

International Agreements and How to Build a Legal Case for Women's Land Rights

by Amanda Richardson

Last updated Jul 23, 2014

Guide Contents

- I. Introduction and Key Concepts
 - [How to Use This Guide](#)
 - [Acknowledgments](#)
 - [Key Terms](#)
 - [The Vienna Convention on the Law of Treaties](#)
 - [Non-Discrimination Clauses](#)
 - [Right to Property](#)
- II. International Instruments and Relevant Key Provisions
 - [Introduction](#)
 - [The United Nations Charter](#)
 - [The Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\)](#)
- III. Regional Agreements
 - [Introduction](#)
 - [The Banjul Charter](#)
 - [The Maputo Protocol](#)
 - [The American Declaration of the Rights and Duties of Man](#)
 - [The American Convention on Human Rights](#)
- IV. Research Questions for Building a Legal Case Using International Agreements.
 - [Background Information](#)
 - [International Agreements](#)
- V. How to Apply the Law
 - [How to Apply the Law](#)
 - [Initiating Complaints under CEDAW](#)
 - [Conclusion](#)
- VI. Endnotes & Citations
 - [Endnotes & Citations](#)
- VII. Case Study
 - [Successfully Challenging Discriminatory Laws through a Country's International Obligations](#)
 - [A.T. v. Hungary \(2005\)](#)
- Appendix A: Glossary
 - [Introduction](#)
 - [Glossary of Terms](#)
- Appendix B: International Agreements
 - [Introduction](#)

- [Universal Declaration of Human Rights \(UDHR\)](#)
- [International Covenant on Civil and Political Rights \(ICCPR\)](#)
- [Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\)](#)
- [Optional Protocol to CEDAW](#)
- [International Covenant on Economic, Social, and Cultural Rights \(ICESCR\)](#)
- [Convention on the Rights of the Child \(CRC\)](#)
- Appendix C: Regional Agreements
 - [The African \(Banjul\) Charter on Human and Peoples' Rights](#)
 - [The \(Maputo\) Protocol to the African Charter on Human and Peoples' Rights on the Right of Women in Africa](#)
 - [The Inter-American Court of Human Rights and the Inter-American Commission on Human Rights](#)
 - [Voluntary Guidelines on the Responsible Governance of Land, Fisheries, and Forests in the Context of National Food Security](#)

I. Introduction and Key Concepts

How to Use This Guide

The goal of this guide is to aid practitioners in researching and using international legal norms, regional conventions, and regional treaties and Protocols to engage State officials and institutions, including local and customary legal officials, to encourage domestic compliance with State obligations, and to challenge local laws and court decisions regarding women's rights to land and property. The guide provides the underlying international norms and relevant treaty provisions addressing women's land rights. The guide also includes a series of questions focusing on how to build a case challenging local laws or a court decision which violates international or regional commitments that the state has made with regard to women's land and property rights. An Appendix provides relevant conventions, treaties, and treaty bodies with key provisions pertinent to women's rights to land and property.

In order to make these guides useful and user-friendly, when possible we have uploaded the full-text laws and articles that we cite to into the LandWise library.

The footnotes throughout this guide are all hyperlinked to full-text laws, articles or other citation information. When you hover over a footnote, the citation information will pop up in a bubble. When you click on the footnote, you will be taken to the full-text of the item the footnote is referencing.

Acknowledgments

The author would like to thank Francis Ssekandi, Christine Ochieng, Mayra Gomez, and Renee Giovarelli for reviewing and providing valuable comments for this practice guide, and Erin McIntire for her research assistance.

Key Terms

- **International Law**

International law is the body of rules established by customs or treaties that nations agree to regarding one another. It includes customary international law, which is largely unwritten, and treaties and other agreements

between states. Its domain encompasses a wide range of issues of international concern including human rights, international crime, refugees, and the conduct of war.[1]

For the purposes of this guide, it is important to know that international law is binding on States but that the enforcement of State obligations may only be carried out by other States through established institutions, such as the International Court of Justice. Individuals as beneficiaries of the international obligations undertaken by States generally only have recourse in domestic institutions to the extent that these obligations have been incorporated either directly or by legislation in domestic law.[2] Treaties when accepted or ratified create obligations that states must abide by, and some treaties create committees or commissions to monitor their enforcement. In other cases, treaties establish courts to provide a mechanism to resolve disputes related to non-compliance.[3]

- **International Agreement**

A treaty or similar agreement entered into by subject of international law, usually sovereign states and international organizations.

- **Treaty**

Treaties are international agreements entered into between two or more States, and include Conventions concluded by states to regulate broad areas of common interest, such as the law of the sea, capacity and procedures for making treaties. The adoption and application of Treaties is governed by the Vienna Convention on the Law of Treaties.

The Vienna Convention on the Law of Treaties

This is the primary law covering international treaties between countries. Below are some relevant provisions in the Convention related to the adoption and enforcement of treaties. These cover just what is relevant for understanding how the treaty may apply.

- Article 9 governs the act of adoption, the formal act of making a treaty either through a resolution by a representative organ of the organization or through a specially convened international conference. Adoption includes a step where states that have negotiated and participated in developing the proposed treaty express their consent to be bound by it.
- After a treaty is negotiated, the primary way a State indicates that it will be bound is by ratifying the treaty (Articles 2(1)(b), 14(1), and 16). States may also indicate they will be bound through accepting or approving the agreement (Articles 2(1)(b) and 14(2)). If a treaty is already negotiated or signed, a State that was not party to the original negotiations may accede to the treaty if the treaty so allows or if the negotiating states agree (Articles 2(1)(b) and 15). If a treaty was ratified by a state that is then succeeded by a different state, then it can be agreed to again by succession. If a treaty is not subject to ratification, acceptance, or approval a state may consent to it through a definitive signature (Article 12).
- There are a number of ways for states to agree to a treaty on their own terms. It is important to note how the treaty was agreed to, as it may mean that parts of it apply differently to that country than they do to

other countries.

- States may make declarations or understandings at the time of signature that clarify their interpretation of particular treaty provisions.
- States can make reservations by accepting the treaty but stating which provisions they will not comply with. Valid reservations must not be incompatible with the object and purpose of the treaty, and a treaty can prohibit or only allow for certain types of reservations (Articles 2(1)(d) and 19-23). Note that the Convention on Discrimination Against Women, discussed below, expressly states "[a] reservation incompatible with the object and purpose of the present Convention shall not be permitted" (Article 28(2))
- States can sign but not ratify a treaty or a portion of a treaty, such as the portion allowing complaints to be brought. This means the state has to desist from any acts which would defeat the objective and purpose of that treaty but that they are not bound by it (Article 18).

Non-Discrimination Clauses

Nondiscrimination is a key primary norm common in almost all international instruments on human rights. It can be regarded as a preemptory norm (*jus cogens*) of international law. Below are some examples of key international treaties and conventions which have non-discrimination as a cornerstone.

These clauses are important because they provide the foundation from which to argue for the equal treatment of men and women under all laws, including any law which applies to land and property.

- *The Charter of the United Nations* (1945), which established the United Nations, explicitly recognizes the right of non-discrimination, "to achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion." (Article 1(3)).
- *The Commission on the Status of Women* is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women. It was established by the Economic and Social Council in June 1946, and is a permanent, parallel body that addresses women's rights within the United Nations, providing policy guidance to UN Women.
- The United Nations Human Rights Council (UNHRC), a subsidiary body of the UN General Assembly, was established by the General Assembly in 2006 to replace the UN Commission on Human Rights (UNCHR).
- *The 1948 United Nations Declaration on Human Rights* (UNDHR) sets forth that its rights are for everyone, without regard to sex (Article 2).

- *The International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) similarly protect people’s rights without regard as to sex (Article 2).
- *The Convention on the Rights of the Child* requires states to protect children without discrimination (Article 2).

Right to Property

While there is a universal recognition in international instruments, regional treaties, and national Constitutions of a human right to property, many international instruments do not explicitly guarantee a woman’s right to own property.

- The UNDHR guarantees that “everyone has the right to own property alone as well as in association with others” (Article 17).
- The African (Banjul) Charter on Human and People’s Rights guarantees the right to property for all peoples (Article 14).

II. International Instruments and Relevant Key Provisions

Introduction

What follows are two key treaties and conventions containing relevant clauses related to women’s rights to land and property.

The international agreements which focus on women have not always, or even often, had a focus on land and property as well. To use these agreements for a specific land or property issue it is therefore important to look at key provisions regarding non-discrimination, equality, socio-economic rights, access to justice, and legal mechanisms. Practitioners must be prepared to argue using a variety of provisions and sources, if possible.

More complete information on various pertinent international treaties, including which nations are signatories, can be found in [Appendix B](#).

The United Nations Charter

The [Charter of the United Nations](#) established the United Nations. It was signed on June 26, 1945 and came into force on October 24, 1945. The Statute of the International Court of Justice is an integral part of the Charter.

- **Article 1** sets out the purposes and principles of the United Nations and explicitly recognizes the right of non-discrimination (Article 1(3))

- **Article 2(2)** commits the members of the United Nations to “fulfill in good faith the obligations assumed by them in accordance with the present Charter.
- **Article 55** provides that “the United Nations shall promote: ..(c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion”.
- **Article 62** authorizes the Economic and Social Council (ECOSOC) to prepare draft Conventions for the General Assembly.

Key provisions in addition to and including those cited above are listed in [Appendix B](#). They include provisions from the UNDHR, CEDAW, the ICCPR, the ICESCR, and the Convention on the Rights of the Child (CRC).

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

CEDAW was adopted by the UN General Assembly in 1979 and entered into force two years later.[4] CEDAW protects against discrimination in both civil and political rights and economic, social, and cultural rights.

- **Article 1** defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." The first piece of this definition, “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose,” means that the intent of a state does not matter. A state can breach CEDAW merely through its practices; that is, if the effect of a law or regulation is to impair women’s rights, then it breaches CEDAW.
- **Article 2** requires states to ensure the “practical realization” of the principle of sex equality. This includes requiring states to work to change discriminatory cultural and social practices.[5]
- **Article 5(a)** requires states "to take all appropriate measures...to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."
- **Article 13** explicitly requires parties to take all appropriate measures to eliminate discrimination against women in the areas of economic and social life, meaning, for example, that states must take measures to ensure that women enjoy the right to acquire mortgages on a basis of equality with men.
- **Article 14** protects women in rural areas, including their right to “equal treatment in land and agrarian reform as well as in land resettlement schemes.”

- The **Committee on the Elimination of Discrimination against Women** is the supervisory body established by CEDAW. States submit reports to the Committee, and it also issues “General Recommendations” regarding aspects of the treaty’s interpretation and application and hears disputes over interpretation and implementation of the treaty. If it cannot settle these disputes, they can be referred to the International Court of Justice (Article 29).
- In 1999, an **Optional Protocol** was adopted allowing the Committee to consider communications submitted by or on behalf of individuals or groups of individuals who claim to be victims of a violation of any of the rights set forth in the Convention by a State Party to the Protocol (Articles 2–7). The Committee may also initiate inquiries into situations of “grave or systematic violations” of women's rights (Article 8).

III. Regional Agreements

Introduction

In addition to international Legal Instruments, to which most United Nations Member States are parties, many States also belong to and are parties to Regional Agreements with relevant provision on women’s rights to property and land. These agreements are binding only to those members of the regional organizations (ROs) that accept or ratify them. Important regional organizations include, but are not limited to, the Organization of American States, the African Union, the Caribbean Community, the European Union, the Association of Southeast Asian Nations, the South Asian Association for Regional Cooperation, and the Organization of the Islamic Conference.

This guide currently focuses on selected African regional agreements and selected agreements of the Organization of American States, as an example only. Each region will have many declarations relating to gender and to property, so it is important that independent research be done.

In Africa, the two most important agreements are the African (Banjul) Charter on Human and Peoples’ Rights, called the Banjul Charter, and the 2003 Protocol to the African (Banjul) Charter on Human and Peoples’ Rights on the Rights of Women in Africa, called the Maputo Protocol. Both of these apply only to states that have signed and ratified them and that are eligible for membership in the Organization of African Unity, formerly known as the African Union or the OAU.

The Banjul Charter

The African Charter on Human and Peoples’ Rights, also known as the Banjul Charter, entered into force in 1986.

- **Article 14** guarantees the right to property for all peoples.
- **Article 2** guarantees all rights without distinction as to sex.

- **Article 19** states that all people shall be equal and enjoy the same respect and rights.
- **Article 22** states that all people have a right to economic, social, and cultural development (Article 22).

The Maputo Protocol

This addition to the Banjul Charter (known as the Maputo Protocol) explicitly protects women against discrimination.

- Discrimination against women is defined as “any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life” (**Article 1(b)**).
- **Article 2(1)** establishes equality between sexes and also obligates states to take positive action to eliminate discrimination where it still exists.
- **Article 4** provides for equality before the law and the right to equal protection and benefit of the law.
- **Article 6** protects a married woman’s right to acquire her own property.
- **Article 7** protects the right to equitable sharing of joint property during divorce, separation, or annulment.
- **Article 19** addresses the role of women in development, and mandates that State Parties “promote women’s access to and control over productive resources such as land and guarantee their right to property.”
- **Articles 12 to 17** protect women’s economic and social rights.
- **Article 21** protects widows rights to inheritance, including the right to continue living in the matrimonial house.

