

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

Uganda, 55th Session (01 Jun 2015 - 19 Jun 2015)

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22 April 2015

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I. INTRODUCTION

In Uganda, unequal access to land is one of the most important forms of inequality between men and women. The Beijing Conference held in 1995 re-engineered the debate on women’s rights around the globe, and in Uganda, in particular. Over the last two decades, efforts have been made towards incorporating women’s rights into Uganda’s national Laws, policies and programs. As a result, the 1995 Constitution of Uganda, the Land Act Cap 227, and the National Land Policy provide very progressive laws and policies promoting women’s land rights and eliminating the discrimination against women.

Uganda is a party to several human rights conventions, including the International Covenant on Economic, Social, and Cultural Rights. The Covenant was ratified in Uganda on January 21, 1987.¹ These international instruments guarantee women the right to own and inherit land, be treated as equals to men, and the adequate access to food. Women in Uganda are entitled to (land) rights stipulated in these international instruments as well as under the Constitutional and other statutory laws. However, since Uganda lacks an effective mechanism to implement these laws and policies and a method of monitoring to ensure that these laws and policies are being enforced and upheld, women are being denied fundamental human rights guaranteed to them by the laws and policies of Uganda and the Articles of the Covenant. Efforts at statutory reforms to increase legal protection of women’s rights, as enshrined in the Constitution, have encountered lack of political will and resistance from those who wield the religious and culturists’ cards, in contradiction to Constitutional provisions.

Section XXVIII(i)(b) of the Constitution requires Uganda to respect international law and treaty obligations.² The general rules and principles of the Covenant shall conform to the laws and policies of Uganda. Chapter 19, Article 287 of the Uganda Constitution provides that any international treaty, agreement, or convention that the State was a party to before the implementation of the 1995 Constitution will not be affected and Uganda

¹ United Nations Committee on Economic, Social, and Cultural Rights, Uganda State Party Report (2012)

² Constitution of the Republic of Uganda, 1995, Article XXVIII(i)(b): (i) The foreign policy of Uganda shall be based on the principles of— (b) respect for international law and treaty obligation

will continue to be a party to it.³ Therefore, the Articles of the Covenant may be applied by the courts, tribunals, administrative authorities, or any other competent authorities that are a part of the legal system of Uganda.

This report is a joint submission with the Center for Economic, Social and Cultural Rights in Africa (CESCRA), the Global Initiative for Economic, Social, and Cultural Rights (GI-ESCR), the International Human Rights Clinic at Western New England University School of Law, and the Uganda Land Alliance (ULA). It highlights the main issues in which currently affect women's land rights in Uganda: negative customary practice, forced eviction, and food security. The laws and policies of Uganda are referenced in comparison to how these rights of women are actually respected. This report also discusses the concern of a lack of awareness of Ugandan women of the land rights, to which they are guaranteed, as well as the lack of implementation and an effective monitoring system of the laws and policies of Uganda.

II. ARTICLE 2(2) AND ARTICLE 3 – NON-DISCRIMINATION AND EQUALITY

Discrimination on the basis of sex is a major problem in many parts of the world, including Uganda.⁴ The principles of non-discrimination and equality are prevalent throughout the ICESCR and are essential to exercise the enjoyment of economic, social and cultural rights.⁵ Article 2(2) of the ICESCR requires State parties to guarantee the rights of the Covenant be exercised with non-discrimination of any kind, including based on sex.⁶ Article 3 of the ICESCR requires State parties to ensure that men and women be treated equal in order to enjoy all of the economic, social, and cultural rights guaranteed by the Covenant.⁷ The 1995 Constitution explicitly treats men and women equally (Article 26(1), 31(1), 33). The Land Act further addresses the rights and role of women in Land matters (S. 27, 38A, 39). These provisions are aimed at protecting spouses on family land, giving them the right to access which includes use and security of

³ Constitution of the Republic of Uganda, 1995, Chapter 19, Article 287: International agreements, treaties and conventions - Where— (a) any treaty, agreement or convention with any country or international organisation was made or affirmed by Uganda or the Government on or after the ninth day of October, 1962, and was still in force immediately before the coming into force of this Constitution; or (b) Uganda or the Government was otherwise a party immediately before the coming into force of this Constitution to any such treaty, agreement or convention, the treaty, agreement or convention shall not be affected by the coming into force of this Constitution; and Uganda or the Government, as the case may be, shall continue to be a party to it.

⁴ The term “sex” includes more than just physiological characteristics; it also includes the social construction of gender stereotypes, prejudices, and expected roles, all of which have created great obstacles for the equal fulfillment of economic, social, and cultural rights.

⁵ *Id.*

⁶ Article 2(2) of the International Covenant on Economic, Social, and Cultural Rights: The State Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without any discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

⁷ Article 3 of the International Covenant on Economic, Social, and Cultural Rights: The State Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social, and cultural rights set forth in the present Covenant.

occupancy, but not equal ownership and control. In Uganda, custom, tradition, and overt discrimination create a lesser status for women and prevent them from equally enjoying their human rights. Under customary practices, women are being discriminated against and being treated unequally to men in violation of both Article 2(2) and Article 3 of the ICESCR.

