Women’s Land and Housing Rights

23–25 July 2018
Kenya

HIC-HLRN
African Human Rights System
• **Organization of African Unity (OAU) 1963**
  ✓ Decolonization & self determination;
  ✓ State sovereignty & non-interference;
  ✓ Eliminate colonization, neo-colonialism, apartheid and Zionism;
  ✓ Struggle for human rights, dignity and identity.

• **African Union (AU) 2000;**
  ✓ Promote and protect human rights;
  ✓ Democracy;
  ✓ Governance;
  ✓ Development.
The African Organs/Institutions

- **The Organization of African Unity (OAU)** 1963/African Union (AU) 2000;
  - Peace and Security Council (PSC) 2003;
  - Economic, Social and Cultural Council (ECOSOCC) 2004;
  - Pan-African Parliament (PAP) 2004;
- **African Commission on Human and People’s Rights (ACHPR)** 1986;
- **The New Partnership for Africa’s Development (NPAD)** 2001;
- **African Court on Human and Peoples’ Rights 1998–2004/ African Court of Justice and Human Rights** 2008;
- **The Committee on the Rights and Welfare of the Child** 1999–2001;
Core Instruments

- OAU Refugee Convention 1969;
- Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights (1998);
- African Union Convention on Preventing and Combating Corruption (2003);
- African Youth Charter (2006);
Right to Land in Core Instruments of African Human Rights

• The African Charter on Human and Peoples' Rights (ACHPR) 1981
  ✓ freedom of religion (land as culture) "Article 8";
  ✓ freely dispose of Wealth & Natural resources+ the People individually or collectively have the right to their economic, social and cultural development to (land as economic and social source) “Articles 21-22”

  ✓ Separation, Divorce and Annulment of Marriage (equitable sharing of the joint property) “article 7”;
  ✓ adequate systems to ensure food security (right to food) “article 15”;
  ✓ Grant equal access to adequate housing (right to adequate housing) “article 16/D”;
  ✓ access to and control over productive resources such as land and guarantee their right to property (right to sustainable development) “article 19/ C”;
  ✓ the right to an equitable share in the inheritance of the property (husband-Parents) “Article 21”.

✓ No specific supervisory body. African Commission may receive State reports and African Court will be able to apply Protocol
Right to Land in Core Instruments of African Human Rights

• **African Youth Charter (2006)**
  ✓ equal rights to won or sharing properties “Article 9”;
  ✓ Right to economic, social and culture development “article 10”;
  ✓ Poverty Eradication and Socio-economic Integration of Youth (Grant land) “article 14/C”.

• **African Charter on Democracy, Elections and Governance (2007—2012)**
  ✓ State Parties shall institutionalize good economic and corporate governance through, including: Equitable allocation of the nation’s wealth and natural resources “article 33”.
Land in Other Instruments
(soft law/initiatives)

✓ Strengthening the land rights of women
✓ Land and gender relation.

✓ “To ensure equitable and Determine the Minimum core obligation+ national plans and policies+ Vulnerable Groups, Equality and Non Discrimination.
✓ non-discriminatory access, acquisition, ownership, inheritance and control of land and housing, especially by women..... “(para.55)
Land in Other Instruments (soft law/initiatives)

- **The African Union’s Declaration on Land Issues and Challenges in Africa (2010);**
  - “strengthen security of land tenure for women which require special attention.”
    Assembly/AU/Decl.1(XIII) Rev.1
  - Issued Land Policy Initiative (African Union Commission (AUC), the Economic Commission for Africa (ECA) and the African Development Bank (AfDB)).

- **The Nairobi Action Plan on Large Scale Land-Based Investments in Africa (2011);**
  - maximize opportunities for Africa’s farmers, with special attention to smallholders and minimize the potential negative impacts of large-scale land acquisitions, such as land dispossession and environmental degradation.....ensure food security and development.”
    High Level Forum on Foreign Direct Investments in Land in Africa, Nairobi, 4–5 October 2011.

  - Including three main principles (Transparency- Nondiscrimination-Accountability).


Agenda 2063: The Africa We Want

- "The African woman will be fully empowered in all spheres, with equal social, political and economic rights, including the rights to own and inherit property.... Rural women will have access to productive assets: land.....” Para 50

- **Adequate housing:** “Ensuring effective and territorial planning and land tenure, use and management systems.” Para 72/b

- **Agriculture Development:** “Develop and implement affirmative policies and advocacy to ensure women’s increased access to land and inputs, and ensure that at least 30% of agricultural financing are accessed by women.” Para 72/e
African Human Rights Mechanisms
African Commission on Human & Peoples’ Rights

Functions:

✔ Deciding whether alleged human rights abuses violate the African Charter;
✔ Making recommendations to governments about promoting and protecting human rights and addressing past violations;
✔ Organizing seminars and conferences;
✔ Conducting country promotional visits;
✔ Disseminating reports on various human rights issues;
✔ Interpreting the African Charter; and
✔ Investigating human rights violations through fact-finding missions.

Civil society plays a pivotal role in the activities of the commission:

✔ Alert the commission to violations of the African Charter;
✔ Submit communications/complaints on behalf of individuals whose rights have been violated;
✔ Monitor governments’ compliance their obligations under the African Charter and other human rights treaties;
✔ Attend the commission’s public sessions;
✔ Submit shadow reports as part of the periodic reporting process;
✔ Publicize and conduct advocacy about the commission’s concluding observations; and
✔ Increase awareness about the commission’s activities.
Special Mechanisms of the African Commission

**Special Rapporteurs:**
- Human Rights Defenders
- Freedom of Expression and Access to Information
- **Rights of Women**
- Prisons and Conditions of Detention
- Refugees, Asylum Seekers, Migrants, and Internally Displaced Persons

**Working Groups and Committees:**
- **Economic, Social and Cultural Rights**
- Death Penalty and Extra-judicial, Summary, or Arbitrary Killings in Africa
- Indigenous Populations / Communities in Africa
- Rights of Older Persons and People with Disabilities
- **Extractive Industries, Environment, and Human Rights Violations**
- Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to, and Affected by HIV
- Prevention of Torture in Africa
African Court of Justice and Human Rights 2008

• **Function:**
  
  “complement the protective mandate of the African Commission on Human and Peoples’ Rights”


• **Who can Submit cases before the court:**
  
  ✓ The African Commission on Human and Peoples’ Rights;
  ✓ Governments of countries that are complainants or respondents to a communication before the African Commission;
  ✓ Governments that have an interest in a case;
  ✓ African inter-governmental organizations;
  ✓ Non-governmental organizations with observer status at the African Commission and ordinary individuals, if the government against which the case is brought has made a declaration giving the court jurisdiction over cases brought by individuals and non-governmental organizations. (*8 countries*: Burkina Faso, Malawi, Mali, Tanzania, Ghana, Cote d’Ivoire, Benin, Tunisia)
• Cases before the court:
  - Request for Advisory Opinion 001/2016

(5 Non-Governmental Women Organizations (NGOs) from four African countries (Kenya, Nigeria, South Africa and Zimbabwe) ask for interpretation on article 6 of the African protocol on women on marriage registration.
Future of the African Human Rights System

• African Commission?
• African Court?
• Role of local NGOs?