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United Nations Committee on the Elimination of Discrimination against Women (CEDAW)

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General Discussion on the Rights of Rural Women

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On behalf of:

ActionAid
Global Initiative for Economic Social and Cultural Rights
Huairou Commission
International Accountability Project
International Center for Research on Women (ICRW)
International Land Coalition (ILC) Secretariat
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Madame Chair,

I am making this statement on behalf of seven (7) NGOs.

For rural women, secure rights to land are essential to their ability to realize and enjoy the full range of their human rights, including their right to equality. Such rights also help to ensure that rural women are able to provide for the essential needs of themselves and their families. On the global landscape, secure rights to land for rural women are also increasingly seen as central to achieving many development goals, including sustainable economic development, global food security, and combating the HIV/AIDS pandemic. These rights are also important from the standpoint of risk management and mitigation for rural women, for instance, via-a-vis climate related shocks in rural areas.

While women's land rights are vital to development, the reality remains that in many parts of the world these rights are often not shared equally between men and women, and are routinely violated, denied, and given insufficient protection and enforcement. Indeed, gender inequality when it comes to land often lies at the heart of rural women's poverty and exclusion. As highlighted by FAO, globally, "Gender inequalities in land rights are pervasive. Not only do women have lower access to land than men. They are often also restricted to so-called secondary land rights, meaning that they hold these rights through male family members. Women thus risk losing entitlements in case of divorce, widowhood or their husband's migration. Evidence also shows that women's parcels are generally of smaller size and lower quality."¹

¹ United Nations Food and Agriculture Organization (FAO). 'Gender and Land Rights: Understanding Complexities, Adjusting Policies.' Economic and Social Perspectives Policy Brief 8, 2010.

The obstacles that prevent rural women from effectively enjoying these rights are complex. They range from inadequate legal standards and implementation, to discriminatory norms, attitudes and barriers at the local and community level which prevent rural women's enjoyment of secure rights to land. Indeed, in many communities gender disparities with regard to productive resources, including land, are linked to mistaken notions that men are the sole stakeholders in a household or the broader community. This includes ideas that women's productive resources will be lost to the husband's family in the event of marriage or divorce, that men will provide for women's economic security, or that women are simply incapable of managing productive land effectively. These are the kinds of attitudes which must be challenged and changed for women to claim secure rights to land in practice.

We believe that the General Recommendation on the Rights of Rural Women by the CEDAW Committee is an important opportunity to highlight the land rights of rural women, and to consolidate what has been already said by the Committee on these issues. General Recommendation 21 on 'Equality in marriage and family relations,' upholds women's property and inheritance rights within the context of marriage. It also provides that in countries undergoing agrarian reform or redistribution of land, the right of women, regardless of marital status, to share such redistributed land on equal terms with men should be carefully observed. In addition, General Recommendation 29 of the Committee on economic consequences of marriage, family relations and their dissolution, provides important guidance on property and land disposition of widows.

With its General Recommendation on the Right of Rural Women, the CEDAW Committee can build on this foundation, as well as consolidate previous recommendations related to women's land and property rights, for example, as made within its Concluding Observations on States parties. For example, we encourage the CEDAW Committee to express concern and clarify the obligations of States over the following issues:

- **That States have an obligation to establish clear legal and regulatory frameworks to protect women's secure rights to land;**²
- **That States have an obligation to properly disseminate information on women's secure rights to land so as to ensure legal literacy, and that States have an obligation to ensure that women have effective access justice to secure their land rights. Clear and accessible mechanisms must be established for increasing access to justice for women in land matters;**³
- **That States have an obligation to ensure that prejudices and discriminatory customary law do not hinder the realization of women's secure rights to land.⁴ In this regard, positive measures and 'a comprehensive strategy' must be**

² Kenya, 2011; Zambia, 2011.

³ Namibia, 2007; Kenya 2007; Tanzania, 2008; Cameroon, 2009.

⁴ Burkina Faso, 2000 and 2010; DRC, 2000; Guinea, 2001; Uganda, 2002 and 2010; Kenya, 2003 and 2011; Kyrgyzstan, 2004; Bangladesh, 2011, South Africa, 2011; Zambia, 2011; Chad, 2011; Lesotho, 2011; Paraguay, 2011; Samoa, 2012; Comoros, 2012; Equatorial Guinea, 2012.

- implemented to address customs and traditional practices, especially in rural areas, which affect full enjoyment of women's secure rights to land;⁵
- That States have an obligation to protect women from the negative impacts of confiscation of land by private and foreign companies, as well as the negative impact of development projects and megaprojects;⁶
 - That States have an obligation to refrain from documenting and registering land only to male 'heads of household';⁷
 - That States have an obligation to ensure outreach of gender-sensitive agricultural programmes and that extension services must be provided to women;⁸
 - That States have an obligation to ensure that comprehensive data is collected on the *de facto* enjoyment of women's secure rights to land;⁹
 - That States have an obligation to adopt and enact temporary special measures to accelerate the advancement of women's secure rights to land;¹⁰
 - That States have an obligation to ensure that clear and accessible mechanisms for land administration and management are established and maintained to protect women's secure rights to land; and,
 - That States have an obligation to ensure rural women's participation and representation in all aspects of land related laws, policies and programs.

