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“Please ask [President] Mugabe what it is they want from us. What is the dirt they want to clear out – is it us?”

**Woman who lost her home and livelihood during Operation Murambatsvina,
Bulawayo**

“We have not been given an option of anywhere to go. It has merely been expected of us that we should ‘disappear,’ a feat we are by no means capable of.

As far as I know, nobody in these areas of those affected by Operation Murambatsvina has benefited from the Operation Garikai housing delivery programme. Thus we have absolutely nowhere to go.”

Victim of repeated evictions, Harare



Picture shows unfinished, unoccupied Operation Garikai/Hlalani Kuhle houses at Whitecliffe, Harare, May 2006. © Amnesty International 2006

Zimbabwe

No justice for the victims of forced evictions

Introduction

In May 2005 the government of Zimbabwe launched Operation Murambatsvina, a programme of mass forced evictions and demolitions of homes and informal businesses. The operation targeted poor urban and surrounding (peri-urban) areas nationwide. The evictions and demolitions were carried out without adequate notice, court orders, due process, legal protection, redress or appropriate relocation measures, in violation of Zimbabwe's obligations under international human rights law. They were carried out despite the government's acknowledgement that the country already faced a severe housing shortage.¹ During the operation police used excessive force: property was destroyed and people were beaten.

In a report released on 22 July 2005, the United Nations (UN) Special Envoy on Human Settlement Issues in Zimbabwe, who is also the Executive Director of the UN Human Settlement Programme (UNHABITAT), Anna Tibaijuka, estimated that some 700,000 people had lost their homes, their livelihoods or both between May and July 2005. She stated that Operation Murambatsvina "was carried out in an indiscriminate and unjustified manner, with indifference to human suffering, and, in repeated cases, with disregard to several provisions of national and international legal frameworks."

The mass forced evictions of Operation Murambatsvina constitute a serious violation of human rights, in particular the right to an adequate standard of living, including adequate housing. Under international law the government of Zimbabwe is obliged to ensure the victims of human rights violations committed during Operation Murambatsvina have access to effective judicial or other appropriate remedies to vindicate those rights, including by providing reparations to the victims of Operation Murambatsvina.²

Amnesty International investigated and documented the human rights violations that took place as a consequence of Operation Murambatsvina, and raised the organisation's concerns with the government of Zimbabwe, the UN, the African Commission on Human and Peoples' Rights (ACHPR) and the African Union.³ One year after the mass forced evictions Amnesty International returned to Zimbabwe to investigate what, if any, action had been taken by the government of Zimbabwe to restore the human rights of the hundreds of

¹ Government of Zimbabwe, National Housing Delivery Programme, 2000, quoted from the Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlement Issues in Zimbabwe, 22 July 2005, p 24.

² Amnesty International documented the impact of forced evictions and denial of remedies in a case study, "Zimbabwe: Shattered Lives – the case of Porta Farm", Amnesty International Index AFR 46/04/2006, 31 March 2006.

³ Amnesty International, "Open Letter from AI to President Robert Mugabe on Forced Evictions in Zimbabwe", AI Index: AFR 46/019/2005, 13 June 2005; "Zimbabwe: Joint Appeal by Amnesty International, the Centre on Housing Rights and Evictions and Zimbabwe Lawyers for Human Rights", AI Index: AFR 46/024/2005, 23 June 2005; "Amnesty International's concerns at the 56th session of the Executive Committee of the United Nations High Commissioner for Refugees", AI Index: IOR 41/060/2005, 3 October 2005.

thousands of victims of Operation Murambatsvina. The delegation found the government has failed to ensure adequate reparations to the victims. The victims' own efforts to secure effective judicial remedies have been frustrated by the authorities' repeated disregard of court orders and obstruction of access to the courts. Despite numerous public statements about a reconstruction programme to address the homelessness created by Operation Murambatsvina, almost none of the victims have received any assistance from the government. On the contrary the government has repeatedly hindered UN efforts to provide emergency shelter and subjected some of the most vulnerable people to repeated forced evictions.

This report is based primarily on the findings of an Amnesty International mission to Zimbabwe in April and May 2006, supplemented by desk research during July and August. The Amnesty International mission visited Harare, Bulawayo, Mutare, Gwanda, Victoria Falls, Masvingo, Chipinge and Chimanimani, and interviewed victims, NGO and humanitarian agency personnel and local government officials. Despite repeated requests the delegation was not granted meetings with central government officials.

Ongoing violations of the right to adequate housing

The government of Zimbabwe has made no attempt to find an adequate or sustainable solution to the acute shortage of adequate housing which Operation Murambatsvina so drastically exacerbated. A highly publicised reconstruction "programme" has in reality achieved very little. This is dealt with in some detail below. The hundreds of thousands of people evicted during Operation Murambatsvina have been left to find their own solutions to their homelessness. The majority of the victims have found shelter in remaining housing stock. During investigations in the major urban centres of Bulawayo, Harare and Victoria Falls Amnesty International repeatedly found that Operation Murambatsvina victims were living in overcrowded, sometimes squalid conditions.

A widow in Bulawayo whose rental accommodation was destroyed described how she now lives in a bathroom along with her son in a house shared by three family groups. In Victoria Falls Amnesty International found a man living in a room intended to be a toilet. His rental accommodation - a backyard cottage⁴ - had also been destroyed during Operation Murambatsvina.

Some of those living in the worst conditions were particularly vulnerable, such as people living with disabilities and people living with HIV/AIDS. Discriminatory attitudes and the total failure of the government to take any steps to protect or assist them has resulted in the most vulnerable having the most difficulty finding accommodation. In interviews with people living with disabilities Amnesty International repeatedly heard how the stigma of disability was proving an additional obstacle to finding a place to live in the post-

⁴ The majority of housing structures destroyed during Operation Murambatsvina were what are known in Zimbabwe as backyard cottages or backyard extensions. These are small, often brick structures built on residential plots around the main house, sometimes attached to the main house, and sometimes a little way separate from it. They varied in size from one to several rooms. In high density suburbs thousands of such structures were rented out and were the only source of urban accommodation for poor people. They also provided a source of income for tens of thousands of people. Backyard cottages were often connected to the main water system and the government has complained that this overloaded the system.

Murambatsvina context of significantly reduced availability of rental accommodation. One mother with a disabled child described how, following the destruction of her two-roomed backyard cottage, the landlord refused to allow her to rent rooms in the main house because one of her children was disabled. She now lives in a one-roomed structure with five children. A woman living with HIV/AIDS who lost her rental accommodation during Operation Murambatsvina was found living under plastic at the back of her parents' home, as the family refused to allow her or her four children into the main house due to her evident illness.

While the majority of victims have found some form of shelter in the housing stock that was not demolished during Operation Murambatsvina, a sizable minority, numbering several thousand people⁵, remain living in the open under makeshift shelters. This includes several hundred households at Hopley camp in Harare. Hopley camp is run by the Ministry of Social Welfare and is effectively a camp for internally displaced persons (IDPs). It was established by the government of Zimbabwe in late July 2005, when it forcibly displaced victims of Operation Murambatsvina to the site and left them there on bare land without shelter or access to adequate water, food or sanitation.⁶

Since the start of Operation Murambatsvina the government has repeatedly denied the UN and humanitarian organisations permission to provide temporary shelters, particularly tents, to desperate homeless people. A pilot shelter project established by the UN in August 2005, which provided tents to just 123 families in Headlands in eastern Zimbabwe, was terminated less than a month later and the tents were taken down by police.⁷ The 123 families were subsequently moved by the government, and Amnesty International has not been able to establish their location. A second effort by the UN to provide temporary shelters in the form of log cabins was also rejected by the government in December 2005.⁸

Finally in March 2006, nine months after the mass evictions started, the UN was given permission to erect some temporary shelters. By August 2006, more than one year after the mass evictions, less than 2,000 shelters had been erected. This compares with UN targets for the provision of emergency shelter, based on need, of 40,000 households in August 2005,⁹ reduced to 23,000 households in the UN Consolidated Appeal document for 2006.¹⁰

So far the temporary shelter is limited to two sites in Harare – Hatcliffe and Hopley camp. At Hopley camp, which is home to approximately 2,000 IDP households and where some 700 temporary shelters have been constructed, Amnesty International has received

⁵ This figure is based on reports by humanitarian groups on populations around the country who continue to live under makeshift shelter.

⁶ See Amnesty International video footage of Hopley Farm taken on 4 August 2005 at: <http://news.amnesty.org/pages/zwe-avarchives-eng>.

⁷ Reported to Amnesty International by NGO source, 9 September 2005.

⁸ The Zimbabwe Independent, "UN rep slams Chombo over houses", 1 January 2006; IRIN, "UN "puzzled" by govt response to model house", 21 December 2005. See: <http://www.irinnews.org/report.asp?ReportID=50813> (accessed 25 August 2006).

⁹ IRIN, "Zimbabwe: Pilot project provides shelter to cleanup victims", 17 August 2005.

