



The Global Initiative
for Economic, Social and Cultural Rights

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

CENTRAL AFRICAN REPUBLIC, 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 2011, CEDAW used language from the International Covenant on Economic, Social and

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.*

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. ARTICLES 1, 2, 3, 5, 14 and 16 -- Women's Land and Property Rights in CAR

11. This alternative report addresses the current situation of women in the Central African Republic (CAR) with respect to the status of their land and property rights.

12. Despite enactment of formal laws in the CAR which recognize formal equality between women and men, customary law and traditional practices continue to discriminate against women, including in matters related to land, property and inheritance. Under customary law, it is husbands who own and administer marital property, including land, and land rights are transferred from eldest male to the next eldest male. In addition, legally it is still the husband who is considered to be the 'head of the family' and has the right to choose the residence for the family. Widowed, divorced and single women -- regardless of whether or not they have children -- are not considered to be heads of families, a violation of women's equal rights under the Covenant.

13. On the 'head of the family' issue, the CEDAW Committee in its Concluding Observations on Sri Lanka considered even the ostensibly 'gender-neutral' application of the head of the household concept, and noted "that discriminatory practices prevent women from acquiring ownership of land since only the 'head of household' is authorised to sign official documentation such as land ownership certificates and receive pieces of land from Government."¹¹ In that case, the Committee urged the Government to abolish the concept of "head of household" in all of its administrative practices and recognize joint or co-ownership of land, as well as to amend its national legislation to ensure joint or co-ownership.¹²

14. Women in CAR are highly dependent upon the land for their economic survival, and are typically the ones who farm it. According to recent reports from USAID: "Eighty-six percent of the female labor force was reportedly engaged in agricultural activities (compared to 64% of the male workforce) in the 1990s, yet almost none have rights to the land they farm. Women who are single, divorced, or widowed are not considered heads of household and are not considered to be landholders, only land users. Widows, and sometimes their children, are often evicted from their property by the deceased husband's family. In households without an adult male family member, land rights will often be held by another male relative such as an uncle or cousin instead of a woman. Polygamy is legal in CAR, and men can take up to four wives. The 28% of women who are in polygamous relationships, including 21% of girls aged 15-19, have no rights to property."¹³

¹¹ UN Committee on the Elimination of Discrimination against Women, 'Concluding Observations on Sri Lanka,' Forty-eighth session, 17 January – 4 February 2011, UN Doc. CEDAW/C/LKA/CO/7, at paras. 38-39 (4 February 2011).

¹² *Id.*

¹³ USAID COUNTRY PROFILE, PROPERTY RIGHTS AND RESOURCE GOVERNANCE: CENTRAL AFRICAN REPUBLIC, October 2010.

15. In addition, “women in CAR often lack the education and social status to assert their legal rights. Sixty-eight percent of women in CAR (compared to 46% of men) are illiterate. Women are poorly represented in the country’s political and administrative bodies (under 5%). Fewer than 3% of judges and lawyers in the country are female, and legal-aid services in the country are limited.”¹⁴

16. According to the Social Institutions and Gender Index (SIGI) of the Organisation for Economic Co-operation and Development (OECD): “widows are particularly vulnerable to violations of inheritance rights.”¹⁵ Despite legal protections, as also noted above, in-laws often claim (i.e. ‘grab’) the property that is legally due to the widow, thus leaving widows homeless and landless.¹⁶

17. Further, according to SIGI, the 2008-2010 Poverty Reduction Strategy Paper for CAR noted that women are rarely involved in the management and control of resources due to discriminatory social and legal practices.¹⁷

IV. Recommendations

18. The CEDAW Committee is urged to integrate the following concerns into its Concluding Observations on CAR:

- 1) The State party should eliminate all forms of gender discrimination with respect to access, use, control, ownership and inheritance of land and property. In this regard the State Party should take effective measures -- including through review and amendment of legislation, awareness-raising and adequate enforcement of the law, provision of legal aid -- to eliminate all forms of discrimination against women in all matters related to land and property.
- 2) The State party should introduce effective measures to address negative customs and traditional practices, especially in rural areas, which affect full enjoyment of women’s land and property rights. In particular, the State party should criminalize the practice of eviction of widows from their property by the deceased husband’s family and/or other parties.
- 3) The State party should abandon in law and administrative practice the notion that men are the head of the household.

¹⁴ *Id.*

¹⁵ See: <http://genderindex.org/country/central-african-republic>.

¹⁶ *Id.*

¹⁷ *Id.*