



SOLIDARITY FOR
AFRICAN WOMEN'S RIGHTS
A force for freedom



MOUVEMENT DE SOLIDARITE
POUR LES DROITS
DES FEMMES AFRICAINES
Une force pour la liberté



“EVERY CONTRIBUTION MATTERS”

A TOOLKIT ON **MONETARY AND
NON-MONETARY CONTRIBUTIONS
TOWARDS AN EQUITABLE
DISTRIBUTION OF JOINT PROPERTY
IN MARRIAGE AND UPON DIVORCE**
UNDER GENERAL COMMENT NO. 6,
ARTICLE 7(D) OF THE MAPUTO
PROTOCOL AS ADOPTED BY THE
AFRICAN COMMISSION ON HUMAN
AND PEOPLES' RIGHTS



About IGED-AFRICA



Initiative for Gender Equality and Development in Africa (IGED - Africa) was established by strong Ghanaian women as a Ghanaian registered non-governmental organization. Although nationally located, it has a regional focus and works towards promoting gender equality and human rights for everyone everywhere in Africa. IGED-Africa believes that, harnessing the full potential of everyone in society particularly, ensuring that women and girls involved in all national and decision-making processes among others is a better strategy for national development.

IGED-Africa has worked for so many years engaging the regional and international human rights mechanisms and connecting these systems to the actual work on the ground to support the promotion of gender equality and women empowerment initiatives. IGED-Africa, along other organizations were honoured to have led the advocacy process towards the adoption of the General Comment No.6 which was adopted by the African Commission on Human and Peoples Rights (ACHPR).

About SOAWR



Founded in 2004, the Solidarity for African Women's Rights (SOAWR) coalition is a regional network of over 70 national, regional, and international civil society organizations based in over 30 African countries. The primary area of focus for SOAWR has been advocacy for the African States to urgently sign, ratify, domesticate, and fulfill their obligations under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).



About EQUALITY NOW



Founded in 1992, Equality Now is an international human rights organization that works to achieve legal and systemic change that addresses violence and discrimination against women and girls worldwide, focusing on ending sexual violence, harmful practices, sexual exploitation and achieving legal equality. Combining grassroots activism with international, regional, and national legal advocacy, Equality Now's approach links high-level policy advocacy and global activism with support and legal advice to grassroots partners and networks working on specific cases of women and girls to promote change at all levels. Its Africa Office is a founder of the SOAWR Coalition and serves as its Secretariat.

About Africa Family Law Network

The AFLN is a strategic network in Africa working on equality in family laws. AFLN was launched in October 2022 by advocates and activists from over 23 countries in Africa led by founding partners Equality Now, the African Women's Development and Communication Network (FEMNET), Musawah and the Strategic Initiative for Women in the Horn of Africa (SIHA Network). AFLN's vision is an Africa where family laws and practices guarantee equality in line with regional and international human rights standard.





About this Toolkit

This toolkit has been developed to simplify and demystify General Comment No. 6 on Article 7(d) of the Maputo Protocol. Its purpose is to make the principles of equitable sharing of property during separation, divorce, or annulment of marriage accessible to women, grassroots organizations, civil society, legal practitioners, and policymakers across Africa.

Through plain language explanations, real-life examples, pictorial illustrations, and interactive learning elements, the toolkit seeks to:

- Promote awareness of women's rights to property.
- Highlight the importance of both financial and non-financial contributions in marriage.
- Provide practical guidance and references for advocacy and legal action.

This toolkit is a collaborative effort between IGED-Africa, SOAWR, AFLN and Equality Now's. It is part of their broader commitment to legal advocacy, gender equality, and youth-led advocacy.

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Table of Contents

1. Introduction	6
◦ General Comments (Importance & Impact)	
◦ The Maputo Protocol	
◦ Article 7(d) and General Comment No. 6	
◦ Why this matters for women in Africa	
2. What is Equitable Sharing?	13
◦ What counts as property?	
3. Non-Monetary Contributions	15
4. Legal Pathways and Remedies	16
◦ Civil law	
◦ Customary law	
◦ Religious marriages	
◦ Access to justice	
5. Case Studies	18
6. State Obligations	19
7. Policy Recommendations	21
8. Glossary	23
9. Interactive Section	24
10. Contact Us	28

WHAT IS A GENERAL COMMENT?

