



**The Global Initiative**  
*for Economic, Social and Cultural Rights*

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*General Day of Discussion on the Rights of Rural Women*

**Rural Women's Land and Property Rights**

*Written Submission by*  
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## The Status of Rural Women's Land and Property Rights Worldwide

Gender inequality when it comes to issues of land, housing and property is a critical issue which lies at the heart of women's poverty, exclusion and insecurity worldwide. It is reported that just 1 percent of the world's women own land.<sup>1</sup> When researchers compiled an approximation of the distribution of land by gender in five Latin American countries, according to the UN Millennium Project Task Force on Education and Gender Equality, they found it to be "extremely unequal, with women representing one third or less of land owners."<sup>2</sup> Because of increasing land pressures around the world, the phenomenon of land-grabbing, and the ever increasing commodification of land, as scholar Bina Agarwal has noted "The issue of women's land rights is not only important today, it is likely to become increasingly so over time."<sup>3</sup>

Access to, and control over these resources can better ensure that rural women are able to meet their day to day needs and provide for the material needs of themselves and their families. Research also shows that when rural women have equal rights over land, housing and property, they are better able to cope with life's most difficult challenges, including, for example, mitigating some of the devastating consequences of HIV/AIDS. Some evidence even suggests that these rights help to protect rural women from being exposed to violence and HIV/AIDS in the first place.<sup>4</sup> Indeed, rural women's access to, and control over land,

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<sup>1</sup> International Center for Research on Women (ICRW), 'The Issue: Women's Assets and Property,' Available online at: <http://www.icrw.org/what-we-do/property-rights> [last accessed 12 September 2013]. See also: International Center for Research on Women (ICRW), 'Learning how to Better Promote, Protect and Fulfill Women's Property Rights,' 2007.

<sup>2</sup> UN Millennium Project, *Taking Action: Achieving Gender Equality and Empowering Women*, Task Force on Education and Gender Equality, 2005. The report goes on to note:

*Such disparities are especially noteworthy in light of the relatively small gender disparities in human development indicators in this region and the existence of relatively equal inheritance laws. Gender disparities in land ownership exist in other regions as well. In Cameroon, where women do more than 75 percent of the agricultural work, it is estimated that women hold fewer than 10 percent of land certificates ... There are similar gender disparities in rights to land in Kenya, Nigeria, Tanzania, and elsewhere in Sub-Saharan Africa. A 2001 household survey in Pakistan found that women owned less than 3 percent of the plots, even though 67 percent of the sampled villages reported that women had a right to inherit land.*

<sup>3</sup> Bina Agarwal, 'Gender and Land Rights Revisited: Exploring New Prospects via the State, Family and Market,' *Journal of Agrarian Change*, Vol. 3, Issue 1-2, January 2003, pp. 184–224. See also: Dzodzi Tsikata & Pamela Golah (eds.), *Land Tenure, Gender and Globalisation: Research and Analysis from Africa, Asia and Latin America*, International Development Research Centre (IDRC), 2010; Elizabeth Daley, "Gender and Commercial Pressures on Land," ASA UK Meeting, 16–19 September 2010; Julia Behrman, Ruth Meinzen-Dick and Agnes Quisumbing, 'The Gender Implications of Large-Scale Land Deals,' The International Food Policy Research Institute (IFPRI) Discussion Paper 01056, January 2011; Anne Hellum, 'How Can a Focus on the Rights to Land and Related Economic Resources Make a Difference for Poor Women in Africa? Seven Concerns,' Institute of Women's Law, University of Oslo; Elizabeth Daley, 'Strategies to get Gender onto the Agenda of the "Land Grab" Debate,' Mokoro Ltd., ILC and CIRAD Policy Brief, March 2011.

<sup>4</sup> Caroline Sweetman, 'How Title Deeds Make Sex Safer: Women's Property Rights in an Era of HIV,' From Poverty to Power: Background Paper, Oxfam, 2008. See also: Richard S. Strickland, 'To Have and To Hold: Women's Property and Inheritance Rights in the Context of HIV/AIDS in Sub-Saharan Africa,' International Center for Research on Women (ICRW) Working Paper, June 2004. See also: Panda, Pradeep, 'Rights Based Strategies in the Prevention of Domestic Violence,' ICRW Working Paper 344, International Center for Research on Women (ICRW), Washington DC, 2002.

housing and property is essential to rural women's right to equality and their ability to enjoy a range of other rights enshrined in the CEDAW Convention.

