

Estimating National Percentages of Indigenous and Community Lands
'Methods and Findings for Africa'

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This document details the methods used to estimate the total community lands in Africa (legally recognized or not), and the estimated percentage of community lands recognized as owned or formally designated for community occupation and use.

General Notes:

1. **Baseline country area data.** The total country area excludes major inland water bodies. Data sources are: 1) Natural Earth, *Admin 0-Countries v. 2.0.0*, downloaded from naturalearthdata.com, 2013 and 2) DeLorme Publishing Company, Inc., *World Water Bodies: Data and Maps for ArcGIS*, 2014. Sourced and computed by Katie Reytar, WRI.
2. **Indigenous and community lands combined.** No distinction is made between community lands as customarily held by self-identifying indigenous peoples or the customary lands of other communities in Africa.
3. **Area estimates of total community lands are conservative.** For example, many Terrestrial Protected Areas (TPA) overlap community lands and subtractions from this sector are only

exceptionally made (see details below). No account is taken of community lands which communities consider to be their customary property but which are now subject to statutory private title.

4. **Percentages apply strictly to lands.** Many coastal and lakeside communities include foreshores and waters in their community land areas. These are excluded.
5. **Plural sources for findings.** Analysis draws from periodically updated research of the assessor over many years and multiple documentation including government documents, donor studies and reports, land governance assessment framework studies ('LGAF' or 'CAGF') as carried out under the guidance of The World Bank, published and unpublished research papers, and personal communications. Only most recent sources are cited. Reviews against Indicators of the Legal Security of Indigenous and Community Land LandMark data may be referred to for more precise legal information on the status of community lands in 30 African states countries as of April 2017.
6. **Information is under constant review.** Dates of information are mainly as of 1st October 2015 based on research conducted over 2014-2015. Changes have been made to information for several countries since, as more data has become available.

Comparison with RRI information. Data from 24 countries in Africa on how much community land is designated for, or owned by communities has been contemporarily compiled and published by Rights and Resources Initiative, September 2014, *Who Owns the World's Land? A global baseline of formally recognized indigenous & community land rights*. Country notes below only point out main differences. One common cause of different data is the use of different baselines for country area (RRI does not exclude inland water bodies). This research provides information on twice as many countries.

7. **Two sets of data are provided.** These are -
 - a. Total community lands whether legally recognized as community property or not.
 - b. Community lands that are recognized as owned or that have been designated for community occupation and use.The methods used for each are detailed below.
8. **Estimates are presented per country.** They are detailed below along with relevant notes. Countries are sorted by region and country name, using the UN division of the World (including adjustments needed for data presentation).

METHODS

METHODS USED FOR ESTIMATING ALL COMMUNITY LANDS AS PERCENTAGE OF COUNTRY AREA

Results refer to all lands presently held, occupied and used by rural communities under community-based tenure (customary tenure), irrespective of the legal status of those lands or community rights to those lands. Two methods are used.

Method #1: Official Data

This is used for those countries where community land is officially denoted as a distinct land category and for which data on area are also officially available. This includes, Botswana, Gambia, Ghana, Kenya, Malawi, Morocco, Namibia, Senegal, South Africa, Swaziland, Tanzania (Mainland), Zambia and Zimbabwe.

Notes:

- i. Designation of a category for community lands (variously named as tribal, communal, customary, *terroir*, village lands, etc.) does *not* necessarily signal legal recognition of these lands as *owned* by communities. In many cases these domains are vested in the state or state agencies and indicate domains that communities may *occupy and use* and on terms specified by legislation.
- ii. Official figures for community lands tend to be sustained in government and donor reports despite alienation through privatization into non-community derived rights. Official figures for community lands may therefore be greater than exist in practice in 2015-2017. This is particularly noticeable in Botswana and Zambia where figures for respectively tribal and customary land are much greater than known areas available as community land (see country notes). In these cases, the percentage area defined as community land is known available community land.

Contrarily, official figures for community lands frequently exclude known community lands within Terrestrial Protected Areas (TPA) (overlapping tenure). Some minor overlap in figures for community lands and private lands may also exist where lands have been titled to communities or to individuals.

Method #2: By Exclusion of Non-Community Land Classes

This method is used for all countries other than the 13 countries listed under Method #1. It is acknowledged as crude but provides indicative figures. The method involves GIS spatial analysis combined with expert knowledge to estimate area of community lands by excluding other known non-community land areas. Excluded areas are -

- a) The total area of Terrestrial Protected Areas (TPA). Data source is: UNEP-WCMC, UNEP, and IUCN, *World Database on Protected Areas*, downloaded from protectedplanet.net, December 2013. Refer to country notes where adjustments have been made to these published figures in 16 countries. Changes were minimal in 10 cases. Compilation of these data is by Katie Reytar, WRI.
- b) The total urban area. Data sources are: 1) Schneider, A., M. A. Friedl and D. Potere (2009) A new map of global urban extent from MODIS data. *Environmental Research Letters*, volume 4, article 044003. 2) Schneider, A., M. A. Friedl and D. Potere (2010) Monitoring urban areas globally using MODIS 500m data: New methods and datasets based on urban ecoregions. *Remote Sensing of Environment*, volume 114, pages 1733-1746. Downloaded from <http://www.sage.wisc.edu/people/schneider/research/data.html>, March 2014. Compilation of these data is by Katie Reytar, WRI.
- c) Rural Public Service Land. Lands defined as public, state or government lands are *not* excluded because this is the domain within which there is most overlap with community lands. Additionally, by area a major overlap affects the TPA sector, excluded as above. Nevertheless, to ensure that

estimates of community lands are conservative, a standard 1% of country area is excluded to cover rural public service lands (railways, roads, airports, dam structures, etc.). Compilation of these data is by Fabrice Dubertret for LandMark.

- d) Private lands. Rural lands under registered statutory entitlement are excluded where an official figure is used for community/IP lands. Where there is no official figure (adjusted or otherwise by other official information), then the area of private land is used as one of land types which is excluded in order to arrive at an estimate of community land area. Private land area is calculated using one of two approaches:

1) *Using official figures:*

The author has retrieved official figures for privately registered lands as of 2015 for 23 countries: Algeria, Botswana, Central African Republic, Chad, Comoros, Ivory Coast, Egypt, Gabon, Gambia, Kenya, Malawi, Mauritius, Morocco, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. Sources include government and donor reports, published research papers, and personal communication with informed nationals with access to official figures. Note that some figures are only *best estimates* by Governments. Some official figures include titles issued to individuals or families in the community lands sector.

2) *Using estimates of private lands based on indicative reports or other figures:*

This was used for these countries with variations as below based on indicative information:

- a. Relatively high figures are calculated for Liberia and Seychelles.
- b. A *standard estimate of 10%* was used for countries where private titling in the rural domain is known to be significant but with insufficient information to give a nearer figure: this was used for Angola, Cape Verde, Ethiopia, Guinea Bissau, Madagascar, Somalia and Sudan.
- c. A *standard estimate of 5%* was used for: Cameroon, Democratic Republic of Congo, Equatorial Guinea, Mali, Togo and Tunisia.
- d. A *standard estimate of 2%* was used for: Benin, Burundi, Eritrea, Guinea, Lesotho, Mauritania and Republic of Congo.
- e. A *standard estimate of 1% or less* was used where it is known that *very few* private titles have been issued outside urban areas: Burkina Faso, Libya, Niger and South Sudan.

Notes:

- i. No official figures or estimates of **private lands** were used to calculate community lands for countries where official figures exist for community lands as per Method #1 above.
- ii. No attempt was made to estimate area of privately land in Djibouti and Sao Tome and Principe, the three dependent territories in Africa [Mayotte, Reunion, Saint Helena] or for the disputed territory of Western Sahara.
- iii. Where *estimates* of private land are used, these are deliberately generous to minimise over-estimation of community lands.

METHODS USED TO ESTIMATE PERCENTAGE OF COMMUNITY LANDS RECOGNIZED AS OWNED LANDS IN THE COMMUNITY LAND SECTOR OR WHICH ARE LANDS DESIGNATED FOR COMMUNITY BASED OCCUPATION AND USE.

The sources for these estimates are :

1. *Direct examination of national land laws.* First-line review of the status of community lands in Africa has been carried out for 48 of 54 states. As of April 30 2017, more complete legal assessments are available at the LandMark site for these 30 countries: Algeria, Angola, Botswana, Burkina Faso, Chad, Ivory Coast, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Kenya, Lesotho, Liberia, Libya, Malawi, Mozambique, Namibia, Nigeria, Republic of Congo, Rwanda, Sierra Leone, South Africa, South Sudan, Sudan, Swaziland, Tanzania (and Zanzibar), Uganda, Zambia and Zimbabwe, all but one of which has been undertaken by Liz Alden Wily. Legal assessments for 10 further states will be on the site by end of 2017.
2. *Documentation.* Several hundred official reports, policy statements, donor, INGO, NGO and land project reports, research papers, and personal communications have contributed enormously to knowledge and review. Land Governance Assessments conducted by country teams have been especially informative, as available at: <http://web.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTPROGRAMS/EXTARDR/EXTLGA/0,,contentMDK:23378317~pagePK:64168445~piPK:64168309~theSitePK:7630425,00.htm>. Among other sites, helpful background information has often been provided by USAID country profiles (2010) at: <http://usaidlandtenure.net/country-profiles>

Word limits under country notes allow only most recent or pertinent resources to be cited.

Notes:

- i. *Secure ownership or occupation and use are combined.* Although these represent different degrees of protection, data on community lands legally recognized as owned and recognized as legal occupation and use (but not ownership) are combined in this data set. Country notes give more information.
- ii. *Not all community land is collective property.* Community lands refer to lands subject to community based tenure jurisdiction, referred to as customary land tenure in Africa. Not all lands and resources within these community domains are, by tradition, or presently, owned collectively by community members (commons or common property). Family tenure is a dominant norm in some states, in accordance with long traditions. Many community lands comprise some areas under private possession (by families or sometimes individuals), and communal lands owned and used traditionally by all members of the community. Country notes indicate where only homesteads or farmlands have been secured.
- iii. *Legal recognition exists along a continuum.* Broadly, this extends from national laws which recognise customary land rights as property interests with equivalent force and effect as given to rights derived from non-customary tenure (statutory entitlements such as freehold or leasehold rights), to national laws which recognize customary rights as lawful (and therefore protected occupation and use) but not amounting to property rights. This is usually the case where special areas have been set aside for customary occupation. Recognition of rights may also be limited to lands used for settlements and farms, excluding rangelands, forests and other shared customary properties. Finally, there are African land laws which do not acknowledge community-based rights at all in other than permissive forms, in which case African customary landholders are little more than squatters on their traditional lands, in the eyes of state laws.
- iv. *Recognition and titling are distinct matters.* There are also differences among country laws in the conditions stipulated for recognition as owned or lawfully occupied and used. This ranges from national laws where community lands (individually or communally owned) are protected as properties *without formal entitlement*, to laws where tenure security can be established by formalization on a case by case basis, to laws which make this available only to individuals or for certain types of land, to laws which make no provision for formalization other than through extinction of customary rights in favour of state-defined forms of

ownership or use rights (e.g. extinction of customary right in favour a freehold title). Country notes indicate status specific to that country.

- v. *Analysis.* Limited information is provided here. No attempt is made here to analyse or rank findings (refer published papers by author since 2015 providing rankings). Summaries of findings of ten elements of the national law status of customary/community land rights are provided at <http://www.landmarkmap.org/map/#x=-102.46&y=5.01&l=3&a=landTenure>.

COUNTRY BY COUNTRY DETAILED ESTIMATES



EASTERN AFRICA

BURUNDI

Country Area Minus Major Inland Water Bodies : 2 496 132 ha
 Terrestrial protected area : 95 825 ha (3.8% of the country land area).
 Urban area : 3 825 ha (0.2% of the country land area).
 Private Rural Land (statutory titles) : 49 923 ha (<2% (est) of the country land area).
 Standard Estimate of Public Service Land (Rural) of 1% : 24 961 ha.

