RESPONSE BY GOVERNMENT OF ZIMBABWE TO THE REPORT BY THE UN SPECIAL ENVOY ON OPERATION MURAMBATSVINA/RESTORE ORDER

AUGUST 2005

FOREWORD

The Government of Zimbabwe on 18 May 2005 launched **Operation Murambatsvina/RestoreOrder** to deal with crime, squalor and lawlessness, and rebuild and reorganize urban settlements and small and medium enterprises (SMEs) in a way that would bring dignity, order and prosperity to the stakeholders and the nation at large. The operation was a follow-up to the anti-corruption campaign started by Government in early 2004 to cleanse the financial services sector, which had become the centre of speculative activities.

Following consultations between H.E. President R.G. Mugabe and UN Secretary General Kofi Annan on Operation Murambatsvina/Restore Order, the Government of Zimbabwe had the pleasure to receive and work with the UN Secretary General's Special Envoy, Mrs Anna Kajumulo Tibaijuka between 26 June and 8 July 2005.

On 21 July 2005, the Government of Zimbabwe received a copy of the Report of the UN Secretary General's Special Envoy following the fact-finding mission to Zimbabwe. The Government of Zimbabwe made a preliminary response to the UNSE's Report on 22 July 2005 and is hereby submitting its substantive response.

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1.0 EXECUTIVE SUMMARY

1.1 On 21 July 2005, the Government of Zimbabwe received the Report of the UN Secretary General's Special Envoy, Mrs. Anna Kajumulo Tibaijuka, following her fact-finding mission to Zimbabwe undertaken between 26 June and 8 July 2005. The UNSE's Mission was guided by the following terms of reference:

(a) assess the scope and extent of the recent mass evictions, the humanitarian needs and the impact on the affected population;

(b) assess the adequacy of the Government's arrangements for the displaced and its capacity to address the basic needs of the affected population;

(c) assess the capacity of the humanitarian community to respond; and

(d) prepare a comprehensive report to the Secretary-General on the situation with recommendations on how the condition of those affected may be addressed.

1.2. During her stay in Zimbabwe, the Special Envoy's work was fully facilitated by Government. The Envoy was able to freely meet a wide spectrum of people in Zimbabwe including senior Government leaders, political parties, church leaders, civil society leaders and the general public. The Head of State met the Envoy on two occasions, at the beginning and end of her mission.

1.3. The Government of Zimbabwe launched Operation *Murambatsvina*/Restore Order on 18 May 2005 - an Operation that was intended to address a cocktail of social, economic and security challenges that had come to negatively impact upon the country's economy and the populace. In her first encounter with Government officials, the UN Special Envoy was informed that the Operation had been undertaken to *inter-alia* :

a) stem disorderly or chaotic urbanization and its attendant problems that hinder the Government and local authorities from enforcing national and local authority by-laws and providing service delivery e.g. water, electricity, sewage and refuse removal;

b) minimise the threat of major disease outbreaks due to overcrowding and squalor;

c) stop economic crimes especially illegal black market transactions in foreign currency;

d) eliminate the parallel market and fight economic sabotage;

e) reorganize Micro, Small and Medium Enterprises (MSMEs);

f) reduce high crime levels by targeting organized crime syndicates;

g) arrest social ills among them prostitution which promotes the spread of HIV/AIDS and other communicable diseases;

h) stop the hoarding of consumer commodities, and other commodities in short supply; and

i) reverse environmental damage and threat to water sources caused by inappropriate and unlawful urban settlements.

1.4 Operation Restore Order was conceived not as an end in itself but as a precursor to Operation Garikai/Hlalani Kuhle whose object is to provide decent and affordable accommodation as well as create an enabling and conducive environment that promotes small and medium scale business enterprises. This is in line with Government's stated policy objectives on housing delivery and MSME development as enunciated by the ruling party in its manifesto for the 31 March 2005 Parliamentary elections.

1.5 In fulfilment of the second phase of the Operation, Government has embarked on a massive housing construction programme nationwide which is supported by a budget of Z$3 trillion as seed money. Already basic housing units and small and medium enterprise factory shells have been, and are being, constructed. The intended beneficiaries, who are primarily those affected by the operation, are taking up occupancy. Government has invited the private sector, Pension Funds and individuals with capacity to complement its efforts, to do so.

1.6 The Report describes the Operation in value-laden and judgmental language which clearly demonstrates inbuilt bias against the Government and the Operation. Throughout the Report submissions by Government are consistently referred to as 'allegations', 'claims' or 'rhetoric' whilst those of the opposition and traditional Government critics are explicitly or impliedly taken as statements of fact.

1.7 The Report places emphasis on "wanton destruction of homes, business premises and vending sites" but deliberately forgets to mention that these structures, under Zimbabwean laws, were illegal. Before the evictions were carried out, occupants were given the choice to voluntarily take down their illegal structures. Indeed the majority of the people voluntarily took down their illegal structures.

1.8 The allegation that the Operation was carried out in a manner that violated "national and international legal frameworks" is false. The Operation was legal in terms of Zimbabwean Laws and consistent with relevant international provisions.

1.9 The assertion by the Report that the people who were relocated during Operation Murambatsvina/ Restore Order were denied medical care is not correct. The same people did and still access medical facilities and care as before. In fact, Government set up a mobile clinic at the main transit camp Caledonia, in addition to medical facilities already available.

1.10 While the Report paints a bleak future for the relocated persons, Operation Garikai/Hlalani Kuhle actually restores their dignity and meets their hopes for a better future.

1.11 The Report grossly exaggerates the number of people who were affected by the Operation. Furthermore, it conveniently ignores the country's social safety-nets which make Zimbabwe a leading country in terms of the UN social development indices.

1.12 The impression portrayed by the Report that there is no dialogue between Government and civil society is baseless and unfounded. Government is not averse to outside assistance, and indeed has been working with numerous NGOs, donors and nations of goodwill but is strongly opposed to intrusions or assistance that is subject to conditionalities.

1.13 The assertion that the Operation was based on "a set of colonial-era laws and policies" smacks of double standards on the part of the Report. Government has an obligation to enforce the laws of the land.

1.14 As the report admits, Zimbabwe is not at war or in conflict and is enjoying peace and stability predicated upon good governance as demonstrated by regular democratic elections, the latest being the March 31 parliamentary elections which were internationally acclaimed as peaceful and transparent and consistent with SADC principles and guidelines governing the conduct of democratic elections.

1.15 Zimbabwe has a broad range of policies on small and medium scale enterprises as well as gender sensitive policies that specifically address the concerns of the poor. The Government actually recognizes and continues to promote the role of the informal sector in the economy. However, Government wants to see an informal sector which operates within the confines of the law.

1.16 Zimbabwe has promulgated legislation which grants citizenship to all SADC citizens who were resident in the country by 1980. In this regard Zimbabwe ranks first in the region in promoting and granting citizenship rights to SADC citizens.

1.17 The Government of Zimbabwe has noted the recommendations of the UNSE and some of those recommendations are already being implemented. However, it is also noted that some of the recommendations fall outside the terms of reference of the UNSE's mission. The Government of Zimbabwe remains committed to working with the UN Secretary-General and those countries and organisations wishing to assist without conditionalities.

1.18 The Government of Zimbabwe deplores attempts by the Blair government to hijack and politicize the Special Envoy's Mission as demonstrated by Blair's exhortation before the mission that the Special Envoy should come up with a "good report" that he would take to the Security Council. In fact at the time of the preparation of this response the UK and its allies had shamelessly tried to table the UNSE's report as an agenda item for the Security Council even before Zimbabwe responded to the Report.

1.19 Finally, the Zimbabwe Government emphasizes that it is exercising

its legitimate responsibility to implement the country's laws, including local authority by-laws, with the support of the majority of ordinary Zimbabweans. This responsibility has been and is being exercised in the context of the socio-economic policies of the government whose overall objectives and goals are to uplift the lives of ordinary Zimbabweans, in the face of illegal sanctions and unwarranted vilification by Britain and its allies, adversities which the report does not seem too keen to acknowledge. In this regard the benefits that are already beginning to be ushered in by Operation Garikai/Hlalani Kuhle and the enthusiastic response of our people, bear clear testimony that the government's policies are consistent with the aspirations of our people. Zimbabweans generally dislike the disorder and chaos that was the order of the day before Operation Murambatsvina. Furthermore, Zimbabwe does not appreciate the stereo-type thinking that romanticizes squalor and shacks as fitting habitats for Africans and therefore rejects any prescriptions designed to consign her people to the sub standard conditions boldly tackled by Operation Murambatsvina/Restore Order.

2.0 ZIMBABWE'S NATIONAL HOUSING DELIVERY PROGRAMME

2.1 Introduction

Since independence, the Government of Zimbabwe committed itself to providing decent and affordable housing in line with the Habitat Agenda, as seen by a number of policies implemented towards achieving decent standards of living since 1980. The population of Zimbabwe is presently estimated at 12 million with about 30% urban dwellers.

2.2.0 Housing Policies

The Home Ownership Policy

2.2.1 The Home Ownership Policy was adopted at independence in 1980 to provide security of tenure to people who stayed in what were called "African Townships", which were high-density residential areas meant for "migrant workers" from rural areas. These residents previously had been prohibited by the Land Tenure Act of 1969 from owning property in urban areas.

2.2.2 The Policy required local authorities to convert 90% of their rental housing stock in high density areas to Home Ownership with a payment period of 25 years. The Home Ownership Scheme, which was very successful, enabled the hitherto marginalized black majority to own property and use it as collateral where necessary.

2.2.3 To facilitate the implementation of this Policy, Government came up with several policy decisions in **housing finance**:

- **The National Housing Fund/General Development Loan** was established in 1982 to provide soft loans to local authorities for the construction of houses. In 2004, a total of Z$45billion was disbursed to local authorities under the programme, and in 2005 Z$86billion was allocated for infrastructure development in urban areas.

- **The Pay for Your House Scheme (1995)** was established to mobilize funds from potential home owners and use them to construct houses with a matching contribution from the Government.

- **The Housing Guarantee Scheme** was established to: i) enable people to borrow from building societies by providing a guarantee; and ii) facilitate the participation of building societies in financing low-cost housing. The scheme proved very successful between 1985 and 1995.

Repeal of Pass Laws

2.2.4 The abolition of the colonial Pass Laws freed everyone to move, settle and reside in any part of the country they desired, urban areas included. This saw high rates of rural-urban migration, leading to an increase in demand for urban housing.

Rent Control Regulations

2.2.5 The Government gazetted the **Rent Regulations of 1982** to protect tenants from the injustice of prohibitive rental increases and unfair evictions used to prejudice black tenants from accessing predominantly white low-density residential areas.