Women's land, housing and property rights are well-established in international human rights law and standards, including under the CEDAW Convention.<sup>5</sup> Other human rights treaties also protect these rights for women, including the International Covenant on Economic, Social and Cultural Rights<sup>6</sup> and the International Covenant on Civil and Political Rights.<sup>7</sup> For example, the UN Committee on Economic Social and Cultural Rights has stated that "women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so"<sup>8</sup> and has highlighted women's equal inheritance rights.<sup>9</sup> The Committee has also made clear that under the provisions of the treaty "The capacity of women to own property ... may not be restricted on the basis of marital status or any other discriminatory ground."<sup>10</sup>

Despite these protections, FAO reports that "gender inequalities in land rights are pervasive."<sup>11</sup> Women have lower access to land than men and they are also often restricted to secondary land rights, whereby they hold these rights through a male family member (usually a husband, father, brother or son). Women risk losing entitlements in the case of divorce or widowhood. Evidence also shows that women's land parcels tend to be of smaller size and lower quality than those provided to men.<sup>12</sup>

When looking at these issues, it is important to understand the different ways in which rural women come to access land, housing and property. It is important to emphasize that when we speak of women's equal rights to land we are not only speaking of ownership. Rather these rights include rights to use, access, control, transfer, exclude, inherit and otherwise make decisions about land and related resources. For most rural women, land, housing and property is acquired within the context of marriage and the family, inheritance, through government or other social programs, and to a lesser extent through access to markets.

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<sup>5</sup> Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force 3 September 1981.

<sup>6</sup> International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force 3 January 1976. The International Covenant on Economic, Social and Cultural Rights further underscores the principle of non-discrimination with regard to sex and recognizes the equal right of women and men to the enjoyment of all economic, social and cultural rights including the right to adequate housing (Articles 3 and 11).

<sup>7</sup> International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March 1976. The International Covenant on Civil and Political Rights guarantees equality of persons before the courts (Article 14), prohibits arbitrary or unlawful interference with one's privacy, family, or home (Article 17), addresses equality of spousal rights during marriage and at its dissolution (Article 23), and confirms equal protection of the law for all without discrimination (Article 26).

<sup>8</sup> UN Committee on Economic, Social and Cultural Rights, General Comment 16, Article 3: the equal right of men and women to the enjoyment of all economic, social and cultural rights (Thirty-fourth session, 2005), U.N. Doc. E/C.12/2005/3 (2005).

<sup>9</sup> Ibid.

<sup>10</sup> UN Human Rights Committee, 'General Comment 28 on the Equality of Rights between Men and Women, Article 3,' adopted 29 Mar. 2000, UN Doc. CCPR/C/21/Rev.1/Add.10.

<sup>11</sup> Statement by the Food and Agricultural Organization of the United Nations (FAO) to the 64<sup>th</sup> session of the Commission on the Status of Women, 8 March 2010.

<sup>12</sup> Ibid.

The obstacles which prevent rural women from effectively enjoying these rights are complex, and at times context specific. They range from inadequate legal standards and implementation, to discriminatory attitudes and barriers at the local level which prevent rural women's access to land, housing and property. As the Canadian HIV/AIDS Legal Network has pointed out: "In many communities, gender disparities with regard to land are linked to notions of men being its sole stakeholders for multiple reasons, including presumptions that land given to women is lost to another family in the event of marriage or divorce, and that women are incapable of managing property — or expectations that men in the family or community will support the women."<sup>13</sup>

The 2009 World Survey of the United Nations Department of Economic and Social Affairs, Division for the Advancement of Women (DAW) on the 'Role of Women in Development: Women's Control over Economic Resources and Access to Financial Resources, including Microfinance,' similarly found that with respect to access to land, housing and other productive resources:

