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Off Shamva Road
P.O. Box 350
Bindura, Zimbabwe
Telephone: ++263 8 677 006 136 | +263 779 279 912
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“How Dare You Take Us Out of the Land of Our Ancestry?” Perspectives on Human Rights and Novel Land Invasions and Evictions in Zimbabwe

NOAH MARINGE¹ AND JUDITH MACHAKA²

Abstract

This article examines the laws relating to access to communal land and their effectiveness in protecting the villagers from arbitrary evictions for development purposes. These laws are further discussed in the context of specific examples where evictions that resulted in the displacement of people from their ancestral lands took place. ARDA Transau where local inhabitants were displaced to make way for diamond mining in Chiadzwa, and Mutoko where two wards were abandoned as a result of blasting during extraction of black granite are used as good examples. A discussion of these examples shows that the villagers did not only lose their land but also their ancestral connections and historically formed family ties. The compensation and the required notices were insignificant and were not in line with relevant international and domestic laws that govern evictions and displacements in Zimbabwe. These include the Constitution of Zimbabwe that requires that in evictions of that nature, the acquiring authority must give adequate notices and compensation. Instead of benefiting from the resources that naturally accrues to them, the villagers slipped into extreme poverty. In addition, rural district councils did not benefit meaningfully from the extraction of such minerals. On the other hand, the mining companies became beneficiaries and were substantially enriched.

Keywords: Chiadzwa, villagers, mining companies, land rights, ancestral land

¹ Department of Law and Legal Services, Zimbabwe Ezekiel Guti University, Zimbabwe.

² Department of Law and Legal Services, Zimbabwe Ezekiel Guti University, Zimbabwe.
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INTRODUCTION

Land rights constitute property rights that are vital to the African society (Tabora, 2016). In Nhamo and Katsamudanga's view (2016), human beings are connected to a certain place and land is the cosmological glue that holds the world together. They further opine that the occupation of a commercial farm by the people of Svosve in 1999 was largely driven by a desire to reclaim their ancestral land from colonisers (*ibid.*). Thus, a link between the right to a given piece of land and the local communities' cultural rights is established. This article discusses this link and examines various land rights that are accorded to the indigenous people of Zimbabwe. The constitutional rights to land are discussed in order to assess the extent to which they protect local communities against land invasions and arbitrary evictions in Zimbabwe. Apart from the constitution, there are other pieces of legislation that govern land rights in Zimbabwe with a focus on communal land rights such as the Traditional Leaders Act [Chapter 29: 17], Communal Lands Act [20:04] , Mines and Minerals Act [21:05] and the Environmental Management Act [Chapter 20:27]. The analysis of this legal framework is followed by a detailed analysis of selected examples of land dispossessions in Zimbabwe that were carried out for developmental purposes and how they have impacted on certain economic and socio-cultural rights of the local inhabitants. Particular reference is made to the ARDA Transau where local inhabitants were displaced to make way for diamond mining in Chiadzwa, and Mutoko where two wards were abandoned as a result of blasting during extraction of black granite are used as good examples.

THE LEGAL FRAMEWORK

As highlighted in the introduction, it is instructive to discuss the legal framework on land rights in Zimbabwe. Relevant provisions on cultural rights and their link to land rights are also discussed in this part. Before delving into the legal framework in Zimbabwe, it is insightful to explore the United Nations principles and guidelines on the displacements and evictions that are a result of development initiatives. This is done in order to test the legal framework in Zimbabwe against international best norms and how they have also been observed in practice.

UNITED NATIONS BASIC PRINCIPLES AND GUIDELINES ON DEVELOPMENT BASED EVICTIONS AND DISPLACEMENT.