Housing Upgrading Programme

2.2.6 One of the major Government housing programmes has been the upgrading of conditions in the former "bachelor accommodation" facilities of pre-independence urban Zimbabwe through the provision to local authorities of soft loans payable over 25 years. The programme has led to the removal of original structures and the construction of three-to-four bedroomed houses and flats with toilets and bathing facilities.

Urban Housing Development Since Independence

2.2.7 Since independence, Government has undertaken massive housing construction programmes. In the first decade of our independence, the focus was on the construction of actual houses. Thereafter, the focus moved to the servicing of stands with beneficiaries building their own houses. The table below gives the statistical information relating to Government funded housing schemes between 1982 and 2000.

STATISTICS ON PUBLIC HOUSING DEVELOPMENT BETWEEN 1982 AND 2000

YEAR	ALLOCATION $	HOUSES COMPLETED	NO OF STANDS DELIVERED
1982-83	59 500 000	12 089	-
1983-84	31 700 000	9 565	-
1984-85	34 800 000	5 031	-
1985-86	52 900 000	6 124	14 845
1986-87	35 300 000	5 230	11 223
1987-88	34 900 000	4 862	16 500
1988-89	30 800 000	-	4 292
1989-90	49 900 000	-	6 951
1992-93	40 000 000	-	26 667
1993-94	40 500 000	-	27 000
1994-95	80 000 000	-	53 333
1995-96	37 000 000	-	7 400
1996-97	10 000 000	-	2 000
1997-98	31 000 000	-	6200
1999	672 728 808	-	44 848
2000	810 299 292	-	54 020

It is instructive to note that the annual delivery of houses by both the public and private sectors averaged 15 000 units between 1980 and 1994 and increased to about 18 000 from 1995 and 1997. Thereafter it decreased to 3 000 units per year between 1998 and 2000.

In the case of Harare, the massive post independence housing development gave rise to new low income housing suburbs such as:-

- Hatcliffe
- Kuwadzana
- Budiriro
- Sunningdale
- Glen View Extension
- Dzivarasekwa Extension
- Crowborough

It also gave rise to considerable development in Ruwa (inclusive of ZIMRE Park), Epworth and Norton.

Notwithstanding our limited resources as a developing country, the Government of Zimbabwe has been very active in the low income-housing sector since independence and is proud of its record. Our urban built – environment is envied by many on the continent and we are determined to maintain a well built urban environment. Government believes it is in the public interest to so act.

Rural Housing Programme

2.2.8 Under this programme, which was aimed at uplifting housing conditions in rural areas, the Government used purchased commercial farms, as well as communal land set aside under community trust for resettlement, and provided loans in the form of building materials, as well as architectural plans for the houses. The Programme, which operated from 1982 to 1985, benefited thousands of households.

1.2.9 In 2002, the Ministry of local Government, Public Works and Urban Development produced proto-plans for core-houses that could be extended.

The Rural Electrification Programme

2.2.10 The Programme, which began in 1985 and has since gathered momentum, is aimed at providing electricity to rural communities, as well as institutions such as schools and clinics. The development has proved to be a boon for small and medium size enterprises, leading to expanded economic activity and poverty reduction in rural areas.

Establishment of Rural Service Centres and Growth Points

2.2.11 Prior to independence, the establishment of urban settlements in rural areas was premised upon the need to service the white population. This resulted in most such settlements being established in the white large-scale commercial farming areas, far away from the rural black majority. These settlements included Government offices and public services, commercial/banking and marketing services, as well as small scale industrial developments. In 1981 Government introduced the concept of rural service centres and growth points, and centres were selected on the basis of their potential to develop. Some of the rural service centres and growth points have developed at a prolific rate, with one such, Gokwe, being granted Town status in 2004.

National Housing Policy

2.2.12 The Government held a National Housing Convention in 1997 to address the ever-increasing demand for housing. The Convention resulted in the formation of the National Task Force on Housing to spearhead the formulation of a National Housing Policy. After wide consultation with all stakeholders, the National Housing Policy for Zimbabwe was launched by His Excellency the President of the Republic of Zimbabwe in February 2000. The National Housing Delivery Programme was drafted in 2003 and launched in 2004. These programmes place the home seeker at the centre to facilitate obtaining appropriate housing. The National Housing Policy as well as the ZANU PF 2000 and 2005 election manifestos are attached as Annexes to this Report.

Revision of Minimum Housing Standards

2.2.13 In order to make housing affordable, Government revised the minimum standards applicable to urban housing. This has allowed the use of cheaper and appropriate technologies without compromising safety standards.

Appropriate Technology

2.2.14 The Scientific Institute for Research and Development together with local housing technology developers has provided alternative building materials and designs for use by the poor to reduce costs of construction.

Private Sector Participation

2.2.15 The Government has created an enabling environment for the private sector to actively participate in the delivery of housing.

Central Government Structures

2.2.16 Housing is a priority for the Government of Zimbabwe. This is reflected by the fact that there are two Ministries dealing with the issue of housing; namely: the Ministry of Local Government, Public Construction and Urban Development, which deals with urban housing; and the Ministry of Rural Housing and Social Amenities, which sees to the continued improvement of living conditions of people in rural areas by attending to rural housing needs and ancillary development.

Conclusion – "Star Performance"

2.2.17 It is abundantly clear that with regard to the formulation and implementation of policies towards the provision of appropriate housing, the Government of Zimbabwe has not been found wanting. This is borne out by the official statistics compiled by UN-HABITAT, which showed that in 2001, against Africa's average of 74%, "only 3,4% of Zimbabwe's urban population live in slums, a figure even much lower than that for industrialized nations that had about 6,2% of their population considered to live in slum-like conditions". In fact in various meetings with Zimbabwean Government officials, the UNSE kept congratulating Zimbabwe for being a star performer with regard to human settlements, pointing out that, comparatively speaking, there were hardly any slums to talk about, a reality the Report chose to ignore in its quest to describe Zimbabwe as a failure.

2.3.0 CURRENT INITIATIVES

2.3.1 The Government of Zimbabwe is currently implementing a two-pronged housing delivery programme:

- **Operation Murambatsvina/Restore Order**, which is aimed at removing squalor and providing for the return to legality and proper development controls in the areas of residential accommodation, marketing and vending, and small and medium industrial development; and,

- **Operation Garikai/Hlalani Kuhle**, which is aimed at promoting large scale delivery of low-cost housing, vending and marketing, as well as small and medium business sites.

2.3.2 The Government of Zimbabwe launched **Operation Murambatsvina/Restore Order** on 18 May 2005. The thrust of the Operation was to enforce various laws that had been infringed. In so doing the operation addressed a cocktail of social, economic and security challenges. In fact the operation started in the formal sector with the cleansing of the financial sector, which had become the centre of speculative activities.

1.3.3 The Operation was undertaken to *inter-alia*:

- Stem disorderly or chaotic urbanization and its attendant problems that hinder the Government and local authorities from enforcing national and local authority by-laws and providing service delivery e.g. water, electricity, sewage and refuse removal.

- Minimise the threat of major disease outbreaks due to overcrowding and squalor.

- Stop economic crimes especially illegal black market transactions in foreign currency.

- Eliminate the parallel market and fight economic sabotage.

- Reorganize Micro, Small and Medium Enterprises (MSMEs).

- Reduce high crime levels by targeting organized crime syndicates.

- Arrest social ills among them prostitution which promotes the spread of HIV/AIDS and other communicable diseases.

- Stop the hoarding of consumer commodities, and other commodities in short supply and

- Reverse environmental damage and threat to water sources caused by inappropriate and unlawful urban settlements, industrial and agricultural practices.

2.3.4 Operation Restore Order was conceived not as an end in itself but as a precursor to Operation Garikai/Hlalani Kuhle whose objective is to provide decent and affordable accommodation as well as create an enabling environment that promotes micro, small and medium scale business enterprises. This is in line with Government's stated policy objectives on housing delivery and MSME development and enunciated by the ruling party in its manifesto for the 31 March 2005 Parliamentary elections.

2.3.5 Under Operation Garikai/Hlalani Kuhle, Government has embarked on a massive housing construction programme nationwide which is supported by a budget of Z$3 trillion as seed money. Already basic housing units and small and medium enterprise factory shells have been, and are being, constructed. The beneficiaries, who are primarily those affected by the operation, are taking up occupancy. Government has invited the private sector, Pension Funds and individuals with capacity to do so, to complement its efforts. In addition, Government has released a further Z$3 trillion under the National Housing Facility which is being disbursed through Building Societies at low interest rates to those who opt to construct their own homes.

3.0 REPORT OF THE UN SECRETARY GENERAL'S SPECIAL ENVOY

3.1 OVERVIEW

Terms of Reference

3.1.1 The terms of reference of the Special Envoy clearly stipulate the following:-

- Assessment of the scope and extent of the recent mass evictions, the humanitarian needs and the impact on the affected population;
- Assessment of the adequacy of the Government's arrangements for the displaced and its capacity to address the basic needs of the affected population;
- Assessment of the capacity of the humanitarian community to respond ; and
- The preparation of a comprehensive report to the Secretary-General on the situation with recommendations on how the condition of those affected may be addressed.

3.1.2 Despite the very clear terms of reference as stated above, the mission went beyond its mandate and made gratuitous statements on some issues the mission obviously understood little about. For example, with no basis whatsoever, the Report says the following of an election the mission did not even observe; "Though election day on 31 March 2005 marked a relative calm and violence free environment, a sense of fear and distrust had prevailed over the entire population." Yet none of the 50 countries, regional and international organisations which observed the elections reached this conclusion, quite to the contrary.

3.1.3 While first acknowledging that the issue of the jurisdiction of the International Criminal Court "was not covered by the Special Envoy's mandate," as if that acknowledgement should absolve the mission from the act of going beyond its mandate, the Report then proceeds to deal with this issue, regardless. It is quite clear that the mission's terms of reference did not provide for the mission to assess the need for Security Council referral. That mandate was not for the mission by its own volition to assume, even "given several submissions invoking the *Rome Statute* including Parliamentarians, church leaders and a broad spectrum of political figures, academics

and civil society actors, and their expectations that this issue would be discussed" as stated in the Report. As if assuming that mandate was not irregular enough, after the Special Envoy unilaterally decided to include a brief analysis on the matter of referral to the Security Council based on a legal opinion provided from "a confidential source," the Report then seeks to give the Secretary General a mandate instead by stating that "The presentation below must therefore be understood as preliminary, it remains up to the Secretary General to decide whether an independent and more thorough investigation is warranted." Among those who gave testimony and who is liberally quoted in the Report is David Coltart, who is an MDC Parliamentarian, renowned sanctions campaigner and co-author of the US Zimbabwe Democracy and Economic Recovery Act. At this point it is pertinent to recall British Prime Minister Tony Blair's utterances ahead of the UNSE's arrival in Zimbabwe, that he hoped she would come up with a "good report", one that would allow him (Blair) and his allies to take the issue of Zimbabwe to the UN Security Council.

