



The Global Initiative
for Economic, Social and Cultural Rights

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

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Submitted by:

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

and

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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 CEDAW Committee with the aims of: (i) assisting the work of the CEDAW Committee in providing it with high quality reporting in the area of women's property and inheritance rights; as well as (ii) facilitating civil society input into this procedure. It is our hope that, during this crucial period, the material provided herein can provide a sound basis for engagement with the Ghanaian authorities. Following a brief summary, this submission provides 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 year (2014) marked the 57th year since Ghana gained independence and Ghana has made a lot of gains in socio-economic and cultural sectors, particularly with regards to women's rights. However, it is important to pay attention to women's property and inheritance rights in Ghana's post-colonial progress and the challenges that lie ahead in an age of globalization. This is because, despite the advancements and legal protections outlined above, and the fact that women in Ghana represent a large part of the workforce, they are routinely unable to secure, acquire and inherit property due to social, cultural, economic barriers as well as gender-based inequalities.

This submission is being made within the context of Articles 5, 13, 14, 15 and 16 of CEDAW, which provides an understanding that States, *inter alia*, are to ensure that men and women are treated equally in their right to family benefits are treated equally in land and agrarian reform as well as in land resettlement schemes enjoy adequate living conditions, particularly in relation to housing, have equal rights to conclude contracts and to administer property have the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration;

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

2.1 Women's Land Rights in Ghana

In Ghana, as in many African countries, gender and kinship relations play a central role in the way in which land rights and production relations are determined. Under customary land tenure systems, control over resources generally follows clearly defined gender-segregated patterns based on

traditional norms, which operate in such a way as to limit the land rights of women as compared to men. To a large extent, women's access and control over productive resources including land are determined by male-centred kinship institutions and authority structures, which tend to restrict women's land rights in favour of men.¹ In principle, customary norms in both matrilineal and patrilineal kin groups are designed to ensure that women are not arbitrarily deprived of basic resources for their production activities. However, because of the lopsided control that men exercise over decisions concerning the allocation of resources both at home and in the public sphere, women are often discriminated against in matters related to land.² Weak access to also land limits women's ability to provide collateral and makes it difficult to obtain credit.³

2.2 Women's Housing Rights in Ghana

The 1992 Constitution of Ghana, which is the supreme law of the land, does not expressly provide the right to adequate housing. This right in most cases is implied in the wordings of chapter 5 of the Constitution which generally protects fundamental human rights. This is a real difficulty for Ghanaian women whose housing rights are regularly violated as the Courts do not see this right as justiceable. This matter is in urgent need of remedy because women – while making up roughly 85 percent of the wholesale and retail trading industries, and about two-thirds of manufacturing in the informal sector – often do not make sufficient income to pay increasing rent costs and advanced rent payments required by landlords.⁴ The Rent Act 1963, (Act 220), the law regulating affairs between landlords and tenants is currently ineffective. In practice, it does not afford effective protection to Ghanaians, especially women, who as a result are often exploited by landlords. While a National Housing Policy⁵ has been initiated by government ministries, the private sector and non-governmental organizations to address failures in past housing policies, this policy does not adequately take into consideration the conditions of the poor and the marginalized, including women. Without affordable options, poor women are often forced into inadequate living situations, often in slums and without access to water and proper sanitation facilities.

2.3 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

¹ See: Bortei-Doku Aryeetey, E., "Behind the Norms: Women's Access to Land in Ghana," in C. Toulmin, Philippe Lavigne Delville, & Samba Traore eds., *The Dynamics of Resource Tenure in West Africa*, IIED, 2002, p 86.

² Ibid. See also: Social Institutions and Gender Index entry on Ghana, available online at: <http://genderindex.org/country/ghana>

³ Social Institutions and Gender Index entry on Ghana, available online at: <http://genderindex.org/country/ghana>

⁴ *Ghana: Women's Role in Improved Economic Performance*. The World Bank Group. Africa Region Findings. No. 145, October 1999. Available online at: <https://openknowledge.worldbank.org/handle/10986/9855>

⁵ Republic of Ghana Ministry of Public Works and Housing Webpage. Executive Summary of the Concept Paper, National 2015 Housing Strategy: Policy Review and Action Plan. <http://www.ghanahousing.com/resprop.html>

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.

2.4 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.⁶ 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 women⁷. Although a Spousal Property Bill has been laid before Parliament, this has not been formulated into law.