To start with, whenever people are displaced for the purposes of development, the displacement must occur in a way that does not violate the human rights of the affected people and the resettlement must be in accordance with the international human rights law. Zimbabwe is a member of the United Nations and whatever development-based evictions that may occur should follow the guidelines that are set by the United Nations Basic Principles and Guidelines on Development-based Evictions (UN principles). They provide that where there is need to carry out evictions, the acquiring authority must demonstrate that the evictions are unavoidable (Art. 40). The affected villagers must be given a notice written in the local language sufficiently in advance (Art. 41). The resettled villagers must be adequately compensated including compensation for non-monetary loss. Compensation must be done immediately after the evictions and their livelihoods should not be compromised. When compensating, women should not be made to benefit through their husbands or male relatives. Married men and women should be made co-beneficiaries of all compensation packages while unmarried women should be entitled to their own packages. The evictions should be carried out in a manner that is procedurally correct and the dignity of the people must be ensured. Use of force must be avoided as much as possible but where it is used, it must be legal and should respect the principles of proportionality and necessity (Art. 48). What comes out from the UN principles is that all the fundamental rights of the people to be evicted should be respected including those of the weaker groups in the society like women. Every form of compensation should be adequate and prompt. The scope for such compensation is also wide to include non-monetary loss.

THE CONSTITUTION OF ZIMBABWE

Zimbabwe follows the principle of constitutional supremacy in that the constitution is the supreme law of the land and any law, practice, custom and conduct that is inconsistent with the constitution is invalid to the extent of the inconsistency (Constitution of Zimbabwe, s 2). The constitution has national objectives that are designed to guide the State

and all relevant institutions in coming up with laws and policies that establish, enhance and promote a sustainable, just, free a democratic society in which people enjoy prosperous, happy and fulfilling lives (Constitution of Zimbabwe, s 8). One of such national objectives is the promotion and preservation of cultural values and practices that enhance the dignity, well-being and equality of Zimbabweans (Constitution of Zimbabwe, s 16). The preservation of cultural heritage and values is also part of the constitutional functions of traditional leaders in their respective areas of jurisdiction (Constitution of Zimbabwe, s 282). These provisions entail that the preservation of cultural rights lies at the centre of a democratic and free society that promotes and observes human rights. Of importance is the Declaration of Rights in the constitution that also binds the State and private persons (Constitution of Zimbabwe, s 45). In addition, natural and juristic persons are entitled to enjoy the rights and freedoms that are set out under the Declaration of Rights. It applies to the State and private persons that fortifies the vertical and horizontal application of its provisions (*ibid.*). Thus, it becomes necessary to discuss those rights and freedoms that are relevant to land and economic and socio-cultural rights. To begin with, section 51 of the Constitution of Zimbabwe recognises every person's right to dignity in his or her private or public life. As indicated earlier on, the preservation of cultural rights and practices is one of the key indicators for upholding the dignity of the relevant communities. This may include the preservation of land that is regarded as sacred by a given community. Related to the preservation of human dignity is the freedom of every person from torture, cruel, inhuman or degrading treatment or punishment (Constitution of Zimbabwe, s 53). It is submitted that an unjustified eviction from one's ancestral land may amount to inhuman and degrading treatment. Another important right is the right of every person to administrative conduct that is lawful, prompt, efficient, reasonable, proportionate, and impartial both substantively and procedurally fair (Constitution of Zimbabwe, s 68). The effect of this provision is that any decision to relocate people from their ancestral land must not only be reasonable, but it must also be substantively and procedurally fair considering those people's right to preserve their cultural values and heritage.

The right to property is well recognised under the Declaration of Rights (Constitution of Zimbabwe, s 71). It is a substantive constitutional property clause that contains general provisions on property rights, their protection and the framework for their deprivation (Tsabora 2016). No person should be deprived of his or her right to property unless the deprivation passes the constitutional procedure that is set out under section 71 that include the fact that such deprivation must be in terms of a law of general application, necessary, give reasonable notice of the intended deprivation and provide for fair and adequate compensation. However, the challenge is that the constitution does not define what constitutes adequate compensation and more often, victims of development-based evictions are usually poorly compensated, if at all. In addition, the aggrieved party should have the right to challenge the proposed deprivation or the adequacy of compensation (*ibid.*). Thus, apart from the substantive aspects of property rights, section 71 of the constitution provides for the procedures to be followed before one can be deprived of his land. Such provision goes a long way in respecting due process and compliance with human rights (Tsabora 2016). Ultimately, section 71 of the Constitution of Zimbabwe has a dual function that recognises and protects private property rights on one hand while affirming the power of the State to subject private property to compulsory deprivation for public benefit on the other hand (*ibid.*). Hence, there is a clear constitutional framework for the protection of the right to property that is a panacea for the preservation of cultural values in those areas where communities reside.

