in collaboration with the Counselling Services Unit (CSU), Combined Harare Residents' Association (CHRA) and the Zimbabwe Peace Project (ZPP). November 2005]

At the outset, we should state that all our previous recommendations still stand. We would wish to add a number of additional recommendations in the light of our findings:

Medical care

The immediate setting up of a medical task force to provide medical care and treatment to those in need of care, with priority being given to those suffering from HIV/AIDS, women-headed households, and child-headed households;

Mental health care

The immediate setting up of a mental health task force to provide treatment to those in need of care, as well as the setting up of a training and supervision system for counsellors in the affected communities. Here it must be recognized that the scale of the morbidity will a long-term commitment to care, training and supervision.

Legal assistance

The immediate setting up of a legal task force to explore the dual issues of the rights infringed and the losses consequently incurred. Since there is a very high probability that the losses experienced by the victims and the rights infringed will be excluded from legal remedy due to prescription, there is extreme urgency for this action.

The **Zimbabwe Human Rights NGO Forum** (also known as the “Human Rights Forum”) is a coalition comprising 16 member organisations. It has been in existence since January 1998 when non-Governmental organisations working in the field of human rights joined together to provide legal and psychosocial assistance to the victims of the Food Riots of January 1998.

The Human Rights Forum has now expanded its objectives to assist victims of organised violence, using the following definition:

“Organised violence” means the inter-human infliction of significant avoidable pain and suffering by an organised group according to a declared or implied strategy and/or system of ideas and attitudes. It comprises any violent action, which is unacceptable by general human standards, and relates to the victims' mental and physical well-being.”

The Human Rights Forum operates a Research and Documentation Unit and offers legal services through the Public Interest Unit of the **Error! Contact not defined.** (formerly the Legal Unit of the ZHRF.)

Core member organisations of the Human Rights Forum are:

- Amani Trust
- Amnesty International (Zimbabwe)
- Catholic Commission for Justice and Peace
- Gays and Lesbians of Zimbabwe
- Human Rights Trust of Southern Africa
- Legal Resources Foundation
- Media Monitoring Project of Zimbabwe
- Nonviolent Action and Strategies for Social Change
- Transparency International (Zimbabwe)
- Zimbabwe Association for Crime Prevention and the Rehabilitation of the Offender
- Zimbabwe Association of Doctors for Human Rights
- Zimbabwe Civic Education Trust
- Zimbabwe Human Rights Association
- Zimbabwe Lawyers for Human Rights
- Zimbabwe Peace Project
- Zimbabwe Women Lawyers Association

The Human Rights Forum can be contacted through:

The Administrator, P O Box 9077, Harare email: admin@hrforum.co.zw

The Public Interest Unit, P O Box 9077, Harare email: legal@hrforum.co.zw

The Research Unit, P O Box 9077, Harare email: research@hrforum.co.zw

Address: 8th Floor Bluebridge North, Eastgate, Harare; Telephone: 250511 - Fax: 250494

The International Liaison Office, 56- 64 Leonard Street London EC 2A 4JX email: IntLO@hrforumzim.com

Telephone+44-20-7065-0945

Website: www.hrforumzim.com

Previous reports of the Human Rights Forum can be found on our website.

To report political violence incidents occurring to yourself or someone you know, please contact us on the above addresses.