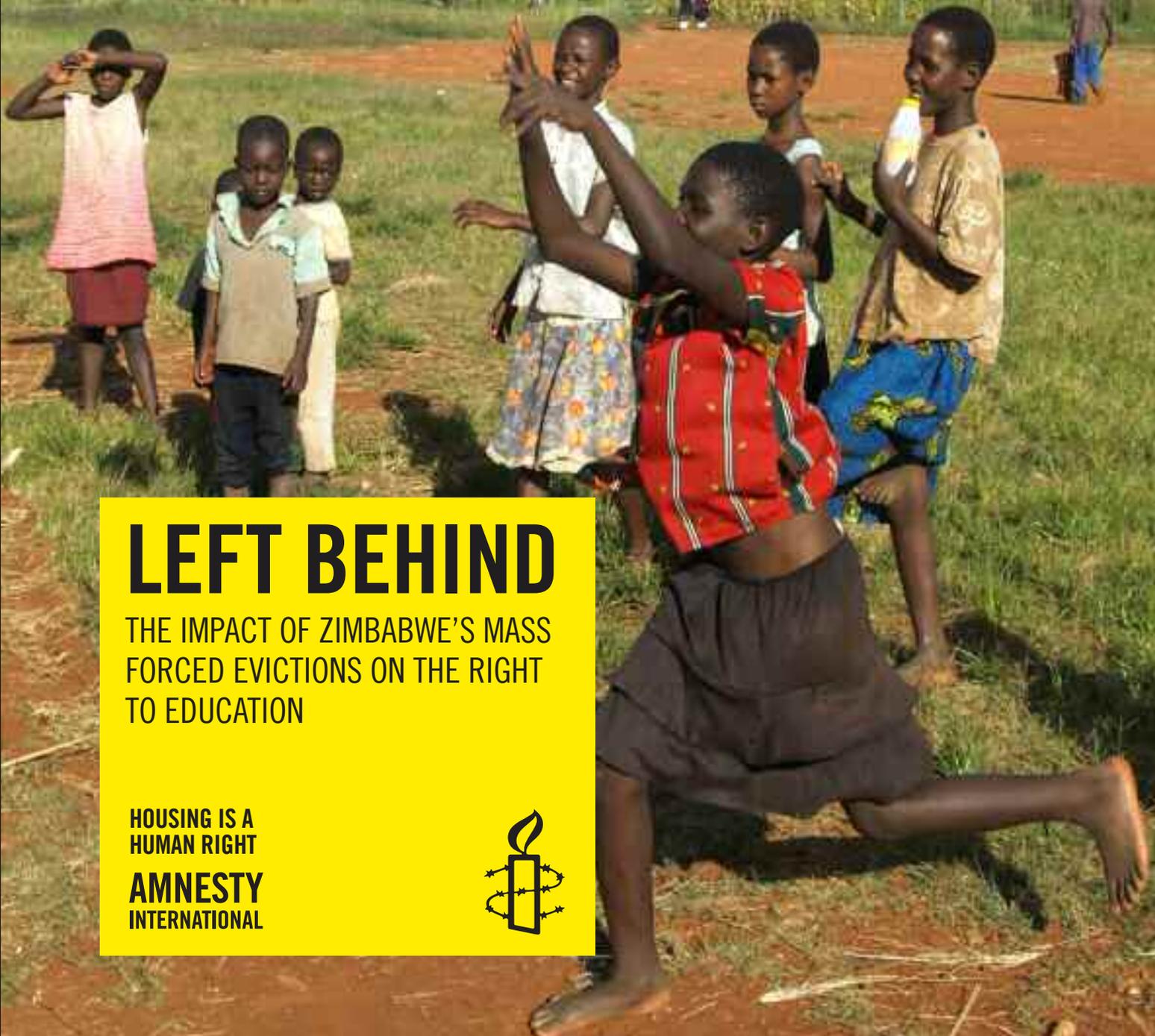


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LEFT BEHIND

THE IMPACT OF ZIMBABWE'S MASS FORCED EVICTIONS ON THE RIGHT TO EDUCATION

HOUSING IS A HUMAN RIGHT

AMNESTY
INTERNATIONAL



Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

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Cover photo: Children playing at Hatcliffe Extension, Harare, Zimbabwe. Most residents were resettled there following the government's 2005 programme of mass forced evictions known as Operation Murambatsvina. Many of the children receive little or no education. © Amnesty International

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1. INTRODUCTION

Forced evictions¹ are a human rights violation. They leave people more vulnerable to other human rights violations and, frequently, drive poor and other disadvantaged people deeper into poverty. This report looks at the impact of the government of Zimbabwe's 2005 programme of mass forced evictions, known as Operation Murambatsvina, on the right to education. For most affected households Operation Murambatsvina resulted in violations of a wide range of economic, social and cultural rights, including the right to education. Thousands of children and young people lost their access to education because they were forced to move away from their schools, while increased poverty among those affected, as a result of destruction of sources of livelihoods during the forced evictions, led to long-term inability to afford education.

The right to education is recognised under international human rights law. The United Nations (UN) Committee on Economic, Social and Cultural Rights notes that education has a vital role in the promotion of human rights and is a primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.² Realizing the right to education can also reduce the individual's vulnerability to human rights violations such as child labour, discrimination, and helps to address social phenomena, such as early marriage, that can undermine human rights. Realizing the right to education also contributes to the realization of other human rights, including the right to health and the right to participate in public affairs.³

Zimbabwe is obliged under a range of international human rights treaties including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Charter on Human and Peoples' Rights, to respect, protect, promote and fulfil the right to education. Under Article 13 of the ICESCR the government of Zimbabwe is obliged to ensure that primary education is compulsory and available to all, and to guarantee that the right will be exercised without discrimination of any kind. The government is also obliged to take steps to make secondary and higher education generally available and accessible.⁴ Violations of the right to education may occur through the direct action of States parties or through their failure to take steps required by the treaty.⁵

Before Operation Murambatsvina Zimbabwe had not met the obligation to ensure that primary education was free, compulsory and available to all children. However, the country had made significant progress towards making education more accessible for the majority of the population. The positive steps taken by the government, following independence in 1980, had made Zimbabwe's education system one of the most developed systems in Africa.

Operation Murambatsvina inflicted a severe blow to the right to education for the affected population who were already amongst the poorest and most disadvantaged in Zimbabwe. The education of thousands of children was immediately disrupted as they were forced out of school due to the forced evictions, which in some instances included the demolition of school buildings. The government failure to provide alternatives resulted in many children staying out of school for prolonged periods or completely dropping out. For the affected children the disruption to their education and the government's ongoing failure to provide effective remedies constitute a violation of the right to education.

Amnesty International calls on the government of the Zimbabwe to take urgent measures to ensure that thousands of children living in Operation Garikai settlements and others affected by the mass forced evictions have access to education as required under the ICESCR (Articles 13 and 14) and the African Charter on Human and Peoples' Rights (Article 17) to which Zimbabwe is a state party.

In line with its human rights obligations and commitments, the government should proactively ensure that thousands of children and young people living in Operation Garikai settlements benefit from national

programmes that support access to education for disadvantaged individuals. No child affected by Operation Murambatsvina should be excluded from primary school because of inability to pay fees or other costs. The government should immediately review the situation of informal schools set up by communities at Hopley and Hatcliffe Extension and establish and maintain a transparent and effective system to monitor the implementation of the educational objectives set out in Article 13 of the ICESCR and Article 11 of the African Charter on the Rights and Welfare of the Child, with the aim of ensuring that these schools are registered and receive government support to improve the quality of education.

RESEARCH METHODOLOGY

This report is based on research assessing the level of access to education at Hatcliffe Extension and Hopley – two settlements created by the government under Operation Garikai/Hlalani Kuhle, which Amnesty International has been monitoring since 2005. The two locations are some of the biggest settlements created by the government after the mass forced evictions.

Data was collected between December 2010 and August 2011. Interviews were conducted with 83 individuals in December 2010 and January 2011 - including children, young people, parents and guardians of children affected by Operation Murambatsvina and living at Hopley and Hatcliffe Extension, teachers and volunteers at community schools, members of teachers' trades unions, non-governmental organisation (NGO) workers and representatives of UN agencies. Two focus group discussions were conducted with young people whose education was disrupted as a result of the mass forced evictions.

Because of insecurity and political polarisation in most Operation Garikai settlements, a convenience sampling method was used to gather data. In order to avoid potential negative repercussions against those interviewed, names used in the report have been changed to conceal their identity.

In July 2011 Amnesty International sent letters to the government requesting information relating to the preliminary findings of this research. The letters were sent to Deputy Prime Minister Thokozani Khupe who is the chair of the Social Cluster in the Council of Ministers; Senator David Coltart, the Minister of Education, Sport, Arts and Culture; Dr Stephen Mahere, the Secretary of Education, Sport, Arts and Culture; and the Mayor of Harare Mr Muchadeyi Masunda. On 5 August Amnesty International received a response from the Minister of Education, Sport, Arts and Culture.

