



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

**WRITTEN SUBMISSION TO THE UNITED NATIONS HUMAN RIGHTS  
COMMITTEE COUNTRY REPORT TASK FORCES FOR THE ADOPTION OF LISTS  
OF ISSUES**

**Ghana, 115th Session (19 Oct 2015 - 06 Nov 2015)**

---

**Submitted by:**

**Initiative for Gender Equality and Development in Africa (IGED-AFRICA)**

*and*

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

**15 August 2015**

## 1. INTRODUCTION

The Initiative for Gender Equality and Development in Africa (IGED-Africa), located in Ghana, and the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), located in the USA and Geneva, present this written submission to the Human Rights Committee with the aims of providing an examination of the laws and policies in Ghana which are aimed at protecting and promoting the right to women's land, property and inheritance, and a discussion of key issues related to the violation of women's land, property and inheritance rights in Ghana.

Although Ghana has ratified most of the international legal instruments which provide for the protection and promotion women's rights including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and particularly, the Convention on the Elimination of All Forms of Discrimination Against Women, much work remains to be done in relation to domestication of these provisions in the national laws to promote gender equality and protect women's rights.

Article 17 of the 1992 Constitution of Ghana provides that all persons shall be equal before the law, and further that a person shall not be discriminated against *inter alia* on grounds of gender, ethnic origin, social or economic status. In affording equality of economic opportunity to all citizens, the State is specifically required by the Constitution to take all necessary steps so as to ensure the full integration of women into the mainstream of the economic development of Ghana.

This submission is being made within the context of Articles 2, 3, 16 and 26 of the ICCPR. In its General Comment No. 28 on Article 3 (The equality of rights between men and women), the Committee highlights that "The right of everyone under article 16 to be recognized everywhere as a person before the law is particularly pertinent for women, who often see it curtailed by reason of sex or marital status. This right implies that the capacity of women to own property, to enter into a contract or to exercise other civil rights may not be restricted on the basis of marital status or any other discriminatory ground. It also implies that women may not be treated as objects to be given, together with the property of the deceased husband, to his family. States must provide information on laws or practices that prevent women from being treated or from functioning as full legal persons and the measures taken to eradicate laws or practices that allow such treatment" (at para. 19). It goes on to highlight that "To fulfil their obligations under article 23, paragraph 4, States parties must ensure that the matrimonial regime contains equal rights and obligations for both spouses with regard to the custody and care of children, the children's religious and moral education, the capacity to transmit to children the parent's nationality, and the ownership or administration of property, whether common property or property in the sole ownership of either spouse. States parties should review their legislation to ensure that married women have equal rights in regard to the ownership and administration of such property, where necessary."

## 2. WOMEN'S LAND, PROPERTY AND INHERITANCE RIGHTS IN GHANA

During its 2014 review of Ghana, the CEDAW Committee stated in its Concluding Observations that the State party should "Ensure that obstacles to women's land ownership are removed, and that domestic courts, including customary courts, enforce women's land and property rights, in line with the provisions of the Convention" (UN Doc. CEDAW/C/GHA/CO/6-7, at para. 39 (b)). The Committee also issued extensive recommendations addressing Ghana's legal framework protecting women's land and property rights, including asking that the State party, *inter alia*, accelerate and

expand its efforts towards the harmonization of marriage and family laws; expeditiously adopt the Property of Spouses Bill, 2009, in its current version; and expeditiously adopt the Intestate Succession Bill, 2009, and ensure its effective implementation. (at para. 41).

## **2.1 Women's Rights to Inheritance in Ghana**

Because gender inequality is still evident in government institutions, traditional leadership and within customary laws and practices, there are many structural barriers women continue to face in lifting themselves out of the cycle of poverty. For example, women's inability to directly inherit land in both patrilineal and matrilineal systems excludes women from the economic benefits of ownership and secure tenure.

In Ghana, property ownership and inheritance are regulated in practice by customary laws although statutory laws exist. These customary laws have greater influence than statutory laws. Some of these customary laws effectively deprive women of property rights, particularly land and housing rights both in their natal and marital clans. Customary laws, commonly based on traditionally conceived gender distinctions, give men greater rights than women over property. For example, many widows in Ghana (particularly in some parts of Northern and Southern Ghana) are excluded from inheriting their marital home, as women are perceived to not be worthy and/or able to own property in their own right. Under customary practices, rights and roles, are skewed against women and girls in favour of men and boys. By granting men and boys primary rights of inheritance of land and property, and granting women and girls user rights mediated through their relationship to men, a situation of unequal power relations, drawn along gender lines, is entrenched in land tenure and production relations. In this regard, specific attention must be paid to the impact of the laws on inheritance on women as compared to men, both under the customary law as well as statutory law.