Estimated Community Lands Area (recognized or unrecognized) :
 2 321 598 ha (93.0% of the country land area).
 Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
 0 ha (0.0% of the country land area).
 Estimated Area of Community Lands Not Formally Recognized :
 2 321 598 ha (93.0% of the country land area).

Notes :

Total community land area estimated through exclusion of TPA, urban, private titled rural lands, and rural public service area.

The revised Land Code (2011) provides for customary occupants to be issued with certificates by local commune land services, piloting underway. The certificates may be converted into property titles.

The status of unregistered customary lands is unclear, as is the right of community land holders to secure off-farm lands (commons) due to retained legal provision that the private property of the state includes wastelands.

No information on number of certificates issued (Liz Alden Wily).

COMOROS

Country Area Minus Major Inland Water Bodies : 167 315 ha
 Terrestrial protected area : 1 175 ha (0.7% of the country land area).

Urban area : 0 ha (0.0% of the country land area).
Private Rural Land (statutory titles) : 1 673 ha (1.0% of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 1 673 ha.

Estimated Community Lands Area (recognized or unrecognized) :
162 794 ha (97.3% of the country land area).

Notes :

No data available on total community lands or areas secured under statutory or Islamic title. Most land is family land subject to a mix of Islamic, customary and inherited French colonial law and practices, particular in the use of deeds of transfer (hatwi) issued by Islamic courts to cover conversion of rural land to urban parcels and transfers. Documents reputedly held only by leading families on the islands. By statute, majority land rights are still held to be permissive occupancy and use on unowned public or state lands. No provision for formalization of customary rights.

DJIBOUTI

Country Area Minus Major Inland Water Bodies : 2 112 426 ha
Terrestrial protected area : 0 ha (0.0% of the country land area).
Urban area : 1 943 ha (0.1% of the country land area).

Notes :
No data.

ERITREA

Country Area Minus Major Inland Water Bodies : 11 976 086 ha
Terrestrial protected area : 652 025 ha (5.4% of the country land area).
Urban area : 5 874 ha (0.0% of the country land area).
Private Rural Land (statutory titles) : 239 522 ha (<2% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 119 761 ha.

Estimated Community Lands Area (recognized or unrecognized) :
10 958 904 ha (91.5% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
0 ha (0.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
10 958 904 ha (91.5% of the country land area).

Notes :

Community land area estimated by excluding Terrestrial Protected Areas, urban lands, titled rural lands and 1% of country area to cover rural public service areas. No legal provision in land law of 1994 for collective rights. Law provides for lifetime usufructs for houses and arable lands only. 95% of land area is directly subject to state control. In practice villages get rights of use to lands in the immediately vicinity of settlements for grazing and wood collection. Refer elsewhere on site for review of laws against indicators (Liz Alden Wily).

ETHIOPIA

Country Area Minus Major Inland Water Bodies : 112 266 742 ha
Terrestrial protected area : 8 793 004 ha (7.8% of the country land area).
Urban area : 70 768 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 11 226 674 ha (<10% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 1 122 667 ha.

Estimated Community Lands Area (recognized or unrecognized) :

91 053 629 ha (81.1% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

16 500 000 ha (14.7% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

74 553 629 ha (66.4% of the country land area).

Notes :

Community lands estimated through exclusion method. 12.5% of TPA included in estimated figure of total community lands on basis of their location and IUCN category. Collective landholding is legally provided for, but a common holding right is not equivalent to an individual rural holding right. There has been minimal issue of common holding rights so far, only for tiny areas within villages such as in Amhara Regional State.

Enabling legislation for collective pastoral title exists in Afar State and less advanced in Oromia State; development of regulations is planned [pers. comm. S. Woldegiorgis, Sept 2015].

Participatory Forest Management User Groups have lawful access and use to national forests; estimates vary from 200,000 ha to 300,000 ha [G.B. Shibeshi, 2015, Draft Background Report on Land Governance Assessment Framework in Ethiopia for The World Bank].

Recognized occupancy of arable lands is nearly complete through issue of 55+ million hold right certificates by early 2015. Area covered is estimated here as 16.5 million ha being the known arable domain. Certification is however only the first stage of formal entitlement, cadastral mapping & registration still to be launched.

Refer legal review on site.

KENYA

Country Area Minus Major Inland Water Bodies : 57 016 604 ha

Estimated Community Lands Area (recognized or unrecognized) :

31.3 Mha (55.0% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

31.3 Mha (55.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

0 ha (0.0% of the country land area).

Notes :

Official figures from National Land Commission (2017) indicates that communities' customary lands encompass 67% of Kenya's total land mass (cited in RRI, 2020). They include mainly trust lands and 549 group ranches at 4.3 million ha. Due to terms of the Constitution 2010, the 2012 Land Act and the 2016 Community Land Act, customary landholding (whether Registered or Unregistered) is deemed fairly secure in the community land sector although until each community obtains formal entitlement their lands remain vested in county councils as trustees.

However, Liz Alden Wily argues that the official estimates for the total area of customary lands in the country (a figure dating back from the 80s) may be quite higher than reality on the ground. They prefer a more conservative estimate of about 55% of the country land area, which is used here.

Sources:

Liz Alden Wily, pers. com. June 2021;

RRI, 2020. Estimate of the area of land and territories of Indigenous Peoples, local communities, and Afro- descendants where their rights have not been recognized. Available at: <https://rightsandresources.org/wp-content/uploads/2020/09/Area-Study-Final-1.pdf>

Refer elsewhere on site for review of law against indicators (Liz Alden Wily).

MADAGASCAR

Country Area Minus Major Inland Water Bodies : 58 784 610 ha

Terrestrial protected area : 4 659 280 ha (7.9% of the country land area).

Urban area : 23 270 ha (0.0% of the country land area).

Private Rural Land (statutory titles) : 8 817 691 ha (>10% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 587 846 ha.

Estimated Community Lands Area (recognized or unrecognized) :

44 696 523 ha (76.0% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

7 000 000 ha (11.9% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

37 696 523 ha (64.1% of the country land area).

Notes :

Estimate of community lands derives from excluding Terrestrial Protected Areas (7.9%), urban lands (0.0%), estimate of private titled lands (10%), and standard subtraction of 1% country area to cover rural public service areas. To limit double-counting, the total area of TPA is reduced by 0.7% to exclude protected areas recorded by WPDA 2013 as under community jurisdiction.

Total estimated community lands area includes farmlands and off-farm areas, as arrived at through exclusion of TPA, urban lands and estimate of privately titled rural lands. However, while the law (2005, 2006) recognizes customary rights as property interests this does not extend to off-farm lands (forests, pastures, etc.).

Formalization based on customary rights stands at around 120,000 certificates issued for homesteads by 2015. Area roughly estimated as 72,000 ha on basis of mean parcel size certificated of 0.6 ha - 0.8 ha, with potential homestead areas roughly estimated as 7 million ha.

This area is assessed as 'fairly secure' in light of legal equity granted customary rights, but not so for the estimated total community land area inclusive of forests and rangelands [Key source: Andre Teyssier pers comm. Sept 2015].

MALAWI

Country Area Minus Major Inland Water Bodies : 9 423 039 ha

Estimated Community Lands Area (recognized or unrecognized) :

6 124 975 ha (65.0% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

6 124 975 ha (65.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

0 ha (0.0% of the country land area).

Notes :

The official figure for community lands in the form of recognized customary lands wherein communities may lawfully occupy and use lands is used here (65%).

However, the official figure of 13% for private land (rural) as registered is increased to 17% to account for government estate lands. There has also been significant alienation from the community lands sector which is unlikely to be reflected in the official figure of 65% of all lands under customary tenure.

Key sources include:

Paul Jere, pers. comm., Sept 2015; Paul Jere, August 2013. Issues and Options for Improved Land Sector Governance in Malawi. Results of the Application of the Land Governance Assessment Framework.

The World Bank; Pauline Peters, 2013. Land appropriation, surplus people and a battle over visions of agrarian futures in Africa, The Journal of Peasant Studies, Vol. 40 No. 3, 537-562.

MAURITIUS

Country Area Minus Major Inland Water Bodies : 201 872 ha

Terrestrial protected area : 7 300 ha (3.6% of the country land area).

Urban area : 2 325 ha (1.2% of the country land area).

Private Rural Land (statutory titles) : 161 498 ha (90.0% of the country land area).

Notes :

Land in Mauritius is limited to private and state land. 90% of land area is under private title. No information on whether residual area (c. 10,000 ha) is customary or communal property but considered unlikely, given absent provisions in statutes that refers to customary land rights or communal land use.

MAYOTTE (FRANCE)

Country Area Minus Major Inland Water Bodies : 39 167 ha
Terrestrial protected area : 3 675 ha (9.4% of the country land area).

Notes : The situation in this dependent territory of France has not been assessed.

MOZAMBIQUE

Country Area Minus Major Inland Water Bodies : 77 385 419 ha
Terrestrial protected area : 13 244 383 ha (17.1% of the country land area).
Urban area : 79 369 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 7 603 924 ha (10.0% of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 773 854 ha.

Estimated Community Lands Area (recognized or unrecognized) :

55 683 889 ha (72.0% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

52 195 662 ha (67.4% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

3 488 227 ha (4.5% of the country land area).

Notes :

By law, customary lands are deemed owned with/without registration & entitlement (DUAT) and in principal, therefore secure although delimitation and titling provided for and advised (not compulsory). Figure for total community lands based on subtraction of 17.1% of the country land mass as Protected Areas (reduced by 0.3% to account for protected areas known to be within active customary domain), 0.1% urban, about 10% private lands, and a standard estimated 1% being public service land.

National Statistics indicate that 34,710,144 ha were delimited for 659 communities by 2013 (Ghebru and Pitoro, 2015), while Area of private DUATS (i.e. titles issued to individuals, investors, etc, not to communities) is recorded as 7,603,924 ha as of 2012 by Carrilho and Norfolk (2013).

Note: difference between this figure for secured lands and figures of RRI (2015 or 2020) derives from a difference in legal interpretation: RRI considers only those lands under certified formal entitlement to communities (DUATS) as owned lands, and DUATs in the process of formalization as claimed lands. On the other hand, RRI adds in 900,000 ha as three forest concessions to communities, as lands designated for communities. This analysis assumes these areas are likely to be within the estimated figure here for all community lands and excludes these.

Sources:

Ghebru, Hosaena and Pitoro, Raul, 2015, Is group land rights protection a cost-effective and inclusive alternative? The case of community land delimitation in Mozambique. Paper presented at 2105 World Bank Conference on Land and Poverty, March 2015

Carrilho, Joao and Norfolk, Simon, 2013, Beyond Building the Cadastre: Proposed Next Steps for Mozambique in Participatory Land Governance and Decentralized Land Rights Administration, Paper prepared for World Bank Annual Land Conference, 2013.

RRI, 2015, Who Owns the World's Land? A global baseline of formally recognized indigenous and community land rights. Washington, DC: RRI. Available at: http://www.rightsandresources.org/wp-content/uploads/GlobalBaseline_web.pdf;

RRI, 2020. Estimate of the area of land and territories of Indigenous Peoples, local communities, and Afro- descendants where their rights have not been recognized. Available at: <https://rightsandresources.org/wp-content/uploads/2020/09/Area-Study-Final-1.pdf>

REUNION (FRANCE)

Country Area Minus Major Inland Water Bodies : 251 265 ha

Terrestrial protected area : 194 525 ha (77.4% of the country land area).

Urban area : 700 ha (0.3% of the country land area).

Notes : The dependent region has not been assessed yet.

