

- e. Co-operatives Committee – Assist in reorganising the affected persons into organised units for orderly development.

- 2.4 The same structures have been replicated at district level to cater for small urban and rural centres.

3. LEGAL BASIS

- 3.1 The Government of Zimbabwe is quite aware, and needs no reminding, that with the adoption of the Universal Declaration of Human Rights in 1948, the right to adequate housing joined the body of international law, and that since that time this right has been reaffirmed in a wide range of additional human rights instruments. In this regard, the Government of Zimbabwe is also aware that no less than twelve different texts adopted and proclaimed by the United Nations explicitly recognize the right to adequate housing. The Government of Zimbabwe is proud of the fact that it participated actively in the fashioning and adoption of many of these texts.
- 3.2 The Government is also aware of the entitlements that follow from the right to adequate housing such as that the beneficiaries of the right to adequate housing should have sustainable access to clean drinking water, heating and lighting, refuse disposal and site drainage. Adequate housing must be habitable, providing the inhabitants with adequate space and protection from the cold, damp, heat, rain, wind or other threats to health. We are aware that housing should not be built on polluted sites or in immediate proximity to pollution sources that threaten the right to health of the inhabitants. In short, the physical safety and health of the occupants must also be guaranteed. As becomes clear, these extensive entitlements reveal some of the complexities associated with the right to adequate housing.
- 3.3 As regards the illegal structures subject of the evictions, the basic entitlements of the right to adequate housing were absent. The Government

could not provide these entitlements since the settlements and structures were unplanned and unlawful. Some houses were built on polluted sites or in immediate proximity to pollution sources that threatened the right to health of the inhabitants. Occupants of these illegal structures threatened the rights and entitlements of those others in the same areas living in planned and legally recognized places and settlements. In those circumstances, the Government could not allow the rights of those others to continue being violated by those who had settled illegally and were putting a strain on resources allocated to those legally entitled to them in terms of the relevant city by-laws.

- 3.4 General Comment No. 4 (1991) on the right to adequate housing made by the UN Committee on Economic, Social and Cultural Rights, and to which the Special Rapporteur makes reference in his condemnation of the Zimbabwe clean-up exercise, states that “forced evictions are *prima facie* incompatible with the provisions of the Covenant and can only be carried out under specific circumstances.” The term “*prima facie*” means ‘on the face of it.’ In other words, it is only a presumption that forced evictions are incompatible with the Covenant. That presumption is not sustainable in the case of the evictions being lawfully carried out in Zimbabwe.
- 3.5 The same General Comment No. 4 states that “The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law...” The evictions undertaken in Zimbabwe are in accordance with the relevant city by-laws that regulate the putting up of structures in any city in Zimbabwe. Illegal and unplanned structures of any kind are prohibited by these laws. And these are the structures that are being removed. Article 17.1 of the International Covenant on Civil and Political Rights recognizes, among others, the right to be protected against arbitrary or unlawful interference with one’s home. It is especially pertinent to recall General Comment 16 of the Human Rights Committee, relating to Article 17 of the International Covenant on Civil and Political Rights, which states that

interference with a person's home can only take place *"in cases envisaged by the law."* In the Habitat Agenda Governments committed themselves to protecting all people from, and providing legal protection and redress for, *forced evictions that are contrary to the law*, taking human rights into consideration.

- 3.6 The evictions being carried out in Zimbabwe are neither arbitrary nor unlawful, since they are being undertaken within the confines of the relevant applicable laws, with the objective of ridding the capital, and other cities, of illegal structures, illegal business and criminal activities. The Government of Zimbabwe is aware that where evictions are justifiable, as they are in this case, it is incumbent upon the relevant authorities to ensure that they are carried out in a manner warranted by law, and that all the legal recourses and remedies are available to those affected. Before the evictions were carried out, occupants were given sufficient notice, and the choice to voluntarily take down their illegal structures. Many did. Those who failed to heed the notice and refused to take down their illegal structures had this done for them by the relevant authorities in the operation.
- 3.7 For evictees who feel aggrieved or believe that they were prejudiced, there is room for recourse to the courts. Some of the evicted persons have indeed instituted proceedings in the courts asking the courts to stop the evictions. The High Court of Zimbabwe upheld the clean-up exercise on June 3, 2005, in a case that was filed by Dare Remusha Housing Cooperative against the Government and the City of Harare.
- 3.8 The international community as a whole is legally obligated to ensure the protection and realization of the right to adequate housing, which is part of the recognized economic, social and cultural rights. Under Articles 55 and 56 of the Charter of the United Nations and in accordance with well-established principles of international law, international cooperation for the realization of economic, social and cultural rights is an obligation of *all* States. This

responsibility is particularly incumbent upon those States which are in a position to assist others in this regard. The 1986 Declaration on the Right to Development emphasizes that in the absence of an active programme of international, technical and financial assistance and cooperation, the full realization of economic, social and cultural rights will remain an unfulfilled aspiration in many countries.

- 3.9 And there are many of those in this world that could assist Zimbabwe achieve its goal for adequate housing for its population, but who have deliberately refrained from doing so for unjustifiable political reasons. The United States passed a sanctions law called the Zimbabwe Democracy and Economic Recovery Act in December 2001. This illegal and unjust law provides for the cutting of all lines of credit to Zimbabwe from the multilateral lending institutions. These institutions have been advised to release aid or credit to Zimbabwe only if President George Bush authorizes it. On its part, the EU has placed overt and covert sanctions on Zimbabwe because of a bilateral dispute between Harare and London. The actions by the US and the EU have worsened the plight of all Zimbabweans.

4. POLICE INVOLVEMENT

- 4.1 On 18th May 2005 the Zimbabwe Republic Police (ZRP) launched Operation Restore Order and the factors and rationale that prompted this nationwide operation as explained in section 2 above, were based on a number of social, economic and security shortcomings that confronted the policing environment with astounding ramifications on the country's economic turnaround programme and its citizens. "**Operation Restore Order**" is consistent with the ZRP's Strategic Plan and Vision 2008, "Policing for National Economic Revival" and is arguably the biggest operation the ZRP has undertaken since the country's independence in 1980. When the operation kicked off on May 18, 2005, the objectives of the operation were clearly spelt out and teams put in place to carry out the operation. Police officers involved