The Intestate Succession Law, 1985 (PNDCL 111), was designed to eliminate all forms of gender discrimination in the distribution of property upon intestacy by granting equal rights of succession to all children of the intestate, irrespective of gender or age. According to this law, a surviving spouse inherits about 70% of the whole estate if there are no children and nearly 90% with children. However, in practice, when men die, widows are frequently evicted from their marital lands and homes by their in-laws who disregard statutory laws as they are steeped in custom and take these properties in addition to other property, such as livestock and household goods. In many cases, women in Ghana are not aware of their legal rights to own and inherit houses, land or other property. Those women who are aware of their rights frequently do not know that legal means exist through which they can claim these rights. Access to legal assistance is frequently blocked as a result of high cost or simple unavailability. Most women inheritance claims will face intense societal and familial pressure to desist, and in most cases this pressure will prevail to defeat the claim.

## **2.2 Property Rights of Spouses during Marriage and upon Divorce**

Ghanaian law recognizes three different kinds of marriage: marriage under the Marriage Ordinance (127), Customary Marriage and Marriage of Mohammedans Ordinance (Cap 129). It has been noted that one of the peculiar features of marriage under customary law is the concept of separateness of identity and property acquisition. As a general rule of customary law, marriage has no effect on the property of spouses. The legal incidents of marriage under customary law permit couples to maintain their separate identities and are seen in theory as two separate individuals. Generally, no problems arise in situations where parties acquire properties absolutely out of separate resources belonging exclusively to them. However in cases where a spouse makes a form of contribution to

the acquisition or improvement of the property of the other, the issue arises as to what beneficial interest must be given to her upon dissolution of the marriage.

Article 22 of the Constitution requires that Parliament shall enact legislation to regulate the property rights of spouses and states that spouses shall have equal access to property jointly acquired during marriages and that assets that are jointly acquired during marriage shall be distributed equitably between spouses upon dissolution of the marriage. Such a law is however yet to be enacted.<sup>1</sup> The absence of regulatory legislation to govern the property rights of spouses on divorce tends to create inequity and insecurity particularly for the property rights of women<sup>2</sup>. Although a Spousal Property Bill has been laid before Parliament, this has not been formulated into law.

### **2.3 Women's Property Rights and Domestic Violence**

Many women in Ghana are subjected to violence in their homes and are therefore unable to realize a safe and secure home, and are denied their right to live in dignity. Furthermore, most Ghanaian women's lack of housing and land ownership and control is directly linked with domestic violence, as it contributes to women's low social status and their vulnerability to poverty. Women who do not own property are far less likely to realize economic empowerment and as such, are vulnerable to abuses. The prevalence of such abuses in Ghana gave rise to the Domestic Violence Act, 2007 (Act 732). Although the promulgation of this law is a major step in the struggle to secure the fundamental rights of women and other vulnerable groups in Ghana, its proper implementation has been an issue. Ghanaian women are yet to see adequate structures and programmes in place by the government for its proper implementation. This is a great concern for most women and civil society organizations.

## **3. CONCLUSIONS AND RECOMMENDATIONS**

Ghana has made efforts at ensuring gender equality and promoting women's rights. However, most of these efforts do not provided the necessary protection due to lack of adequate laws and policies, imperfect implementation of laws and a lack of effective monitoring mechanisms. Most laws and policies failed to adequately address the urgent land, property and inheritance needs of the majority of women in Ghana, particularly those who work in the informal sector. In some cases, it is believed that the reason for these flaws is due to lack of political will. Others have pointed at poor infrastructure and a disjointed system of actors that have failed to collaborate within one comprehensive approach.

In light of the above information, the Initiative for Gender Equality and Development in Africa (IGED-AFRICA) and the Global Initiative for Economic, Social and Cultural Rights and respectfully suggests that the Human Rights Committee request the State party to provide information regarding the following:

1. Please provide information on measures taken to combat discrimination against women in matters related to land, property, and inheritance, including within the context of marriage?

---

<sup>1</sup> Article 22(2) of the 1992 Constitution provides that the Parliament should "as soon as practicable" enact legislation to regulate the property rights of spouses during and at dissolution of marriage. See: Social Institutions and Gender Index entry on Ghana, available online at: <http://genderindex.org/country/ghana>

<sup>2</sup> See, Kuenyehia A., "Distribution of Matrimonial Property on Dissolution of Marriage: A Re-Appraisal", (1990-1992) Volume XVIII, University of Ghana Law Journal, page 94; and Kuenyehia A. & Ofei-Aboagye E., "Family Law in Ghana and its Implications for Women in Ghana", in Kuenyehia A (ed), *Women and Law in West Africa: Situational Analysis of Some Key Issues Affecting Women*, Accra, WaLWA, (1998) p 23.

2. Please provide information on the plans to enact into law the Spousal Property Bill and Intestate Succession Bill in order to ensure effective protection of women's land and property rights.
3. Please provide information on how are women's land and property rights being reflected within the Constitution review process undertaken in Ghana.
4. Please provide information on plans for putting in place adequate structures and resources to ensure proper implementation of the Domestic Violence Act.