RWANDA

Country Area Minus Major Inland Water Bodies : 2 380 719 ha

Terrestrial protected area : 235 300 ha (9.9% of the country land area).

Urban area : 8 810 ha (0.4% of the country land area).

Private Rural Land (statutory titles) : 2 061 308 ha (86.6% of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 23 807 ha.

Estimated Community Lands Area (recognized or unrecognized) :

51 494 ha (2.2% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

0 ha (0.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

51 494 ha (2.2% of the country land area).

Notes :

No provision for communal lands or collective title in new land law of 2013 (No. 034) (or in previous Organic Land Law, 2005).

Art. 19 of the new law is explicit that swamp lands belong to the state, previously the main common property under customary tenure. Similarly for forests, formally designated as state property (Art. 12 & 14). Customary tenure has been superseded by issue of statutory certificates of emphyteutic lease in rural areas covering 2,061,308 ha (86.5% of total land area), the result of mass individualised titling programme since 2006. Rural farms are leased for 99 years renewable and freely transferable (data as of April 2015: pers comm. Thierry Hozza).

However, the 2013 law now accepts customary rights as one basis for application for titles (Art. 5). Formalization is obligatory (Art. 20).

Refer elsewhere on site for review of laws against indicators.

SEYCHELLES

Country Area Minus Major Inland Water Bodies : 49 360 ha

Terrestrial protected area : 15 350 ha (31.1% of the country land area).

Urban area : 0 ha (0.0% of the country land area).

Private Rural Land (statutory titles) : 29 616 ha (>60% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 494 ha.

Estimated Community Lands Area (recognized or unrecognized) :

3 900 ha (7.9% of the country land area).

Notes :

No data, other than for out-dated estimate of private titled lands; the state owns 70% of the country area and leases parcels to smallholders; remainder is reserved or other state maintained lands

(Republic of Seychelles, 1997). The small remainder (4,394 ha) may be communal land but no evidence for this.

SOMALIA

Country Area Minus Major Inland Water Bodies : 63 255 324 ha
Terrestrial protected area : 143 325 ha (0.2% of the country land area).
Urban area : 18 313 ha (0.0% of the country land area).
Private Rural Land (statutory titles) : 632 553 ha (>10% of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 632 553 ha.

Estimated Community Lands Area (recognized or unrecognized) :
61 828 580 ha (97.7% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
0 ha (0.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
61 828 580 ha (97.7% of the country land area).

Notes :

Clan tenure was the norm until the Land Registration Act, 1975, which made all collective land the property of the state and began issuing private land titles in urban and riverine areas to wealthy elites or clan leaders.

The area of titled rural land could be up to 10% , although rule of land law does not significantly prevail. Thus far, no provision in policies for collective homeland territories ('deegan') and overlapping rights and claims has been complicated by displacement, multiple groups securing de facto or legal rights at different times.

Key source: Lee Cassanelli, 2015, Hosts and Guests A historical interpretation of land conflicts in southern and central Somalia, Rift Valley Institute Research Paper 2.

SOUTH SUDAN

Country Area Minus Major Inland Water Bodies : 63 039 500 ha
Terrestrial protected area : 1 648 175 ha (2.6% of the country land area).
Urban area : 6 915 ha (0.0% of the country land area).
Private Rural Land (statutory titles) : 630 395 ha (<1% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 630 395 ha.

Estimated Community Lands Area (recognized or unrecognized) :
60 123 620 ha (95.4% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
60 123 620 ha (95.4% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
0 ha (0.0% of the country land area).

Notes :

In law (2009) customary rights have same force and effect as non-customary rights, registered or not. This figure refers to the estimated customary/community land area. Private titling in the rural domain is reputed to be minimal, but no official figures available.

Key source: David Deng, Nov. 2014, South Sudan Country Report, Findings of the Land Governance Assessment Framework (LGAF), Juba, South Sudan.

Refer elsewhere on site for review of laws (Liz Alden Wily).

TANZANIA

Country Area Minus Major Inland Water Bodies : 88 152 958 ha

Estimated Community Lands Area (recognized or unrecognized) :

61.8 Mha (70.0% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

61.8 Mha (70.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

0 ha (0.0% of the country land area).

Notes :

Mainland only: Zanzibar has its own land and natural resource laws. The official figure for community lands ('village lands') as 70% of the country area is used here. Village lands are legally owned by communities in common or by community members in respect of family or individual parcels, dependent upon the rules adopted by the community (as per Land Act, 1999 and Village Land Act, 1999). Should community rules deem these lands as customary property, the law explicitly this, with or without issue of Certificates of Customary Rights of Occupancy via registration in village land registries.

Village lands area includes Wildlife Management Areas and Village and Community Forest Reserves. Note that 3.4% of the TPA area has been extracted as known to fall within village lands as mainly community forest reserves or WMA but which total still remains greater than the official figure for reserved lands of 28% of the country area. The 70% country area of village lands also includes an estimate 6% of village lands believed to have been alienated since 2000 from village lands to general land status for reallocation to private persons and investors. The available area of village lands is therefore more likely to be 64% of country area or 56.4 Mha.

Customary rights may also apply in reserved areas. Use rather than occupation rights are acknowledged in the 5.4 Mha of national forest reserves under state-community joint management. The combined area of lands lawfully owned by communities and other lands formally designated for their use is therefore 61.8 Mha, or 70% of Tanzania's land area.

Note that RRI (2020) provides different figures (75.1% of formally recognized IPLC lands), mainly due to: the use of a different total land area baseline for the country, a slightly smaller area of Village lands (excluding a separate 2% of General lands), and the inclusion of 5.4 Mha of Reserved Land under Joint Forest Management (which can be considered resources rights rather than actual land rights). An extra 20.5 Mha of unregistered Village Land Forests Reserves were also counted as IPLC lands lacking formal recognition, while others consider them to fall within existing village lands.

Official figures retrieved from: K. Deininger, H. Selod & A. Burns, 2012, The Land Governance Assessment Framework The World Bank; Ministry of Natural Resources and Tourism, 2012, Participatory Forest Management in Tanzania. Facts & Figures. Refer elsewhere for legal review against indicators (Liz Alden Wily).

UGANDA

Country Area Minus Major Inland Water Bodies : 20 469 995 ha

Terrestrial protected area : 3 085 517 ha (15.1% of the country land area).

Urban area : 39 779 ha (0.2% of the country land area).

Private Rural Land (statutory titles) : 3 070 499 ha (>15% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 204 700 ha.

Estimated Community Lands Area (recognized or unrecognized) :

8.4 Mha (41.0% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

8.4 Mha (41.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

284 033 ha (0% of the country land area).

Notes :

Official figures variously include mailo tenure with customary tenure. Mailo is unique to Uganda as a hybrid statutory and customary regime, introduced by British colonial government in one part of the

country. A Statistical Abstract, Dec. 2010, from Ministry of Lands, Housing and Urban Development, gave no area for customary lands, only stating that 68.6% of all landowners were customary (37.3% of urban households and 70.2% of rural households). The Land Governance Assessment Framework of World Bank 2014 (LGAF) used these figures. Only 20% of Uganda is registered land, either freehold, leasehold or registered mailo entitlements, and 'native freeholds' in SW Uganda. Depending upon whether mailo is included as a form of customary tenure or not, total area of community land could be 80% of country area, often the figure used. The conservative figure of 41% for customary land area is used here, excluding the roughly estimated 39% of land area under unregistered mailo and 'native freehold'. Refer elsewhere on site for review of laws against indicators (Liz Alden Wily).

Ugandan constitutional and land law accords customary rights inclusive of rights to off-farm commons equitable legal force and effect with rights under freehold, leasehold and mailo tenure, and irrespective of whether these are formalized in registered certificates of customary ownership or not. Communities may also establish freehold rights as registered Communal Land Associations (CLAs). According to Jimmy Ochom (pers.com. June 2021), 606 CLAs have been registered in seven districts, mainly in the north, and mainly involving pastoralists and agro-pastoralists.

ZAMBIA

Country Area Minus Major Inland Water Bodies : 73 837 316 ha
Terrestrial protected area : 13 617 417 ha (18.4% of the country land area).
Urban area : 61 411 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 9 598 885 ha (12.9% of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 738 373 ha.

Estimated Community Lands Area (recognized or unrecognized) :
 50.2 Mha (67.5% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
 50.2 Mha a (67.5% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
 0 ha (0.0% of the country land area).

Notes :

Based on tribal land vs. Queen's land prior to independence (supported by chiefdom maps from 1958), 94 percent of country was community (customary) land and 6 percent was state land in 1964. However, since then, a significant portion of customary lands has been alienated. First, several protected areas have been created and overlap these lands, which legally remains customary land although chiefs only retain control of the land in the game management areas (about 22% of the country land area). Second, while the Land Act of 1995 created clear definitions of customary tenure and leasehold tenure, it also provided a mechanism to irreversibly convert customary lands to leaseholds administered by the State (with approval of chiefs on behalf of community members). The amount of converted land is unclear but may be as much as 15 percent of the country (Sommerville, 2018).

Several experts have estimated the total area of remaining customary lands in Zambia. Using an exclusion method (removing urban areas, a 12.9% figure of leasehold, and 17% non-community held protected areas), Liz Alden Wily calculates that customary lands cover about 67.5% of Zambia. Nicholas Sitko and Jordan Chamberlin (2016) give an estimated range between 51% and 54%. The Rights and Resources Initiative (RRI, 2020) calculates that 52.7% of the country is designated by government for Indigenous Peoples and local communities. For the purpose of this research, we will use Liz Alden Wily's higher figure.

Based on the facts that National laws in Zambia recognize customary land without it being registered and documented with the government, and that the 1995 Land Act does not provide for such formalization of community lands (titles are restricted to leasehold deeds and converted lands), we can consider that all customarily held lands in the country is formally recognized.

It has to be noted that some experts argue that this converted land remains customary land. Yet, control of these areas is now with the government, and no longer fit our definition of held community lands.

Sources:

Sommerville, Matt, personal communications, June 6, 2018.

Sitko, Nicholas J. and Jordan Chamberline. 2016. "The geography of Zambia's customary land: Assessing the prospects for smallholder development." *Land Use Policy* 55: 49-60. https://ac.els-cdn.com/S0264837715300041/1-s2.0-S0264837715300041-main.pdf?_tid=fcae4eb5-c8bf-4c10-8f50-78ee31c5f437&acdnat=1530125857_0b95e787eb6d631c9731ed0e294bed4f.

