



8 June 2005

President Robert Mugabe
Government of Zimbabwe
Munhumutapa
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Harare
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URGENT Re: Forced Evictions and 'Operation Restore Order'

Dear President Mugabe,

The Centre on Housing Rights and Evictions (COHRE) is gravely concerned about reports of a pattern of gross and systematic violations of human rights in the context of 'Operation Restore Order' (*Murambatsvina*).

COHRE is a non-profit, non-partisan organisation dedicated to the protection of housing rights for everyone, everywhere. In the course of our work we have regularly expressed our deep concern about violators of the right to adequate housing, including many Western governments. In this letter, we set forth the conditions we deem to be systematic and grave violations of human rights and indicate why the Government of Zimbabwe must put an end to them immediately.

1. Facts

COHRE has received reliably attested reports from local contacts and other information sources indicating the following.

Well over 22,000 people have been arrested, 200,000 evicted, and the United Nations Special Rapporteur on the right to housing reports that up to two million more vulnerable people may be targeted. The manner and scale of the demolitions are horrendous, and reminiscent of Apartheid-era demolitions in South Africa. We have received detailed eye-witness reports from the following areas: Harare, Chitungwiza, Victoria Falls, Mbare, Kariba, Chipinge, Beitbridge, Hatcliffe Extension, Gwanda, Bulawayo, Crowborough, North Harare and Chinhoyi, among others.

In Victoria Falls, a 10-kilometre line of curio stalls were set ablaze. In Hatcliffe Extension, more than 6,000 homes were destroyed on police order in an area legally registered in a housing scheme funded by the World Bank. A community mosque was destroyed in the process and a Catholic day-care centre for AIDS orphans was razed to the ground. In the present cases, many residents were in possession of legal authorisation either to reside or conduct trade. Furthermore, even in the cases where traders were not authorized, local church and human rights groups have confirmed that most of the so-called 'informal traders' are otherwise law-abiding citizens trying to eke out an honest living in the face of 70 per cent unemployment and chronic food shortages, which your government fully acknowledges.

The carrying out of the evictions has been marked by brutality and violations of numerous human rights. Police have used flamethrowers, sledgehammers, police batons and dogs and have ordered some residents to tear down their own houses at gunpoint. In one case, a 38 year old single mother of two quoted police as saying "If you refuse, we will whip you". We furthermore have reports of tear gas being used in Mbare, Harare's oldest township. Many have claimed that police have sung provocative songs and were under the influence of alcohol during the eviction operations.

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No adequate accommodation has been provided to the victims of the forced evictions and residents have been left by the roadside or imprisoned. South African media has quoted the Public Relations Officer for the Commission running the City of Harare, Lesley Gwindi, stating that “They [homeless people] have to sort themselves out ... we will not crack our heads to relocate them”. This is clearly callous and against your own national laws, both in substance and process of implementation.

The wider collateral effects of these actions have been extremely damaging. Landlords have doubled rents in some places, taking advantage of the mass demand for accommodation. Due to poor rains this year, people have found access to water to be extremely difficult. This is the winter season in the country, which means low temperatures for vulnerable populations who now have no shelter. Likewise, while people had barely enough food to eat even prior to the demolitions, now their survival is even more precarious. We have received reports of people walking for days due to lack of transportation and then collapsing in hunger. We have even received reports of starvation, both actual and imminent. Destroying homes and livelihoods in this situation compounds an already desperate situation for those on the brink of extreme poverty.

2. Contraventions of International Human Rights Law

Most evictions were carried out in direct contravention of international law. We would draw your attention to the protection of the right to housing and sanctity of the home found in the following international treaties ratified by Zimbabwe: Convention on the Elimination of All Forms of Discrimination Against Women (Article 14(2)); Convention on the Rights of the Child (Article 27(3)); International Covenant on Civil and Political Rights (Article 17); International Covenant on Economic, Social and Cultural Rights (Article 11). The evictions also constitute a form of cruel and degrading treatment in direct violation of Article 7 of the International Covenant on Civil and Political Rights.