This report is issued as part of Amnesty International's global Demand Dignity Campaign, launched in 2009. This Campaign aims to expose and combat the human rights violations that drive and deepen poverty.

2. BACKGROUND

Since 2005, Amnesty International has been monitoring the impact of Operation Murambatsvina on the affected population in Zimbabwe and the ongoing failure by the government to provide effective remedies for the serious human rights violations that resulted from the forced evictions.

Amnesty International documented the immediate impact of Operation Murambatsvina on the victims' right to an adequate standard of living, including their right to housing. Over the last six years the organisation has produced several reports⁶ documenting ongoing human rights violations that are a direct or indirect result of Operation Murambatsvina, and has been lobbying the government to ensure that Operation Garikai/Hlalani Kuhle – the government's programme launched after Operation Murambatsvina ostensibly to re-house the victims of the mass forced evictions – complies with Zimbabwe's obligations under human rights treaties to which it is a state party.

Operation Garikai/Hlalani Kuhle (hereafter referred to as Operation Garikai) is the only government programme that was launched to address the devastating effects of Operation Murambatsvina. Under Operation Garikai the government provided a small proportion of the 700,000 victims of forced evictions either with houses that were not fully constructed (missing doors, windows, in some cases with bare floors) or with unserviced plots of land, on which they were permitted to build houses without receiving any further government assistance. Six years on, the majority of households allocated plots by the government have failed to build decent shelter and are living in plastic shacks or other poorly constructed structures.

Operation Murambatsvina resulted in the disruption of the primary and secondary education of an estimated 222,000⁷ children between the ages of five and 18. The forced evictions affected their ability to access education in several ways: the evictions – frequently accompanied by house demolitions and destruction of property - threw households into crisis and the imperative of survival meant children did not attend school; in some areas school buildings were amongst those demolished – thereby abruptly ending the education of an entire school-going community; some households were forcibly taken to rural areas by the government and were not given time to obtain transfer letters⁸ from the schools they had been attending. While these immediate impacts harmed the education of thousands of children, the long-term impacts of Operation Murambatsvina, and the failure of the government to ensure effective remedies, have resulted in ongoing violations of the right to education and the right to effective remedy.

Thousands of people were temporarily settled in transit camps created by the government to provide shelter for victims who did not have a rural home, but the government did not provide education facilities at the transit camps. For example, despite the large number of children at Caledonia Farm transit camp near Harare there was no school over the two months that the victims spent there before being relocated to Operation Garikai settlements.⁹ The school-going children at the camp of 5,000 people could neither afford transport to their original schools nor were they readily admitted into schools in the neighbouring suburbs of Mabvuku and Tafara.¹⁰

There was a marked country-wide drop in school attendance at the time of the mass forced evictions. The UN inter-agency Working Group on the Protection of Children reported at the time that school enrolment dropped by 25 per cent.¹¹ A survey of 14,137 households in Harare, commissioned by Action Aid and the Combined Harare Residents Association in July 2005, established that 22 per cent of families reported that their children were not attending school as a direct result of Operation Murambatsvina. The survey looked at some elements of household composition and found that 24 per cent of children in female-headed households were not attending school compared to 20 per cent in male-headed households. The rate of non-attendance was much higher in households with orphans compared to those without (40 per cent versus 14 per cent).¹²

A 2010 study by the NGO Solidarity Peace Trust surveying the proportion of families whose children's

education was interrupted as a result of Operation Murambatsvina found that 28 per cent of the children suffered severe disruption (loss of more than a year of schooling). Half of these children (14 per cent) lost up to three years of education or dropped out of school permanently.¹³

The destruction of housing in poor communities also affected teachers who were often part of the community. Like most of other Internally Displaced People (IDPs) at the time, teachers and their families were also stranded with nowhere to go. For weeks victims had to stand guard over the remains of their property and possessions while seeking alternative accommodation. Many of the displaced teachers were therefore unable to travel to the schools they had been working at. Some teachers had to relocate to new areas, leaving their jobs altogether, and as a result some schools had to close.¹⁴

During the 2005 forced evictions, schools previously set up by humanitarian agencies to cater for hundreds of children in informal settlements were also targeted for destruction. One such school was Zambuko Primary School in Hatcliffe Extension settlement, which had been set up by the community with the assistance of Catholic nuns. The school had been registered with the Ministry of Education as a satellite school¹⁵ of Hatcliffe No.2 Primary School in the neighbouring suburb of Hatcliffe. Hundreds of children were attending this school when it was destroyed. The destruction of the school resulted in the overcrowding of primary schools in Hatcliffe, and many children who tried to enrol at these schools following Operation Murambatsvina were turned away.¹⁶

When Operation Garikai was launched the government objected to humanitarian organisations setting up schools using temporary structures.¹⁷ The Government insisted that humanitarian agencies provide permanent buildings if they wanted to support the victims with housing or education. At the time, humanitarian organisations were heavily strained providing food aid to the IDPs and other vulnerable groups. The government was categorical in its objection to the setting up of tents and would not give permission to set up schools in temporary structures. As a result, no school was specifically established by the government or humanitarian organisations to cater for the thousands of children of primary school age that were residing in Operation Garikai settlements.

3. IMMEDIATE IMPACT OF OPERATION MURAMBATSVINA ON THE RIGHT TO EDUCATION

The right to education is recognized in the Universal Declaration of Human Rights (UDHR) and is enshrined in various binding international human rights treaties to which Zimbabwe is party, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the African Charter of Human and Peoples' Rights and the African Charter on the Rights and Welfare of the Child.

Under international law, Zimbabwe is obliged to ensure that primary education is free and compulsory for all children. The government is also obliged to take steps to make secondary and higher education available and accessible. The duty to realize the right to free and compulsory primary education is an immediate obligation. It requires those countries which have not yet secured compulsory primary education, free of charge, to work out and adopt a detailed plan of action to do so, within a reasonable number of years, individually and through international assistance and cooperation, to the maximum of its available resources¹⁸ to prioritize the realization of the right to free and compulsory primary education. Also, under the United Nations Millennium Development Goal Two, Zimbabwe is expected to achieve universal primary education by 2015.

The government of Zimbabwe has an obligation to respect, protect and fulfil the right to education. The obligation to respect requires that the government does not interfere with the enjoyment of the right to education, while the obligation to protect requires measures to ensure that other actors do not deprive individuals of their access to education. The obligation to fulfil requires the State to take action to ensure that everyone can realize their right to education.

The Committee on Economic, Social and Cultural Rights is an expert UN body that monitors States' compliance with their obligations to realize economic, social and cultural rights, including the right to education and has provided authoritative guidance on the content of these rights. The Committee recognizes that some States face resource constraints and cannot achieve the full realization of the right to education immediately. However, States are obliged to take deliberate, concrete and targeted steps and move as swiftly as possible to full enjoyment of economic, social and cultural rights, using the maximum of available resources, including those available through international assistance. Given this fundamental component of State's legal obligations to move as swiftly as possible to full enjoyment of economic, social and cultural rights, any deliberately retrogressive measures by a State could only be justified in the most exceptional circumstances.

3.1 RETROGRESSION ON THE RIGHT TO EDUCATION

The failure by the government of Zimbabwe to provide for the education of children and young people who were directly or indirectly affected by Operation Murambatsvina constitutes a violation of the right to education.

Amnesty International believes that the government of Zimbabwe's removal of victims of Operation Murambatsvina from settlements where they had access to education, and the subsequent failure to provide for the children's education under Operation Garikai, amounted to a deliberately retrogressive measure. The mass forced evictions limited children's existing access to education, especially for communities who formerly resided at Porta Farm and Hatcliffe Extension before the forced evictions in 2005.



A satellite image of Porta Farm before the 2005 mass forced evictions, June 2002, © Digital Globe, Inc.



A satellite image of Porta Farm showing the same land after the 2005 mass forced evictions. The remaining structures in the lower centre of the image are the school buildings, April 2006, © Digital Globe, Inc.

About 10,000 people resided at Porta Farm in 2005 and had set up a primary school with the support of non-governmental organisations. The school was later registered as a satellite school by the government. Porta Farm itself was established by the Harare City Council in 1991 during another wave of forced evictions carried out in preparation for the Commonwealth Heads of Government Meeting that was held in Harare in the same year. The school buildings were not destroyed during Operation Murambatsvina and they are now being used to cater for children from surrounding farms.



School buildings at Porta Farm, December 2010, © Amnesty International

The majority of victims of forced evictions from Porta Farm were resettled at Hopley settlement where the government has not provided for the education of children and has not supported the victims to ensure their continued access to education.