The American Declaration of the Rights and Duties of Man

The American Declaration of the Rights and Duties of Man was adopted by the Ninth International Conference

of American States on 7 May 1948 and is one of the oldest instruments on Human Rights.

- **Article 2** provides for equality for all and non-discrimination.
- **Article 23** protects the right for every person to own property. “Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.”

The American Convention on Human Rights

The American Convention on Human Rights was signed by the Organization of American States on 22 November 1978. The Convention established an Inter-American Commission on Human Rights and an Inter-American Court of Human Rights.

- **Article 1** commits States to respect the “rights and freedoms recognized in herein and ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion national or social origin, economic status, birth or any other social condition” and to take such legislative or other measures as may be necessary to give effect to those rights or freedoms.
- The Convention is ambiguous on the right to own property, guaranteeing only the right to use and enjoy property without expressly conferring a right to own property.
- **Article 21** provides for a right for everyone to “the use and enjoyment of his property.” The law may subordinate such use and enjoyment in the interest of society.

IV. Research Questions for Building a Legal Case Using International Agreements.

Background Information

To start, you may find it helpful to use the other LandWise guides, on Inheritance and on Land Rights, to research the law of your country and to determine what rights women currently have in your state. These are available at <http://landwise.landesa.org/guides>.

During your background research, you should answer the following broad questions:

1. What land and property rights do women have under the formal law? Consult the LandWise guides for guidance in what types of law to consider, which may include customary law, and how to find them. This research should include family laws, marital laws, and inheritance laws.
2. Are those rights enforced and enjoyed in practice?
3. What local laws are discriminatory towards women’s land and property rights?
4. Is there a permanent institution for the reform of laws, like a Law Reform Commission? Are women well

represented?

5. Are there active NGOs working on these issues?
6. Does the legal system of your country provide for direct application of international agreements adhered to by the State? If not, have the relevant international instruments referred in this Guide been domesticated by passing legislation for their enforcement?

International Agreements

Next, you should determine which international laws and agreements may apply to your country. In addition to determining which agreements your state has signed on to, you must determine if there are any reservations or other limitations to their agreement. The appendices to this guide contain a comprehensive selection of international treaties ([Appendix B](#)) and regional agreements ([Appendix C](#)) that may apply. However, there may be other agreements which would be of use to your situation, so it is best to use the appendices as a starting point. What follows are questions you should ask.

The international agreements which focus on women have not always, or even often, had a focus on land and property as well. To use these agreements for a specific land or property issue it is therefore important to look at key provisions regarding non-discrimination, equality, socio-economic rights, and access to justice. It is often true that agreements covering socio-economic rights, like the ICESCR, have not been enforced or adopted as readily as those governing political and civil rights. They may also have limitations; for instance the ICESCR notes that its obligations must be undertaken “to the maximum of its available resources,” which could be interpreted to mean that poorer countries may delay implementation (Article 2). This is why practitioners must be prepared to argue using a variety of provisions and sources, if possible.

The following are questions it is suggested you answer as you research:

- **Which agreements has your state signed on to?**
 - Check both international agreements and regional agreements. If you are not sure which region your country is in, start by identifying whether it is a member of any regional unions, like the European Union or the African Union.

- **Has your state fully ratified the entire agreement?**
 - Are there any understandings? These can greatly add to your arguments about how the agreement is relevant, especially where a definition might not be clear (e.g. whether “economic rights” includes the right to property).
 - Has the agreement been signed but not ratified? This may limit your ability to use it. Remember that this means the state has to desist from any acts which would defeat the objective and purpose of that treaty, but that it is not bound by the obligations of the treaty itself. In general, this will result in weak arguments. It will also mean that the corresponding mechanism for bringing a claim is unavailable.

- **Are there any reservations?** *Many of the states that have ratified CEDAW have made reservations, especially towards Articles 2, 9, 15, and 16. For this reason it is especially important to understand exactly what your country agreed to if it ratified CEDAW. This ratification may have had very big*

exceptions that make CEDAW less effective.

- If so, have these been challenged by any other Member States?
 - Does the instrument itself say anything about reservations? For instance, CEDAW states that reservations incompatible with the object and purpose of CEDAW are not permitted.
 - Can you find any way that they are incompatible with the object and purpose of the treaty? Remember that even if the instrument says nothing, the Vienna Convention requires compatibility.

- **What obligations do these international agreements bind your state to?**
 - Read each agreement closely for any mention of your issue. A good starting point are the appendices of this guide, but remember that there may be issues the appendices does not cover.
 - Remember that your issue might fall under a broader issue. For instance, if your issue is a woman's right to inherit land, you might look first for mentions of women's right to equality with men under the law, which could apply to a discriminatory inheritance law.
 - Check any reservations to ensure that the provisions you have found have been agreed to by your state.
 - For instance, in the above example, a state may have reserved the right to allow Sharia law, which discriminates in inheritance on the basis of sex.
 - Remember that these reservations might not be binding. It is possible to argue, for instance, that in the case above reserving the right to allow discrimination in law abrogates the meaning of CEDAW, which has equality of women as its central purpose.

- **How can you use these obligations?**
 - Check the constitution of your country to determine if treaties are considered self-executing in your country.
 - If so, this means the obligations have direct effect and are considered law.
 - In some cases, the constitution will explicitly reference international agreements and give them the force of law.
 - If not, you should check to see if the requirements of the treaty have been implemented in any domestic legislation.
 - If they have not, you may be able to use this as evidence that your country is not fulfilling its obligations.
 - Are there any bodies established by the instruments or to which the instruments refer?
 - Some examples of these bodies are the African Court on Human and Peoples' Rights, the Inter-American Court, the European Court of Human Rights, the Human Rights Committee, and the CEDAW Committee.
 - Check which bodies are referred to, in what order, whether your state has ratified an instrument establishing a specific body, and who is allowed to bring a case.
 - Check to see if there are any other requirements to bring a case. For instance, CEDAW Optional Protocol (Article 4.1), the Inter-American Commission, and the African Commission on Human and Peoples' Rights require exhaustion of domestic remedies in order for a petition to be admissible. In addition, check for rules governing time limitations.
 - Are there any previous cases that apply to your issue? You should consult:
 - Domestic cases, especially those which have been decided by your country's highest court and those which applied provisions of treaties and conventions.

- International/regional cases, especially those which use the conventions that you have identified as useful
- Recommendations or other reports from applicable committees to your state. For instance, the CEDAW committee publishes two types of recommendations.

V. How to Apply the Law

How to Apply the Law

Once you have determined which agreements apply to your country, whether they have the force of law, and whether there are any international or regional bodies governing the agreements, you can move forward with deciding how to build a case to espouse an international claim in case of a violation by the State or generally to generate joint efforts to move for reform of the domestic law to comply with relevant international agreement and make provision for domestic remedies in compliance with such agreements. Remember that if a country has ratified a treaty but not the relevant optional protocols allowing for cases to be brought that you must use other types of advocacy to advance your position.

- **Determine which courts are relevant and which have jurisdiction.** *Remember, as noted above, many treaties require you to move a case through the domestic system first before you can bring it before any international body.*
 - Are there relevant domestic courts or administrative remedies? This may include customary or religious courts, and may even include alternative forms of dispute resolution if these are required first steps in your country. Note that the UDHR says that everyone had the right to “effective remedy by the competent national tribunals” for violations of fundamental rights (Article 8).
 - To determine which courts are relevant, you must return to your original research on which domestic laws apply to your issue.
 - You must also consult the agreements themselves to determine if they require your state to develop judicial remedies.
 - If so, and these remedies are not available, you may have additional grounds for bringing a case to an international body.
 - What is the jurisdiction of regional or international bodies?
 - These bodies may have jurisdiction to adjudicate the case and/or to enforce its findings. You can determine this jurisdiction by looking to the international agreements establishing the body and the treaty that you will be using to bring the case.
- **Identify the responsible party.**
 - In most cases, you will be challenging the practices or laws of a particular country, and therefore the state itself will be the defendant.
 - In some cases, most notably in international criminal law, an individual or non-State actor may be

the defendant, but the State may still have a due diligence responsibility.

- **Who has the right to petition or submit a claim?**

- As above, you must refer to both domestic law and international agreements to determine who has the right to bring a case before which body. In many cases, access to courts will be restricted to member states and the Commission on Human Rights (e.g. the African Court on Human Rights and the Inter-American Court of Human Rights). In other cases treaties permit individuals to institute legal claims against non-observing States (e.g. the European Human Rights Court). Individuals who believe that their rights have been violated must first lodge a complaint with the Commission and have that body rule on the admissibility of the claim.
- What is the cause of action?
- The case law you identified in the previous section should be very helpful here.

- **What is the role of council or NGOs dedicated to Human Rights?**

- It is important to know if a lawyer is required to institute a claim, especially in the case of a claim before court. In most cases, human rights violations involve more than one person and joint action may be necessary. It is always advisable before instituting a claim to consult a lawyer to ensure that adequate research is carried out and relevant precedents are obtained to support the claim. In many countries, NGOs perform this function and in others Legal Aid is available to assist indigent litigants.

Initiating Complaints under CEDAW

The procedure for complaints about a State's violation of Convention rights is set out in the Optional Protocol to CEDAW. Only those States that have ratified the Optional Protocol are bound by it. This means that complaints may only be brought against States that have ratified the Optional Protocol. Complaints are called 'Communications' and are submitted by an individual or group of individuals within the jurisdiction of the State, to the Committee for adjudication. Often NGOs are involved in preparing and submitting Communications on behalf of individuals or groups. The Committee will make an initial assessment of admissibility (i.e. whether it has jurisdiction to hear the case and whether the procedural requirements are satisfied) and, if admitted, adjudicate on the merits of the case. The Committee can make findings about whether there have been violations of the individual's rights due to an act or omission of the State and can recommend remedies.[6]

Conclusion

Ultimately, the path to challenging a law or practice might not be straightforward. Following the initial research steps will allow you to identify if it may be a good way to approach your issue, and following the steps in the previous section should allow you to determine if you can bring a case. Your final steps will be to begin the legal process in whatever way you have identified.

Alternatively, if you find the legal process is not the best way to pursue change, you may wish to use the support of international agreements in other types of advocacy work.[7]

VI. Endnotes & Citations

Endnotes & Citations

¹ <http://www.un.org/en/globalissues/internationallaw/>

² States employ different mechanisms to comply with their international obligations. Some States, mostly civil law countries, provide for direct application of treaties in their domestic law upon acceptance or ratification of the treaty but others, mostly common law countries, required legislative incorporation of the treaty provisions in domestic law in order to be enforced by domestic institutions. There are exceptions to these general rules, of course: binding international law norms recognized as jus cogens may be applied by a domestic court even if not domestically incorporated in the law.

³ The CEDAW Committee and the African Commission on Human and Peoples' Rights set up by the Banjul Charter are good examples. For more, see the sections below.

⁴ Later, women's rights were addressed at a UN conference on human rights in Vienna in 1993 and the UN's World Conference on Women in Beijing in 1995, which called for women's equal participation in a wide range of areas including political life.

⁵ "Take all appropriate measures ... to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women." Article 2(f)

⁶ For a more complete guide on how to submit reports to CEDAW and initiate a Complaint refer to the Global Initiative for Economic, Social and Cultural Rights.

⁷ For international mechanisms, good information is available here:
<http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx#proceduregenerale>.

VII. Case Study

Successfully Challenging Discriminatory Laws through a Country's International Obligations

There are not many cases that use international agreements to challenge laws regarding women and property.

The following is a case which uses CEDAW to challenge the way a country responded to a domestic violence situation, which included a denial of the appellant's right to access property. While the case is primarily about a country's obligations regarding domestic violence complaints, it is a good illustration of how to use CEDAW to challenge a country's practices.

To see an index of recent CEDAW cases as well as which Articles the victim brought for a successful claim, see [here](#) and [here](#).

A.T. v. Hungary (2005)

Hungary has had international obligations under CEDAW since September of 1981 and has been party to the Optional Protocol since March 22, 2001.

Ms. A.T., a Hungarian national, alleged that Hungary violated her right under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) under article 2(a), (b), and (e); article 5(a); and article 16 when Hungary neglected its “positive obligations under the Convention and supported the continuation of a situation of domestic violence against her.” A.T. requested effective interim measures under article 5(1) because when she submitted her communication, she feared for her life.

A.T.’s husband, L.F., had subjected A.T. to severe domestic violence and serious threats for the four preceding years. She had not gone to a shelter because no shelter in the country was equipped to take in her disabled child.