*Some progress has been made in legislative reform, but implementation is hindered by sociocultural norms and women's lack of knowledge of their entitlements. Socio-economic contexts determine the appropriateness of different types of rights to land and property—including individual rights, joint-titling and group rights. Continued efforts are needed to promote gender sensitive legislation, enforce existing legislation, make judicial systems more accessible and responsive to women, and provide legal aid to women seeking to claim their rights.*<sup>14</sup>

For rural women, land demands particular attention, as it is one area in which there remains a stark gender gap. It is an issue of increasing importance worldwide, as it touches on critical questions of global food security and the economic development of poor nations. According to the UN Millennium Project Task Force on Education and Gender Equality, when researchers compiled an approximation of the distribution of land by gender in five Latin American countries, they found it to be "extremely unequal, with women representing one third or less of land owners."<sup>15</sup> Furthermore:

*Such disparities are especially noteworthy in light of the relatively small gender disparities in human development indicators in this region and the existence of relatively equal inheritance laws. Gender disparities in land ownership exist in other regions as well. In Cameroon, where women do more than 75 percent of the agricultural work, it is estimated that women hold fewer than 10 percent of land certificates ... There are similar gender disparities in rights to land in Kenya, Nigeria, Tanzania, and elsewhere in Sub-Saharan Africa. A 2001 household survey in Pakistan found*

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<sup>13</sup> Canadian HIV/AIDS Legal Network, 'Respect, Protect and Fulfill: Legislating for Women's Rights in the Context of HIV/AIDS — Volume Two: Family and Property Issues,' 2009. Available online at: <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=1537> [last accessed 2 September 2013].

<sup>14</sup> United Nations Department of Economic and Social Affairs, Division for the Advancement of Women (DAW), 2009 World Survey on the Role of Women in Development: Women's Control over Economic Resources and Access to Financial Resources, including Microfinance, 2009.

<sup>15</sup> UN Millennium Project, *Taking Action: Achieving Gender Equality and Empowering Women*, Task Force on Education and Gender Equality, 2005.

*that women owned less than 3 percent of the plots, even though 67 percent of the sampled villages reported that women had a right to inherit land.*<sup>16</sup>

At the level of existing legal protections, States around the world have adopted different approaches when it comes to women's land, housing and property rights. According to the World Bank:

*... all economies in high-income OECD and in Eastern Europe and Central Asia grant equal rights to men and women with regard to property ownership and inheritance. In Latin America and the Caribbean, all economies grant equal rights to inheritance, and in the majority of economies, married men and married women have equal rights to property. In East Asia and the Pacific, only the Philippines restricts the property rights of married women. In Sub-Saharan Africa, four economies do so. World-wide, inheritance rights in 26 economies differentiate between women and men. This includes all economies covered in the Middle East and North Africa, seven in Sub-Saharan Africa, three in South Asia and two in East Asia and the Pacific.*<sup>17</sup>

The HIV pandemic is also a critical problem for rural development and for rural women in particular, especially in sub-Saharan Africa. HIV has severe impacts on women and girls, as a result of gender specific division of family care, labor and resource control, as well as gender related discrimination.<sup>18</sup> Attention to women's empowerment and protection of women's land, housing and property rights is required to make women less vulnerable to HIV.

### **International Human Rights and Related Standards Pertaining to Rural Women's Land and Property Rights**

There are several other international human rights standards related to women's land rights to which we would like to draw the Committee's attention:

The **Beijing Platform for Action** includes several actions required of governments relevant to women's land and property rights, including enabling women to obtain affordable housing and access to land<sup>19</sup> and undertaking legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership and control over land and other property, credit, natural resources and appropriate technologies.<sup>20</sup>

The **Istanbul Declaration** adopted by the UN Conference on Human Settlements (Habitat II) in 1996 highlighted government obligations to principles of gender equality in policies and programs related to housing, non-discrimination and equal access to affordable housing, and access to land and credit.

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<sup>16</sup> Ibid.

<sup>17</sup> World Bank, 'Women, Business and the Law: Creating Better Opportunities for Women,' available online at: <http://wbl.worldbank.org/data/using-property-topic-analysis> [last accessed 2 September 2013].