Hatcliffe Extension is another settlement that was destroyed during Operation Murambatsvina. Like Porta Farm, the settlement was established by the authorities to accommodate victims of another government forced eviction carried out in 1993 at Chulu Farm in Harare. Those who could not relocate to rural areas or find shelter with relatives after Operation Murambatsvina were moved to Caledonia Farm holding camp but were later allowed to return to their plots under Operation Garikai after two months. Hatcliffe Extension settlement has an estimated population of 15,000 to 20,000 people.

Before Operation Murambatsvina, Hatcliffe Extension also had a government registered satellite primary school known as Zambuko Primary school, which was demolished during the forced evictions. Zambuko Primary school was started as a community initiative and was later registered as a satellite school linked to Hatcliffe No 2 Primary School. It was run by qualified teachers and received financial and material support from humanitarian agencies and corporations.¹⁹ At the time, most children in the community were attending school and the few whose guardians could not afford the fees, had their fees paid by humanitarian organisations.²⁰

During Operation Murambatsvina most children at Hatcliffe Extension and Porta Farm had their education severely disrupted. Most children stopped going to school to stay with their families, who were guarding their property. The government did not adopt special measures to ensure minimum disruption of their basic education, and when they were resettled in Operation Garikai settlements they did not receive government support to continue with their education. Many children could not re-enrol in school and over the past six years some have been dropping out as their families cannot afford to keep them in school.

FATIMA, AGED 21, FEMALE

“When Porta [Farm] was destroyed during Operation Murambatsvina, on 21 June [2005], I was in Form two [of secondary education]. My father is elderly and could not afford paying school fees. I used to pay my own school fees through selling

fish by the road side. Since I could not raise school fees I decided to get married in 2007 (aged 17 years old). I now have one child.”

“I have two young brothers who were 11 and five years in 2005 for whom I was also paying school fees. They also stopped going to school. However, in [2010] I enrolled them at the [community school] when it opened, but I cannot afford the school fees and uniforms. I raise money through selling vegetables.”

CLEVER, AGED 24, MALE

“Operation Murambatsvina caused so much damage. I used to catch and sell fish from [the nearby Lake Manyame] and send myself to school. At the time of the evictions I was in Form three [of secondary education] and I was supporting four other siblings with school fees.”

“I used to be a good pupil; I was always among the top three of my class. It pains me that my prospects were shattered [by Operation Murambatsvina]. Education is life. Without education you are nobody. If you are educated you have better prospects in life.”

“After the destruction, we could not afford food and shelter. I tried to look for a job but could not find any.

“In 2006 one of my brothers [who was 17 years-old at the time and] had also dropped out of school [and illegally crossed the border] to South Africa where he is now working in a restaurant. He is the one now assisting with payment of school fees for two other siblings.”

“Although my other siblings have re-enrolled at the community school, the education at these schools is not serious. For example, one of my brothers attending them can barely read or write. I doubt very much that these children can pass any public exams at all.”

ANYWAY, AGED 23, MALE

Anyway is a former Porta Farm resident and is the head of his household. He was in Form three at Porta Farm Secondary School when the forced evictions occurred. After the evictions they were relocated to Hopley settlement by the government. When they arrived at Hopley he did not try to register for school because he could not afford the fees that the schools were charging. While at Porta Farm his education was paid for by an aid organisation.

His younger brother and sister who were in Grade six of Primary School and Form one of Secondary School, respectively, also dropped out of school. Anyway told Amnesty International:

“I am just at home. I cannot get employment. We have no decent accommodation. We were only given a bare plot [of land] by the government.”

3.2 DISRUPTION OF EDUCATION AND DESTRUCTION OF SCHOOLS

Lack of adequate notice for the forced evictions had a devastating effect on children's access to education: because the evictions took place in the middle of the school year families were caught unawares and could not make alternative arrangements for the children to remain in school. Also, owing to lack of government action to issue a policy directive on enrolment of the children who had been forcibly evicted, school heads were reportedly reluctant to offer places to children who had moved into a new area.²¹ As a result many children failed to enrol in schools at the new locations.

SHARON, AGED 23, FEMALE

Sharon is a former Porta Farm resident. In 2005 she was in Form four. Her younger sister who was in Grade seven at Porta Farm Primary School also had her education disrupted. The sister failed to write her Grade seven examinations which are the final exams of primary education, and give access to secondary education.

Sharon told Amnesty International:

"I have two young brothers who were 11 and five years in 2005 for whom I was also paying school fees. They also stopped going to school. However, in [2010] I enrolled them at the [community school] when it opened, but I cannot afford the school fees and uniforms. I raise money through selling vegetables."

"My sister (who was 17 at the time of the interview) is now pregnant. I think her failure to continue with her education made her think of getting married."

3.3 FAILURE TO ENROL IN RURAL SCHOOLS FOLLOWING FORCIBLE RELOCATION BY THE GOVERNMENT

Access to education was uncertain for children whose families were either forcibly relocated to rural areas by the government or were forced by their circumstances to relocate to rural areas. Twenty percent of Operation Murambatsvina victims (about 114,000) were forced by the government or by their situation to go to rural areas. When they arrived there, they found that they were not always welcomed by their relatives or other rural dwellers.²² One reason for hostility towards the IDPs arriving in the rural areas as a result of the forced evictions was their perceived political affiliation with the then opposition parties.

Political analysts at the time argued that Operation Murambatsvina was the ZANU-PF government's response to punish the urban voters for their support of the main opposition party during the March 2005²³ elections, which were held just two months before the beginning of the forced evictions. The then opposition party, the United Movement for Democratic Change (MDC), received most of its support from urban areas – 26 out of 30 urban parliamentary seats were won by the MDC. There was speculation that ZANU-PF instigated the mass forced evictions to try to force urban people back to rural areas where the party could control the electorate through traditional leaders²⁴. Because of this perception of being MDC supporters, some IDPs found themselves stranded in rural areas where their children could not enrol in school.²⁵

Because of their perceived political affiliation many victims of Operation Murambatsvina were also regarded with suspicion by traditional leaders in rural areas²⁶ and found themselves being denied access to land and other support. As a result of uncertainty arising from lack of permanent homes families did not register their children in local schools because of the continued risk of further forced eviction.

In addition to perceived political affiliations, the displacement of large numbers of people to rural areas that were already experiencing acute food insecurity created tensions. At the time, Zimbabwe was facing serious food shortages, with most rural households depending on food aid from humanitarian organisations. Most of the victims of forced evictions had lost their possessions during the forced evictions or had to sell them when they were compelled out of desperation to relocate to rural areas and had to fund their transport. As a result they could not afford to buy food, which was mainly available on the black market. These IDPs therefore became an extremely vulnerable group of people warranting emergency responses by humanitarian organisations; this in turn led to the IDPs being accused by the local rural population of getting 'our food.'²⁷ As a result, some IDPs failed to integrate and over time returned to the urban areas from which they had been forcibly removed, hoping that they would get a house or plot of land under Operation Garikai, which the government was describing as its solution to the homelessness created by the forced evictions.

4. LONG TERM IMPACT OF GOVERNMENT FAILURE TO ADDRESS THE IMMEDIATE IMPACT OF OPERATION MURAMBATSVINA

4.1 COST AS A BARRIER TO ACCESS TO EDUCATION

As noted earlier, prior to Operation Murambatsvina, the government of Zimbabwe had not met its obligation under international law to ensure that primary education is available free to all. Currently Zimbabwe provides all registered schools with per capita and tuition grants according to their enrolments.²⁸ The government also charges tuition fees for both primary and secondary education. Tuition is only free for primary education in rural areas. However, in addition to government prescribed tuition fees, school development associations in both rural and urban areas charge levies that go towards payment for the day to day costs of running the schools as well as supplementing teachers' salaries.²⁹

Costs - mainly those involving tuition fees, levies charged by the school development associations, and uniforms - have historically been barriers to education, even before Operation Murambatsvina. Although the costs involved in accessing education affect all people in Zimbabwe, for victims of Operation Murambatsvina, the destruction of livelihoods further curtailed their ability to pay for children to attend primary education.

For the majority of people in Zimbabwe the informal sector is the only source of employment and livelihood. Prior to Operation Murambatsvina thousands of people made their living through informal trade. However, the mass forced evictions destroyed small to medium sized businesses across the county as well as homes. Amnesty International believes that the destruction of informal livelihoods and the failure of the government of Zimbabwe to compensate those who lost their livelihoods is a violation of the right to work³⁰ and the right to an adequate standard of living, which drove already poor people deeper into poverty.



Destruction of market place at the Harare suburb of Mbare, Zimbabwe, 2 June 2005, © Private

Since the destruction of livelihoods which took place during Operation Murambatsvina, some new vending sites have been constructed and several old sites reopened. However, the number and location of the sites does not meet the needs of the informal sector and fails to take into account the absence of alternative employment opportunities in a country with more than 80 per cent formal unemployment. Across the country people who were not licensed or allocated a vending site following Operation Murambatsvina continue to try to engage in informal trading. They are persistently targeted by local authorities and police for working 'illegally' despite it being their only means of earning a living.³¹

Operation Murambatsvina compounded an already precarious situation as it took place at a time when Zimbabwe's education sector was experiencing strain due to the shrinking economy resulting from the political crisis that started in 2000. Most poor households were already struggling to pay for the education of their children. Between 2000 and 2005 the country experienced a reversal of the gains previously made in primary education in the 1980s.³²

The destruction of informal markets during Operation Murambatsvina left most affected households with no source of income, thereby eroding their ability to pay for the education of their children.

