

Technical Workshop on Women, Land and Housing Rights: Assessing the impacts of dispossession

7–9 August 2019

Esella Country Hotel • Kira, Wakiso, Uganda



Shelter and
Settlements
Alternatives •
Uganda Human
Settlements Networks



Housing and Land
Rights Network •
Habitat International
Coalition



Evaluation & follow-up

Actions, interventions (who, what, when)?

Strategic planning

Duty holder(s)?

Losses, costs

**Persons violated,
vulnerable to violation**

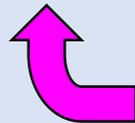
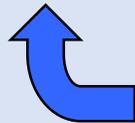
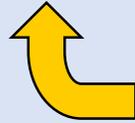
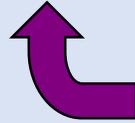
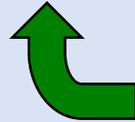
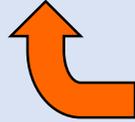
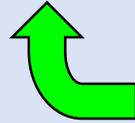
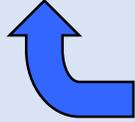
Threats, barriers, obstacles

Guarantees?

Over-riding principles?

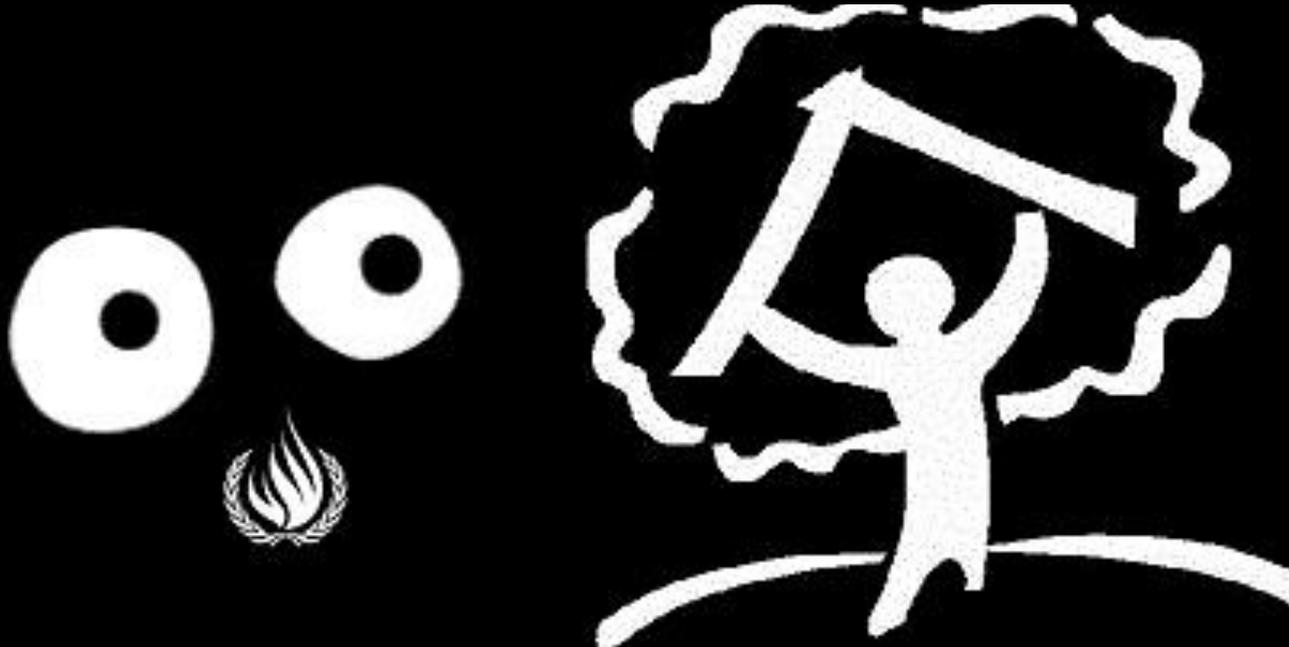
Sources (legal/other)?

Concept, definition?



“Assessing Impacts of Women’s Dispossession from Land and Home”

Human Rights Habitat Observatory



Housing and Land Rights Network
Habitat International Coalition



Commitments & Obligations !