Despite the protections provided under law, many women face challenges in realizing their rights. Due to a lack of education and cultural factors, many women are unaware of the rights they have. Government and different organizations have come up with plausible measures to create awareness through mobilization and sensitization however owing to the schedules these activities are given, women who need these activities the most benefit from it the least. Even those who know of their rights in a general sense do not know the details of the laws and policies protecting them, or where they can turn to vindicate those rights.⁸ For example CESCRA has demonstrated in its work with grassroots women that women, in areas where the discovery of oil and gas has increased land related conflicts and violations, lack of knowledge of laws and general understanding of their rights. This situation has increased women's vulnerability to unequal decisions in unprecedented land sales where their spouses have sold land and left their families landless, Government-driven compensations for compulsorily acquired lands for oil refinery ignore women's specific inequalities and violations related to unequal compensations left women more prone to other violations.⁹

Article 2(2) and Article 3 are appropriately applied together since the principle of equality and the principle of non-discrimination are complimentary. Under international law, a State's failure to act in good faith to comply with the Articles of the Covenant amounts to a violation.¹⁰

Uganda must eliminate both formal and substantive discrimination in order to guarantee that the Covenant rights are exercised appropriately.¹¹ Eliminating formal discrimination requires a State to ensure that its Constitution, laws, and policies are not discriminatory.¹² Eliminating substantive discrimination requires a State to pay attention to groups that are being discriminated against and adopt appropriate measures to prevent, diminish, and eliminate the conditions that cause discrimination, such as ensuring that all individuals have equal access to adequate food, housing, and land.¹³ Uganda's laws and policies prohibit discrimination and therefore eliminate formal discrimination. However, Uganda lacks an effective mechanism and monitoring system to implement these laws and policies to ensure they are systematically respected. Exceptions still exists where Uganda has failed to repeal laws found unconstitutional on grounds that they fostered

⁸ *Women's Land Link Africa: The Impact of National Land Policy and Land Reform on Women in Uganda* (2010)

⁹ Experiences from areas around Kabale, Kyangali and Kabwoya in Hoima District and Ngwedo and Buliisa Town Council in Buliisa District in Bunyoro oil region by Centre on Economic Social Cultural Rights in Africa (CESCRA), 2015.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

discrimination, such as the Succession Act which discriminated women on grounds of inheritance and distribution of property. Widows in Uganda continue to be deprived of property due to persistent disinheritance practices and lack of strong legal basis to protect them.¹⁴ In addition, Uganda has failed to date to pass the proposed Marriage and Divorce Bills which would rather increase legal protection of property rights of women in, during and after marriage. The Bill on Marriage also sought to protect property rights of women found in unrecognized forms of marriages (co-habiting). This was raised by the CEDAW concluding observations in 2010, but still Uganda has shown no will to pass the laws.

Discrimination can occur directly or indirectly. Direct discrimination occurs when a difference in treatment relies explicitly and directly on distinctions based exclusively on sex or other characteristics, which cannot be justified objectively.¹⁵ Indirect discrimination occurs when a law or policy appears to be non-discriminatory but has a discriminatory effect when implemented.¹⁶ Pre-existing inequalities can disadvantage women in enjoying a particular right, and enacting and applying a gender-neutral law may leave the inequality in place or worsen it.¹⁷ For example, discrimination can occur due to a conflict between the land rights as enshrined in the law and the manner in which land is transferred under a customary tenure regime. Women of Uganda also face indirect discrimination. Although the laws of Uganda are nondiscriminatory on their face and guarantee women equal rights to men, a failure in implementation makes the gender equality an unrealized ideal.

Uganda has legal obligations to respect, protect, and fulfill under the ICESCR to ensure that women are able to enjoy human rights equally to men.¹⁸ In applying Article 3 of the ICESCR, both *de facto* and *de jure* equality are essential in order for international human rights treaties to guarantee rights of non-discrimination and equality.¹⁹ *De jure* (formal) equality expects that a law or policy treating men and women in a neutral manner will foster equality.²⁰ *De facto* (substantive) equality expects that the effects of laws and policies that alleviate rather than maintain the inherent disadvantage that particular groups, including women, experience.²¹ Simply enacting laws and policies that appear to be gender-neutral will not achieve substantive equality.

The 2013 Uganda National Land Policy states that the Government shall “by legislation protect the right to inheritance and ownership of land for women and children” and shall “ensure that both men and women enjoy equal rights to land before marriage and at

¹⁴ LAW and Advocacy for Women in Uganda Vs Attorney General of Uganda, Constitution Petition Number 13/05/&/05/06

¹⁵ Committee on Economic, Social, and Cultural Rights, General Comment No. 16, Article 3: the equal right of men and women to the enjoyment of all economic, social, and cultural rights (2005)

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

succession without discrimination.”²² The Policy is however silent on measures to be taken so as to protect women’s land rights vis-à-vis cultural norms and practices. The 1995 Uganda Constitution ensures gender balance and fair representation of marginalized groups, such as women²³ and that cultural values that promote and enhance the dignity and well being of Ugandans shall be preserved.²⁴ All Ugandan citizens have the Constitutional guarantee to be free from discrimination.²⁵ Women are also expressly guaranteed to be treated equal to men and Uganda is required to “provide the facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential and advancement”, and “protect women and their rights.”²⁶ The Ugandan Constitution upholds the customary land tenure system regime²⁷, and on its face seems like a gender-neutral provision by stating that land belongs to “all citizens of Uganda.”

In effect, however, these customary practices actually discriminate against women and create a vast inequality between women and men as well as violating other provisions of the Constitution. The National Land Policy recognized customary land tenure to be at per or same level with other tenure systems in Uganda. Paragraph 41 (iV) provides for joint ownership of family lands and Para. 42 (iii) obligates traditional land management institutions to uphold gender equity. However, in practice Uganda has faulted in setting standards while compensating families whose land has been compulsorily acquired for development project, such as the oil refinery in Hoima District where monetary compensation was given to ‘heads of family’ who are largely male spouses, thereby facilitating discrimination against women. In addition, the Government also gave

²² The Uganda National Land Policy, Chapter 4.10, Article 65, Land Rights of Women and Children; Policy Statements (2013): 65(a) Government shall by legislation protect the right to inheritance and ownership of land for women and children; b) Government shall ensure that both men and women enjoy equal rights to land before marriage and at succession without discrimination

²³ Constitution of the Republic of Uganda, 1995, Article VI: Gender balance and fair representation of marginalised groups. - The State shall ensure gender balance and fair representation of marginalized groups on all constitutional and other bodies.