It is also necessary to briefly consider the general limitation clause in the constitution that allows for the limitation of rights provided it is done in terms of a law of general application and the limitation is fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom (Constitution of Zimbabwe, s 86). The constitution proceeds to outline factors that can be considered in determining whether any given law of general application can pass the constitutional limitation test. These include the nature of the right or freedom concerned; the purpose of the limitation; the nature and extent of the limitation; the need to preserve the rights of others;

the relationship between the limitation and its purpose and whether there are lesser restrictive means of achieving the purpose of the limitation (*ibid.*). In *Majome v ZBC and Others* CCZ-14-16, the Constitutional Court held that “to argue that only ‘law of general application’ may justify the impairment of a fundamental right means that conduct-public or private that limits a fundamental right but that is not sourced in a law of general application cannot be justified.” The “law” requirement refers to legislation, common law and customary law but excludes a mere policy or practice by government or its organs (Mavedzenge and Coltart 2014). The “general application” requirement means that, in its form, the law must be sufficiently clear, accessible and precise to the extent that those who are affected by it can fully understand their rights and obligations (*ibid.*). Therefore, the scope for limiting the right of any given community to preserve its cultural rights is largely curtailed by the constitutional limitation clause through the provision of safeguards against abuse. It is also important to note that rights may also be limited during public emergency (Constitution of Zimbabwe, s 87). However, such a limitation is not vital to this research because it is rare to find dispossession of ancestral land that is purely driven by public emergency.

COMMUNAL LAND ACT

Having explored the constitutional provisions, it is vital to discuss legislation that directly affect communities who stay in communal lands that they have occupied for centuries. In addition, about seventy percent’s population in Zimbabwe resides in communal areas (Zimfact 2018). It becomes justified to discuss the legal framework governing such areas. All communal land is vested in the president who should allow the local communities to occupy and use it in accordance with the Communal Land Act (s 4). This tenure system creates its own problems because the State can interfere with such use and occupation at any time, thus, depriving local communities of their ancestral land. Furthermore, the president has the power, after consulting rural district council concerned, to declare by statutory instrument that any part of communal land ceases to be such and becomes part of state land (Communal Land Act, s 6). This comes from the fact that the president owns all communal land. However, it flies in the face of section 71 of the Constitution of Zimbabwe that requires the acquiring authority to give reasonable notice

coupled with the right of an aggrieved party to challenge the decision to acquire his or her property. This provision assists communities in challenging the decision of the president on the basis that they intend to protect their cultural values that are entrenched in that community.

Apart from the constitution, the Communal Land Act itself recognises the importance of customary law by providing that rural district councils should consider customary law relating to the allocation, occupation and use of land when granting permission to use communal land for agricultural and residential purposes (Communal Land Act, s 8). In addition, the rural district council concerned should consult and cooperate with the chief appointed for that area (*ibid.*). Thus, it can be argued that a rural district council should consider representations on certain cultural values by local communities before a decision is made on the use of a particular piece of land.

Another problematic provision is section 10 of the Communal Land Act that grants the responsible Minister, in consultation with the local rural district council, the power to set aside any given area of communal land in the interests of local inhabitants, public interest or the development of communal land generally. There is no provision for consulting traditional leaders who are required by the constitution to preserve cultural values. Moreover, the local community is not given a chance to be notified and oppose the setting aside of their ancestral land for other purposes that is contrary to section 71 of the Constitution of Zimbabwe. It is submitted that it is difficult to determine the issues of 'development' and 'public interest' without considering representations by local communities. Although section 12 of the Communal Land Act attempts to provide for alternative land or compensation for land dispossessions in terms of sections 6 and 10 that have already been considered, it can be argued that it is still non-compliant with the constitution in the absence of due process for the dispossession of the land from the onset. Some inhabitants may not need compensation or alternative land due to the desire to preserve their cultural values and they must be given an opportunity to defend themselves before the decision to take away their land is implemented.

TRADITIONAL LEADERS ACT

The Traditional Leaders Act is the principal legislation that defines the role of traditional leaders that originate from the Constitution of

Zimbabwe. They have a duty to promote and uphold the cultural values among members of the communities under their jurisdiction (Traditional Leaders Act, s 5). This provision reiterates traditional leaders' constitutional function that has been already discussed. It follows that traditional leaders should always be consulted on any decision to alienate any piece of land as they are the custodians of cultural values in their areas, and they know the importance of certain cultural sites in those areas.

