



The Global Initiative
for Economic, Social and Cultural Rights

**REPORT TO THE UNITED NATIONS COMMITTEE ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS**

Uganda, 54th Session, Pre-Sessional Working Group (01 Dec 2014 - 05 Dec 2014)

Submitted by:

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

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I. Introduction

This report addresses violations of land and property rights in Uganda which we hope can be included in the List of Issues prepared by the Committee so that they can be included in the State Party review scheduled for June 2015. Specifically, this report addresses concerns in relation to 1) women’s rights to land and property, 2) land grabbing and forced evictions, and 3) repression of advocacy groups working on land.

II. Women’s Land and Property Rights (Art. 2(2), Art. 3, and Art. 11)

Women in Uganda face persistent and systemic violations of their land and property rights. The Uganda Land Alliance and the Uganda Media Women’s Association have reported that “the gender structure of land rights in Uganda varies across the country, but is highly unequal, as women’s land rights are generally restricted to access while men are likely to have ownership rights.”¹ Specifically on issues of inheritance, customary law dictates that women do not have the right to inherit property. While the Marriage Code grants widows the right to inherit 15 per cent of a deceased husband’s property, even this provision is often not enforced.² While the Constitutional Court has declared discriminatory provisions of the Succession Act as unconstitutional, the Government has yet to amend the Act so as to bring it into full compliance with the Constitution and its international human rights obligations.³

As the State party report notes, the Constitution guarantees a woman’s equal rights within marriage and in the event of a divorce. However, the legal framework in Uganda currently does not enforce this right. Adoption of the Marriage and Divorce Bill in Uganda, which aims to reform and consolidate the law relating to marriage, separation and divorce, has yet to happen. The Bill in its various iterations has been waiting for parliamentary approval for approximately the last 40 years. If enacted, the Bill would benefit Ugandan women in many ways: it would outlaw a number of traditional practices (such as widow inheritance and brideprice), make asset sharing mandatory in divorce, give cohabiting partners property rights, and make marital rape a criminal offense.

¹ UGANDA LAND ALLIANCE (ULA) and UGANDA MEDIA WOMEN’S ASSOCIATION (UMWA), ‘Women’s gains from the implementation of succession law in Uganda: voices from Wakiso and Mpigi Districts, Uganda,’ WOMEN’S LAND RIGHTS INITIATIVE, Policy Brief 1, March 2011. See also: Think Africa Press, ‘Uganda: The Fight for Women’s Land Rights,’ 20 November 2012.

² Social Institutions & Gender Index (SIGI), ‘Uganda,’ available online at: <http://genderindex.org/country/uganda>. See also: VALERIE BENNETT, GINGER FAULK, ANNA KOVINA & TATJANA ERES, ‘INHERITANCE LAW IN UGANDA: THE PLIGHT OF WIDOWS AND CHILDREN,’ *THE GEORGETOWN JOURNAL OF GENDER AND THE LAW*, Vol. VII, pp. 451-530.

³ See: *Law Advocacy for Women in Uganda v Attorney General*, Constitutional Petitions Nos. 13/05 & 05/06 [2007] UGCC 1 (5 April 2007). LAW-U’s constitutional challenge with respect to the Succession Act was against sections 2(n)(i)–(ii), 15, 16, 27, 43, and 44 of the Succession Act because these provisions disadvantaged females and female heirs. For example, while section 27 of the act provided that the property of a deceased male would be distributed to his heirs, there was no such provision for the property of deceased females. Further, section 43 of the act gave only fathers, and not mothers, the right to appoint a guardian; and section 44 of the act allowed male, but not female, relatives to be guardians. The challenge argued that this different treatment based on sex was unconstitutionally discriminatory. The Court ruled that the challenged sections of the Succession Act were null and void because they were inconsistent with articles 21(1)–(3), 31, and 33(6) of the constitution.

However, the Committee should note that the Bill would prohibit recognition of same-sex marriages, and should recommend removal of this provision.