Human rights are inherent to all individuals, **regardless of their nationality, ethnicity, or any other characteristic.**

International and regional human rights bodies play a crucial role in promoting

and protecting these rights by monitoring compliance with international human rights treaties and standards.



General Comments are tools used by these bodies to provide interpretation and guidance on the implementation of human rights treaties.

They are **issued by human rights treaty bodies**, such as the United Nations Committee on Human Rights, the **African Commission on Human and Peoples Rights**, and other international and regional human rights monitoring bodies.



WHY THEY ARE **IMPORTANT**

- 1.** Providing authoritative interpretations of specific human rights treaties, helping states understand their obligations and responsibilities more clearly
- 2.** Assisting states in harmonizing domestic laws and policies with international human rights standards, thereby promoting consistency and accountability in the implementation of human rights
- 3.** Addressing specific articles or provisions of human rights treaties and articulate the treaty body's interpretation of these provisions.
- 4.** They clarify the scope and content of certain rights or provisions, outline the obligations of state parties, and provide guidance on the measures that states should take to fulfill their human rights obligations.

General comments are usually **based on the examination of state reports, individual communications**, and other relevant information submitted to the treaty body. They are **drafted by a group of experts, taking into account inputs from stakeholders, civil society organizations**, and other relevant actors.



IMPACT

OF GENERAL COMMENTS

General Comments play a significant role in advancing human rights advocacy and promoting accountability at the national level.

They can influence legislative and policy reforms, judicial decisions, and other measures taken by states to address human rights violations.

General Comments also serve as valuable tools for civil society organizations, human rights defenders, and other stakeholders in advocating for the protection of human rights.

By providing authoritative guidance on the interpretation and implementation of human rights treaties, General Comments contribute to the development of a robust human rights framework that is responsive to the evolving challenges and needs of individuals worldwide.

In conclusion, general comments are essential instruments in international and regional human rights work, providing clear interpretation and guidance on human rights treaties.



WHAT IS THE MAPUTO PROTOCOL?

The **Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa** is Africa's most important treaty on women's rights. It was adopted in 2003 by the African Union to protect and promote the rights of women in every area of life, including health, education, marriage, and property.



WHAT DOES ARTICLE 7(D) SAY?



Article 7(d) talks about what happens when a marriage ends — whether the couple lives apart, gets divorced, or the marriage is cancelled. It makes sure that both the woman and the man share their property in a fair way when the marriage ends.



HOW WAS GENERAL COMMENT NO.6 DEVELOPED & ADOPTED?



The adoption of General Comment No. 6 of the Maputo Protocol by the **African Commission on Human and Peoples' Rights (ACHPR)** was a significant milestone in promoting and protecting the rights to property between spouses and upon divorce, separation and annulment of marriage in Africa. General Comment No. 6 provides guidance to African states on their obligations under Article 7 (d) of the Maputo Protocol.

The development of this General Comment was a journey and a collaboration between the Office of the Special Rapporteur on the Rights of Women in Africa under the ACHPR and a number of NGOs in Africa and beyond.

Between 2013 and 2019, **IGED-Africa** worked with different experts and relevant stakeholders[1] and the ACHPR to draft and develop the General Comment No 6 of the Maputo Protocol. The development team worked with various stakeholders, including governments, civil society organizations, and international organizations, to receive input into the process.

IGED-Africa played a crucial role in the drafting and adoption process of the General Comment No. 6. The drafting team examined the different sections of the General Comment, consulted experts for inputs, and held consultation workshops for participants in different regions of the continent ● ● ●





●●● Awareness-raising, dialogue sessions

and events were held with different stakeholders to raise awareness about the importance of the General Comment and to garner support for its adoption. In addition to its advocacy efforts, IGED-Africa also engaged directly with African states to promote the adoption of General Comment No. 6.

They held meetings and consultations with government officials, CSOs and other representatives to discuss the content and implications for women of the General Comment and highlighted the importance of the General Comment within the context of different African legal systems in advancing the rights of women in Africa. IGED-Africa led the advocacy for its adoption and presented the draft to the ACHPR on several occasions during its private sessions in the Gambia.