¹⁰ United Nations (UN), Consolidated Appeals Process, Zimbabwe 2006. See: <http://ochaonline.un.org/cap/webpage.asp?Page=1332> (accessed 18 August 2006).

credible reports that officials of the Ministry of Social Welfare are accepting money from IDPs so they can be “prioritised” for the provision of the UN temporary shelters.¹¹

The emergency shelters, which are not mobile, are only available to those who have been allocated plots of land by the authorities at Hopley camp. Several hundred people who have not been allocated a plot are unable to access the temporary shelters. Amnesty International was not able to establish what criteria the Ministry of Social Welfare was using to allocated plots at Hopley, nor why some IDPs have been left without a plot.

The government has reportedly agreed to the construction of further temporary shelters in other areas of the country in the coming months. However, obstacles exist even for this limited programme; shortages of donor funding could limit the scope of the temporary shelter programme and humanitarian agencies still have to engage in negotiations with the government, even where people are obviously living in dire conditions. At the time of Amnesty International’s investigations groups of IDPs who were in immediate need of shelter reportedly could not be provided with emergency interventions because the government had not yet agreed to allow humanitarian groups to assist them.¹²

Repeated forced evictions

While the majority of the forced evictions and demolitions took place between May and July 2005, the government has continued to periodically forcibly evict groups of people, often from the place to which they relocated after their homes were demolished during Operation Murambatsvina.¹³ These forced evictions, as well as being deeply traumatic for victims, have resulted in further loss of possessions and have undermined their right to live with dignity.

In May 2006 Amnesty International interviewed a group of IDPs living in makeshift shelters in a suburb of Harare (see photo, next page). They reported that they had been living there since the brick cottages they had been renting were destroyed a year before. They had constructed shacks out of the remains of their former homes and any other materials they could find. Approximately 150 households were living in this manner on scrubland. They reported that, in December 2005, municipal officials had destroyed some of their makeshift shelters and told them to go to Hopley IDP camp. However, at Hopley they were told that they had to consult with ruling party leadership before being allowed to move there. In January 2006 they obtained a letter from a ruling party official and presented this to the authorities at Hopley. By May 2006 they had still received no response and remained living in the same spot under very inadequate shelter.

Amnesty International subsequently received reports that on 15 June municipal police forcibly evicted the group, pulled down their structures with crowbars and set them alight. They told the people they had to move but provided no alternative location or accommodation.

¹¹ Amnesty International phone interviews with confidential sources in Harare, 14 and 15 August 2006.

¹² Amnesty International interviews with IDPs and humanitarian aid workers, May and August 2006.

¹³ Amnesty International interviews with victims of Operation Murambatsvina, church workers and NGOs in July/August 2005 and April/May 2006.

At the time of writing (August 2006) the group remained living on the same site in the remains of their demolished makeshift homes and humanitarian agencies were reportedly negotiating with the authorities to provide them with shelter.¹⁴



IDP campsite, Harare. Approximately 150 households were living on this site in May 2006 and had been living like this since their brick houses were demolished during Operation Murambatsvina. The foundation slab of one brick house can clearly be seen on left of photo (see arrow). © AI 2006

Amnesty International has also been able to verify reports of repeated forced evictions of Operation Murambatsvina victims at Killarney in Bulawayo, the Muccheke River in Masvingo, Headlands in Manicaland and Mbare in Harare, the latter despite a High Court order prohibiting the local authority or the police from moving the people (see below). The organisation has also received numerous reports of repeated forced evictions from other human rights organisations in Zimbabwe.

Denial of an effective remedy

The right to an effective remedy is recognised in the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. It has also been recognised by the Committee monitoring compliance with the International Covenant on Economic, Social and Cultural Rights, which has upheld the right to a remedy for violations

¹⁴ Reported to Amnesty International by NGO sources, June 2006.

of rights protected under the Covenant,¹⁵ and has called for legal remedies and procedures to be provided to those affected by evictions.¹⁶

During the mass evictions of Operation Murambatsvina victims were denied due process and the protection of the law. In the few cases where human rights groups helped people to obtain court orders barring evictions, these were ignored. Amnesty International and Zimbabwe Lawyers for Human Rights (ZLHR), who have represented groups of victims, have documented several cases of failure by the authorities to respect and adhere to court orders prohibiting evictions. One such case is that of Porta Farm, where police forcibly evicted thousands of people and demolished their homes in June 2005 despite the existence of three separate court orders prohibiting such action.¹⁷ Access to courts to obtain redress for human rights violations can only be effective if the remedies granted by the court are implemented. This is clearly reflected in article 2(3)(c) of the International Covenant on Civil and Political Rights, to which Zimbabwe is a state party, which obliges states “to ensure that the competent authorities shall enforce such remedies where granted.”

Although the police and government action at Porta Farm violated three court orders, the High Court of Zimbabwe dismissed a contempt of court action without giving a reason. The fact that the court orders prohibiting the forced evictions at Porta Farm were disregarded by the authorities and this disregard was subsequently upheld by the court itself has left the community of Porta Farm with no access to an effective remedy at law in Zimbabwe.

In at least one case a court ruling on Operation Murambatsvina appeared to sanction forcible evictions and human rights violations. During Operation Murambatsvina an estimated 10,000 people were forcibly evicted from Hatcliffe Extension in Harare. These people had built homes on land allocated to them by the Ministry of Local Government, Public Works and Urban Development. The justification for their forcible eviction and the demolition of their homes was that they had failed to obtain proper approval for construction of their houses. In ruling on an application filed by Zimbabwe Lawyers for Human Rights on behalf of a group of Hatcliffe victims, despite stating that the forced evictions at Hatcliffe had caused “untold suffering to a number of people”, the High Court Judge found the evictions legal. He stated that the evictees had breached the lease agreements they had entered into with the government by erecting unapproved structures and that “public policy considerations” in destroying their homes and evicting them “far outweighed the interests of a few who had contravened the law”.¹⁸ This ruling fails to take into consideration provisions of both the Constitution of Zimbabwe and the international human rights treaties, to which Zimbabwe is a party.

¹⁵ UN Committee on Economic, Social and Cultural Rights, General Comment 3: Nature of States Parties Obligations, UN Doc. E/C.12/1991/23, para 5; and General Comment 9: The domestic application of the Covenant, UN Doc. E/C.12/1998/24, para 2.

¹⁶ General Comment No. 7, paras 12 and 16.

¹⁷ Amnesty International and Zimbabwe Lawyers for Human Rights, “Zimbabwe: Shattered lives – the case of Porta Farm”, Amnesty International Index AFR 46/04/2006, 31 March 2006.

¹⁸ High Court of Zimbabwe, Harare, Dare Remusha Cooperative vs. The Minister of Local Government and Urban Development, the Chairperson of the Harare Commission, the Minister of Home Affairs, the Commissioner of Police and the Harare City Council, HC 2467/05, 1 and 2 June 2005.

Victims of Operation Murambatsvina have also faced obstacles gaining access to the courts. Although initially Magistrates' Courts - the courts of first instance in Zimbabwe - heard petitions from victims of Operation Murambatsvina, within a few weeks officials in the Magistrates' Court in Harare began refusing to hear cases brought by human rights lawyers representing Operation Murambatsvina victims. This refusal was reportedly based on a directive issued by the Ministry of Justice.¹⁹

In October 2005 Zimbabwe Lawyers for Human Rights, representing a group of 252 people evicted during Operation Murambatsvina, who were threatened with further forced eviction from the site to which they had relocated in Mbare, Harare, were informed by the Duty Magistrate that the Magistrates' Courts have "no jurisdiction over cases linked to Operation Murambatsvina",²⁰ and advised that the application should be filed in the High Court.

Zimbabwe Lawyers for Human Rights publicly challenged this statement, saying:

*"the Magistrate's assertion that the Magistrates' Courts do not deal with cases relating to Operation Murambatsvina is clearly incorrect. A register of such cases handled by ZLHR members and other legal practitioners is available, and the cases are a matter of public record... In fact, ZLHR has successfully obtained ex parte orders, which were later confirmed, from Magistrates' Courts throughout the country, including the Harare Civil Magistrates' Court, in relation to Operation Murambatsvina as well as other unrelated cases."*²¹

Having failed to gain access to the Magistrates' Court Zimbabwe Lawyers for Human Rights took the case of the Mbare group to the High Court. On 10 October 2005, the court made a provisional order stating that the City of Harare, the Minister of Home Affairs and the Zimbabwe Republic Police were interdicted from evicting or threatening to evict the group of 252 people in Mbare. Despite this court order, on 13 November, at approximately midnight, municipal police assisted by National Youth Service graduates (known as youth militia), forcibly evicted the group and moved them to Hopley IDP camp.²² At Hopley the group was not provided with any shelter, and nine months later they have reportedly not been allocated plots and remain living in make-shift shelters on the edge of the camp.

Operation Garikai/Hlalani Kuhle – an inadequate and ineffective remedy

On 29 June 2005 the government launched Operation Garikai/Hlalani Kuhle (Better Life), under which thousands of new homes would be built and serviced stands (residential

¹⁹ Amnesty International, interviews with Zimbabwe Human Rights NGO Forum, August 2005, August 2006.

²⁰ Zimbabwe Lawyers for Human Rights press release, "Magistrates shirk judicial responsibilities: Vulnerable groups further exposed", 6 October, 2005.

