

ACHPR/Res. 401 (EXT.OS/ XXIV) 2018: Resolution on the development of General Comments on Article 7 (d) of the Protocol to the African Charter on the Rights of Women in Africa.

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 24th Extra-Ordinary Session, held in Banjul, Republic of The Gambia, from 30 July to 8 August 2018;

Recalling its mandate to “*promote human and peoples’ rights and ensure their protection in Africa*”;

Bearing in mind Resolution ACHPR/Res.262 (LIV) 2013 on Women's Right to Land and Productive Resources; and the Framework and Guidelines on Land Policy in Africa adopted by the African Union in 2009, in particular the provisions relating to strengthening women’s right to land;

Concerned that lack of access to land and other productive resources continue to have a negative impact on the enjoyment of various human rights for women;

Deeply concerned that some countries maintain regressive standards when it comes to defining ‘equitable share,’ such that women are not able to enjoy equal property rights upon separation, divorce or annulment of a marriage;

Noting that women’s access to, use of and control over land and other productive resources are essential to ensuring their right to equality and to an adequate standard of living;

Further noting the need to clarify various legal issues pertaining to women’s property rights and equality in marriage, particularly in cases of separation, divorce or annulment of a marriage; including clarity on the legal obligations of States so as to establish a continent-wide standard based on human rights principles;

Considering that regional and international legal and policy instruments have not been sufficient in setting out a clear foundation for women’s rights to land and other productive resources;

Mindful of the role of the Commission under Article 45 of the African Charter, to ‘*formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples’ rights in particular*’;

Taking note of its Resolution ACHPR/Res.327 (LVII) 2015 appointing Hon. Commissioner Lucy Asuagbor as the Special Rapporteur on the Rights of Women in Africa;

Noting the work already started by the Commission on the thematic issue;

The Commission ***Decides to:***

1. Elaborate General Comments on Article 7 (d) of the Protocol to the African Charter on the Rights of Women in Africa, which requires State Parties to enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage, and that women and men shall have the right to an equitable sharing of the joint property deriving from the marriage in such circumstances;
2. Collaborate with relevant stakeholders working on issues of land and property rights in the drafting of the General Comments; and
3. Task Hon. Commissioner Lucy Asuagbor to work on the implementation of this Resolution and report to the 64th Ordinary Session of the Commission.

**Done in Banjul, Republic of The Gambia, 8 August
2018**