The government's failure to take action to restore livelihoods lost during Operation Murambatsvina, or to compensate people for the loss of livelihood, has condemned most of the affected families at Hatcliffe Extension and Hopley to a life of destitution. Most households at these settlements survive on food aid distributed by humanitarian organisations. While education is valued, most households are pre-occupied with searching for the essentials of basic survival: food and healthcare. Many households are also struggling to cope with the additional burden of caring for children orphaned by the AIDS pandemic, with no support from the government. Such children are also more likely to drop out of school for lack of schools fees.³³

Teachers from one formal primary school in Hatcliffe suburb that enrolls the majority of children from Hatcliffe Extension in primary education told Amnesty International that about three quarters of the children at the school from Hatcliffe Extension struggle with payment of fees and get sent home for non-payment, thereby losing out on their education.³⁴ School fees at this council-run school are USD 55 for the first term and USD 35 each for the second and third terms. Because of high formal unemployment in Zimbabwe these fees are unaffordable for many families.

In 2001 the government of Zimbabwe launched the Basic Education Assistance Module (BEAM) to assist needy pupils with school fees and examination fees in primary and secondary schools. In its response to Amnesty International the Ministry of Education, Sport, Arts and Culture acknowledges that the increase in the number of people living under the poverty datum line has put a strain on the programme.³⁵ The government states that some 800,000 children and young persons were assisted under BEAM in 2010 countrywide but interviewees in the Operation Garikai settlements of Hopley and Hatcliffe told Amnesty International that only a few of the pupils from these settlements get assisted through the BEAM because some of the children do not have birth certificates which is one of the requirements for registration. Teachers at schools in Hatcliffe noted that many children from Hatcliffe Extension are excluded from selection under the BEAM fund because they do not have birth certificates. Many children lost birth certificates and other legal documents during the chaos of the 2005 mass forced evictions

Under Article 2 (2) of the ICESCR Zimbabwe has an immediate obligation to guarantee the rights in the Covenant without discrimination. The requirement for children to hold a birth certificate to register for BEAM is not compatible with the principle of non-discrimination. Another major challenge for BEAM selection is that it is school-based, and can only be accessed by children and young persons attending registered schools.³⁶ Hundreds of vulnerable and disadvantaged pupils attending unregistered schools, or who are simply not in any school, are therefore automatically excluded. Potential beneficiaries under BEAM also criticize it for lack of transparency. Parents and guardians who are proactive and are aware of the existence of BEAM stand a better chance of accessing the fund.³⁷ Moreover, BEAM does not

specifically target children and young persons affected by Operation Murambatsvina, and information on the existence of the Fund is not readily available in Operation Garikai settlements.

Although the Ministry of Education has tried to regulate tuition fees to keep them at a minimum, they remain prohibitive for households living in Operation Garikai settlements that also lost their source of livelihood during the forced evictions and are struggling to earn a living. Interviewees told Amnesty International that they are forced to withdraw their children from formal schools because of the rigidity of school authorities, who do not allow payment in monthly instalments. Parents and guardians opt to enrol their children in unregistered private or community schools – many of which lack qualified teachers and basic learning facilities – because these schools allow payment in monthly instalments.³⁸

In addition to paying schools fees and levies, guardians have to buy uniforms to send their children to formal schools. Even when guardians have managed to pay fees and levies children still get sent away from schools for not having proper uniforms.

DAVID, AGED 19, MALE

“In 2005 I was in Grade seven [of Primary education]. When our home was destroyed during Operation Murambatsvina I went to live with my grandmother in Chivhu. My elder sister had to drop out of school. Also at the time, my father had to leave his job because he could not afford the bus fare. A few months after the Tsunami (Operation Murambatsvina)³⁹ we came back to our plot at Hatcliffe Extension. I dropped out of school in 2009 because my parents could not afford the examination fees [of \$10 per subject]. I was doing seven subjects. I feel inadequate for not having completed my education. If I get someone to assist with payment of fees I will go back to school. I will also need support with extra lessons to prepare for examinations.”

4.2 LACK OF LIVELIHOOD AND ITS IMPACT ON CHILDREN'S EDUCATION

The destruction of livelihoods had a very negative effect on access to education as the majority of households affected by the mass forced evictions could no longer afford the schools fees, food, healthcare, transport or accommodation. In particular, the destruction of informal markets which were the main source of livelihood for poor households eroded their ability to access basic goods and services. Without a home, an income or food thousands of children and young people had to sacrifice their education.

Under Operation Garikai, the government failed to provide viable sources of income for people whose livelihoods were destroyed or who lost their jobs as a result of Operation Murambatsvina. As families struggle to make ends meet, children in some cases have stayed out of school in order to help supplement their meagre family incomes.

Children interviewed by Amnesty International at Hatcliffe Extension told the organisation that they work at neighbouring farms and get paid in kind in the form of potatoes or maize. In Hatcliffe Extension children as young as 13 years old seek construction work in neighbouring communities to earn a living. The income brought in by the children is vital to the households particularly between April and October when humanitarian organisations usually stop distributing food aid after rural harvests.

Not only has the government failed to restore livelihoods destroyed during Operation Murambatsvina, police continue to target people in urban areas engaged in informal trade further undermining their chances of making a living. The failure to address livelihood issues is one of the major obstacles to access to education for victims of Operation Murambatsvina.

FORTUNATE, AGED 15, FEMALE

At the time of the forced eviction at Hatcliffe Extension in June 2005 Fortunate was in Grade four at Hatcliffe No. 2 Primary School. After their home was demolished Fortunate and her family were forced to relocate to Domboshava communal lands (rural). Fortunate and her sister stopped going to school for three months because she could not find a place at local schools in Domboshava. The family returned to Hatcliffe Extension in September 2005 when the government announced that people with lease agreements could go back to Hopley Extension.⁴⁰ Fortunate was one of the lucky children who were able to re-enrol at their old school and at the time of the interview she was in Form three. Fortunate's father has a chronic illness and her mother is the only provider in the family. Fortunate often misses school when she is sent back home for failing to pay school fees. She does not have stationery and textbooks. Her mother earns a living selling vegetables at a market. She told Amnesty International that police often arrest her mother for being an unlicensed vendor and confiscate her wares.⁴¹

4.3 POLITICAL POLARIZATION UNDERMINING COMMUNITY ENGAGEMENT WITH AUTHORITIES ON EDUCATION AND OTHER COMMUNITY DEVELOPMENT ISSUES AND SEARCH FOR REMEDIES

The polarised political situation in Zimbabwe has also acted as a barrier to community lobbying for access to education in Operation Garikai settlements.⁴² Community engagement with various arms of government is usually done along political party lines. Interviewees told Amnesty International that one of the hurdles they face is how to engage the government on community development issues, including access to education, without being perceived as being aligned to one of the three parties in the Government of National Unity, which puts them at risk of being targeted with violence or harassment and intimidation by state security agents or political party activists. For example, in 2010, some community activists at Hatcliffe had to go into hiding after being threatened by state agents for inviting NGO workers into the community. At Hopley, community activists face constant harassment by both state and ZANU-PF supporters for speaking out on community problems and criticising the government for its failures.

Local activists of the two main political parties in the Government of National Unity – ZANU-PF and MDC-T – are continually contesting for control of these communities. As a result there is no politically neutral community leadership that can channel community concerns to either local or central government in a non-partisan manner. This situation is further exacerbated when it comes to access to education. The Minister of Education, Sport, Arts and Culture is from the MDC formation led by Professor Welshman Ncube; in Hatcliffe the Member of Parliament and councillor are from the MDC-T formation led by Prime Minister Morgan Tsvangirai; while in Hopley the Member of Parliament and councillor are from President Mugabe's ZANU-PF party. The District Administrator's office falls under the Ministry of Local Government, Rural and Urban Development which is under a ZANU-PF minister, while the Ministry of National Housing and Social Amenities is under an MDC-T minister. The political alignment of the various government departments results in political tension in the community. The presence of one arm of government is often seen as an attempt to further the interests of the political party that holds its portfolio. Community leaders often only feel comfortable approaching the arm of government that is controlled by their party and in the process real issues affecting the communities are left unresolved.⁴³

The battles for political control of Operation Garikai settlements pre-date the Government of National Unity. Before February 2009, the contestations were between MDC-T, which controlled the local authority and MPs, and ZANU-PF, which was in control of central government departments. Such polarisation has stifled community engagement on development issues including access to education: those expressing dissatisfaction with government performance are labelled traitors and feel they are at risk being victimised if they challenge the status quo.⁴⁴

5. LONG TERM IMPACT OF OPERATION MURAMBATSVINA

5.1 MAKESHIFT EDUCATION FOR THE MAJORITY OF CHILDREN AT HOPLEY AND HATCLIFFE EXTENSION

“While we send the children to the community school I am still concerned about the quality of the education. There is barely any learning going on. There are no books and trained teachers. It’s just sending the children to while up time since we really have no alternative. It is better than nothing.”

