



The Global Initiative
for Economic, Social and Cultural Rights

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

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Women in Law and Development in Africa (WiLDAF) Nigeria

Women in Law and Development in Africa/Femmes, Droit et Développement (WiLDAF) is a Pan African network bringing together 500 organisations and 1200 individuals with a view to promoting a culture for the exercise and respect of women's rights in Africa. WiLDAF/FeDDAF has the status of a non-profit making non governmental organisation. The network was established at the regional conference held in Harare in Zimbabwe, in February 1990 and whose theme was "Women, right and development: network for empowerment in Africa."

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Kebetkache Women's Development and Resource Center (Nigeria)

Kebetkache is community action, education and advocacy women's rights organization working on development and social justice issues that affect women and children in Nigeria and around the world.

- We are committed to strengthening the efforts of organizers, advocates and scholars who are working to improve the conditions of women.
- We provide education and information resources and collaborate on community based project aimed at developing women leadership.
- We are dedicated to the defense and promotion of human rights and the advancement of democracy and social justice.
- We commit to quality service delivery as it relates to maternal health, community development activities, peace & security, environment, HIV/AIDS, governance and the promotion of human rights.
- We stand with victims and activists to bring violators of women's rights to justice, to prevent gender discrimination and to uphold the rights and dignity of womanhood.

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Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)

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.

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Women's Rights to Land and Property in Nigeria: Introduction

This report addresses the current situation for women's land rights in Nigeria. Nigeria operates under a system of legal pluralism, including customary law, Islamic law and statutory (common) law. The State Party report recognizes that "[i]n rural areas, women's right of access to land is still regarded as secondary to that of men and many customs suggest that women's access to land is still mediated via patrilineal systems (CEDAW/C/NGA/7-8, at 12.12). In most parts of Nigeria, especially the Hausas, the rural Yoruba areas and most areas of the South East and South-South regions of Nigeria, women still have limited or no access to property. Widows especially in South East Nigeria are still denied inheritance rights, daughters denied family property because the son is deemed superior, women who have no children are insensitively ejected from their homes once they lose their husbands and are denied every form of access whatsoever to their husband's belongings especially landed property. Research findings indicate that a major benefit of Nigerian women's unhindered right to land ownership is the restoration of sources of income and livelihoods especially among the poor rural women and widows.

Indeed, in its previous Concluding Observations on Nigeria, the Committee expressed concern "that widespread poverty among women, particularly rural women and women head of households, as well as poor socio-economic conditions are among the causes of the violation of women's human rights and discrimination against women. It notes with concern that discriminatory practices with regard to land ownership, administration of property and inheritance, limit women's access to economic resources, as well as credit and loan facilities" (CEDAW/C/NGA/CO/6, at para. 35).

Some of the hindrances to the success of access to women's land rights include ignorance about gender issues and lack of commitment to gender equality, as well as inadequate capacity building for women especially in affected areas such as female rural dwellers.

Unfortunately, the situation of women's land rights in Nigeria remains problematic, and the conflict of laws leaves many Nigerian women vulnerable to violations of land and property rights, both within and outside of marriage. While Nigerian women under Nigerian civil law have access to land, and while equal inheritance rights have likewise seen increased legal protection, the reality remains that certain customary laws continue to stipulate that only men have the right to inherit and own land.¹ For most Nigerian women, namely for those without the independent financial means to purchase land for themselves, they are only able to access land through a male family member.² Discriminatory customary laws, registration of land in spouse's name, non-implementation of human rights' laws and policies continue to pose as strong barriers for the Nigerian woman today as far as property rights and ownership are concerned.

¹ Social Institutions and Gender index, Nigeria. Available at: <http://www.genderindex.org/country/nigeria>

² Ibid.