In March 1999, L.F. moved out of the family’s apartment and took most of the furniture and household items with him. He had violent encounters with the family and visited when he was drunk. To protect herself from further unexpected attacks, A.T. changed the locks on the apartment shortly after L.F. moved out. Shortly after this, L.F. returned, filled the lock with glue and kicked in part of the door when she refused to allow him to enter. The following summer, L.F. broke into the apartment. After this attack, A.T. was hospitalized.

Several civil proceedings occurred regarding L.F.’s access to the family residence. In September 2003, the Budapest Regional Court held that as joint owners of the apartment, L.F.’s right to the property, including possession, could not be restricted because the Court could not substantiate A.T.’s claims that L.F. regularly battered her. A.T. submitted a petition for review to the Supreme Court, which awaited decision at the time she submitted her supplemental information to the CEDAW Committee.

A.T. claimed that she submitted requests in writing, in person, and via phone for protection from local child protection authorities. The authorities ignored her requests. The Hungarian authorities have also done nothing to protect her from L.F. Under Hungarian law, it is not possible to take out protection or restraining orders.

The Committee found that women’s human rights to life and physical and mental integrity cannot be superseded by other rights, including the right to property and the right to privacy. The Committee also notes that the violence against women has great significance on the ability of women to enjoy rights and freedoms on an equal basis with men. The Committee also noted that A.T.’s situation further depicts the “persistence of entrenched traditional stereotypes regarding the role of women and men in the family” which penetrate Hungary as a whole.

The Committee found that A.T.’s rights were violated. The lack of effective legal measures and other measures prevented Hungary from satisfactorily handling the Committee’s request for interim measures. As such, the Committee found that Hungary failed to fulfil its obligations and therefore has violated A.T.’s rights under article 2(a), (b),(c), article 5(a), and article 16 of the Convention.

The Committee gave Hungary six months to submit a written response including any information on any action taken in the light of the views and recommendations made by the Committee.

The Committee made the following recommendations for Hungary:

- Take immediate and effective measures to guarantee the physical and mental integrity of A.T. and her family
- Ensure A.T. is given a safe home to live in with her children and that she receives:
 - Appropriate child support and legal assistance
 - Reparation proportionate to the physical and mental harm undergone and to the gravity of her rights
- Respect, protect, promote, and fulfil women's human rights, including their right to be free from all forms of domestic violence, including intimidation and threats of violence
- Assure victims of domestic violence the maximum protection of the law by acting with due diligence to prevent and respond to such violence against women
- Take all necessary measures to ensure that the national strategy for the prevention and effective treatment of violence within the family is promptly implemented and evaluated;
- Take all necessary measures to provide regular training on the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto to judges, lawyers and law enforcement officials;
- Implement expeditiously and without delay the Committee's concluding comments of August 2002 on the combined fourth and fifth periodic report of Hungary in respect of violence against women and girls, in particular the Committee's recommendation that a specific law be introduced prohibiting domestic violence against women, which would provide for protection and exclusion orders as well as support services, including shelters;
- Investigate promptly, thoroughly, impartially and seriously all allegations of domestic violence and bring the offenders to justice in accordance with international standards;
- Provide victims of domestic violence with safe and prompt access to justice, including free legal aid where necessary, in order to ensure them available, effective and sufficient remedies and rehabilitation;
- Provide offenders with rehabilitation programs and programs on non-violent conflict resolution methods.

Introduction

This Appendix A contains a glossary of important terms used within international and regional agreements.

Glossary of Terms

With every international agreement, States take on certain international obligations based on how and when they sign onto a treaty. The following glossary explains the obligations of a State if it signs an international agreement under these terms. These definitions derive from the Vienna Convention of the Law of Treaties (1969). While not exhaustive, this glossary contains the most common ways of creating an international obligation. For more information on understanding your State's obligations, visit the [United Nations Treaty Collection \(UNTC\) Glossary](#).

Acceptance or Approval

Under Article 2(1)(b) and 14(2) of the Vienna Convention, a State **accepts** or **approves** a treaty if it expresses its consent to be bound by a treaty. Acceptance and approval have the same legal effect as treaty ratification: it creates a duty to be bound to an international agreement.

Accession

Under Article 2(1)(b) and 15 of the Vienna Convention, a State may **accede** to a treaty by accepting an offer to become party to an already negotiated or signed treaty. The procedures for accession depend on each treaty's provisions; where a treaty is silent on accession provisions, accession may only occur if the negotiating states agree. Accession has the same legal effect as ratification: consent to be bound by a treaty.

Adoption

Under Article 9 of the Vienna Convention, **adoption** is the formal act where the form and content for a proposed treaty's text is developed and established. Adoption occurs when States negotiate and participate in the treaty-making process; in this process, States express their consent to the proposed treaty's text. Adoption occurs either through 1) a resolution by a representative organ of the organization or 2) a specially convened international conference set up for making the treaty.

Declarations

States can declare their interpretation of particular treaty provisions. Typically made at the time of signature, **declarations** only clarify a State's position and don't have the legal effect of excluding or modifying a treaty.

Definitive Signatures

Under Article 12 of the Vienna Convention, a State may establish its consent to be bound by a treaty not subject to ratification, acceptance, or approval through a "**definitive signature**."

Ratification

Under Article 2(1)(b), 14(1), and 16 of the Vienna Convention, a State may indicate its consent to be bound to a treaty, should it intend to do so, by **ratifying** an international agreement.

Reservations

Under Article 2(1)(d) and 19-23 of the Vienna Convention, a state can alter the legal effect of a treaty's provisions by accepting the whole of a multilateral treaty and determining provisions for which it will not

comply. **Reservations** are made when the State signs, ratifies, accepts, approves, or accedes to the treaty. Valid reservations must not be incompatible with the object and the purpose of the treaty. A treaty can prohibit reservations or only allow for certain types of reservations.

Succession

In some international agreements, a party's treaty status may be listed as **succession**. For example, many of the international agreements have listed "succession" under the current international obligations of countries like Montenegro and the Former Yugoslav Republic of Macedonia. Here, succession occurs when one state ceases to exist or loses control over part of its territory and another state comes into existence or assumes control over the territory lost by the first state. In instances where the previous state has obligations of local significance—ie: the boundaries of the country, etc.—the international obligations of the former state will be taken over by the succeeding state. Changes in a government's structure—for example, democracy to monarchy—do not modify or terminate the obligations incurred by the previous government. But, if the state ceases to exist, the treaties concluded are generally terminated and the treaties of the successor state apply to the territory.

Appendix B: International Agreements

Introduction

This Appendix B summarizes relevant international agreements for challenging local property laws that discriminate against or harm women. While some specifically deal with property laws, others afford women broad sweeping protections and equal treatment to men for the purposes of the right to property and social or economic security.

For each international agreement, this section provides:

- a summary of the important aspects of the agreement;
- a table of the important articles within the treaty; a table of all the countries that have ratified, accepted, or acceded to the treaty; and
- links to reservations each country has made with respect to the treaty. (As noted previously, reservations must not be incompatible with the object and purpose of the treaty; otherwise, the reservation will be invalid.)

Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (1948) establishes the principles that all human beings are born free with equal rights and dignity. Under Article 2, the Declaration establishes that all the rights and freedoms set forth in the Declaration will apply to everyone, without distinction of any kind, such as sex or property. Article 3 further emphasizes that all persons have the right to life, liberty and security of person. With this background, the Declaration set out comprehensive lists of rights for both men and women that have been the influence for future human rights agreements. In order for women to receive full protections and access to land, the various articles in the Declaration must be used together to support women's rights.

For example, while women have the right to own property alone or in association with others under Article 17(1), this right, on its own, fails to protect women who do not own actual title to a piece of land and rather, use the property as part of their husband's estate. But, if this article is used in conjunction with Article 16(1)—men and women are entitled to equal rights as to marriage—this would afford a woman access to land that she

otherwise would not receive just for having the right to own property.

[Click here](#) for the History of the Universal Declaration of Human Rights. Also see the [full text](#) of the Universal Declaration of Human Rights.

See Table 1.1 for a list of relevant articles within the UDHR.

Table 1.1

Article	Relevant Language
1	All human beings are born free and equal in dignity and rights.
2	Everyone is entitled to all the rights and freedoms set form in this Declaration without distinction of any kind, such as....sex...property...
3	Everyone has the rights to life, liberty, and security of person.
7	All are equal before the law and are entitled without any discrimination to equal protection of the law.
8	Everyone has the right to an effective remedy by competent national tribunals for acts violating the fundamental rights granted him by the constitution of by law.
16(1)	Men and women of full age have the right to marry...[and] are entitled to equal rights as to marriage.
17(1)	Everyone has the rights to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.
25	Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing...
29(2)	Everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
29(3)	These rights and freedoms may in no case be exercised contrary to the purpose and principles of the United Nations.
30	Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Fifty-eight member States participated in the final drafting of the UDHR and thus were the only signatories. Although the UDHR had some opposition, its principles have become international customary law and its principles have been established in succeeding international human rights treaties. All United Nations member states have ratified one of the nine major international human rights instruments and over 80 percent have ratified at least four or more international human rights agreements.^[i] See Table 1.2 for countries' votes on the UDHR.

Table 1.2: Adopting the Universal Declaration of Human Rights

Country	Voting		
	Yes (48)	No (0)	Abstain/No Vote (8)/(2)
Afghanistan	X		
Argentina	X		
Australia	X		
Belgium	X		
Bolivia	X		
Brazil	X		
Burma	X		
Byelorussian SSR			X
Canada	X		
Chile	X		
China	X		
Columbia	X		
Costa Rica	X		

Cuba	X	
Czechoslovakia		X
Denmark	X	
Dominican Republic	X	
Ecuador	X	
Egypt	X	
El Salvador	X	
Ethiopia	X	
France	X	
Greece	X	
Guatemala	X	
Haiti	X	
Honduras		No Vote
Iceland	X	
India	X	
Iran	X	
Iraq	X	
Lebanon	X	
Liberia	X	
Luxembourg	X	

Mexico	X	
Netherlands	X	
New Zealand	X	
Nicaragua	X	
Norway	X	
Pakistan	X	
Panama	X	
Paraguay	X	
Peru	X	
Philippines	X	
Poland		X
Saudi Arabia		X
Siam	X	
Sweden	X	
Syria	X	
Turkey	X	
Ukrainian SSR		X
Union of South Africa		X
USSR		X

United Kingdom	X	
United States	X	
Uruguay	X	
Venezuela	X	
Yemen		No Vote
Yugoslavia		X

[i] *The Foundation of International Human Rights Law*, The Universal Declaration of Human Rights, http://www.un.org/en/documents/udhr/hr_law.shtml (last visited on 3/25/2014).

International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR), adopted in 1966 and entered into force in 1976), expands the political and civil rights of individuals and reinforces the principles set forth in the Universal Declaration of Human Rights (UDHR). Under its Preamble, State parties to the ICCPR recognize the “inherent dignity, equality, and inalienable rights of all members of the human family.” State parties also oblige themselves to promote universal respect for and observance of human rights and freedoms set forth within the rest of the Covenant.

Under Article 1 of the Covenant, women’s economic status is protected as it gives all peoples the right to “freely pursue their economic, social, and cultural development.” In addition, Article 2 reinforces the non-discrimination clause from the UDHR stating: “Each State party to the present Covenant undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as...sex, property,...” While many of the civil and political rights mentioned do not explicitly give women access to property, Article 3 at least explicitly ensures that men and women will enjoy equal rights with regards to the civil and political rights set forth in the ICCPR. Furthermore, Article 23(4) protects women’s rights with regard to equality at the dissolution of marriage and during marriage, which can assist many rural women in obtaining access to equal rights to land. Article 26 says that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

See the [full text](#) of the International Covenant on Civil and Political Rights.

See Table 2.1 for a list of relevant articles within the ICCPR.

See Table 2.2 for a list of all countries' obligations under the ICCPR.

[See here](#) for an updated list of declarations and reservations each country has made with respect to the ICCPR.

Table 2.1

Article	Relevant Language
1(1)	All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
1(2)	All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
1(3)	The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.
2(1)	Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2(2)	Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
2(3)	Each State Party to the present Covenant undertakes: To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy , notwithstanding that the violation has been committed by persons acting in an official capacity; To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities , or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; To ensure that the competent authorities shall enforce such remedies when granted.
	<u>Summary of General Comment:</u> Respect means States refrain from violation of the rights recognized by the Covenant. Ensure means individuals are protected by the State, not just against violations of Covenant rights by its agents but also against acts committed by private persons or

entities.

To fulfill a duty to respect and ensure, States must take appropriate measures (exercise due diligence) to: prevent; investigate and punish; and redress these rights.