²⁴ Constitution of the Republic of Uganda, 1995, Article XXIV(a): Cultural objectives. - Cultural and customary values which are consistent with fundamental rights and freedoms, human dignity, democracy and with the Constitution may be developed and incorporated in aspects of Ugandan life. The State shall— (a) promote and preserve those cultural values and practices which enhance the dignity and well-being of Ugandans

²⁵ Constitution of the Republic of Uganda, 1995, Chapter 4, Article 21(1-2): Equality and freedom from discrimination. - (1) All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law. (2) Without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.

²⁶ Constitution of the Republic of Uganda, 1995, Chapter 4, Article 33(1-3): Rights of women - (1) Women shall be accorded full and equal dignity of the person with men. (2) The State shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential and advancement. (3) The State shall protect women and their rights, taking into account their unique status and natural maternal functions in society.

²⁷ Constitution of the Republic of Uganda, 1995, Chapter 15, Article 237(3): Land Ownership. - Land in Uganda shall be owned in accordance with the following land tenure systems— (a) customary; (b) freehold; (c) mailo; and (d) leasehold

monetary compensation on production on lands to ‘heads of families,’ yet it is women who predominantly use land for agriculture.

The Land Act of 1998²⁸ defines customary tenure as “a system of land tenure regulated by customary rules which are limited in their operation to a particular description or class of persons.”²⁹ The Ugandan customary tenure regime is the most common, and therefore the most problematic. Under this regime, land is governed by rules generally accepted as binding and authoritative by the class of persons to which it applies and applicable to any persons acquiring land in that area in accordance with those rules.³⁰ The Ugandan Constitution and the Land Act³¹ recognize four land-holding and tenure systems—freehold, *mailo*, leasehold and customary—each with its own rules and each bestowing different rights and responsibilities on concerned individuals.³² Customary tenure represents the vast majority of landholdings in Uganda - more than 80 percent of land is held under these systems that fail to document ownership³³ and often prevent women from exercising their right to own and inherit land.³⁴

As a result of inequalities entrenched in history, cultural practices and some laws, women have not been able to enjoy their rights to land at the same level as men. Indeed, 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.”³⁵ Substantial land rights issues occur in the rural communities of Uganda since this is where the majority of women reside.³⁶ Land in rural communities “is not just a source of employment – it is money, food, home, and survival.”³⁷ However,

²⁸ The Land Act of 1998, Chapter 227, Article 3: Incidents of forms of tenure - (1) Customary tenure is a form of tenure— (a) applicable to a specific area of land and a specific description or class of persons; (b) subject to section 27, governed by rules generally accepted as binding and authoritative by the class of persons to which it applies; (c) applicable to any persons acquiring land in that area in accordance with those rules; (d) subject to section 27, characterised by local customary regulation; (e) applying local customary regulation and management to individual and household ownership, use and occupation of, and transactions in, land; (f) providing for communal ownership and use of land; (g) in which parcels of land may be recognised as subdivisions belonging to a person, a family or a traditional institution; and (h) which is owned in perpetuity.

²⁹ *Focus on Land in Africa Brief; Uganda; Lesson 4: Women and Customary Land Rights* (2011)

³⁰ *Id.*

³¹ The Land Act of 1998, Chapter 227, Article 2: Subject to article 237 of the Constitution, all land in Uganda shall vest in the citizens of Uganda and shall be owned in accordance with the following land tenure systems— (a) customary; (b) freehold; (c) *mailo*; and (d) leasehold.

³² *Id.* at note 28

³³ *Id.*

³⁴ Uganda Third Periodic Report, CEDAW Exceptional Session – 5 to 23 August 2002

³⁵ 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.

³⁶ *Id.* at note 28

³⁷ [The Women and Land Studies; Uganda; Gender, Land, and Rights: Contemporary Debates in Law, Policy, and Practice in Uganda; Bikaako, Winifred.](#)

significant disparities between the rights of men and women arise from Ugandan customary practices and traditions because women are considered in an inferior position to men.³⁸

For example, the right to land of women of the rural Buganda and Ankole societies is directly related to the institution of marriage.³⁹ A married woman with children, preferably male children, has more security in her husband's land than a married woman who has no children.⁴⁰ Custom denies women the independent right to own land in the communities of the rural Banyankore and Baganda societies.⁴¹ The Ugandan women in the rural Acholi, Langi, and Ietso societies have significant land rights under customary tenure regimes, but few actually realize and benefit from these rights.⁴² Even though the land passes from father to son because the families are considered to own the land instead of clan individuals, any member of the clan born on inherited land has the right to use the land.⁴³ When a woman marries, she has the right to her husband's land and cannot be denied access.⁴⁴ Although women derive secondary rights through marriage, upon divorce they often lose these rights and are rendered landless. The recourse they have is in their family land which is subject to consent of the father and male brothers. Clan elders are responsible in ensuring that everyone has equal access to land but are failing at their duty to protect the rights of all its members.⁴⁵ Yet the women in these communities face great challenges because the clan elders often fail to protect their rights.

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.⁴⁶ While the Constitutional Court has declared discriminatory provisions of the Succession Act as unconstitutional, the Government is yet to amend the Act so as to bring it into full compliance with the Constitution and its international human rights obligations.⁴⁷

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ 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.

⁴⁷ 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.

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.