RRI, 2020. Estimate of the area of land and territories of Indigenous Peoples, local communities, and Afro- descendants where their rights have not been recognized. Available at: <https://rightsandresources.org/wp-content/uploads/2020/09/Area-Study-Final-1.pdf>

ZIMBABWE

Country Area Minus Major Inland Water Bodies : 38 650 296 ha

Estimated Community Lands Area (recognized or unrecognized) :

16 400 000 ha (42.4% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

16 400 000 ha (42.4% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

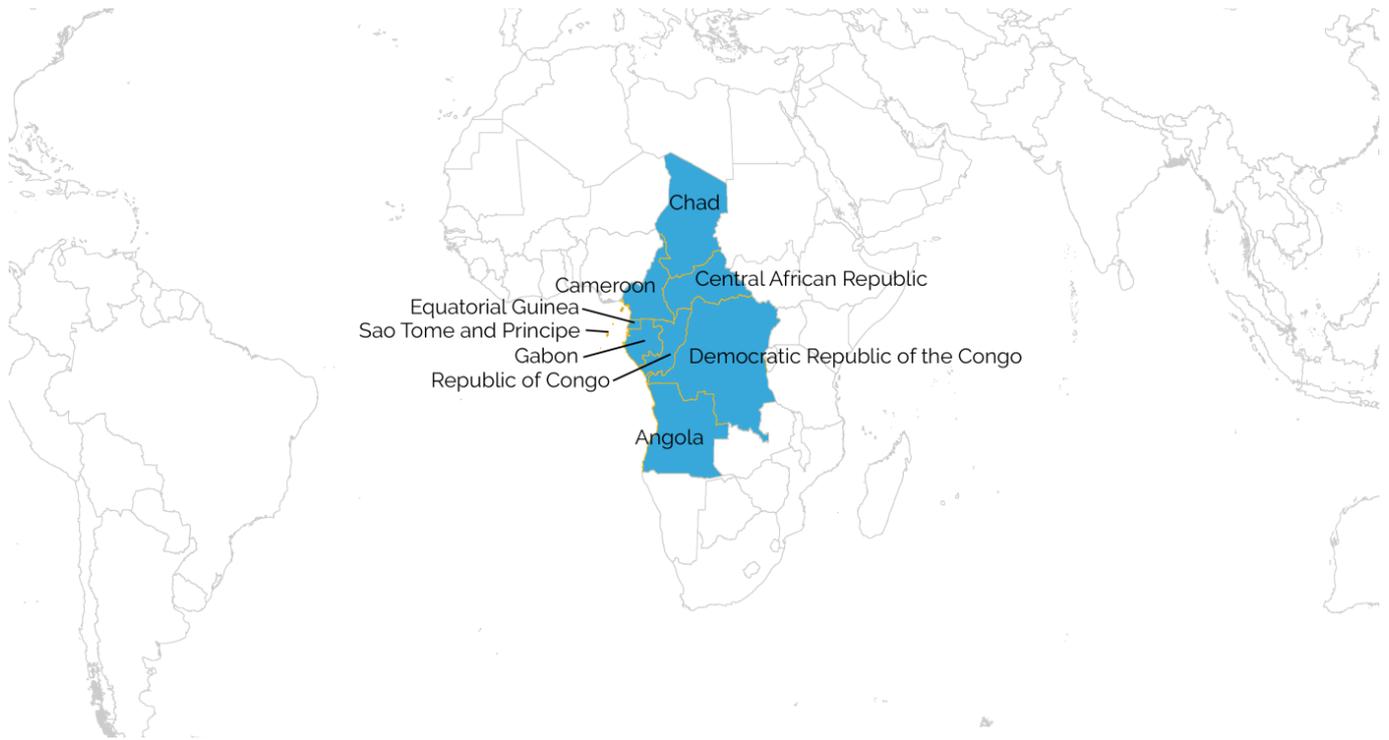
0 ha (0.0% of the country land area).

Notes :

The official figure (since 1982) for communal lands is used here as the area presumed to be community lands, excluding state lands and private registered lands. This figure is 16.4 million ha or 42.43% of the total country area excluding water bodies. Tenure within Communal Lands is permissive occupancy and use only, on lands governed officially by Rural Councils in consultation with local chiefs, norms being derived from customary tenure. Ownership is vested in the President.

Latest source of data : Pers comm: Propser Matondi, Ruzivo Trust, Sept 2015.

Refer elsewhere for legal review against indicators (Liz Alden Wily).



MIDDLE AFRICA

ANGOLA

Country Area Minus Major Inland Water Bodies : 124 645 769 ha
Terrestrial protected area : 15 018 275 ha (12.0% of the country land area).
Urban area : 124 646 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 12 464 577 ha (>10% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 1 246 458 ha.

Estimated Community Lands Area (recognized or unrecognized) :
 95 791 813 ha (76.9% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
 1 991 ha (0.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
 95 789 822 ha (76.8% of the country land area).

Notes :

Secure occupation and use includes issue of one Certificate of Useful Domain to a San group in 2005 for 1,389 ha and two other Certificates issued to agricultural groups in Huambo Province at 602 ha.
 Private titled rural lands: no data from Cadastre available but estimates ranged between 10-15% in 2007-2010.

Sources on data include:

pers. comm., Allan Cain, Development Workshop, Luanda (Aug-Sept 2015);
 pers comm. Aaron de Grassi (Aug 2015);
 USAID, 2007, Strengthening Land Tenure and Property Rights in Angola;
 USAID, 2010, USAID Country Profile, Property Rights and Resource Governance;
 USAID, 2008, Land Rights Formalization in Rural and Peri-Urban Settings in Angola, Draft Operations Manual;
 Aaron de Grassi, 2012, Geographies of Construction and Trajectories of Agrarian Change in Oil-Boom Angola, Cornell University;
 Francosco Carranza and Jordan Treacle, April 2014, Land, Territorial Development and Family Farming in Angola A holistic approach to community based natural resource governance: The case of Bier, Huambo and Huila Provinces, Land and Water Division Working Paper 9, FAO;

Allan Cain (2013), Angola: Land resources and conflict, in Land and Post-Conflict Peacebuilding (Jon Unruh, Rhodri C. Williams (eds). Earthscan from Routledge; Nicholas Shaxson, Joao Neves & Fernando Pacheco, March 2008 for DFID, Drivers of Change, Angola.
Refer review of laws against indicators elsewhere (Liz Alden Wily).

CAMEROON

Country Area Minus Major Inland Water Bodies : 46 337 797 ha
Terrestrial protected area : 5 388 423 ha (11.6% of the country land area).
Urban area : 65 206 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 2 316 890 ha (>5% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 463 378 ha.

Estimated Community Lands Area (recognized or unrecognized) :
38.4 Mha (81.0% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
4.3 Mha (9.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
34.1 Mha (72.0% of the country land area).

Notes :

Area of community lands estimated by exclusion of TPA, urban, rural titled land, and rural public service area.

Customary landholding is permissive only with tenure security achievable only through extinction of customary rights in favor of a private property right or issue of a lease on public land. No provision for community land or collective ownership. All community land is public/state domain with no legal changes since 1974 and static land policy development begun in 2011.

Since 1994 groups may sign contracts based on an approved management plan with the Forestry and Wildlife Department to harvest timber in up to 5,000 ha for 15 years (renewable). Only 2 of these 342 Community Forests were for protection in 2013.

Another 3.07 MHa is earmarked as Communal Hunting Zones but only a few are believed to be controlled by communities.

Refer:

http://www.wri.org/sites/default/files/pdf/interactive_forest_atlas_of_cameroon_version_3_0.pdf
. Updated information: Teodyl Nkintchua, CED (Centre for Environment and Development), Oct 2015.
Land and forest rights legal review: Liz Alden Wily, 2011, Whose land is it? The status of customary land tenure in Cameroon, CED, FERN & RFUK at: <http://www.fern.org/publications/reports/whose-land-it-status-customary-land-tenure-cameroon>
Refer legal review elsewhere on site (forthcoming Liz Alden Wily).

The potential claimed land of 34.05 Mha. refers to Community Land and Community Forests (Forets Communautaires) and is based on the estimation made by Liz Alden Wily (2015).

CENTRAL AFRICAN REPUBLIC

Country Area Minus Major Inland Water Bodies : 61 921 481 ha
Terrestrial protected area : 10 488 687 ha (16.9% of the country land area).
Urban area : 24 785 ha (0.0% of the country land area).
Private Rural Land (statutory titles) : 61 921 ha (0.1% of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 619 215 ha.

Estimated Community Lands Area (recognized or unrecognized) :
50 726 873 ha (81.4% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
0 ha (0.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
50 726 873 ha (81.4% of the country land area).

Notes :

Community land area estimated by excluding Terrestrial Protected Areas (TPA), urban lands, estimate of titled rural land and standard 1% country area to cover likely rural public service lands. Area of TPA reduced by 1% to exclude PA denoted by WPDA 2013 as under community management.

Loi Relative au Domain National No 63-441 of 1964 assures communities only permissive occupancy and use on state land (Art. 3). Notion of terres sans maitres retained and undeveloped (i.e. uncultivated) lands also declared the property of the state (Art. 38).

However, the Project de Loi No. 08 of 2009 portant code foncier agropastoral en Republique Centreafricaine provides for village land commissions to administer land (Art. 15); customary right holders will be assured access through customary norms or through statutory title (Art. 4). Chief-led commissions will be permitted to regulate lands in accordance with custom (Art. 5). No application decrees issued. New land reform launched in 2012 including aim to harmonise contradictory natural resource laws. Constitution affords in principle protection of indigenous peoples but no delivery.

Note: For the first time in CAR, a small area of 15,000 ha. has been recognized as Community Forests Concessions in April 2019 to the communities of Moloukou, Moale and Lokombe under the 2015 Community Forest Law (Rainforest UK,2019, cited in RRI 2020).

CHAD

Country Area Minus Major Inland Water Bodies : 126 724 324 ha

Terrestrial protected area : 12 153 300 ha (9.6% of the country land area).

Urban area : 24 438 ha (0.0% of the country land area).

Private Rural Land (statutory titles) : 633 622 ha (0.5% of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 1 267 243 ha.

Estimated Community Lands Area (recognized or unrecognized) :

112 645 721 ha (88.9% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

0 ha (0.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

112 645 721 ha (88.9% of the country land area).

Notes :

Legal possibility under Law No. 08-014 (2008) (Art. 89-90) to be granted title to reforested areas and acknowledged customary rights to sacred forests. No data on areas.

Tenure security is limited; rights may only be secured through issue of non-customary titles (Law no. 24 of 1967). Law reform underway (2015).

Refer elsewhere on site for review against indicators (Liz Alden Wily).

DEMOCRATIC REPUBLIC OF THE CONGO

Country Area Minus Major Inland Water Bodies : 228 822 437 ha

Terrestrial protected area : 17 205 839 ha (7.5% of the country land area).

Urban area : 220 914 ha (0.1% of the country land area).

Private Rural Land (statutory titles) : 11 441 122 ha (5% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 2 288 224 ha.

Estimated Community Lands Area (recognized or unrecognized) :

195.8 Mha (86.4% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

2.0 Mha (0.9% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

193.8 Mha (85.5% of the country land area).

Notes :

Estimate of the Total area of 86.4% community lands arrived at by Liz Alden Wily through exclusion of Terrestrial Protected Areas (TPA), urban lands, est. of titled rural lands, and standard exclusion of 1% country area to cover rural public service areas. To avoid double-counting, the total TPA area is reduced from 10.7% to 7.5% where PA as recorded by WPDA 2013 as Category VI areas in occupied and used lands. While it can be considered an upper bound, this estimate of about 195.8 Mha is consistent with the one provided by RFUK (100 to 200 Mha) based on participatory mapping in several forested locations in the country, also indicating that customary tenure is the norm, extensive, and possibly contiguous and universal in DRC.

The 2006 Constitution calls for addressing customary land rights but there are no legal provisions for collective ownership of land, customary land rights, or community lands. A National Land Reform Commission was established in 2013 but has not delivered any significant policy document, so that the 1970s land laws still apply which do not recognize any land as belonging to indigenous groups or communities. However, art.22 of DRC's Forest Code of 2002 grants communities the right to community forestry concessions. The process for their attribution and their management were later set out via decree n° 14/018 in 2014 and order n° 025 in 2016. Community forest concessions grant the community significant rights in perpetuity to both trees/forests and land.

So far, 108 Community Forest Concessions have been allocated over 2.0 Mha, and an additional 48 are in the process of formalization on an additional 0.6 Mha (MEDD 2021, accessed Oct.2021). Note that RFUK estimates that up to 75 million hectares (290,000 sq miles) in DRC are potentially available for communities under the scheme (Yeung 2021).

Sources:

MEDD (Ministère de l'Environnement et Développement Durable). 2021. Community Forest Database. Kinshasa, DRC: Ministère de l'Environnement et Développement Durable (Ministry of Environment and Sustainable Development), Direction de la Gestion Forestière (Forest Management Directorate), Division de la foresterie communautaire (Community Forestry Division). <https://rdc.geocfcl.org/>.
 Yeung, Peter. 2021. The bold plan to save Africa's largest forest. British Broadcasting Corporation, Future Plant, Forest, 7 January 2021. <https://www.bbc.com/future/article/20210107-congo-basin-a-bold-plan-to-save-africas-largest-rainforest>.