3 The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant

23(4) State parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

5(1) Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

5(2) There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations, or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

23 The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
The right of men and women of marriageable age to marry and to found a family shall be recognized. No marriage shall be entered into without the free and full consent of the intending spouses.
States Parties to the present Covenant **shall take appropriate steps** to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Table 2.2: Signatories to the ICCPR

Country	Voting	
	Accession (a) Ratification (r) Signature(s)	Year
Afghanistan	a	1983
Albania	a	1991
Algeria	r	1989
Andorra	r	2006

Angola	a	1992
Argentina	r	1986
Armenia	a	1993
Australia	r	1980
Austria	r	1978
Azerbaijan	a	1992
Bahamas	r	2008
Bahrain	a	2006
Bangladesh	a	2000
Barbados	a	1973
Belarus	r	1973
Belgium	r	1983
Belize	a	1996
Benin	a	1992
Bolivia	a	1982
Bosnia and Herzegovina	succession	1993
Botswana	r	2000
Brazil	a	1992
Bulgaria	r	1970

Burkina Faso	a	1999
Burundi	a	1990
Cabo Verde	a	1993
Cambodia	a	1992
Cameroon	a	1984
Canada	a	1976
Central African Republic	a	1981
Chad	a	1995
Chile	r	1972
China	s	1998
Colombia	r	1969
Comoros	s	2008
Congo	a	1983
Costa Rica	r	1968
Cote d'Ivoire	a	1992
Croatia	succession	1992
Cuba	s	2008
Cyprus	r	1969
Czech Republic	succession	1993
Democratic People's Republic	a	1981

of Korea		
Democratic Republic of the Congo	a	1976
Denmark	r	1972
Djibouti	a	2002
Dominica	a	1993
Dominican Republic	a	1978
Ecuador	r	1969
Egypt	r	1982
El Salvador	r	1979
Equatorial Guinea	a	1987
Eritrea	a	2002
Estonia	a	1991
Ethiopia	a	1993
Finland	r	1975
France	a	1980
Gabon	a	1983
Gambia	a	1979
Georgia	a	1994
Germany	r	1973

Ghana	r	2000
Greece	a	1997
Grenada	a	1991
Guatemala	a	1992
Guinea	r	1978
Guinea-Bissau	r	2010
Guyana	r	1977
Haiti	a	1991
Honduras	r	1997
Hungary	r	1974
Iceland	r	1979
India	a	1979
Indonesia	a	2006
Islamic Republic of Iran	r	1975
Iraq	r	1971
Ireland	r	1989
Israel	r	1991
Italy	r	1978
Jamaica	r	1975
Japan	r	1979

Jordan	r	1975
Kazakhstan	r	2006
Kenya	a	1972
Kuwait	a	1996
Kyrgyzstan	a	1994
Lao People's Democratic Republic	r	2009
Latvia	a	1992
Lebanon	a	1972
Lesotho	a	1992
Liberia	r	2004
Libya	a	1970
Liechtenstein	a	1998
Lithuania	a	1991
Luxembourg	r	1983
Madagascar	r	1971
Malawi	a	1993
Maldives	a	2006
Mali	a	1974
Malta	a	1990

Mauritania	a	2004
Mauritius	a	1973
Mexico	a	1981
Monaco	r	1997
Mongolia	r	1974
Montenegro	succession	2006
Morocco	r	1979
Mozambique	a	1993
Namibia	a	1994
Nauru	s	2001
Nepal	a	1991
Netherlands	r	1978
New Zealand	r	1978
Nicaragua	a	1980
Niger	a	1986
Nigeria	a	1993
Norway	r	1972
Pakistan	r	2010
Palau	s	2011

Panama	r	1977
Papua New Guinea	a	2008
Paraguay	a	1992
Peru	r	1978
Philippines	r	1986
Poland	r	1977
Portugal	r	1978
Republic of Korea	a	1990
Republic of Moldova	a	1993
Romania	r	1974
Russian Federation	r	1973
Rwanda	a	1975
Samoa	a	2008
San Marino	a	1985
Sao Tome and Principe	s	1995
Senegal	r	1978
Serbia	succession	2001
Seychelles	a	1992
Sierra Leone	a	1996
Slovakia	succession	1993

Slovenia	succession	1992
Somalia	a	1990
South Africa	r	1998
Spain	r	1977
Sri Lanka	a	1980
St. Lucia	s	2011
St. Vincent and the Grenadines	a	1981
Sudan	a	1986
Suriname	a	1976
Swaziland	a	2004
Sweden	r	1971
Switzerland	a	1992
Syrian Arab Republic	a	1969
Tajikistan	a	1999
Thailand	a	1996
The former Yugoslav Republic of Macedonia	succession	1994
Timor-Leste	a	2003
Togo	a	1984
Trinidad and Tobago	a	1978

Tunisia	r	1969
Turkey	r	2003
Turkmenistan	a	1997
Uganda	a	1995
Ukraine	r	1973
United Kingdom of Great Britain and Northern Ireland	r	1976
United Republic of Tanzania	a	1976
United States	r	1992
Uruguay	r	1970
Uzbekistan	a	1995
Vanuatu	r	2008
Venezuela	r	1978
Vietnam	a	1982
Yemen	a	1987
Zambia	a	1984
Zimbabwe	a	1991

For the most up-to-date list of countries obligations under the ICCPR, [click here](#).

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Under CEDAW, women rights have been extensively outlined, especially within the area of access to property,

land and economic development. Under Article 5 of CEDAW, the Convention imposes an obligation that States take all appropriate measures to modify the social and cultural patterns of conduct and women, especially those leading to discrimination against women. Under Article 1, discrimination against women includes: “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women...of [the] human rights and fundamental freedoms” stated within the Convention.

Article 14 of CEDAW also ensures additional protections to rural women based on their pivotal role in the economic survival of their families. Under this protection, States must take all appropriate measures to ensure that the provisions and rights in the Convention are applied to rural women. Furthermore, this protection also requires State parties to take all appropriate measures to eliminate discrimination against women so that rural women may participate and benefit from rural development. The protection also requires States to ensure that rural women have the right to:

- To participate in the elaboration and implementation of development planning at all levels;
- To organize self-help groups and cooperatives in order to obtain equal access to economic opportunities through employment or self-employment;
- To participate in all community activities;
- To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

The Committee on the Elimination of Discrimination Against Women has also made recommendations regarding women’s rights to property. Under General Recommendation 21, the Committee has stated:

“Women have the right to ‘own, manage, enjoy and dispose of property’—[this] ‘is central to a woman's right to enjoy financial independence, and in many countries will be critical to her ability to earn a livelihood and to provide adequate housing and nutrition for herself and for her family...States parties must undergo agrarian reform or redistribution of land to pay particular attention to the right of women, regardless of marital status, to share such redistributed land on equal terms with men.”

See the [full text](#) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Also view a [full history](#) of CEDAW.

See Table 3.1 for a list of relevant articles within CEDAW.

[Click here](#) and see Table 3.2 for a list of all countries’ obligations under CEDAW.

[See here](#) for an updated list of declarations and reservations each country has made with respect to CEDAW.

Table 3.1

Article	Relevant Language
---------	-------------------

1 Discrimination against women is: “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women...of human rights and fundamental freedoms.”

5 Requires State parties to take all appropriate measures to modify the social and cultural patterns of conduct of men and women

14(1) States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural area.

14(2)(g) States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right to:

- To participate in the elaboration and implementation of development planning at all levels;
- To organize self-help groups and cooperatives in order to obtain equal access to economic opportunities through employment or self-employment;
- To participate in all community activities;
- To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

15 Guarantees women a legal capacity identical to men

16(1) (a)-(h) States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(a) The same right to enter into marriage;

(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(c) The same rights and responsibilities during marriage and at its dissolution;

(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to

exercise these rights;

(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) 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. .

Table 3.2: Signatories to CEDAW

Country	Voting	
	Accession (a) Ratification (r) Signature(s)	Year
Afghanistan	r	2003
Albania	a	1994
Algeria	a	1996
Andorra	a	1997
Angola	a	1986
Antigua and Barbuda	a	1989
Argentina	r	1985
Armenia	a	1993
Australia	r	1983
Austria	r	1982

Azerbaijan	a	1995
Bahamas	a	1993
Bahrain	a	2002
Bangladesh	a	1984
Barbados	r	1980
Belarus	r	1981
Belgium	r	1985
Belize	r	1990
Benin	r	1992
Bhutan	r	1981
Bolivia	r	1990
Bosnia and Herzegovina	succession	1993
Botswana	a	1996
Brazil	r	1984
Brunei Darussalam	a	2006
Bulgaria	r	1982
Burkina Faso	a	1987
Burundi	r	1992
Cabo Verde	a	1980
Cambodia	a	1992

Cameroon	r	1994
Canada	r	1981
Central African Republic	a	1991
Chad	a	1995
Chile	r	1989
China	r	1980
Colombia	r	1982
Comoros	a	1994
Congo	r	1982
Cook Islands	a	2006
Costa Rica	r	1986
Cote d'Ivoire	r	1995
Croatia	succession	1992
Cuba	r	1980
Cyprus	a	1985
Czech Republic	succession	1993
Democratic People's Republic of Korea	a	2001
Democratic Republic of the Congo	r	1986

Denmark	r	1983
Djibouti	r	1998
Dominica	r	1980
Dominican Republic	r	1982
Ecuador	r	1981
Egypt	r	1981
El Salvador	r	1981
Equatorial Guinea	a	1984
Eritrea	a	1995
Estonia	a	1991
Ethiopia	r	1981
Fiji	a	1995
Finland	r	1986
France	r	1983
Gabon	r	1983
Gambia	r	1993
Georgia	a	1994
Germany	r	1985
Ghana	r	1986
Greece	r	1983

Grenada	r	1990
Guatemala	r	1982
Guinea	r	1982
Guinea-Bissau	r	1985
Guyana	r	1980
Haiti	r	1981
Honduras	r	1983
Hungary	r	1980
Iceland	r	1985
India	r	1993
Indonesia	r	1984
Iraq	a	1986
Ireland	a	1985
Israel	r	1991
Italy	r	1985
Jamaica	r	1984
Japan	r	1985
Jordan	r	1992
Kazakhstan	a	1998

Kenya	a	1984
Kiribati	a	2004
Kuwait	a	1994
Kyrgyzstan	a	1997
Lao People's Democratic Republic	r	1981
Latvia	a	1992
Lebanon	a	1997
Lesotho	r	1995
Liberia	a	1984
Libya	a	1989
Liechtenstein	a	1995
Lithuania	a	1994
Luxembourg	r	1989
Madagascar	r	1989
Malawi	a	1987
Malaysia	a	1995
Maldives	a	1993
Mali	r	1985
Malta	a	1991

Marshall Islands	a	2006
Mauritania	a	2001
Mauritius	a	1984
Mexico	r	1981
Micronesia	a	2004
Monaco	a	2005
Mongolia	r	1981
Montenegro	succession	2006
Morocco	a	1993
Mozambique	a	1997
Myanmar	a	1997
Namibia	a	1992
Nauru	a	2011
Nepal	r	1991
Netherlands	r	1991
New Zealand	r	1985
Nicaragua	r	1981
Niger	a	1999
Nigeria	r	1985
Norway	r	1981

Oman	a	2006
Pakistan	a	1996
Palau	s	2011
Panama	r	1981
Papua New Guinea	a	1995
Paraguay	a	1987
Peru	r	1982
Philippines	r	1981
Poland	r	1980
Portugal	r	1980
Qatar	a	2009
Republic of Korea	r	1984
Republic of Moldova	a	1994
Romania	r	1982
Russian Federation	r	1981
Rwanda	r	1981
Samoa	a	1992
San Marino	r	2003
Sao Tome and Principe	r	2003

Saudi Arabia	r	2000
Senegal	r	1985
Serbia	succession	2001
Seychelles	a	1992
Sierra Leone	r	1988
Slovakia	succession	1993
Slovenia	succession	1992
Solomon Islands	a	2002
South Africa	r	1995
Spain	r	1984
Sri Lanka	r	1981
St. Kitts and Nevis	a	1985
St. Lucia	a	1982
St. Vincent and the Grenadines	a	1981
Suriname	a	1993
Swaziland	a	2004
Sweden	r	1980
Switzerland	r	1997
Syrian Arab Republic	a	2003

Tajikistan	a	1993
Thailand	a	1985
The former Yugoslav Republic of Macedonia	succession	1994
Timor-Leste	a	2003
Togo	a	1983
Trinidad and Tobago	r	1990
Tunisia	r	1985
Turkey	a	1985
Turkmenistan	a	1997
Uganda	r	1985
Ukraine	r	1981
United Arab Emirates	a	2004
United Kingdom of Great Britain and Northern Ireland	r	1986
United Republic of Tanzania	r	1985
United States	s	1980
Uruguay	r	1981
Uzbekistan	a	1995
Vanuatu	a	1995
Venezuela	r	1983

Vietnam	r	1982
Yemen	a	1984
Zambia	r	1985
Zimbabwe	a	1991

Optional Protocol to CEDAW

Entering into force on December 22, 2000, the [Optional Protocol](#) establishes a State commitment to recognize the CEDAW Committee’s competence to receive and consider communications related to CEDAW. Under Article 2 and 3, the Optional Protocol sets out a communications procedure where individuals or groups of individuals may submit non-anonymous complaints of violations in writing to the Committee. However, the Committee may only consider communications from countries that have become party to the Optional Protocol. Complaints are also only considered when all available domestic remedies have been exhausted; complaints must not be examined under another procedure of international investigation or settlement.