Fatima, a young woman from Hopley, January 2011.

In an effort to provide some form of education, community groups and, in some instances, private individuals have set up unregistered schools at Hopley where about 2,000 pupils have enrolled.

According to information given to Amnesty International by the Ministry of Education 828 children from Hopley are attending school in nine registered schools surrounding the community (see table below). However, Amnesty International research established that some 2000 children at Hopley settlement attend unregistered community-based schools run by untrained community volunteers.⁴⁵

Primary school registration at schools surrounding Hopley⁴⁶

	Name of School	Boys	Girls	Total	Fees [per term] in USD	Distance	Children from Hopley
1	Blackforby	418	397	815	\$20	4km	38
2	Chembira	666	662	1328	\$30	4.5km	20
3	Derbyshire	233	257	490	\$35	4km	60
4	Glen Norah Infil	584	672	1256	\$25	4.5km	38
5	Glen Norah No. 7	653	693	1346	\$35	5km	10
6	Kudakwashe	945	853	1798	\$25	4km	282
7	Ruvheneko	980	981	1961	\$25	4km	250
8	Shiriyedenga	622	667	1289	\$35	5km	10
9	Simbaredenga	356	563	919	\$25	3km	120
	Total	5,457	5,547	11,004			828

Source: Ministry of Education, Sport, Arts and Culture

Guardians and children at Hopley told Amnesty International that they were forced by their circumstances to send their children to the unregistered schools because they had either failed to secure places in formal schools in neighbouring communities or could not afford the schools fees and levies charged in government and council-run schools. Although the informal schools charge between USD15 and USD30 in fees, which is within the same range as the formal schools, guardians told Amnesty International that they are allowed to spread the payments over a period of three months per school term which makes it easier for them to cope.

In 2007 and 2008 deepening poverty coupled with the near collapse of the education system in Zimbabwe led many teachers to abandon their jobs. Teacher's incomes had been eroded as a result of hyper inflation, economic meltdown and political violence in rural areas. This situation gave rise to the setting up of unregistered schools mostly in urban areas as unemployed teachers sought to earn a living by setting up private schools. Despite attempts by the government to revive the education sector the phenomena of unregistered schools has become a feature in urban areas.

The Ministry of Education, in its response to Amnesty International queries, stated that the rationale of "mushrooming of unregistered schools" in Hopley and Hatcliffe Extension is as follows:

The temporary disturbance of learning and teaching and loss of jobs in 2008 pushed people to start unregistered schools for business... It is not surprising to see the mushrooming of unregistered schools in Hopley, and Hatcliffe Extension, the brains behind these schools are money seekers at the expense of

pupils learning [sic]. Unregistered schools did not start to surface in Hopley and Hatcliffe alone. They have surface in other parts of the country and [the] Ministry is continuously taking steps to rationalise their operations.

However, Amnesty International's findings show that, specifically at Hopley, the emergence of unregistered schools in 2010 was a direct response to a need arising after government failed to adequately plan for the education of children affected by the 2005 forced evictions under Operation Garikai. Some of the schools were set up by community representatives. So many residents have begun sending children to these schools since they were set up that there are now more than twice the number of children attending unregistered schools in the community than the total number of children attending the nine registered council or government-run primary schools around the community.

The quality of education being received by children at informal schools set up by the communities at Hopley and Hatcliffe Extension is far from adequate. There is a severe shortage of trained teachers, furniture, stationary, textbooks and shelter, and there is no supervision by the Ministry of Education. However, although the quality of education is significantly poorer than that received by children in government registered schools; the unregistered schools are the only option available to a significant proportion of children living in these settlements who cannot afford the fees charged by the government registered schools.

The schools are unregistered and could be closed by the authorities; however, without an adequate alternative to ensure pupils can register in and attend formal schools, their closure would simply mean that most pupils could find themselves out of school again which would further reduce their already limited access to education. Some of the children at these schools had in fact been out of school since the evictions in 2005. In the eyes of these communities the schools are a stop-gap measure, since the alternative is no education at all for the majority of the children. One young person attending an informal school at Hatcliffe Extension told Amnesty International:

There is need to establish a formal school in our community. I don't think these private schools in our community will take us anywhere. The structures are inadequate. They are built using thatch grass. In some instances you have three classes sharing one room. There is no inspection by the government and some pose a health and safety risk.

A guardian of a child attending one of the community schools at Hopley told Amnesty International:

I think the education is not adequate because the school has no qualified teachers. There are no adequate structures. During the rainy season education is disrupted because of inadequate shelter.

Children go to the community school because as guardians we cannot afford the fees charged at government or council-run schools. At government schools parents pay \$25 per [school] term [of three months] per child whereas at the community schools we pay \$5 per month.

Amnesty International found that children attending unregistered community primary schools at Hopley were at risk of not being able to sit for public examinations because the examination board does not register unregistered schools as examination centers. The only alternative is for these children to register for examinations at neighboring registered schools. However, these neighboring schools are not willing to accommodate them. In August 2011, about 120 children in Grade seven, the final year of primary school in Zimbabwe, were at risk of not being registered for the exam. Without sitting for the examination these children are unable to enrol into secondary education and end up dropping out of school.

The Ministry of Education told Amnesty International in August 2011 that it intended to turn two unregistered schools - Macdom Primary School in Hopley and Grace Mugabe Primary School in Hatcliffe Extension - into satellite schools. If implemented this move could go a long way in giving access to children in these settlements to better quality of education and government support. However, it is

unclear what the government's intentions are with regards to the other two schools at Hopley settlement which also have a fairly big enrolment.

5.1.1 EXCLUSION FROM GOVERNMENT PROGRAMMES TO IMPROVE ACCESS TO AND QUALITY OF EDUCATION

In addition to poor quality of education at informal schools, children and young persons attending these schools are excluded from government programmes aimed at improving the quality of education.

Specifically:

- (a) The Education Transition Fund (ETF): this is an initiative set up by the government in partnership with UNICEF, the European Union and others to provide resources in schools, especially textbooks and stationery starting with primary schools. The first phase of the fund saw the ETF distributing textbooks to each child in primary school. The ETF has only provided textbooks to children attending registered schools.
- (b) The Public Sector Investment Programme (PSIP): through the PSIP the government provides for the construction of government schools. Non-Government Schools do not benefit from the Building-Grant-in-Aid which supports construction works. In 2011 USD one million was set aside for this purpose. Like the other government programmes the PSIP projects only benefit registered schools.
- (c) Per Capita and Tuition grants: all registered schools in Zimbabwe receive per capita and tuition grants according to the number of their enrolments as part of government support for every child to access education. Schools in high density suburbs and rural areas receive 30 per cent and 45 per cent of the budget allocation to education, respectively. The government states that this support is part of its efforts to meet Millennium Development Goal number two, which aims to ensure that, by 2015, children everywhere will be able to complete a full course of primary schooling.

5.1.2 RISK OF CLOSURE OF UNREGISTERED COMMUNITY SCHOOLS

There is a real risk that the community schools, attended by nearly 2000 children at Hopley, could be closed by the government and the pupils left with no access to education. In May 2011, the Deputy Minister of Education, Lazarus Dokora, was quoted in the local media condemning unregistered schools operating without a licence and calling on the police to investigate them.⁴⁷

Although some of the community schools have approached the Ministry of Education for registration, they cannot meet the government requirement that they construct permanent buildings first before registration can be processed. Given that these schools have been set up by extremely poor communities the prospects of them fulfilling these requirements are very limited. If the government opts to close the schools at Hopley without providing an alternative, nearly 2,000 children at Hopley alone could be left out of school. The total number of children to be affected at Hatcliffe Extension is not known but the settlement has a population of at least 15,000 people (three times the size of Hopley) and there are at least five unregistered schools operating. Therefore, the number of affected children is potentially very high.

5.2 POOR ACADEMIC PERFORMANCE FOR CHILDREN LIVING IN OPERATION GARIKAI SETTLEMENTS

The poor housing conditions in Operation Garikai settlements have had an adverse impact on the academic performance of children attending formal schools in nearby suburbs. Teachers from registered primary schools in Glen Norah and Hatcliffe which enrol pupils from Hopley and Hatcliffe Extension, respectively, told Amnesty International that the pupils perform at levels that are far below those of their classmates from other suburbs. A streaming system used at the schools to grade children in class

according to their academic performance results in pupils from Operation Garikai settlements being put in their own class or grouped together.⁴⁸

Teachers attributed the poor academic performance of pupils from Operation Garikai settlements to irregular school attendance mainly because they are sent away for non-payment of school fees⁴⁹ or for not having uniforms. The pupils also have little time to do their schoolwork at home because most have to work after school to supplement family incomes. Some pupils have to work to provide for their families, especially children living with elderly grandparents or in child-headed households who are also effectively carers for the elderly or younger siblings. They also cannot do their homework because of poor lighting and over-crowding.