EQUATORIAL GUINEA

Country Area Minus Major Inland Water Bodies : 2 691 061 ha
Terrestrial protected area : 622 275 ha (23.1% of the country land area).
Urban area : 2 650 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 134 553 ha (<5% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 26 911 ha.

Estimated Community Lands Area (recognized or unrecognized) :
 1 904 672 ha (70.8% of the country land area).

Notes :

Attempts to enact a new package of land laws since 2010 (revised 2012) remains incomplete. New Constitution 2012 pledges to recognise the ownership of peasants to traditional lands (Art. 30). No data on mechanisms or progress.
 Status in the interim believed to be permissive occupancy and use by communities, in accordance with present legislation retained from colonial era [pending more information].

GABON

Country Area Minus Major Inland Water Bodies : 26 199 664 ha
Terrestrial protected area : 3 920 375 ha (15.0% of the country land area).
Urban area : 25 894 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 261 997 ha (1.0% of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 261 997 ha.

Estimated Community Lands Area (recognized or unrecognized) :

21 729 401 ha (82.9% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

0.1 Mha (0.3% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

21 626 781 ha (82.6% of the country land area).

Notes :

Estimate of community lands is based on exclusion method (TPA, urban areas, official figure for titled rural lands, and standard subtraction of rural public service area at 1%). Securely accessed lands refer to approved community forests, availing management and use rights, not ownership.

Source: Liz Alden Wily, 2012, Land Rights in Gabon Facing Up to the Past - and Present, FERN, UK & Brussels.

Refer elsewhere for review of laws against indicators.

RRI, 2020. Estimate of the area of land and territories of Indigenous Peoples, local communities, and Afro-descendants where their rights have not been recognized. Available at: <https://rightsandresources.org/wp-content/uploads/2020/09/Area-Study-Final-1.pdf>

REPUBLIC OF CONGO

Country Area Minus Major Inland Water Bodies : 33 862 709 ha

Terrestrial protected area : 3 367 775 ha (9.9% of the country land area).

Urban area : 31 675 ha (0.1% of the country land area).

Private Rural Land (statutory titles) : 677 254 ha (>2% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 338 627 ha.

Estimated Community Lands Area (recognized or unrecognized) :

29 447 378 ha (87.0% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

460 253 ha (1.4% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

28 987 125 ha (85.6% of the country land area).

Notes :

Ranked as improved but still partial legal recognition of community lands.

Only indigenous peoples have legal assurance that their rights may be directly delimited as property rights and in the interim are protected (Loi no.5-2011, Art. 31-42) but no legal instructions for delimitation issued.

Customary rights of other communities acknowledged as permissive occupation and use with legal opportunity for identification and certification by conversion into non-customary rights as per laws between 2000 and 2014. Communes to launch procedure, several have commissions in place. However, grounds for proving customary occupation and use, combined with implication that lands already under private title and concessions will take precedence suggest that new titling affecting customary properties will be limited to cleared and farmed lands.

Note that private title may be held by individuals or collectives and includes sub-soil resources and may also include forestland (French Civil Code 1804 still in force, Law No. 10-2004, Forest Law No. 16-2000, Decree No. 2002-437).

Ample provision in forest and wildlife and protected area laws for communities to enter management and use agreements (Decree No. 2002-437 and Law 37-2008). Although several developments underway, information only for Lac Tele Reserve, recorded by WRI as a community forest of 460,253 ha: http://www.wri.org/sites/default/files/pdf/congo_forest_atlas_v3.pdf. However, the rights of the indigenous community in the area are unclear given the absence of an application decree following Loi no. 5-2011.

Sources:

pers comm. Marie Ange, FERN Oct 2015; Maxient Hanimbat, Oct. 2015 ;

ClientEarth, 2014, Droits de propriete et d'usage des communautes locales et populations autochtones.

Refer elsewhere for legal assessment (forthcoming Liz Alden Wily).

SAO TOME AND PRINCIPE

Country Area Minus Major Inland Water Bodies : 100 223 ha

Terrestrial protected area : 30 350 ha (30.3% of the country land area).

Urban area : 74 ha (0.1% of the country land area).

Notes : No data.



NORTHERN AFRICA

ALGERIA

Country Area Minus Major Inland Water Bodies : 230 339 553 ha
 Terrestrial protected area : 10 001 950 ha (4.3% of the country land area).
 Urban area : 292 304 ha (0.1% of the country land area).
 Private Rural Land (statutory titles) : 5 680 000 ha (2.5% of the country land area).
 Standard Estimate of Public Service Land (Rural) of 1% : 2 303 396 ha.

Estimated Community Lands Area (recognized or unrecognized) :
 212 061 903 ha (92.1% of the country land area).
 Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
 32 754 284 ha (14.2% of the country land area).
 Estimated Area of Community Lands Not Formally Recognized :
 179 307 619 ha (77.8% of the country land area).

Notes :

Limited information.

In accordance with land reform law of 1990, secure rural tenure is only available through issue of Certificates of Possession for developing arable farming, now well extended into grazing and alfa steppe land.

Families, clans and other groups secure possession under Exploitation Agricole Collectives (EAC), legally provided for in 1987 for occupation of traditional communal and tribal collective property (arch). No data on present allocations but in 2004 EAC and other registered family societies and cooperatives held nearly one million ha (FAO, 2005, Utilisation des engrais par culture en Algerie, Rome).

After abandonment of Pastoral Code in 1982, a High Commission for Steppe Development establishes pastoral development partnerships with communes (local governments) and which allocate use rights. On the basis of information in D. Nedjraoui, 2006, Country Pasture/Forage Resource Profiles, FAO, this assessment assumes that all grazing and alfa steppe (32.7 million ha) now likely to be under use agreements or Certificates of Possession as above.

81% of Algeria is defined as unproductive lands (deserts) and status of traditional tribal based rights to these lands is unknown.

Sharp decline in nomadic pastoralism reported by Nedjraoui, 2006. FAO 2005 gives official figure of private rural lands as 2.46%.

Refer review of laws elsewhere on site (Liz Alden Wily).

EGYPT

Country Area Minus Major Inland Water Bodies : 97 535 087 ha
Terrestrial protected area : 12 777 684 ha (13.1% of the country land area).
Urban area : 295 543 ha (0.3% of the country land area).
Private Rural Land (statutory titles) : 250 000 ha (0.2% of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 975 351 ha.

Estimated Community Lands Area (recognized or unrecognized) :
83 236 509 ha (85.3% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
0 ha (0.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
83 236 509 ha (85.3% of the country land area).

Notes :

Community land area estimated through exclusion of Terrestrial Protected Areas, urban lands, private titled lands and standard 1% of country area to cover rural public services. To minimise double-counting of TPA and community lands, 3.3% of lands within the total protected area have been subtracted as evidently within community lands, their legal status notwithstanding. No legal provision for community lands or mechanisms for collective entitlement based on customary rights. No areas known to have been statutorily titled to communities. De facto access rights to off-farm lands exist.

LIBYA

Country Area Minus Major Inland Water Bodies : 161 435 142 ha
Terrestrial protected area : 56 950 ha (0.0% of the country land area).
Urban area : 125 347 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 1 614 351 ha (>1% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 1 614 351 ha.

Estimated Community Lands Area (recognized or unrecognized) :
158 024 143 ha (97.9% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
0 ha (0.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
158 024 143 ha (97.9% of the country land area).

Notes :

Limited data.

Since the 1986 land reform undertaken by Colonel Gaddafi and which inter alia abolished clan tenure operating throughout all but urban areas of Libya, there has been no regime for recognizing community lands.

MOROCCO

Country Area Minus Major Inland Water Bodies : 41 297 311 ha

Estimated Community Lands Area (recognized or unrecognized) :
15 400 000 ha (36.3% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
15 400 000 ha (36.3% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :
0 ha (0.0% of the country land area).

Notes :

Morocco recognizes customary tenure as a lawful, but collective land is held in trust for the tribe by the Ministry of the Interior (Mol) and is characterized by highly asymmetric forms of administration that can vary from one village to the next. USAID estimates that 42% of Moroccan land is categorized as collective land, but interviews with Mol officials found that they identify 15.4 Mha of land, or 34.5%, as collectively managed, with another 300,000 hectares of irrigated land that has since been privatized (USAID 2011, cited in David Balgley, 2015). It can be noted that 6.5 million ha of these lands had been formally registered under group title by 2010. The most conservative estimates of the total IPLC lands area is used here.

Sources:

RRI, 2020. Estimate of the area of land and territories of Indigenous Peoples, local communities, and Afro- descendants where their rights have not been recognized. Available at: <https://rightsandresources.org/wp-content/uploads/2020/09/Area-Study-Final-1.pdf>
Ahmed Jkaoua, 2011, Management of the Collective Lands in Morocco, FIG Working Week 2011, 'Bridging the Gap between Cultures', Marrakech, Morocco, 18-22 May 2011.

SUDAN

Country Area Minus Major Inland Water Bodies : 186 917 167 ha
Terrestrial protected area : 2 640 950 ha (1.4% of the country land area).
Urban area : 236 771 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 18 691 716 ha (>10% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 1 869 172 ha.

Estimated Community Lands Area (recognized or unrecognized) :
163.4 Mha (87.5% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
0.1 Mha (0.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
163.3 Mha (87.4% of the country land area).

Notes :

Minimal protection as courts and officials since 1990 cannot hear land rights complaints concerning state land (and all land is vested in Government). [Refer legal review elsewhere]. Law does provide for registration of usufructs for cultivated lands indicating some security but virtually no registration outside urban and peri-urban areas. However, 0.2 Mha have been registered as Participatory Management of Reserved Areas and Community Forests (RRI, 2018).

Baseline of total community land in Sudan has been calculated by Liz Alden Wily via subtraction of 1.4% of protected areas, 0.1% of urban areas, 1% of Public Service Land, and an estimated 10% of Private rural lands. Note that other sources, such as Kerkhof (2019) and FAO (2012) cited in RRI (2020), only consider 60% of non-desert and sub desert land in the country as community claimed lands. However, we consider that desertic areas can still be used and held by communities, e.g. nomadic peoples.

Sources:

RRI. 2018. At A Crossroads: Consequential Trends in Recognition of Community-Based Forest Tenure from 2002-2017. Rights and Resources Initiative, Washington DC.
RRI, 2020. Estimate of the area of land and territories of Indigenous Peoples, local communities, and Afro- descendants where their rights have not been recognized. Available at: <https://rightsandresources.org/wp-content/uploads/2020/09/Area-Study-Final-1.pdf>

TUNISIA

Country Area Minus Major Inland Water Bodies : 15 344 929 ha
Terrestrial protected area : 33 675 ha (0.2% of the country land area).
Urban area : 114 564 ha (0.7% of the country land area).
Private Rural Land (statutory titles) : 767 246 ha (>5% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 153 449 ha.

Estimated Community Lands Area (recognized or unrecognized) :
14 275 995 ha (93.0% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
3 000 000 ha (19.6% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
11 275 995 ha (73.5% of the country land area).

Notes :

The estimate of community lands is derived from exclusion of TPA, urban areas, rural titled private lands and public service land in rural areas.

The official figure for Terres Collectives is used as the area legally recognized as community property, referring to traditional lands as in recent decades comprising 3 million ha but of which nearly two million ha are reported to have been privatized, leaving 1.1 million ha under community jurisdiction of traditional councils.

Source: Abdallah Ben Saad and others, March 2010. La privatisation des terres collectives dans les regions arides tunisiennes: constraints socio-economiques et impact sure l'environnement, AFD, Comite Technique 'foncier et Developpement'.