The information provided by the State Party in its report to the Committee clearly shows the stark gender gap in land ownership (CEDAW/C/NGA/7-8, Table 12.6). Other researchers have echoed the stark gender gap in land rights:

*According to the 2012 Gender in Nigeria report, “women own 4% of land in the North-East, and just over 10% in the South-East and South-South.” Less than 10% of Nigerian women own land due to the popular practice of patrilineal succession, where only male children can inherit. Such male dominated customs undermines the role of women, especially indigenous ones, in agricultural production; and threatens national food security and food sovereignty.*³

Women’s Land and Property Rights within the Context of Marriage, Divorce and Inheritance

Women’s rights to property within the context of marriage is problematic. While women’s rights within marriage are recognized under the law, these protections apply only to women married under statutory law (i.e. Nigerian Marriage Act, 1970). The UN Food and Agriculture Organization (FAO) has prepared a useful summary of the relevant provisions in Nigerian legislation which address women's property and use rights in personal laws (including provisions from the Married Women’s Property Act of 1882, the Marriage Act of 1990, and the Matrimonial Causes Act of 1970).⁴

Women living in customary marriages, or married under Islamic law, however, do not enjoy the same legal protections under national law. However, even for women who are legally married, in cases of divorce the law does not recognize their non-financial contributions to marriage. In fact, the concept of joint matrimonial property does not operate in any of the systems of law governing marriages in Nigeria.⁵

CEDAW General Recommendation No. 29 on the economic consequences of marriage, family relations and their dissolution (article 16) provides that the State must protect the rights of women in customary and religious marriages, regardless of their registration status (CEDAW GR 29, at para 26). States parties are also strongly encouraged to provide for “[v]aluation of non-financial contributions to marital property subject to division, including household and family care, lost economic opportunity and tangible or intangible contributions to either spouse’s career development and other economic activity and to the development of his or her human capital” (CEDAW GR 29, at para 47).

Similarly, inheritance is also subject to many of the same kinds of problems and gaps in protection. According to FAO “... federal law [in Nigeria] says that women must be able to inherit in the same way as men, but this law is only for women who are married under statutory

³ World Pulse Public Story, ‘Women, Land Rights and Food Security in Nigeria,’ 8 September, 2013.

⁴ See: http://www.fao.org/gender-landrights-database/country-profiles/countries-list/national-legal-framework/womens-property-and-use-rights-in-personal-laws/en/?country_iso3=NGA

⁵ Adekile, Kemi Mary, ‘Property Rights of Women in Nigeria as Impediment to Full Realisation of Economic and Social Rights,’ May 26, 2010, at page 13. Available at: SSRN: <https://ssrn.com/abstract=1616270> or <http://dx.doi.org/10.2139/ssrn.1616270>

law and only if there is a will. It does not apply to women who are married under customary or Muslim law and so some customary laws and statutory laws in some parts of the country say that wives and daughters do not have the right to inherit anything.”⁶

CEDAW General Recommendation No. 29 also provides that States parties are obligated to adopt laws of intestate succession that comply with the principles of the Convention, and that such laws should ensure equal treatment of surviving females and males (CEDAW GR 29, at para 53).

Extractives, Land Grabs and Land Law in Nigeria: The Impact on Women

The State Party report recognizes that civil society organizations in Nigeria are calling for “reforms on the Land Use Act and implementation of the Nigeria Land Administration Act through awareness campaigns and enlightenment programmes. These activities will ensure that more women own land assets” (CEDAW/C/NGA/7-8, at 11.7). The Land Use Act of 1978 is embedded in the Constitution, and according to the former Chair of the Nigerian Presidential Technical Committee for Land Reform, “ ... made it easy for governments to acquire land for public purposes, drastically minimized the burden of land compensation and considerably reduced court litigations over land, it has, since its inception over two decades ago, created a new genre of serious problems for land management in the country.”⁷

Large scale land investments facilitated by the Land Use Act have made land rights in Nigeria all the more tenuous for women. According to Environmental Rights Action, Friends of the Earth Nigeria and the Center for Environmental Education and Development (CEED):