Method of Work

3.1.4 The UNSE met with His Excellency President Robert Gabriel Mugabe and the following senior government leaders:

Hon. J. Msika (Vice President)
Hon. D. N. E. Mutasa - Minister of National Security
Hon. I. Chombo - Minister of Local Government, Public Works and Urban Development
Hon. E. D. Mnangagwa - Minister of Rural Housing and Social Amenities
Hon. A. Chigwedere - Minister of Education, Sports and Culture
Hon. J. Made - Minister of Agriculture and Rural Development
Hon. O. Muchena - Minister of Science and Technology
Hon. W. Shamu - Minister of Policy Implementation
Hon. D. Parirenyatwa - Minister of Health and Child Welfare
Hon. R. Gumbo - Minister of Economic Development
Hon. S. Nyoni - Minister of Small and Medium Enterprises Development

Hon. M. Mutezo - Minister of Water Resources and Infrastructural Development
Hon. N. Goche - Minister of Public Service, Labour and Social Welfare

3.1.5 The UNSE held meetings with the Governors and Resident Ministers of the following Provinces: -

Hon. D. Karimanzira	-	Harare Metropolitan
Hon. C. Mathema	-	Bulawayo
Hon. T. Chigudu	-	Manicaland
Hon. C. Msipa	-	Midlands
Hon. T. Mathuthu	-	Matebeleland North
Hon. A. Masuku	-	Matebeleland South

3.1.6 The UNSE also met with the Governor of the Reserve Bank, Dr. G. Gono. Most of these briefings were open to the media. Nowhere in the report are the views of the above senior Government leaders reflected, and yet the views of opposition groups were widely quoted throughout the report.

3.1.7 The UNSE received submissions from the MDC, Church Groups, civil society organisations and civic leaders from the cities and towns she visited. Some meetings between the UNSE and city mayors and NGOs, especially in Mutare and Bulawayo specifically excluded the Provincial Governors/Resident Ministers and Cabinet Ministers at the request of some mayors and NGOs. In Gweru, the UNSE held joint meetings with the Provincial Governor/Resident Minister and the Mayor. Meetings between the UNSE and opposition groups and some church groups were closed to the Government. It was regrettable that of all the city mayors that the UNSE met, none were from the ruling party. (The mayors of Marondera, Chinhoyi, Kadoma and Kwe Kwe are from the ruling ZANU-PF, whilst those of Mutare, Bulawayo, Gweru and Masvingo are from the opposition MDC.) As it turned out, the UNSE met virtually all the MDC mayors and none of the ZANU-PF mayors. This reflects an in-built bias against the views of the ruling ZANU-PF and the Government.

3.1.8 As indicated in the Report, the mission held group consultations with African Ambassadors on the one hand, and with Ambassadors of Western countries and Heads of bilateral aid agency missions in Harare, on the other.

Language and Political Perspectives

3.1.9 From the content of the Report, it is clear that submissions from government are dismissed as claims, allegations or rhetoric whilst submissions from NGOs hostile to Government, donors and those opposition leaders who are critical of government are explicitly or impliedly treated as statements of fact. As a result, submissions by government are hardly given prominence whilst those from NGOs hostile to Government, "confidential sources", the opposition MDC and some church groups are quoted extensively throughout the Report. It is for this reason that the Report overlooks and deliberately down plays the fact that the real purpose of Operation Murambatsvina was not to destroy and cause pain, but to deal with crime, squalor, and fight poverty (not the poor) by rebuilding and reorganizing urban settlements and micro, small and medium enterprises in a way that would bring dignity, order and prosperity to the stakeholders and the nation at large.

3.1.10 The text in the bulk of the background and analytical body of the document is not original to the Report as it has been recycled several times before in submissions made by Zimbabwe's foreign detractors, the opposition MDC and its affiliated NGOs. These include the Solidarity Peace Trust Report dated 27 June 2005, which was co-authored by Bishop Reuben Phillip and Archbishop Pius Ncube, whose hostility to Government is well known.

3.1.11 The clean-up operation undertaken by the Government of Zimbabwe is not the first of its kind in the world or indeed in Africa, a fact that is conceded by the Report. The current condemnation of Zimbabwe and the unwarranted reactions from the UK and its allies cannot be divorced from the onslaught the country has suffered for the past 5 years owing to its land reform programme. Contrary to the allegations by its critics that the operation targeted opposition supporters, the exercise has also affected ZANU PF supporters, war veterans and civil servants including members of the uniformed forces.

3.1.12 The Report places emphasis on alleged "wanton destruction of homes, business premises and vending sites" but deliberately forgets to mention that these structures, under Zimbabwean laws, were illegal. Before the operation was carried out, residents were given the option to comply with the provisions of the law and voluntarily take down their illegal structures.

3.1.13 The Police or officials in charge of the operation did not cause any deaths. It should be made clear that the reported unfortunate incidents of death were caused by the affected families as they were voluntarily pulling down their illegal structures. Attached as an Annex to this report is the response by the Zimbabwe Republic Police to allegations of death suffered during Operation Murambatsvina/Restore Order.

3.1.14 The Report's allegation that the Operation was carried out in a manner that violated "national and international legal frameworks" is false. The Operation was legal in terms of Zimbabwean Laws and consistent with international legal provisions.

3.1.15 The Report's assertion that the people who were relocated during Operation Murambatsvina/ Restore Order were denied medical care is false. The same people did and still access medical facilities and care as before. In fact, Government set up a mobile clinic at Caledonia Transit Centre to provide free medical services, in addition to medical facilities already available within the immediate vicinity of the Centre.

3.1.16 The Report grossly exaggerates the number of people who were rendered homeless by the Operation. A fact-finding mission must report on what it actually found on the ground and not infer homelessness from some fictitious formula or mathematical extrapolation. If it was a matter of mathematics, then the UN Secretary-General need not have sent a Special Envoy since he could have done the exercise from his offices in New York. Furthermore, the report conveniently ignores the country's social safety-nets which make Zimbabwe a leading country in terms of the UN social development indices.

3.1.17 The impression portrayed by the Report that there is no dialogue between Government and civil society is baseless and unfounded.

3.1.18 Government is not averse to outside assistance, and indeed has been working with numerous NGOs, donors and nations of goodwill but is strongly opposed to intrusions or assistance that is subject to conditionalities.

3.1.19 As the report admits, Zimbabwe is not at war or in conflict and is enjoying peace and stability predicated upon good governance as

demonstrated by regular democratic elections, the latest being the March 31 2005 Parliamentary elections which were internationally acclaimed not only as peaceful, transparent and representing the will of the people of Zimbabwe, but also consistent with SADC Principles And Guidelines Governing The Conduct Of Democratic Elections. Zimbabwe is the first SADC country to incorporate the SADC principles and guidelines into its national laws, and also the first to conduct elections on their basis.

3.1.20 Zimbabwe has a Ministry of Micro, Small and Medium Enterprises to address a broad range of policies on micro, small and medium scale enterprises as well as gender sensitive policies that specifically address the concerns of the poor. The Government actually recognizes and continues to promote the role of the informal sector in the economy. However, Government wants to see an informal sector which operates within the confines of the law.

3.1.21 Zimbabwe also has a National Gender Policy that provides the guidelines and institutional framework to engender all our sectoral policies, programmes, projects and activities at all levels of the society and economy. Furthermore, the country has a Ministry of Women's Affairs, Gender and Community Development.

3.1.22 Operation Murambatsvina/Restore Order has now been concluded and it is now Operation Garikai/Hlalani Kuhle that is in full swing. While the Report paints a bleak future for the relocated persons, Operation Garikai/Hlalani Kuhle actually restores their dignity and meets their hopes for a better future.

3.1.23 The assertion that the Operation was based on "a set of colonial-era laws and policies" is totally baseless. Government has reviewed and overhauled the relevant laws over the years to ensure that they serve the best interests of our people, especially the poor.

3.1.24 Zimbabwe has promulgated legislation, which grants citizenship to all SADC citizens who were resident in the country by 1980. In this regard, Zimbabwe ranks first in the region in promoting and granting citizenship rights to SADC citizens.

3.1.25 The Government of Zimbabwe is exercising its legitimate responsibility to implement the country's laws, including local authority by-laws, with the support of the majority of ordinary Zimbabweans. This responsibility has been and is being exercised in

the context of the socio-economic policies of the government whose overall objectives and goals are to uplift the lives of ordinary Zimbabweans, in the face of illegal sanctions and unwarranted vilification by Britain and its allies, adversities which the Report does not seem too keen to acknowledge. In this regard, the benefits that are already being ushered in by Operation Garikai/Hlalani Kuhle and the enthusiastic response of our people bear clear testimony that the government's policies are consistent with the aspirations of our people.

3.1.26 Zimbabweans generally dislike the disorder and chaos that was the order of the day before Operation Murambatsvina. Furthermore, Zimbabwe is concerned with the stereotype thinking that romanticizes squalor and shacks as fitting habitats for Africans and therefore rejects any prescriptions designed to consign her people to the sub standard conditions boldly tackled by Operation Murambatsvina/Restore Order.

3.1.27 The Government of Zimbabwe deplores attempts by the Blair government to hijack and politicise the Special Envoy's Mission as demonstrated by Blair's exhortation that the Special Envoy should come up with a "good report" that he would take to the Security Council.

3.2.0 SOCIAL, ECONOMIC AND POLITICAL CONTEXT OF OPERATION MURAMBATSVINA

Historical Context

3.2.1 The section dealing with the historical context treats the critical land question very lightly despite the detailed briefings the UNSE was given by H. E. the President. The most glaring and deliberate omission in this section of the report is the role/responsibility of the UK government in addressing Zimbabwe's land question. In fact the Report does not even attempt to link the Fast Track Land Reform with the current British government's refusal to honour the Lancaster House commitments to fund Zimbabwe's land reform.

3.2.2 The report fails to acknowledge that the land question is at the centre of the bilateral dispute between Zimbabwe and the UK. The UK has sought to internationalize this bilateral dispute by mobilizing the EU, USA and the Commonwealth against Zimbabwe. The UK has also

waged a very harsh and sustained campaign to vilify and demonize the President, the government and the ruling party of Zimbabwe.