²¹ Ibid.

²² Zimbabwe Lawyers for Human Rights press release, "ZLHR dismayed at the gross disregard of court orders by the State and the City of Harare: Tsiga grounds and Ground No. 5, Mbare", 26 November 2005.

plots of land supplied with basic infrastructure including water and sanitation on which people are then expected to build their own home) provided to address the needs of those made homeless by Operation Murambatsvina.²³

In representations made before the African Commission on Human and Peoples' Rights (ACHPR) and in response to the UN Special Envoy's report on Operation Murambatsvina, government officials have made misleading statements and have implied that Operation Garikai/Hlalani Kuhle justifies the mass forced evictions of Operation Murambatsvina. For example responding to the UN in August 2005 the government stated:

*"Operation Murambatsvina was not conceived as an end in itself but as a precursor to Operation Garikai/Hlalani Kuhle whose object is to provide decent and affordable accommodation..."*²⁴

In May 2006 the government told the ACHPR:

*"In the area of economic, social and cultural rights, Zimbabwe is working towards the attainment of the right to shelter. [O]ne of the major programmes by Government aimed at improving housing delivery is the Operation Garikai/ Better Life project. This nationwide programme [has] seen 3325 housing units being completed and allocated to beneficiaries affected by Operation [Murambatsvina]. These people were hitherto living in squalid conditions."*²⁵

In its statements to the ACHPR the government has repeatedly described Operation Garikai/Hlalani Kuhle as a programme under which houses are being built for victims of the mass evictions, making no mention of residential stands or the fact that those allocated a stand must construct their own home.

Amnesty International believes such statements by the government of Zimbabwe should be strongly challenged. Under international law there can be no justification for forcibly evicting hundreds of thousands of women, men and children and exposing them to a range of serious human rights violations. Had the government intended to ensure that those affected had access to adequate alternative housing this would have had to be done prior to any evictions taking place.

This requirement has been clearly articulated by the UN Committee on Economic, Social and Cultural Rights in its General Comment 7 on forced evictions²⁶ and in the Basic Principles and Guidelines on development-based evictions and displacement, developed by

²³ At the time of its launch no written documentation existed on Operation Garikai/Hlalani Kuhle. Reports in the state media in Zimbabwe claimed that the government intended to build up to 1.2 million houses, with some 5,000 houses to be built by August 2005. However, in her report, the UN Special Envoy, who was present at the launch of the Operation, stated, "Operation Garikai is based on a scenario that the government will provide stands (plots) upon which those rendered homeless will build their new homes", p 48.

²⁴ Response by the government of Zimbabwe to the report by the UN Special Envoy on Operation Murambatsvina, August 2005.

²⁵ Statement by the Government of Zimbabwe during the 39th Ordinary Session of the African Commission on Human And Peoples' Rights, 11 May 2006, Banjul (the Gambia).

²⁶ CESCR, General Comment 7, para. 16.

the UN Special Rapporteur on adequate housing, which state, “all resettlement measures, such as construction of homes, provision of water, electricity, sanitation, schools, access roads and allocation of land and sites must be consistent with internationally recognised human rights principles and **completed before those who are to be evicted are moved from their original areas of dwelling**”(emphasis added).²⁷

Operation Garikai/Hlalani Kuhle, which was only announced five weeks after the mass evictions began, failed to address the immediate shelter needs of the victims of Operation Murambatsvina. In her July 2005 report the UN Special Envoy, who was present at the official launch of Operation Garikai/Hlalani Kuhle, stated:

*“The Government of Zimbabwe was not able to produce any written documentation showing that the Operation was planned. This means that evictions took place before alternatives could be provided, thereby violating human rights and several provisions of national and international law.”*²⁸

Operation Garikai/Hlalani Kuhle – failures and lies

While Operation Garikai/Hlalani Kuhle cannot be used as a justification for Operation Murambatsvina, Amnesty International investigated this operation to discover if it was in reality providing any solution to the homelessness and displacement caused by the mass forced evictions.

Operation Garikai/Hlalani Kuhle is not based on any published plan or government programme. It does not appear in the 2004 – 2008 national housing delivery programme. When it was announced it was greeted with scepticism by NGOs and the UN Special Envoy, both for its hasty launch and because a large-scale construction programme seemed highly implausible given Zimbabwe’s extremely poor economic situation.²⁹

During April and May 2006 Amnesty International visited nine Operation Garikai/Hlalani Kuhle sites across Zimbabwe (see Table 1, below). Amnesty also interviewed local government officials in Bulawayo, Gwanda, Harare and Masvingo, as well as victims of Operation Murambatsvina.

²⁷ See Basic principles and guidelines on development-based evictions and displacement, in E/CN.4/2006/41, Appendix 1.

²⁸ Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlement Issues in Zimbabwe, 22 July 2005, p 74.

²⁹ According to the IMF Zimbabwe’s economy has contracted by more than 30 per cent since 1997. See: <http://www.imf.org/external/pubs/ft/scr/2005/cr05360.pdf> (accessed 1 September 2006). In June 2006 the UN Committee for Development Policy recommended that Zimbabwe, along with Papua New Guinea, was eligible for inclusion in the list of 50 Least Developed Countries. The committee said Zimbabwe had not only remained a low-income country for a protracted period, but had also become more economically vulnerable. See: IRIN, “Zimbabwe: A downgrade in country’s status causes friction”, 20 June 2006.

Table 1: Operation Garikai/Hlalani Kuhle sites visited by Amnesty International in April/May 2006

Location	Site name	Approximate number of houses constructed ³⁰
Harare	Hatcliffe	72/110
Harare	Whitecliffe	400/470
Harare	Hopley IDP camp	200
Bulawayo	Cowdray Park	700
Masvingo	--	100
Chipinge	Gaza	50
Victoria Falls	--	100
Gwanda	--	246
Mutare	Chikanga	300

The UN Committee on Economic, Social and Cultural Rights has stated that the right to adequate housing "should not be interpreted in a narrow or restrictive sense of ... merely having a roof over one's head."³¹ The Committee has provided a definition of "adequacy" in relation to the right to housing and identifies certain aspects of the right that should always be taken into account in determining whether housing is "adequate." These include: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability and habitability.³² As the following sections of the report clearly illustrate, the houses and stands built or developed under Operation Garikai/Hlalani Kuhle fail to meet these criteria.

The figures: too little, too late

Amnesty International found that Operation Garikai/Hlalani Kuhle has failed to provide a solution for the vast majority of Operation Murambatsvina victims. Very few houses have been constructed and the majority of those designated as "built" are incomplete, do not have access to adequate water or sanitation facilities, and are uninhabited. The residential plots of land (stands) allocated under Operation Garikai/Hlalani Kuhle do not come with any support to construct a house.

³⁰ In the case of Harare, Bulawayo, Gwanda and Masvingo, local government officials provided numbers, which were approximates in some cases. The community at Hatcliffe estimated 72 houses had been constructed while a parliamentary report claimed 109. In all other cases figures were obtained from churches and NGOs. Amnesty International undertook site visits and was able to confirm the approximate numbers by a rough house count in most cases, although counts were not done in Hopley or Victoria Falls.

³¹ See CESCR, General Comment No.4 paragraph 7.

³² See CESCR, General Comment No.4 paragraph 8.



Operation Garikai/Hlalani Kuhle houses at Gaza in Chipinge (left) and Cowdray Park, Bulawayo (right) in May 2006 © Amnesty International, 2006

**Housing – destruction and rebuilding
Government figures***

Total houses destroyed, May – July 2005:	92,460
Total rebuilding target:	15, 825
Total number of houses actually built by May 2006:	3,325

* All figures are from government sources. Explanation in text below.

Housing

According to government figures given to the UN Special Envoy and quoted in her report some 92,460 housing structures were destroyed between 18 May and 5 July 2005. Obtaining information on the number of houses the government intends to build under Operation Garikai/Hlalani Kuhle is difficult as the Ministry of Local Government, Public Works and Urban Development has published different figures. In a glossy publication dated December 2005³³ the Ministry stated that the target for house construction for phase I of Operation Garikai/Hlalani Kuhle was 5,275, while the target for phase II was 10,550. Phase I was said to have ended in August 2005 while no timeframe was given for phase II. However, in May 2006 a public notice in the offices of the Ministry of Local Government, Public Works and Urban Development claimed the total number of houses planned under Operation Garikai/Hlalani Kuhle was 7,478.³⁴ Regardless of which is the correct figure, it is clear that almost a year after Operation Garikai/Hlalani Kuhle was launched the government has failed to meet even the lowest of its targets. As of May 2006 only 3,325 houses had been constructed countrywide (less than five per cent of the total number of housing structures

³³ Government of Zimbabwe, “National Housing Delivery Programme 2004 – 2008, Operation Garikai/Hlalani Kuhle Shelter for the People”, December 2005.

³⁴ The figure 7,478 was displayed publicly in the lobby of the Ministry for Local Government, Public Works and Urban Development when Amnesty International visited that Ministry in May 2006, seeking a meeting with ministry officials to discuss Operation Garikai/Hlalani Kuhle.

destroyed).³⁵ Based on Amnesty International's investigations, including nine site visits, the majority of these houses are incomplete, lacking one or more of doors, windows, floors and roofs. Few of the houses have adequate access to clean water and sanitation.