Under Article 5, the Committee may contact the State with a request that the State take immediate steps to protect the alleged victims from irreparable harm. When a communication meets the above criteria, the Committee will confidentially bring a communication to the State’s attention. The State then has 6 months to provide a written explanation or statement with regard to the complaint. Notably, under Article 7, The Committee examines and considers the complaint in closed meetings with the State.

Under Article 8, the Committee may also initiate a confidential investigation where one of more State members have received reliable information of grave or systematic State violations to the rights established in CEDAW. After giving the State six months, the Committee may invite the State to provide details of any remedial efforts taken following the inquiry. State parties are also required to ensure the protection of those submitting communications.

See the [full text](#) of the Optional Protocol. View a [full history](#) of the Optional Protocol.

See Table 3.3 for a list of countries’ obligations under the Optional Protocol. Under Article 17, the Optional Protocol does not permit reservations. Therefore this section will not include such information.

To see a list of declarations made at time of signature, [click here](#). Under Article 19, States may withdraw from the Optional Protocol through written notification to the Secretary-General; but, withdrawal has no impact on any communications submitted prior to the effective date of withdrawal.

Table 3.3: Signatories to CEDAW’s Optional Protocol

Country	<i>Voting</i>
----------------	----------------------

	Accession (a) Ratification (r) Signature(s)	Year
Albania	a	2003
Andorra	r	2002
Angola	a	2007
Antigua and Barbuda	a	2006
Argentina	r	2007
Armenia	a	2006
Australia	a	2008
Austria	r	2000
Azerbaijan	r	2001
Bangladesh	r	2000
Belarus	r	2004
Belgium	r	2004
Belize	a	2002
Benin	s	2000
Bolivia	r	2000
Bosnia and Herzegovina	r	2002
Botswana	a	2007
Brazil	r	2002

Bulgaria	r	2006
Burkina Faso	r	2005
Burundi	s	2001
Cabo Verde	a	2011
Cambodia	r	2010
Cameroon	a	2005
Canada	a	2002
Chad	s	2012
Chile	s	1999
Colombia	r	2007
Congo	s	2008
Cook Islands	a	2007
Costa Rica	r	2001
Cote d'Ivoire	a	2012
Croatia	r	2001
Cuba	s	2000
Cyprus	r	2002
Czech Republic	r	2001
Denmark	r	2000

Dominican Republic	r	2001
Ecuador	r	2002
El Salvador	s	2001
Equatorial Guinea	a	2009
Finland	r	2000
France	r	2000
Gabon	a	2004
Georgia	a	2002
Germany	r	2002
Ghana	r	2011
Greece	r	2002
Guatemala	r	2002
Guinea-Bissau	r	2009
Hungary	a	2000
Iceland	r	2001
Indonesia	s	2000
Ireland	r	2000
Italy	r	2000
Kazakhstan	r	2001
Kyrgyzstan	a	2002

Lesotho	r	2004
Liberia	s	2004
Libya	a	2004
Liechtenstein	r	2001
Lithuania	r	2004
Luxembourg	r	2003
Madagascar	s	2000
Malawi	s	2000
Maldives	a	2006
Mali	a	2000
Mauritius	r	2008
Mexico	r	2002
Mongolia	r	2002
Montenegro	succession	2006
Mozambique	a	2008
Namibia	r	2000
Nepal	r	2007
Netherlands	r	2002
New Zealand	r	2000

Niger	a	2004
Nigeria	r	2004
Norway	r	2002
Panama	r	2001
Paraguay	r	2001
Peru	r	2001
Philippines	r	2003
Poland	a	2003
Portugal	r	2002
Republic of Korea	a	2006
Republic of Moldova	a	2006
Romania	r	2003
Russian Federation	r	2004
Rwanda	a	2008
San Marino	a	2005
Sao Tome and Principe	s	2000
Senegal	r	2000
Serbia	a	2003
Seychelles	r	2011

Sierra Leone	s	2000
Slovakia	r	2000
Slovenia	a	2004
Solomon Islands	a	2002
South Africa	r	2005
Spain	a	2001
Sri Lanka	a	2002
St. Kitts and Nevis	r	2006
Sweden	r	2003
Switzerland	s	2008
Tajikistan	r	2000
Thailand	r	2000
The former Yugoslav Republic of Macedonia	r	2003
Timor-Leste	a	2003
Tunisia	a	2008
Turkey	r	2002
Turkmenistan	a	2009
Ukraine	r	2003
United Kingdom of Great Britain and Northern Ireland	a	2004

United Republic of Tanzania	a	2006
Uruguay	r	2001
Vanuatu	a	2007
Venezuela	r	2002
Zambia	s	2008

International Covenant on Economic, Social, and Cultural Rights (ICESCR)

Women have been protected under the International Covenant on Economic, Social, and Cultural Rights (ICESCR) through provisions that acknowledge every person’s right to an adequate standard of living with food, clothing, housing, and continued improvement of living conditions.[ii] Through this provision, women going through dissolution processes or who have been kicked out of their home and lost access to the land they once used would have a right to such land as a means of their adequate standard of living. Similar to the UDHR and the ICCPR, women have their entire economic, social, and cultural rights named within the Covenant protected by a non-discrimination clause. There is also a right to equality under Article 3.

See the [full text](#) of the Convention on Economic, Social, and Cultural Rights (ICESCR). Also view a [full history](#) of the ICESCR.

See Table 4.1 for a list of relevant articles within ICESCR.

[Click here](#) and see Table 4.2 for a list of all countries’ obligations under ICESCR.

[See here](#) for an updated list of declarations and reservations each country has made with respect to ICESCR.

Table 4.1

Article	Relevant Language
2	<p>Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.</p> <p>The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</p>

Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

10 The States Parties to the present Covenant recognize that:
The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and **while it is responsible for the care and education of dependent children.** Marriage must be entered into with the free consent of the intending spouses. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. **Children and young persons should be protected from economic and social exploitation.** Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labor should be prohibited and punishable by law.

11(1) 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.

Table 4.2: Signatories to the ICESCR

Country	Voting	
	Accession (a) Ratification (r) Signature(s)	Year
Afghanistan	a	1983
Albania	a	1991
Algeria	r	1989
Angola	a	1992
Argentina	r	1986
Armenia	a	1993

Australia	r	1975
Austria	r	1978
Azerbaijan	a	1992
Bahamas	r	2008
Bahrain	a	2007
Bangladesh	a	1998
Barbados	a	1973
Belarus	r	1973
Belgium	r	1983
Belize	s	2000
Benin	a	1992
Bolivia	a	1982
Bosnia and Herzegovina	succession	1993
Brazil	a	1992
Bulgaria	r	1970
Burkina Faso	a	1999
Burundi	a	1990
Cabo Verde	a	1993
Cambodia	a	1992
Cameroon	a	1984

Canada	a	1976
Central African Republic	a	1981
Chad	a	1995
Chile	r	1972
China	r	2001
Colombia	r	1969
Comoros	s	2008
Congo	a	1983
Costa Rica	r	1968
Cote d'Ivoire	a	1992
Croatia	succession	1992
Cuba	s	2008
Cyprus	r	1969
Czech Republic	succession	1993
Democratic People's Republic of Korea	a	1981
Democratic Republic of the Congo	a	1976
Denmark	r	1972
Djibouti	a	2002

Dominica	a	1993
Dominican Republic	a	1978
Ecuador	r	1969
Egypt	r	1982
El Salvador	r	1979
Equatorial Guinea	a	1987
Eritrea	a	2001
Estonia	a	1991
Ethiopia	a	1993
Finland	r	1975
France	a	1980
Gabon	a	1983
Gambia	a	1978
Georgia	a	1994
Germany	r	1973
Ghana	r	2000
Greece	a	1985
Grenada	a	1991
Guatemala	a	1988
Guinea	r	1978

Guinea-Bissau	a	1992
Guyana	r	1977
Haiti	a	2013
Honduras	r	1981
Hungary	r	1974
Iceland	r	1979
India	a	1999
Indonesia	a	2006
Islamic Republic of Iran	r	1975
Iraq	r	1971
Ireland	r	1989
Israel	r	1991
Italy	r	1978
Jamaica	r	1975
Japan	r	1979
Jordan	r	1975
Kazakhstan	r	2006
Kenya	a	1972
Kuwait	a	1996

Kyrgyzstan	a	1994
Lao People's Democratic Republic	r	2007
Latvia	a	1992
Lebanon	a	1972
Lesotho	a	1992
Liberia	r	2004
Libya	a	1970
Liechtenstein	a	1998
Lithuania	a	1991
Luxembourg	r	1983
Madagascar	r	1971
Malawi	a	1993
Maldives	a	2006
Mali	a	1974
Malta	r	1990
Mauritania	a	2004
Mauritius	a	1973
Mexico	a	1981
Monaco	r	1997

Mongolia	r	1974
Montenegro	succession	2006
Morocco	r	1979
Namibia	a	1994
Nepal	a	1991
Netherlands	r	1978
New Zealand	r	1978
Nicaragua	a	1980
Niger	a	1986
Nigeria	a	1993
Norway	r	1972
Pakistan	r	2008
Palau	s	2011
Panama	r	1977
Papua New Guinea	a	2008
Paraguay	a	1992
Peru	r	1978
Philippines	r	1974
Poland	r	1977
Portugal	r	1978

Republic of Korea	a	1990
Republic of Moldova	a	1993
Romania	r	1974
Russian Federation	r	1973
Rwanda	a	1975
San Marino	a	1985
Sao Tome and Principe	s	1995
Senegal	r	1978
Serbia	succession	2001
Seychelles	a	1992
Sierra Leone	a	1996
Slovakia	succession	1993
Slovenia	succession	1992
Solomon Islands	succession	1982
Somalia	a	1990
South Africa	s	1994
Spain	r	1977
Sri Lanka	a	1980
St. Vincent and the Grenadines	a	1981

Sudan	a	1986
Suriname	a	1976
Swaziland	a	2004
Sweden	r	1971
Switzerland	a	1992
Syrian Arab Republic	a	1969
Tajikistan	a	1999
Thailand	a	1999
The former Yugoslav Republic of Macedonia	succession	1994
Timor-Leste	a	2003
Togo	a	1984
Trinidad and Tobago	a	1978
Tunisia	r	1969
Turkey	r	2003
Turkmenistan	a	1997
Uganda	a	1987
Ukraine	r	1973
United Kingdom of Great Britain and Northern Ireland	r	1976

United Republic of Tanzania	a	1976
United States	s	1977
Uruguay	r	1970
Uzbekistan	a	1995
Venezuela	r	1978
Vietnam	a	1982
Yemen	a	1987
Zambia	a	1984
Zimbabwe	a	1991

[ii] See Article 11(1) of the International Covenant on Economic, Social, and Cultural Rights.

Convention on the Rights of the Child (CRC)

Adopted in 1989 and entered into force in 1990, the Convention on the Rights of the Child (CRC) is an international human rights agreement that recognizes the rights of every child to certain fundamentals that State parties and the child’s parents, must provide. With respect to property and land rights for girls, the CRC gives an additional avenue to challenge lack of access to land and security, especially in inheritance practices.

Under Article 27(1) of the CRC, every child has the right to a standard of living adequate to the child’s physical, mental, spiritual, and social development.

See the full text of the CRC. Also see Table 5.1 for a list of relevant articles within the CRC.

Click here and see Table 5.2 for a list of all the countries’ obligations, reservations, and declarations under the CRC.

