

POSITION STATEMENT ON THE LAND AUTHORITY ACT (LAA) AND THE LAND RIGHTS ACT (LRA)

By The Civil Society Working Group on Community Land Rights in Liberia
Monrovia, June 28, 2016

The Civil Society Organizations (CSO) Working Group on Land Rights in Liberia wishes to applaud the Liberian Senate on its unanimous passage of the Draft Land Authority Act (LAA) on April 12th, 2016. By this action, the Liberian Senate has shown leadership in institutionalizing the much needed land reform process in Liberia. In view of this positive action and given the current context, the CSO Working Group on Land Rights in Liberia is pleased to brief the Liberian public and our foreign partners on the issues and concerns of the CSOs and the general public on the land reform process in Liberia.

The Land Authority Act (LAA)

While the LAA has presented important recommendations to improve land administration in Liberia, there are still existing challenges in the document that must be addressed during the remaining legislative process. A failure to address these challenges may cancel the large gains that could potentially be made through following the main findings and recommendations enshrined in the Land Rights Policy and numerous technical briefs, including the CSOs Position Paper on the Land Rights Act. The Working Group wishes to recommend that in keeping with current best practices and given the enormous responsibilities to manage Liberia's complex land issues, the House Committee on Lands, Mines, Energy, Natural Resources and Environment should consider the following changes in the LAA.

CONCERNS

1. **The definition of Government Land:** Throughout the Land Rights Policy and Land Rights Act drafting and consultative process, constant questions and concerns were raised regarding the category of Government and Public Land.
 - a. What is the difference between government land and public land?

What process will be put in place to prevent customary land from being designated and given away as public land?

Fortunately, the July 2014 version of the Land Rights Act clearly defines Government Land as: land owned by the Government and used for the buildings, projects, or activities of the Government, including, but not limited to, lands on which are located: the offices of ministries, agencies, and parastatal bodies; military bases; roads; public schools and public universities; public hospitals and public clinics; public libraries and public museums; public utilities; and airports.

However, the Land Authority Act passed by the upper house of the legislature now defines Government Land as including: “Government Protected Areas and Proposed Protected Areas... which are deemed owned by the Republic of Liberia and must be conserved and managed for the benefit of all Liberians.” This is worryingly broad! Also the implication of protected and proposed protected areas being government land and not public land is that preserved areas that falls within customary land could be taken from communities and given to the government.

This raises a larger concern, because any area within customary land designated by future governments as protected area will or could be taken from communities and possessed by the government. This is of great concern because there are no regulations on how much land will be designated as protected area, how these protected areas are determined, and if communities have a say in whether a land is designated as protected.

Recommendation:

Regarding Protected Areas: Given the history of public land use and management in Liberia, and ambiguity around amounts and existing protected areas, there is a real risk that private and customary land may be designated as protected areas, therefore, Government Land. The CSOs Working Group on Land Reform therefore recommends that the Land Authority Act should:

- Simply maintain the definition of government land as defined in the July 2014 version of the Land Rights Act;

- A legal process should be defined to ensure that any land being designated as government protected land is properly and thoroughly investigated through a process that includes public announcement, community meetings and consultations, and legal overview. No land should be automatically designated as protected land.
- Protected areas should be categorized within the four categories of land rights and should be managed through principles of sustainability and environmental protection.

2. **Appointment of Commissioners:** The method in which the Board of Commissioners will be chosen needs improvement. The Act as passed by the Senate states that: “The Board of Land Commissioners shall be comprised of five (5) Commissioners, including a Chairperson and Vice-Chairperson to be appointed by the President with the consent of the Senate as provided by law....”

Recommendation:

Regarding Appointment of Commissioners: The CSOs working group on land rights stance on the creation of the board is that this board should be constructed strictly upon merit. In keeping with current best practices in the establishment of commissions, there should be an Independent Vetting body which comprises of key stakeholders including CSOs, Law Reform Commission, Land and Constitutional legal expert, AFELL, and others in this category. The task of the Vetting Committee will be to advertise the post of Commissioners, vet the applications and submit to the President a short listing of 9 candidates from which the President can appoint any 5, as Commissioners.

Other important provisions to draw attention to are:

1. The structure of the Land Authority: The structure and proposed staffing of the governing body for the proposed Land Authority is heavy and bureaucratic. There are too many layers of authorities; the National Consultative Forum (NCF), Board of Commissioners and Public Land Authority, with duplicating functions and functions not too clear. Furthermore, only 2 NGOs positions are provided for on the NCF, however, there are no limits on positions in other sectors, including mining and energy.

Having an unlimited amount of spaces on the NCF for private businesses and limited positions for Civil Society Organizations and other relevant actors is seriously worrying and could cause future power imbalances, with private organizations benefiting from the imbalance of power. Also, how about including community members, traditional leaders, etc. in the NCF? They are some of the constituents that will be impacted by the NCF, and adding them to the forum will help to strengthen the NCF.