3.2.3 The report fails to appreciate the sensitivities surrounding the timing of Zimbabwe's Land Reform Programme both inside the country and in relation to the independence and democracy struggles elsewhere in the region. The UNSE also fails to acknowledge the policy of national reconciliation enunciated by the Government of Zimbabwe soon after independence.

The Economic Context

3.2.4 Instead of elaborating the economic context, the report dwells on what it terms the "economic crisis". In this regard, the Report fails to acknowledge that at independence Zimbabwe inherited a dual economy with the settler whites dominating the formal sector whilst the majority blacks were relegated to be the providers of cheap labour. Blacks were confined to a subsistence economy in the semi-arid 'tribal trust lands.' Urban settlements for blacks were developed as dormitory towns to service white industries. Blacks were required to live in the rural areas and only those who were employed were allowed into the cities and to reside in single-quarters and/dormitories regardless of their marital status. This explains why virtually every Zimbabwean has a home in the rural areas and a house or accommodation in the urban areas. House ownership by blacks in the urban areas is a post-independence phenomenon.

3.2.5 Against this background, the challenge for the new government was to broaden and restructure the economy in order to facilitate the meaningful participation of the majority black people. Zimbabwe focused on the key areas of health and education in order to improve the quality of life and opportunity for the hitherto marginalized blacks. Today Zimbabwe at 94% has the highest literacy rate in Africa and is among the leaders in the world.

3.2.6 Government built schools and hospitals for every district in Zimbabwe. At the same time government built infrastructure e.g. roads, bridges, dams and embarked on the rural electrification programme. Government also promoted the establishment and development of Rural Service Centres and Growth Points, which developed into centres for commerce and service provision in the rural areas. Today Zimbabwe has the highest number of dams per capita in all of Africa and the Growth Points are now well poised for

rapid growth especially in view of the Land reform programme which has created opportunities for the development of agro-industries.

3.2.7 Zimbabwe is not the only country to have been negatively affected by the IMF/WB imposed Economic Structural Adjustment Programmes (ESAPs). The main problems with ESAPs have not been the implementing governments but the design weaknesses in the programmes. Persistent drought cycles have also impacted negatively on economic performance especially in view of the fact that agriculture is the mainstay of the economy. Economic decline was also precipitated by the illegal sanctions imposed on Zimbabwe mainly by the USA, the UK, the EU and the white Commonwealth countries. It is not true that the sanctions are not directed at the economy. The Zimbabwe Democracy and Economic Recovery Act passed by the USA, inter-alia, blocks Zimbabwe's access to balance of payments support from the IMF and any financial assistance from the World Bank, and excludes Zimbabwe from benefiting from the Africa Growth and Opportunity Act (AGOA) facility. EU sanctions have seen Zimbabwe being denied access to the ACP-EU 9th European Development Fund. Even access to humanitarian assistance through the Global Fund for HIV/Aids, TB and malaria has been blocked mainly as a result of EU and USA pressure.

3.2.8 Zimbabwe's economic decline has been engineered by the proponents of regime change who hoped that economic hardship would lead to riots and ungovernability. In fact this became the main assignment and strategy of the opposition MDC as they embarked on illegal mass action, mass stay-aways and industrial lock-outs as the way to unseat the ZANU-PF Government.

3.2.9 The status of the Zimbabwean economy should therefore be understood in the context of a government that has put in place deliberate policies to address issues of health, education, infrastructure development, land reform etc. which are aimed at empowering the Zimbabwean people and giving them greater access to and ownership of their resources. Zimbabwe's economic turnaround is predicated on these attributes and the determination of its government and people to succeed.

The Political Context

3.2.10 The Report fails to acknowledge that Zimbabwe has been holding regular democratic elections as per the Constitutional requirements ever since 1980. The Report does not make any reference to Zimbabwe's independence struggle and the centrality of the land question to that struggle. The redistribution of land to blacks, including war veterans, is not a "pay-off for their electioneering role" in 2000 Parliamentary and 2002 Presidential elections. Land was the essence of the liberation struggle and the people of Zimbabwe lost more than 50 000 of their comrades during the war. In all countries, war veterans are given special status. It is therefore surprising why Zimbabwe's war veterans are treated with hostility in the Report.

3.2.11 The Report shows bias against the Land Reform Programme as it fails to acknowledge the existence of different resettlement models, which have benefited many Zimbabweans. Before land reform there were only 4000 white commercial farmers. Government has so far allocated commercial farms to 60 000 new farmers under the A2 model, and to 300 000 families under the A1 model irrespective of political party affiliation. Through the A1 model Government seeks to decongest communal areas, while through the A2 model it seeks to broaden the participation of blacks in commercial agriculture. Furthermore, the state has not just allocated land to the landless. It has provided a lot of financial and other resource inputs to make the programme a success.

3.2.12 The Report makes the unfounded allegation that war veterans were responsible for political violence and exonerates the MDC supporters from initiating violence. It is also silent on the issue of external interference in Zimbabwe's internal affairs and is thus silent on the link between the MDC and the current British Government. This is despite the fact that Tony Blair has publicly stated that he is working with the MDC and sections of civil society to effect unconstitutional regime change in Zimbabwe.

3.2.13 The Report fails to capture the positive mood of peace and tranquillity before, during and after the March 31 2005 Parliamentary elections, which were conducted in accordance with SADC's electoral Principles and Guidelines. The management and

conduct of the 2005 Parliamentary elections facilitated significant reduction in the levels of political polarization.

3.2.14 The Report also refers to Zimbabwe's isolation from the "wider international community". This is absurd, Zimbabwe has tremendous support in the UN, NAM, G77 and China, ACP, AU, COMESA, SADC etc. The US, EU and the white Commonwealth do not constitute the "wider international community".

3.3.0 URBANISATION, HOUSING AND LOCAL GOVERNANCE IN ZIMBABWE

3.3.1 In public statements made during the mission, the UNSE repeatedly indicated the UN-HABITAT's vision and goal of having "Cities Without Slums" and conceded that the methods used to achieve such cities could differ. Surprisingly, Zimbabwe's resolve to have "Cities Without Slums" is condemned in the report.

3.3.2 Whilst labelling the Regional, Town and Country Planning Act (1976) and the Housing Standard Control Act as "colonial", the report is silent on the amendments which have been made to the Regional, Town and Country Planning Act in terms of the principal act and its subsidiary regulations. Many restrictions relating to low income housing schemes and units have been relaxed. These are not even acknowledged in the report. Instead, the report dismisses the Regional, Town and Country Planning Act and the Housing Standard Control Act as simply outdated and belonging to a by-gone era. It would have been more useful for the report to cite which aspects or provisions of the two Acts require amendment. We certainly do not believe that allowing Bush toilets and Blair toilets in the urban areas would be appropriate.

3.3.3 Curiously, the report subsequently relies on the provisions of the two "colonial" Acts to decry the procedure/method that was used by Government to remove the illegal structures. The report submits that the authorities should have issued Enforcement Orders, Prohibition Orders and adequate notice as provided for in the two pieces of legislation – laws which the Report was too keen to malign as colonial laws, thus demonstrating its consistent bias against anything done by Government.

3.3.4 The report ignores the commendable housing initiatives the Government of Zimbabwe has embarked upon since independence. The initiatives have resulted in a well-planned, serviced and built urban environment, which is the envy of many in the developing world. The UNSE acknowledged as much during her visit. In various meetings with Zimbabwean Government officials, the UNSE kept congratulating Zimbabwe for being a star performer with regard to human settlements. That statement of fact is born out by official statistics compiled by UN-HABITAT, which showed that in 2001, against Africa's average of 74%, "only 3.4% of Zimbabwe's urban population lives in slums, a figure even much lower than that for industrialized nations that had about 6.2% of their population considered to live in slum-like conditions." Zimbabwe is desirous of providing decent housing for all its citizens. To this end, in 2004, Zimbabwe approved a National Housing programme and started implementing the same. This information was availed to the UNSE but was overlooked in the report.

3.3.5 Generally, Zimbabweans do not like disorder. In this regard, nearly all local authorities have adopted resolutions that called for the removal of illegal structures. In all these cases, the Local Authorities have always requested assistance from Zimbabwe Republic Police.

3.4.0 SCOPE, EXTENT AND IMPACT OF THE OPERATION

Methodological considerations

3.4.1 The report acknowledges that "organisations involved in enumeration were using different methods and focusing on different but overlapping groups." In this regard, the mission relied on four sources of information, viz:

- the UN Country Team (UNCT) which provided "low end estimates";
- reports from special interest groups and membership organisations which provided "high-end estimates owing to overlaps in enumeration";
- observations from "extensive field visits by the mission team and on-site interviews;
- official figures provided by the government.

3.4.2 When the UNSE was in the country she visited transit centres. The table below reflects the situation at the transit centres at the time of

the visits. This represents the number of people who were temporarily made homeless in the major cities. These were the people who the UNSE actually saw on the ground, and yet these figures were totally ignored in the Report. Instead the UNSE preferred to indulge in mathematical extrapolation so as to produce the grossly inflated figure of 700 000 people.

AREA	**House-holds in Transit Centre**	**Children Placed in Institutions**	**Elderly Placed in Institutions**	**Handi-capped**	**Other Street Peopl e**
HARARE	1 077	114	15	NIL	135
BULAWAYO	892	NIL	4	NIL	N/A
MUTARE	726	2	2	1	32

3.4.3 The UNSE also noted that some families had voluntarily chosen to go to their rural homes. Clearly, all those who voluntarily decided to go to their homes in the rural areas cannot possibly be classified as homeless.

3.4.4 Assuming that the Report used very preliminary figures given by the Government, it would be a deliberate statistical exaggeration for the Report to use national household family size to calculate the total numbers affected. As it turned out, most of the structures removed were one-room structures, which were extremely small in surface area. It is therefore unimaginable that these structures could have been housing an average of 5 people, a factor used in the report, through extrapolation, to arrive at 700 000 people. It is a tradition that most landlords prefer single tenants or, at most, couples without Children. In this respect therefore the average family size of tenants in out- buildings could only range between 1 to 2 people per household.

3.4.5 It is puzzling that 700 000 people are said to have been left homeless by the clean-up operation and a further 2.4 million indirectly affected, on the basis of some mathematical extrapolation, when the UN Secretary General sent a *fact-finding* team to establish the actual situation on the ground, rather than rely on a mathematical formula. The Report does not state the number of people the fact-finding mission actually found to have been left homeless after the clean-up operation, but relies on an extrapolated figure based on the number of demolished structures. What is astounding is that homelessness is being reduced to an abstract mathematical concept. Homelessness

cannot be mathematical – it is a physical condition. Nowhere in the report does the envoy say she saw the alleged masses of homeless people. If 700 000 homeless people did exist, those informants who dominate the bulk of the UNSE's report would have been only too glad to show the UNSE where they were. Clearly, the UNSE was too embarrassed to admit that there were 1 077 households at the transit centre in Harare, 892 in Bulawayo and 726 in Mutare. These figures are nowhere near the humanitarian catastrophe that the UNSE's Report attempts to portray.