It seems unlikely that even the original Phase I target of 5,275 houses will be reached in the near future. There is a severe shortage of basic building materials and fuel in Zimbabwe and the government is reported to have run out of funds to even finish the existing houses.³⁶

Allocation of residential land plots (stands) for house building

The situation with regard to allocation of residential stands is unclear. According to the Ministry of Local Government, Operation Garikai/Hlalani Kuhle's goal is to provide some 200,000 residential stands.³⁷ As far as Amnesty International could ascertain no serviced stands have been allocated under Operation Garikai/Hlalani Kuhle to date. Un-serviced stands (i.e., without access to water or sanitation facilities) have reportedly been allocated in Gweru, at Cowdray Park in Bulawayo, and at Hatcliffe, Whitecliffe and Hopley IDP camp in Harare.³⁸ According to a report produced by the Parliamentary Portfolio Committee on Local Government, which visited several Operation Garikai/Hlalani Kuhle sites in April 2006, stands have been allocated as follows:

Table 2: Allocation of residential stands under Operation Garikai/Hlalani Kuhle

Location	Number of stands allocated
Cowdray Park, Bulawayo	528 out of a potential 7,000
Hopley IDP camp	Unknown
Gweru	997
Hatcliffe	366

Media and NGO reports also indicate that some un-serviced stands have been allocated in other parts of the country. As far as Amnesty International could ascertain, those allocated stands have not been provided with any assistance to build a house. Despite this the government has reportedly given some beneficiaries a limited amount of time in which to both start and complete the construction of their house or face losing their stand. This form of tenure leaves people vulnerable to re-eviction ("repossession"). According to a local NGO working with some of those who have been allocated stands, people are struggling with bureaucratic procedures relating to approval of building plans and there is a lack of clarity about whether water and sanitation facilities should be constructed before or after house construction.

³⁵ The figure 3,325 is the one quoted by the government of Zimbabwe to the ACHPR in May 2006.

³⁶ Second report of the Portfolio Committee on Local Government on progress made on the Operation Garikai/Hlalani Kuhle Programme, June 2006, S.C. 21, 2006.

³⁷ This figure was displayed on an Operation Garikai/Hlalani Kuhle notice board in the Ministry of Local Government, Public Works and Urban Development offices in Harare in May 2006 and seen by the Amnesty International mission.

³⁸ Operation Garikai/Hlalani Kuhle houses and stands at Hopley and Hatcliffe reportedly have some access to water and toilets provided as humanitarian assistance to IDPs.

Failure to prioritise the victims of mass forced evictions

In many areas the new – albeit unfinished – houses have been allocated to beneficiaries, although as noted above, most remain uninhabited. Stands have also been allocated at the sites referred to above. Despite its statements to the ACHPR that Operation Garikai/Hlalani Kuhle is for the victims of Operation Murambatsvina, government officials have made publicly clear that at least 20 per cent of the Operation Garikai/Hlalani Kuhle housing will go to civil servants, police officers and soldiers.³⁹

During its investigations Amnesty International attempted to discover how many victims of Operation Murambatsvina had actually been allocated houses or stands under Operation Garikai/Hlalani Kuhle. Only in one of the Operation Garikai/Hlalani Kuhle sites visited were Operation Murambatsvina victims the main beneficiaries of new housing; in all other sites both houses and stands were allocated to people who had not been forcibly evicted during Operation Murambatsvina.⁴⁰

For example, in Masvingo, where City Council officials confirmed that very few houses were destroyed during Operation Murambatsvina, approximately 100 Operation Garikai/Hlalani Kuhle houses have been built. City officials claimed at least 70 of these houses went to civil servants while the remaining 30 were allocated to people on the Council's housing waiting list, who were not victims of Operation Murambatsvina.

In most locations investigated by Amnesty International the allocation of Operation Garikai/Hlalani Kuhle houses was managed by inter-ministerial committees (IMCs), led by army officers. In some cases the Ministry of Local Government has directly allocated housing and stands.⁴¹ The criteria used by the IMCs and the Ministry of Local Government are unknown, but Amnesty International found no evidence that they made any effort to identify or prioritise victims of Operation Murambatsvina or ensure a proper and transparent procedure for allocation of the new housing and stands. In most parts of the country no assessment has ever been carried out to identify the victims of Operation Murambatsvina or establish where they are now.

In Bulawayo, City Council officials explained how the local IMC within the Governor's office allocated the 700 Operation Garikai/Hlalani Kuhle houses - many unfinished - that had been built at Cowdray Park. Bulawayo is one of the only areas where local government officials did any survey of the victims of Operation Murambatsvina. A City Council survey found 10,595 housing structures had been demolished. Bulawayo police claim the real figure is only half this number.⁴²

³⁹ The Standard (Zimbabwe) "20% 'Garikai' houses for civil servants", 19 March 2006. Also reported in the Second report of the Portfolio Committee on Local Government on progress made on the Operation Garikai/Hlalani Kuhle Programme, June 2006, S.C. 21, 2006.

⁴⁰ The site was Hatcliffe in Harare where people were evicted in May 2005 and then returned to the site of the former homes in July/August 2005 by the government. Between 70 and 110 houses were constructed at Hatcliffe.

⁴¹ Interviews with local government officials in Bulawayo and Harare in April and May 2006.

⁴² Police in Bulawayo told a Parliamentary Portfolio Committee investigating Operation Garikai/Hlalani Kuhle that 5,100 households had been affected by Operation Murambatsvina.

However, when it came to allocation of Operation Garikai/Hlalani Kuhle housing Bulawayo City Council maintained that the process should use the City's existing housing waiting list as this is the standard procedure for allocating housing. This was despite acknowledging that many thousands of poor families in Bulawayo who were victims of Operation Murambatsvina would not be on the waiting list. In Zimbabwe in order to register on the housing waiting list people must pay a small yearly fee. Available housing plots (not houses) are then allocated on a first come, first served basis. When someone on the housing waiting list is offered a plot they must pay for it. In 2006 serviced plots in Bulawayo and Harare respectively were estimated at between US\$600 and US\$2,000. Many poor people cannot afford to register, let alone pay for a plot if one was ever offered to them.

Only 346 of those on the Bulawayo City Council's list of Operation Murambatsvina victims also appeared on the Council's housing waiting list. Bulawayo City Council reportedly submitted these 346 names to the IMC. In April 2006 city officials told Amnesty International that of the 346 names submitted to the IMC, to their knowledge only 36 were allocated houses at Cowdray Park, out of the 700 houses available. Figures provided by the Chairperson of the Bulawayo IMC to a Parliamentary Committee investigating Operation Garikai/Hlalani Kuhle are different. According to the Parliamentary report the names of just 130 Operation Murambatsvina victims were submitted to the IMC by the City Council, of which only 43 had taken up the offer of housing. The Parliamentary Portfolio Committee stated:

*"The Chairperson [of the IMC] stated that the other people who were displaced by the clean up exercise were transported to their rural homes whilst others failed to raise the funds required to take up the houses."*⁴³

The organisation Solidarity Peace Trust, in a report of 30 August 2006, stated that following Council objections to the IMC lists, 60 per cent of those on the Council's list have now been allocated houses.⁴⁴ Regardless of which figures are correct it would appear that very few Operation Murambatsvina victims in Bulawayo have benefited from the houses constructed at Cowdray Park.

According to one city council official the Cowdray Park housing allocation list has been repeatedly altered so it is actually impossible to tell who is really getting the houses.

*"Houses have been double allocated due to political interference. I have seen approximately seven lists for those houses, as each former list has been nullified."*⁴⁵

⁴³ Second report of the Portfolio Committee on Local Government on progress made on the Operation Garikai/Hlalani Kuhle Programme, June 2006, S.C. 21, 2006.

⁴⁴ Solidarity Peace Trust, "Meltdown – Murambatsvina one year on", 30 August 2006

⁴⁵ Amnesty International interview with city workers and officials, April 2006.



Victims of Operation Murambatsvina living as IDPs at Cowdray Park, April 2006. © AI 2006



Cowdray Park Operation Garikai/Hlalani Kuhle houses in April 2006 (unfinished). © AI 2006

IDPs at Cowdray Park

In April 2006 Amnesty International visited Cowdray Park and met a family group of 28 adults and children who had been living there as IDPs for eight months (see photo, above left). The family, who are of Malawian origin, were forcibly evicted from the long-established informal settlement of Killarney during Operation Murambatsvina. They were first placed in a transit camp and then taken by police and left on a piece of scrubland beside Cowdray Park, where they were given some Red Cross tents from the transit camp. The family had originally been told they would be given a house. Although 700 houses have been built just beside their camp, they have not been allocated one of these houses (see photo, above right). During the building of the Cowdray Park houses, construction workers came and took some of their roofing sheets to use on the scheme! When Amnesty International interviewed them in April 2006 the family had been told that they would not be given a house and they were to be moved to another location. They did not know when, or where.

