



MASVINGO CENTER
FOR RESEARCH
ADVOCACY AND
DEVELOPMENT



MACRAD Chilonga enquiry after the SI 50,51,72A of 2021 “ Setting Aside of Land ”

Section 74 Freedom from Arbitrary Eviction

Following the promulgation of the Communal land (Setting Aside of Land) (Chiredzi) Notice, 2021 published in Statutory instrument 72A of 2021 on 16 March 2021, Masvingo Centre for Research Advocacy and Development (MACRAD) conducted a series of discussive meetings with a total of 15 village heads within the affected area in Chiredzi.

In this paper we give a brief outline of the outcome of discussions with the community leaders. We conclude with recommendations evolving from the discussions' findings.



SECTION 74A

No person may be evicted from their home, or have their home demolished, without an order or court made after considering all the relevant circumstances

Background

For starters, SI 72A of 2021 is the law that was gazetted to repeal the Communal land (Setting Aside of Land) (Chiredzi) Notice, 2021 published in Statutory instrument 50 of 2021. The repealed Statutory Instrument had set aside about 12940 hectares in Chiredzi to pave way for lucerne production and at the same time ordered the immediate eviction of the people resident within the set aside land.

From the time the government showed intentions of evicting the indigenous Chilonga people, MACRAD had been engaging both the people and the government over the issue. After publication of SI 50 of 2021, MACRAD went on to challenge the government's decision through the High Court. It was in the midst of the court challenge when the government partially reversed its decision through SI72A of 2021.

The reversal was partial in the sense that only the immediate eviction of the people was halted. The decision to set aside the 12940 hectares of land remained. This in turn means that the probability that the government still intends to evict the people is very high. Part of MACRAD's argument in the court's challenge was that no consultations had been done by the government before its decision to evict the people. Ironically in the court papers, the local government Ministry representative responded that door to door consultative meetings had been done within the affected area.



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It is those averments, among other factors, that motivated MACRAD to go back to the community to re-engage the people so as to find out if indeed consultations had been done. Due to the Covid-19 regulations prohibiting large gatherings, MACRAD had to engage only with the village heads and a few representatives. Below is the outcome of the meetings conducted with the village heads and representatives.

Communication between the government and the people.

The people complained that there has not been communication with the government. They say they only heard of Statutory Instruments through grapevine, the radio and social media. Village heads in the affected Wards took a step further and collectively delivered a petition to the government over its decision. They complained that they never got any response from the government.

Inspection of plan

Statutory Instrument 51 of 2021 which set aside 12940 hectares of land in Chiredzi specified that the affected area was highlighted on a plan which is publicly open for inspection free of charge at specified offices which includes the Chiredzi District Administrator's office.

One village head claims that he went to the DA's office several times with the intention of inspecting the map but was unsuccessful. The complaint was seconded by two other village heads whose attempts to view the map also hit a brick wall.

Door to door consultations.

All the community leaders were shocked to learn that the Ministry of local government representative claim that door to door consultations were done with the people. The majority of the village heads argued that Vice President Chiwenga visited Chiredzi and assured them that no government action would be taken before consultations. According to them, whilst they were still waiting for the engagements, they heard over the radio that their ancestral land had been set aside by the government.

Intimidation

At the heart of the villagers' concerns is intimidation by some government agents who claim to be from the President's office. The community leaders put forward that instead of seeing door to door consultations, they have witnessed door to door intimidation of people who publicly criticise the government's decision to set aside land for lucerne production.



One village head narrated how some men driving a car without number plates have terrorised his family. He explained that he once spent 3 days away from home fearing for his life and the unidentified men thereafter kidnapped his son and asked him to direct them to where his father was. The son reportedly had to dodge the men.

Most village heads seconded the intimidation claims. They say some of their subjects have been threatened by these men moving around with cars without registration plates. The men reportedly target those people who come out open that they are against the setting aside of their ancestral land. The community leaders highlighted that they are now leaving in fear as state security agents have been roaming around their villagers and intimidating people. The security agents have reportedly threatened to 'decisively deal with all those against government programs' They added that the surveillance by the agents intensified after some top ranking officials from the county's main opposition party visited Chiredzi.

Security of tenure.

From the discussive meetings conducted, MACRAD established that the government's move to set aside land caused the Chilonga people to realise the need to have security of tenure over land. Some argued that their fathers and forefathers were once moved to pave way for Gonarezhou National park and this was easy for the government because the people did not have title deeds to what they thought was their land.

They therefore feel the government can do anything they want with them because there is no security of tenure over land. They feel insecure and some of them argue that they are now afraid of building permanent structures.



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Recommendations

Government officials manning government offices specified in SI 51 of 2021 must observe the rule of law and allow citizens to inspect the map/ site plan of the land set aside by the government as mentioned in the Statutory Instrument.

Since complaints have been raised in so far as communication between the government and the affected people is concerned, the local government Minister must fully comply with section 10(3) of the Communal Land Act, Chapter 10:04. The section mandates the Minister to take steps to ensure information and terms regarding the setting aside of land is properly disseminated within the area of the land concerned.

The Zimbabwe Human Rights Commission should carryout its constitutional mandate and protect the people of Chilonga against abuse of power by state security agents. It should visit the area in view of investigating the alleged intimidation of villagers. Action should be taken against the perpetrators.

The outdated Communal Land Act should be repealed and be replaced by a new piece of legislation which guarantee security of tenure to communal land inhabitants.

Proper consultations should be done with all the people living within the affected area. All relevant issues must be discussed during the consultative meetings and the Zimbabwe Human Rights Commission should monitor, assess and ensure the observance of human rights during the consultation process.

About MACRAD

Masvingo Centre for Research Advocacy and Development (MACRAD) Trust is an independent Zimbabwean Community Based Civil Society institution committed to the development of socio-economic rights and agrarian systems that enhance equitable land rights and sustainable land uses throughout Zimbabwe. MACRAD interacts with various organizations and communities to assist them in developing capacity for policy formulation and research. It also facilitates policy dialogue among communities, governments, academics, civil society and others on land and agrarian development, especially the land rights of marginalized social groups. Masvingo Center for Research Advocacy and Community Development (MACRAD) is driven by a desire to contribute towards improved rural livelihoods that should lead to greater capacities for the rural poor to determine their own destinies and contribute towards national development. MACRAD has worked with citizens in resettlements areas around Masvingo Province on civic and voter education to ensure their voices are heard. We support victims and survivors of diverse forms of conflict, violence, displacement and disenfranchisement. MACRAD's approach entails encouraging continuous policy debates and refinement of policy. This is achieved through generation and provision of research based information, platforms for dialogue, creating and nurturing a policy community in Zimbabwe. The ambition of Masvingo Center for Research Advocacy and Community Development (MACRAD) is to provide leadership in socio-economic justice and land-agrarian policy processes, to become a Centre of Excellence and remain an independent and credible center for knowledge on social and economic justice. We support victims and survivors of diverse forms of conflict, violence, displacement and disenfranchisement.



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