WESTERN SAHARA (SPAIN, CONTESTED)

Country Area Minus Major Inland Water Bodies : 26 705 292 ha
Terrestrial protected area : 1 508 125 ha (5.6% of the country land area).
Urban area : 2 548 ha (0.0% of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 267 053 ha.

Estimated Community Lands Area (recognized or unrecognized) :
24 927 566 ha (93.3% of the country land area).

Notes : The dependent territory has not been assessed yet.



SOUTHERN AFRICA

BOTSWANA

Country Area Minus Major Inland Water Bodies : 57 139 287 ha

Estimated Community Lands Area (recognized or unrecognized) :

36.1 Mha (62.3% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

17.7 Mha (31.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

18.4 Mha (32.2% of the country land area).

Notes :

While land classes traditionally freehold, state, and tribal land, much invasion of both private leaseholds and state takings within tribal lands. Major discrepancy therefore between official figure for tribal lands (63%, adjusted for exclusion of inland water bodies, and which exclusions also affect figures given below) and area available to communities, given massive rezoning of communal lands within tribal lands. Area available to communities includes 17,343,200 ha as 'communal land' and 352,300 ha for Remote Area Dweller Settlement Scheme. Together these amount to 49% of tribal land (Data from Ministry of Local Government and Ministry of Lands and Housing, 2015 as cited at Table 1 in M. Sapignoli and R. Hitchcock, 2015). Other land in Tribal Lands now classified as Commercial Ranching Zones (5,109,400 ha), Wildlife Management Areas (12,945,000 ha, Leasehold Ranches (335,100 ha) and 'Other', as tribal lands set aside for trek routes, quarantine stations, small towns, etc.). Also refer Government of Botswana Atlas, 2001. Despite customary rights being lawful and registrable (by individuals) since 1968 under Tribal Land Act, tenure security is weak and, as above, regularly undermined by zoning & allocation policies. There is no provision for collective title (either in customary or leasehold tenure on tribal lands). Although community wildlife trusts and remote area settlements assumed they would get documented recognition, never given, and trusts now have lost most WMA lands through reallocation of rights to commercial tourism enterprises. San are most affected as most of their lands now under WMA or Parks/Reserves. Note that private titled land figure given here includes both i freehold farms (3,297,000 ha) and > 99 yr renewable leaseholds on Tribal Lands, at 5,109,400 ha). For reviews on fragile tenure status of community/IP lands, see: Maria Sapignoli, 2015 Dispossession in the Age of Humanity: Human Rights, Citizenship, and Indigeneity in the Central Kalahari, Anthropological Forum 2015 Routledge; Richard White, 2009, Tribal Land

Administration in Botswana, Policy Brief 31 PLASS, Cape Town, Mmegi wa Dikgang Newspaper 27 February 2013 & 18 March 2013 on the Kgalagadi Land Scandal; Boga Thuru Manatsha, 24 April 2013, Tribal Land Administration: Some Critical Lessons, Mmegi wa Dikgang Newspaper; Patrick Malope and B. Nnyaladzi Batisani, 2008, Land reform that excludes the poor: the case of Botswana, Development South Africa, Routledge. Refer elsewhere for review of laws against indicators, (Liz Alden Wily, 2015, updated in 2017 by Robert Hitchcock and Liz Alden Wily).

LESOTHO

Country Area Minus Major Inland Water Bodies : 3 041 531 ha
Terrestrial protected area : 640 675 ha (21.1% of the country land area).
Urban area : 3 371 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 60 830 ha (<2% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 30 415 ha.

Estimated Community Lands Area (recognized or unrecognized) :
 2 335 896 ha (76.8% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
 2 335 896 ha (76.8% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
 0 ha (0.0% of the country land area).

Notes :

At least three-quarters of Lesotho is customary lands and this figure is conservative, based on removal of TPA, urban and a generous estimate of 2% of lands possibly under private statutory lease known to exist in urban, peri-urban and some rural areas, and additional subtraction of 1% country area to cover rural public service lands (dam infrastructure etc.).

The law upholds customary rights as lawful occupancy and use (the entire country is vested in the King/State) and are impliedly protected with/without formalization (although there is some ambivalence on this in respect of off-farm communal grazing lands, the main land resource by area). Note that most titling so far has been confined to regularization of urban and peri-urban occupancy through issue of leaseholds.

Refer elsewhere on site for review of laws against indicators (Liz Alden Wily).

NAMIBIA

Country Area Minus Major Inland Water Bodies : 81 857 161 ha

Estimated Community Lands Area (recognized or unrecognized) :
 29 468 578 ha (36.0% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
 29 468 578 ha (36.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
 0 ha (0.0% of the country land area).

Notes :

The official figure for community lands is used here (Communal Lands) (Ministry of Lands, 2014). Community wildlife conservancies and forest reserves are located within these lands. Note that to minimise double-counting, known TPA within communal lands are subtracted from the data for TPA retrieved from WPDA 2013.

Communal lands are 36% of the total country area or 29.468 million ha excluding inland water bodies. Communal Lands denote permissive customary occupancy & use under state-appointed Land Boards (chiefs are represented), with title to the land vested in the State (not the case in freehold farming areas which account for a similar percentage of total country area).

Only residential and farm lands may be formalised in lifetime usufructs (currently around 1.4 million ha of 29 million ha), leaving est. 27 million ha of grazing lands disposable with permission of chiefs. This includes issue of leaseholds for commercial ranching to individuals or legal entities, with no application by villages for these communal lands yet approved.

Sources:

Liz Alden Wily, June 2014 for MCA Namibia, Guidelines for Group Land Rights in Communal Areas, Proposed official guidance for applicants, allocators and administrators;
Liz Alden Wily, June 2014 for MCA Namibia, Proposed Working Policy on Group Rights in Communal Areas.
Refer elsewhere on site for review of laws against indicators (Liz Alden Wily).

SOUTH AFRICA

Country Area Minus Major Inland Water Bodies : 121 569 266 ha

Estimated Community Lands Area (recognized or unrecognized) :

15 804 005 ha (13.0% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

15 804 005 ha (13.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

0 ha (0.0% of the country land area).

Notes :

The official figure for lands under customary tenure is used here, referring to the lands of the former homelands now known as communal lands, and which in 2015 remain vested in the state in trust for occupants (due to the striking down of the Communal Land Reform Act, 2004 as unconstitutional, partly due to its bias towards ownership being capable of being vested in chiefs).

Note that in the case of the customary land of KwaZulu Natal the land is not vested in the name of the Minister of Rural Development and Land Reform but vested in and managed by the Ingonyama Trust for the Zulu king on behalf of residents, making the Trust the largest property owner in the province).

Many other lands claimed as community lands are not included here, most presently under registered private entitlement to individuals as large farms, the area of which falls within the official figure of private property (79% of total country area). Minor additional areas under ownership of Communal Property Associations are also excluded here.

Ownership within the former homeland areas is secure, given their legal status as unable to be alienated without permission of owners (Interim Protection of Informal Land Rights Act, 1996) - see legal analysis elsewhere).

Most recent source for official figures: Wendy Ovens, Jean du Plessis, Mark Napier, and Felicity Kitchin, August 2013. Issues and Options for Improved Land sector Governance in South Africa. Application of the Land Governance Assessment Framework. Urban LandMark.

SWAZILAND

Country Area Minus Major Inland Water Bodies : 1 723 154 ha

Estimated Community Lands Area (recognized or unrecognized) :

930 503 ha (54.0% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

930 503 ha (54.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

0 ha (0.0% of the country land area).

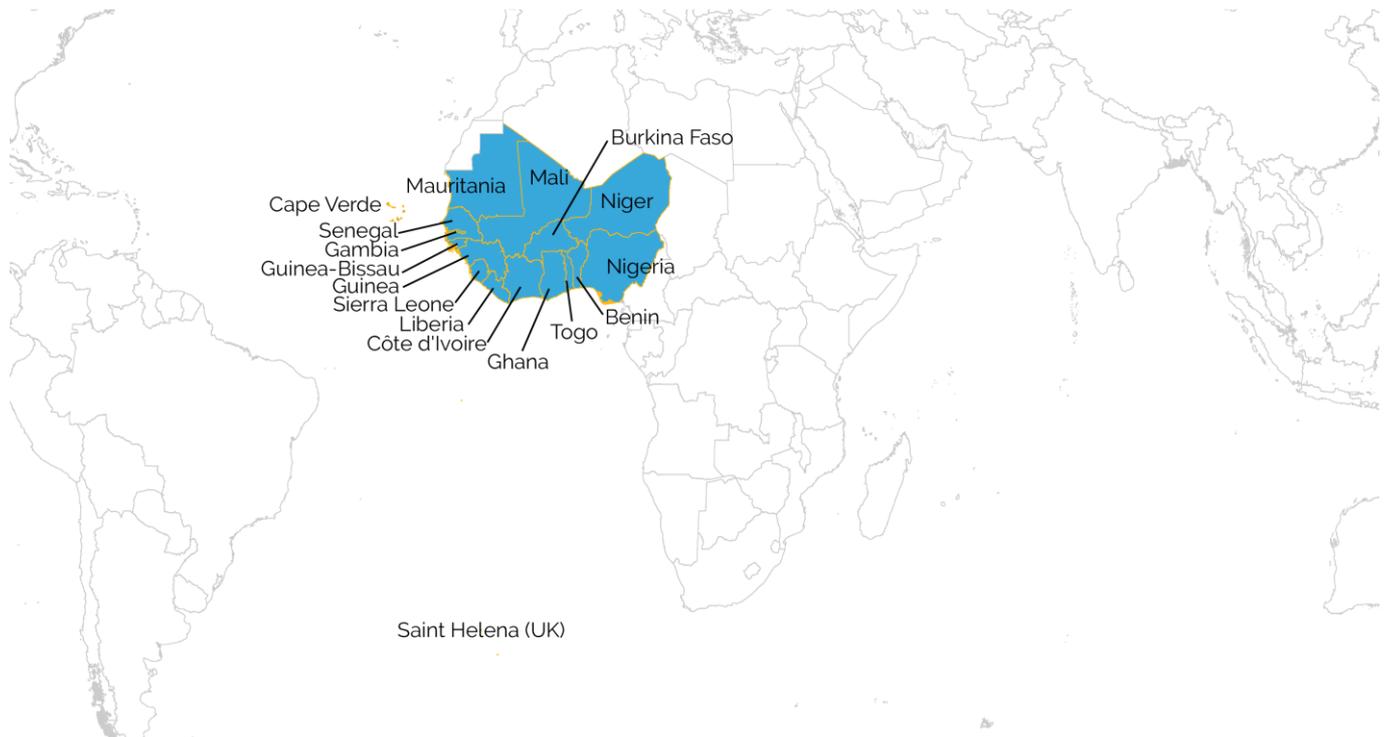
Notes :

The official figure of community lands in the form of Swazi National Lands vested in the King for the use of his subjects is used here as 54% of the total country area. Although not used to calculate community land area, the WPDA figure for TPA is reduced by 1% as known to fall within community Swazi National Lands (SNL) defined here as community lands.

Note that not all the Swazi National Land Area is under community jurisdiction; some areas are held by agencies. The official figure for SNL as of 2012 was 54% of the country area, another 36.8% of country area held under private land rights under Roman Dutch law.

Source of figures include IFAD, 2012, Land and Natural Resources in Swaziland, Rome www.ifad.org/english/land/perspectives/gltn/Swaziland_FactSheet.pdf

Refer elsewhere for review of laws against indicators (Liz Alden Wily).



WESTERN AFRICA

BENIN

Country Area Minus Major Inland Water Bodies : 11 507 742 ha

Terrestrial protected area : 2 281 815 ha (19.8% of the country land area).

Urban area : 30 547 ha (0.3% of the country land area).

Private Rural Land (statutory titles) : 230 155 ha (>2% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 115 077 ha.