In rural Uganda, customary marriage - a practice that is guided by the traditions and practices of the community - is typically unregulated by the national legal statutes and is still the norm.⁴⁸ The Customary Registration Act of 1973 governs customary marriages, but is silent on the issue of inheritance and property rights.⁴⁹ Though unmarried women have the same rights of inheritance as their brothers, there is no event that will trigger the allocation of land to an unmarried woman.⁵⁰ Women also face challenges, especially with respect to divorce or abandonment, when they return to their natal families to access land. Under customary law, a divorced woman must return to her maiden home.⁵¹ A woman must rely on receiving land allocation either from her parents if they are still alive and have any remaining land to give, or from her brother(s), and also faces the challenge of her brother(s) forcing her off any land that is allocated to her.⁵² The Succession Act of 1972 governs inheritance rights in Uganda, but is quite vague on the issue of women's rights. Although customary law allows a widow to remain on her husband's land, her rights to remain there are often contested by her in-laws, resulting in the threat (or occurrence) of a widow being forced off the land to which she is rightfully entitled.⁵³

When customary land is bought and sold in Uganda, the Government does not require the sale to be registered or documented in any way.⁵⁴ This creates a disadvantage for women because their rights over land and natural resources are subordinate to those of men. For example, daughters typically do not inherit land or inherit much less than sons.⁵⁵ The land women are "gifted" by their parents is often given over to their brothers when daughters marry because they are seen to be "leaving their natal family and transferring to the community of their husbands."⁵⁶ However, once they are married, women are not

⁴⁸ *Women, Marriage, and Asset Inheritance in Uganda*, Doss, Cheryl; Nabanoga, Gorrettie; Namaalwa, Justine; Truong, Mai (2011)

⁴⁹ Customary Registration Act of 1973

⁵⁰ *Understanding and Strengthening Women's Land Rights Under Customary Tenure in Uganda*, Adoko, Judy and Akin, Jeremy (2011)

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

considered full citizens of their husband's community and married women can only typically access land through their husbands.⁵⁷

CESCRA found out that when families decide buy customary unregistered land, male spouses refuse to include the names of their spouses (wives) on the informal agreements and if they do they confine their spouses to only as witnesses which stems from the role legally relegated to female spouses under the Consent clause in the land Act 1998. For example, then the husband of Ms. Atwijukire Harriet of Kyangwali in Hoima District refused to include her in his agreement of purchase of land, she also informed elders that she would work hard and purchase her own piece of land in her name of which they agreed and she now owns her own land over which she has control, and her husband is fine with the arrangement. Very few women have negotiation power like that, even where they can also work hard to get the funds to buy land. CESCRA also received cases where women would buy land from their own saving, but their spouses force them to make agreements in their names as heads of the family. Ms. Kyalikunda Jovia also in Kyangwali in Hoima district told CESCRA that when she got married, her father in-law gave her a piece of land to own in her name. However, her brother claimed the land, sighting that it was part of bride wealth paid to her natal family. Ms. Stella Kokunda inherited a piece of land from her mother, but her father has since claimed it on grounds that she had no right to continue owning the land after she got married. Such practice demonstrates how women in face of negative cultural practices are powerless to claim their land rights. The Ugandan Government has not done enough to increase legal and social knowledge on women's land and property rights especially among the rural communities.

Even if a woman is given a plot of land to farm on, she tends to have limited decision-making authority, if any, over the land.⁵⁸ Losing access to land causes women to live lives of destitution and social isolation, a threat that causes many women to accept subordinate status to their husbands or in-laws.⁵⁹ Approximately 23 percent of all households in Uganda are headed by women who are at risk of being denied access to land by their relatives who are trying to lay claim to the land.⁶⁰ When challenged by people of higher status, such as husbands or in-laws, women are often unable to protect their land rights because clan elders are unable to uphold their duty under traditional customary law to protect women.⁶¹

Felitus Kures, a widow living in Kapchorwa, relied on the small piece of land on which her and her husband farmed together in order to meet the essential needs of providing for her and her children.⁶² Within months after her husband's death, Kures' in-laws sold the piece of land without her knowledge.⁶³ Fortunately, she was able to regain access to the

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² [Africa Renewal Article, Women struggle to secure land rights; Hard fight for access and decision-making power; Kimani, Mary \(2012\).](#)

⁶³ *Id.*

land with the assistance of the Uganda Land Alliance, but this is not the case for most Ugandan women.⁶⁴ After the divorce or death of a spouse, the majority of women never regain access to their matrimonial land.⁶⁵

Another widow, Beatrice, was forced to leave their rented home she shared with her husband after his death.⁶⁶ She then attempted to return to the village where her husband had previously owned a home, but was devastated to learn that her in-laws had already sold the home and property and kept the profits for themselves.⁶⁷ When Beatrice tried to regain ownership of the land, she was denied access because she had no rights as a widow under the customary tenure regime.⁶⁸

Similarly, Santa was a widow who lost her land after the death of her husband. Her brother in law divided land, leaving Santa with no garden to dig. After several years of suffering one radio program focusing on widows land rights by Uganda Land Alliance totally changed her life after her land that had been grabbed was handed back to her.

Another major concern is that many men in Uganda sell family land without informing their wives or obtaining their consent, and use the proceeds from the sale for their own personal benefit.⁶⁹ The Land Act provides that no person shall “sell, exchange, transfer, pledge, mortgage or lease any land on which the person ordinarily resides with his or her spouse and from which they derive their sustenance, except with the prior written consent of the spouse.”⁷⁰ The “consent clause” is designed to protect the rights of family members from abuse.⁷¹ As a result, the sale of land by a husband without the written consent of his wife is legally invalid. However, no authority in central or local Government has the explicit responsibility to verify written spousal consent of land sales, resulting in considerable land sold without spousal consent, including customary land.⁷²

In implementing Article 2(2) and Article 3, Uganda must consider that their laws and policies may fail to address, or may even create, inequality amongst men and women because the existing economic, social, and cultural inequalities experienced by women are not being taken into account.⁷³ Property status is a prohibited ground of discrimination under Article 2(2) of the ICESCR.⁷⁴ Article 3 requires Uganda to respect the principle of equality “in and before the law”, which means that it must be respected

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ [*Women's Land Rights in Uganda; Dreisbach, Rose \(2013\).*](#)

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ The Land Act of 1998, Chapter 227, Article 39(1)(c)(i): Restrictions on transfer of land by family members. (1) No person shall— (c) give away any land inter vivos, or enter into any other transaction in respect of land— (i) in the case of land on which the person ordinarily resides with his or her spouse and from which they derive their sustenance, except with the prior written consent of the spouse.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

when enacting laws and adopting policies.⁷⁵ Failure to ensure formal and substantive equality in enjoying human rights between men and women and allowing discrimination against women to occur are blatant violations of Article 2(2) and Article 3.