“We were told by [a government official] that we would not benefit from the new housing because we could not afford it. We said we could pay but then they asked for bank account details and pay slips, and we do not have these things. We are decent people. We never used to beg or scrape for food. We used to look after ourselves, not survive on handouts. Amnesty should tell our story because we have been told by [the official] that we are hidden people.”

As well as houses, several hundred stands have reportedly been allocated at Cowdray Park. The procedure for allocation of stands was different to that used for allocating housing. According to some beneficiaries the allocation process for stands involved them going directly to an army office at Cowdray Park to apply for a stand, and notification of allocation was also done by this office. Amnesty International found that some community organisations had been offered stands for their members, many of whom were victims of Operation Murambatsvina. However, the potential for these victims to take up their stands and construct a home has been severely limited by a number of factors including the prohibitive cost, lack

of any security of tenure and absence of basic water and sanitation facilities. These issues are discussed below.

In Gwanda the City Council submitted 400 names from its housing waiting list to the IMC allocating some 246 Operation Garikai/Hlalani Kuhle houses. The Council list reportedly included only 14 people affected by Operation Murambatsvina.⁴⁶ Although people from a squatter camp outside Gwanda town had been evicted during Operation Murambatsvina, none of these people appeared on the list the Council submitted to the Committee, because the area from which they were evicted falls under the Rural District Council and not the City Council. The city official did not know how many of the 400 people on the housing waiting list had been allocated Operation Garikai/Hlalani Kuhle housing but did not think any of the squatters affected by Operation Murambatsvina had benefited.

In Harare a city official claimed that the beneficiaries of houses at Whitecliffe, one of three Operation Garikai/Hlalani Kuhle sites in Harare where approximately 470 houses have been constructed, were mostly police, soldiers and civil servants. The housing department of Harare City Council was reportedly given less than 20 houses at Whitecliffe to allocate to people on its housing waiting list.

In fact allocation of housing and stands at Whitecliffe has been dogged by allegations of corruption and contradictory information has come from government sources. The Parliamentary Committee investigating Operation Garikai/Hlalani Kuhle in April 2006 was told that no houses had been allocated at Whitecliffe.⁴⁷ In July 2006 the acting District Administrator for Harare West and the Harare Provincial Administrator were arrested in connection with corrupt allocation of housing at Whitecliffe, where they are alleged to have allocated 300 houses and 115 stands to “undeserving people”.⁴⁸ The case, reported in the state media, revealed not only evidence of corruption, but further evidence of a government policy that Operation Garikai/Hlalani Kuhle housing and stands are not to be exclusively allocated to victims of Operation Murambatsvina. According to state media the Ministry of Local Government’s criteria for allocation of houses and stands at Whitecliffe include government employees earning less than Z\$10 million (US\$100) as well as Operation Murambatsvina victims.⁴⁹ Houses which had been allocated to government employees earning more than Z\$10 million are to be repossessed.

At Hopley IDP camp – which is populated by victims of Operation Murambatsvina who were forcibly moved there by the government in July 2005 – sources with access to the area confirmed that some of the approximately 200 Operation Garikai/Hlalani Kuhle houses built there had been allocated to civil servants.⁵⁰ Bare stands have also been allocated to some

⁴⁶ Interview with senior city official, Gwanda, April 2005.

⁴⁷ Second report of the Portfolio Committee on Local Government on progress made on the Operation Garikai/Hlalani Kuhle Programme, June 2006, S.C. 21, 2006.

⁴⁸ The Herald (Zimbabwe), “Officials face arrest over graft charges”, 20 July 2006; The Daily Mirror (Zimbabwe), “Another official nabbed in Whitecliffe saga”, 22 July 2006; The Herald (Zimbabwe), “Garikai houses: ZANU-PF chairperson in court”, 28 July 2006.

⁴⁹ The Daily Mirror, “Another official nabbed in Whitecliffe saga”, 22 July 2006.

⁵⁰ Amnesty International interviews with humanitarian aid workers, May 2006; See also: Zimbabwe Lawyers for Human Rights, press release, “ZLHR disturbed by continued destruction of shelter and non-provision of housing for the victims of Operation Murambatsvina”, 19 May 2006.

people, including some of the IDPs. However, according to Zimbabwe Lawyers for Human Rights, which acts as legal representative for a number of IDP groups at Hopley, the allocation procedure for both stands and houses fails to reflect the stated aims of Operation Garikai/Hlalani Kuhle:

*“Stands continue to be given to senior council officials while the victims of the Operation [Murambatsvina] continue to reside in shacks far worse than their homes which were destroyed; completed housing has been even more unavailable for the victims of the Operation.”*⁵¹

The situation at Hatcliffe, where thousands of people were forcibly evicted during Operation Murambatsvina despite holding government leases for their stands, was different. Within two months of being evicted the victims were returned to the same stands to live in the rubble of their former homes. At Hatcliffe between 72 and 110 Operation Garikai/Hlalani Kuhle houses have been constructed, and because they were built on the stands of victims, in this area victims of Operation Murambatsvina have been allocated Operation Garikai/Hlalani Kuhle houses. Although the entire community was promised Operation Garikai/Hlalani Kuhle housing, construction stopped after the existing houses were built in late 2005 and there is no evidence of any further construction taking place.

In Victoria Falls a group working on community solutions to housing, whose members had been affected by Operation Murambatsvina, met with the local Council to ask about the Operation Garikai/Hlalani Kuhle houses being built in Victoria Falls. The Council reportedly said they did not know anything about Operation Garikai/Hlalani Kuhle and that the project was under the Ministry of Local Government. On 30 April 2006 the group took Amnesty International to view the Operation Garikai/Hlalani Kuhle site, where approximately 100 houses were built but unfinished and uninhabited. The group claimed that, despite having many members affected by Operation Murambatsvina and needing housing, they did not know how to access these houses, or how they were being allocated.

Unaffordable⁵²

The victims of Operation Murambatsvina were amongst the poorest people in Zimbabwe. As a direct consequence of Operation Murambatsvina they were driven deeper into poverty and vulnerability, losing their homes, their livelihoods and other small assets, such as clothes, food and furniture, they may have owned. Despite the government's assertions that Operation Garikai/Hlalani Kuhle housing and stands are intended for those affected by Operation Murambatsvina and the homeless, the cost of both is well beyond the reach of the majority of the victims.

⁵¹ Zimbabwe Lawyers for Human Rights press release, “ZLHR disturbed by continued destruction of shelter and non-provision of housing for the victims of Operation Murambatsvina”, 19 May 2006.

⁵² Zimbabwe dollar amounts quoted in this report are as stated by the interviewees and the exchange rate used to convert to Z\$ is that in use at the time of the research, May 2006. The government has since re-issued the currency deleting three zeros from the face value of notes and devalued the currency against the US\$.

In order to access Operation Garikai/Hlalani Kuhle housing people must pay a deposit. In May 2006 this was reported to be between 3 and 12 million Zimbabwe dollars (figures quoted for deposits have risen several times due to the extremely high rate of inflation but this was equivalent to US\$30 - 120), and thereafter pay monthly amounts for periods of 25 - 30 years after which they acquire title to the property. Currently 83 per cent of the population of Zimbabwe survives on less than the UN income poverty line of US\$2 a day.⁵³ Inflation is running at more than 1000 per cent with food inflation reported to be even higher. What money poor people have is mainly used for food. Although relatively small, the amounts demanded for deposits would have been beyond the reach of most Operation Murambatsvina victims even before the mass forced evictions.

At many of the Operation Garikai/Hlalani Kuhle schemes proof of income is required. At Gweru where a total of 106 houses were reported to be at various stages of construction, the Parliamentary Committee investigating Operation Garikai/Hlalani Kuhle found that 14 houses were occupied and were told that the beneficiaries were victims of Operation Murambatsvina and persons on the Council's waiting list who were capable of paying rentals for the houses. The parliamentarians were told that:

“even those not in formal employment could benefit from the houses built under Operation Garikai/Hlalani Kuhle so long as they could prove they had a source of income”.

Operation Murambatsvina involved the destruction of tens of thousands of informal livelihoods, in a country which already had an estimated 80 per cent formal unemployment. Many of those who lost homes also lost their livelihoods. The irony of requiring proof of income from those whose livelihoods it destroyed underlines the absence of any meaningful government commitment to restoring human rights through Operation Garikai/Hlalani Kuhle.

In Chipinge Amnesty International visited Gaza New Stands where scores of families were forcibly evicted during Operation Murambatsvina. They were allegedly evicted because their houses – largely built of wood, on stands they had been allocated, some as far back as 1970s – were not of the standard required by law.⁵⁴ After spending three months living on the site of their destroyed houses in the cold and rain, the community finally persuaded the local authorities to allow them to rebuild their wooden structures. Meanwhile approximately 50 Operation Garikai/Hlalani Kuhle houses have been constructed nearby. At the time of Amnesty International's visit these houses were incomplete and most were uninhabited. A number of Operation Murambatsvina victims from Gaza were reportedly offered the new houses but were told they had to pay a Z\$6 million (US\$60) fee on acceptance and a monthly amount of Z\$1 million (US\$10) for 25 years. The majority are unable to afford this. They have also been told that if they move from their current stands, for which they or their families have paid in many cases, they lose their right to it, reportedly without compensation.