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



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

- 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

Legal specificity: General Comments (CESCR)

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

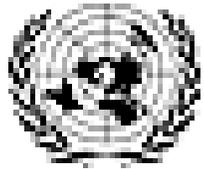
Movement, reparations (refugees & IDPs)



Forced Eviction

General Comment No. 7





Committee on Economic, Social and Cultural Rights General Comment No. 7: “forced eviction”



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 of legal remedies;**
- g. Provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts;**

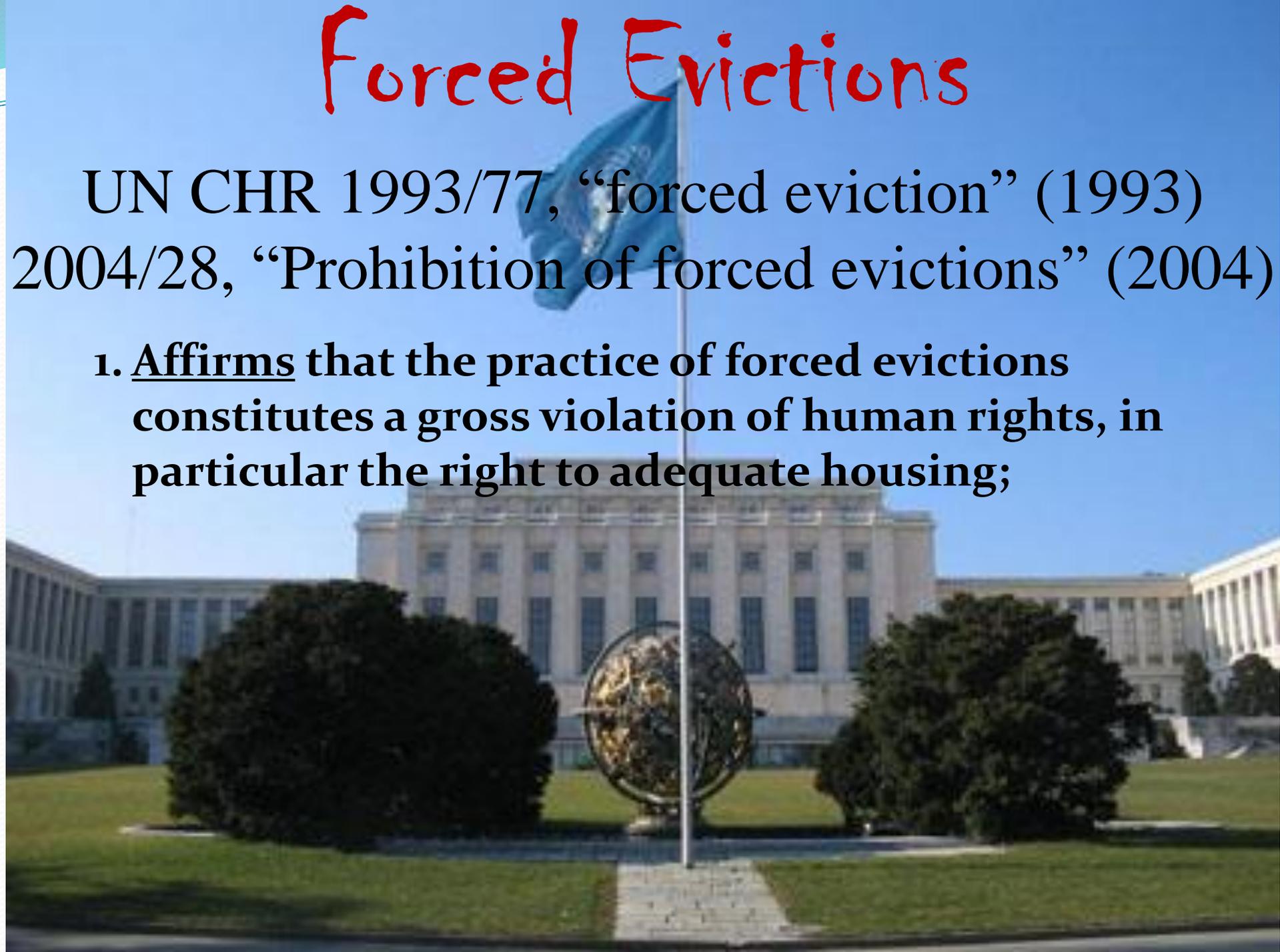
Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights.