Estimated Community Lands Area (recognized or unrecognized) :

8 964 531 ha (77.9% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

1 920 000 ha (16.7% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

7 044 531 ha (61.2% of the country land area).

Notes :

Identification of total community land area derives from excluding TPA, urban, private titled & rural public service land.

Decrease of 433,860 ha made to official Terrestrial Protected Area figure (WDPA, 2013) due to hunting areas believed to be fall within community lands as their Category denotes traditional resource management as the official regime.

Community lands defined as lawfully held when under certificates; use of data for >30,000 Rural Land Certificates issued by mid 2014 under aegis of c. 400 Community Land Plans (of a needed 3,300 Village Plans). Certificates only cover farms, not residences nor off-farm commons. Mainly issued to families & lineages. Certificate may be converted into formal title for stronger rights. Status of remaining est 6+ million ha of rural lands without Certificates is ambivalent.

Key source: pers. comm. Phillipe Lavigne Delville, Aug 2015, providing data from MCA and GIZ final reports on farm titling projects.

Also see Comlan Aguessi, 2015, Rural Land Tenure Registration in Benin: Facts and Challenges Paper presented to 2015 World Bank Land Conference.

Estimate of private rural lands includes village-based farm titling as above together with limited other private land titling in the rural sector; all sources confirm that most formal titling is within urban areas.

Refer elsewhere for review of laws against indicators (forthcoming, Liz Alden Wily).

BURKINA FASO

Country Area Minus Major Inland Water Bodies : 27 416 493 ha
Terrestrial protected area : 3 991 575 ha (14.6% of the country land area).
Urban area : 29 836 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 274 165 ha (<1% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 274 165 ha.

Estimated Community Lands Area (recognized or unrecognized) :
22 846 752 ha (83.3% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
22 024 257 ha (83.3% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
0 ha (0% of the country land area).

Notes :

Law (2012) protects customary rights without formal certification and treats customary rights as having equal force and effect as non-customary entitlements.

Certificates legally available to individuals, families & communities, as identified via community-managed local land charters. By June 2014 only 260 Certificates issued covering 9,052 ha.

Key sources:

Peter Hochet, pers comm July 2015; Situation as of 30 June 2014, extracted from MCC-Burkina Faso; Peter Hochet, Juin 2014, Burkina Faso: vers la reconnaissance des droits fonciers locaux, Fiche Pays No. 5 Burkina Faso, AFD, Comite technique Foncier & developpement;

World Bank, MCC, MCA Bukina Faso et du PRGLA/PNUD, 2014, Cadre d'Analyse de la Gouvernance Fonciere du Bukina Faso, Rapport provisoire soumis a l'atelier de validation;

Ye Zhang and others, 2015, Impacts of Formalizing Customary Land Rights in Burkina Faso: Preliminary Findings from the Land Governance Project, Paper presented at World Bank Land Conference, March 2015.

Refer elsewhere for review of laws against indicators (forthcoming Liz Alden Wily).

CÔTE D'IVOIRE

Country Area Minus Major Inland Water Bodies : 31 912 643 ha
Terrestrial protected area : 7 041 150 ha (22.1% of the country land area).
Urban area : 137 493 ha (0.4% of the country land area).
Private Rural Land (statutory titles) : 638 253 ha (2.0% of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 319 126 ha.

Estimated Community Lands Area (recognized or unrecognized) :
23 776 621 ha (74.5% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
35 462 ha (0.1% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
23 741 159 ha (74.4% of the country land area).

Notes :

Law 1998 (2004) permits communities to secure Certificates of Occupancy but must be converted into non-customary title (Titre Foncier), which requires registration of legal entity and high costs. Only 809 certificates issue (35,462 ha), mainly for family lands inclusive of some commonage but secure only once converted into statutory title and almost no cases since 1999. Re-examination of legal norms underway.

Source: Liz Alden Wily, 2015 Time to Rethink? A Critique of Rural Land Law in Cote d'Ivoire, FERN, UK & Brussels.

Refer elsewhere for review of laws against indicators (forthcoming Liz Alden Wily).

CAPE VERDE

Country Area Minus Major Inland Water Bodies : 409 095 ha
Terrestrial protected area : 10 350 ha (2.5% of the country land area).
Urban area : 0 ha (0.0% of the country land area).
Private Rural Land (statutory titles) : 40 910 ha (>10% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 4 091 ha.

Estimated Community Lands Area (recognized or unrecognized) :
353 744 ha (86.5% of the country land area).

Notes :

No data on legal recognition of community lands.
Area of community lands with/without recognition is strictly an estimate, based on excluding the protected areas, urban area, estimate of the area under private title, and exclusion of standard 1% of land area for rural public service lands (airports, roads, etc.).

GAMBIA

Country Area Minus Major Inland Water Bodies : 1 050 358 ha

Estimated Community Lands Area (recognized or unrecognized) :
908 400 ha (86.5% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
908 400 ha (86.5% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
0 ha (0.0% of the country land area).

Notes :

Minor decrease of TPA due to exclusion of one community wildlife reserve (389 ha). Although an official figure for private land (rural) is available and recorded here (11%) neither this, nor the TPA, or urban areas used due to availability of official figure for community lands (known as customary lands) at 908,400 ha.

Key source: Amie Besouda & Co. LP, August 2013, for The World Bank, Improving Land Sector Governance in The Gambia.

Note: some unclarity as to equivalency of customary rights with leasehold and freehold rights. Refer elsewhere on site for review of laws against indicators (Liz Alden Wily, forthcoming).

GHANA

Country Area Minus Major Inland Water Bodies : 23 199 561 ha

Estimated Community Lands Area (recognized or unrecognized) :
18 467 046 ha (79.6% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
18 467 046 ha (79.6% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
0 ha (0.0% of the country land area).

Notes :

The total area of TPA reduced by 63,586 ha as being within acknowledged customary lands. Customary lands are formally recognized as community-derived property with or without issue of formal entitlements. Official figure for customary lands is 80% of the total country area.

While customary freeholds are issued by traditional authorities and now Customary Land Secretariats, few parcels have been alienated entirely from the customary sector (in form of registered common law freeholds or leases, which number 300,000 parcels mostly acquired for urban areas).

Key sources :

pers comm. W Odame Larbi, May 2015;

W. Odame Larbi, Compulsory Land Acquisition and Compensation in Ghana: Searching for Alternative Policies and Strategies, 2008, FIG/FAO/CNG International Seminar on State and Public Sector Land Management, Verona, Sept 9-10 2008;

W.O. Larbi (in press) Harnessing Land Resources for Economic Development. Cht 10 in Appiah-Adu-,K. and Bawumia , M. (eds.), Key Determinants of National Development: Historical Perspectives and Implications for Developing Economies, Gower Publications);

John Tiah Bugri, 2012. Final Report: Improving Land Sector Governance in Ghana. Implementation of the Land Governance Assessment Framework, The World Bank.

Refer elsewhere on site for review of laws against indicators (Liz Alden Wily, forthcoming).

GUINEA

Country Area Minus Major Inland Water Bodies : 24 423 962 ha

Terrestrial protected area : 1 153 525 ha (4.7% of the country land area).

Urban area : 22 064 ha (0.1% of the country land area).

Private Rural Land (statutory titles) : 488 479 ha (<2% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 244 240 ha.

Estimated Community Lands Area (recognized or unrecognized) :

22 515 654 ha (92.2% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

2 275 989 ha (9.3% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

20 239 665 ha (82.9% of the country land area).

Notes :

Land Code 1992 provides for customary rights to be registered as ownership rights, superseded by Code foncier et domanial, Loi No. L/99/013/AN. This recognizes customary rights but requires registration in order to be fully protected (see Art. 3 and 39). Less than 10% of rural lands have been registered.

Key source : A. A. Barry and K. Ngom, EuropeAid, August 2015, Rapport provisoire CAGF-Guinee Conakry, Appui a l'organisation des Estas Generaux sure le Foncier et realisation due Cadre d'Anayluse de la Gouvernance Fonciere (CAGF) en Guinee.

GUINEA-BISSAU

Country Area Minus Major Inland Water Bodies : 3 338 353 ha

Terrestrial protected area : 912 625 ha (27.3% of the country land area).

Urban area : 3 026 ha (0.1% of the country land area).

Private Rural Land (statutory titles) : 333 835 ha (>10% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 33 384 ha.

Estimated Community Lands Area (recognized or unrecognized) :

2 055 483 ha (61.6% of the country land area).

Notes :

Customary rights are legally respected in principle (Law No 5 of 1998, Art. 2) and traditional authorities formally vested with land administration roles in rural areas. However privately titled rural lands are particularly expansive in the form of 7,000 concessions existed by 2006, mainly covering urban and peri-urban lands; no data on area of customary lands subject to other titles or the level of tenure security that in practice obtains.

Key source: Dittmar Jenrich & Jutta Schmidt Machado, GFA Consulting Group, GmbH, Guinea-Bissau Land Tenure Issues and Policy Study, 2006, The World Bank.

LIBERIA

Country Area Minus Major Inland Water Bodies : 9 566 532 ha

Terrestrial protected area : 1 246 825 ha (13.0% of the country land area).
Urban area : 9 895 ha (0.1% of the country land area).
Private Rural Land (statutory titles) : 4 783 266 ha (50% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 95 665 ha.

Estimated Community Lands Area (recognized or unrecognized) :
7.0 Mha (72.6% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
3.1 Mha (31.7% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
3.9 Mha (40.9% of the country land area).

Notes :

Note overlap of private and community lands as significant area of community land is under registered entitlement to communities. No official data on total area of customary lands in Liberia, but estimate of 72.6% used here (Ali Kaba, 2021): exclusion of 4.5 to 5% of lands designated as protected areas, 15 to 20% of private lands, and an estimated 5% of government/public lands.

No official figures for percent of country under registered title, although local communities are known to take advantage of the new (2018) Land Rights Law. The estimate used here includes notably, titles issued from 1949 to communities on request, 14 Aborigines Land Grants at 950,339 ha and 32 Public Land Sale Deeds at 1,816,357 ha as retrieved by the Forest Development Administration (Alden Wily, 2007), retrieval of old deeds to communities amounting to 1,766,030 ha (as reported by De Wit and Stevens, 2014), and more recently about 1.3 Mha of customary lands under formal community ownership and control through the new Land Rights Law (Koineyeneh, 2021). This combined area of 4.3 Mha represents 44.0% of Liberia's land mass.

Sources:

Ali Kaba, pers.com. in June 2021.

De Wit, Paul and Stevens, Caleb, 2014. 100 Years of Community Land Rights in Liberia: Lessons Learned for the Future, Paper presented at the World Bank conference on land and poverty, March 2014

Koineyeneh, 2021. "Liberia: More than 1.3 Million Hectares now under Community Ownership & Control". FPA, Mar 5, 2021. <https://frontpageafricaonline.com/news/liberia-more-than-1-3-million-hectares-now-under-community-ownership-control/>

MALI

Country Area Minus Major Inland Water Bodies : 124 639 759 ha
Terrestrial protected area : 6 014 358 ha (4.8% of the country land area).
Urban area : 38 029 ha (0.0% of the country land area).
Private Rural Land (statutory titles) : 6 231 988 ha (>5% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 1 246 398 ha.

Estimated Community Lands Area (recognized or unrecognized) :
111 108 986 ha (89.1% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
0 ha (0.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
111 108 986 ha (89.1% of the country land area).

Notes :

Total community lands estimated on basis of excluding TPA, urban, private rural lands and rural public service land. Reduction of TPA area by 1% to account for TPA known to exist in community lands. Law recognizes customary lands as occupied and used (Land Code 2000, Art. 43-46) but state owns all unregistered land (Art. 28), property exists through issue of statutory title (titre foncier) and rural registration is focused on issue of titles or leases to rice or other farmers in arable development zones (>5% of country).