III. ARTICLE 11(1) LAND GRABBING AND FORCED EVICTION

Land grabbing and forced evictions are one of the major threats to tenure security. It is a violation not only of one's right to property but of the right to housing, life and a host of other related rights. 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.⁷⁶ Most Ugandans live in rural areas and are dependent on agriculture for their daily survival.⁷⁷ 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.⁷⁸ Advocates in Uganda have noted that land acquisition for investments are characterized by human rights abuse and violation, lack of transparency in negotiations, inefficiency in resource use, and environmental degradation.

As in many countries in the East African region, Uganda suffers from high gender inequality and is currently ranked 116th out of 146 countries on the Gender Inequality Index.⁷⁹ At present, women provide "70-80% of agricultural labor and 90% of all labor involving food production in Uganda, yet own just a fraction of the land with figures varying between 7% and 20%."⁸⁰ This presents a major issue that disproportionately affects women. This concern of land rights presents other issues for women including forced evictions, land grabbing, food security and land tenure. Each of these specific issues individually and collectively violate the human rights of women.

The rights of land ownership among indigenous communities in Uganda are both recognized and protected by Uganda's Constitution.⁸¹ Additionally, in situations where

⁷⁵ *Id.*

⁷⁶ 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.

⁷⁷ Think Africa Press, 'Law of the Land: Land Grabs Threaten Local Livelihoods in Uganda,' 28 November 2012.

⁷⁸ *Id.* See also: Milieudefensie, '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.

⁷⁹ *Uganda: The Fight for Women's Land Rights*; Lewis, Phillipa (2012)

⁸⁰ *Id.*

⁸¹ Committee on Economic, Social, and Cultural Rights, General Comment No. 21, Right of everyone to take part in cultural life (Art. 15, para. 1(a) of the International Covenant on Economic, Social, and Cultural Rights) (2009)

land has been acquired by force, adequate compensation for such land has to be made to individuals and communities affected by such acquisition.⁸² Lack of access or rights to land usually results in economic insecurity.⁸³ The international community for many years has viewed forced eviction as a very serious issue and a gross violation of human rights.⁸⁴ Article 11(1) of the ICESCR provides for the right to adequate housing and State parties are required to recognize, grant and protect this right.⁸⁵ The right to housing should not be interpreted in a narrow or restrictive sense, rather it should be seen as the right to live somewhere in security, peace and dignity. As provided in the Committee's General Comment No. 4, one of the key features of the right to adequate housing is security of tenure. All persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.

Under customary ownership, "land is held in trust by the family, for all past, present and future generations, with the current adult occupants responsible for managing it, in the role of trustees."⁸⁶ Over time, the roles of managing the land and actual individual legal ownership of the land have become confused.⁸⁷ Trustees have taken on the role of ownership and women's ownership of the land has been weakened by the individuals who have been appointed to "manage" the land through various events.⁸⁸

Prior to current policies, land was obtained by communities and families by fighting for territory, this resulted in weaker groups losing their land, including women, children, elderly, and the disabled.⁸⁹ Women and children are more likely to lose land to individuals with more physical strength (such as their male counterparts) as well as individuals with more exclusive status (such as corporations and wealthier individuals) and are therefore more vulnerable to land grabbing.⁹⁰ Male family members, the educated, business owners, and the politically influential are usually the land grabbers.⁹¹

Land grabbing is a direct violation of Uganda's Constitution, Chapter 4 of the Ugandan Constitution assures that women have equal rights to men.⁹² Additionally, Articles 31-33, provide for equality between women and men in acquiring and holding land⁹³

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Committee on Economic, Social, and Cultural Rights, Cultural Rights, General Comment 7: Forced Eviction and the Rights to Adequate Housing (1997)

⁸⁵ Article 11(1) of the International Covenant on Economic, Social, and Cultural Rights: 1- The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ Constitution of the Republic of Uganda, 1995, Chapter 4, Article 26: Protection of property - (1) Every person has a right to own property either individually or in association with others. (2) No person shall be compulsorily deprived of property or any interest in or right over property of any description except where

Displacement of land is done on a larger scale in the form of land grabbing. Land grabbing occurs when individuals and/or local communities are displaced from the land that they previously owned and such land is sold to outside investors including Governments and corporations.⁹⁵ In addition, land grabbing also occurs in order to produce commodity crops that are later sold to the overseas market, including food items, agro fuel, and coffee.⁹⁶ Land grabbing is a violation of the rights granted by the ICESCR, the Ugandan Constitution and the various land policies that are in place. Communities are being displaced and losing critical access to natural resources, including land for farming, firewood, forest products and in some places, water supplies.⁹⁷

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.”⁹⁸ 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.”⁹⁹

the following conditions are satisfied— (a) the taking of possession or acquisition is necessary for public use or in the interest of defense, public safety, public order, public morality or public health; and (b) the compulsory taking of possession or acquisition of property is made under a law which makes provision for— (i) prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property; and (ii) a right of access to a court of law by any person who has an interest or right over the property.

⁹⁴ Constitution of the Republic of Uganda, 1995, Chapter 4, Article 31 Rights of the family - (1) Men and women of the age of eighteen years and above have the right to marry and to found a family and are entitled to equal rights in marriage, during marriage and at its dissolution. (2) Parliament shall make appropriate laws for the protection of the rights of widows and widowers to inherit the property of their deceased spouses and to enjoy parental rights over their children.

