

Habitat International Coalition

Housing and Land Rights Network

Urgent Action Appeal:

200,000 people evicted in two weeks and another million threatened in Zimbabwe

Case ZIM100605

The Coordination Office of the Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) requests your URGENT intervention in the following situation in Zimbabwe.

Brief description of the situation

HIC-HLRN repeatedly has received alarming information from local civil society sources of massive evictions in throughout Zimbabwe that already have rendered 200,000 people homeless in two weeks. Some 30,000 street vendors and people working informally have been detained and if the eviction drive continues, "the estimates are that 2 to 3 million people could be affected, which is about a quarter of (Zimbabwe's) population," as M. Kothari, the UN Special Rapporteur on the Right to Adequate Housing warned in a press conference on 3 June. Most victims are now sleeping in the streets and in the open countryside, when the country is in winter season. Two cases of children dying due to the hardship caused by the destruction of their homes in winter time have already been reported. In latest newspaper updates on the situation on 3 June, Zimbabwe's police said their operation against street traders and illegal housing has entered its final day, but as of 7 June, evictions were still going on.

The government labeled the eviction drive Operation Murambatsvina, which means "drive out the rubbish." The operation has happened without any notice, except apparently in Harare, where government-appointed Mayor

Sekesai Makwavarara gave inhabitants notice of eviction in May, and told them that they had until July 2005 to vacate. However, evictions started in different places in the country as early as 17 May and, in the night of 26 May, authorities forcibly drove more than 10,000 people from their homes in the informal settlement of Hatcliffe Extension in northern Harare alone.

According to Trudy Stevenson, a Member of Parliament for Hatcliffe Extension area, 3,000 police were present during the eviction, thus impeding any possibility for the victims to try and fight back. All sources have confirmed and denounced this excessive use of force that has prevented not only any opposition to the illegal evictions, but also systematic and organized data collection, as people are afraid to tell what happened to them. Interviewers also need police permission to get to some of the affected members. As the Special Rapporteur mentioned in his press conference on 3 June, "[t]he evictions have been carried out by police forces that, besides destroying the dwellers property, have allegedly beaten residents who try to defend their human right to adequate housing." Moreover, the immediate people's concerns are to get the children out of the cold and find a place, where to store their belongings. Finally, according to local organizations trying to provide assistance to the victims, intimidation of some of the community leaders (of federations and cooperatives) was already underway on 2 June.

Most people affected live in informal shacks in and around the cities, while others were actually legal residents. Hatcliffe Extension is a proper site-and-service scheme, and people had paid Z\$300,000 per stand last year for their lease documents. They were therefore legally there. Others are housing organizations members, who have lease agreements, had been officially allocated stands by either the government or the local authority, and had moved on to site still living in temporary shelters while construction was taking place. Moreover, many settlements had already received improvements and some basic services—like water and electricity; one of them even had a school—although they were still considered informal. However, the vast majority of evicted residents have not been offered any alternative place to settle and have been told to go back to the rural areas they originally come from, but have no means of subsistence.

When most reports are about Harare and its surroundings, people from

various parts of the country actually have been affected or are threatened, namely Bulawayo, Victoria falls, Chitungwiza, Chipinge, Kariba, Chinhoyi, Beitbridge and Gwanda. Victoria falls, Harare and Mutare are the worst affected. 54 residents of Hatcliffe Extension community has filed a court action through the Zimbabwe Lawyers for Human Rights that was heard on 1 June, but the court judged the eviction lawful under the argument that the cooperative had not filed proper building plans. The community is appealing the decision.

A group of local organizations and cooperatives has been organizing rapidly, so as to respond to the humanitarian crisis and mobilize national and international pressure. The cooperatives especially have been all the more surprised and appalled by the evictions, particularly as the Government itself had entrusted them to help poor Zimbabweans achieve better living conditions. Today, many of the evictees were residents of these same cooperatives, through which some had obtained commercial stands legally.