Teachers were also concerned that guardians from Operation Garikai settlements do not attend school consultation meetings where they can discuss the education of their children because they think they will be questioned about the non-payment of school fees. As a result, teachers are unable to effectively assess a child's domestic situation and its impact on the child's performance in class.

5.3 THE LONG-TERM IMPACT OF LOSS OF EDUCATION ON GIRLS AND WOMEN

I decided to get married so that I could have someone to provide for me. I could not get a job. I did not want to go into sex work like most of the girls who dropped out of school.

Irene, 21 year-old at Hopley who married aged 17 in 2007.

The negative impact of forced evictions on the right to education plays out in gender-specific ways. Amnesty International documented cases of girls whose education was disrupted during Operation Murambatsvina, who had been out of school for considerable periods and, in that situation, got married at a young age, earlier than they otherwise would wish to have done.

During focus group discussions girls reported how other girls in their communities – some as young as 13 - were entering into sexual relationships with older men or getting married as a way of escaping the poverty at home.⁵⁰ Young women and girls also reported feeling forced by their circumstances to earn money through sex work to support family members.⁵¹

The legal age of sexual consent in Zimbabwe is 16 years-old and the legal age of marriage is 18 years for boys and 16 years for girls.⁵²

Amnesty International interviewed girls at Hopley who had first looked for work as domestic workers and then decided to get married “to escape poverty” within two years of the forced evictions. All of the girls who spoke to the organization's researchers attributed their marriages at a young age to the forced evictions and government failure to support them to re-enrol in school. No specific measures were taken by the government within the framework of Operation Garikai to address the gender specific impact of Operation Murambatsvina on women and girls.

FAITH, AGED 18, FEMALE

"Before [Operation] Murambatsvina we lived at Porta Farm and in 2005 I was in Form one at Porta Farm Secondary School. When we were settled at Hopley [by the government] we had no shelter and money. My parents are not employed, but at Porta [Farm] they used to sell fish to raise money to pay for our education."

"My little sister who was in Grade two was sent away by my parents to our rural home in Hwedza to live with our grandmother who is paying for her education. She is now in Form one."

"I stayed with my parents and in 2006 I got a job as a domestic worker. I got married in 2008 when I was 16. I had a child which died at six months but I am still married. However, had it not been for the [forced] evictions I would have stayed in school, possibly passed [my exams] and got a better job."

Four of Faith's playmates also dropped out of school at the time of the forced evictions and all four got married.

IRENE, AGED 21, FEMALE

"In 2005, I was in Form two. I used to sell home-made shopping bags to raise my school fees. When we moved to Hopley I could not continue with my education. At the time of Operation Murambatsvina, my mother was taken in a government truck to [rural] Buhera. Our family did not get a government plot at Hopley so I was staying on my own. My mother is really suffering in the rural areas and I wish I could help her."

"In 2007, I decided to get married so that I could have someone to provide for me. I could not get a job. I did not want to go into sex work like most of the girls who dropped out of school."

5.4 CHILDREN LIVING IN OPERATION GARIKAI SETTLEMENTS FACE STIGMATISATION IN FORMAL SCHOOLS

Children from Hatcliffe Extension reported being stigmatised at formal schools because they live in plastic shacks, have no roads in their settlements and live in extreme poverty. This stems from the fact that the pupils often get to school dirty for many reasons, including having to travel long distances over dusty or muddy roads, or lack of soap and water at home. The children reported that they are made to sit on the floor or grouped together and so they find it difficult to interact with other children.⁵³ Children from Hopley and Hatcliffe extension told Amnesty International that they are mocked by teachers and other pupils for being dirty and "dull". Because of the trauma of being humiliated in formal schools some of the children prefer to go to unregistered schools in their community where they can learn with pupils of similar backgrounds.

FRANCISCA, AGED 18, FEMALE

Francisca lives at Hatcliffe Extension. At the time of Operation Murambatsvina her education and that of two other siblings was disrupted. They were out of school for four months. During that time she went to live with members of the extended family in rural areas. She told Amnesty International that when she re-enrolled in

school in October 2005 she endured daily mocking by other children because she lived in a plastic shack. In 2009, Francisca dropped out of school because her parents could not afford the school fees and levies. Her two other siblings also dropped out of school for the same reason.

5.5 FEAR OF SAFETY FOR CHILDREN CROSSING ROADS TO SCHOOLS IN NEIGHBOURING COMMUNITIES AT HOPLEY

'Physical accessibility is an important element of the right to education. - Education has to be available within safe physical reach, such as by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school).'⁵⁴

Guardians of younger children of school-going age in Hopley also expressed concern about the safety of children who attend formal schools in neighbouring communities. These children are at risk of being run over by motor vehicles while crossing major roads on their way to and from school. For example, at Hopley, children have to cross two major roads, putting their lives at risk because they use uncontrolled crossing points on busy roads where drivers have a general disregard for pedestrians. Amnesty International was told by members of the community that several children had been hit by vehicles over the last six years, and have sustained injuries; however, researchers were not able to confirm these reports.

6. IMPACT OF GOVERNMENT'S FAILURE TO PROVIDE EFFECTIVE REMEDIES FOR VICTIMS OF MASS FORCED EVICTIONS

Under the African Charter on Human and Peoples' Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, States have an obligation to provide effective remedies to victims of human rights violations.

The previous sections of this report have described how the mass forced evictions of 2005 resulted in a range of human rights violations, including violations of the right to education. Under international human rights law, people whose rights are violated should have access to effective remedy. The right to effective reparation includes: restitution, meaning measures to restore the victim to their original situation; compensation for economically assessable damage; rehabilitation; satisfaction, which should include: effective measures aimed at the verification of the facts and full and public disclosure of the truth, judicial and administrative sanctions against persons liable for the violations and guarantees of non-repetition.

Amnesty International's research shows that the government of Zimbabwe, over the last six years, has done little to nothing to remedy the violation of the right to education for thousands of children living in Operation Garikai settlements who were directly affected when their schools were destroyed or were forced to leave school during Operation Murambatsvina. The violation of the victims' right to education is therefore ongoing.

7. CONCLUSION AND RECOMMENDATIONS

I think the government should build a school... That should be the first priority because a lot of children in Hopley are not going to school. They spend a lot of their time playing football.

Clever, a 24 year-old young man who dropped out of school as a result of Operation Murambatsvina.

Amnesty International's research shows that right from the start of Operation Murambatsvina the Zimbabwean government failed to uphold its legal obligations in respect of the right to education of children affected by the mass forced evictions. There is no evidence that the government took meaningful steps to ensure minimum disruption of education. Since 2005 the government has done little to nothing to address the on-going violations of the right to education for people living in Operation Garikai settlements. The government's strategy, as described in its letter to Amnesty International dated 3 August 2011, that children from Operation Garikai settlements could be absorbed into formal schools in surrounding communities, is wholly inadequate as a response to the realities confronting victims of Operation Murambatsvina. The government has provided no support to ensure children can access the formal school system, and it cannot guarantee access to BEAM for all children in need who are registered in formal schools.

Violations of economic, social and cultural rights for people living in Operation Garikai settlements, including violations of the right to education, have gone largely unnoticed mainly due to the lack of a government mechanism to monitor the situation in these settlements and devise strategies to address human rights violations resulting from Operation Murambatsvina. The government has done little to genuinely consult with the affected communities in order to formulate interventions that address problems experienced by the victims. There is a huge gap between the reality as lived by the affected communities and the stated government policies to address to address the situation.

Amnesty International is therefore calling on the Zimbabwean government to take urgent measures to ensure that thousands of children living in Operation Garikai settlements and others affected by the mass forced evictions have access to primary education, as required under the International Covenant on Economic, Social and Cultural Rights (Articles 13 and 14) and the African Charter on Human and Peoples' Rights (Article 17).

In line with its international obligations, the government should proactively ensure that thousands of children and young people living in Operation Garikai settlements benefit from national programmes to ensure the right to education. Additionally, the government should immediately review the situation of informal schools set up by communities at Hopley and Hatcliffe Extension with the view to ensuring that they are registered and receive government support to improve the quality of education they offer.

Specifically, Amnesty International is calling on the Government of Zimbabwe to take action on the following key issues:

Prioritize the realization of the right to free, quality and compulsory primary education for children and young people, paying particular attention to the most vulnerable groups including those affected by Operation Murambatsvina.