⁶ 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>

⁷ See, Kuenyehia A., “Distribution of Matrimonial Property on Dissolution of Marriage: A Re-Appraisal”,

2.5 Witch Camps in Northern Ghana

Many women's right to property and inheritance and other rights are violated when they are accused as being witches. About 1,000 elderly women in Ghana have been banished to remote camps as alleged witches. Such 'witch camps' in the country's impoverished Northern Region have been established where women have sought refuge from beating, torture even lynching to live a life in exile, ostracized from their families and left to fend for themselves. Many of the women in the camps have been blamed for using black magic to cause some misfortune in the community, whether a death, illness or drought. Denied the opportunity to defend themselves, they are chased into these camps where, exiled from their families for up to thirty years, they live in appalling conditions where food and running water is scarce. Such women begin life all over under difficult conditions.⁸ In most cases, such women are sent to 'witch camps' without their consent and left there for years disassociating them from the rest of the community. In other cases, they are sent to these camps with their children when it is believed or alleged this child supports his or her mother's action, and in this case the rights of the child is equally violated. These events are all happening in the wake of the existence of the Domestic Violence Law 2007, but the government has not taken effective steps to remedy the situation to protect the rights of these women.

2.6 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.

2.7 Women's Property Rights and HIV/AIDS

Poor social and economic conditions as well as gender imbalances in Ghana put pressure on women particularly to support their families, to the exclusion of any other claims, regardless of the impact on dignity arising from this pressure. This fact pushes women -- especially those living in rural Ghana -- to migrate to urban slum communities. This mostly occurs when they have been chased out of their husband houses by family members of their husbands or lose properties they might have acquired jointly with the husbands as a result of the death of their husbands. The effects of such occurrences are that women's human rights -- including economic and social rights -- are violated. Such women are often forced to live in slums and other degrading conditions which impacts negatively on their health and their entire families especially where there are children involved. Some

(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.

⁸ Hundreds of women trapped in Ghana's 'witch camps,' Kati Whitaker, 30 August 2012.

are forced into prostitution, and many cannot negotiate for safer sex. Crimes such as rape and other sexual abuse are perpetrated daily. These conditions are a breeding ground for the spread of HIV. In addition, widows and orphans affected by HIV are also often stripped of property such as houses and/or land.

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 CEDAW Committee urge the State party to:

1. Utilize a gender perspective and rights-based approach in the implementation of relevant land and housing laws and policies, so as to prioritize and realize the land, property and housing rights of women in Ghana.
2. Enact into law the Spousal Property Bill and Intestate Succession Bill as soon as possible in order to ensure effective protection of women's land, property and housing rights.
3. Reflect women's land, property and housing rights within the Constitution review process currently ongoing in Ghana.
4. Provide mandatory training on gender equality, women's land, property and housing rights for administrators at every level within the Ministry of Housing, Rent Control Offices and other relevant offices.
5. Initiate a national awareness-raising campaign to educate Ghanaians on the changes in laws, policies and programmes that have been initiated to protect women's land, property and housing rights. A campaign through posters, television and radio should be utilized to reach as many Ghanaians as possible, including in rural and remote areas. Specifically, such a campaign should address Intestate Succession Law, 1985 (PNDCL 111) and women's equal rights of inheritance.
6. Provide education and training at the grassroots level to raise awareness of women's land, property and housing rights and promote gender equality. Informational sessions that target landlords, tenants as well as police officers, judges, traditional leaders and other members of the community could enhance knowledge, change attitudes thereby reducing violations of women's land, property and housing rights.
7. Ensure that the housing policy is implemented in a manner that addresses the needs of poor women and that an evictions policy developed, designed and implemented to protect slum

dwellers' right to housing and to provide guidelines for local authorities to follow where evictions may be unavoidable.

8. Place adequate structures and resources in place to ensure proper implementation of the Domestic Violence Act.
9. Conduct investigations into the allegations of women as witches in Northern Ghana and sensitize the community to put an end to banishing women from their communities. An immediate directive and a law in the long term should be promulgated in this regard to secure protection for these women and their children. Women and children who have been kept in witch camps should be released and integrated into their communities.
10. Establish and maintain relationships with grassroots organizations and civil society groups working on these issues so that information can be shared regarding best practices and patterns of violations found to be occurring.