2. Ensure adequate representation of women and gender issues within land-related bodies.
 - a. Consider including gender quotas within all Land Authority bodies, e.g., National Consultative Forum (Article 12), the Commission (Article 17).
 - b. In Article 12, covering the selection and composition of the National Consultative Forum consider including the Ministry responsible for gender, children, and social protection. In the sub-point on NGO and CSOs representatives consider specifying that representatives should reflect the needs of men and women in the land sector.
 - c. In Article 43, increase the required representation of women on the County Land Board from one to at least three.

3. While Article 9 addresses the land governance functions and powers of the Liberia Land Authority, it does not explicitly reflect constitutional and international legal guarantees of equality and non-discrimination. Therefore, it is suggested that Article 9 explicitly list that the Land Authority shall **uphold gender equity provisions in the Land Rights Policy and Constitution in implementing land policy, law and related programs and shall not discriminate against women in executing its duties.**

WAY FORWARD

Since the Land Authority Act (LAA) will govern the administrative processes pertaining to land use and ownership throughout the Republic of Liberia, we as Civil Society Organizations believe that the opinions and views of key stakeholders are important to the formulation of the LAA.

The Civil Society Organizations on Land Rights are thankful for the level of trust, cooperation and engagement with the Chair of the Committee thus far

and we look forward to continuing this level of engagement with legislators on land policies that affect all Liberians.

The Land RIGHTS ACT (LRA)

The CSO Working Group is increasingly concerned about the prolonged delay in the passage of the LRA. We call on the Liberian Senate and House of Representatives to include Civil Society Organizations in the lawmaking process on the Land Rights Act (LRA) by sharing copies of all land related bills currently being considered. We are also urging the lawmakers to ensure that the core provisions of the LRA, which safeguards customary land rights and other provisions that guarantees rights to ownership by all Liberians regardless of class, gender and religion are fully protected and remains central to the Act, when passed.

Following the Public Hearings on the LRA in August 2015 there have been many issues raised by various actors on the LRA. Civil society would like to be made aware of the concerns and possible changes and be invited to meaningfully participate so we can actively support the process of moving the LRA forward.

In 2014, the Draft Land Rights of Liberia was presented to the National Legislature for their consideration and ratification. However, after two public hearings and a number of government-only consultations, the LRA remains in the Legislature. Despite initial efforts at making the drafting process consultative, the lawmaking process has recently begun excluding participation from civil society organizations and community members' themselves. We believe that poor consultation undermines the integrity of land reform in the country and gravely hampers CSOs and communities' ability to meaningfully participate in national development.

Furthermore, we would like to inform the distinguished lawmakers, the President, and the donor community, that the longer it takes to pass the LRA, and the longer CSOs and Liberian Citizens are excluded from participating in the lawmaking process, the more communities are left vulnerable to land tenure insecurity including large scale land transactions and potentially unlawful land grabs by a few group of elites. In places like Rivercess, Maryland, Sinoe, Grand Gedeh, etc., there are already stories of large scale land transactions involving some national leaders.

Way Forward

In the period up to August 2016, the Working Group will continue to engage the relevant authorities within the legislature, government ministries, foreign partners, local communities, and the general public in our advocacy for the Land Rights Act. We are already engaged and will be interacting with cross section of stakeholders including Law makers, Government officials, Students and Youth, Women Organizations, Faith Based Movements, the regional and international community including ECOWAS, AU, EU, USAID, UNMIL and other friendly partners to Liberia, in our advocacy to ensure the speedy passage of the LRA.

While advocating for passage of the LRA, CSOs would like to ensure that the key provisions of the Act is maintained, especially the provisions for the four (4) categories of land, among which is provision of Customary Land Rights. These provisions, for the first time in our country's history, ensure that Liberians of all categories have the right and title to ownership of land in Liberia.

CSO Working Group on Land Rights in Liberia
Monrovia
June 28, 2016

Members of the CSO Working Group on Land Rights in Liberia are as follows: Rights and Rice Foundation (RRF), Sustainable Development Institute (SDI), Foundation for community Initiative (FCI), Save my Future Foundation (SAMFU), Search for Common Ground (SFCG), National Civil Society Council of Liberia (NCSCCL), Federation of Liberian Youth (FLY), Women NGO secretariat of Liberia (WONGOSOL), Association of Liberia Community Radio (ALICOR), Natural Resource Women Platform (NRWP), Alliance for Rural Democracy (ARD), National Charcoal Union of Liberia (NACUL), Green Advocates (GA), Rural Human Rights Activist Program (RHRAP), PARLEY, Farmers Union Network (FUN) of Liberia, Food and Agriculture Organization (FAO), Voice of the Voiceless (VOV), Liberia Reform Movement (LRM)