3.4.6 Regarding the impact of the Operation on Small and Medium Enterprises the Report alleges "interviews conducted with a broad cross section of the population tend to **confirm** that the informal sector has for all intents and purposes been wiped out." It appears that the mission dismissed submissions by the government that the Operation had made it possible for local authorities to register, relocate and re-organize the SMEs and create a better and healthy environment for their operations. During the mission, the UNSE was taken around to see newly completed SME development sites in all the cities visited and also met SME operators who had been allocated business stands after the necessary vetting procedures. The Report glaringly omits testimony from these SME operators.

3.4.7 It is surprising that the Report is silent on these visits or findings. What is obvious is the selective use and abuse of sources and statistics to "confirm" the view that SMEs have been wiped out. It is clear the UNSE held preconceived notions on the impact of the Operation on SMEs which, notwithstanding the evidence on the ground, the UNSE maintained. As a result, the impact of the operation is grossly exaggerated and government policy on SME development is totally ignored. It is even more surprising that there should be such omissions when the Minister for Small and Medium Enterprises Development Hon. S.G.G. Nyoni accompanied the UNSE to most Provinces and cities visited.

3.4.8 The impact of the Operation should not just be considered in the abstract, but in the perspective of the derogations allowed at international law, and the measures taken by the Government to redress the situation. The risk to public health and morality, national security and the economy necessitated that the Operation had to be undertaken without further delay. During the UNSE's mission, government had launched Operation Garikai, which addresses both

the immediate and long-term development challenges of the affected population.

Government Ability to Address the Impact of the Operation

3.4.9 Zimbabwe is currently under illegal sanctions that were imposed by the USA, the UK, the EU and white Commonwealth countries that are opposed to Zimbabwe's land reform programme. Balance of payments support from the IMF and developmental assistance from the World Bank have been frozen. As a result, Zimbabwe has aggressively diversified her international economic relations.

3.4.10 These illegal sanctions have brought hardships to the ordinary Zimbabwean. However, they have also alerted government of the dangers of over-dependence on donors. As a result, Zimbabwe is now determined to mobilize her resources and unlock capacity especially in the areas of agriculture, mining, manufacturing, agro-industries and services. In terms of resources, Zimbabwe is well endowed and yet poverty levels are still high in the country. Government has therefore embarked on an aggressive empowerment programme that has broadened the participation of the black majority in all sectors of the economy.

3.4.11 The re-organised SME sector is already playing a critical role in the reconstruction programme. Public works are also being implemented in both the urban and rural areas. The Operation is thus providing employment opportunities for Zimbabweans.

3.4.12 Assertions that Zimbabwe's current economic challenges are insurmountable are without basis and are borne out of a misunderstanding of Zimbabwe's development thrust. In order to unlock her vast potential embedded in her resource endowments, Zimbabwe is looking for partners, not just donors. Zimbabwe is convinced that working with her partners, the country will be able to raise the necessary resources to address the challenges she faces in the areas of food security, shelter and HIV/Aids. At the same time, the Government is ready to work with the United Nations and other nations of goodwill in a framework of mutual respect and without conditionalities.

Capacity of Humanitarian Community to Respond

3.4.13 The Government of Zimbabwe has in the last two and half decades responded to various forms of humanitarian crisis, be they drought or flood induced. The modality of response has always been partnerships between Government, bilateral and multi-lateral institutions, and NGOs. At no point has there been a case of Government seizing or redirecting donor aid to areas outside agreed parameters.

3.4.14 From the submissions they made to the UNSE, it is clear that some NGOs want to use the UNSE's Report to push for their desire to operate in Zimbabwe without accountability. Government will not allow NGO's to operate outside the laws of the land.

3.4.15 Specifically, relating to Operation Murambatsvina, Government addressed both members of the Pastoral Community and the NGOs welcoming all forms of assistance that such partners could render to the affected families. A very clear framework of co-operation was outlined through which partners would render assistance directly to the affected persons.

3.4.16 The following organizations cooperated with the Government at Caledonia transit centre alone:

1. UNICEF
2. Christian Care
3. Zimbabwe Red Cross Society
4. Save the Children Norway
5. Inter Country People's Aid
6. International Organisation for Migration (IOM)
7. World Vision
8. Care International Zimbabwe
9. Desert International

3.4.17 At the Bulawayo transit centre the following partners co-operated:

1. World Vision
2. Christian Care
3. World Food Programme
4. UNICEF
5. Zimbabwe Red Cross Society

3.4.18 It is therefore difficult to appreciate where the UN Special Envoy got the impression that Government constrained the operations of the humanitarian community.

3.4.19 The report goes out of its terms of reference to assess Government's capacity to respond to the general drought situation prevailing in the country and deliberately confuses drought requirements with the needs for responding to Operation Murambatsvina. Since the Special Envoy did not meet with the specific Government Agencies responsible for drought management and mitigation, the report constantly confuses the wider Government of Zimbabwe/WFP initiatives in drought relief, which are on going activities and the needs for Operation Murambatsvina.

3.4.20 In fact, Government is still waiting to receive a draft Memorandum of Understanding from World Food Programme on the proposed Relief and Recovery Operation. With regards the United Nations Country Team proposed "Humanitarian and Development-Relief Plan", Government responded to the UNCT proposal in April 2005. It is therefore clear that the UN Special Envoy could have been misled in this regard.

3.4.21 It is important to emphasize that the Government of Zimbabwe has the primary responsibility to provide the humanitarian needs of its people. The international community and NGOs can only complement but not replace government efforts.

3.5.0 LEGAL ANALYSIS OF OPERATION RESTORE ORDER

3.5.1 The report conducted a legal analysis of the Operation in order to inform the assessment from a humanitarian and human rights perspective and to provide an appreciation of the responsibilities of both the Government and the international community to assist the affected people. It needs to be pointed out from the onset that the legal section is largely based on preconceived and unsubstantiated claims and allegations and is lacking in substance. For instance the Report: -

- Refers to a general deterioration of the rule of law, and "dismal human rights" record but without any proof or substantiation.

- Refers to the State's non-compliance with court judgments but does not specify which judgments were not respected. To justify

the position, the report makes an attempt to refer to land related judgments, which the Government of Zimbabwe did not allegedly comply with but without reference to any specific cases.

- Claims that the Government of Zimbabwe violated its own Constitution and other laws but does not show which provisions were violated, and in what way there was such violation.

- Makes reference to unreasonable or too high housing standards but without demonstrating in what way the standards are high or unreasonable.

- Rules as defective the notice to residents of Harare that was placed in the newspapers in terms of the governing legislation.

- Claims the police set on fire property, which the owners failed to collect. In the same breath the report alleges the police also auctioned off some property. What is missing in respect of both incidences is evidence to sustain the allegation.

- Assumes that where one holds a lease, he or she is perfectly entitled to occupation of the leased land and overlooks the issue of conditions attaching to the use of such lease.

- Claims that licensed vendors were victims of the operation. The mission did not consider the issue of whether licensed vendors whose goods were allegedly confiscated were operating at the authorised places. Under Zimbabwean law, a vendor can be guilty of an offence either for operating without a licence, or for operating at an undesignated place. The two positions are not distinguished in the report.

- Claims that evictees were denied legal aid and access to justice. The number of cases brought before the courts disprove this allegation. In all such matters the evictees were legally represented.

3.5.2 The Report refers to some confidential sources of information, accepts that information as fact, and arrives at conclusions based on such unspecified information. The Mission regrettably withheld such information from Government for its comments. This is contrary to internationally accepted minimum standards of fact-finding.

3.5.3 The report disregards the issue of complementarity of rights and obligations under the human rights discourse, hence portraying the evicted persons as victims and not as violators of rights of others. For instance, persons who had set up shop in front of registered shop premises were violating the economic rights of legal shop operators. This had become the norm especially in the central business district. Judging by the larger number of persons who, in the aftermath of the operation later went to apply for licenses, it is evident that the majority of the traders were operating illegally. Even where some of them held vendors licenses, vending is allowed only in designated places, and Council had actually constructed vending places, which people abandoned in order to avoid paying rentals. However, these factors are ignored or downplayed in the report with the intention of justifying the illegal activities.

3.5.4 There are instances where derogation from the treaty obligations is permissible. Section 11 of the Constitution of Zimbabwe provides that "whereas persons in Zimbabwe are, entitled, subject to the provisions of this Constitution, to the fundamental rights and freedoms of the individual specified in this Chapter, and whereas it is the duty of every person to respect and abide by the Constitution and the laws of Zimbabwe, the provisions of this Chapter shall have the effect for the purpose of affording protection to those rights and freedoms subject to such limitations on that protection as are contained herein, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the public interest or the rights and freedoms of other persons."

3.5.5 Operation Murambatsvina dealt with a number of pieces of Zimbabwean legislation. The fact that the Government of Zimbabwe chose to invoke one, and not the other, should therefore not be an issue. It needs to be pointed out that the legislation is only invoked where there is prima facie evidence of an offence, or on just or reasonable cause to believe that the law has been violated. Therefore, the Government of Zimbabwe primarily invoked the Regional Town and Country Planning Act in most instances as it has cross cutting issues. The Act provides for the planning of regions, districts and local areas with the object of conserving and improving the physical environment and in particular promoting the health, safety, order, amenity, convenience and general welfare as well as efficiency and economy in the process of development and the

improvement of communications, and generally regulates the appearance of townscape and landscape, provides for the acquisition of land, and provides for the control over development, including use of land and buildings. The fact that in some of the residential areas pigs and cattle were being reared is proof of the extent to which there was wanton violation of the law. This was therefore the best legislation to invoke under the circumstances.

3.5.6 The Report takes issue with what it terms a 'set of colonial-era laws and policies' relied upon by Government in carrying out the operation and suggests that these be scrapped. Zimbabwe, like most post-colonial African countries, did inherit sets of colonial laws, and until these laws are amended they remain the laws of Zimbabwe. Those aspects of colonial law considered irrelevant have been amended or updated by Parliament taking into account the prevailing social set-up and needs. Statutory instruments to take care of particular aspects have been issued where the need arises. The Regional Town and Country Planning Act has been amended eight times since independence, with the last amendment having been made in 1992.