Despite several years of advocacy and receiving input into the draft from the ACHPR, General Comment No. 6 was adopted by the ACHPR on the **4th of March, 2020** at its **27th Extra Ordinary Session** in the **Gambia**. This became a landmark tool for African women. The General Comment No. 6 currently provides guidance to African states on their obligations under the African Charter on Human and Peoples' Rights and the Maputo Protocol on women's rights. It represents an important step towards achieving equality and inclusion for all women in Africa.

[1] Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), Kenya Human Rights Commission, Initiative for Strategic Litigation in Africa, FIDA Kenya and the Centre for Human Rights, University of Pretoria among others.



WHY WAS GENERAL COMMENT NO.6 ADOPTED?



In many countries women continue to lose their homes, land, and belongings when marriages end.

Often, only financial contributions are considered, while non-monetary contributions like childcare, farming, or household management are ignored.

To solve this problem, the African Commission on Human and Peoples' Rights (ACHPR) adopted General Comment No. 6 (GC6).

GC6 explains how governments, courts, and communities must apply Article 7(d) of the Maputo Protocol in practice.



EVERY CONTRIBUTION MATTERS

And GC6 of the Maputo Protocol protects women's right to share that property fairly.





WHAT IS EQUITABLE SHARING?

Equitable sharing does not always mean an equal 50/50 split, but it ensures that the division of property is fair, just, and recognizes all forms of contribution from all parties.



Equality in principle:

Both spouses enter, stay and leave marriage with equal dignity.



Fairness in practice:

Courts consider income, unpaid care work, length of marriage, and sacrifices made.



Protection of vulnerable spouses:

Ensures that the spouse, often women, who often contribute in non-financial ways, are not left empty-handed.

THEREFORE:



WHAT PROPERTY COUNTS AS

Property includes both things you can touch, like land or a house, and things you can't touch, like skills or business ideas, that were gained during the marriage, no matter whose name is on the papers.



**Household items
(furniture, livestock,
farm tools)**



**Land, houses,
and plots**



**Intellectual
property and
digital assets**



**Cash savings, bank
accounts, and
pensions**



**Businesses and
investments and
more...**

NON-MONETARY CONTRIBUTIONS

Non-monetary contributions are the caring and helpful efforts any spouse makes for the family or home, even if they are not paid in money. They carry **EQUAL VALUE** under GC6.



Childcare



Cooking, cleaning, and maintaining the household



Working on family land or business without pay



Supporting the spouse's career (e.g., relocating or sacrificing education)



LEGAL

PATHWAYS & REMEDIES

In Africa, questions of property during marriage and divorce are often handled under different legal systems: civil law, customary law, or religious law.

While these systems may differ, GC6 requires that all of them uphold women's right to a fair and just share of property.

Where religious marriages govern property, decisions must also respect women's rights.



Practices that deny women property rights must be reformed to align with the Maputo Protocol.

Courts must consider both financial and non-financial contributions when dividing property.



ACCESS TO JUSTICE



Fair sharing of property after divorce can only happen if women are able to use the law to claim their rights. Knowing the law is not enough, women also need easy access to justice, through:

1. LEGAL AID

Free or low-cost legal services provided by governments, NGOs, or community projects ensure that lack of money does not mean lack of justice.

2. PARALEGALS & COMMUNITY WORKERS

In rural areas, trained paralegals are often the first point of contact. They explain rights in local languages, help women prepare cases, and accompany them through the process.

3. NGOS & CIVIL SOCIETY

These organizations not only provide legal advice but also offer counselling, safe spaces, and advocacy, making sure women are supported emotionally and socially.

4. STATE DUTY

Governments must lower costs, avoid long delays, and train judges and community leaders to apply equitable sharing fairly.



THE REALITY OF MARRIAGE AND PROPERTY IN AFRICA



Case Study 1:

Mary farmed her husband's land for 20 years, raised their children, and managed the home. When her husband sought divorce, his family argued she owned nothing because her name was not on the land title.

BUT

Under Article 7(d), Mary's farming and care work count as contributions — she has the right to a fair share.

Case Study 2:

Aisha entered a religious marriage where all property acquired during the marriage was registered in her husband's name. After separation, she was told she would leave with **nothing**.