Background information

According to information received, some officials have justified the Operation Murambatsvina as an urgent measure to "rid the capital of illegal structures, businesses and criminal activities." Harare's government-appointed Mayor Sekesai Makwavara also said in a statement e that "[t]he attitude of the members of the public as well as some city officials has led to the point whereby Harare has lost its glow. We are determined to get it back." However, people on the ground and observers think that the operation is a measure of collective punishment and repression of potential uprising against the people who voted for the opposition party in the recent elections.

While the international community has denounced the way these elections took place, the social situation is explosive. After seven years of unprecedented economic decline, 80 percent of the work force is unemployed and 4 million of Zimbabwe's 12.5 million people have emigrated. Michael Davies,

chairman

of the Combined Harare Residents Association, said more than half of the capital's population of 2 million to 3 million people live in housing marked

for demolition. The current evictions exclude all the people, who came from

abandoned rural areas to cities to look for a minimum to survive. Thus, as

the Special Rapporteur pointed out in a 3 June press conference, "We are seeing in the world, and Zimbabwe is a good example now, the creation of a

new kind of apartheid where the rich and the poor are being segregated."

International Law

Under most circumstances, forced evictions are prima facie in violation of

international law. These mass evictions primarily have grossly violated 200,000 people's human right to adequate housing, but also have had an impact on the dwellers' congruent rights linked to adequate housing, such as

the right to food, right to water, right to health, right to education and

the right to earn a livelihood. In the right to adequate housing, the Zimbabwean authorities have denied in particular the following elements: legal security of tenure and freedom from dispossession; information; participation and self-expression; and resettlement. All are recognized in

international law, especially in the International Covenant on Economic, Social and Cultural Rights that Zimbabwe has ratified on 13 August 1991.

These rights are also emphasized in General Comments no. 4 (1991) and no. 7

(1997) of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), which state that "forced evictions are prima facie incompatible with the provisions of the Covenant and can only be carried out

under specific circumstances", imposing certain requirements which State parties to the Covenant must respect, including the necessity to inform the

affected people, agree on a plan with them, and provide adequate compensation.

The UN Special Rapporteur on the right to adequate housing recently stressed

that "forced evictions carried out in the manner alleged would constitute a

gross violation of human rights, in particular of the right to adequate housing, as has been stressed by a unanimously adopted resolution of the

UN

Commission on Human Rights" (see resolution E/CN.4/RES/1993/77). In general, women and children are always the most affected by forced evictions, especially when in already vulnerable conditions (widows, orphans), thus this type of mass action grossly violates their rights, as enshrined in international law as well.

Zimbabwe also ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 12 June 1991. CEDAW's Article 14.2(h) requires States to ensure adequate living conditions for women in rural areas. The Convention on the Rights of the Child, which Zimbabwe ratified on 11 October 1990, specifically requires that States protect children's right to adequate housing (Article 27.3). The International Covenant on Civil and Political Rights, ratified by Zimbabwe on 13 August 1991, prohibits cruel, inhuman and degrading treatment and/or punishment (Articles 7) and the arbitrary use of force (Article 17). The evictions currently underway in Zimbabwe are in violation of all of these binding international norms.

If evictions take place at all, international law and expressed consensus establish that they can legally occur only in exceptional circumstances and in conformity with human rights criteria. These include requirements of consultation, due process, consent, ensuring alternative housing in advance, and fair compensation, as set forth by the Committee on Economic, Social and Cultural Rights (CESCR) in General Comment No. 7.

At the regional level, the African Commission on Human and Peoples' Rights also established that authorities are required to explore alternatives and option with the affected community prior to eviction, to provide adequate notice and information, to assure the availability of replacement accommodation, as well as an opportunity to appeal an eviction order. As in CESCR's General Comment No. 7, the African jurisprudence affirms that no one may be made homeless as a result of an eviction. (See Social and Economic Rights Action Centre (SERAC) and The Centre for Economic and Social Rights (CESR) v. Nigeria, 2001.[1])

While the Zimbabwean authorities have claimed that these cruel evictions are based on the requirements of law enforcement, they also have contravened the

minimum requirements of law-enforcement official by using force outside the principles of necessity and proportionality, as elaborated in the Code of Conduct for Law Enforcement Officials (Article 3), which the General Assembly adopted in resolution 34/169, 17 December 1979. Moreover, the nature of the evictions also violates the General Provisions of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). The African Charter on Human and People's Rights affirms these same principles, in particular under Article 6, which recognizes the right to freedom from arbitrary arrest or detention.