<sup>18</sup> Report of the Secretary-General, 'The empowerment of rural women and their role in poverty and hunger eradication, development and current challenges,' Commission on the Status of Women Fifty-sixth session, 27 February-9 March 2012, UN Doc. E/CN.6/2012/3, 9 December 2011, at para. 8.

<sup>19</sup> The Beijing Platform for Action (1995); Para. 58(m).

<sup>20</sup> *Ibid.* Paras. 61(b) and 165(e).

In 1996 and 1998, the **UN General Assembly** adopted resolutions on *Improvement of the situation of women in rural areas*.<sup>21</sup> Resolution 52/93 (1998) invites States "... to attach greater importance to the improvement of the situation of rural women, including older women, in their national development strategies, paying special attention to both their practical and strategic needs, by ... Designing and revising laws to ensure that women have equal access to and control over land, unmediated by male relatives, in order to end land rights discrimination; according women secure use rights and full representation in the decision-making bodies that allocate land and other forms of property, credit, information and new technologies; ... according women full and equal rights to own land and other property, inter alia, through inheritance; acknowledging, in the context of land reform programmes, the equality of women's rights to land and taking other measures to increase land availability to poor women and men."

In 1997, the former **United Nations Sub-Commission on the Promotion and Protection of Human Rights** adopted the first resolution by an international human rights body directly addressing women's land and property rights specifically. Sub-Commission Resolution 1997/19 on *Women and the right to land, property and adequate housing* urged governments to take all necessary measures in order to amend and/or repeal laws and policies pertaining to land, property and housing which deny women security of tenure and equal access and rights to land, property and housing; to encourage the transformation of customs and traditions which deny women security of tenure and equal access and rights to land, property and housing; and to adopt and enforce legislation which protects and promotes women's rights to own, inherit, lease or rent land, property and housing.<sup>22</sup>

In 1999, the Sub-Commission adopted resolution 1999/15 on *Women and the right to development*, again affirming that "the discrimination faced by women with respect to acquiring and securing land, property and housing, as well as financing for land, property and housing, constitutes a violation of women's human rights to equality, protection against discrimination and to the equal enjoyment of the right to an adequate standard of living, including adequate housing."<sup>23</sup>

In 1998, the **Commission on the Status of Women** adopted its first (and to date only) resolution on women's land and property rights, resolution 42/1 on *Human rights and land rights discrimination*, recognizing that "secure land rights are key rights for the economic empowerment of women."<sup>24</sup>

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<sup>21</sup> UN General Assembly Resolution 52/93, 'Improvement of the situation of women in rural areas,' Fifty-second session, Agenda item 105, UN Doc. A/RES/52/93 (4 February 1998). See also: UN General Assembly Resolution 50/165, 'Improvement of the situation of women in rural areas,' Fiftieth session, Agenda item 107, UN Doc. A/RES/50/165 (16 Feb. 1996).

<sup>22</sup> UN Sub-Commission on the Promotion and Protection of Human Rights, 'Women and the right to adequate housing and to land and property,' UN Doc. E/CN.4/SUB.2/RES/1997/19 (27 August 1997). A subsequent resolution (1998/15) was adopted the following year under a similar title 'Women and the right to land, property and adequate housing,' (UN. Doc. E/CN.4/SUB.2/RES/1998/15).

<sup>23</sup> UN Sub-Commission on the Promotion and Protection of Human Rights, 'Women and the right to development,' UN Doc. E/CN.4/SUB.2/RES/1999/15 (25 Aug.1999).

<sup>24</sup> UN Commission on the Status of Women, Report on the forty-second session (2-13 March 1998), Economic and Social Council Official Records, 1998, Supplement No. 7, UN. Doc. E/CN.6/1998/12 (1998).

The former **United Nations Commission on Human Rights** also adopted a series of resolutions on *‘Women’s equal ownership of, access to and control over land and the equal rights to own property and to adequate housing’* (resolutions 2000/13; 2001/34; 2002/49; 2003/22; 2005/25). Resolution 2005/25 (2005) affirms that “discrimination in law and practice against women with respect to having access to, acquiring and securing land, property and housing, as well as financing for land, property and housing, constitutes a violation of women’s human right to protection against discrimination and may affect the realization of other human rights.”

