



PRESS RELEASE

ACRN is concerned about the current state of community land rights in Africa

Yaounde - December 19, 2016 - While the current African context is characterized by massive land allocations to domestic and foreign investors, rural communities fear for their survival. **ACRN believes that securing community land tenure is the first step towards securing business on the continent.**

In its report entitled "*The State of Community Land Rights in Africa: African States Can Better Protect Community Land Rights*" published today, the Africa Community Rights Network (ACRN) notes that only Uganda and Ghana out of eight countries reviewed¹, provide the best laws, from their Constitutions to their enabling laws with respect to the protection of community rights on rural lands.

In addition to inadequate institutions, the eight countries are faced with growing land conflicts: within communities, against local and national elites and against public and private large-scale investors.

ACRN recommends: "*These conflicts underscore the need for urgent land reforms, with rural communities playing a key role. It is therefore crucial to design land laws that fully protect community customary land rights.*"

With the exception of Nigeria, all countries are currently conducting a land law reform (or have undertaken it recently). So far, these reforms have been carried out in such a way as to provide an opportunity to secure and protect the rights of rural communities. The draft land bill in Liberia appears to be radically different from its previous land law since it recognizes and better protects community land rights.

These results were achieved thanks to the African Community Land Transparency Index (ACLTI) of ACRN. It has the ability to analyze not only the law, but also the extent to which the law is being effectively applied. It can *designate* and *assess* the law in order to provide a platform for exchange between various countries that can learn from each other and improve their situation without trying to reinvent the wheel.

The **main findings** of this new report can be summarized in ten essential features that characterize the level of protection of customary rights:

1. Uganda's Constitution explicitly protects customary land arrangements with the same force as other "modern" types of rights. Other Constitutions especially ensure "access" to lands for these communities, without any clear explanation of what "access" means.
2. Three types of rights are common in all countries: access, use and management. Exclusion and alienation rights are better protected, but not fully, in Ghana and Uganda. However, laws do not consider the complexity of customary land arrangements that are often bundles of rights (which simultaneously involve several types of rights on the same land).

¹ Congo Brazzaville, Democratic Republic of the Congo, Uganda, Liberia, Senegal, Burkina Faso, Nigeria and Ghana

3. Forest countries provide other specific forest rights for access, use and management. Rights of use in the DRC and Congo Brazzaville are essential within the framework of large-scale forest management, but they are limited because they do not represent the type of rights claimed by forest peoples.

4. The primary holder of land rights is the Individual. While some laws (in Burkina Faso, Uganda, Ghana, Congo Brazzaville and Nigeria) explicitly provide certain rights to land and other resources to communities as entities, mechanisms to ensure the full implementation of these community rights are not in place. This leads de facto to the superiority of individual rights.

5. However, other specific groups are virtually absent in land laws and law enforcement: youth, migrants and women. Congo Brazzaville is a positive exception, with a law which guarantees greater security for indigenous peoples' land rights than the rest of rural peoples.

6. Registration is the ultimate guarantee of security, even in Ghana and Uganda, where land laws provide equal security for unregistered community land. Uganda, Burkina Faso and Ghana have put in place mechanisms to facilitate the registration process, although these mechanisms are not fully functional in none of these countries. In general, a variety of cultural, institutional, economic and political barriers make it impossible to secure community land arrangements through registration, as currently provided by the most advanced laws. This ultimately leads to land insecurity, even in good contexts like in Uganda and Ghana.

7. Moreover, laws give only partial power to communities to make decisions. In particular, they have the right to claim compensation for all rights claimed (in Ghana and Uganda) or for land whose use is demonstrated (in other countries). But beyond this compensation, they have little power to oppose large-scale investments authorized by central or even local institutions, especially mining projects that appear to be considered superior to all others.

8. Although central institutions are generally put in place and functional, local institutions - where they exist - suffer from inadequate capacity and insufficient resources. This is the most important barrier to the implementation of the law. In Burkina Faso, Ghana and Uganda, where the law stipulates that it will provide local institutions to support securing community land tenure systems, they are virtually non-existent due to the lack of documentation, resources and technical capacity. Community institutions tend to be no longer accountable to their communities, and many traditional rulers in all countries participate in or support land grabbing.

9. In addition to inadequate institutions, the eight countries are faced with growing land conflicts: within communities, against local and national elites and against public and private large-scale investors. These conflicts underscore the need for urgent land reforms, with rural communities playing a key role.

10. With the exception of Nigeria, all countries are currently conducting a land law reform (or have undertaken it recently). So far, these reforms have been carried out in such a way as to provide an opportunity to secure and protect the rights of rural communities. Indeed, they all proved to be participatory and include a range of relevant stakeholders. Improvements are already visible: the draft land bill in Liberia appears to be radically different from its previous land law since it recognizes and better protects community land rights.

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