⁹⁵ National Association of Professional Environmentalists; *A Study on Land Grabbing Cases In Uganda*; (2012)

⁹⁶ *Id.* Land grabbing is not a new phenomenon. For centuries, communities have been intimidated to abandon – or have been forcibly removed from – their land. However we are now witnessing a new aggressive land grab, driven by high food prices and growing global consumption, with multinational corporations, often in partnership with Governments, seizing the land. As a consequence, peasants, herders, fishers and rural households are being dispossessed of the means to feed themselves and their communities, local populations are being evicted and displaced, human rights are being violated, and the environment, as well as traditional community structures, is being destroyed.

⁹⁷ *Id.*

⁹⁸ 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: 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.

⁹⁹ 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>

In 2000, the Ugandan Government launched its Plan for Modernization of Agriculture (PMA) in 2000.¹⁰⁰ The overarching goal of this program was to eradicate poverty through “a profitable, competitive, sustainable and dynamic agricultural and agro-industrial sector,” to be achieved primarily through the conversion of subsistence farming into commercial agriculture.¹⁰¹ Coffee has become the focus of the PMA policy, it accounts for up to 30 percent of Uganda’s export revenue.¹⁰² In addition to the Government’s PMA policy, the Government has also allowed foreign companies to move onto large areas of land for a variety of reasons (including drilling), due to the recent discovery of oil, development of palm plantations, and carbon offset tree plantations.¹⁰³ These projects are taking place in western, eastern and central Uganda. One development in particular is the Kalangala palm oil project which is being developed as part of a Government program; supporters of this program are the International Fund for Agricultural Development (IFAD) and the World Bank.¹⁰⁴ The Kalangala oil palm project set a goal to plant 10,000 hectares (approximately 25,000 acres) of palm on Bugala Island in Kalangala district of Uganda. This particular district has a population of 20,000 people.¹⁰⁵ People residing in Kalangala district have reported that they have been denied access to multiple resources including land to which they possess title and aright to occupy.¹⁰⁶

Land grabbing is also present in the Bukaleba forest reserve where some 8,000 people from 13 villages were displaced with the goal to obtain carbon offsets. There was an unsuccessful land grabbing attempt of the Mabira Rain Forest which stretches across three districts. The Ugandan Government insisted that the area should be given to an investor. The Government however, was faced with strong resistance from the community as well as civil society organizations.¹⁰⁷ Another land grabbing incident involved the New Forest Company (NFC), a United Kingdom corporation. The NFC recruited the help of Government officials to evict 20,000 people from natural forest land in the Luwunga Forest Reserve. NFC’s goal was to clear the forest land and replace it with pine monoculture.¹⁰⁸

The Ugandan Government’s willingness to hand over land to wealthy corporations causes a disruption of customary way of life, displacing rural communities and affecting food

¹⁰⁰ FIAN Fact Sheet, Land grabbing in Uganda (2012)

¹⁰¹ [Plan for Modernisation of Agriculture: Eradicating Poverty in Uganda : Government Strategy and Operational Framework](#); Ministry of Agriculture, Animal Industry, and Fisheries (2000). The PMA is an outcome-focused set of principles upon which sectoral and inter-sectoral policies and investment plans can be developed at the Central and Local Government levels. The PMA is a crucial part of the Government’s Poverty Eradication Action Plan (PEAP) which is Uganda’s comprehensive development framework. In Uganda, the majority of the population lives in rural areas, is engaged in subsistence agriculture, and lives in poverty. Therefore, the interventions will seek to increase the productivity of factors of production in agriculture, to ensure food security, to create gainful employment, to increase incomes, and to improve the quality of life of those engaged in the agriculture sector.

¹⁰² *Id.* at note 96

¹⁰³ *Id.* at note 93

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

security. These various projects also cause damage to the land and environment. Furthermore, local communities get dispossessed of natural resource with a lack of judicial remedy to render the situation and restore land that is rightfully theirs. Land that was once used to feed villages and communities in rural areas are now being used to grow palm oil among other products. The recent compulsory acquisition by the Government of land for oil refinery in Hoima, and for road improvement and pipeline construction in Hoima and Buliisa Districts, has threatened the tenure security of communities who have occupied these lands for generations. Contrary to the intent of the National Land Policy 2013, the Government in its Resettlement Action Plan (which has also been shared with the World Bank that is supporting some of these development projects) only recognizes compensation of those with evidence of ownership. This makes customary tenure to be treated as lesser, and excludes those who have no documentation. Such projects of Government affect the land rights of women more as they reinforce existing discriminatory practices.¹⁰⁹ Even compensation of products on unregistered land benefits the ‘head of household’ who are seen as male, yet it women who are involved in crops growing. The choice of cash compensation also greatly disadvantages women since they are the ones who lose the right to food security when their spouses are left to solely to decide on how cash is to be spent.¹¹⁰

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.¹¹¹ 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.”¹¹²

IV. ARTICLE 11(2) – THE RIGHT TO ADEQUATE FOOD AND FOOD SECURITY

The right to adequate food is recognized under the ICESCR.¹¹³ Article 11(2) of the ICESCR requires State parties to guarantee its citizens the right to adequate food and to

¹⁰⁹ Albertine Region Sustainable Development Project (ARSDP), Resettlement Policy Framework (RPF), Volume 1, Final report November, 2013.

¹¹⁰ Global Rights Alert workshop report on women’s land and property rights in the context of oil and gas in Bunyoro region.

¹¹¹ M. Mercedes Stickler, ‘Governance of Large-Scale Land Acquisitions in Uganda: The role of the Uganda Investment Authority,’ Africa Biodiversity Collaborative Group, September 2012.

¹¹² *Id.* 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.