Table 5.1

Article	Relevant Language
----------------	--------------------------

- 27(1)** Recognizing the rights of every child to a standard of living adequate to the child's physical, mental, spiritual, and social development
- 27(3)** State parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents...of the child to implement this right and shall ...provide material assistance and support programs, particularly with regard to nutrition, clothing, and **housing**

Table 5.2: Signatories to the CRC

Country	Voting	
	Accession (a) Ratification (r) Signature(s)	Year
Afghanistan	r	1994
Albania	r	1992
Algeria	r	1993
Andorra	r	1996
Angola	r	1990
Antigua and Barbuda	r	1993
Argentina	r	1990
Armenia	a	1993
Australia	r	1990
Austria	r	1992
Azerbaijan	a	1992
Bahamas	r	1991
Bahrain	a	1992

Bangladesh	r	1990
Barbados	r	1990
Belarus	r	1990
Belgium	r	1991
Belize	r	1990
Benin	r	1990
Bhutan	r	1990
Bolivia	r	1990
Bosnia and Herzegovina	succession	1993
Botswana	a	1995
Brazil	r	1990
Brunei Darussalam	a	1995
Bulgaria	r	1991
Burkina Faso	r	1990
Burundi	r	1990
Cabo Verde	a	1992
Cambodia	a	1992
Cameroon	r	1993
Canada	r	1991

Central African Republic	r	1992
Chad	r	1990
Chile	r	1990
China	r	1992
Colombia	r	1991
Comoros	r	1993
Congo	a	1993
Cook Islands	a	1997
Costa Rica	r	1990
Cote d'Ivoire	r	1991
Croatia	succession	1992
Cuba	r	1991
Cyprus	r	1991
Czech Republic	succession	1993
Democratic People's Republic of Korea	r	1990
Democratic Republic of the Congo	r	1990
Denmark	r	1991
Djibouti	r	1990
Dominica	r	1991

Dominican Republic	r	1991
Ecuador	r	1990
Egypt	r	1990
El Salvador	r	1990
Equatorial Guinea	a	1992
Eritrea	r	1994
Estonia	a	1991
Ethiopia	a	1991
Fiji	r	1993
Finland	r	1991
France	r	1990
Gabon	r	1994
Gambia	r	1990
Georgia	a	1994
Germany	r	1992
Ghana	r	1990
Greece	r	1993
Grenada	r	1990
Guatemala	r	1990

Guinea	a	1990
Guinea-Bissau	r	1990
Guyana	r	1991
Haiti	r	1995
Holy See	r	1990
Honduras	r	1990
Hungary	r	1991
Iceland	r	1992
India	a	1992
Indonesia	r	1990
Islamic Republic of Iran	r	1994
Iraq	a	1994
Ireland	r	1992
Israel	r	1991
Italy	r	1991
Jamaica	r	1991
Japan	r	1994
Jordan	r	1991
Kazakhstan	r	1994
Kenya	r	1990

Kuwait	a	1995
Kyrgyzstan	a	1994
Lao People's Democratic Republic	a	1991
Latvia	a	1992
Lebanon	r	1991
Lesotho	r	1992
Liberia	r	1993
Libya	a	1993
Liechtenstein	r	1995
Lithuania	a	1992
Luxembourg	r	1994
Madagascar	r	1991
Malawi	a	1991
Malaysia	a	1995
Maldives	r	1991
Mali	r	1990
Malta	r	1990
Marshall Islands	r	1993
Mauritania	r	1991

Mauritius	a	1990
Mexico	r	1990
Micronesia	a	1993
Monaco	a	1993
Mongolia	r	1990
Montenegro	succession	2006
Morocco	r	1993
Mozambique	r	1994
Myanmar	a	1991
Namibia	r	1990
Nauru	a	1994
Nepal	r	1990
Netherlands	a	1995
New Zealand	r	1993
Nicaragua	r	1990
Niger	r	1990
Nigeria	r	1991
Niue	a	1995
Norway	r	1991

Oman	a	1996
Pakistan	r	1990
Palau	a	1995
Panama	r	1990
Papua New Guinea	r	1993
Paraguay	r	1990
Peru	r	1990
Philippines	r	1990
Poland	r	1991
Portugal	r	1990
Qatar	r	1995
Republic of Korea	r	1991
Republic of Moldova	a	1993
Romania	r	1990
Russian Federation	r	1990
Rwanda	r	1991
Samoa	r	1994
San Marino	a	1991
Sao Tome and Principe	a	1991
Saudi Arabia	a	1996

Senegal	r	1990
Serbia	succession	2001
Seychelles	a	1990
Sierra Leone	r	1990
Slovakia	succession	1993
Slovenia	succession	1992
Solomon Islands	a	1995
Somalia	s	2002
South Africa	r	1995
Spain	r	1990
Sri Lanka	r	1991
St. Kitts and Nevis	r	1990
St. Lucia	r	1993
St. Vincent and the Grenadines	r	1993
Sudan	r	1990
Suriname	r	1993
Swaziland	r	1995
Sweden	r	1990
Switzerland	r	1997

Syrian Arab Republic	r	1993
Tajikistan	a	1993
Thailand	a	1992
The former Yugoslav Republic of Macedonia	succession	1994
Timor-Leste	a	2003
Togo	r	1990
Tonga	a	1995
Trinidad and Tobago	r	1991
Tunisia	r	1992
Turkey	r	1995
Turkmenistan	a	1993
Uganda	r	1990
Ukraine	r	1991
United Arab Emirates	a	1997
United Kingdom of Great Britain and Northern Ireland	r	1991
United Republic of Tanzania	r	1991
United States	s	1995
Uruguay	r	1990
Uzbekistan	a	1994

Vanuatu	r	1993
Venezuela	r	1990
Vietnam	r	1990
Yemen	r	1991
Zambia	r	1991
Zimbabwe	r	1990

Appendix C: Regional Agreements

The African (Banjul) Charter on Human and Peoples' Rights

As a regional international human rights agreement, the Banjul Charter seeks to address the unique human rights and economic development concerns of countries that are a part of the Organization of African Unity (OAU) or the African Union.

Although this regional agreement will only apply to those States that are eligible for membership in the OAU, it has been included to emphasize the important of looking at regional international agreements as part of one's toolbox in challenging local property laws. Just like any other international agreement, under the Banjul Charter, States have obligations and duties to other States as well as their citizens.

Unlike past agreements, the Charter recognizes the socio-economic rights of all generations of peoples—men, women, and children. It also recognizes that duties are imposed both on States and individuals. In addition, it contains no derogation clause, which means that the rights in the Charter cannot be derogated from by emergencies and special circumstances. The only legitimate reasons for limitations to the rights stated in the Charter are mentioned in Article 27(2).

Of particular interest to the rights of women and access to land, Article 14 ensures that the right to property shall be guaranteed for all peoples. Article 18 supplements this language by stating that the State has a duty to ensure the elimination of every discrimination against women. This duty to ensure includes the obligation to protect the rights of women and children as stipulated in other international declarations, conventions, and this Agreement.

See the [full text](#) of the Banjul Charter. Also view a [full history](#) of the Banjul Charter.

See Table 6.1 for a list of relevant articles within the Banjul Charter.

[Click here](#) and see Table 6.2 for a list of all the countries' obligations under the Banjul Charter.

[See here](#) for an updated list of declarations and reservations each country has made with respect to the Banjul Charter.

Table 6.1

Article	Relevant Language
Preamble	The African States members of the Organization of African Unity (Union), parties to the present convention entitled "African Charter on Human and Peoples' Rights", Recalling...a "preliminary draft on an African Charter on Human and Peoples' Rights providing inter alia for the establishment of bodies to promote and protect human and peoples' rights "; Considering the Charter of the Organization of African Unity, which stipulates that " <u>freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples</u> "; Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa , to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights; ...Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone ; Convinced that it is henceforth essential to <u>pay a particular attention to the right to development</u> and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception...
1	Member states shall recognize the rights, duties, and freedoms enshrines in this Chapter and shall undertake to adopt legislative and other measures to give effect to them.
2	Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race...sex...
3	Every individual shall be equal before the law...shall be entitled to equal protection of the law.
14	The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.
18(1)-(3)	The family shall be the natural unit and basis of society...[and] protected by the State which shall take care of its physical health and moral. The state shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

19	All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.
21	State parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.
22	All peoples shall have the right to their economic, social, and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. States shall have the duty, individually or collectively, to exercise of the right to development.
24	All peoples shall have the right to a general satisfactory environment favorable to their development.

Table 6.2: Signatories to the Banjul Charter

Notably, 53 States have signed and ratified the Banjul Charter; only South Sudan has not signed and ratified the Banjul Charter.

Country	Voting		
	Signed and Ratified (r)	Date of Signature	Date of Ratification
Algeria	r	4/10/1986	3/1/1987
Angola	r		3/2/1990
Benin	r	2/11/2004	1/20/1986
Botswana	r		7/17/1986
Burkina Faso	r	3/5/1984	7/6/1984
Burundi	r		7/28/1989
Cameroon	r	7/23/1987	6/20/1989
Cape Verde	r	3/31/1986	6/2/1987
Central African Republic	r	2/4/2003	4/26/1986

Chad	r	5/29/1986	10/9/1986
Comoros	r	12/7/2004	6/1/1986
Congo	r	11/27/1981	12/9/1982
Cote d'Ivoire	r	8/30/2005	1/6/1992
Democratic Republic of the Congo	r	7/23/1987	7/20/1987
Djibouti	r	12/20/1991	11/11/1991
Egypt	r	11/16/1981	3/20/1984
Equatorial Guinea	r	8/18/1986	4/7/1986
Eritrea	r		1/14/1999
Ethiopia	r		6/15/1998
Gabon	r	2/26/1982	2/20/1986
Gambia	r	2/11/1983	6/8/1983
Ghana	r	7/3/2004	1/24/1989
Guinea	r	12/9/1981	2/16/1982
Guinea-Bissau	r	3/8/2005	12/4/1985
Kenya	r		1/23/1992
Lesotho	r	3/7/1984	2/10/1992
Liberia	r	1/31/1983	8/4/1982
Libya	r	5/30/1985	7/19/1986

Madagascar	r		3/9/1992
Malawi	r	2/23/1990	11/17/1989
Mali	r	11/13/1981	12/21/1981
Mauritania	r	2/25/1982	6/14/1986
Mauritius	r	2/27/1992	6/19/1992
Mozambique	r		2/22/1989
Namibia	r		7/30/1992
Niger	r	7/9/1986	7/15/1986
Nigeria	r	8/31/1982	6/22/1983
Rwanda	r	11/11/1981	7/15/1983
Sahrawi Arab Democratic Republic	r	4/10/1986	5/2/1986
Sao Tome and Principe	r		5/23/1986
Senegal	r	9/23/1981	8/13/1982
Seychelles	r		4/13/1992
Sierra Leone	r	8/27/1981	9/21/1983
Somalia	r	2/26/1982	7/31/1985
South Africa	r	7/9/1996	7/9/1996
South Sudan	not signed or ratified	--	--
Sudan	r	9/3/1982	2/18/1986

Swaziland	r	12/20/1991	9/15/1995
Tanzania	r	5/31/1982	2/18/1984
Togo	r	2/26/1982	11/5/1982
Tunisia	r		3/16/1983
Uganda	r	8/18/1986	5/10/1986
Zambia	r	1/17/1983	1/10/1984
Zimbabwe	r	2/20/1986	5/30/1986

The (Maputo) Protocol to the African Charter on Human and Peoples' Rights on the Right of Women in Africa

The Maputo Protocol is a regional international human rights agreement that addresses the human rights and needs of African Women in all aspects of life. This all-encompassing document speaks to many different issues including inheritance, access to land and property, right to a sustainable living, and a prohibition on the exploitation or degradation of women, regardless of age.

As part of the process of ratifying the Maputo Protocol (adopted in 2003 and entered into force in 2005), the AU adopted but did not ratify the Declaration on Gender Equality in Africa (2004). Under this Declaration, the heads of State agreed to pave the way for the successful implementation of the Maputo Protocol and its goals by 1) urging the full participation and representation of women in resolving and managing conflicts in Africa; 2) extending the principle of gender quality to all other organs of the AU; 3) actively promoting the implementation of legislation that strengthens women's land, property, and inheritance rights, including the right to housing; 4) signing, ratifying, and ensuring that the Maputo Protocol is implemented by 2005; and 5) strengthening the gender machineries within their respective countries, providing them with enough human and financial resources to carry out the promotion and tracking of gender equality.

See the [full text](#) of the Maputo Protocol.

See Table 7.1 for a list of relevant articles within the Maputo Protocol.

[Click here](#) and see Table 7.2 for a list of all the countries' obligations, reservations, and declarations under the Maputo Protocol.

Table 7.1

Article	Relevant Language
---------	-------------------

- 1 "Discrimination against women" means any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life; "Harmful Practices" means all behavior, attitudes and/or practices which negatively affect the fundamental rights of women and girls... "Violence against women" **means all acts perpetrated against women** which cause or could cause them physical, sexual, psychological, and **economic harm**, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war "Women" means persons of female gender, including girls

- 2(1) States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:
- include in their national constitutions and other legislative instruments, if not already done, **the principle of equality between women and men and ensure its effective application;**
 - **enact and effectively implement appropriate legislative or regulatory measures**, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;

- 2(2)
- **integrate a gender perspective in their policy decisions, legislation, development plans, programs and activities and in all other spheres of life;**
 - **take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;**
 - **support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.**

States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education...with a view to achieving the elimination of harmful cultural and traditional practices and all other practices *which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.*

- 3 Every woman shall have the right to dignity inherent as a human being and to the recognition and protection of her human and legal rights; Every woman shall have the right to respect as a person and to the free development of her personality; **States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women;** States Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.

- 5 States Parties shall prohibit and **condemn all forms of harmful practices which**

negatively affect the human rights of women and which are contrary to recognized international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including:

- creation of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programs;
- protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

6 Article 6: States Parties **shall ensure that women and men enjoy equal rights** and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that:

- a woman and a man shall jointly contribute to safeguarding the interests of the family, protecting and educating their children;
- during her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

13 (e)-(f) States Parties shall adopt and enforce legislative and other measures **to guarantee women equal opportunities in work and career advancement and other economic opportunities.** In this respect, they shall:

- create conditions to promote and support the occupations and economic activities of women, in particular, within the informal sector;
- establish a system of protection and social insurance for women working in the informal sector and sensitize them to adhere to it;

15 Provide women with access to ... land [] and the means of producing nutritious food.

16 Women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. To ensure this right, States Parties shall grant to women, whatever their marital status, access to adequate housing.