The Government of Zimbabwe including through the Ministry of Education, Sport, Art and Culture, should:

- Immediately commission an independent study into the long term impact of Operation Murambatsvina on the right to education, with the view of establishing the full extent of the problem of access to education in Operation Garikai settlements;
- Immediately adopt and implement a national developmental education strategy which ensures that as a priority, all children access free, compulsory primary education. The education strategy should ensure that the government uses the maximum of available resources including those available through international assistance. Additionally, the government should put in place clear plans to ensure that free access to secondary and higher education is progressively introduced. Such plans should prioritize addressing the obstacles faced by children and young people affected by Operation Murambatsvina.;
- Immediately ensure that the right of access to public educational institutions and programmes on a non-discriminatory basis and in particular ensure that children without birth certificates are not denied access to BEAM;
- Remove legal and technical barriers which prevent children and young people in unregistered schools from sitting for exams including by making the registration for community schools less problematic;
- Put in place a transparent and effective monitoring system to monitor the establishment of minimum educational standards, to which schools not established by the government are required to conform;
- Remove gender and other stereotyping, which impedes the educational access of girls, women and other disadvantaged groups;
- Take deliberate, concrete and targeted steps to ensure that education conforms to the objectives set out in the human rights treaties to which Zimbabwe is a state party;
- Make economic, social and cultural rights and in particular the right to free, compulsory and quality education justiciable within the Zimbabwean legal system, including through a legislative and constitutional reform;
- Prioritise domestication of the ICESCR and the African Charter.

The Government of Zimbabwe including through the Ministry of Education, Sport, Arts and Culture, with support of international financial and technical assistance, as necessary, should:

- Extend and improve access to BEAM in order to enhance equality of educational access for individuals from disadvantaged groups including young people affected by Operation Murambatsvina who are failing to raise school fees and levies charged by formal schools. In addition, the government must take steps to popularise the scheme to ensure that access is not compromised by lack of awareness;
- Take deliberate, concrete and targeted steps to ensure progressive introduction of free education at all levels: primary; secondary and higher;
- Take specific steps to support people's self help initiatives to provide education, including facilitating the work of non-government organisations involved in education, and ensuring that legal and technical barriers faced by the poor are minimised, including by removing the requirement for community schools to first set up permanent structures in order to register.

The Government of Zimbabwe should:

- Review Operation Garikai in order to make it an effective remedy for victims of Operation Murambatsvina;
- Prioritize adequate housing, access to clean water and sanitation and access to essential services in Operation Garikai settlements;

- Given the impact the loss of livelihoods has had on other human rights of victims of Operation Murambatsvina, including the right to education, the government must not impede the right to an adequate standard of living and the right to gain a living by work of those who do not have access to vending sites. Any limits placed on the right to gain a living by working (for example, by engaging in informal vegetable selling, with or without licence) should be reasonable, legitimate and proportionate and take into account the absence of alternatives for the majority of people whose business were destroyed in 2005 and the human rights implications.

Recommendations to multilateral and bilateral donors, and UN agencies

- Support capacity building initiatives by the Zimbabwean government and humanitarian agencies to implement a fair and effective education strategy and action plan;
- Consider funding the government, humanitarian organizations and other NGOs for programs to support the right to education in Zimbabwe;
- Support the government of Zimbabwe in all genuine efforts to address the systematic violations of the right to education of children and young people affected by Operation Murambatsvina. In particular, this should be through supporting community initiatives to set up schools and improve the quality of education through support for infrastructure, furniture, stationery, monitoring and supervision and teaching and learning materials;
- Donors should ensure their humanitarian assistance is based firmly on the human rights principle of non-discrimination.

APPENDIX 1

LEGAL FRAMEWORK

Right to Education

The right to education has been recognized in the Universal Declaration of Human Rights (UDHR) in 1948 and is enshrined in various binding international treaties to which Zimbabwe is party, including the International Covenant on Economic, Social and Cultural Rights (ICESCR, Articles 13 and 14), the Convention on the Rights of the Child (CRC, Articles 28 and 29), the African Charter of Human and Peoples' Rights (African Charter, Article 17(1)) and the African Charter on the Rights and Welfare of the Child (Article 13). The African Charter on the Rights and Welfare of the Child requires states to take measures including providing free and compulsory basic education (ACRWC, Article 11(3) (a) and to take measures to encourage regular attendance of school and to reduce drop-out rates.

Article 10(f) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires state parties to take all appropriate measures to reduce female student drop-out rates and to organize programmes for girls and women who have left school prematurely.

The right to education is also recognized in Article 5(3) of the Southern Africa Development Community (SADC) Protocol on Education and Training that urges member states of the SADC to "strive to provide universal basic education providing for at least nine years of schooling."⁵⁵ In the Zimbabwean context this would mean access to education up to Form two of Secondary education. Under the ICESCR the obligation to provide free, compulsory primary education is immediate, whilst states are required to take concrete, deliberate and targeted steps towards the progressive realization of the right to secondary and higher education over time, meaning that States parties have a specific and continuing obligation "to move as expeditiously and effectively as possible" towards the full realization of article 13.⁵⁶

The SADC Protocol on Education specifically provides for states to adopt policies aimed at ensuring socially disadvantaged groups access to basic education. Article 5(4) of the protocol states:

Member States agree that, where necessary and appropriate but without prejudice to the normal admission requirements, socially disadvantaged groups shall be given special support in admission to basic education in order to balance access to education.

At the domestic level, the right to education is provided in the Education Act [Chapter 25:04]. Section 4(1) of the Act states: "every child in Zimbabwe shall have the right to school education." It is also the objective of Zimbabwe to make primary education for every child of school-going age compulsory (Section 5). Section 6 of the Act recognises the need to keep school fees at the minimum. It states the duty of the Minister of Education to "encourage the attainment of [compulsory primary education] by every appropriate means, including the making of grants and other subsidies to schools." Section 8 of the Act places the duty on local authorities in Zimbabwe to establish and maintain primary and secondary schools as may be necessary for all children in the area under its jurisdiction "for the purpose of ensuring a fair and equitable provision of primary and secondary education throughout Zimbabwe..."

The general obligation of states parties to the ICESCR is to achieve progressively the full realization of the rights according to the maximum of its available resources by all appropriate means, including adopting appropriate legislation, social reforms, adopting and implementing action plans, and creating oversight mechanisms. The UN Committee on Economic, Social and Cultural Rights (CESCR), a body of independent experts whose role is to review states' compliance with their obligations under the ICESCR, has clarified that these include immediate obligations to ensure the realization of the right to education, in addition to the duty to take concrete, deliberate and targeted steps towards the progressive full realization of the right. Immediate obligations include a duty to ensure free and compulsory primary

education for all children, freedom from discrimination in access to education, and to ensure that educational content conforms to the aims of education as established under human rights law.⁵⁷

Governmental obligations related to the right to education can be addressed according to the "4-As" framework outlined in a UN report on education, that the right is realised when there is availability, accessibility, acceptability, and adaptability.

Availability

According to Article 13(2) (a) of the ICESCR, all states parties recognize that "primary education shall be compulsory and available free to all." The CRC also recognizes this right in Article 28(1) (a). The right is also provided in Article 11 (11)(3) (a) of the ACRWC. The duty to realize the right to free and compulsory primary education for all children without discrimination is an obligation with immediate effect, and is also a component of the "minimum core obligations" of the ICESCR. Article 14 of the ICESCR clarifies that, where states parties have not been able to achieve this at the time of ratifying the ICESCR, they should develop a detailed plan to do so within a reasonable number of years. In this case the ICESCR has made explicit that "the international community has a clear obligation to assist."

The ICESCR has clarified the compulsory nature of primary education as follows: "neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education... It should be emphasized, however, that the education offered must be adequate in quality, relevant to the child and must promote the realization of the child's other rights." The compulsory nature of primary education includes an obligation by the state to ensure that education adapts to the child, including that it respect the rights of children belonging to minorities. Both the CRC and the ACRWC place further emphasis on the obligation of the state to ensure that the available education adapts to the rights of the individual to encourage attendance.

Accessibility

Non-discrimination is a fundamental principle in all international treaties that guarantee the right to education. Article 2(2) of the ICESCR, for example, stipulates that state parties must ensure that the rights in the ICESCR can be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. This extends to the whole population, irrespective of citizenship or other status. This obligation is of immediate effect: "[t]he prohibition against discrimination enshrined in article 2(2) of the Covenant is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination."⁵⁸

The ICESCR has clarified that, with regard to the right to education, this means that education must be "accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds." It confirms that the principle of non-discrimination in education extends to all people of school age, and that sharp disparities in spending policies that result in differing qualities of education for people residing in different geographic locations may constitute discrimination.

Acceptability

Education can play a key role in the realization of a range of other human rights, including the right to work and the achievement of equality for members of previously marginalized groups. However, in order to fulfil this role, all the activities that take place in the name of education have to conform to human rights standards. Firstly, everyone has a right to an education from which they can benefit. Secondly, no one should be denied education because of their social background.