⁵³ UNDP, Human Development Report 2005, p 228.

⁵⁴ Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlement Issues in Zimbabwe, 22 July 2005, p 25. The UN Special Envoy on Human Settlements in Zimbabwe criticised the government of Zimbabwe's implementation of colonial era legislation which reflects unrealistically high housing standards.

At Hatcliffe where people were moved into newly constructed Operation Garikai/Hlalani Kuhle houses in December 2005, shortly before the scheduled visit of the UN Humanitarian Coordinator, Jan Egeland, people were not initially asked to pay any money. However, in early July 2006 Harare City Council reportedly informed them that they must pay a deposit of Z\$15 million (US\$150) and a monthly payment of Z\$2.5 million (US\$25).



This family was moved into this clearly unfinished Operation Garikai/Hlalani Kuhle house at Hatcliffe in December 2005, shortly before the visit of Jan Egeland. © AI 2006

Amnesty International also visited an Operation Garikai/Hlalani Kuhle housing site at Chikanga in Mutare where some 300 houses have been built. Approximately half of these houses appeared to be occupied. Some communal water taps had been provided and communal toilets constructed. A local church official working with Operation Murambatsvina victims told Amnesty International that he believes many of the Mutare houses were allocated to police and security officers, but that some have also gone to victims of Operation Murambatsvina. Nine families who had been forcibly evicted from Sakubva, a high density suburb of Mutare, and who since their eviction had been living in a beer hall, were asked to pay Z\$5 million (US\$50) as a deposit for an Operation Garikai/Hlalani Kuhle house. The victims were unable to afford this so a church group paid the fee for them. The same church group also had to provide funds to help some of the families to finish the houses which were without windows and doors. However in August 2006 Amnesty International learnt that the families are now threatened with eviction from the Operation Garikai/Hlalani Kuhle houses because they have been unable to pay the monthly rental amount of Z\$1 million (US\$10).⁵⁵

⁵⁵ Reported to Amnesty International by community worker, email 31 July 2006.

Even stands without access to water and sanitation facilities under Operation Garikai/Hlalani Kuhle are too expensive for many poor people. Members of a women's community organisation who have been allocated stands in Bulawayo were asked to pay Z\$9.2 million (US\$92), which the majority say they simply cannot afford. Most of these women made their living from informal trading, and lost their livelihoods as well as their homes during Operation Murambatsvina. It was also unclear whether further payments would be required following the initial deposit. Despite being asked to pay Z\$9.2 million they had not seen their stands or been given any indication of when – or if – the stands will be serviced. By August only three women out of the fifteen who were offered the opportunity to purchase a stand were reported to have raised the funds for the deposit.

As mentioned above, the Committee on Economic, Social and Cultural Rights has identified “affordability” as one of the key criteria to assess adequacy of housing and specifically stated that states “should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs.”⁵⁶

The right to adequate water and sanitation

The right to water is a recognised component of the right to an adequate standard of living.⁵⁷ Access to safe drinking water and sanitation is intrinsically linked to full realisation of the right to adequate housing in international law.⁵⁸ The Committee on Economic Social and Cultural Rights, in its General Comment No. 4 on the right to adequate housing, makes clear that:

“All beneficiaries of the right to adequate housing should have sustainable access to ...safe drinking water... sanitation and washing facilities.”

In Zimbabwe – as in most other countries – it is standard practice to put in place basic services such as water and sewage infrastructure and roads before building houses. In almost every location visited by Amnesty International the new houses had been built without any such facilities being put in place. City officials and housing experts stated that the absence of water and sewage facilities make the houses unfit for habitation because of the serious health risk associated with urban housing that has no or inadequate access to water and sanitation.

In Bulawayo city officials said they would be extremely reluctant to issue certificates of occupancy for the un-serviced Operation Garikai/Hlalani Kuhle houses at Cowdray Park, which were constructed by soldiers acting under the authority of central government, because they lacked proper water and sanitation facilities. However, the same officials said that if directed to do so by government they will not have any choice.

Both Bulawayo City Council and Masvingo City Council reported that they had received directives from the Ministry of Local Government and the local Operation

⁵⁶ See CESCR, General Comment No.4, paragraph 8(c).

⁵⁷ CESCR, General Comment 15.

⁵⁸ E/CN.4/2001/5125 January 2001.

Garikai/Hlalani Kuhle Committee respectively to construct pit latrines for the Operation Garikai/Hlalani Kuhle housing sites in those municipalities. City officials expressed concern about pit latrines being used in cities, stating that pit latrines are unsuitable for small urban plots.

A city worker in Harare confirmed that the Operation Garikai/Hlalani Kuhle site at Whitecliff in Harare is not connected to the city's water and sewage systems. The official was not aware of any government plans to provide water and sewage infrastructure at this site. Moreover the official pointed out that Harare's water and sewage systems are already significantly overstretched and without substantial investment would not cope with additional demands.

The situation at both the Hopley and Hatcliffe sites in Harare is somewhat different. People at these sites have some access to water and sanitation services provided through the humanitarian interventions of the UN and other humanitarian groups. Levels of access, particularly to sanitation, however, remain inadequate. At Hopley, which has an estimated population of 2,000 households, less than 150 individual household ecological toilets were reported to be completed one year after the camp opened, with plans to construct a further 1,400. The site is also served by approximately 150 communal toilets. Several sources with access to Hopley camp told Amnesty International that, although improved, the sanitation situation remained unsatisfactory.⁵⁹ The city employee to whom Amnesty International spoke, who had visited Hopley camp, stated: "people still defecate in the bush. There are some [pit latrines] but a 150sq meter stand is too small for a [pit latrine] to be hygienically there."

Not only has the government failed to provide adequate water and sanitation at all Operation Garikai/Hlalani Kuhle sites, but people also face obstacles to engaging in self-help initiatives. In Harare where Housing Cooperatives have tried to provide their own water and sewage solutions, these efforts have been frustrated by what a parliamentary investigating committee described as "exorbitant approval fees" demanded by the City Council.

Security of tenure

Secure tenure is vital to realising the right to adequate housing. Without security of tenure people are always vulnerable to forced eviction. They may also be reluctant to invest in the improvement of their accommodation for fear of losing their investment without compensation.

In its General Comment No. 4, the Committee on Economic, Social and Cultural Rights lists various types of tenure, including informal settlements, and adds: "[n]otwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups."⁶⁰

⁵⁹ Amnesty International interviews with medical experts and humanitarian workers, Harare, May 2006.

⁶⁰ See CESCR, General Comment No 4, paragraph 8(a).

The allocation of housing and stands under Operation Garikai/Hlalani Kuhle is not backed up by any meaningful security of tenure. Beneficiaries to whom Amnesty International spoke in Bulawayo and Harare confirmed that the allocation of stands in those areas was not backed by any legal documents. IDPs at Hopley camp confirmed that people who have been allocated stands have merely been given pieces of card with numbers on them, which in the insecure living conditions of a displacement camp, are easily lost.

However, even legal documents cannot guarantee security of tenure in the absence of the rule of law. Amnesty International has repeatedly reported on the breakdown of the rule of law in Zimbabwe over the past six years, including the repeated disregard of court orders and political manipulation of the judiciary. In its resolution on the human rights situation in Zimbabwe adopted at the 38th Ordinary Session in December 2005, in Banjul (the Gambia), the African Commission on Human and Peoples' Rights stated that it was "*deeply concerned* by the continued undermining of the independence of the judiciary through defiance of court orders, harassment and intimidation of independent judges and the executive ouster of the jurisdiction of the courts", and called on the government of Zimbabwe to uphold the principle of separation of powers and the independence of the judiciary.⁶¹

The forced evictions which took place at Hatcliffe (where people held leases) and at Porta Farm and Mbare (where the communities had obtained court orders barring eviction) exemplify the rule of law problem which must be resolved in order for the right to adequate housing to be realised in Zimbabwe.

Government failure to ensure reparations to Operation Murambatsvina victims and the right to adequate housing

Operation Garikai/Hlalani Kuhle is the only government response to the gross human rights violations perpetrated under Operation Murambatsvina. No other assistance or remedy has been offered by the government to the hundreds of thousands of victims of the mass forced evictions. As this report documents, Operation Garikai/Hlalani Kuhle is wholly inadequate and has failed to reach the majority of victims of Operation Murambatsvina. As such, Zimbabwe is clearly violating its obligations to provide effective remedy and reparation to individuals whose human rights have been violated. As stated by the Human Rights Committee, in its General Comment No. 31, without reparation to individuals, the obligation to provide an effective remedy is not discharged.⁶² Reparation can include restitution, rehabilitation, compensation, satisfaction, guarantees of non-repetition, including by changing laws and practices, as well as bringing to justice the perpetrators of human rights violations. The right to compensation and other forms of reparation for victims of forced evictions has been clearly stated in relevant international standards and jurisprudence.⁶³

⁶¹Resolution on the Situation Of Human Rights In Zimbabwe, The African Commission on Human and Peoples' Rights meeting at its 38th Ordinary Session in Banjul, The Gambia from 21 November to 5 December 2005.