In addition, traditional leaders have a duty to ensure that communal land is allocated in terms of Part 3 of the Communal Land Act (*ibid.*). Part 3 of the Communal Land Act that has already been discussed above includes land allocations by rural district councils in consultation with traditional leaders for the area concerned and the setting aside of land in the public interest or for developmental purposes by the responsible minister. On the other hand, the Traditional Leaders Act empowers a chief to approve the settlement of any new settler in his area with the advice of the relevant headman (Traditional Leaders Act, s 5). It is submitted that the Communal Land Act does not seem to give traditional leaders a leading role like what the Traditional Leaders Act does and this can be a source of conflict. This explains why it has been opined that the legal regime around communal land management creates a high degree of ambiguity and potential for overlap of roles between traditional and State institutions (Chigwata 2016). The potential conflict is inimical to the quest by traditional leaders to preserve certain cultural values in their areas of jurisdiction as there exist other competent powers who can make conflicting decisions on how land should be allocated and used.

MINES AND MINERALS ACT

The Mines and Minerals Act is another contentious piece of legislation when it comes to the dispossession of local communities from their ancestral land and sacred sites. To start with, communal land, just like State land, is open to prospecting (Mines and Mineral Act, s 26). A person who is given a prospecting licence can search for any minerals, mineral oils and natural gases from that land that is open to prospecting (Mines and Minerals Act, s 27). The same applies with mining rights after

registration of a mine. The miner retains superior rights with the landowner only retaining the right to graze or cultivate the surface of the mine to the extent that such activities do not interfere with mining activities (Mines and Minerals Act, s 179). Searching for minerals or mining may include digging and land clearance that directly interferes with sacred sites and graves for the local communities. The land occupiers are only given limited rights like the requirement that no prospecting should take place near homesteads (Mines and Minerals Act, s 31). Outside those limited rights, the consent of local inhabitants is not required if one intends to prospect or mine in that area. The notice of intention to prospect is only given to the relevant rural district council but not the chief or local inhabitants (Mines and Minerals Act, s 38). These provisions are against other laws starting with the Constitution, Traditional Leaders Act and Communal Land Act, that recognise the role of traditional leaders in one way or the other. In addition, and as highlighted before, the due process that is prescribed by the constitution should be followed.

The law favours the miner ahead of the landowner. It explains why it has been suggested that greater protection should be given to these local inhabitants by providing for a share in profits from minerals that are extracted from their land (Veritas 2021). Alternatively, there must be adequate compensation for leaving the land where the local inhabitants' family graves are or where they have carried out farming activities for generations (*ibid.*).

ENVIRONMENTAL MANAGEMENT ACT [CHAPTER 20:27]

The Environmental Management [Act Chapter 20:27] is a piece of legislation that was enacted to regulate sustainable management of natural resources, prevention of pollution and environmental degradation among other aspects of the environment. Section 9 establishes Environmental Management Agency, a body corporate that is responsible for implementation of its duties outlined in Section 10 of the Act. Among other things, the agency is responsible for making environmental impact assessments, audits and monitoring of projects. Where there is non-compliance with the law, the agency can order the offending party to

comply or order closure of the project until there is compliance. Section 110(1) of the Act empowers the president to set aside any communal land for conservation or improvement of natural resources or protection of irrigation works or sources of water supply. The Minister responsible for the implementation of the Communal Lands Act is only required to make a provision of land elsewhere for the villagers affected by the setting aside. If properly implemented, the Environmental Management Act has the potential to make the affected villagers benefit from the exploitation of resources in their ancestral lands or at least be protected from the resultant potential harm. However, Kativu and Oskarsson (2021) point out that the agency is incapacitated to execute its mandate. It is not adequately resourced to monitor activities that affect the environment. In addition to that, the agency has been implicated in fraudulent production of fake environmental impact assessment reports. This has the effect of violating the rights of people particularly in mining areas and other extractive industries.

SELECTED CASE STUDIES

Having outlined the Zimbabwean legal framework that is meant to protect and promote the rights of the people to land, including ancestral land in Zimbabwe, this section examines its adequacy in protecting the human rights of the affected people in specific cases that took place in Zimbabwe. Two mass evictions that fall in the category of development-based evictions, that is, Chiadzwa Diamond fields and the black granite mining in Mutoko district are used as case examples.