We believe that articulating the obligations of States under the Convention with respect to each of these issues would help to ensure that rural women are able to enjoy their land rights in practice, and we look forward to being able to continue our engagement with the Committee on these issues.

Thank you.

⁵ Uganda, 2010; Bangladesh, 2011; Kenya 2011; Chad, 2011; Zimbabwe, 2012; Samoa, 2012; Comoros, 2012; Equatorial Guinea, 2012.

⁶ Cambodia, 2006; India, 2007; Ethiopia, 2011; Togo, 2012.

⁷ Mongolia, 2008, Sri Lanka 2011.

⁸ Ghana, 2006; Kenya 2007; Tanzania, 2008.

⁹ Uzbekistan, 2010.

¹⁰ Nepal, 2011; Côte d'Ivoire, 2011; Mexico, 2012.

Annex: Other International Standards

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

The **Beijing Platform for Action** includes several actions required of governments relevant to women's land and property rights, including enabling women to obtain affordable housing and access to land¹¹ and undertaking legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership and control over land and other property, credit, natural resources and appropriate technologies.¹²

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

In 1996 and 1998, the **UN General Assembly** adopted resolutions on *Improvement of the situation of women in rural areas*.¹³

In 1997, the former **United Nations Sub-Commission on the Promotion and Protection of Human Rights** adopted the first resolution by an international human rights body directly addressing women's land and property rights specifically. Sub-Commission Resolution 1997/19 on *Women and the right to land, property and adequate housing* urged governments to take all necessary measures in order to amend and/or repeal laws and policies pertaining to land, property and housing which deny women security of tenure and equal access and rights to land, property and housing; to encourage the transformation of customs and traditions which deny women security of tenure and equal access and rights to land, property and housing; and to adopt and enforce legislation which protects and promotes women's rights to own, inherit, lease or rent land, property and housing.¹⁴

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

¹¹ The Beijing Platform for Action (1995); Para. 58(m).

¹² *Ibid.* Paras. 61(b) and 165(e).

¹³ UN General Assembly Resolution 52/93, 'Improvement of the situation of women in rural areas,' Fifty-second session, Agenda item 105, UN Doc. A/RES/52/93 (4 February 1998). See also: UN General Assembly Resolution 50/165, 'Improvement of the situation of women in rural areas,' Fiftieth session, Agenda item 107, UN Doc. A/RES/50/165 (16 Feb. 1996).

¹⁴ UN Sub-Commission on the Promotion and Protection of Human Rights, 'Women and the right to adequate housing and to land and property,' UN Doc. E/CN.4/SUB.2/RES/1997/19 (27 August 1997). A subsequent resolution (1998/15) was adopted the following year under a similar title 'Women and the right to land, property and adequate housing,' (UN. Doc. E/CN.4/SUB.2/RES/1998/15).

discrimination and to the equal enjoyment of the right to an adequate standard of living, including adequate housing.”¹⁵

In 1998, the **Commission on the Status of Women** adopted its first (and to date only) resolution on women’s land and property rights, resolution 42/1 on *‘Human rights and land rights discrimination,’* recognizing that “secure land rights are key rights for the economic empowerment of women.”¹⁶

The former **United Nations Commission on Human Rights** (now the Human Rights Council) also adopted a series of resolutions on *‘Women’s equal ownership of, access to and control over land and the equal rights to own property and to adequate housing’* (resolutions 2000/13; 2001/34; 2002/49; 2003/22; 2005/25).

The **United Nations Committee on Economic Social and Cultural Rights** (which monitors States party compliance with the International Covenant on Economic, Social and Cultural Rights), for example, has stated that “women have a right to own, use or otherwise control housing, land and property on an equal basis with men, and to access necessary resources to do so”¹⁷ and has highlighted women’s equal inheritance rights.¹⁸ The Committee has also stated unequivocally that “The capacity of women to own property ... may not be restricted on the basis of marital status or any other discriminatory ground.”¹⁹ On food security, the Committee has said that national strategies including guarantees of rights to land for women as a measure for preventing discrimination in access to food or resources for food.²⁰

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

¹⁶ UN Commission on the Status of Women, Report on the forty-second session (2-13 March 1998), Economic and Social Council Official Records, 1998, Supplement No. 7, UN. Doc. E/CN.6/1998/12 (1998).

¹⁷ UN Committee on Economic, Social and Cultural Rights, General Comment 16, Article 3: the equal right of men and women to the enjoyment of all economic, social and cultural rights (Thirty- fourth session, 2005), U.N. Doc. E/C.12/2005/3 (2005).

¹⁸ UN Committee on Economic, Social and Cultural Rights, General Comment 16, Article 3: the equal right of men and women to the enjoyment of all economic, social and cultural rights (Thirty- fourth session, 2005), U.N. Doc. E/C.12/2005/3 (2005).

¹⁹ UN Human Rights Committee, ‘General Comment 28 on the Equality of Rights between Men and Women, Article 3,’ adopted 29 Mar. 2000, UN Doc. CCPR/C/21/Rev.1/Add.10.

²⁰ UN Committee on Economic, Social and Cultural Rights, General Comment 12, Right to adequate food (Twentieth session, 1999), U.N. Doc. E/C.12/1999/5 (1999), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 62 (2003).