Technical Workshop on Women, Land and Housing Rights: Assessing the impacts of dispossession
14–15 December 2020
Lusaka, Zambia
Evaluation & follow-up

Actions, interventions (who, what, when)?

Duty holder(s)?

Losses, costs

Persons violated, vulnerable to violation

Threats, barriers, obstacles

Guarantees?

Over-riding principles?

Sources (legal/other)?

Concept, definition?
Commitments & Obligations!
UN 2030 Sustainable Development Agenda

1. NO POVERTY
2. ZERO HUNGER
3. GOOD HEALTH AND WELL-BEING
4. QUALITY EDUCATION
5. GENDER EQUALITY
6. CLEAN WATER AND SANITATION
7. AFFORDABLE AND CLEAN ENERGY
8. DECENT WORK AND ECONOMIC GROWTH
9. INDUSTRY, INNOVATION AND INFRASTRUCTURE
10. REDUCED INEQUALITIES
11. SUSTAINABLE CITIES AND COMMUNITIES
12. RESPONSIBLE CONSUMPTION AND PRODUCTION
13. CLIMATE ACTION
14. LIFE BELOW WATER
15. LIFE ON LAND
16. PEACE, JUSTICE AND STRONG INSTITUTIONS
17. PARTNERSHIPS FOR THE GOALS
Development of human rights from general to specific; from theoretical to practical

UN Charter, 1945

Universal Declaration of Human Rights (UDHR), 1948

International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966

International Covenant on Civil and Political Rights (ICCPR), 1966

Racial Discrimination (CERD), 1965

Discrimination against Women (CEDaW), 1979

Convention against Torture (CaT), 1984

Rights of the Child (CRC), 1989

Migrant Workers (MWC), 1990

People with Disabilities (CRPD), 2006

Forced Disappearances (CED), 2006

Declarations, guidelines, body of principles, minimum rules
State Obligations!

• Legal effect + **binding** nature
• **Self-imposed** by states on states
• Regular reporting against performance criteria and indicators
• **What to do** - Implementation formula:
  • Respect / Protect / Fulfill (promote, facilitate, assist)
• **How to do it** - Over-riding implementation principles:
  • Self-determination, Nondiscrimination, Gender equality, Rule of law, Maximum of available resources, Continuous improvement, International cooperation and assistance
• **Apply to all** spheres of government and organs of the state
• State regulation of non-state actors
• Individual, collective, domestic and extraterritorial dimensions
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Adequate Housing

(CECSR General Comment No. 4: “The right to adequate housing,” para. 8)

- Legal security of tenure
- Services, materials, facilities & infrastructure
- Environmental goods & services (land & water)
- Affordability
- Habitability
- Accessibility (physical)
- Location
- Cultural adequacy
- Participation, assembly, association, self-expression
- Education, information, capability & capacity
- Security (physical), privacy, VaW
- Movement, reparations (refugees & IDPs)
Continuum of Land Rights

Perceived tenure___________________________
Occupancy________________________________
Looking after______________________________
Anti-eviction______________________________
Customary tenure__________________________
Borrowing_________________________________
Adverse possession________________________
Group tenure______________________________
Unrecognized recognized Lease / rent__________
Officially recognized Lease / rent_____________
Expectation of ownership____________________
Intermediate ownership______________________
Off-register ownership______________________
Registered freehold________________________

Commons / Public purpose
Social Function
Forced Eviction

General Comment No. 7
Forced eviction: “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”

“The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights” (para. 3).
Criteria of lawful eviction involves a change of habitual process that ensures all of the following conditions:

a. An opportunity for genuine consultation with those affected;
b. adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
c. Information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
d. Especially where groups of people are involved, government officials or their representatives to be present during an eviction;
e. All persons carrying out the eviction to be properly identified;
f. Evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
g. Provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts;

Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available. (GC7, para. 15–16)
Forced Evictions


1. **Affirms** that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to adequate housing;
Resolution adopted by the General Assembly

[on the report of the Third Committee (A/60/509/Add.1)]