The justification for Chiadzwa evictions were that the villagers and the artisanal miners presented a risk against smooth mining activities by multi-national companies for the common public good. Gukurume (2020) discloses that removal of the villagers from Chiadzwa diamond fields was violent. The armed security forces used guns to shoot at villagers and police dogs were used to track and, in some cases, scare the villagers into submission. The villagers who attempted to resist the evictions became victims of state security brutality (Gukurume 2020). Kusena (2015) reports that more than two hundred people lost their lives due to state security brutality during this period. He gives an example of one

Tsorosai Kusena who was killed by a police officer and the matter was successfully prosecuted and the offender was sentenced to eighteen years imprisonment (See *Joseph Chani v State* SC-43-2017). This severely impaired the right of the villagers to life and security. The people were left with no choice but to comply. On the other hand, in Mutoko, blasting made it practically impossible for the villagers to continue staying in their ancestral land even if they desired to do so (Kativu and Oskarsson 2021).

Evictions of the people from Chiadzwa and Mutoko are among many examples of evictions that were conducted under the pretext of serving a common public good in Zimbabwe. Large numbers of people were evicted from their ancestral land to pave way for diamond mining in Chiadzwa and black granite extraction in Mutoko. A wide range of rights of the people were violated in the process (Gukurume, 2020). The State is duty bound to ensure that its citizens enjoy the right to be protected from forced evictions from the lands and homes that they occupy. They should only occur where it is demonstrated that they are unavoidable. The protection of the enjoyment of this right is inextricably linked to the protection of a plethora of other rights such as freedom from inhuman and degrading treatment, right to healthcare, right to education and the right to shelter as enshrined in the Declaration of Rights of the Constitution of Zimbabwe. As highlighted above, communal land in Zimbabwe vests in the President. This law is one of the colonial pieces of legislation that are still applicable in Zimbabwe and was used to dispossess the indigenous people of their ancestral land during the colonial era. Thus, occupants of rural land do not have a legally secure land tenure. They make use of the communal land at the pleasure of the president. In addition to this piece of legislation, there is also another colonial tool, the Mines and Minerals Act that gives priority to mining activities over any other land use wherever the minerals are found in Zimbabwe, including farming and communal lands. This means that villagers can be easily removed from their ancestral land to pave way for mining activities or any other land use that the president deems fit like what happened in Chiadzwa.

Diamonds in Chiadzwa were first discovered during the colonial period but that discovery was only made public in 2006 and the Government of Zimbabwe declared Chiadzwa and Marange state protected zones (Gukurume, 2020). This meant that occupants of these rural communities were supposed to be moved away from the diamond-rich fields. Development-based evictions must be carried out in line with UN principles on developed-based evictions and displacement as discussed above. One major requirement in such evictions is that adequate notice to the affected communities must be given. Section 71 of the Constitution of Zimbabwe requires that the acquiring authority must give reasonable notice of the intention to make the acquisition to everyone whose rights or interests may be affected by the acquisition. In the case of Chiadzwa villagers, there was no adequate notice given neither was the notice reasonable given that they were, according to Mudebwe *et al.* (2011), given a month's notice before they were evicted from their ancestral land. The first relocation occurred at the onset of a harsh winter season in the midst of crop harvesting. Some people were relocated before they finished harvesting their crops (*ibid.*). This negatively impacted on their right to food security as there was no room for them to finish crop harvesting.

Mudebwe *et al.* (2011) further highlight that the Chiadzwa diamond fields covers an area of 66 640 hectares. The people who occupied this vast piece of land were removed from their ancestral land to pave way for diamond mining by both local and foreign companies. They were relocated to ARDA Transau Farm that measures 12 000 hectares (Gukurume, 2020). This is more than five times smaller than their ancestral land that they were dispossessed of even though the soils at ARDA Transau were better than those at Chiadzwa. Gukurume (*ibid.*) estimates the number of families who were affected by this eviction to be 1700 and were settled at a farm that was already occupied by other 92 families. The UN principles require that where people are dispossessed of land, they should be compensated with land commensurate in quality, size and value or better. It is submitted that the people of Chiadzwa suffered an injustice in that regard and given that the people occupying rural land do so at the pleasure of the president in terms of the

Communal Lands Act, they had no adequate remedies except to accept relocation to ARDA Transau.