17(1) Women shall have the right to live in a positive cultural context and to participate at all levels in the determination of cultural policies. States Parties shall take all appropriate measures to enhance the participation of women in the formulation of cultural policies at all levels.

18(a) Women shall have the right to live in a healthy and sustainable environment. States Parties shall take all appropriate measures to:

- ensure greater participation of women in the planning, management and preservation of the environment and **the sustainable use of natural resources** at all levels

19 (a)-(e)	<p>Women shall have the right to fully enjoy their right to sustainable development. In this connection, the States Parties shall take all appropriate measures to:</p> <p>a) introduce the gender perspective in the national development planning procedures;</p> <p>b) ensure participation of women at all levels in the conceptualization, decision-making, implementation and evaluation of development policies and programs;</p> <p>c) promote women’s access to and control over productive resources such as land and guarantee their right to property;</p> <p>d) promote women’s access to credit, training, skills development and extension <u>services at rural and urban levels</u> in order to provide women with a higher quality of life and <u>reduce the level of poverty among women</u>;</p> <p>e) take into account indicators of human development specifically relating to women in the elaboration of development policies and programs</p>
21(1)	<p>A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.</p>
21(2)	<p>Women and men shall have the right to inherit, in equitable shares, their parents' properties.</p>
25	<p>States Parties shall undertake to: provide for appropriate remedies to any woman whose rights or freedoms, as herein recognized, have been violated; ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.</p>

Table 7.2: Signatories to the Maputo Protocol

Unlike the Banjul Charter, which had a near 100% ratification rate, the Maputo Protocol, while in effect, remains more contested. To date, 28 States have both signed and ratified the Protocol; 18 have signed but not ratified the Protocol; and 8 States have not signed nor ratified the Protocol. These eight States are: Botswana, Central African Republic, Egypt, Eritrea, Sao Tome and Principe, South Sudan, Sudan, and Tunisia.

Country	<i>Voting</i>		
	Signed and Ratified (r) Signed but no ratification (s)	Date of Signature	Date of Ratification
Algeria	s	12/29/2003	--
Angola	r	2/22/2007	9/30/2007
Benin	r	2/11/2004	9/30/2005
Botswana	not signed or ratified		
		--	--

Burkina Faso	r	2/26/2004	6/9/2006
Burundi	s	12/3/2003	--
Cameroon	s	7/25/2006	--
Cape Verde	r	--	6/21/2005
Central African Republic	not signed or ratified	--	--
Chad	s	12/6/2004	--
Comoros	r	2/26/2004	3/18/2004
Congo	s	2/27/2004	--
Cote d'Ivoire	r	2/27/2004	--
Democratic Republic of the Congo	r	12/5/2003	6/9/2008
Djibouti	r	12/18/2003	2/2/2005
Egypt	not signed or ratified	--	--
Equatorial Guinea	s	1/30/2005	--
Eritrea	not signed or ratified	--	--
Ethiopia	s	6/1/2004	--
Gabon	s	1/27/2005	--
Gambia	r	11/9/2003	5/25/2005
Ghana	r	10/31/2003	6/13/2007
Guinea	s	12/16/2003	--

Guinea-Bissau	r	3/8/2005	6/19/2008
Kenya	s	12/17/2003	--
Lesotho	r	2/27/2004	10/26/2004
Liberia	r	12/16/2003	12/14/2007
Libya	r	5/11/2003	5/23/2004
Madagascar	s	2/28/2004	--
Malawi	r	--	5/20/2005
Mali	r	12/9/2013	1/13/2005
Mauritania	r	--	9/21/2005
Mauritius	s	1/29/2005	--
Mozambique	r	12/15/2003	12/9/2005
Namibia	r	12/9/2003	8/11/2004
Niger	s	7/6/2004	--
Nigeria	r	12/16/2003	12/16/2004
Rwanda	r	12/19/2003	6/25/2004
Sahrawi Arab Democratic Republic	s	6/20/2006	--
Sao Tome and Principe	not signed or ratified	--	--
Senegal	r	12/26/2003	12/27/2004
Seychelles	r	1/24/2006	3/9/2006

Sierra Leone	s	12/9/2003	--
Somalia	s	2/23/2006	--
South Africa	r	3/16/2004	12/17/2004
South Sudan	not signed or ratified	--	--
Sudan	not signed or ratified	--	--
Swaziland	s	12/7/2004	--
Tanzania	r	11/5/2003	3/3/2007
Togo	r	12/30/2003	12/10/2005
Tunisia	not signed or ratified	--	--
Uganda	r	12/18/2003	7/22/2010
Zambia	r	8/3/2005	5/2/2006
Zimbabwe	r	11/18/2003	4/15/2008

The Inter-American Court of Human Rights and the Inter-American Commission on Human Rights

At the end of World War II, countries in the Americas sought to compose a declaration on human rights that would eventually be adopted as a Convention. In May 1948, the member states of the Organization of the American States (OAS) gathered in Colombia and approved the *American Declaration of the Rights and Duties of Man*. To further safeguard human rights in the Americas, the OAS adopted the American Convention on Human Rights in 1969 (it entered into force on July 18, 1978). As part of the Convention, it created two authorities with power to observe human rights violations: the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights.

The Commission is responsible for the examining complaints of petitions regarding human rights violations in the individual petition system, monitoring human rights situations in member states, and developing thematic reports or country reports for human rights violations. The Commission carries out on-site visits to observe the general human rights situation in a country as well as to investigate situations that may need redress. The Commission consists of 7 members elected as individuals by the Council of the OAS from panels of three

names presented the States' governments.

The Court is composed of 7 judges elected in their individual capacity from “jurists of the highest moral authority and recognized for their competence in the human rights field.” Judges serve 6 year terms and may only be re-elected once.

The Court serves both a judicial and advisory role. For its judicial role, the Commission and State parties to the American Convention have the right to jurisdiction of the court and are authorized to submit cases regarding the interpretation or application of the American Convention. For its advisory role, any member state of the OAS has the ability to consult the Court for an interpretation and opinion relating to the American Convention or other treaties concerning the protection of human rights in the Americas.

24 countries have ratified or adhered to the American Convention including:

Argentina	Barbados	Bolivia
Brazil	Columbia	Costa Rica
Chile	Dominica	Ecuador
El Salvador	Granada	Guatemala
Haiti	Honduras	Jamaica
Mexico	Nicaragua	Panama
Paraguay	Peru	Dom. Republic
Surinam	Uruguay	Venezuela

For a complete list of international instruments of the Inter-American Court, [see here](#).

The American Declaration of the Rights and Duties of Man (1948)

Article	Relevant Language
Preamble	<p>All men are born free and equal, in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another.</p> <p>The fulfillment of duty by each individual is a prerequisite to the rights of all. Rights and duties are interrelated in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty.</p>

1	Every person has the right to life, liberty, and security of his person
2	All persons are equal before the law and have the rights and duties within this Declaration without distinction as to sex or any other factor
7	All women, during pregnancy and during the nursing period, and all children have the right to special protection, care, and aid.
11	Every person has the right to preservation of his health through sanitary and social measures relating to food, clothing, housing, and medical care to the extent permitted by public and communal resources
12	Every person has the right to education which should be based on principles of liberty, morality, and human solidarity. Every person has the right to education that will prepare him to attain a decent life, to raise his standard of living, and to be a useful member of society.
23	Every person has the right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.
28	The rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy.

The American Convention on Human Rights (1969; 1978)

Article	Relevant Language
1	State parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure all persons subject to their jurisdiction the free and full exercise of those rights and freedoms without any discrimination for reasons of ... sex, economic status, or any other social condition. For the purposes of this Convention, "person" means every human being.
2	Where the exercise of any of the rights or freedoms referred to in Article 1 are not already ensured by legislative or other provisions, State parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.
7	Everyone has the right to personal liberty and security
17(1)	The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
17(4)	State parties shall take appropriate steps to ensure the equality of rights and adequate balancing of responsibilities of the spouses as to marriage, during marriage, and even

at its dissolution. In case of dissolution, provisions shall be made for the necessary protection of the children, solely on the basis of their best interests.

19 Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the State.

21 Everyone has the right to the use and enjoyment of his property. The law may subordinate such use and enjoyment to the interest of society.

23 Every citizen shall enjoy the following rights and opportunities:
a. to take part in the conduct of public affairs, directly or through freely chosen representatives;
b. to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters; and
c. to have access, under general conditions of equality, to the public service of his country.
The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of age, nationality, residence, language, education, civil and mental capacity, or sentencing by a competent court in criminal proceedings.

26 The State Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the OAS as amended by the Protocol of Buenos Aires.

27 No derogating from Article 7, 19, 23

The Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (1988; 1999)

Article	Relevant Language
Preamble	<p>Reaffirming their intention to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man; Recognizing that the essential rights of man are based upon attributes of the human person... Recognizing the benefits that stem from the promotion and development of cooperation among States and international relations; Recalling that, in accordance with the Universal Declaration of Human Rights and the American Convention on Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights as well as his civil and political rights;</p>

- 1 The States undertake to adopt the necessary measures, both domestically and through international cooperation, especially economic and technical, to the extent allowed by their available resources, and taking into account their degree of development, for the purpose of achieving progressively and pursuant to their internal legislations, the full observance of the rights recognized in this Protocol.
- 2 States Parties must undertake to adopt, in accordance with their constitutional processes and the provisions of this Protocol, such legislative or other measures as may be necessary for making those rights [within the Protocol] a reality.
- 3 The State Parties to this Protocol undertake to guarantee the exercise of the rights set forth herein without discrimination of any kind for reasons related ... sex ... economic status, birth or any other social condition.
- 5 The State Parties may establish restrictions and limitations on the enjoyment and exercise of the rights established herein by means of laws promulgated for the purpose of preserving the general welfare in a democratic society only to the extent that they are not incompatible with the purpose and reason underlying those rights.
- 6 Everyone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity.
The State Parties undertake to adopt measures that will make the right to work fully effective, especially with regard to the achievement of full employment, vocational guidance, and the development of technical and vocational training projects, in particular those directed to the disabled. **The States Parties also undertake to implement and strengthen programs that help to ensure suitable family care, so that women may enjoy a real opportunity to exercise the right to work.**
- 10 Everyone shall have the right to health, understood to mean the enjoyment of the highest level of physical, mental and social well-being.
In order to ensure the exercise of the right to health, the States Parties agree to recognize health as a public good and, particularly, to adopt the following measures to ensure that right:
 - a. Primary health care, that is, essential health care made available to all individuals and families in the community;
 - b. Extension of the benefits of health services to all individuals subject to the State's jurisdiction;
 - f. Satisfaction of the health needs of the highest risk groups and of those whose poverty makes them the most vulnerable.
- 12 Everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development.
In order to promote the exercise of this right and eradicate malnutrition, the States Parties undertake to improve methods of production, supply and distribution of food, and to this end, agree to promote greater international cooperation in support of the relevant national policies.
- 15 The family is the natural and fundamental element of society and ought to be protected by the State, which should see to the improvement of its spiritual and material conditions.
States Parties hereby undertake to accord adequate protection to the family unit and in

particular:

- a. To provide special care and assistance to mothers during a reasonable period before and after childbirth;
- b. To guarantee adequate nutrition for children at the nursing stage and during school attendance years;
- c. To adopt special measures for the protection of adolescents in order to ensure the full development of their physical, intellectual and moral capacities;
- d. To undertake special programs of family training so as to help create a stable and positive environment in which children will receive and develop the values of understanding, solidarity, respect and responsibility.

16 Every child, whatever his parentage, has the right to the protection that his status as a minor requires from his family, society and the State. Every child has the right to grow under the protection and responsibility of his parents; save in exceptional, judicially-recognized circumstances, a child of young age ought not to be separated from his mother. Every child has the right to free and compulsory education, at least in the elementary phase, and to continue his training at higher levels of the educational system.

22 Any State Party and the Inter-American Commission on Human Rights may submit for the consideration of the States Parties meeting on the occasion of the General Assembly proposed amendments to include the recognition of other rights or freedoms or to extend or expand rights or freedoms recognized in this Protocol. Such amendments shall enter into effect for the States that ratify them on the date of deposit of the instrument of ratification corresponding to the number representing two thirds of the States Parties to this Protocol. For all other States Parties they shall enter into effect on the date on which they deposit their respective instrument of ratification.

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (1994; 1995)

Signatories to the Convention include: Argentina, the Bahamas, Barbados, Bolivia, Brazil, Costa Rica, Chile, Dominica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts Nevis, Saint Vincent and Grenadines, Saint Lucia, Trinidad and Tobago, Uruguay, and Venezuela.