¹¹³ Committee on Economic, Social, and Cultural Rights, General Comment No. 12: The Right to Adequate Food (Art. 11)

take appropriate measures to ensure this occurs.¹¹⁴ The right to adequate food includes all necessary nutritional elements for one to live a healthy, active lifestyle and have the means to access them. The right to food “is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”¹¹⁵

In its General Comment 12, the CESCR affirms that the right to adequate food is essential in fulfilling other human rights.¹¹⁶ The ICESCR also explicitly requires that States take “whatever steps are necessary to ensure everyone is free from hunger and as soon as possible can enjoy the right to food.”¹¹⁷

Food must be available,¹¹⁸ accessible,¹¹⁹ and adequate.¹²⁰ Food should also be readily accessible to all who need it, including the physically vulnerable (i.e., children, sick individuals, elderly, individuals with disabilities).¹²¹

Food security exists “when people, at all times, have physical, social, and economic access to sufficient, safe, and nutritious food that meets their dietary needs and food preferences for an active and healthy life.”¹²² The Uganda Constitution requires the State: “to take appropriate steps to encourage people to grow and store adequate food, and “encourage and promote proper nutrition through mass education and other appropriate means in order to build a healthy State.”¹²³ Women also have the Constitutional guarantee to be treated equally to men as well as be provided with protection of their rights by the State.¹²⁴ When women are denied access to land, Uganda is failing to take

¹¹⁴ Article 11(2) of the International Covenant on Economic, Social, and Cultural Rights: 2- The State Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed: a- To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; b- Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

¹¹⁵ United Nations Office of the High Commissioner for Human Rights, *The Right to Adequate Food Fact Sheet No. 34*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ “Availability” requires that food be available through natural resources (i.e., cultivating land), through other ways of obtaining food (i.e., hunting, gathering, or fishing), or through the sale of markets.

¹¹⁹ “Accessibility” requires that food be guaranteed available through physical access and economic (affordable) means.¹¹⁹ People should be able to afford food without having to compromise any other basic needs (i.e., rent, medicine, school fees).

¹²⁰ “Adequate” food is food that satisfies dietary needs, taking into account one’s age, sex, and other living conditions.

¹²¹ *Id.*

¹²² *Id.*

¹²³ Constitution of the Republic of Uganda, 1995, Article XXII: Food security and nutrition.

The State shall— (a) take appropriate steps to encourage people to grow and store adequate food; (b) establish national food reserves; and (c) encourage and promote proper nutrition through mass education and other appropriate means in order to build a healthy State

¹²⁴ Constitution of the Republic of Uganda, 1995, Ch. 4, Article 33: Rights of women - (1) Women shall be

the appropriate steps guaranteed by the Constitution and the ICESCR to ensure food security amongst its citizens.

Uganda relies on the production of their basic food staples (i.e., matooke, sweet potatoes, cassava).¹²⁵ The majority of Ugandans live in rural areas and rely heavily on local agricultural food production. A major risk of food security in Uganda is the result of fluctuations in agricultural food production because very little of the food generally consumed is purchased.¹²⁶ The discrimination emanating from customary land tenure impacts food security for women since they face obstacles in holding and acquiring land on which they can grow food, both for their own consumption and for sale to produce an income.¹²⁷

Women are essential in achieving the three components of food security in Uganda. More often than not, women are the farmers cultivating food crops.¹²⁸ Women are the main providers of food, especially in rural areas.¹²⁹ Generally, women are also responsible for selecting and preparing food.¹³⁰ Currently three out of four women are agricultural laborers and nine out of ten women are food-producing laborers.¹³¹ It is from this much needed labor that food security is achieved and basic livelihood enjoyed. Despite the major role women play in food production, they only own less than 8 percent of the land.¹³²

The Ugandan Constitution recognizes the significant role women play in food security.¹³³ However, due to gender inequality and their lack of enjoyment of social and economic rights, women are often disproportionately affected by food insecurity.¹³⁴ When women are denied access to, or have limited access and limited control of land to farm on, it is impossible to achieve food security, and their fundamental human right to adequate food guaranteed to them under both the Uganda Constitution and Article 11 of the ICESCR is being violated.

Florence, a 40-year-old mother of three and a member of the Apedu tribe, has more than

accorded full and equal dignity of the person with men. (2) The State shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential and advancement. (3) The State shall protect women and their rights, taking into account their unique status and natural maternal functions in society. (4) Women shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities. (5) Without prejudice to article 32 of this Constitution women shall have the right to affirmative action for the purpose of redressing the imbalances created by history, tradition or custom.

¹²⁵ *Part 1: Monitoring Food Insecurity Using National Household Survey Consumption Data; Uganda: Gender Information Improves Food Policies and Programmes*; Ramasawamy, Seevalingum (2010)

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Women, Food Security, and Agriculture in a Global Marketplace*; Mehra, Rekha and Rojas, Mary Hill

¹³² *Id.* at note 28

¹³³ Constitution of the Republic of Uganda, 1995, Article XV: Recognition of the role of women in society - The State shall recognise the significant role that women play in society.

¹³⁴ *Id.* at note 110

two decades of farming experience.¹³⁵ Previously, she and her husband earned their income and received their food source from a garden adjacent to their home.¹³⁶ After her husband's death, her clan forced her to abandon both her home and garden.¹³⁷ As a result, she has faced a substantial decline in her standard of living since her husband's death.¹³⁸ This is just one example of how the lack of implementation of the laws, policies, and the Articles of the Covenant regarding women's land rights is negatively affecting the women of Uganda.

As stated in its 2010 Concluding Observations, CEDAW noted that even though women receive Constitutional protections in Uganda, mechanisms of implementation and enforcing these Constitutional provisions remain widely unknown and inaccessible to women.¹³⁹ By not having a mechanism for implementation of enforcement of both the Articles of the Covenant and the State's Constitutional provisions so women may freely exercise their right to own and inherit land and obtain food security, and a monitoring system to ensure the provisions are being enforced and upheld, Uganda is violating both its Constitution and Article 11 of the ICESCR by allowing for this discrimination against women to occur.