Finally, according to the UDHR, the ICESCR the CRC and the ACRWC, the content of education must comply with human rights standards. The aims of education as protected in these and other instruments require, amongst other elements, that education should promote understanding among all ethnic groups,

as well as national, racial and religious groups, and should be culturally appropriate in both its form and substance, including curriculums and teaching methods. It should be directed towards developing respect for the child's cultural identity, language and values. This requires that states review educational curriculums, content, and methods to ensure that they respect the rights of the whole population, including those belonging to minorities.

Adaptability

Primary education should be compulsory, and it is in the best interests of the child to ensure that he or she attends. A founding principle of the CRC is that the "best interests of the child" shall be a primary consideration in all matters concerning children, including education. The duty of the state to take steps to encourage attendance and reduce dropout rates in education must include the duty to ensure that education which is available respects the rights of the child.

ENDNOTES

1 A forced eviction is the removal of people against their will from the homes or land they occupy without legal protections and other safeguards. The prohibition of forced evictions does not apply to evictions carried out in accordance with the law, and in conformity with international human rights standards.

2 See ICESCR General Comment No. 13, para 1.

3 For more information, see the Right to Education Project, www.right-to-education.org.

4 See ICESCR General Comment No. 13, para 43.

5 See ICESCR General Comment No. 13, para 58.

6 See Amnesty International and Zimbabwe Lawyers for Human Rights, Zimbabwe: Shattered lives – the case of Porta Farm, AI Index 46/004/2006, 31 March 2006; Amnesty International, No Justice for the victims of forced evictions, AI Index: AFR 46/005/2006, 8 September 2006, and Amnesty International, No Chance to Live: Newborn deaths at Hopley settlement, AI index: AFR 46/018/2010, 2 December 2010.

7 Tibaijuka, Anna, Report of the Fact-Finding Mission to Zimbabwe to assess the Scope and Impact of Operation Murambatsvina by the UN Special Envoy on Human Settlements Issues in Zimbabwe, 18 July 2005, pg 41.

8 School transfer letters enable pupils to enrol at new schools and receiving schools insist on those before enrolling new pupils.

9 Tibaijuka report, pg 42.

10 Focus group discussion with young people from Hatcliffe Extension who lived at Caledonia Farm transit camp from the end of May to the beginning of August 2005.

11 Tibaijuka report, pg 41.

12 State Demolition of Residential and Commercial Property in Zimbabwe – A Study on the Impact of Operation Murambatsvina/Remove Dirt in 26 Wards of Harare High Density Housing Areas, Global Crisis Solutions, ActionAid and Combined Harare Residents Association, July 2005.

13 Solidarity Peace Trust, A Fractured Nation – Operation Murambatsvina: Five years on, 30 July 2010.

14 Tibaijuka report, pg 42.

15 “Satellite schools” are schools established after the Fast Track Resettlement Programme began in 2000. These schools were established to cater for children who moved with their parents from established areas to resettlement areas and are administered through an already established school.

16 Interview with a teacher at Hatcliffe No. 2 Primary School on 24 January 2011.

17 Interview with senior official in a humanitarian organization based in Harare, January 2011.

18 See ICESCR General Comment No. 3, para 13.

19 Interview with a teacher from Hatcliffe on 24 January 2011.

20 Focus group with young people from Hatcliffe Extension settlement on 4 December 2011.

21 Tibaijuka report, pg 42.

22 Focus group discussion with young people from Hatcliffe in January 2011.

23 Tibaijuka report, pg 20, and Amnesty International interviews with human rights defenders.

²⁴ Amnesty International focus group discussions with survivors of forced evictions, January 2011.

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- 25 Interview with a young person from Hatcliffe extension on 4 December 2010.
- 26 Internal Displacement Monitoring Centre, The many faces of displacement: IDPs in Zimbabwe, August 2008 pg 23.
- 27 Focus group discussion with young people from Hatcliffe Extension on 4 January 2011.
- 28 Ministry of Education, Sport, Arts and Culture letter to Amnesty International dated 3 August 2011.
- 29 Since the unprecedented economic decline Zimbabwe experienced between 2007 and 2009 most schools in Zimbabwe had to supplement teachers' government salaries in order to retain staff. Zimbabwe experienced a drain of its teachers when hyper inflation eroded teachers' incomes. Many teachers either left the teaching profession altogether or went to neighbouring countries. As a result, most closed or were barely functioning in 2007 and 2008.
- 30 See ICESCR General Comment No 18, para 21
- 31 See Amnesty International, Zimbabwe: No justice for the victims of forced evictions, pg 8.
- 32 Tibaijuka report, pg 43.
- 33 Focus group with young people from Hatcliffe Extension Settlement on 4 December 2011.
- 34 Interview with teachers from primary schools in Hatcliffe and Glen Norah suburbs that enrol children from Hatcliffe Extension and Hopley on 24 January 2011.
- 35 Ministry of Education, Sport, Arts and Culture letter to Amnesty International dated 3 August 2011.
- 36 Ministry of Education, Sport, Arts and Culture letter to Amnesty International dated 3 August 2011.
- 37 T.R. Muzhandu, Rapid Assessment to Establish Number of Orphaned and Vulnerable Children (OVC) in Mavambo's Catchment Area of Mabvuku and Tafara who are currently not in School, unpublished report.
- 38 A Zimbabwean school term is three months long and there are three school terms in a year. Most schools prefer tuition fees and levies to be paid at the beginning on each school term and pupils with outstanding fees are often sent home.
- 39 Victims of Operation Murambatsvina at the time referred to the forced evictions as a tsunami comparing the scale of destruction with the Indian Ocean tsunami that took place in December 2004.
- 40 Residents at Hatcliffe Extension were forcibly evicted from the settlement despite that they had lease agreements with the Ministry of Local Government, Urban and Rural Development which should have given protection against force evictions. However, two months after the evictions they were allowed to return to their plots although their homes had been destroyed.
- 41 Interviewed in Harare on 27 January 2011..
- 42 Interview with community activists from Hatcliffe Extension and Hopley settlement.
- 43 Interviews with residents of Hopley and Hatcliffe Extension.
- 44 Interview with young people from Hatcliffe Extension on 4 December 2010.
- 45 Interviews with community members involved in community schools at Hopley in January 2011.
- 46 Ministry of Education, Sport, Arts and Culture letter to Amnesty International dated 3 August 2011.
- 47 News Day newspaper, Government descends on unregistered schools, <http://www.newsday.co.zw/article/2011-05-24-govt-descends-on-unregistered-schools>, Accessed on 4 June 2011..
- 48 Interview with teachers from Hatcliffe on 24 January 2011.
- 49 Pupils are often sent home for non-payment of school fees at the beginning of the term, however, some manage to return to school a few days after being sent off and might attend classes until they are sent home again.
- 50 Focus group discussion with young people at Hatcliffe Extension 4 December 2010.

51 Interviews with girls at Hatcliffe Extension and Hopley in December 2010.

52 Section 22(1) of the Marriage Act [Chapter 5:11].

53 Focus group discussion with young people from Hatcliffe Extension settlement on 4 December 2010.

54 See ICESCR General Comment 13, para 6, (a) (ii).

55 Southern Africa Development Community's Protocol on Education and Training, <http://www.sadc.int/index/browse/page/146#article5>, Accessed on 31 May 2011.

56 See ICESCR General Comment 13, para 44.

57 ICESCR, The right to education, Article 13 of the Convention, General Comment 13, E/C.12/1999/10, 8 December 1999, para 57.

58 CESCR, The right to education, Article 13 of the Convention, General Comment 13, E/C.12/1999/10, 8 December 1999, para 31.



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LEFT BEHIND

THE IMPACT OF ZIMBABWE'S MASS FORCED EVICTIONS ON THE RIGHT TO EDUCATION

Forced evictions drive poor people deeper into poverty and leave them more vulnerable to other human rights violations. This report looks at the long-term impact on the right to education since the Zimbabwean government's programme of mass forced evictions, known as Operation Murambatsvina, took place in 2005. During the mass forced evictions, more than 700,000 people lost their homes, their livelihoods, or both.

The report focuses on the situation of children and young people living in Hatcliffe Extension and Hopley, two settlements in the capital, Harare, where the right to education of more than 2,000 children has been compromised. In the immediate aftermath of the evictions, thousands of children had their education disrupted as they were forced out of school or their school was destroyed. Government failure to provide alternatives resulted in many children remaining out of school for prolonged periods or dropping out entirely.

More than six years since the mass forced evictions, children living at the two settlements continue to face immense barriers in obtaining basic education. The prohibitive cost of government schools in neighbouring communities means that most families in the settlements have no option but to send their children to the cheaper makeshift schools within their community, where their ability to learn is severely hampered by a lack of trained teachers, books and writing materials, as well as by huge class sizes. Amnesty International is concerned that very little has been done by the authorities to ensure that children in these settlements realize their right to education as guaranteed under international law.

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