The **United Nations Committee on Economic Social and Cultural Rights** (which monitors States party compliance with the International Covenant on Economic, Social and Cultural Rights), for example, has stated that “women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so”<sup>25</sup> and has highlighted women’s equal inheritance rights.<sup>26</sup> The Committee has also stated unequivocally that “The capacity of women to own property ... may not be restricted on the basis of marital status or any other discriminatory ground.”<sup>27</sup> On food security, the Committee has said that national strategies including guarantees of rights to land for women as a measure for preventing discrimination in access to food or resources for food.<sup>28</sup>

The **2011 study of the United Nations Human Rights Council Advisory Committee on discrimination in the context of the right to food** found that “The right to control, have access to and manage land is tied to a woman’s right to exercise financial independence, earn a livelihood and subsequently provide a livelihood for herself and her household. Agrarian reform policies that are ‘gender-blind’ continue to exclude women from entitlements to land. States undergoing agrarian reform or land redistribution schemes must uphold the equal right of women to land, regardless of marital status.”<sup>29</sup>

On 11 May 2012, the Committee on World Food Security (CFS) officially endorsed the **Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security**.<sup>30</sup> The FAO Voluntary Guidelines are based on an inclusive consultation process started by FAO in 2009 and then finalized

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<sup>25</sup> UN Committee on Economic, Social and Cultural Rights, General Comment 16, Article 3: the equal right of men and women to the enjoyment of all economic, social and cultural rights (Thirty- fourth session, 2005), U.N. Doc. E/C.12/2005/3 (2005).

<sup>26</sup> UN Committee on Economic, Social and Cultural Rights, General Comment 16, Article 3: the equal right of men and women to the enjoyment of all economic, social and cultural rights (Thirty- fourth session, 2005), U.N. Doc. E/C.12/2005/3 (2005).

<sup>27</sup> UN Human Rights Committee, ‘General Comment 28 on the Equality of Rights between Men and Women, Article 3,’ adopted 29 Mar. 2000, UN Doc. CCPR/C/21/Rev.1/Add.10.

<sup>28</sup> UN Committee on Economic, Social and Cultural Rights, General Comment 12, Right to adequate food (Twentieth session, 1999), U.N. Doc. E/C.12/1999/5 (1999), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 62 (2003).

<sup>29</sup> Study of the Human Rights Council Advisory Committee on discrimination in the context of the right to food, UN Doc. A/HRC/16/40 (16 Feb. 2011).

<sup>30</sup> FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, 11 May 2012. Available online at: [http://www.fao.org/fileadmin/user\\_upload/nr/land\\_tenure/pdf/VG\\_Final\\_May\\_2012.pdf](http://www.fao.org/fileadmin/user_upload/nr/land_tenure/pdf/VG_Final_May_2012.pdf) [last accessed 2 September 2013].

through CFS-led intergovernmental negotiations that included participation of government officials, civil society organizations, private sector representatives, international organizations and academics.<sup>31</sup> Those Guidelines embrace gender equality as one of the main guiding ‘principles of implementation,’ and stress the importance of compliance between all programs, policies and technical assistance to improve governance of tenure and the international human rights framework.<sup>32</sup>

### **Rural Women’s Land and Property Rights under CEDAW**

The Committee on the Elimination of Discrimination against Women has had an important track record of addressing women’s land and property rights within the context of its Concluding Observations on State party reports.<sup>33</sup> The General Recommendation on the Rights of Rural Women presents an important opportunity to consolidate and synthesize the recommendations that have been made in this area, as well as to build upon them by developing a coherent framework clarifying State Obligations so as to ensure elimination of discrimination and promotion of the substantive equality of rural women with respect to issues of land.