Section 63(b) of the Constitution of Zimbabwe guarantees the right to culture. Land is a rallying point for all cultural activities in the lives of black Zimbabweans. The people have deep spiritual and emotional attachment to their ancestral land. They are connected to their ancestral lands through *rukuvhute*, ancestral graves and family shrines. Removal of the villagers from their ancestral land meant that the people also lost their connection to their ancestors, family structures, kinship ties, livelihoods, historically constructed social relations and a sense of identity. No monetary value can compensate the villagers for this kind of loss. This brings in the question of adequate compensation whenever villagers face eviction for developmental purposes. As already highlighted, section 71 of the Constitution of Zimbabwe provides that the acquiring authority must compensate the affected people adequately before acquisition or within a reasonable time after acquisition. It is not clear from the constitution itself as to what constitutes 'adequate compensation' or 'reasonable time'. In the Chiadzwa case, no proper human rights impact assessment and valuation of individual properties was made before the Ministry of Mines and the mining companies settled for one thousand five hundred United States dollars for each family as compensation for the developments on the land (Gukurume, 2020). As for the affected villagers in Mutoko, particularly those in ward five and ward ten that were the most affected wards, they were only given three hundred and twenty dollars as compensation (Kativu and Oskarsson 2021). On the other hand, the Mutoko villager's losses cannot be quantified since they are ongoing. Kativu and Oskarsson (2021) states that whole villages abandoned their homesteads due to the impact of blasting during the extraction of the black granite. Dwelling places within five kilometres radius from any blasting points were the most affected. The buildings cracked due to shaking during the blasting period, fields were damaged as well as the household utensils. Thus, they would have to repeatedly invest in the same items. Therefore, it was impossible to assess the loss and compensate them adequately in those circumstances.

Companies such as Mbada Diamonds, Anjin Investments, Marange Resources and Diamond Mining Company that were authorised to mine diamonds in Chiadzwa were duty bound to build houses, provide monthly food handouts until the villagers were food secure and set up irrigation facilities for the displaced villagers in Arda Transau (Kusena, 2015). This corporate responsibility was not done with diligence. Of importance to note is that among the relocated villagers were the people of Johane Marange Apostolic sect from Nechirasika Village in Chiadzwa whose religious beliefs requires that they marry more than one wife. Some of them had more than ten wives. The circumstances of the cases required that each wife and her children get their own housing unit. This was resisted by the companies that were supposed to provide accommodation (Kusena, 2015). Allocation of resources was blind to this necessity. Patriarchy reduced the affected women to perpetual minors who were made to access land and accommodation through their fathers or husbands. This phenomenon continued despite the existence of equality between men and women guaranteed by Section 56 of the Constitution of Zimbabwe. The result was that several co-wives were made to share a house, in complete disregard of issues to do with decency and avoidance of disputes among the family members (*ibid.*).

Most promises of community development remained unfulfilled. Kativu and Oskarsson (2021) states that the level of poverty and marginalisation increased as a result of mining activities in Mutoko. The expectation was that youths in the affected areas would get employment and there would be development of infrastructure. However, in Mutoko, the major benefits that were recorded were the construction of a community hall, a classroom block and a signpost made of black granite at Nyamakope bus terminus (Kativu and Oskarsson, 2021). According to Kusena (2015) villagers did not benefit much from the diamond extraction in Chiadzwa. Chinese companies brought their own labour from their countries of origin leaving very few opportunities for the local youths who had the legitimate expectation to get employment in companies operating in their ancestral land. In 2012 the Marange-Zimunya Community Share Ownership Trust did not create the expected opportunities for the villagers. The original purpose of the Community Share Ownership Trust

was to receive money from the companies operating in Chiadzwa that would be used as loans for income generating projects to benefit the local villagers. The original target was to gather as much as \$50 million United States dollars. However, this was a gigantic failure since the Trust only managed to collect about US\$44000 by 2015 and the whole programme was eventually abandoned. Mudebwe *et al.* (2011) point out that as at 2011, no schools were built by the mining companies in Chiadzwa. They merely refurbished the existing school at a sum of \$58 000 United States dollars and children had to travel as far as eight kilometres to the nearest school.

