Critique of Operation Murambatsvina as a human rights issue

In a speech at a conference on deregulation in 1995, the then Minister of Home Affairs, Dumiso Dabengwa, had this to say:

“In these harsh economic times, street vending not only creates employment but is also valuable source of income. Therefore from a moral, social and economic point of view, harassing and arresting people who are trying to earn an honest living seem to be too harsh and unwarranted…”

Ten years down the line, and a different minister at the helm of the Home Affairs, the tune has changed drastically. Overnight, it became a crime to be poor and to earn a living by vending was viewed in dim light as it was seen as a front for illegal activities. The local authorities with the backing of President Mugabe, swooped down on residential areas with one of the oldest locations, Mbare getting the first of the clean up operation. The clean up code named Operation Murambatsvina/Operation Restore Order was meant to “restore” Harare to its former status of where it was indeed the Sunshine City.

Notice of the Operations was published in the state-run Herald newspaper on 24 May 2005, some five (5) days after the evictions and demolitions were already underway. The Notice called on all “owners, occupiers and users” of stands/properties considered to be illegally erected or illegally utilised to cease using the structures, or apply for regularization, or demolish the said structures. This period of notice was blatantly ignored and in fact the unlawful actions were well underway as of 20 June 2005. The mind boggles at the urgency with which the operation was launched taking into account the fact that 25 years had passed since independence and the same government had been largely turning a blind eye or giving tacit approval to the existence of vendors, flea markets, illegal residential structures and home industries. It was highly ironic that the same Minister who was now at the forefront of the campaign, was the same minister who officiated at several launches of housing co-operatives by war veterans and gave the latter assurances that they were terra firma.

The use of the army to back up the police was a show of power and an intimidatory ploy that worked so well such that even the historically militant communities of Mbare, Mabvuku and Mufakose were cowed into meek submission. This was unjustified action on a civilian population. It is a general principle of administrative law that when administrative authorities are exercising powers, they should do so in a manner that will minimize loss. However, this principle was ignored with impunity as people were not given enough notice to dismantle their structures and salvage whatever materials they could. Flea market operators and home industry operators lost their wares as overzealous law enforcement agents swept on them and confiscicated anything they could lay their
hands on. Large quantities of goods were impounded and no proper accounting on
what was taken and from who, was done.

The Constitution of Zimbabwe provides for the protection of the basic human
rights of the people of Zimbabwe and the authorities brazenly violated several of
the key protective provisions. One of these provisions which was broken is the
right to life (section 12) when three children died after walls of structures fell on
them. Another provision is the right to protection against torture, inhuman or
degrading treatment or punishment (section 15); there are reports that people were
assaulted by the police when they attempted to resist the campaign in St Marys
and Glen View, suburbs in Chitungwiza and Harare respectively. Protection from
deprivation of property (section 16) is guaranteed under the country’s
Constitution but this provision was totally ignored.

The State, under the African Charter on Human and Peoples’ Rights, has an
obligation to ensure the right of the people to their economic, social and cultural
development. Under the African Charter on the Rights and Welfare of the Child, a
duty is also imposed on the State to ensure the survival, protection and
development of the child, to protect and support the establishment and
development of the family as the natural unit and basis of society, and to provide
material assistance and support programmes for the nutrition, health, education,
clothing and housing of the child. It is clear that, rather than complying with such
obligations, the State acted in a manner which violates the very spirit of the
Charters and their contents.

Some estimates put the number of people displaced at well over a million and this
created a massive internal refugee population who could not access basic human
necessities like clean water, toilet facilities and food. The forced displacement of
thousands of families meant that many children of these families could no longer
attend school. Since some breadwinners were affected one way or the other,
children were forced to drop out of school since fees were now out of reach for
many. Amongst those that were made homeless in the blitz were babies and
young children, orphans, women and women-headed households, elderly people,
disabled people, people with HIV/AIDS and other sick people. The dislocation of
these people severely disrupted treatment and care programmes for people with
HIV/AIDS and these persons became exceptionally vulnerable as a result.
Effectively the operation pushed the majority of the urban further down into
vicious cycle of perpetual poverty and dependency. The destruction of the
informal sector had a detrimental economic effect and had a knock-on effect on
the formal sector standards of living continued to plummet.

