Technical Workshop on Women, Land and Housing Rights: Assessing the impacts of dispossession
7–8 December 2020
Harare, Zimbabwe

Zimbabwe Peoples Land Rights Movement

Housing and Land Rights Network • Habitat International Coalition
Strategic planning

- 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
General Comment No. 1 Reporting by States parties
General Comment No. 2 International technical assistance (art. 22)
General Comment No. 3 The nature of State obligations (art. 2, para. 1)
General Comment No. 4 The right to adequate housing (article 11 [1])
General Comment No. 5 Persons with disabilities
General Comment No. 6 The ESCRs of older persons
General Comment No. 7 The right to adequate housing: forced evictions
General Comment No. 8 Economic sanctions and respect for ESCR
General Comment No. 9 The domestic application of the Covenant
General Comment No. 10 The role of NHRIs and ESCR
General Comment No. 11 PoA for primary education (art. 14)
General Comment No. 12 The right to adequate food (art. 11)
General Comment No. 13 The right to education (art. 13)
General Comment No. 14 The right to health (art. 12)
General Comment No. 15 The right to water (arts. 11 and 12)
General Comment No. 16 Equal right of men & women to all ESCR (art. 3)
General Comment No. 17 The right to work (art. 6)
General Comment No. 18 Intellectual property (art. 15.1[c])
General Comment No. 19 Social Security (art. 9)
General Comment No. 20 Cultural Life (art. 15.1)
General Comment No. 21 Nondiscrimination (2.2)
General Comment No. 22 The right to sexual & reproductive health (article 12)
General Comment No. 23 The right to just and favourable conditions of work (article 7)
General Comment No. 24 State obligations in the context of business activities
Adequate Housing

(CESCR 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

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

UN CHR 1993/77, “forced eviction” (1993)

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.
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**Legal specificity:** General Recommendations (CEDaW)
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).