The extraction of black granite in Mutoko did not transform the fortunes of the district neither did it give any direct benefits to the villagers. Like in Chiadzwa, there was a mismatch between what the companies got from the mining activities and what they transferred to the communities in Mutoko. The legitimate expectation was that after the villagers were removed from their ancestral land due to developmental needs, whatever benefits that came therefrom, the villagers must benefit first. That was not the case. Youths were employed as manual labourers without any employment contracts. The working conditions were so poor that they were made to work for twelve hours per day and paid for eight hours per day (Kativu and Oskarsson, 2021). They further highlight that there was not even a room for them to enforce their labour rights. Any complaints led to dismissal. In addition to the signpost, a classroom block and community hall were constructed by the mining companies as part of their social responsibilities. Kativu and Oskarsson (2021) further point out that food handouts during national celebrations and funeral assistance are the major benefits obtained by the villagers in Mutoko. Before they were removed from their ancestral land to pave way for black granite extraction, the villagers were able to produce enough food to cater for themselves without having to rely on food handouts during funerals or any other traditional gatherings. This is a clear indicator that their livelihoods were negatively affected by the extraction of black granite. It is submitted that the mining companies reduced the affected villagers to beggars, and this may be regarded as a modern-day form of colonialism.

A money trail of the black granite used for the construction of the Danish Royal library extracted in Mutoko revealed shocking findings. One of the major findings that is of concern is that Mutoko Rural District Council was paid less than one United States dollar in taxes for every tonne of black granite extracted therefrom and the council received less than \$45 000 United States dollars in taxes in total (*ibid.*). On the other hand, the supplier who supplied that same but polished black granite to the Danish Royal library got a total of \$9.12 million United States dollars (Boroma, 2019). This was a monumental violation the villagers' rights to benefit from the resources that naturally accrued to them. Mutisi (2011) reported that in 2009, a mining company that was supposed to pay more than 12 million United States dollars in taxes ended up paying only \$18 400 United States dollars to the district council and this payment occurred after a long legal battle.

The mining activities in both Chiadzwa diamond fields and Mutoko black granite mines has caused environmental harm. Section 73 of the Constitution of Zimbabwe guarantees the right to an environment that is not harmful to health and wellbeing of the inhabitants and other creatures. The Environmental Management Act prohibits water pollution and littering among other environmentally harmful activities. The rubble from mining activities in Chiadzwa were first washed before processing was done. The dirty water was then dumped in Save and Odzi rivers. This adversely affected both human and animal population down streams. Kusena (2015) reported that there were new types of infections among the people that were directly linked to mining activities in Chiadzwa.

CONCLUSION

From the discussion above, Zimbabwe have laws that are meant to protect the rights of its citizens from arbitrary evictions from their ancestral lands for developmental purposes. However, as demonstrated in this article, some of the laws were inherited from the colonial period and were used as colonial tools to compulsorily acquire land and minerals from the indigenous people and so they were never meant to protect the interests of the majority of the black people who largely occupy communal lands. Section 71 of the Constitution of Zimbabwe protects the

right to property. Any form of acquisition to be made must be done in terms of the law. The acquiring authority must give reasonable notice and fair and adequate compensation to the people affected by the acquisition. However, there is still need to make the land tenure for people who occupy rural land in terms of the Communal Lands Act secure. Currently, the law provides that all communal land is owned by the president. This puts the villagers at the risk of being removed from their ancestral land for developmental purposes or for conservation purposes without due regard to their rights. It is difficult for the villagers affected by side effects of mining activities to effectively assert their rights. This was clearly demonstrated in the Chiadzwa and Mutoko cases. In addition, the development-based evictions were not done in terms of the UN principles. The villagers' livelihoods were disrupted by mining activities and were removed from their ancestral land for the public common good. It was found that not many people benefitted from the mining activities in both Chiadzwa and Mutoko particularly those from the affected communities. Their youths were not employed in the diamond rich Chiadzwa fields. In Mutoko they were largely employed as manual labourers and the conditions of employment were so bad. The respective district councils receive insignificant remittances from the mining companies that makes it difficult for them to at least fund council activities. The villagers became poorer, and they were disconnected from the traditionally constructed social ties and relationships. Their cultural ties were destroyed since they were forced to leave their ancestral graves and shrines. There was no meaningful development in form of social responsibility and children had to travel for long distances to access education and health care.

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