⁶² See CCPR/C/21/Rev.1/Add.13, para 16.

⁶³ The Special Rapporteur on adequate housing has identified, in the Basic Principles and Guidelines on development-based evictions and displacement, compensation, restitution and resettlement among the specific remedies for victims of forced

Furthermore, as this report illustrates, not only do the Operation Garikai/Hlalani Kuhle houses and stands fail to meet standards of adequacy, but the whole scope of the operation and, in particular, the failure of Operation Garikai/Hlalani Kuhle to prioritise those most in need, clearly point to the government's failure to take concrete steps to ensure the enjoyment of the right to adequate housing as required under international human rights law.

Article 11.1 of the ICESCR states: "The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right ..."

The Committee on Economic, Social and Cultural Rights, in its General Comment No. 3 concerning the nature of States parties' obligations under the ICESCR, points out that "... while the full realisation of the relevant rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognised in the Covenant."⁶⁴

Some important domestic decisions have also been made in Africa clarifying the obligations of state authorities to progressively implement the right to adequate housing. The South African Constitutional Court has made a number of important decisions on obligations under the South African Constitution with particular reference to those subjected to evictions and in need of urgent relief. The Constitutional Court has ruled that the right to adequate housing requires state authorities to "devise and implement within its available resources a comprehensive and coordinated programme progressively to realise the right of access to adequate housing". Such programme must include "reasonable measures to provide relief for people who have no access to land, no roof over their heads, and who are living in intolerable conditions or crisis situations."⁶⁵ The Constitutional Court has developed this position subsequently, stating that "the progressive realization of access to adequate housing [...] requires careful planning and fair procedures made known in advance to those most affected" and declaring that "residents [who have been subjected to an eviction order] are entitled to occupy the land until alternative land has been made available to them by the state".⁶⁶

While these decisions do not directly apply to Zimbabwe, they provide important, relevant precedent in Africa. Furthermore the main underlying principles contained in these decisions reflect the provisions of the ICESCR and the jurisprudence of the Committee on Economic, Social and Cultural Rights.

Amnesty International has found nothing in the way Operation Garikai/Hlalani Kuhle has been devised and implemented to suggest a reasonable plan to address the right to

evictions. Also CESCR, in General Comment No.7, requires states to "... see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected." (Para 13).

⁶⁴ See CESCR, General Comment No.3.

⁶⁵ See paragraph 99 of *Government of the RSA&Ors. V. Grootboom&Ors.*, 4 October 2000.

⁶⁶ See respectively paragraph 49 and 68(c) of *President of the Republic of South Africa and ANor. V. Modderklip Boerdery (Pty) Ltd*, 13 May 2005.

adequate housing in Zimbabwe and in particular to identify and provide for those in most urgent need, particularly those who are in an extremely vulnerable situation as a result of the human rights violations of Operation Murambatsvina.

Vendors – the right to gain a living through work

“The wrecking of the informal sector by Operation [Murambatsvina] will have detrimental effects at a time that the economy remains in serious difficulties.”

UN Special Envoy on Human Settlement Issues in Zimbabwe, July 2005

Formal unemployment in Zimbabwe is estimated to be approximately 80 per cent. For the majority of people the informal sector is the only source of employment and livelihood. In Zimbabwe prior to Operation Murambatsvina thousands of people operated within the regulated informal sector (meaning they were licensed and/or operated from designated selling points). Thousands more, however, operated outside the regulated system, selling fruits, vegetables and other goods and making items such as crafts on the street. By 2004, the informal economy was estimated to account for 40 per cent of all forms of employment and had effectively become the mainstay for the majority of the urban population.⁶⁷

Operation Murambatsvina involved the destruction of small and micro businesses across the country, primarily those of informal vendors and traders. According to official government figures given to the UN Special Envoy in July 2005 the structures of **32,538** small, micro and medium-size enterprises were demolished. The UN Special Envoy calculated that this figure translated into **97,614** persons having lost their primary source of livelihood. Despite the government’s assertion that Operation Murambatsvina was targeting those operating illegally and those involved in criminal activity such as foreign exchange dealing, vendors, market places and small business areas across the country were targeted indiscriminately. In almost all urban areas targeted by Operation Murambatsvina licensed traders were arrested and had their goods confiscated or destroyed and legal vending sites were demolished.⁶⁸

The majority of those affected by the government’s indiscriminate clampdown on the informal sector were poor women. One organisation providing credit to micro-businesses, including many of those engaged in street vending and trading, described the impact:

“Our business has totally changed. We do not work with the poorest anymore. They are gone. 85 per cent of our clients were poor women, and they have been driven out of business by Operation Murambatsvina.”

⁶⁷ Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlement Issues in Zimbabwe, 22 July 2005, p 24.

⁶⁸ The fact that vendors and other informal workers who had licences and paid fees to local authorities were indiscriminately targeted during Operation Murambatsvina was confirmed to Amnesty International by city officials in Bulawayo, Gwanda and Masvingo. On 2 August 2005 the High Court in Bulawayo ruled in favour of the Bulawayo Upcoming Traders Association, finding that street vendors’ stalls had been destroyed indiscriminately and that many street vendors had permits to trade.

Following Operation Murambatsvina vendors were told they had to go through a “vetting” process to get new licenses. This process includes being finger-printed by the police, which had not previously been a requirement. Vendors and city officials in Bulawayo, Gwanda, Masvingo and Harare confirmed that even those vendors who were already licensed by the local authorities had to go through a re-licensing process. In order to be licensed (or re-licensed) vendors had to pay fees amounting to US\$10 in May 2006.⁶⁹ Even then there was no guarantee that they would be allocated (or reallocated) a selling point.

Under Operation Garikai/Hlalani Kuhle some new vending sites have been constructed and some old sites reopened. The government’s Operation Garikai/Hlalani Kuhle target for the informal sector is the construction of 1,147 vendor markets.⁷⁰ The capacity of these sites is unknown. However, according to vendor groups and local authority officials interviewed by Amnesty International, few new vending sites have been constructed and vendors claim the new sites are in bad locations without passing traffic.⁷¹

In Bulawayo Amnesty International found evidence that the allocation of new and old sites lacked transparency and seemed to be based on political affiliation, barring those who are not supporters of the ruling party, Zimbabwe African National Union – Patriotic Front (ZANU-PF). A group of women vendors alleged that their old vending sites in some areas have been reallocated to members of the ZANU-PF women’s league. Several vendors interviewed by Amnesty International claimed that they had seen new traders working at their old – legal – sites, but they did not know by what process they got there. A Bulawayo trader whose tuck shop was destroyed during Operation Murambatsvina reported that a representative of the Ministry of Small and Medium Enterprises told a group of informal traders at a meeting in Bulawayo, “if you are not ZANU-PF, forget it”.

A city official in Bulawayo confirmed that many old vending sites in the suburbs, from which people had been removed during Operation Murambatsvina, have been reopened. However, the City Council could not say whether the sites had been given back to the original vendors as the list of vendors was compiled by the Ministry of Small and Medium Enterprises.

The criminalisation of livelihoods

Across the country people who were not licensed or allocated a vending site following Operation Murambatsvina continue to try to engage in informal trading. They do this because they have no alternative way of making a living. Some of these traders were operating legally before Operation Murambatsvina, but are now deemed illegal because they have not been able to complete the vetting and re-licensing process, often because of lack of funds, or because even with a new license they have not been allocated a site for vending.

These unlicensed vendors and traders face daily harassment by the police on the basis that they are working “illegally”, which is defined as working without a licence and/or in an

⁶⁹ Amnesty International interviews with city officials, Bulawayo, Gwanda, Masvingo, April/May 2006.

⁷⁰ Government of Zimbabwe, “National Housing Delivery Programme 2004 – 2008, Operation Garikai/Hlalani Kuhle Shelter for the People”, December 2005.

⁷¹ Amnesty International interviews with vendors and vendor groups in Harare, Victoria Falls and Bulawayo, April and May 2006.

undesignated area. Police officers confiscate goods, which are rarely returned, and in many cases also fine the traders. Vendors and traders described their existence as a desperate form of “hide and seek”, selling goods by the roadside while watching for signs of police. When police appear they pack up their goods - if they have time - and run, only to return when the police have gone.

Throughout the mission Amnesty International witnessed the difficult situation faced by vendors. On a quiet street corner in Victoria Falls Amnesty International met a widow with two children selling sweets. She explained that she could no longer trade openly since Operation Murambatsvina. Trying to trade while “hiding” from the police had significantly reduced her income.

“I was selling in a public place before Operation Murambatsvina but I was arrested. Now you have to find a corner where they can’t find you. If police get you they take all your goods and you have to pay a fine...When the police come I run away. I hide my goods and run. If I carried my goods I could not run fast enough. I run away because I can’t afford the fine.”

While selling sweets on a busy street she could turn-over up to Z\$500,000 (US\$5.00) per day, five times more than the Z\$100,000 (US\$1.00) she can turn-over now in her quiet, hidden spot.