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)
2004/28, “Prohibition of forced evictions” (2004)

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



United Nations

A/RES/60/147



General Assembly

Distr.: General
21 March 2006

Sixtieth session
Agenda item 71 (a)

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.



**Concluding observations on the initial report of Uganda****Land rights**

12. The Committee is concerned that many persons remain without a formal ownership title over their house and land, and about the persistence of land disputes exacerbated by overlapping claims and rights over land. The Committee is also concerned at the delays in amending the 1998 Land Act, **with a view to protecting in particular the rights of access to and ownership of land by women**, pastoralists and customary landowners, including communities. The Committee is further concerned about the inadequate implementation of the Land Policy (art. 1).

The Committee recommends that the State party harmonize its legal framework governing land rights and that all land-related laws, notably the Land Act and the Forest Act, also be amended in the light of the 2013 Land Policy, which provides additional protection to customary landowners and to indigenous peoples' right to land. The State party should further take measures to implement the Policy effectively, including through allocation of the necessary resources. [...]

**Concluding observations on the initial report of Uganda****Extraction activities**

14. The Committee is concerned about increasing incidents of land grabbing in the State party owing to extraction activities. The Committee is concerned that oil and gas extraction as well as mining activities are carried out without prior and meaningful consultation with communities whose lands lie beneath these projects. It is also concerned about the **disproportionate effect land grabbing has on women** and customary landowners (art. 1).

The Committee recommends that the State party strengthen the legal framework governing extraction and mining activities. It urges the State party always to enter into prior and meaningful consultations with the communities concerned before granting concessions for the economic exploitation of the lands, and fulfil the obligation to obtain their free, prior and informed consent, including and in particular that of women and customary landowners. The Committee also recommends that the State party guarantee that in no case will such exploitation violate the rights recognized in the Covenant and that just and fair compensation be granted to the communities concerned. [...]



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Committee on Economic, Social and Cultural Rights

Concluding Observations on the initial report of Uganda

E/C.12/UGA/CO/1

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Forced evictions

30. The Committee is concerned about repeated cases of forced evictions of communities as well as lack of compensation to those communities or provision of alternative housing ... The Committee is also concerned about the absence of information on the extent of homelessness in the State party (art. 11).

Taking into account its general comment No. 7 (1997) on the right to adequate housing: forced evictions, the Committee urges the State party to:

- (a) Refrain from forcibly evicting individuals and expropriating land, including in the context of development projects. It recalls that in cases where eviction or relocation is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law;**
- (d) Consider developing a legal framework on forced evictions that includes provisions on effective and meaningful consultation, adequate legal remedies and compensation;**
- (e) Include disaggregated data in its next periodic report on the extent of homelessness in the State party and measures taken to address it.**

Equality between men and women

18. The Committee is concerned about the existence of sex-based discriminatory provisions in the State party's legislation, including the Succession Act, the Divorce Act and the Marriage Code. It is also concerned about the long delay in adoption of the Marriage and Divorce Bill. Furthermore, the Committee is concerned about **the persistence of patriarchal attitudes and deep-rooted stereotypes** regarding the roles and responsibilities of women and men in all spheres of life, which **prevents women from owning lands**, contributes to the limited political participation of women and deepens occupational sex segregation and the concentration of women in low-paid sectors (art. 3).