Initially the Government barred civic and church organizations from giving aid to
the displaced as this would be an admission of failure and lack of management
acumen. However it made an about turning policy and started allowing aid to flow
to the needy but under the watchful eye of government structures monitored by
the police.
• Zimbabweans are entitled to protection by the state. This entails that structures like the judiciary should be there to operate in a transparent and non-partisan manner but this was not the case with lawsuits that were filed over the campaign. It is highly regrettable that judges in Zimbabwe continue to be accused of unwillingness to deal firmly and decisively with perpetrators of human rights violations. A case in point was that of Porta Farm residents who were being uprooted for the second time. The Zimbabwe Lawyers for Human Rights (ZLHR) who were handling their case managed to get interdicts ordering cessation of the demolitions at the Farm. Local authorities and police acted in blatant contempt of two High Court orders barring them from removing people from the property, assaulting them or destroying their properties. ZLHR obtained a third interdict banned and humane relocation could take place particularly after realizing the human suffering and heavy criticism, nationally and internationally.
• ended the forced relocation of persons to the rural areas because some people became stateless e.g those of Malawi and Mozambican origins.
• allowed a full and independent audit of the consequences of the forced evictions.
• investigated all allegations of unlawful deprivation of property and prosecute all alleged offenders.
• made full restitution of all property illegally confiscated.
• provided full compensation to all persons whose property was illegally damaged or destroyed.

Criticism continued to pour on the Government over the clean up campaign. In a speech to mark Africa Day, Movement for Democratic Change (MDC) leader, Morgan Tsvangirai, had this to say:
“Government’s claim that such action is in the public interest is disingenuous. Street vendors are not sabotaging the economy; it is the government, which is sabotaging the economy through mismanagement and corruption. Teachers, doctors, nurses, factory workers and people from all walks of life have been forced into becoming street vendors as it has become the only means of survival… A government that destroys the properties of people, who are trying to make an honest living, is evil. It is people – insensitive. Millions of Zimbabweans have been made poor and jobless by this regime. The people have sought ways to provide for their families. Not only have flea markets and tuck shops been destroyed – the people’s belongings have been stolen by the government. The government did not even have the heart to give people a notice period to salvage their belongings; it ploughed through their properties and looted their goods. That is unforgivable.

David Coltart, Movement for Democratic Change Member of Parliament noted that the operation was vindictive in that some buildings that were destroyed
included structures for which the owners had proper plans or in respect of which
the occupants held valid leases.

Although African leaders maintained their conspiracy of silence, heavy criticism
came from the Western countries with the opinion that Harare had overdone it. Apart from the traditional critics of Zimbabwe – America and Britain – Australia and New Zealand joined the fray and expressed their indignation and announced intentions to put in place stringent measures against the Zimbabwe government.

While the African Union (AU) had initially described the situation in Zimbabwe as an internal issue that did not warrant outside interference, it had a taste of Harare’s venom when its envoy, Mr. Bahama Tom Nyandunga, was snubbed and refused accreditation to assess the effects of the clean up operation. He left after a week of shuttling between his hotel room and Foreign Affairs offices. The official reasons for the snub was that the AU had not given Harare enough notice. This was in direct contrast with the welcome that was accorded the United Nations special envoy Anna Tibaijuka who received special treatment and had to extend her visit by one week. Ms Tibaijuka was given red carpet treatment and government ministers fell all over themselves to escort her around her field trips which raised a lot of eyebrows on the independence of the assessment.

In another development, a two-member United States Congressional staff delegation who also visited the country hinted that Washington would not change its policy over Harare in the wake of the government’s clean up operation which it described as a gross violation of human rights. This observation further isolates Zimbabwe at a time when there is need to engage the international community to alleviate suffering by the majority of Zimbabweans who have been impoverished by the economic decline.

Whatever the reasons propounded to justify Operation Murambatsvina, the campaign constituted a widespread and systematic attack on a poor and defenceless civilian population. It laid to waste the homes and business of hundreds of thousands of people. Not without justification, have people likened the devastation wreaked by the government to that of a tsunami (the massive and destructive Japanese floods). Unlike a tsunami which respects no class, the targets of operation Murambatsvina have been selective in that the urban electorate suffered most and this has led to speculation that the true motive behind the operation was political.

To stretch the dollar further, one can argue that there is an alarming resemblance between Operation Murambabtsvina and Gukurahundi described earlier in this chapter.

All in all, the situation is neatly and aptly summarized by the words of the late great Father Zimbabwe, Joshua Nkomo in 1985, when he said: “People are living in perpetual fear, fear not of an enemy, but of their own government.”