



The Global Initiative
for Economic, Social and Cultural Rights

**SHADOW REPORT TO THE UNITED NATIONS COMMITTEE
ON THE ELIMINATION OF DISCRIMINATION AGAINST
WOMEN**

COMOROS, 53rd session (1 - 19 October 2012)

Submitted by:
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I. Introduction

1. The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. The vision of the Global Initiative for Economic, Social and Cultural Rights is of a world where economic, social and cultural rights are fully respected, protected and fulfilled and on equal footing with civil and political rights, so that all people are able to live in dignity.

2. The mission of the Global Initiative for Economic, Social and Cultural Rights is to strengthen the international human rights framework through creative standard setting, so that all people, and in particular marginalized individuals and groups, are able to fully enjoy their economic, social and cultural rights, and are able to do so without discrimination and on the basis of equality; provide innovative tools to policy makers, development actors and others on the practical implementation and realization of economic, social and cultural rights; enforce economic, social and cultural rights through international, regional and national mechanisms and seek remedies for violations of these rights, with a focus on creating beneficial jurisprudence aimed at transformative change; engage networks of human rights, women's rights, environmental and development organizations and agencies to advance the sustainable enjoyment of economic, social and cultural rights at both national and international levels; and work with advocates, social movements and grassroots communities at national and local levels to more effectively claim and enforce economic, social and cultural rights, including by engaging international mechanisms for local impact.

II. The Importance of Promoting and Protecting Women's Rights to Land and Other Resources, and the Need for More Clarity

3. In her 2012 report to the Human Rights Council, the UN Special Rapporteur on the right to adequate housing recognized the importance of that right to women, and importantly that "adequate housing for women goes far beyond addressing basic material needs" and that "because of the close connection that exists between the right to adequate housing and the right to equality, adequate housing for women goes to the heart of social inequality and discrimination."¹

4. The Special Rapporteur also drew attention to the fact that "ensuring that women have access to and control over vital resources such as housing and land is essential to challenging and changing gender power structures and patterns of gender inequality which continue to oppress, exclude and relegate women to the margins."²

5. CEDAW has increasingly recognized the importance of the right to adequate housing and rights related to land. For instance, in its Concluding Observations on Israel in

¹ Report of the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, UN Doc. A/HRC/19/53 (26 December 2011) at para. 3.

² *Id.*

2011, CEDAW used language from the International Covenant on Economic, Social and Cultural Rights in explicitly addressing forced eviction and the right to adequate housing³ and recognized the importance of women's access to land.⁴

6. While the Committee on Economic, Social and Cultural Rights has provided general guidance on procedural and substantive content the right to adequate housing and the related prohibition on forced eviction, particularly in its General Comment No. 4 on the right to adequate housing and General Comment No. 7 on the prohibition on forced eviction, these General Comments do not provide clear guidance on the gender dimensions of the right to adequate housing, including what the substantive content of that right entails from women's perspectives.

7. The UN Special Rapporteur on the right to adequate housing, fortunately, has begun to examine this issue and has provided guidance and a gender analysis to the right to adequate housing. In her 2012 Annual Report, the Special Rapporteur examined the seven elements of the right to adequate housing from women's perspective, including the issue of access to and control over land and other resources.⁵

8. As for the issue of access to and control over land, the UN Commission on Human Rights has adopted several resolutions dealing not only with women and housing rights, but their right to equal ownership, access to and control over land.⁶ This issue of access to and control over land, in particular, is beginning to garner the attention it deserves. Access to and control over land provides access to and control over vital resources necessary to ensure women's right to an adequate standard of living and right to a livelihood, and thus highly relevant to, *inter alia*, the enjoyment of Article 14 of the Convention on the Elimination of All Forms of Discrimination against Women.

9. Additionally, the UN Special Rapporteur on the right to adequate housing has, in several reports, stressed that land, as a housing resource, is a critical element of the human right to housing,⁷ that land constitutes the main asset from which the rural poor are able to derive a livelihood,⁸ and that access to land is also critical for building socio-economic security.⁹ With respect to women, the Special Rapporteur has found that "in many countries, the control and ownership of land, especially in rural areas, by women is critical to their livelihoods, food security, economic independence and physical security, including of their children."¹⁰

³ Committee on the Elimination of All Forms of Discrimination against Women, Concluding Observations: Israel, UN Doc. CEDAW/C/ISR/CO/5, (5 April 2011) at para. 29.

⁴ *Id.* at para. 44.

⁵ *See*, Report of the Special Rapporteur on the right to adequate housing, UN Doc. A/HRC/19/53 (26 December 2011).

⁶ *See, e.g.*, UN Commission on Human Rights resolutions 2005/25, 2003/22, 2001/34 and 2000/13.

⁷ *See, e.g.*, Reports of the Special Rapporteur on the right to adequate housing, UN Docs. E/CN.4/2001/51,

E/CN.4/2002/59, E/CN.4/2005/48, E/CN.4/2005/43 and E/CN.4/2006/118.

⁸ Report of the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari, UN Doc. A/HRC/7/16 (13 February 2008) at para. 67.

⁹ *Id.* at para. 69

¹⁰ *Id.* at para. 71.

10. As such, the Global Initiative for Economic, Social and Cultural Rights believes that CEDAW should increasingly provide clarity on both the gender dimensions of the right to adequate housing and on women's access to and control over land and other resources.

III. Concerns and Questions Relating to Women's Land and Property Rights in Comoros

11. Little information exists on the current situation of women in Comoros with respect to the status of their land and property rights. While Comoros is a poor country and highly dependent on women farmers, the State party report only makes a brief reference to women's land and property rights, noting that "In agriculture, women are involved mainly in subsistence farming, market gardening and poultry farming. They also cultivate cash crops but are seldom involved in their sale. ... With regard to land, the problems lie in the absence of land registry and inadequate land registration, in addition to the matrilineal system whereby land may not be divided up or transferred, thus preventing women, even traditional landowners, from using it, for example, to secure bank loans" (UN Doc. CEDAW/C/COM/1-4).

12. Due to the lack of information provided on these issues, the Global Initiative for Economic, Social and Cultural Rights recommends that the following questions be posed to the State party representatives during the review process:

- What legal protections exist to ensure that women's land and property rights are recognized in formal law? What avenues are available to women should they be in need of legal redress, and are there barriers in access to such legal avenues? What actions has the State party taken to ensure that women are aware of their land, property and inheritance rights?
- How does marriage and family law in Comoros address the question of marital property? Do women and men, girls and boys have equal inheritance rights in Comoros?
- How does the State protect the rights of women in situations where customary/religious law or traditional practice may discriminate against women in matters related to land, property and/or inheritance? In particular, how does the application of Islamic law in the Comoros impact upon women's enjoyment of equal rights to land, property and inheritance? Are women able to opt out of religious or traditional courts in the adjudication of property disputes?
- With respect to the absence of a land registry, what plans or measures does the State party have or intend to take in order to ensure that women's land rights are recognized and protected in any future registration process?