Article	Relevant Language
1	For the purposes of this Convention, violence against women shall be understood as any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere.
2	Violence against women shall be understood to include physical, sexual and psychological violence: <ul style="list-style-type: none">• <u>that occurs within the family or domestic unit</u> or within any other interpersonal relationship, whether or not the perpetrator shares or has shared the same residence with the woman, including, among others, rape, battery and sexual

abuse;

- that occurs in the community and is perpetrated by any person, including, among others, rape, sexual abuse, torture, trafficking in persons, forced prostitution, kidnapping and sexual harassment in the workplace, as well as in educational institutions, health facilities or any other place; and
- that is perpetrated or condoned by the state or its agents regardless of where it occurs.

3 Every woman has the right to be free from violence in both the public and private spheres.

4 Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:

- a. The right to have her life respected;
- b. The right to have her physical, mental and moral integrity respected;
- c. The right to personal liberty and security;
- e. The rights to have the inherent dignity of her person respected and her family protected;
- f. The right to equal protection before the law and of the law;
- g. The right to simple and prompt recourse to a competent court for protection against acts that violate her rights;
- j. The right to have equal access to the public service of her country and to take part in the conduct of public affairs, including decision-making.

5 Every woman is entitled to the free and full exercise of her civil, political, economic, social and cultural rights, and may rely on the full protection of those rights as embodied in regional and international instruments on human rights. The States Parties recognize that violence against women prevents and nullifies the exercise of these rights.

6 The right of every woman to be free from violence includes, among others: the right of women to be free from all forms of discrimination; and the right of women to be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority or subordination.

7 The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:

- a. refrain from engaging in any act or practice of violence against women and to ensure that their authorities, officials, personnel, agents, and institutions act in conformity with this obligation;
- b. apply due diligence to prevent, investigate and impose penalties for violence against women;
- c. include in their domestic legislation penal, civil, administrative and any other type of provisions that may be needed to prevent, punish and eradicate violence against women and to adopt appropriate administrative measures where necessary;
- d. adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman or using any method that harms or endangers

her life or integrity, or damages her property;

e. take all appropriate measures, including legislative measures, to amend or repeal existing laws and regulations or to modify legal or customary practices which sustain the persistence and tolerance of violence against women;

f. establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures;

g. establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies; and

h. adopt such legislative or other measures as may be necessary to give effect to this Convention.

8

The States Parties agree to undertake progressively specific measures, including programs:

a. to promote awareness and observance of the right of women to be free from violence, and the right of women to have their human rights respected and protected;

b. to modify social and cultural patterns of conduct of men and women, including the development of formal and informal educational programs appropriate to every level of the educational process, to counteract prejudices, customs and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on the stereotyped roles for men and women which legitimize or exacerbate violence against women;

c. to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women;

d. to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for all family members where appropriate, and care and custody of the affected children;

e. to promote and support governmental and private sector education designed to raise the awareness of the public with respect to the problems of and remedies for violence against women;

f. to provide women who are subjected to violence access to effective readjustment and training programs to enable them to fully participate in public, private and social life;

g. to encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women;

h. to ensure research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes; and

i. to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.

9

With respect to the adoption of the measures in this Chapter, the States Parties shall take special account of the vulnerability of women to violence by reason of, among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socioeconomically disadvantaged, affected by armed conflict or deprived of their freedom.

Voluntary Guidelines on the Responsible Governance of Land, Fisheries, and Forests in the Context of National Food Security

The [FAO Voluntary Guidelines](#) (The Guidelines) were created and officially endorsed by the Committee on World Food Security (CFS) as a way to re-approach how land tenure impacts national food security. The Guidelines promote “responsible governance of tenure of land, fisheries and forests, with respect to all forms of tenure: public, private, communal, indigenous, customary, and informal.” The Guidelines seek to achieve food security to all; support the realization of the right to adequate food; eradicate hunger and poverty; achieve sustainable livelihood; and protect vulnerable and marginalized people within the fight for food security.

The Guidelines are a voluntary, soft law instrument with no legally binding force. They cannot replace existing national or international commitments of which States have obliged themselves. But, the Guidelines are important in that they establish an international consensus on an issue that if implemented over a period of time, may eventually lead to binding customary international law or the creation of a treaty reflecting the norms established within the Guidelines. The Guidelines are also particularly useful in guiding a State’s national policies and legislation with regard to land tenure. When a State enacts part or all of an international soft law instrument, it becomes “hard law” within that State, having the same binding force as other international agreements the State may have signed.

The Guidelines are particularly important because it recognizes, unlike in other international instruments, the right to tenure as a human right. This right is important because it determines which persons have control over use of land as well as access to land, an important right in reaching an adequate standard of living for all. One’s access to land affects the enjoyment of other guaranteed international human rights set forth in other binding international agreements.

The Guidelines are also important in that they recognize women as a socially and economically marginalized group that remains vulnerable when a State’s land tenure governance is weak. The Guidelines further support women by taking an explicit gender equality approach. While the Guidelines do not have a section dedicated to gender, gender is addressed all throughout the Guidelines.

[Click here](#) for the full text of the FAO Guidelines.

For detailed information on the FAO Guidelines, [see here](#).

For more information and assistance in applying the FAO Guidelines to women or for a detailed guide on the role of gender within the FAO Guidelines, see [the Technical Guide on Governing Land for Women and Men](#).

Article	Relevant Language
1(1)	These Voluntary Guidelines seek to improve governance of tenure of land... [to the] benefit of all, with an emphasis on vulnerable and marginalized people, with the goals of food security and progressive realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development.
3(1)	States should: recognize and respect all legitimate tenure right holders and their rights. They should take reasonable measures to identify, record and respect legitimate tenure right holders and their rights, whether formally recorded or not; to refrain from

infringement of tenure rights of others; and to meet the duties associated with tenure rights.

- Safeguard legitimate tenure rights against threats and infringements. [protecting against] the arbitrary loss of their tenure rights, including forced evictions that are inconsistent with their existing obligations under national and international law.
- Promote and facilitate the enjoyment of legitimate tenure rights.
- Provide access to justice to deal with infringements of legitimate tenure rights.

3(B)(4)

Gender equality: Ensure the equal right of women and men to the enjoyment of all human rights, while acknowledging differences between women and men and **taking specific measures aimed at accelerating de facto equality when necessary.** States should ensure that women and girls have equal tenure rights and access to land, fisheries and forests independent of their civil and marital status.

4(1)

States should strive to ensure responsible governance of tenure because land, [is] central for the realization of human rights, food security, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, and social and economic growth.

4(4)

States should provide legal recognition for legitimate tenure rights not currently protected by law. Policies and laws that ensure tenure rights should be non-discriminatory and gender sensitive. States should define through widely publicized rules the categories of rights that are considered legitimate. All forms of tenure should provide all persons with a degree of tenure security which guarantees legal protection against forced evictions that are inconsistent with States' existing obligations under national and international law, and against harassment and other threats.

4(5)

States should protect legitimate tenure rights, and ensure that people are not arbitrarily evicted and that their legitimate tenure rights are not otherwise extinguished or infringed.

4(6)

States should remove and prohibit all forms of discrimination related to tenure rights, including those resulting from **change of marital status, lack of legal capacity, and lack of access to economic resources.** In particular, States should ensure equal tenure rights for women and men, including the right to inherit and bequeath these rights. Such State actions should be consistent with their existing obligations under relevant national law and legislation and international law, and with due regard to voluntary commitments under applicable regional and international instruments.

4(7)

States should consider providing non-discriminatory and gender-sensitive assistance where people are unable through their own actions to acquire tenure rights to sustain themselves, to gain access to the services of implementing agencies and judicial authorities, or to participate in processes that could affect their tenure rights.

5(3)

States should ensure that policy, legal and organizational frameworks for tenure governance recognize and respect [] tenure rights that are not currently protected by law; and facilitate, promote and protect the exercise of tenure rights. Frameworks should reflect the social, cultural, economic and environmental significance of land... **States should provide frameworks that are non-discriminatory and promote social equity**

and gender equality.

5(4) States should consider the particular obstacles faced by women and girls with regard to tenure and associated tenure rights, and take measures to ensure that legal and policy frameworks provide adequate protection for women and that laws that recognize women's tenure rights are implemented and enforced. States should ensure that women can legally enter into contracts concerning tenure rights on the basis of equality with men and should strive to provide legal services and other assistance to enable women to defend their tenure interests.

5(5) States should develop relevant policies, laws and procedures through participatory processes involving all affected parties, ensuring that both men and women are included from the outset... They should incorporate gender-sensitive approaches, be clearly expressed in applicable languages, and widely publicized.

7(1) When States recognize or allocate tenure rights to land, fisheries and forests, they should establish, in accordance with national laws, **safeguards to avoid infringing on or extinguishing tenure rights of others, including legitimate tenure rights that are not currently protected by law.** In particular, safeguards should protect women and the vulnerable who hold subsidiary tenure rights, such as gathering rights.

7(4) States should ensure that women and men enjoy the same rights in the newly recognized tenure rights, and that those rights are reflected in records. Where possible, legal recognition and allocation of tenure rights of individuals, families and communities should be done systematically, progressing area by area in accordance with national priorities, in order to provide the poor and vulnerable with full opportunities to acquire legal recognition of their tenure rights. Legal support should be provided, particularly to the poor and vulnerable...

9(2) Indigenous peoples and other communities with customary tenure systems that exercise self-governance of land, fisheries and forests should promote and provide equitable, secure and sustainable rights to those resources, with special attention to the provision of equitable access for women. Effective participation of all members, men, women and youth, in decisions regarding their tenure systems should be promoted through their local or traditional institutions, including in the case of collective tenure systems. Where necessary, communities should be assisted to increase the capacity of their members to participate fully in decision-making and governance of their tenure systems.

9(6) States should consider adapting their policy, legal and organizational frameworks to recognize tenure systems of indigenous peoples and other communities with customary tenure systems. Where constitutional or legal reforms strengthen the rights of women and place them in conflict with custom, all parties should cooperate to accommodate such changes in the customary tenure systems.

12(4) **Responsible investments should do no harm, safeguard against dispossession of legitimate tenure right holders and environmental damage, and should respect human rights.** ... They should strive to further contribute to policy objectives, such as poverty eradication; food security and sustainable use of land, fisheries and forests; support local communities; contribute to rural development; promote and secure local food production systems; enhance social and economic sustainable development; create employment; diversify livelihoods; provide benefits to the country and its people, including the poor and most vulnerable...

12(10) When investments involving large-scale transactions of tenure rights []are being considered, States should strive to make provisions for different parties to conduct **prior independent assessments on the potential positive and negative impacts that those investments could have on tenure rights, food security and the progressive realization of the right to adequate food, livelihoods and the environment...**

13(5) **States should establish strategies for readjustment approaches that fit particular local requirements.** Such strategies should be socially, economically and environmentally sustainable, **and gender sensitive.** Strategies should identify the principles and objectives of the readjustment approaches; the beneficiaries; and the development of capacity and knowledge in the public sector, the private sector, organizations of farmers and small-scale producers, of fishers, and of forest users, and academia. Laws should establish clear and cost-effective procedures for the reorganization of parcels or holdings and their uses.

13(6) States should establish appropriate safeguards in projects using readjustment approaches. Any individuals, communities or peoples likely to be affected by a project should be contacted and provided with sufficient information in applicable languages. Technical and legal support should be provided. Participatory and gender-sensitive approaches should be used taking into account rights of indigenous peoples. Environmental safeguards should be established to prevent or minimize degradation and loss of biodiversity and reward changes that foster good land management, best practices and reclamation.

15(5) Where States choose to implement redistributive reforms, they should clearly define the objectives of reform programs and indicate land exempted from such redistribution. **The intended beneficiaries, such as families including those seeking homegardens, women, informal settlement residents, pastoralists, historically disadvantaged groups, marginalized groups, youth, indigenous peoples, gatherers and small-scale food producers, should be clearly defined.**

15(6) Where States choose to implement redistributive reforms, they should develop policies and laws, through participatory processes, to make them sustainable. States should ensure that policies and laws assist beneficiaries, whether communities, families or individuals, to earn an adequate standard of living from the land, fisheries and forests they acquire and ensure equal treatment of men and women in redistributive reforms. States should revise policies that might inhibit the achievement and sustainability of the intended effects of the redistributive reforms.

15(7) When redistributive reforms are being considered, States may, if so desired, conduct assessments on the potential positive and negative impacts that those reforms could have on tenure rights, food security and the progressive realization of the right to adequate food, livelihoods and the environment. This assessment process should be conducted consistent with the principles of consultation and participation of these Guidelines. Assessments may be used as a basis to determine the measures needed to support beneficiaries and improve the redistributive program.

15(10) States, with the participation of the involved parties, should monitor and evaluate the outcomes of redistributive reform programs, including associated support policies, as listed in paragraph 15.8, and their impacts on access to land and food security of both

men and women and, where necessary, States should introduce corrective measures.

16(9)

Evictions and relocations should not result in individuals being rendered homeless or vulnerable to the violation of human rights. Where those affected are unable to provide for themselves, States should, to the extent that resources permit, take appropriate measures to provide adequate alternative housing, resettlement or access to productive land, fisheries and forests, as the case may be.



Copyright © 2014 [Landesa](#)