*... [T]he Nigerian government's Federal Ministry of Agriculture and Rural Development and the Federal Ministry of Investment have sought to increase foreign direct investment in agriculture as a strategy to increase national food production. Through this policy, vast tracks of agricultural lands have been identified by the government for large scale projects by foreign companies. This increases the risk of land grabbing, a process where local communities are displaced from their land and lose their ability to grow food and their livelihoods.*⁸

⁶ See: http://www.fao.org/gender-landrights-database/country-profiles/countries-list/national-legal-framework/inheritance-legal-mechanisms/en/?country_iso3=NGA. Under the Marriage Act of 1990, in the event of the death of her husband intestate, a woman is entitled to a certain percentage, at least one-third, of the deceased's estate. The Administration and Succession [Estate of Deceased Persons] Law of 1990 Cap. 4, Revised Laws of Anambra State Volume 1 provides that in no case shall a wife or the daughters of a deceased not get what they are entitled to receive merely because they are women. Ibid.

⁷ Professor Akin L. Mabogunje, Chairman, Presidential Technical Committee for Land Reform, ‘Land Reform in Nigeria: Progress, Problems, and Prospects,’ 2010.

⁸ Environmental Rights Action / Friends of the Earth Nigeria | Center for Environmental Education and Development (CEED), ‘Dominion Farm's land grab in Nigeria,’ 28 January 2015. See also: Centre for Environmental Education and Development (CEED), Environmental Rights Action/Friends of the Earth, Nigeria, GRAIN and Global Justice Now, ‘The Dominion Farms’ land grab in Nigeria: Farmers in Taraba State refuse to give up their lands for massive rice plantation project backed by the G8,’ January 2015. See also: Sani Tukur, ‘Land grab by Jigawa Government for Chinese company threatens livelihood of 150,000 people,’ Premium Times, 14 April 2017.

These large scale land deals typically take place without adequate consultation and often displace local communities from their lands, making it increasingly difficult for women to enjoy their land rights. Similarly, the activities of extractive industries, particularly oil companies active in Nigeria, have likewise negatively affected local women.⁹

CEDAW's General Recommendation No. 34 on the Rights of Rural Women highlights that States parties should 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 (CEDAW GR 29, at para 62 (c)). In addition, States parties should obtain the free and informed consent of rural women before the approval of any acquisitions or project affecting rural lands or territories and resources, including those relating to the lease and sale of land, land expropriation and resettlement. When such land acquisitions do occur, they should be in line with international standards, and rural women should be adequately compensated (CEDAW GR 29, at para 62 (d)).

Recommendations

- The Land Use Act should be removed from the Constitution and amended to guarantee equal access to land and adequate compensation to men, women and the poor. In accordance with CEDAW General Recommendation 34, the States party should obtain the free and informed consent of rural women before the approval of any acquisitions or project affecting rural lands or territories and resources, including those relating to the lease and sale of land, land expropriation and resettlement. When such land acquisitions do occur, they should be in line with international standards, and rural women should be adequately compensated.
- Likewise, all discriminatory provisions of statutory and customary law which prohibit women from enjoying their equal rights to land and property should be repealed. The State party should specifically be encouraged to bring its domestic legislation in line with CEDAW Recommendations 29, specifically on customary/religious marriage, recognition of non-financial contributions to marriage, and inheritance.
- The State party should take immediate steps to address and remedy negative customs and traditional practices, especially in rural areas, which affect full enjoyment of women's land and inheritance rights, including by ensuring that local customary leaders and traditional authorities are trained to protect women's land rights at the community level.
- The State party should introduce direct intervention mechanisms to support women's access to land tenure, including by enacting temporary special measures to ensure that

⁹ See: Davies Iheamnabor, 'Ogoni women rise against land grabbing,' Vanguard News, 21 March 2017.

women have access to productive land, agricultural credits, seeds, tools and other necessary resources to make their farming practices sustainable and productive.