III. Land Grabbing and Forced Evictions (Art. 11)

While the right to land is constitutionally protected, land grabbing (or the process of selling or leasing large tracts of land to foreign States or companies), has become a serious issue in Uganda, receiving increased international attention in recent years.⁴ Most Ugandans live in rural areas and are dependent on agriculture for their daily survival.⁵ In general, communities affected by land grabbing have not been adequately consulted or compensated for loss of land, and have suffered entrenched poverty as a result.⁶ Advocates in Uganda have noted that land acquisition for investments are characterised by human rights abuse and violation, lack of transparency in negotiations, inefficiency in resource use, and environmental degradation.

Researchers highlight that land grabbing has also translated into increased conflicts over land, especially in the oil rich Albertine region of the country, and that “the manner in which large-scale land deals take place is highly invisible.”⁷ In a recent report on human rights violations within the context of private mining in the remote northeastern Karamoja region, Human Rights Watch highlights that “the Ugandan government, in partnership with the private sector, has excluded customary land owners from making decisions about the development of their own lands and has proceeded without their consent.”⁸

Issues of land grabbing are complicated and involve various obligations on the part of many duty bearers. For example, in April 2012, the GI-ESCR intervened with a Parallel Report to the Human Rights Committee regarding violations of Germany’s extra-territorial obligation to protect human rights by not regulating or holding accountable a German corporation involved in forced evictions in Uganda. The report covered the forced eviction of the villages of Kitemba, Luwunga, Kijunga and Kirymakole in the Mubende District of Uganda

⁴ See, for example: National Association of Professional Environmentalists (FoE –Uganda) and Friends of the Earth International (FoEI), ‘A study on Land Grabbing cases in Uganda,’ April 2012. See also: Allan Bomuhangi, Cheryl Doss and Ruth Meinzen-Dick, ‘Who Owns the Land? Perspectives from Rural Ugandans and Implications for Land Acquisitions,’ IFPRI Discussion Paper 01136, November 2011.

⁵ Think Africa Press, ‘Law of the Land: Land Grabs Threaten Local Livelihoods in Uganda,’ 28 November 2012.

⁶ Ibid. See also: Milieudéfense, ‘Land grabbing for palm oil in Uganda,’ 2013. Friends of the Earth, ‘Palm oil landgrab in Uganda: Wilmar International’s violations in Kalangala Island,’ Landgrabs, forests & finance: Issue brief #5, [date unspecified]. See also: National Association of Professional Environmentalists (NAPE), Uganda and The Gaia Foundation (UK), ‘Mining and its impacts on Water, Food Sovereignty and Sacred Natural Sites and Territories,’ July 2014. See also: Gabriella Wass & Chris Musiime, ‘Business, Human Rights, and Uganda’s Oil: Part I: Uganda’s oil sector and potential threats to human rights,’ Updated October 2013.

⁷ Roberts K. Muriisa, Pamela K. Mbabazi and Meldard Twinamatsiko, ‘Land Deals in Uganda: An Invisible Hand in Land Grabbing and Rural Development,’ paper presented at the conference on Land Politics in Africa, South Africa, March 2013 [draft on file with GI-ESCR]. See also: See also: Gabriella Wass & Chris Musiime, ‘Business, Human Rights, and Uganda’s Oil: Part I: Uganda’s oil sector and potential threats to human rights,’ Updated October 2013.

⁸ Human Rights Watch, ‘Uganda: Rights at Risk in New Mining Region,’ available online at: <http://www.hrw.org/news/2014/02/03/uganda-rights-risk-new-mining-region>

that were carried out in 2001 on behalf of the Neumann Kaffee Gruppe to make way for a coffee plantation. The GI-ESCR followed up with another Parallel Report prepared for the October/November 2012 session of the Committee, which helped result in a Concluding Observation from that Committee addressing the State party's extraterritorial obligations.⁹ Nonetheless, to this day, the evicted communities continue to live in extreme poverty as a result.

