

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

10–12 April 2019

Fairway Hotel and Spa • Kampala, Uganda



Shelter and
Settlements
Alternatives •
Uganda Human
Settlements
Networks



Housing and Land
Rights Network •
Habitat
International
Coalition



African Human Rights System



The African Organs/Institutions



- **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.
 - ✓ Various human rights adopted (charter, protocol of African court, (Mauritius) Declaration and Plan of Action 1999).
- **African Union (AU) 2002;**
 - ✓ Promote and protect human rights;
 - ✓ Democracy;
 - ✓ Governance;
 - ✓ Development.

The African Organs/Institutions



- **The Organization of African Unity (OAU) 1963/African Union (AU) 2002;**
 - ✓ 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 Peer Review Mechanism (APRM) 2002.
- **African Court on Human and Peoples' Rights 1998–2004/ African Court of Justice and Human Rights 2004;**
- **The Committee on the Rights and Welfare of the Child 1999–2001.**

Core Instruments



- **OAU Refugee Convention 1969;**
- **African Charter on Human and Peoples' Rights (ACHPR) 1981–1986;**
- **African Charter on the Rights and Welfare of the Child 1990;**
- **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);**
- **The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) 2003–2005;**
- **African Youth Charter (2006);**
- **African Charter on Democracy, Elections and Governance 2007–2012.**

Right to Land in Core Instruments of African Human Rights



•The African Charter on Human and Peoples' Rights (ACHPR) 1981 (signed 5/1986- ratified 8/1986)

- ✓ Freedom of religion : land as culture (Article 8);
- ✓ Freely dispose of Wealth & Natural resources : people, individually or collectively, have the right to their economic, social and cultural development to land as economic and social source (Articles 21-22)

•The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) 2003—2005 (signed 12/2003-Ratified 7/2010)

- ✓ 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);
- ✓ Right to an equitable share in the inheritance of the property (from 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) (ratified 8/2008)

- ✓ Equal rights to own or share properties (Article 9);
- ✓ Right to economic, social and culture development (Article 10);
- ✓ Poverty Eradication and Socio-economic Integration of Youth (granting of land) (Article 14/C).

African Charter on Democracy, Elections and Governance (2007—2012) (signed 12/2008)

- ✓ State Parties shall institutionalize good economic and corporate governance including through equitable allocation of the nation's wealth and natural resources (Article 33).

Treaty for the Establishment of the East African Community (Kenya- Uganda- Tanzania Signed 1999/come into force 2000) (Rwanda-Burundi 2007)

- ✓ Article 121 (enhance the role of women in socio-economic development)
- ✓ Article 122 (enhance the role of women in business)

Land in Other Instruments (soft law/initiatives)



Framework and Guidelines on Land Policy in Africa (2009)

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

The Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (2010)

- ✓ Determines the Minimum core obligations + 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.
- **Guidelines on Business, Land Acquisition, and Land Use: A Human Rights Approach (2012).**
 - ✓ Including three main principles: transparency, non-discrimination, 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

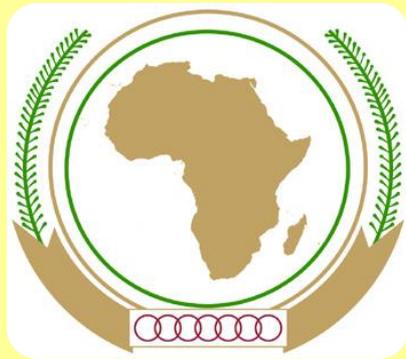
Agenda 2063
The Africa We Want

The Uganda National Land Policy Implementation Action Plan 2015/2016 – 2018/2019

Promotion and Protection of Women's Secure Rights and Access to Land

- ✓ Recognizes the value and benefits of secure rights and access to land for women;
- ✓ Addresses gender differences (women as a discrete group and as members of households and communities);
- ✓ Land administrative staff should include women;
- ✓ Customary access to land should focus on specialized expertise on women's status and rights.

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 on the promotion and protection of 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 to violations of the African Charter;
- ✓ Submit communications/complaints on behalf of victims;
- ✓ Monitor governments' obligations under the AC and other human rights treaties;
- ✓ Attend the commission's public sessions;
- ✓ Submit parallel reports;
- ✓ Advocacy for the concluding observations; and
- ✓ Increase awareness of the commission's activities.

Joint promotion mission undertaken to the republic of Uganda (August 2013)

- **General Concern:**

- ✓ Lack of the full and effective implementation of the laws and policies that protect the rights of women in Uganda.

- **Recommendations:**

- ✓ Protection of women's property and inheritance rights;
- ✓ Amendment of the Succession Act;
- ✓ Initiation of the Marriage and Divorce Bill;

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 (Mission July 2006)**
- 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

Commission's working group on indigenous populations/communities (July 2006)

- **Landless**
- **Marginalization and IDPs (The Basongora Pastoralists)**
- **The Batwa in Kisoro**
- **Article 32 of the Constitution**
- **Recommendations:**
 - ✓ Address the situation of very vulnerable indigenous women

African Court of Justice and Human Rights 2008

- **Function:**

“complement the protective mandate of the African Commission on Human and Peoples’ Rights”

Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights (1998).

- **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)

Uganda ratified the protocol of the Court (February 2001), but did not recognize its competence to receive cases from NGOs and individuals

East African Court of Justice 2001 Established according to Article 9 of the Treaty for the Establishment of the East African Community

- ✓ Interpretation and application the treaty of the East Africa Community.

Future of the African Human Rights System

- African Commission?
- African Court?
- East Africa Treaty ??
- Role of local NGOs?