These violations may also constitute crimes against humanity. The Rome Statute of the International Criminal Court has codified the deliberately widespread or systematic transfer of a civilian population as a crime against humanity, under Article 7(1)(d) and Article 7(2)(d). The present forcible transfer of large parts of the Zimbabwean population to rural areas, relegates them to a state of dispossession, deepened impoverishment, and without a source of livelihood or means of sustenance. The grave conditions resulting from these evictions give argument to the suggestion that the Security Council direct the prosecutor of the International Criminal Court (ICC) to investigate and prosecute these serious crimes.

Action requested

Please write to the authorities in Zimbabwe, urging them to:

- * immediately cease the mass evictions taking place around the country;
- * take urgent measures to ensure that adequate alternative housing is immediately provided for already displaced populations, now reportedly homeless;
- * initiate dialogue with affected communities in accordance with human rights principles, especially CESCR General Comment no. 7;
- * investigate and prosecute the use of excessive force by the police during the current eviction drive;
- * comply with its obligations under international law and respect all its citizens' right to adequate housing—including legal security of tenure and freedom from dispossession; information; participation and self-expression; and resettlement—, but also the right to food, right to water, right to health, right to education and the right to earn a

livelihood.

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Geneva - Cairo..., 10 June 2005

Kindly inform HIC-HLRN and.. of any action undertaken quoting the code of this appeal in your reply to: <<mailto:urgentactions@hlrn.org>> urgentactions@hlrn.org.

Sample letter to Zimbabwean authorities

We have been informed by Habitat International Coalition-Housing and Land Rights Network (HIC-HLRN) that the Government of Zimbabwe is carrying out massive evictions in throughout Zimbabwe that already have rendered 200,000 people homeless in two weeks. Some 30,000 street vendors and people working informally have been detained and if the eviction drive continues, 2 to 3 million people could be affected. Most victims are now sleeping in the streets and without shelter in the countryside, when the country is in winter season. At least two children have died as a result of the harsh conditions of homelessness.

The government's Operation Murambatsvina has happened without any notice, except apparently in Harare, where government-appointed Mayor Sekesai Makwavarara gave inhabitants notice of eviction in May, and told them that they had until July 2005 to vacate. However, evictions started in different places in the country as early as 17 May and, in the night of 26 May, authorities forcibly drove more than 10,000 people from their homes in the informal settlement of Hatcliffe Extension in northern Harare alone.

The overwhelming presence of police at the scene have engaged in excessive

use of force added to the deprivation arising from these illegal evictions

Most victims are those who have been living in informal shacks in and around the cities, while others were legal residents, such as those in Hatcliffe Extension. The vast majority of evicted residents have not been offered any alternative place to settle, and the authorities have told them only to go back to the rural areas wherever they come from. If they do so, they will have no means of subsistence.

Today, many of the evictees are legal residents from previously government-supported cooperatives that were supposed to help poor Zimbabweans achieve better living conditions. Eviction has left them destitute and demoralized.

Under most circumstances, forced evictions are prima facie in violation of international law. These mass evictions already have grossly violated 200,000 people's human right to adequate housing, but also have had an impact on the dwellers' congruent rights linked to adequate housing, such as the right to food, right to water, right to health, right to education and the right to earn a livelihood. In the right to adequate housing, the Zimbabwean authorities have denied in particular the following elements: legal security of tenure and freedom from dispossession; information; participation and self-expression; and resettlement. All are recognized in international law, especially in the International Covenant on Economic, Social and Cultural Rights that Zimbabwe has ratified on 13 August 1991.

These rights are also emphasized in General Comments no. 4 (1991) and no. 7 (1997) of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), which state that "forced evictions are prima facie incompatible with the provisions of the Covenant and can only be carried out under specific circumstances", imposing certain requirements which State parties to the Covenant must respect, including the necessity to inform the affected people, agree on a plan with them, and provide adequate compensation.