Evictions can only occur in exceptional circumstances and must conform to a strict set of criteria. These criteria have been set out by the UN Committee on Economic, Social and Cultural Rights in General Comment No. 7 (see Annex 1) and were affirmed by the African Commission on Human and Peoples’ Rights in the case of *SERAC v Nigeria*. There must be special justification for an eviction and after examination of alternatives to eviction with the affected community. There must be adequate notice and information and an opportunity to contest the grounds for eviction. No one may be left homeless as a result of an eviction and alternative accommodation must be provided as far as possible in a location near a person’s place of work or education together with reasonable access to essential services. Any eviction must be carried out humanely. Zimbabwe’s mass-evictions fall drastically short of these criteria.

We are also gravely concerned that the evictions operation violates the rights to work, health and education of children contained in the above treaties. The manner of arrests also breaches prohibitions on arbitrary arrest contained in the African Charter on Human and People’s Rights (Article 6), Article 9 of the International Covenant on Civil and Political Rights as well as several other provisions of the regional Charter. The use of excessive force by the Police and their acts of violence against the residents, in the course of the evictions, violate Articles 6, 7 and 9 of the International Covenant on Civil and Political Rights.

3. Crimes Against Humanity

These violations may also constitute crimes against humanity under the Rome Statute of the International Criminal Court.

Article 7(1)(d) of the Rome Statute makes the forcible transfer of a population when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack, a crime against humanity. Article 7(2)(d) clarifies that the definition includes those transferred with expulsion or coercive acts despite being lawfully present, contrary to international law. The actions of your Government in attempting to transfer large parts of the population to rural areas, through destruction of their homes and other means may constitute forcible transfer, falling within the ambit of this Article. As previously outlined, the destruction of homes and mass forced evictions are in clear violation of international law and according to the information received, are being carried out on illegal grounds.

A continuation of the evictions will therefore provide further strength to the argument that the Security Council ought to direct the prosecutor of the International Criminal Court (ICC) to investigate and prosecute serious crimes committed in Zimbabwe.

4. Remedial Measures

In light of the above COHRE urgently requests the Government of Zimbabwe to take immediate action to cease these forced evictions and to take all necessary measures to provide relief, legal protection, redress, restitution of property and adequate compensation to all those affected. We have received news that President Mugabe has ordered a temporary halting of the evictions although there was no evidence as of 7 June that this order had been enforced. Despite this order in fact, we have continued to receive reports of continued evictions and arrests, prompting us to believe that this order has not been obeyed.

1. COHRE recommends the following urgent remedial action to the Government of Zimbabwe:
2. Formally cease Operation Restore Order (*Murambatsvina*) permanently and unconditionally;
3. Provide emergency relief supplies including blankets, temporary emergency shelters, sanitation facilities and food supplies to those displaced;
4. Provide emergency health care treatment and required drugs in the form of mobile clinics;
5. Provide alternative and adequate accommodation to those who have been made homeless in locations close to where they have been residing.
6. Establish a compensation fund for those whose legally recognized property was destroyed; and
7. Establish a national consultative committee to resolve the issues of informal trading and settlements, rural labour shortages, and other relevant health and safety concerns. Such consultation should aim for solutions adopted voluntarily by all parties, and transparent procedures and policies to guide the implementation process.
8. Provide those whose livelihoods were destroyed because of the operation with alternative means of livelihood.

Yours sincerely,

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Annex I

Excerpts from General Comment No.7 on the Right to Adequate Housing (Art.11(1), Forced Evictions)¹

“15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include:

- (a) an opportunity for genuine consultation with those affected;
- (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction;
- (e) all persons carrying out the eviction to be properly identified;
- (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
- (g) provision of legal remedies; and
- (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

¹ Adopted by the United Nations Committee on Economic, Social and Cultural Rights on 20 May 1997, contained in UN Doc: E/1998/22, annex IV.