

The LAC'S Radio Show

ON COMMUNAL LAND AND DOMESTIC VIOLENCE

The following article is a transcription of a radio show hosted by the Legal Assistance Centre (LAC) about access to communal land. They start off by presenting a comic about the Communal Land Reform Act.

Our comic is about a mother, Anna and her 2 daughters, Rosa and Nelly.

Anna's husband, Samuel (Rosa and Nelly's father), recently died. Anna and the husband were living on communal land. According to the law, Anna should now have the opportunity to have the communal land right transferred into her name.

But, Samuel's brother says that the customary land right should be transferred to him instead. He says that it is against the customary law to let a widow remain on the property of her deceased husband, because the widow was not born into the community.

Have you or someone you know ever experienced this situation?

To find out what Anna can do, she and her daughters go to see Meme Linda. She is a member of the Communal Land Board and can give them more information.

Meme Linda confirms that the law grants the widow priority rights to remain on the land the deceased held. Any unlawful occupation can be reported and the offender evicted by the Chief or by the Communal Land Board. If they refuse to leave, the Chief or the Board can take legal action against them.

In light of the challenge made by Anna's brother-in-law, the Chief holds a hearing. At the hearing the Chief upholds what the Customary Land Act says and confirms that Anna's right is valid and he explains to the Uncle why his challenge is not right.

Chief Petrus: With all due respect, Tate Ingo has not informed himself. The Communal Land Reform Act says that when a person dies, his customary land right will be allocated to the surviving spouse, if the surviving spouse wants this. This law was passed by Parliament which represents us all. In cases where customary law is in conflict with civil law, the civil law prevails. When customary law and civil law do not conflict, both laws may apply.

Anna, the law gives you priority to take over your deceased husband's customary land rights, and I will allocate this land right to you. I will send your application with my decision to the Board for their approval.

Rosa, Anna's daughter, is married to Filos, a truck driver. They would like to apply for a customary land right and are talking about who should make the application, Rosa or Filos.

Filos: Some of the villagers have heard about our plans already.



Yesterday, my brother said that I would be disgracing our family if I did not apply for a customary land right in my own name.

Despite this, Filos knows that it does not affect his position as a husband to have his wife apply for the customary land right in her name.

Filos: We are partners in our marriage. I am away a lot and so you will have the main responsibility for the land. You should apply in your name.

Have you or someone you know ever experienced this situation?

Nelly, the youngest daughter wants to apply for a right of leasehold on communal land to start a business. She knows that people will be surprised that a young woman is considering such a project but she has done her research and knows that it is possible. It has been explained to her as such:

Chief Petrus: It is important to uphold tradition, but we must also respect our Constitution as the supreme law of our land. These women have every right to apply for the land.

The purpose of the three different stories in the comic is to discuss the fact that ANYONE can apply for a customary land right, including single, married, divorced or widowed women. ♀

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