

To

Daw Mi Thandar Myint

Director

Legislative Vetting and Advising Division

Legislative Vetting and Advising Department

Union Attorney General's Office

Office No.25

Date: 15 September 2020

Subject: **Submission of recommendations from civil society and non-government organizations on the National Land Law Drafting Process**

1. The Union Attorney's General announced on its website and through the state newspapers that recommendations on the workplan (draft) for the National Land Law Drafting Process can be submitted by 15 September 2020. Therefore, we, civil society and non-government organizations, would like to express our appreciation for the government's invitation and consideration for the public input.
2. We would like to submit the following recommendations which were developed through the discussions between civil society and non-government organizations and Landesa on the workplan (draft) of the National Land Law Drafting Process in September 2020.
3. Civil society and non-government organizations from Ayeyarwaddy, Sagaing, Tanintharyi and Yangon regions feel heartened to learn about the government's efforts to draft a National Land Law. Therefore, 13 civil society organizations convened through online meetings and discussed on the public opinion we collected to support the government departments and members of parliament.
4. The discussions resulted in **(18) recommendations on the National Land Law Drafting Process** which are as follow:
 - a. The National Land Law Drafting Process should be transparent and more inclusive of all the stakeholders including civil society organizations, farmers representatives, ethnic minority representatives, smallholder farmers and women representatives with real representation for the respective groups.
 - b. The drafting process should follow a measured and consultative process with adequate time.
 - c. Updated information should be timely publicized in an accurate and simple manner as well as in applicable ethnic languages for transparency and inclusion.
 - d. The process should not be top-down but bottom-up. It should be driven by the grassroots level communities, with their views and concerns taken into account and their participation ensured in a transparent manner.
 - e. The working committees of the National Land Law Drafting process should ensure women participation by setting a reasonable number of women members
 - f. The zero draft of the National Land Law should be publicized and consulted with the public in an adequate timeframe and sufficient duration before the final draft is developed.

- g. When the working committees form regional and district level bodies to hold forums with relevant organizations and civil societies, equal and harmonized participation from all stakeholder parties should be ensured.
- h. The National Land Law Drafting should be evidence-driven supported by proper research and the fact finding and research activities should start at the very early stage.
- i. Lessons from the National Land Use Policy drafting process should be reviewed and necessary adaptations should be made. Parallel public consultations to the official events are inevitable and their input should be considered and integrated in the official process harmoniously.
- j. The National Land Law should respect and officially recognize the land policies and customary practices of ethnic organizations as well as ethnic communities.
- k. The terms of reference (TOR) of supporting committees should be developed with the participation of relevant stakeholders.
- l. Updated information regarding the National Land Law Drafting process should be timely publicized and consulted with the public timeframe in a transparent manner and the timeframe for such consultation should be extended into 2021 until the start of the drafting process. (Reference: Annex 1, 3-1)
- m. In drafting the zero draft, the involving stakeholders including relevant government departments, the supporting committees and representatives from the parliament should cooperate effectively at every stage. (Reference: Annex 1, 3-3-2-1)
- n. In preparation for the zero draft, the learning process should review and observe case studies and good practices from other countries in the region. (Reference: Annex 1, 3-2-2-1)
- o. When drafting the zero draft, a proper system should be developed within the involving stakeholders to review and adopt inputs from the public and the civil society. (For. E.g voting or requirement of support of a specific majority to accept or reject inputs)
- p. Existing land related legal instruments should be reviewed and clear and specific additions and removals should be made to ensure harmonization.
- q. Learning from relevant international experiences and advices should be applied to ensure harmonization among different land-related laws, by-laws and instructions.
- r. In addition to developing an efficient process for the National Land Law Drafting, special attention should be given to relevant political, cultural and other dynamics that can influence the process.

5. We are very grateful and pleased to have the opportunity to comment on the process as requested. In addition, we have developed some recommendations for the content of the Draft National Land Law as well that we would like to share with you for your consideration:

- a. Systematic land classification, accurate land maps and records, security of customary land use practices and harmonization for investment in land should be implemented in land administration to guarantee legitimate land tenure and use rights on the ground.
- b. Relevant elements from the technical guides of the FAO Voluntary Guidelines for Responsible Governance of Tenure (VGGT) should be adopted in the Draft National Land Law.
- c. The National Land Law should ensure participation of community representatives in every level of the land administration.
- d. The land use planning rules should be simple, effective and flexible to allow shifting between different uses with safeguards for smallholders and customary users.
- e. The National Land Law should highlight and promote women land access and security of women land rights, in accordance with the National Land Use Policy.

- f. The role and responsibility of the members of the land administration mechanism should be clearly defined from the grassroot to the central level.
- g. The land use planning process should start at the village level.
- h. Safeguards for ethnic people's customary land use and right to manage their land should be prioritized.
- i. Enforceable safeguards to ensure secured land rights and access of the public should be clearly included.
- j. Special care should be given to ensure livelihood and food and nutrition security for the rural people who rely on land.

The Civil Society and Non-Government Organizations that submit the recommendations are as follows:

No.	Name of Organization
1.	Care Myanmar
2.	Tavoyan Women Union
3.	Women Leadership Development Center
4.	Shwe Mhaw Won Social Welfare Group
5.	Social Actors Group
6.	Action Dignity & Development
7.	(CPRCG) Paralegal
8.	Farmer's Development Union
9.	Metta Development Foundation (Pathein)
10.	Ayeyarwaddy Region Farmers and Gardeners Association
11.	Landesa
12.	Chin Dwin Network
13.	Green Mon Land Association
14.	Namati
15.	Farmers' Welfare Development Association

7. Landesa supported in facilitating and recording the discussions.

8. As the process moves forward, the civil society and non-government organizations will continue participation by collecting the voice of the communities and inform the government departments and the parliament to support the deliberation on the draft law.

Yours Respectfully,

CSOs & NGOs

Copies to

- Chariman, National Land Use Council
- Union Attorney General, Union Attorney General's Office

Distribution

- All organizations participating in the joint recommendation
 1. Care Myanmar
 2. Tavoyan Women Union
 3. Women Leadership Development Center
 4. Shwe Mhaw Won Social Welfare Group
 5. Social Actors Group
 6. Action Dignity & Development
 7. (CPRCG) Paralegal
 8. Farmers' Development Union
 9. Metta Development Foundation, Pathein
 10. Ayeyarwaddy Region Farmers and Gardeners Association
 11. Landesa
 12. Chin Dwin Network
 13. Green Mon Land Association
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 15. Farmers' Welfare Development Association