

1 April 2022

His Excellency

M. Andry Nirina Rajoelina

President of the Republic of Madagascar

Présidency of the République

Antananarivo

Re: Open Letter of the International Land Coalition (ILC) for protection of households facing imminent eviction

Excellency,

The International Land Coalition (ILC), a global alliance of over 300 civil society and intergovernmental organizations working together to promote secure and equitable access to and control over land for poor women and men, is calling on the President of the Republic of Madagascar to protect land rights of Malagasy farmers and local communities who are at risk of eviction and hunger as a result of the new law n°2021-016 governing untitled private land ownership, passed by the Malagasy Parliament last year.

In recent years Madagascar has been regarded as an example of land security because of the access it granted its citizens to land certificates. The law on the reform of untitled private land ownership was passed in June 2021 by both Houses of the Parliament (See PL n°024-18) and accepted by the High Constitutional Court in its Decision n°17 HCC. It overturns all the advances made in the Malagasy land reform of 2005 and 2006.

A new law that undermines land rights of the majority of Malagasy people

The 2005 land reform introduced, alongside the state domains and titled private property, a new land status: *the untitled private property* and presumed ownership. The latter means that occupation and development of land on untitled private property for several years creates a right of ownership. The major change in the new law is the abolition of the presumption of ownership and the requirement for citizens to hold a legal document to have their rights to land ownership recognised. In other words, people who have occupied their land for decades but developed it less than 15 years before the promulgation of the new law, including land inherited from their ancestors, but who do not have a legal document - a title or land certificate - are no longer recognised as owners of their land by the new law.

Until now, the poverty has prevented many families from applying for and obtaining one of these legal documents. The deepening poverty caused by the COVID-19 pandemic and successive

natural disasters linked to climate change will not allow them to acquire a title or even a land certificate in the future. The new law is seen by ILC members in Madagascar as a disaster for the land rights of the majority of Malagasy people and a step backwards.

A new law that disadvantages farmers to the benefit of the rich

The law no longer allows for the presumption of ownership: without a certificate and title, farmers can be evicted without compensation. Another important change in the new law is that it imposes a 15-year development requirement to qualify for a land certificate. These 15 years must be completed before the promulgation of the new 2021 law mentioned above. As a result, all land developed after 2006 can no longer be secured by a certificate. The only option for farmers is the title, which is considered too expensive for farmers (about USD 667 compared to USD 11 for a certificate) and its procedures are too complex. As a result, the extent of peasant land that can be legally recognised by the certificate is fixed and corresponds to the plots already occupied and cultivated in 2006. Everything else falls back into the domain of the state and under its control.

The new 2021 law deals a terrible blow to the land certificate. This legal document, introduced in 2006 and issued by the communes' land offices, can now only be issued to people who have been developing their land for more than 15 years and before 2006. In 2021, sixteen years after the reform, 520,000 land certificates have been issued through the communal land offices and 300,000 files are being processed. This is a significant figure compared to the 600,000 or so land titles issued in a century, mostly to farmers.

About 5 million households, or 80% of the Malagasy population, at risk

The new law facilitates land grabbing to a far greater extent than the defunct Daewoo project of 2008-2009. About 80% of Malagasy are at risk of being affected. ILC members in Madagascar are mobilising to reverse this law, which is part of a history of land grabbing and domination of Madagascar's poorest farmers.

ILC calls on the government of Madagascar: (i) to withdraw the requirement of 15 years of development before 2006 to obtain a land certificate which automatically dispossesses millions of poor farmers from their land; and (ii) reconfirm the presumption of ownership which will protect millions of households against land grabbing. ILC warns against all acts of dispossession against the poorest farmers, noting that all governments have an obligation not only to publicly condemn commodity-related land grabbing, but also to protect farmers from losing their land.

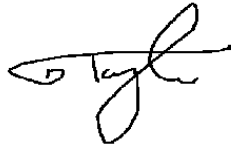
ILC bases its work and commitments on key land governance and development frameworks such as [the Sustainable Development Goals](#), [the Voluntary Guidelines for Responsible Governance of Tenure of Land, Fisheries and Forests](#), [the draft African Land Policy Framework and Guidelines](#) and [the African Union's Agenda 2063](#).

Therefore, ILC calls on His Excellency and Madagascar's leaders to listen to the cry of rural farmers, farmers' organisations, civil society and local communities, and to renounce the

enactment and implementation of any law that leads to social dislocation, and that could jeopardise social peace, food and nutritional security.

ILC notes that it is in the interest of the Republic of Madagascar that farmers have access to their land, which is why the country has been commended for its progress on land rights. Access to land is one of the main cornerstones of the country's development. The land issue is therefore intimately linked to democracy and development in Madagascar.

Accept, Excellency, the assurances of our highest consideration.

A handwritten signature in black ink, appearing to read 'Taylor', with a stylized flourish extending to the right.

Michael Taylor
ILC Secretariat Director

CC:

- President of the National Assembly
- President of the Senate
- President of the High Constitutional Court
- Prime Minister - Head of Government
- Minister for Territorial Planning and Land Services
- Minister for Agriculture and Livestock
- Sehatra Iombonana hoan'ny Fananantany (SIF)
- Regional Coordinator, ILC Africa