3.5.7 The Report concludes that it is imperative that the Government of Zimbabwe reform its Regional, Town and Country Planning Act and the Housing Standards Act to make it a pro-active instrument of enablement and empowerment rather than exclusion. This conclusion is difficult to understand in view of the fact that the Report acknowledges that when by the mid 1990s, the major cities of Zimbabwe began to witness rising unemployment, Government provided the impetus for the ascendance of the informal sector through a series of policies that included reducing regulatory bottlenecks to allow new players to enter into the production and distribution of goods and services, supporting indigenous business development and black empowerment, and relaxing physical planning requirements.

3.5.8 The Report further acknowledges that Statutory Instrument 216 of 1994 of the Regional Town and Country Planning Act effectively allowed for the development of non-residential activities in residential areas and that many activities such as hairdressing, tailoring, book-binding, wood or stone carving were deregulated. And further that similarly, small and medium enterprises employing 5-10 people in such areas as welding, carpentry, tin-smithing, shoe repair and small scale car repair were accorded special consent. As

the Report correctly states, "while these latter activities were subject to local planning permission, Statutory Instrument 216 sent a clear signal to local authorities of the government's desire to promote the informal economy in residential areas." Statutory Instrument 216 was indeed "a centrally driven policy" and by the Report's own admission, "provided a pretext for many local authorities, including the City of Harare, to turn a blind eye to what could best be described as an explosion of the informal economy." In other words, the Regional Town and Country Planning Act is indeed a pro-active instrument of enablement and empowerment rather than exclusion.

3.5.9 Having relaxed the laws, the new requirements still had to be complied with.

3.5.10 The mission obviously thinks that Africans should not worry about high housing standards. The Report states "… there is the Regional, Town and Country Planning Act, and attendant municipal bylaws emanating from the colonial era meant to keep Africans out of the cities by setting very high housing and development standards beyond the reach of the majority of the people" and concludes that there is an urgent need to suspend these "outdated laws" and to review them within the briefest time possible. Zimbabweans have never felt that because they are African, they are destined to live in sub-standard accommodation and in squalor. They have never felt that the set "very high housing and development standards" are too high for them to achieve. This is why over so many years, they have continued to respect and meet these standards. The Government of Zimbabwe would not like to believe that the Report is suggesting that housing standards be lowered because Africans are happy to be measured against low standards. Many Zimbabweans would never accept such a suggestion.

3.5.11 The Report claims that the notice placed in the papers before the evictions was not proper. Section 32 (6) of the Regional, Town and Country Planning Act permits the placement of a notice in the newspaper, in place of personal service, where an enforcement order is likely to affect several people. Taking for instance in Harare where the residential places are widespread, and many people do not spend the day at home hence it would have been difficult, if not impossible, to effect personal service. Hence the provision which deems that publication in a newspaper shall constitute service of the process. The relevant act does not prescribe the method or form of notice addressed to individuals. Prior to the newspaper notice

landlords with illegal extensions and unauthorized out-buildings had been furnished with notice inscribed on their utility bills. The fact that notices were inserted on bills is not ridiculous as suggested in the report. In fact this is a method local authorities utilize in communicating with residents. Such method is valid notification.

3.5.12 It needs to be brought to the fore that the persons affected were not entitled legally to be at such places. The issue of illegal forced evictions falls away. To say that the Government of Zimbabwe erred in the wake of massive violations of the law would be tantamount to encouraging continued violations. Despite the fact the Government made it clear that international law does not prohibit forced evictions carried out in accordance with the law, the Report still creates the impression that the evictions such as those carried under the Operation are illegal under international law.

3.5.13 The evictions undertaken in Zimbabwe were neither unlawful nor arbitrary and were carried out in accordance with the relevant city by-laws that regulate the putting up of structures in any city in Zimbabwe. Illegal and unplanned structures of any kind are prohibited by these laws. After admitting that under both relevant international law and national legislation forced evictions can be justified under certain circumstances, such as criminality; public health; public morality; and the rights of others, the Report then states that "The Government of Zimbabwe ***appears*** (emphasis added) to be relying on some of the above to justify its actions under international law." The inbuilt bias of the Report is illustrated by the fact that the Report states that the Government of Zimbabwe "appears" to be relying on some of the justifications underinternational law when the Government of Zimbabwe did clearly indicate in a written submission to the mission that it was indeed invoking those justifications.

3.5.14 Operation Murambatsvina was not a political process. It was a law enforcing process and Government of Zimbabwe did not have the intent as claimed in the report to punish any persons for supporting the opposition. In fact such suggestion is nonsensical, given the fact that the ruling party has significant supporters in urban areas, who were equally affected, and there are no structures that were spared out of political consideration.

3.5.15 In fact, the legality of the Operation is supported by the legal opinion sought by the Special Envoy regarding the applicability to the

Zimbabwean Operation of Article 7 of the Rome Statute of the International Criminal Court, provided by what the Report terms a 'confidential source.' This legal opinion makes telling revelations as follows:

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

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

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

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

3.5.16 The right to compensation from the State vests only on owners of legal structures. In the present circumstances, these were illegal structures, and the evictees have no right to compensation. This is an internationally recognized legal position.

2.5.17 The allegations made in the Report concerning the independence and integrity of the judiciary are recycled statements or submissions made by NGOs, casting doubt on the extent to which the views are the mission's independent views. For example, the Report states that "there is general concern that the High Court's failure to safeguard the right of the victims of the Operation reaffirms the argument that the Zimbabwean Judiciary has generally failed to act and been seen to act as custodians of human rights in Zimbabwe and that there has been a regrettable failure by members of the Bench to remain independent from the national and local politics of the day." This is presented in the report as a 'general concern', presumably of the Zimbabwean populace. It is only in a footnote that it is explained that this is the view/submission of the Zimbabwe Lawyers for Human Rights. Again the Report states, "the general view among many stakeholders is that this has had a severe impact on the rule of law and the administration of justice, and has caused the ordinary person on the street to lose faith in achieving justice through legal channels." And again it is explained, only in a footnote, that this statement is made in the same submission from the Zimbabwe Lawyers for Human Rights.

3.5.18 It is not correct that the Court in the Dare Remusha Housing Cooperative Case ordered a provisional order against the State as

claimed in the report. It is noteworthy that even the lawyer of the Housing Cooperative consented to the illegality of the occupations by his clients at the leased properties without due compliance with the prescribed conditions.

3.5.19 On the basis of this submission alone, the Report concludes "The legal context should be seen against a background of a general deterioration of the rule of law in Zimbabwe. Disregard for laws and court orders during the Fast Track land reform programme set a dangerous precedent. It also sent a signal that the rule of law could be subject to selective interpretation." The mission did not observe our judiciary in operation to warrant the making of such demeaning, contemptuous statements of our judiciary. Further, where a Court does not make a ruling in favour of a litigant, it does not mean that the judiciary is not independent.

3.5.20 The acquisition of land by the Government of Zimbabwe for building houses at White Cliffe is being done in the context of national laws, and therefore it is highly speculative of the report to allege that the efforts by the Government of Zimbabwe will not succeed. The Constitution of Zimbabwe in section 16 allows the derogation of the right to property in the public interest, and on payment of compensation.

3.5.21 The Report alleges that six people were killed at Porta Farm. The special envoy in the report stated that she disproved the alleged death of a pregnant woman who allegedly fell from a truck at Porta Farm. Nevertheless, the report takes a position that there was violation of the right to life. The special envoy was present at Porta Farm where the deaths allegedly took place but did not follow up on all the other deaths that allegedly took place there, especially in light of the residents having denied the death of the pregnant woman. The mission did not meet with the police or take up the issue with them. In fact the Special Envoy refused to converse with the police who were in attendance at Porta Farm. The Envoy at the time of preparing the report had received a submission from the police whose authenticity the Report chooses to doubt. As a fact-finding mission, the UNSE should have thoroughly established the facts from the Porta Farm residents in the same way they did about the alleged death of the non-existent pregnant woman. Attached is a Police response to allegations contained in paragraph 6.5.1 of the UNSE's report.

3.5.22 The Government of Zimbabwe has not reneged on its regional and international obligations, that is, the duty to recognize the right of every one 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 underlying factor to the enjoyment of all these rights is that they have to be enjoyed in accordance with the law.

3.6.0 CONCLUSIONS AND RECOMMENDATIONS

Overview

3.6.1 The Report alleges that the Operation was unplanned and was carried out in an over-zealous manner intended to unleash chaos and untold human suffering. The allegation is totally false. The Operation was planned and was carefully executed, taking into consideration the public interest.

3.6.2 The element of bias is evident throughout the report. By the report's own admission the objectives of the Operation were consistent with Millennium Development Goals (MDG) goal 7, target 10 on water and sanitation, and target 11 on slum upgrading.

3.6.3 The assertion that the operation resulted in "virtual breakdown in dialogue between different spheres of Government, and between Government and civil society" shows that the report is biased towards certain sections of civil society. The assertion implies that there was dialogue between Government and civil society, which has now broken down because of the Operation. Just like there was dialogue among the various stakeholders before the Operation, there continues to be dialogue now. This explains the partnership between Government and some non-state actors in addressing the challenges that emerged after the Operation.

3.6.4 Throughout the report there is repeated reference to the misdirected allegation that the exercise was executed in a militaristic manner. This is evidence of the alarmist language used in the report which is obviously bent on inflaming emotions of the readership. On the contrary, the operation was carried out by the local authorities that enlisted the support of the Zimbabwe Republic Police and did not involve any military personnel. The Zimbabwe Defence Forces were only involved in the reconstruction process under Operation

Garikai/Hlalani Kuhle. In fact, as admitted in the Report, in most cases the affected people pulled down their own illegal structures.

3.6.5 The assertion that the Government of Zimbabwe is indifferent to human suffering is an unacceptable insult which should be dismissed with the contempt it deserves. In fact the Zimbabwe Government has over the years adopted social and economic policies, to uplift the welfare of ordinary people. These policies, which have been acclaimed the world over, include the areas of housing, education, health, rural development and empowerment.

3.6.6 The Report makes reference to Operation Garikai/Hlalani Kuhle in a pessimistic manner and gives the impression that the exercise was an afterthought on the part of Government. It seems the Report has taken a deliberate stance not to inform the UN Secretary General of this massive nation-wide reconstruction programme and this creates an imbalance within the Report. Operation Garikai/Hlalani Kuhle was conceived as part of Government policy on housing delivery and MSMEs development as enunciated by the ruling Party in its Manifesto for the March 31 Parliamentary Elections. Already basic housing units and factory shells are being constructed.