BUT, REMEMBER:

Under GC6, the states must harmonize religious law with women's rights, and Aisha should have equal protection.

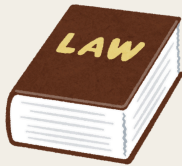




STATE OBLIGATIONS

When a government ratifies the Maputo Protocol, it makes a promise: **to protect women's rights in marriage and after marriage ends.**

This means the government has certain jobs it must do:



New Laws

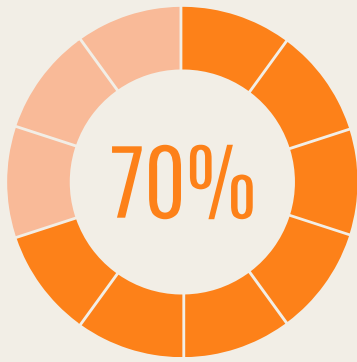
New laws that align with the Maputo Protocol must be enacted. Old laws or traditions that discriminate against women should be changed.



Make Justice Possible

Courts must be affordable and easy to reach. Governments should provide free or low-cost legal aid, and train judges, chiefs, and religious leaders to apply women's rights fairly.





Check Progress

Governments should collect information on how women's property rights are being protected, publish reports, and set aside money to make these rights real in people's lives.



Spread Awareness

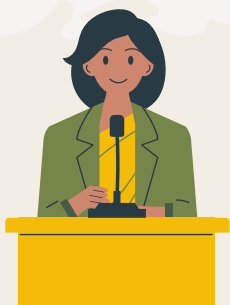
Communities need to know about women's property rights. Governments should share this information through schools, radio, community meetings, and campaigns.



Value Women's Work

Unpaid care work, like raising children or farming family land, must be recognised as a real contribution when property is divided.





POLICY

RECOMMENDATIONS

Recognize Unpaid Care Work

Laws and court decisions should explicitly state that childcare, domestic work, and other non-monetary contributions are equal to financial contributions.

Reform Discriminatory Laws

Family, inheritance, and property laws must be reformed to protect women equally, across civil, customary, and religious systems.

Register All Marriages

Governments should make marriage registration simple, affordable, and available especially in rural areas. Registered marriages give women stronger legal protection.

Provide Affordable Legal Aid

Expand state-funded legal aid programs and support NGOs and paralegals working in underserved communities.



Community Awareness Campaigns

Use radio shows, theatre, school curricula, and church/mosque meetings to spread information about women's rights.

Capacity Building for Leaders

Chiefs, elders, religious leaders and judicial officers must be trained on women's rights so they do not reinforce harmful practices.

Accessible Courts

Establish mobile courts or community tribunals that women can reach easily, especially in rural areas.

Monitoring and Accountability

Governments must track and report how property is divided in divorce cases, ensuring women are not left behind.



GLOSSARY



Annulment: Ending a marriage as if it never existed through a judicial order.

Customary Marriage: Marriage conducted under traditional practices.

Divorce: Legal termination of a marriage.

Equitable Sharing: Fair division of property that considers both money and non-monetary contributions.

General Comment: A legal explanation that helps states understand and apply treaty provisions.

Joint Property: Property acquired during marriage, no matter whose name is on it.

Non-Monetary Contribution: Unpaid work like childcare, farming, or housework.

Separation: A situation where spouses stop living together as a couple, ending the relationship, even if there is no formal divorce document yet.

Substantive Equality: Real fairness that goes beyond equal treatment on paper.





TRUE OR FALSE?

Q1: If we are only cohabiting (living together without marriage), it means we are legally married and I will get a share of the property if we separate.



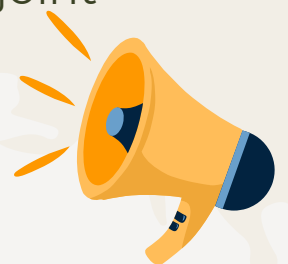
FALSE

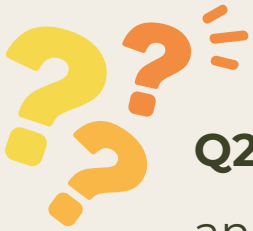


Although some jurisdictions recognize cohabitation after a certain length of time as marriage, it is **NOT** the same as marriage in **MOST** countries. Without formal registration (civil, customary, or religious), you may not have the same legal rights to property.