Informal deeds (Decision de concession rurale) widely used to transfer customary peri-urban lands to developers. As collective lands cannot be registered (Art. 46), community possession of 80% of the country is insecure, demonstrated as vulnerable to reallocation by the state.

Legal commitment for 703 communes to record customary rights excludes pastoral lands and application minimal so far.

Customary rights ranked overall as insecure despite legal acknowledgement as lawful occupation and use rights.

MAURITANIA

Country Area Minus Major Inland Water Bodies : 103 878 811 ha

Terrestrial protected area : 603 825 ha (0.6% of the country land area).

Urban area : 13 718 ha (0.0% of the country land area).

Private Rural Land (statutory titles) : 2 077 576 ha (>2% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 1 038 788 ha.

Estimated Community Lands Area (recognized or unrecognized) :

100 144 904 ha (96.4% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

5 193 940 ha (5.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

94 950 964 ha (91.4% of the country land area).

Notes :

80% of Mauritania is desert/pastoral land claimed as community land on the basis of a mix of Sharia and customary law, as are the arable areas including along the Senegal River, the target for rural privatization outside the capital.

The 1983 land code (Ordonnance 83127 du 5 juin 1983 portant sur la réorganisation foncière et domaniale) abolished customary tenure, vested all land in the state, and stipulated that only formal registered individual entitlements would be upheld as property (Arts. 1-3). However, only 27,075 titles issued, of which only 72 are in rural areas. Inter-clan conflict has been a major factor since 1983 and led, inter alia, to slightly more security for users (by amendment of the 1983 law in 1990) and to the Pastoral Code (Loi No. 2000-44 portant sur le code pastoral en Mauritanie). This is notable as the only law in Africa to prioritise mobile grazing over settled cultivation, but which makes no provision for community entitlement. It does enable communities to define 'pastures' excluding private lands, and enter management agreements with local governments.

Not known how many communities have done so or area involved, and a guesstimate of a maximum of 5% of Mauritania as under such usufruct arrangements is used here to indicate that some degree of acknowledged occupation and use applies in pastoral areas, and likely to be mainly proximate to oases and settled camps.

Despite the pastoral code, failure to reform the 1983 law and recognize customary rights as property interests is reputedly a source of social conflict.

Key sources:

Mamadou Baro et al., 2014, Contribution a l'Amélioration de la politique foncière en Mauritanie a travers l'usage du Cadre d'Analyse de la Gouvernance Foncière (CAGF), The World Bank & Gouvernement of Mauritanie;

John Grazei, 1986, Modernizing Land Tenure in Mauritania: The Role of Law in Development, Working Paper No. 118, Africa Studies Center, Boston University.

NIGER

Country Area Minus Major Inland Water Bodies : 118 336 163 ha

Terrestrial protected area : 19 111 750 ha (16.2% of the country land area).

Urban area : 44 043 ha (0.0% of the country land area).

Private Rural Land (statutory titles) : 1 183 361 ha (<1% (est) of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 1 183 362 ha.

Estimated Community Lands Area (recognized or unrecognized) :

96 813 647 ha (81.8% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

11 833 616 ha (10.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

84 980 031 ha (71.8% of the country land area).

Notes :

The Rural Land Code in 1993 (a series of related legal texts on natural resource management, tenure, forestry, fisheries, water, expropriation and institutional developments and which continues to be developed) established customary rights as a basis of issue of certificates of private rights to arable lands in the south and issue of priority access rights to pastoralists for their home grazing territories and wells in the north (60 MHa owned by the state).

Full property rights may also be obtained from the Land Registry. Provision exists for issue of certificates or access rights to individuals, families or groups. Chiefs tend to retain large areas of off-farm lands in the arable south.

Even after 20 years there remains ambivalence as to the status of community lands without certificates and in the absence of adequate development of promised local land commissions after decentralization in 2004. Formal titling is expensive and cumbersome and chiefs issue documents confirming customary rights over specific parcels with uncertain locus standi.

Rights are in principle secure with or without titles but due to land grabbing, including in pastoral areas, tenure is vulnerable without title. Idea of empty lands without owners also prevails in the law and unregistered lands risk being so categorised.

No data for the area subject to customary certificates but estimated as less than 10% of the total country area.

Key sources:

AGTER, Lessons Learned from Niger's Rural Code

http://www.agter.asso.fr/IMG/pdf/rural_code_of_niger-educational_kit-paper_3.pdf;

Legal and Institutional Framework, at http://www.agter.asso.fr/article549_en.html;

On pastoralism: http://www.agter.org/bdf/docs/niger_-_paper_4_-_pastoralism.pdf;

Tearfund 2015, At the Crossroads Analysing the impact of pastoral policies upon patoralists based in Abalak, Niger.

NIGERIA

Country Area Minus Major Inland Water Bodies : 90 158 429 ha

Terrestrial protected area : 11 883 875 ha (13.2% of the country land area).

Urban area : 456 285 ha (0.5% of the country land area).

Private Rural Land (statutory titles) : 2 704 753 ha (3.0% of the country land area).

Standard Estimate of Public Service Land (Rural) of 1% : 901 584 ha.

Estimated Community Lands Area (recognized or unrecognized) :

74 211 932 ha (82.3% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

74 211 932 ha (82.3% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

0 ha (0.0% of the country land area).

Notes :

Community lands deemed 'fairly secure' in law comprising mainly family rural lands but see below.

Community land area is calculated by excluding protected areas, urban area, registered private land areas and subtraction of rural public service lands at 1% of country area. Legally, the remaining majority area (community lands) is lawfully occupied and used, but handicapped by shortfalls in law and especially its application.

Rights within the community sector are predominantly customary family rights, with lesser areas for communal lands, mostly as village-based grazing areas (5% of total country area at 7 million ha).

All land is vested in Governors of States in trust for citizens. Governor of State issues statutory certificates of occupancy to families and individuals and elected Local Government Authorities (LGA, of which there are 775) issue customary rights of occupancy for rural lands (up to 500 ha per family

and 5,000 ha per community for collective grazing areas (Land Use Act 1978, reissued in 2004, consolidated in 2013 with amendments).

Most land is considered to be private land (70-75% of country area) established by possession/customary law and which may be voluntarily registered. Only 3% of the country area is under statutory certificates of occupancy (based on cadastral mapping and formally entered into Cadastre).

Security of tenure is handicapped by legal requirement that transfers have permission of the LGA or Governor; failure to get permits can and does result in cancellation of family rights. Lack of accountability of Governors as titular owners also problematic in that law permits takings for public purpose without compensation for other than improvements to the land.

Key source: Peter Adeniyi, Aug 2013, Improving Land Sector Governance in Nigeria, Implementation of the Land Governance Assessment Framework, The World Bank.

Refer elsewhere on site for review of laws against indicators (Liz Alden Wily, forthcoming).

SAINT HELENA (UK)

Country Area Minus Major Inland Water Bodies : 28 860 ha

Terrestrial protected area : 0 ha (0.0% of the country land area).

Notes : The dependent territory has not been fully assessed yet.

SENEGAL

Country Area Minus Major Inland Water Bodies : 19 492 281 ha

Estimated Community Lands Area (recognized or unrecognized) :

13 552 811 ha (69.5% of the country land area).

Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :

11 305 523 ha (58.0% of the country land area).

Estimated Area of Community Lands Not Formally Recognized :

2 247 288 ha (11.5% of the country land area).

Notes :

The official figure for community lands in the form of zone des terroirs is used here, as lands acknowledged as governed by communities through rural councils, and which are not legally available for privatization under non-community based tenure.

Rights are relatively secure in that the state may not appropriate these community land territories through other than compulsory acquisition for public purpose, reinforcing principle that the territories are owned.

Note that customary tenure is formally abolished (1964 law) but continues to be practised, manifest in community based rules as applied by communities under supervision of rural councils.

Additional community lands exist under other categories, especially in lands declared to be pioneer zones, governed directly by the state. The Government has instituted a National Commission for Land Reform (CNRF), responsible for drafting a new land policy following nationwide dialogue in 2015.

Estimated area of zone de terroirs is 58% of country.

Most recent source : Oussobuby Toure and others, 9 Mai 2013, Cadre d'Analyse de la Gouvernance Foncière au Senegal, Final Report, commissioned by The World Bank.

Also referred to :

Jacques Faye, 2008, Land and Decentralization in Senegal, Issue Paper No. 149, IIED, London;

Gert Hesselings, 2009, Land Reform in Senegal: l'Histoire se répète? in J. Ubink, A. Hoekema and W. Assies (eds.). Legalizing Land Rights, Leiden University Press;

USAID, 2010, Country Profile, Property Rights and Rights to Resources.

SIERRA LEONE

Country Area Minus Major Inland Water Bodies : 7 223 884 ha

Terrestrial protected area : 388 426 ha (5.4% of the country land area).

Urban area : 14 496 ha (0.2% of the country land area).
Private Rural Land (statutory titles) : 144 478 ha (<2% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 72 239 ha.

Estimated Community Lands Area (recognized or unrecognized) :
6 604 245 ha (91.4% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
6 604 245 ha (91.4% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
0 ha (0.0% of the country land area).

Notes :

Although semi-official figures for community lands exist, the area estimated here through excluding Terrestrial Protected Areas, urban lands, estimated rural lands under private title and a standard subtraction of 1% of country area to cover rural public service lands. Decrease of 0.3% of total area of TPA to remove PA known to fall within acknowledged customary land areas.

Note that the semi-official figure for community lands is 99% of country area not used here is higher than obtained through above exclusion method. The official figure considers all but the Western Area to be under jurisdiction of customary norms in the hands of 149 chiefs (with ambivalent legal roles for district councils). This customary area (comprising the three provinces) coincides with the former protectorate and wherein customary tenure applies as per colonial legislation, sustained until the present.

99% does not take into account lands which have been alienated from community lands through privatization under leases, or through their reallocation to local and international investors by conjoined government-chief decisions. The area of such alienations is not known but recorded in research papers as affecting a number of traditionally communal lands, such as the boli wetlands.

Key source: Joe Alie and Mohamed K. Foray, February 2015, Background Report on Land Tenure Recognition for the Land Governance Assessment Framework, draft report, The World Bank.

Refer elsewhere on site for legal review against indicators (Liz Alden Wily, forthcoming).

TOGO

Country Area Minus Major Inland Water Bodies : 5 680 318 ha
Terrestrial protected area : 603 325 ha (10.6% of the country land area).
Urban area : 20 839 ha (0.4% of the country land area).
Private Rural Land (statutory titles) : 284 016 ha (<5% (est) of the country land area).
Standard Estimate of Public Service Land (Rural) of 1% : 56 803 ha.

Estimated Community Lands Area (recognized or unrecognized) :
4 715 335 ha (83.0% of the country land area).
Estimated Area of Community Lands Recognized as Owned or Lawfully Occupied and Used :
0 ha (0.0% of the country land area).
Estimated Area of Community Lands Not Formally Recognized :
4 715 335 ha (83.0% of the country land area).

Notes :

The Ordonnance No. 12 du 6 février 1974 Réforme Agro-Foncière is believed to still be in force, as is Ordonnance No. 78-18 portant création et mise en valeur des zones d'aménagement agricole planifié of 1978.

These laws produce ambivalent status for community-derived rights. No. 12 of 1974 guarantees the ownership of individuals and communities based upon registered title and adds 'The State also guarantees the ownership rights of any person or community who can claim to exercise customary rights over the land they use' (Art. 2). This has been interpreted in opposite ways, as meaning no title is required for security, or that title is still required but that customary use can be a basis of such entitlement.

There is no provision for off-farm lands to be secured. This has induced conflict since the 1970s in reference to rights to forests and especially to rangelands in the north. The law is clear that both assets are state property.

The strength of the Togo land law is that it was one of the first in Africa to allow collective rights to be registered (such as for family farms) but with above constraints. The area of rural Togo subject to formal title is estimated here as 5%.