3.6.7 The Report has already dismissed Operation Garikai/Hlalani Kuhle as a failure, thereby belittling and undermining the efforts of the Government of Zimbabwe in addressing the challenges. It should be pointed out that the Government has invited the private sector, the National Social Security Authority (NSSA) and other Pension Funds and individuals to complement its efforts in the reconstruction programme. For those that have already been allocated stands there is now hope for a better future and security of tenure. The enthusiastic response of the people bears testimony that Government's policies are consistent with their aspirations. The Government has in turn mobilized all resources at its disposal, including the Defence Forces into the reconstruction programme.

3.6.8 The call by the report on the Government to take corrective measures to reform itself constitutes an attempt by the Envoy to reconstitute the Government of Zimbabwe. Clearly this is beyond the Mission's mandate. The Government of Zimbabwe was legitimately constituted following the Presidential elections of 2002 and the Parliamentary elections of 31 March 2005, and cannot be reconstituted by instructions from any external source.

3.6.9 The recommendation urging Government to adopt pro-poor, gender sensitive policies is consistent with various Government policies as stated earlier including Operation Garikai/Hlalani Kuhle. Government in response to the need to effectively deal with the issue of MSMEs upgraded the previous department of Small and Medium Enterprises in the President's Office to a fully-fledged Ministry. The Government has also established the Ministry of Rural Housing and Amenities to deal with rural housing issues among other things, while the Ministry of Local Government and Urban Development remains focused on housing delivery in the urban areas.

3.6.10 The recommendation to immediately review the Regional, Town and Country Planning Act and other relevant Acts to align the substance and the procedures of these Acts with the social, economic and cultural realities facing the majority of the population, ignores the fact that this legislation has been reviewed and amended several times since independence. These reviews and amendments were done to take into account the changing social and cultural circumstances, as the Government does with all legislation from time to time.

3.6.11 On the recommendation on the need to restore a climate of trust and dialogue between different spheres of Government and between Government and civil society, the Government reaffirms its commitment to national, constructive dialogue. NGOs are expected to operate within the confines of our national laws, which prescribe the parameters for partnership.

3.6.12 Regarding the recommendation for the United Nations to work with the Government of Zimbabwe to mobilize immediate assistance from the international community, the Government of Zimbabwe is prepared to work with the UN and other nations of goodwill to address humanitarian and housing delivery challenges. Such involvement should be without conditionalities.

3.6.13 Regarding the recommendation for the Government of Zimbabwe to undertake corrective policy reforms in macro-economic management and governance issues, focusing on land reform and land tenure with a view to provide secure tenure for the poor, both in rural and urban areas, the Government observes that such policies are already in place. Following the land reform programme, an appropriate land tenure system has been developed. Notwithstanding the disruptive

impact of the illegal sanctions, a macro-economic management framework is in place, and is being implemented.

3.6.14 Regarding the recommendation addressing issues of accountability, the Government notes that this falls outside the mission's terms of reference. Nevertheless, the Government underlines the fact that the operation was the collective effort of Government and local authorities.

Conclusion

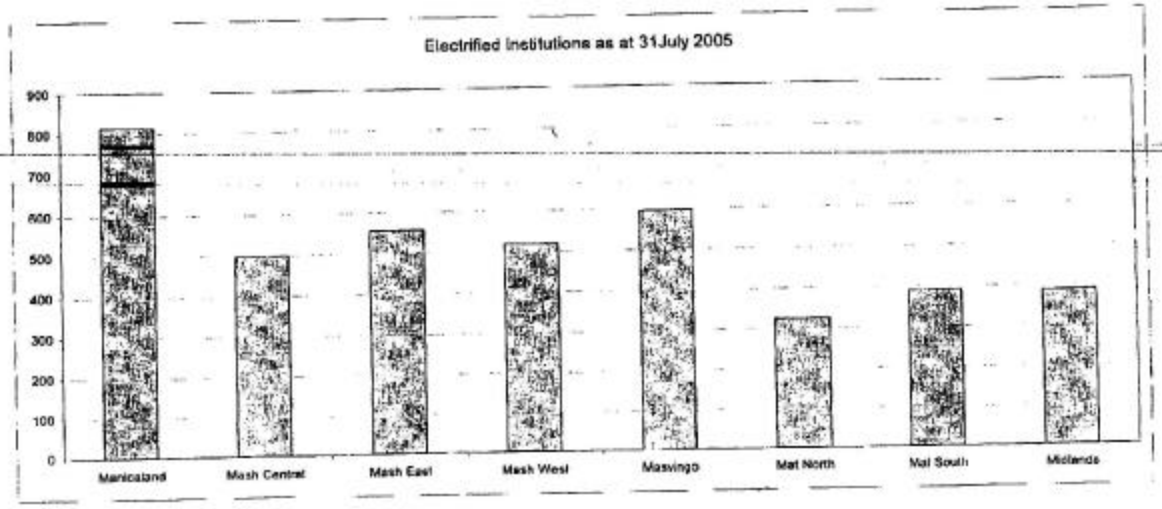
3.6.15 The Government of Zimbabwe will continue to exercise its legitimate responsibility to implement its national laws, including municipal by-laws with the support of the majority of ordinary Zimbabweans. This responsibility is being exercised in the context of the socio-economic policies of Government whose overall objectives and goals are to uplift the lives of ordinary Zimbabweans, in the face of illegal sanctions and unwarranted vilification by Britain and its allies, adversities which the report does not seem too keen to acknowledge.

3.6.16 In its analysis of the situation in Zimbabwe the Report clearly takes sides with the UK, the US, the white Commonwealth, the EU, as well as the opposition MDC and some sections of civil society who, in pursuit of other agendas, have taken the negative stance of condemning anything and everything done by the Government of Zimbabwe. It is unfortunate that the mission is now being hijacked by some Western countries as an opportunity to intervene in the internal affairs of Zimbabwe. In this regard the government of Zimbabwe deplores the attempts by Tony Blair and his Government to hijack and politicize the UNSE's mission as demonstrated by Blair's exhortation at the start of the fact-finding mission that the UNSE should come up with a "good report" that he would take to the Security Council.

3.6.17 The Government of Zimbabwe notes the suggested entry points by international players that have been made in the spirit of mutual cooperation and assistance. The suggested entry points will have to be agreed upon with due regard to Zimbabwe's sovereignty, national laws and development priorities.

Table 4 National Statistics on Electrified Rural Institutions as at 31 July 2005

PROVINCE	Primary Schools	Secondary Schools	Business Centres	Rural Health Centres	Gvt. Ext. Offices	Chiefs	Small Scale Farms	Villages	Irrigation Schemes	Borehole/ Dam Points	Others	Total Electrified to date
Manicaland	200	121	155	82	46	20	29	104	16	7	35	815
Mash Central	121	58	72	45	36	16	77	23	5	15	32	495
Mash East	122	80	83	35	17	16	67	51	27	3	56	557
Mash West	107	59	54	21	25	15	164	43	7	6	18	520
Masvingo	138	114	126	68	35	16	23	47	9	5	13	595
Mat North	96	46	63	30	31	17	7	12	7	4	11	324
Mat South	109	68	81	37	16	18	10	40	9	3	9	390
Midlands	98	55	71	31	19	24	40	27	3	1	9	388
TOTAL	991	601	706	349	225	142	417	347	83	45	183	4088



HOUSING DEVELOPMENT STRATEGY: Another important part of "The Land is the Economy and the Economy is Land" policy is ZANU PF's housing development strategy. In the past housing has been viewed as a social service when in fact it is part and parcel of economic development. For this reason, the next ZANU PF Government will treat housing as a basic human right for both urban and rural communities with an emphasis on lower income brackets. Thus, the provision of decent accommodation as an economic good will be a priority. Housing provision will help to stimulate economic growth, create employment and promote household savings.

Currently the national housing backlog is about one million units. While this figure does not really reflect the actual demand for housing, it is nevertheless a useful benchmark for policy formulation and action. Since our independence in 1980, the major challenges we have faced with regard to the provision of housing have been mainly due to legal and financial constraints. The enactment of Constitutional Amendment (Number 16) Act, 2000 by our last Parliament has paved the way for a robust housing development strategy that will not be limited by legal and financial constraints in terms of the compulsory acquisition of land in peri-urban areas. This means that the land acquisition policy of our Government will benefit not only rural but also urban communities.

IN ORDER TO MEET THE HOUSING DEMAND IN THE NEXT FIVE YEARS, THE ZANU PF GOVERNMENT WILL PURSUE THE FOLLOWING STRATEGIES:

- Acquire approximately 50 000 hectares for urban housing development under the provisions of Constitutional Amendment (Number 16) Act, 2000 and the relevant land acquisition legislation.
- Implement the various Master Plans of the urban local authorities.
- Review current legislation in order to amend or repeal previous restrictive laws to allow for speedy land subdivision.
- Treat the provision of housing as an economic good in order to help boost our national priorities in the mobilization of resources.
- Establish a National Housing Finance Bank as a matter of priority in the implementation of the national housing strategy.
- Facilitate the development of viable small size commercial agriculture farming around urban centers and eliminate the current large farm sizes.
- Provide an initial 50 000 housing units and increase this figure to about 200 0000 annually over the next five years.
- Utilize the Public Sector Investment Program to provide social infrastructure in the cities, towns, growth and service centers.
- Promote a spirit of Public-Private Sector Partnership to help develop and co-finance the housing development strategy including the requisite social and physical infrastructure.
- Implement the "2 000 National Housing Policy for Zimbabwe" recently launched by our Government.

THE EXPECTED BENEFITS OF THE HOUSING DEVELOPMENT STRATEGY WILL INCLUDE THE FOLLOWING:

- Direct annual employment from the construction of houses would increase by between 12 500 and 50, 000 or between 60 000 and 250 000 over the next five years.
- Indirect employment in the services sector would also increase.
- The provision of affordable accommodation would help the beneficiaries to save an average of between $12 000 to $24 000 annually per household. This would result in the increase of the total national annual saving by about $600million to $1.2billion.