It would be very welcome for the CEDAW Committee to re-emphasize some of the following key themes in its General Recommendation on the Rights of Rural Women:

- Express concern that customs and traditional practices, prevalent in rural areas, prevent women from inheriting or acquiring ownership of land and other property (Burkina Faso, 2000 and 2010; DRC, 2000; Guinea, 2001; Uganda, 2002 and 2010; Kenya, 2003 and 2011; Kyrgyzstan, 2004; Bangladesh, 2011, South Africa, 2011; Zambia, 2011; Chad, 2011; Lesotho, 2011; Paraguay, 2011; Samoa, 2012; Comoros, 2012; Equatorial Guinea, 2012).
- Express concern that confiscation of land by private and foreign companies, as well as the implementation of megaprojects, have a disproportionate and adverse impact on women (Cambodia, 2006; India, 2007; Ethiopia, 2011; Togo, 2012).

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<sup>31</sup> Ibid. The Guidelines address a wide range of issues, including:

- *Recognition and protection of legitimate tenure rights, even under informal systems*
- *Best practices for registration and transfer of tenure rights*
- *Making sure that tenure administrative systems are accessible and affordable*
- *Managing expropriations and restitution of land to people who were forcibly evicted in the past*
- *Rights of indigenous communities*
- *Ensuring that investment in agricultural lands occurs responsibly and transparently*
- *Mechanisms for resolving disputes over tenure rights*
- *Dealing with the expansion of cities into rural areas*

<sup>32</sup> Ibid. See in particular § 3B (4) and §§ 4.6, 5.4, 5.5, 7.4, 9.2, 9.6, 15.3, 15.5, 15.6, 15.10, 17.3, 21.1, and 23.2.

<sup>33</sup> See, for example: Concluding comments of the Committee on the Elimination of Discrimination against Women: Kenya, UN Doc. CEDAW/C/KEN/CO/6, 10 August 2007; Concluding observations of the Committee on the Elimination of Discrimination against Women: Zimbabwe, UN Doc. CEDAW/C/ZWE/CO/2-5, 1 March 2012; Concluding observations of the Committee on the Elimination of Discrimination against Women: Samoa, UN Doc. CEDAW/C/WSM/CO/4-5, 27 July 2012.

- Express concern that registration of land to male ‘heads of household’ discriminates against women (Mongolia, 2008, Sri Lanka 2011).
- Express concern over lack of comprehensive data on women’s land rights, and their de facto ability to access and control land, and encourage States to collect and provide such data (Uzbekistan, 2010).
- Urge States to strengthen initiatives aimed at encouraging sustainable economic empowerment of women, including the promotion of women’s access to land and credit (Nepal, 2011; Côte d’Ivoire, 2011), and call upon States to take the necessary measures to increase and strengthen the participation of women in designing and implementing local development plans, and to pay special attention to the needs of rural women, by ensuring that they participate in decision-making processes and have improved access to fertile land (Kenya, 2011; South Africa, 2011; Chad, 2011; Republic of Korea, 2011).
- Call upon States to eliminate all forms of discrimination with respect to ownership, co-sharing and inheritance of land (South Africa, 2011; Chad, 2011), establish a clear legislative framework to protect women’s rights to inheritance and ownership of land (Kenya, 2011; Zambia, 2011), and introduce measures to address negative customs and traditional practices, especially in rural areas, which affect full enjoyment of the right to property by women (Kenya, 2011; South Africa, 2011). To this end, the Committee can also urge States to use “innovative measures” to strengthen understanding of the equality of women and men, including their equal rights to participate in public life and decision-making, own land and livestock (Ethiopia, 2011).
- Underscore the importance of ensuring outreach of agricultural programmes and extension services to women (Ghana, 2006; Kenya 2007; Tanzania, 2008).
- Call upon States to disseminate information on women’s land rights and ensure legal literacy and legal support to enforce rights (Namibia, 2007; Kenya 2007; Tanzania, 2008; Cameroon, 2009).
- Call upon States to adopt positive measures/ ‘a comprehensive strategy’ to address negative customs and traditional practices, especially in rural areas, which affect full enjoyment of the right to land and property by women (Uganda, 2010; Bangladesh, 2011; Kenya 2011; Chad, 2011; Zimbabwe, 2012; Samoa, 2012; Comoros, 2012; Equatorial Guinea, 2012), and call upon States to adopt temporary special measures to accelerate the advancement of women’s land ownership and expand access by women to land (Nepal, 2011; Côte d’Ivoire, 2011; Mexico, 2012).