Recalling its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the Committee recommends that the State party:

- (a) Step up its efforts to achieve legislative reform, and to this end abolish, as a matter of priority, all the remaining discriminatory provisions against women in its national laws;**
- (b) Intensify its efforts to adopt the Marriage and Divorce Bill without further delay, and raise awareness among the judiciary, prosecutors, the police and the general public about the provisions of these laws once they are adopted to ensure their full implementation;**
- (c) Take effective measures, including through implementation of the National Gender Policy, to eliminate traditional practices and stereotypes that discriminate against women and raise awareness of this subject, targeting women and men at all levels of society, including traditional and religious leaders, in collaboration with civil society.**

Legal specificity: General Recommendations (CEDaW)

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).**





United Nations

Committee on the Elimination of All Forms of
Discrimination against Women

CEDAW/C/UGA/CO/7

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22 October 2010

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Concluding observations on the combined fourth to seventh periodic reports of Uganda*

Visibility of the Convention

13. The Committee remains concerned that there is **inadequate knowledge of the rights of women** under the Convention, its concept of substantive gender equality and the Committee's general recommendations, in society in general, **including among all branches of the Government and the judiciary**. It is further concerned that women themselves, especially those in rural and remote areas, are not aware of their rights under the Convention and thus lack the capacity to claim them.

14. **The Committee urges the State party to take all appropriate measures to ensure that the Convention is sufficiently known and applied by all branches of Government and the judiciary as a framework for all laws, court decisions and policies on gender equality and the advancement of women. The Committee recommends that the Convention and related domestic legislation be made an integral part of the legal education and training of judges and magistrates, lawyers and prosecutors, particularly those working in the local council courts**, so that a legal culture supportive of women's equality with men and non-discrimination on the basis of sex is firmly established in the country. It urges the State party to enhance women's awareness of their rights and the means to enforce them through, inter alia, legal literacy programmes and to ensure that information on the Convention is provided to women in all parts of the country through the use of all appropriate means, such as the media.



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Economic empowerment of women

39. ...the Committee expresses its concern at the fact that 31 per cent of the Ugandan population still lives below the poverty line, the majority of whom are women. The Committee is also concerned that female-headed households are more disproportionately represented among the chronically poor and households moving into poverty. The Committee is further concerned that, according to research studies, **women experience severe constraints, including limited access to the key factors of production, such as land**, capital and micro finance facilities, as well as several legal and administrative obstacles that constrain their level of entrepreneurship.

40. **The Committee urges the State Party to continue to intensify the implementation of gender-sensitive poverty reduction and development programmes in rural and urban areas and to pay particular attention to the Batwa women in the development of such programmes. The Committee also reiterates its recommendation that the State party continue to develop targeted policies and support services for women aimed at alleviating and reducing poverty.**



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Rural women

41. The Committee reiterates its concern at the disadvantaged position of women in rural and remote areas who form the majority of women in Uganda, which is characterized by poverty, illiteracy, difficulties in access to health and social services and a lack of participation in decision-making processes at the community level. The Committee also reiterates its concern that **customs and traditional practices, prevalent in rural areas, prevent women from inheriting or acquiring ownership of land and other property.**

42. The Committee calls upon the State party to take the necessary measures to increase and strengthen the participation of women in designing and implementing local development plans, and to pay special attention to the needs of rural women, in particular women heads of household, by ensuring that they participate in decision making processes and have improved access to health, education, clean water and sanitation services, fertile land and income-generation projects. The Committee also **urges the State party to eliminate all forms of discrimination with respect to the ownership, co-sharing and inheritance of land.** It further urges the introduction of measures to address negative customs and traditional practices, especially in rural areas, which affect full enjoyment of the right to property by women.



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Marriage and family relations

47. The Committee is concerned about the multiple marriage regimes that apply in the State party. While noting that the Constitutional Court has declared some aspects of current legislation on divorce as unconstitutional for discriminating against women, as well as noting the existence of the Marriage and Divorce Bill and the Muslim Personal Law Bill, the Committee expresses its concern that these Bills have not yet been enacted into law and that **gaps exist in the laws on marriage, property rights, inheritance, divorce** and the family in general [...].

48. **The Committee urges the State party to harmonize civil, religious and customary law with article 16 of the Convention and to complete its law reform in the area of marriage and family relations in order to bring its legislative framework into compliance with articles 15 and 16 of the Convention, within a specific time frame. To this end, the Committee calls upon the State party to review and amend, as necessary, the current version of the Marriage and Divorce Bill as well as the Muslim Personal Law Bill to ensure that these do not discriminate against women. [...]**



Rapporteur observation on the Marriage and Divorce Bill:

... the 9th Parliament considered 22 out of the 178 clauses that make up the Bill. Although its Parliament then decided to undertake further consultations, the State party added that it remains committed to complete the review process on this Bill....the Committee regrets that since its dialogue with the State party in 2010 and the decision of Parliament to start further consultations on the Bill, no measures have been taken to expeditiously adopt and enact this Bill. The Committee considers that the State party took some steps to implement the recommendations. It considers that the recommendation has been partially implemented.