ZANU PF: SECURING SHELTER FOR YOU

Province	2004 Target (Stands)	2008 Target (Stands)
Harare	100,800	504,000
Bulawayo	36,000	180,000
Mashonaland Central	9,730	48,650
Midlands	21,360	106,800
Mashonaland East	12,820	64,100
Mashonaland West	24,000	120,000
Masvingo	14,500	72,500
Matabeleland North	6,220	31,100
Matabelend South	8,320	41,600
Manicaland	16,250	81,250
TOTAL	**250,000**	**1,250,000**

VOTE ZANU PF

Picture Annex

OPERATION MURAMBATSVINA : ELIMINATING HEALTH HAZARDS RESULTING FROM ILLEGAL SETTLEMENTS AND OVERCROWDING

Illegal backyard cottage structures crowding out the original homes

Part of the slums in Mbare high-density suburb, Harare

Women in Mbare keep effluent from flooding their homes

Children play in sewer water at St Mary's Chitungwiza

Children cross a street flooded with sewer water in Chitungwiza

A slum settlement built by members of the Apostolic Faith Sect

OPERATION MURAMBATSVINA : AGAINST UNCONTROLLED, UNLICENSED AND INDECENT BUSINESS ACTIVITIES THAT NURTURE CRIME AND BLACK MARKETS

Gazaland informal sector manufacturers' premises in Highfield, Harare

An illegal food and vegetable market in Harare

Fence making in Siyaso informal premises in Mbare

Part of the Mbare Musika vegetable market where black marketeering of basic commodities was rife

General and hardware accessories traders at the Siyaso informal market

Black market traders in the City of Harare

Picture Annex

OPERATION MURAMBATSVINA : ELIMINATING THE THREAT TO THE ENVIRONMENT

School pupils pass through a burning illegal dumping place

Raw effluent gushes into a stream in Harare

Garbage dumped in an undesignated place near a residential area

A school boy walks past a heap of garbage

Garbage piles on a top of a shelter at a the Market Square bus terminus in Harare

Uncontrolled urban migration, over crowding & illegal settlement straining refuse collection capacity

OPERATION GARIKAI-HLALANI KUHLE : PROVIDING IDEAL AND LEGALISED OPERATIONAL INFRASTRUCTURE FOR MICRO AND SMALL ENTERPRISES

Premises before Operation Murambatsvina

An aerial view of the Siyaso informal manufacturing and trading premises

Part of the Siyaso informal manufacturing and trading premises

Tyre and Shoe repairing premises in Makokova high-density suburb, Bulawayo

Premises after Operation Murambatsvina, Garikai-Hlalani Kuhle

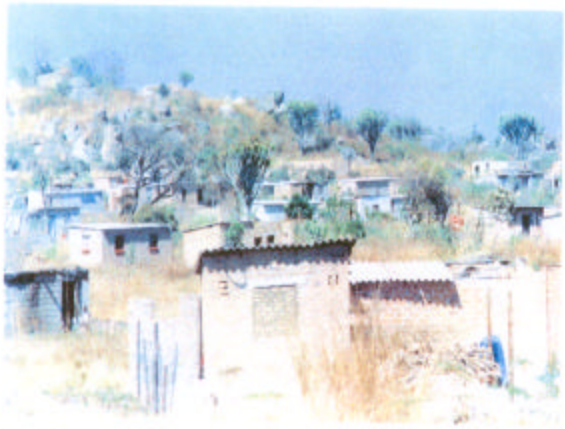
The new Siyaso manufacturing and trading premises

The Willowvale factory shells for micro and small manufacturers. Similar structures are being constructed countrywide

Diplomats from the Non-Aligned Movement tour the Willowvale factory shells

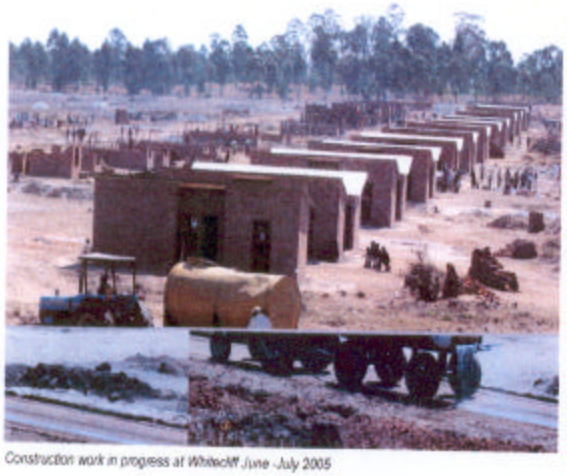
OPERATION GARIKAI-HLALANI KUHLE: PROVIDING DECENT ACCOMMODATION FOR ZIMBABWEANS

Transforming the landscape of Whitecliffe forever and for the better



The illegal housing structures at Whitecliffe farm before Operation Murambatsvina

Road construction work at Whitecliffe under Operation Garikai-Hlalani Kuhle



Construction work in progress at Whitecliff June -July 2005

The first completed houses

A house with brick work to the roof level

Female contraction workers at work

ZIMBABWE REPUBLIC POLICE

Official Communications
should no(be addressed
to Individuals

GENERAL HEADQUARTERS, HARARE
comer 7th St./Josiah Chinamano Avenue
P.O. Box CY 34, CAUSEWAY
ZIMBABWE.

Telegrams: 'COMPOL Telephone HARARE 700171 Telex: 24328 (ZRPHQ): Fax: (263)-(4)-253212

RESPONSE TO ALLEGATIONS OF DEATHS SUFFERED DURING OPERATION MURAMBATSVINA/RESTORE ORDER

INTRODUCTION

This document is prompted by paragraph 6.5.1 **"Right to Life and Property"** in the UN Special Envoy Mrs A.K. **TIBAIJUKA** report.

From the onset, it is important and factual to state that no death was occasioned by Operation Murambatsvina/Restore Order at Porta Farm during the clean up exercise. This report covers six deaths which occurred but not caused by the operation as reported. The true circumstances are given below.

CASE 1

On 19 June 2005 and at 1400 hours, deceased Robert **MUTUSVA** who was in the company of his brother Tapiwa **MUTUSVA** and a friend **TSIKA** joined in pulling down the illegal structure at Number 4231 Unit D Seke Chitungwiza. While they were busy destroying the structure, a wall with a height of 1.2 metres and a diameter of 9 inches collapsed over the deceased hitting him on the head and left leg.

Chipo **CHIPANDA** N.R. 49-040661-V-49 of the same address, who was sitting in the main house heard a big bang and went out to investigate. Tapiwa told her that a wall had fallen on the deceased. He was subsequently rushed to Chitungwiza hospital in an ambulance and was later referred to Harare Hospital where he died at 1900 hours.

At the time of the incident the Police were not at the scene. The Police had not yet entered into Unit D Seke, Chitungwiza since they were still in St Mary's area. A friend and brothers of tMe deceased were destroying the structure, as they knew it was illegal.
Police Zengeza Report Received Book (RRB) reference number 0766740 refers.

CASE 2

On 19 June 2005 and at 1330 hours, Alien **DANGA** N.R. 59-0677744-T-85 aged 20 years of Number 8667 Unit K Seke, Chitungwiza and Tinashe **MAPFUMO** N.R. 59-086695-S-26 aged 19 years of Number 8668 Unit K Seke, Chitungwiza were demolishing an illegal structure at their residence. While the two were busy destroying the structure it happened that the infant Terrence **MUNYAKA** aged one and half years of 8695 Unit K, Seke Chitungwiza was behind the same structure, which was being destroyed. The structure fell and hit the infant. The two were not aware of the presence of the infant.

The infant sustained head injuries and was rushed to Chitungwiza Hospital were upon arrival, he was pronounced dead. Deceased's Father is Mutombo **MUNYAKA** a member of the Force stationed at Support Unit Headquarters.

At the time of the incident the Police task team had not reached the area. The Police were still in St Mary's area and had not yet reached Seke area.

Police attended the scene and the body was taken for Post Mortem. Chitungwiza RRB reference number 0881877 refers.

CASE 3

On 8 June 2005 and at 1040 hours, the deceased's parents Levada **RICHARD** (Mother) and Herbert **NYIKA** (Father) were destroying their two-roomed cabin at House Number 3446 Old Tafara, Mabvuku. During the process of destroying the cabin, their child Charmaine **NYIKA** was at a distance from the wall. There wasn't any close attention given to her.

The child started walking towards the mother, and when she was about to pass the wall, it fell over her and was trapped under the bricks. She was retrieved alive and was rushed to Mabvuku polyclinic where she was pronounced dead on arrival. Mabvuku C. R. 100/06/05. The Police were not at the scene when the demolitions were occurring.

CASE 4

On 21 June 2005 and at 0900 hours the now deceased Farai **BANWA** N.R. 59-096363 B 59 aged 18 of Number 11364 Zengeza 4 Chitungwiza was demolishing illegal structure when a lintel fell on him. He died instantly.

Informant Petronella **ZIMUTO** aged 25 who is a lodger at the same address witnessed the incident and later went to make a report at Zengeza Police Station, body of the deceased was taken to Chitungwiza Hospital Mortuary for Post Mortem.

Deceased was demolishing his illegal structure in compliance with the on

going Operation Clean Up code-named **"Murambatsvina".** No police team on operation was near the place when the incident occurred Zengeza RRB 0766748 refers.

***CASE* 5**

Sergeant **DAHWE** who was a member of the Zimbabwe Republic Police died on June 4, 2005 as a result of injuries sustained when they were destroying an illegal structure in Old Magwegwe, Bulawayo on June 29, 2005. Sergeant **DEHWE** was part of a group of officers and civilians destroying in the suburb and in the process a wall fell on him and a civilian member identified as Sylvester **SIBANDA. SIBANDA** sustained a broken leg.

***CASE* 6**

False Report

An SW Radio report to the effect that four people had died as a direct result of Operation **Murambatsvina** is false. An investigation carried out at Porta Farm has revealed that there was only one child who was killed in a road accident which was not in any way related to the Operation neither was a Zimbabwe Republic Police or Zimbabwe National Army vehicle involved. The circumstances of the accident are that:

- It occurred on June 29, 2005 at about 1400 hours at the 29.5 km pegmark along the Harare-Bulawayo road.
- The vehicle involved is a Mitsubishi lorry registration number 854-679L owned by Greatermans (Pvt) Ltd. At the time of the accident it was being driven by Busuman **KATEVA** of 4331 Tongogara Street, Dzivarasekwa.
- The accident occurred at the 29.5 km peg when the deceased Fanandi **MANYERE** (4) and her mother both of 113 Porta Farm attempted to cross the road in front of the oncoming lorry. The mother managed to cross but the lorry hit the daughter who had been left behind. The daughter died on the spot.

Norton Police attended and the accident is being investigated under Norton reference TAB 181/05. The accident spot is a known accident black spot because of the Porta farm settlement along the busy Highway.

CONCLUSION

All Police operations are properly planned and executed with due regard to human rights issues, gender issues and the rights of children. Sufficient warnings are always given before the Police finally interface with the public;

hence people demolished illegal structures on their own after notification and before arrival of the Police. In Operation Restore Order, Police had been approached by local authorities to help in enforcing Council by-laws which were being ignored. Police were, also specifically asked by the Local Authorities to assist City Councils to relocate street kids, vagrants, touts and vendors who were causing chaos in town. Police complied and assisted.