### **Suggested Content for the General Recommendation on the Rights of Rural Women**

In addition to the recommendations made above, the General Recommendation on the Rights of Rural Women is also an important opportunity to express grave concern over the current situation wherein, in many parts of the world, rural women’s basic rights to land,

housing and property continue to be systematically denied on the basis of gender. These rights are denied in law, as well as in practice, undermining rural women's equality and economic empowerment, as well as stifling national development. Rural women's inability to access, use and control land, housing and property on an equal basis with men entrenches women's poverty and relegates women to a subjugated position.

States should be encouraged first and foremost to bring their national legal frameworks in line with their international human rights obligations under the Convention on the Elimination of All Forms of Discrimination against Women. In doing so, States should comprehensively review national legislative and policy frameworks related to land, housing and property, repealing and/or amending any provisions, policies or laws which discriminate against women and/or girls. States should also specifically address the needs of pastoralist women, indigenous women, and fisher women, and ensure that women are protected against the negative impacts of large scale agricultural investments and/or land purchases.

States should be called upon to eliminate discrimination against women and girls in all matters related to inheritance, such that they are able to benefit from inheritance on equal footing with men and boys. States should ensure that the application of customary law and practice does not interfere with the basic right of women and girls to gender equality, including in matters related to land, housing and property, including vis-à-vis inheritance.

States should consider the particular obstacles faced by women and girls with regard to land and housing tenure and associated tenure rights and take measures to ensure that legal and policy frameworks provide adequate protection for women and that laws that recognize women's tenure rights are enacted, enforced and implemented. States should ensure that women can legally enter into contracts concerning land and housing tenure rights on basis of equality with men and should strive to provide legal services and other assistance to enable women to defend their tenure interests.

States should also recognize women's joint ownership of marital property and automatic possession of the marital home upon the death of a spouse, and recognize women's indirect contributions to the acquisition of property.

With respect to customary law, States should review and redress discriminatory aspects of customary laws and strengthen those aspects of the law that protect the rights of women. This should be done in consultation with ministries of justice and of women, traditional leaders and grassroots women's organizations. States should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's rights.

States should also raise awareness about women's land, housing and property rights amongst targeted audiences, including traditional, religious and customary leaders; law-makers; lawyers, legal advocates, and members of the judiciary; law enforcement authorities; housing authorities and administrative personnel; gender ministries; and those engaged in the development and/or implementation of land policy and/or land reform.

States should also be called upon to provide legal empowerment services for women which enable them to access justice effectively and support women's legal organizations in this

regard. States should ensure that concrete remedies are available for women who suffer violations of their land, housing and property rights, including reinstatement of property and compensation, and provide/fund legal services for women. States should support and implement land governance and land reform programs that prioritize women's participation and give women equal rights with men over land. States should also provide mechanisms to enforce those rights, and provide concrete remedies when those rights are violated.

On HIV, States should be encouraged to address within national HIV/AIDS strategies women's inequality and gender-specific vulnerability to HIV/AIDS, specifically allocating resources to programs that increase women's access to land, housing and property.

On climate change, States should take steps aimed at mitigating the detrimental impacts of climate change and the resulting negative effects on land as well as to ensure that any climate change mitigation strategies are grounded in the human rights framework and do not otherwise harm access to, use of and control over land.

It is also an important opportunity to express serious concern over the recent growth in land-grabbing and the sale of formerly communal lands to foreign investors, which has made rural women's access to land even more difficult, and also jeopardizes directly their rights to adequate housing, water and sanitation, food, and health. [States can play vital role in regulating access to land by foreign entities and prohibiting forced evictions that are contrary to international law. In addition, where the land-grabbing or forced evictions are conducted by foreign corporate entities, the State in which the entity is domiciled, has an important role to play in regulating the extra-territorial conduct of these entities and ensuring they are held to the same human rights standards as in their domiciled State.<sup>34</sup>

Finally, the General Recommendation on the Rights of Rural Women is also an important opportunity to welcome the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security and their inclusion of gender equality as a fundamental principle of implementation.

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<sup>34</sup> Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights, 29 February 2012.