Uganda's Response:

2. The Marriage and Divorce Bill 2009 is still before the 9th Parliament. The Legal and Parliamentary Affairs Committee submitted its Report on the Bill in January 2013 and the Bill was included on the Business Order Paper of Parliament. For two weeks in March 2013 Parliament reviewed the Committee's Report on the Bill and also reviewed the Bill clause by clause. After considering 22 of the 178 clauses that make up the Bill, it was realized that further consultations were needed on the Bill.

3. The Government remains committed to complete the review process on the Marriage and Divorce Bill as soon as the Bill is rescheduled for debate and enactment by Parliament.

Uganda's next report to the Committee is currently almost 5 years overdue

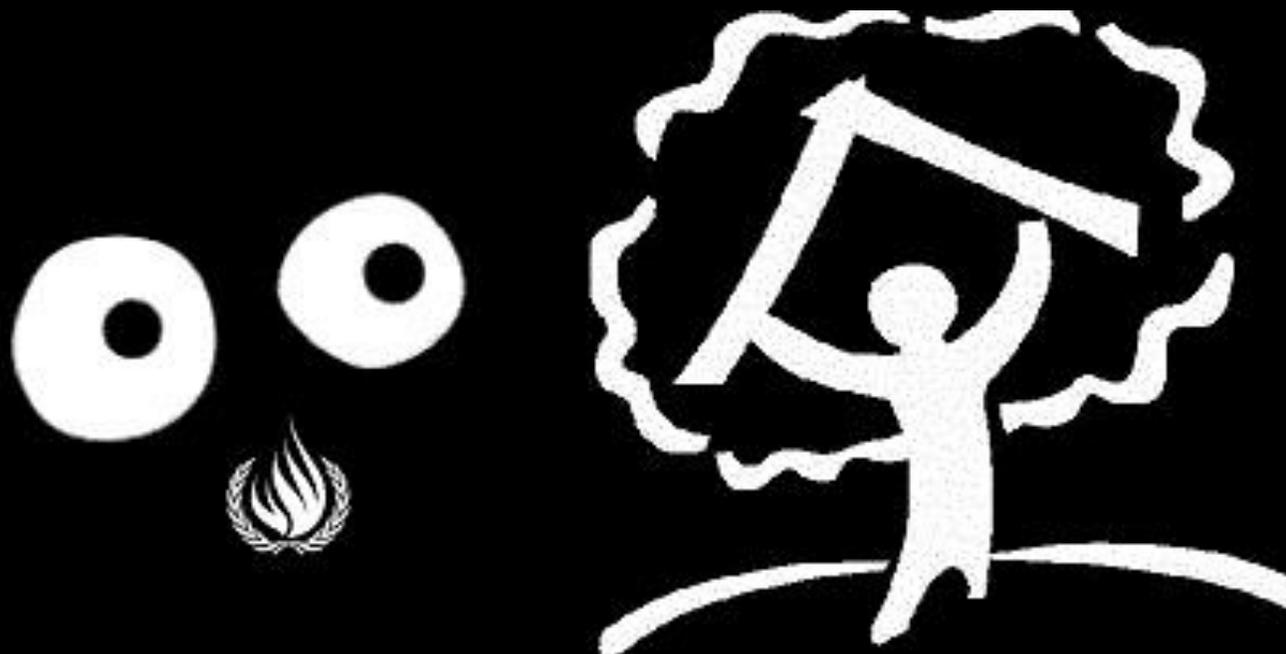
UN 2030 Sustainable Development Agenda



SUSTAINABLE DEVELOPMENT GOALS



Human Rights Habitat Observatory



**Housing and Land Rights Network
Habitat International Coalition**