The Government of Uganda, however, also bears clear obligations in this regard, and has not offered effective protections to communities whose lands are threatened by land appropriation.¹⁰ The Africa Biodiversity Collaborative Group, found that "Despite lacking clear legal authority or codified procedures, the Uganda Investment Authority has directly acquired agricultural properties for allocation to private investors." To address the issues, the Government should implement a comprehensive policy to uphold the rights of communities and protect them against forced evictions, including within the scope of bilateral agreements with investors.¹¹ In particular, the Government should also provide information about all investments—particularly those involving government land acquisitions—and support on-going monitoring and reform and to decrease opportunities for abuse."¹²

IV. Repression of Advocacy Groups Working on Land

The GI-ESCR is also concerned by the trend in recent years to discourage and shut down the work of non-governmental organizations working in Uganda active on land and other issues. For example, in 2012 Oxfam and the Uganda Land Alliance were been threatened with deregistration by Uganda's internal affairs minister.¹³ Both organizations came under threat due to advocacy work and research that they were conducting in the area of land-grabbing. Furthermore, in May 2014, the Cabinet approved the Non-governmental Organizations (NGOs) Registration (Amendment) Bill, which has been widely criticized by human rights groups, and which could bar NGOs from engaging in political work and expand government powers to monitor NGOs.¹⁴

In this regard we would also like to draw the attention of the Committee to the recent resolution of the Human Rights Council on "Civil Society Space"¹⁵ which calls upon States to

⁹ Human Rights Committee, Concluding Observations on Germany, UN Doc. CCPR/C/DEU/CO/6 (2012).

¹⁰ M. Mercedes Stickler, 'Governance of Large-Scale Land Acquisitions in Uganda: The role of the Uganda Investment Authority,' Africa Biodiversity Collaborative Group, September 2012.

¹¹ Ibid.

¹² Ibid. See also: Land and Natural Resource Tenure in Africa Program (in which the World Resources Institute is a partner with Landesa), 'FOCUS on Land in Africa Brief: Uganda,' December 2010.

¹³ John Vidal (environment editor at The Guardian), 'Uganda threatens to expel Oxfam and NGOs over land-grabbing claims: Oxfam and the Uganda Land Alliance have been threatened with deregistration by Uganda's internal affairs minister Hilary Onek,' The Guardian, 10 May 2012, available online at: <http://www.theguardian.com/global-development/2012/may/10/uganda-oxfam-land-grabbing-claims>; See also: Jocelyn Edwards, 'Uganda says could eject Oxfam over land grab claims,' Reuters, 9 May 2012, available online at: <http://uk.reuters.com/article/2012/05/09/uk-uganda-oxfam-idUKBRE8480UQ20120509>.

¹⁴ For more information, please see: The International Center for Not-for-Profit Law (ICNP), 'NGO Law Monitor: Uganda,' 2 August 2014.

¹⁵ UN Doc. A/HRC/27/L.24, 23 September 2014.

“ ... to ensure access to justice, accountability and end impunity for human rights violations and abuses against civil society actors, including by putting in place, and where necessary reviewing and amending, relevant laws, policies, institutions and mechanisms to create and maintain a safe and enabling environment in which civil society can operate free from hindrance and insecurity.”

Recommended additions to the list of issues:

1. What is the current status of the Marriage and Divorce Bill? When does the Government foresee adoption of this legislation?
2. When does the Government foresee amendment of the discriminatory provisions of the Succession Act? What other efforts has the government made to better ensure that women in Uganda are able to enjoy equal rights in relation to land and property?
3. What protections has the government of Uganda put in place to protect communities against forced eviction and other human rights abuses within the context of large scale land acquisitions? What measures have been put in place to ensure that affected communities have access to effective remedies in cases of forced eviction?
4. What are the implications of the recently approved Non-governmental Organizations (NGOs) Registration (Amendment) Act, and how will it impact NGOs in Uganda involved in advocacy in the area of economic, social and cultural rights?