Vendors also reported that police confiscate goods even from vendors who have a licence. Vendors who have goods taken by the police have little or no possibility of redress or compensation.

In Masvingo police attempting to prevent vending are even stopping women walking in the street with fruits and vegetables, accusing them of being vendors. These goods are reportedly confiscated. A female staff member of one human rights organisation explained how this had happened to her:

“I was walking home with my groceries when a police officer stopped me and said I was selling. I argued with the police and finally they gave up and left me with my goods. The police are targeting women, because most of the vendors are women.”

The women’s activist group Women of Zimbabwe Arise (WOZA), many of whose members are informal traders launched a protest action on 19 June, demanding the right to earn a living, saying:

“One year after Operation Murambatsvina started many vendors are still harassed daily, their goods confiscated. Many brave enough to try to get vending licences are told they have to have ZANU PF party cards in order to register. With 80 per cent unemployment, the only hope for many Zimbabweans lies in their own sweat, selling whilst dodging police and council police who confiscate their goods without any recourse.”

The right to work is recognised in article 6 of the ICESCR and article 15 of the African Charter on Human and Peoples’ Rights. As stated by the Committee on Economic,

Social and Cultural Rights, “the fact that the realization of the right to work is progressive and takes place over a period of time should not be interpreted as depriving States parties’ obligations of all meaningful content. It means that States parties have a specific obligations ‘to move as expeditiously and effectively as possible’ towards the full realisation of article 6.”⁷²

Amnesty International believes that the indiscriminate destruction of informal livelihoods under Operation Murambatsvina and the inadequacy of the government’s response under Operation Garikai/Hlalani Kuhle constitute a violation of the right to work.⁷³ Given the absence of alternative sources of employment or income the government has an obligation to protect existing access to livelihoods, particularly in light of the fact that the destruction of informal livelihoods also has serious implications for the enjoyment of a wide range of other economic and social rights including the rights to an adequate standard of living, health and education. Amnesty International found no evidence that the government of Zimbabwe had considered the serious human rights impacts of the destruction of informal livelihoods under Operation Murambatsvina.

Nor has the government acted to uphold its human rights obligations in the implementation of Operation Garikai/Hlalani Kuhle. On the contrary the government continues to authorise police harassment of informal vendors and traders and has imposed onerous obstacles to the exercise of the right to work which Amnesty International considers are not legitimate, proportionate or necessary, including requirements for fingerprinting and the imposition of high fees for licences. Any efforts to regulate the informal sector should not result in human rights violations. Moreover, the reports of apparent discrimination in the allocation of stands to vendors based on political affiliation violates the government’s immediate obligation to guarantee the right to work “without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (article 2.2 of ICESCR).

Recommendations

Amnesty International is concerned by the scale and the scope all of the violations of human rights discussed in the preceding sections. In Amnesty International’s view these violations stem from the consistent failure of the government of Zimbabwe to respect the fundamental rights of the people of Zimbabwe.

The following recommendations include actions which should be taken promptly. In particular forced evictions must be immediately halted and emergency shelter provided to those still living in the open more than a year after being forcibly evicted. Other recommendations should be accomplished by swift action to devise and implement a human rights-based housing policy which addresses the rights of all Operation Murambatsvina victims.

⁷² See CESCR, General Comment No 18, paragraph 20.

⁷³ See CESCR, General Comment No 18, paragraph 21.

Recommendations to the government of Zimbabwe

1. Develop a comprehensive human rights-based housing programme

- ❖ Review and revise Operation Garikai/Hlalani Kuhle in a transparent and open manner, with the participation of all stakeholders, in order to develop a comprehensive human rights-based housing programme to address the housing needs of all victims of Operation Murambatsvina. A revised Operation Garikai/Hlalani Kuhle should be guided by the advice provided in General Comment 4 of the Committee on Economic, Social and Cultural Rights on adequate housing and must include:
 - Security of tenure
 - Prioritisation of the most vulnerable
 - Specific provisions to address the housing needs of the poorest who cannot afford the cost of a stand or building materials
 - Plans to ensure adequate access to safe water and sanitation
- ❖ Ensure that the revised Operation Garikai/Hlalani Kuhle plans, including targets, timeframes, clear information on allocation procedures and information about plans for the provision of water, sanitation and other services and all costs which beneficiaries may have to meet, are published and made widely available.
- ❖ Provide sufficient guarantees that human rights will be upheld without discrimination, including by establishing a mechanism for independent monitoring of delivery of the housing programme.
- ❖ Place an immediate moratorium on all evictions from Operation Garikai/Hlalani Kuhle houses and stands until the operation has been reviewed and brought into line with human rights law and standards. Any evictions which take place as a consequence of this review, for example to address an original misallocation, should be in line with international human rights law.

2. Use all available resources

It is clear that the government of Zimbabwe cannot address the major housing crisis with its own resources.

- ❖ Where the government is unable to meet its obligations it should request technical assistance and international cooperation from outside bodies to support a housing programme which is based on human rights.

3. Ensure the provision of adequate water and sanitation

- ❖ Sufficient safe water and sanitation should be assured as a component of Operation Garikai/Hlalani Kuhle. If the government is unable to fulfil its obligations to ensure access to sufficient safe water and sanitation for all, it should seek international

assistance and cooperation to do so. In order to ensure that any sanitation facilities proposed do not pose a public health risk in an urban context, the government should seek technical assistance, including expert advice, to ensure that current housing and stands and all future housing and stands, have access to adequate water and sanitation facilities which are appropriate to the location, accessible to all without discrimination and consistent with the human rights to adequate housing, health, and water. Further, the provision of adequate water and sanitation must address the particular needs of children, women and vulnerable groups.

4. Establish security of tenure

- ❖ Immediately stop all forced evictions in Zimbabwe.
- ❖ Introduce legislation to guarantee a degree of security of tenure for all, based on international law and standards.

5. Promote housing self-help schemes

- ❖ Take specific steps to support people's self-help initiatives on housing, such as Housing Cooperatives, including by facilitating the work of non-governmental organisations (NGOs) involved in housing, and ensuring that legal and technical barriers faced by the poor are minimised.
- ❖ In seeking to address the right to adequate housing the government should allow donors to work with NGOs and communities within an overall human rights housing framework.

6. Ensure provision of humanitarian aid for those in need

- ❖ Allow humanitarian organisations access to all populations in need of emergency shelter and other humanitarian aid.

7. Promote and protect livelihoods

Recognising that unemployment in Zimbabwe is currently at approximately 80 per cent and there are very few options for the majority of people to earn a living, the government must not impede and should seek to support the efforts of individuals to secure an adequate standard of living through participation in the informal economy:

- ❖ Immediately end the police harassment of street vendors and small and micro businesses. Any police action to address illegal activities such as foreign exchange trading must not violate human rights, including the right to work and the right to an adequate standard of living.
- ❖ Remove onerous requirements and reduce the financial cost of acquiring licences to engage in vending or petty trading and ensure clear information is available on how to apply for a vending licence.

- ❖ Review and revise the implementation of Operation Garikai/Hlalani Kuhle in respect of vending sites with the genuine participation of informal vendors and traders with a view to progressively increasing the availability and accessibility of secure vending sites.
- ❖ While progressively working to increase access to regulated vending sites the government must not impede the right to an adequate standard of living and the right to gain a living by work of those who do not have access to such vending sites. Any limits placed on the right to gain a living by working (for example, by engaging in informal vegetable selling, with or without licence) should be reasonable, legitimate and proportionate and take into account the absence of alternatives for the majority of people and the human rights implications.
- ❖ Investigate all allegations of discriminatory allocation of vending sites in Bulawayo. Should other allegations of discriminatory allocation of vending sites be made, further investigations should be undertaken. Ensure that the procedure for allocation of vending sites fully respects the human rights principle of non-discrimination.

8 Invite ACHPR and UN Special Mechanisms to visit Zimbabwe

- ❖ Issue standing invitations to the UN Special Rapporteur on Adequate Housing, the UN Special Representative of the Secretary-General on the human rights of IDPs and the Special Rapporteur of the African Commission on Human and Peoples' Rights on Refugees and IDPs in Africa to investigate human rights concerns in Zimbabwe within the scope of their respective mandates.

Recommendations to donors

The political impasse between donors and the Zimbabwe government has serious consequences for the human rights of the people of Zimbabwe. Donor assistance is needed to enable people to access adequate housing and basic services such as water and sanitation.

- ❖ Donors should support a human rights-based housing plan which contains sufficient safeguards that human rights will be promoted and protected without discrimination.
- ❖ In the interim donors should ensure that humanitarian assistance programmes, including those providing emergency or temporary shelter, receive sufficient funding to ensure minimum essential levels of the right to an adequate standard of living, including adequate food, water and housing.
- ❖ Donors should ensure their humanitarian assistance is based firmly on the human rights principle of non-discrimination.

Recommendations to the United Nations

- ❖ Ensure there is a clear human rights policy for addressing failure to allow humanitarian aid, with clearly spelt-out responsibilities for different UN agencies. Such a policy should comprise phased steps, moving from representations and

advocacy by the UN country team to representations by the UN at the Headquarters level to public statements by the UN.