On the other hand, property gained during marriage is joint property, no matter whose name it bears.

Protect your contributions and property by formalizing your relationship or documenting joint assets, and clarifying what laws your country holds.





Q2: If my husband gifts land or property to another person or relative during the marriage, he must first get my consent (according to the principles of fairness and equitable sharing).



TRUE



Under the Maputo Protocol, property acquired during marriage is considered a **SHARED ASSET**, whether only one spouse's name appears on the document or not. This means that both spouses hold equal interest in property such as land, a house, livestock, a family business, or investment assets.

Because both partners have rights to the shared property, one spouse cannot legally give it away, sell it, transfer ownership, or use it as collateral without the knowledge and consent of the other.



LET'S FACT-CHECK



MYTH

1. Only the person whose name is on the land or house owns it
2. Customary or religious marriage means property laws don't apply.



FACT

1. Under the Maputo Protocol, property gained during marriage belongs to both spouses, even if only one name is on the papers.
2. The Maputo Protocol requires all legal systems to follow standards of fairness and equality.



WHAT'S

NEXT



1

REALIZE YOUR RIGHTS

Learn that you have the right to a fair share of property after separation or divorce, no matter whose name it bears. Attend community meetings, listen to radio programs, or read materials on **General Comment No. 6** and the **Maputo Protocol**.

2

SEEK LEGAL AID

Visit a paralegal, community advocate, or legal aid office for advice and support. They will explain your rights, help fill out forms, and guide you through the legal process.



3

DOCUMENT CONTRIBUTIONS

Write down what you did during the marriage — both financial and non-financial. List and collect proof such as receipts, photos, witness statements, or community confirmation of your care work, farming, or business efforts.

4

PRESENT YOUR CASE

With help from a paralegal or lawyer, go before the court or community leader. Present your story calmly and confidently. Show your evidence and explain how your work helped build family property.




5


ACHIEVE A FAIR OUTCOME

When the case is decided, receive your fair share with dignity. Keep all documents safe, update ownership records, and share your experience to help other women know their rights.




CONTACT US

 Info@igedafrica.org
Info@equalitynow.org
info@soawr.org


 igedafrica.org
equalitynow.org
soawr.org

 @igedafrica
@equalitynoworg
@soawr

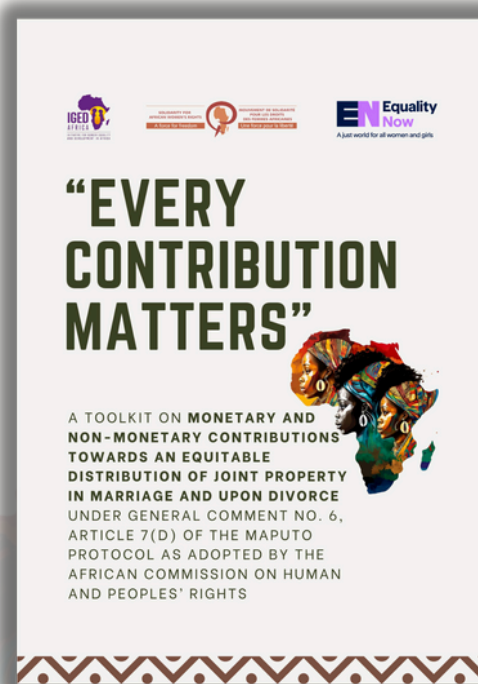
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@equalitynoworg
@Solidarity for African Women's Rights (SOAWR) Coalition

 @Initiative for Gender Equality and Development in Africa
@equalitynoworg
@Solidarity for African Women's Rights (SOAWR)

 **EqualityNow**
telephone: +254 (20) 2719913 / 2719832
mobile: +254 715 142246

SOAWR
Telephone: +254-20-2719832
Fax: +254-20-2719868



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Scan the QR Code

General Comment No. 6, Article 7(D), on the Protocol to the **African Charter on Human and Peoples Right** on the Rights of Women in Africa (**Maputo Protocol**): The Right to Property During Separation, Divorce or Annulment of Marriage





This toolkit was produced by the Kwathu Kollektive

kollektive@kwathu.org
kwathu.org