The UN Special Rapporteur on the right to adequate housing recently stressed that "forced evictions carried out in the manner alleged would constitute a gross violation of human rights, in particular of the right to adequate housing, as has been stressed by a unanimously adopted resolution of the UN Commission on Human Rights" (see resolution E/CN.4/RES/1993/77). In general, women and children are always the most affected by forced evictions, especially when in already vulnerable conditions (widows, orphans), thus this type of mass action grossly violates their rights, as enshrined in international law as well.

Zimbabwe also ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 12 June 1991. CEDAW's Article 14.2(h) requires States to ensure adequate living conditions for women in rural areas. The Convention on the Rights of the Child, which Zimbabwe ratified on 11 October 1990, specifically requires that States protect children's right to adequate housing (Article 27.3). The International Covenant on Civil and Political Rights, ratified by Zimbabwe on 13 August 1991, prohibits cruel, inhuman and degrading treatment and/or punishment (Articles 7) and the arbitrary use of force (Article 17). The evictions currently underway in Zimbabwe are in violation of all of these binding international norms.

If evictions take place at all, international law and expressed consensus establish that they can legally occur only in exceptional circumstances and in conformity with human rights criteria. These include requirements of consultation, due process, consent, ensuring alternative housing in advance, and fair compensation, as set forth by the Committee on Economic, Social and Cultural Rights (CESCR) in General Comment No. 7.

At the regional level, the African Commission on Human and Peoples' Rights also established that authorities are required to explore alternatives and option with the affected community prior to eviction, to provide adequate notice and information, to assure the availability of replacement accommodation, as well as an opportunity to appeal an eviction order. As in CESCR's General Comment No. 7, the African jurisprudence affirms that no one may be made homeless as a result of an eviction. (See Social and Economic Rights Action Centre (SERAC) and The Centre for Economic and Social Rights (CESR) v. Nigeria, 2001.[2])

While the Zimbabwean authorities have claimed that these cruel evictions are based on the requirements of law enforcement, they also have contravened the minimum requirements of law-enforcement official by using force outside the principles of necessity and proportionality, as elaborated in the Code of Conduct for Law Enforcement Officials (Article 3), which the General Assembly adopted in resolution 34/169, 17 December 1979. Moreover, the nature of the evictions also violates the General Provisions of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990). The African Charter on Human and People's Rights affirms these same principles, in particular under Article 6, which recognizes the right to freedom from arbitrary arrest or detention.

These violations may also constitute crimes against humanity. The Rome Statute of the International Criminal Court has codified the deliberately widespread or systematic transfer of a civilian population as a crime against humanity, under Article 7(1)(d) and Article 7(2)(d). The present forcible transfer of large parts of the Zimbabwean population to rural areas, relegates them to a state of dispossession, deepened impoverishment, and without a source of livelihood or means of sustenance. The grave conditions resulting from these evictions give argument to the suggestion that the Security Council direct the prosecutor of the International Criminal Court (ICC) to investigate and prosecute these serious crimes.

Your Excellency,

We urge you to do your utmost to reverse this tragic destruction of lives and property. An urgent and effective response is required also to reduce the already heavy toll that the current evictions have taken on the internal and external legitimacy of the Zimbabwean government. This can be achieved through the following actions:

- * immediately cease the mass evictions taking place around the country;
- * to ensure that adequate alternative housing is immediately provided for already displaced populations;
- * initiate dialogue with affected communities in accordance with human rights principles, especially CESCR General Comment no. 7;

* investigate and prosecute the use of excessive force by the police during the current eviction drive;

* comply with the State's obligations under international law to respect everyone's right to adequate housing, including legal security of tenure and freedom from dispossession; information; participation and self-expression; and resettlement; as well as the rights to food, water, health, education and the right to earn a livelihood.

Thanking you in advance for your attention to this matter, we look forward to hearing from about your remedial response.

Respectfully,

[Signed]