60/147. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law
Restitution:
• Return,
• Resettlement,
• Rehabilitation: all aspects;
Compensation;
Nonrepetition;
Satisfaction.
General recommendation No. 1: reporting guidelines
General recommendation No. 2: reporting guidelines
General recommendation No. 3: education and public information programmes
General recommendation No. 4: reservations
General recommendation No. 5: temporary special measures
General recommendation No. 6: effective national machinery and publicity
General recommendation No. 7: resources
General recommendation No. 8: article 8
General recommendation No. 9: statistical data
General recommendation No. 10: tenth anniversary of the adoption of CEDAW
General recommendation No. 11: technical advisory services for reporting
General recommendation No. 12: violence against women
General recommendation No. 13: equal remuneration for work of equal value
General recommendation No. 14: female circumcision
General recommendation No. 15: women and AIDS
General recommendation No. 16: unpaid women workers in rural & urban family enterprises
General recommendation No. 17: measurement & quantification of the unremunerated domestic activities of women & their recognition in GNP
General recommendation No. 18: disabled women
General recommendation No. 19: violence against women
General recommendation No. 20: reservations
General recommendation No. 21: equality in marriage and family relations
General recommendation No. 22: article 20 of the Convention
General recommendation No. 23: women in political and public life
General recommendation No. 24: article 12 - women and health
General recommendation No. 25: article 4 paragraph 1 - Temporary special measures
General Recommendation No. 26: Women Migrant Workers
General recommendation No. 27: Older women and protection of their human rights
General recommendation No. 28: The Core Obligations of States Parties under Article 2 of the Convention
General recommendation No. 29: Article 16 - Economic consequences of marriage, family relations and their dissolution
General recommendation No. 30: women in conflict prevention, conflict and post-conflict situations
Joint general recommendation No. 31 of CEDaW & CRC No. 18 on harmful practices
General recommendation No. 32: gender-related dimensions of refugee status, asylum, nationality and statelessness of women
General recommendation No. 33: women’s access to justice
General recommendation No. 34: the rights of rural women
General recommendation No. 35: gender-based violence against women, updating No. 19
General recommendation No. 36 the right of girls and women to education
General recommendation No. 37: Gender-related dimensions of disaster risk reduction in the context of climate change
CEDaW General recommendation No. 34 (2016) on the rights of rural women
State obligations:

- Implement substantive equality in relation to land and temporary special measures, comprehensive strategy to achieve equal access to natural resources, and address discriminatory stereotypes, attitudes and practices that impede their rights to land and natural resources (57);
- Ensure that customary systems do not discriminate (58);
- Raise awareness about rural women’s rights to land, water and other natural resources among all relevant actors (58);
- Ensure that legislation guarantees rural women’s equal rights to land and other natural resources, irrespective of civil and marital status or guardian or guarantor arrangements, and that they have full legal capacity (59);
- Promote rural women’s access to and meaningful participation in agricultural cooperatives (59a);
- Enhance rural women’s knowledge and role in fisheries and aquaculture, and promote their access to forests and sustainable forest resources, including safe access to fuelwood and non-wood forest resources (59b);
State obligations:

- Strengthen customary and statutory institutions and mechanisms for defending or protecting women’s rights to land and other natural resources, including community paralegal services (59c);

- Implement agricultural policies that support rural women farmers, recognize and protect the natural commons, promote organic farming and protect rural women from harmful pesticides and fertilizers and their effective access to agricultural resources (62);

- Ensure that land acquisitions, including land-lease contracts, do not violate the rights of rural women or result in forced eviction, and protect rural women from the negative impacts of the acquisition of land by national and transnational companies, development projects, extractive industries and megaprojects; (62c);

- Obtain rural women’s free and informed consent before any acquisitions or project affecting rural lands or territories and resources, and, when such land acquisitions do occur, they align with international standards, including adequately compensation (62d);

- Adopt and effectively implement laws and policies that limit the quantity and quality of rural land offered for sale or lease to third States or companies (62e).