V. RECOMMENDATIONS

- Uganda has adopted progressive laws and policies that promote and ensure the equality of men and women and eliminate discrimination as a required legal obligation under the ICESCR. It should, however, also adopt the Marriage and Divorce Bill as a matter of priority. Likewise, the Government should also amend the discriminatory provisions of the Succession Act so as to bring it into conformity with Uganda's international human rights obligations. It should also take immediate steps to create an effective mechanism for implementing these laws and policies into society and develop a monitoring mechanism to ensure these laws and policies are in fact being enforced and upheld.
- Moreover, because customary tenure is a widespread practice in Uganda, addressing women's land rights under customary practices needs to be a priority. These customary practices also tend to override statutory laws in enforcing women's land rights, creating a conflict between statutory law and custom.¹⁴⁰ There are two

¹³⁵ Feed the Future, The U.S Government's Global Hunger and Food Security Initiative; *Case Study Profile, Florence, Uganda* (2012)

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ Convention on the Elimination of the Discrimination Against Women, 2010 Concluding Observations (Uganda)

¹⁴⁰ The Uganda National Land Policy, Chapter 4.10 Land Rights of Women and Children (2013): Land Rights of Women and Children. In Uganda women are generally unable to own or inherit land due to restrictive practices under customary land tenure or are not economically endowed to purchase land rights in the market. In general, customary practices in some areas of the country continue to override statutory law in recognition and enforcement of women's land rights, abating unnoticed land grabbing at the family level. Attempts to redress this situation by outlawing discriminatory cultures, customs, and practices on

solutions to this dilemma. Statutory law allows for women to own and inherit land, thus providing a much greater protection than traditional customary tenure regimes. Uganda can replace customary tenure regimes with a statutory system completely, or a reform of customary rules is needed so that they are implemented and enforced in a manner in which promotes and ensures a woman's right to own and inherit land. In order to strengthen Ugandan women's land rights, the best approach would be a combination of the two. Reform is needed both in the area of customary practices and formal legislation in a manner that ensures both complement and reinforce one another.

- To add an extra measure of protection for women's land rights, all customary land transactions should be documented and registered with the Government and also be registered in the name of both spouses, rather than the 'head of the household.'
- In the Uganda Third Periodic Report, CEDAW recommended that Uganda accelerate its law reform to conform with its Constitutional principles and policies which relate to the non-discrimination against women and the equality of women and men, and also to raise public awareness of the State party's commitment on both the international and national levels to eliminate the discrimination against women by introducing public education and legal literacy campaigns.¹⁴¹
- Uganda should implement human rights educational programs and programs to raise awareness on the necessity for equality between men and women and the elimination of discrimination. The promotion of the equality of men and women and the elimination of discrimination should also occur at all levels of society, all the way from grassroots individuals to the higher up officials, to ensure everyone is able to exercise the human rights that are guaranteed to them.
- A proposal surrounding strengthening women's rights has been explained in three steps. First, change the law to mandate equality of land rights through co-ownership, between husbands and wives; secondly, pass a law that legalizes cohabiting women so they may have the status of wives; and third, economically empower women to purchase their own land.¹⁴²
- In order to implement the above steps, the solution must target specific factors that weaken women's lands rights under custom and tradition. The solutions must also be constructed in a way which they can be implemented into within the lives of Ugandan women, including those residing in rural areas where the justice system of the state may not be accessible to them.¹⁴³

land ownership, occupation and use, and requiring spousal consent to transactions involving family land in the 1995 Constitution and the land Act (Cap. 227) have not been effective due to failure of implementation and enforcement. While the Land Act (Cap. 227) caters for a spouse to some extent, it does not tackle the rights of widows, divorcees, and children.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

- Provide women legal protection against forced eviction in rural, urban and peri-urban areas at the hand of both public and private actors, including within the context of extractive projects. This protection should consider the specific needs of women.¹⁴⁴ Ensure that all forms of forced eviction at the hands of both public and private actors particularly perpetrated against women (for example, “property-grabbing”) are illegal and subject to criminal penalties.¹⁴⁵ In order to guarantee this protection, “Ensure that all justice mechanisms, including religious and customary mechanisms, respect, protect and fulfill women’s rights to land and other productive resources, and that the relevant authorities are held accountable when they fail to do so that women are able to claim their rights when they have been subjected to forced eviction, disinheritance or property-grabbing. These enforcement systems should have all the human, financial, legal, technical and other resources needed to make them effective.”¹⁴⁶
- Formulate ways to bridge the gap between policy and implementation, it is important to take work on combining custom and culture with the actual written land policies in order for the two to be more coherence and connection between policy and tradition.¹⁴⁷
- In order to guarantee food security for women, Uganda must guarantee women full and equal access to economic resources. To successfully achieve this, the women of Uganda must be able to own and inherit land free from discrimination, and also be aware of the rights they have guaranteed to them by the Ugandan Constitution and the Articles of this Covenant.
- To assure protection against land grabbing, Uganda should address the demands of the communities immediately: Land taken should be given back, or land of equal value must be returned to them; Ugandans must be given adequate compensation for crops destroyed. On-going disputes must be resolved and security of tenure for remaining pieces of land must be provided. Projects (such as the Vegetable Oil Development Project) should not go ahead without obeying national laws. This includes concluding the Environmental Impact Assessment regulations involving the consultative process of stakeholders.
- Traditional institutions should be streamlined, recognized beyond mere mention in the laws and their office holders recorded, trained and paid. Through this, accountability will be increased and so will the sense of responsibility to serve.

¹⁴⁴ United Nations Office of the High Commissioner for Human Rights, *Realizing Women’s Rights To Land And Other Productive Resources* (2013)

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*