

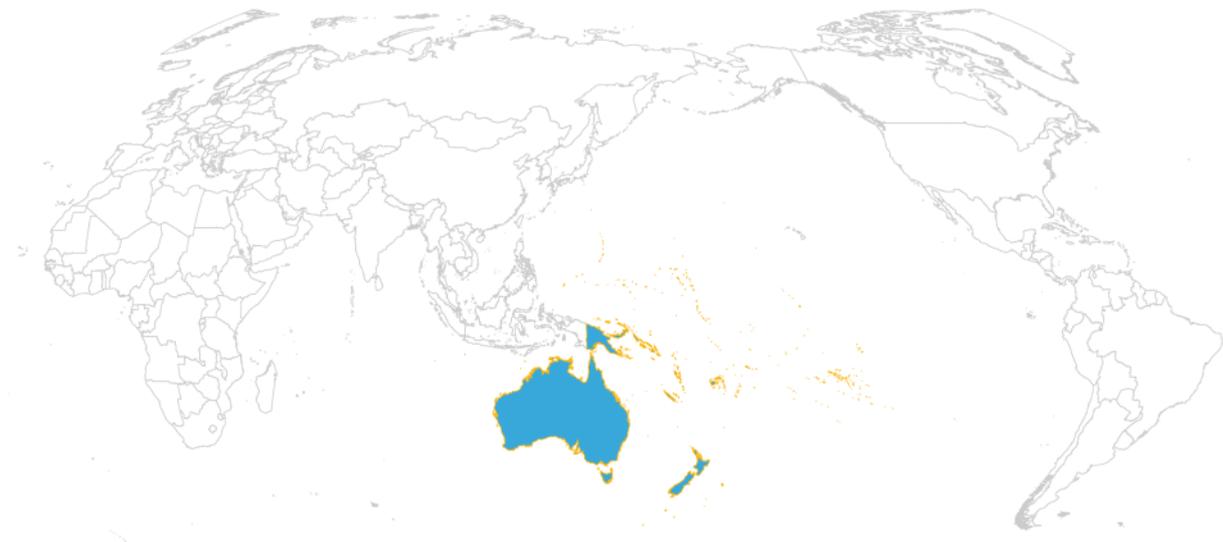
Estimating National Percentages of Indigenous and Community Lands
'Methods and Findings for Oceania'

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This document details the findings of the literature reviews used to estimate the area of community lands in Oceania (formally recognized or not).

General Notes:

1. **Baseline country area data.** The total country area excludes major inland water bodies. Data sources are: 1) Global Administrative Areas (GADM), *GADM Database version 2.0*, downloaded from www.gadm.org, 2015 and 2) DeLorme Publishing Company, Inc., *World Water Bodies: Data and Maps for ArcGIS*, 2014.
2. **Indigenous and community lands combined.** No distinction is made between community lands as customarily held by Indigenous Peoples (self-identification) or the customary lands of other communities in the final estimates. However, when disaggregated data are available, these are presented in the country notes.
3. **Area estimates of indigenous and community lands are conservative.** The estimates are based on information found in literature reviews and from personal communication. Area estimates

are often available for formally recognized indigenous and community lands only. Estimates of not formally recognized land areas are often partial or non-existent. In such cases, the best information available is recorded, such as the number of formal land petitions requesting demarcation and titling. Thus, the amount of indigenous and community lands per country presented here shall be considered a **baseline**.

4. **Percentages of the country area apply strictly to *lands*.** Many coastal and lakeside Indigenous Peoples and communities claim rights to adjacent foreshore and waters. These are not included.
5. **Plural sources of findings.** Literature review research of the assessor may lead to different estimations from different sources. Space only allows most recent sources accessed to be recorded in country notes.
1. **Information is under periodic review.** Findings are current as of 1st October 2015 based on research conducted over 2014-2015. More information improving reliability of figures is continuously coming out. Dated additions and adjustments will be made periodically.
2. **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 necessary adjustments as needed for data presentation). Only countries that have been assessed or where some partial information has been found are presented.
3. **Indigenous Peoples of Oceania** are considered to be the Polynesian, Melanesian and Micronesian inhabiting the islands prior to the European colonial expansion in the Pacific. Although several of these former colonies have now gained independence and have formed locally controlled nation-states, various peoples self-identify as Indigenous where the islands are still under external administration (Guam, Marshall Islands, etc.). For purposes of simplification, all customary land controlled by Pacific Islanders (traditional inhabitants) is considered Indigenous lands, even if the country has acquired independence.

COUNTRY BY COUNTRY DETAILED ESTIMATES



AUSTRALIA AND NEW ZEALAND

AUSTRALIA

According to official governmental sources as of 31 December 2013, Indigenous land holdings in Australia totalled 250.0 Mha: 96.9 Mha of lands delivered to Indigenous traditional owners under Commonwealth and state land rights laws, 75.2 Mha of Native Title under exclusive possession (92 determinations), and 82.5 Mha of Native Title non-exclusive possession (142 determinations offering very highly rights, often shared with other interests). In addition, 300 registered native title claims waiting a tribunal determination cover 320 Mha.

Source: Jon Altman, 2015, *Economie et politiques des droits sur la terre des autochtones en Australie*, in Bellier (dir.), *Terres, Territoires, Ressources: Politiques, pratiques et droits des peuples autochtones*, l'Harmattan, 394 p. Available at http://cicada.world/wp-content/uploads/2015/05/Jon-Altman_article.compressed.pdf

As many native titles, claimed or recognized, include ocean areas and as LandMark focuses on land exclusively, removing their offshore parts from the Native Title Tribunal datasets shows that formally recognized aboriginal land rights total 29.5% of Australia's land mass; pending land claims cover an additional 38.0%.

While there exists Aboriginal land interest in 699 Indigenous Land Use Agreements (ILUAs), they are not included in the calculations as they represent a weaker form of property rights than land rights or Native Titles. Moreover, many overlaps exist between ILUAs and registered Native Title Claims.

NEW ZEALAND

As of September 2009, the Māori Land Court had recognized 1.47 Mha of indigenous lands in New Zealand. These include freehold titles as well as customary lands. Thus, formally recognized lands cover 5.5% of New Zealand land mass.

Source: Maori Land Court website, accessed 2015.10.28.
<http://www.justice.govt.nz/courts/maori-land-court>

NORFOLK ISLAND (AUSTRALIA)

There is no customary land in Norfolk Island, as no Indigenous Peoples were present when the Europeans settled.

Source: Don Paterson, 2012, Overview of Land Systems in English-speaking Island Countries of the South Pacific, Law and Culture 2012: Pacific Law and NZ/Aotearoa Conference. Available at [http://www.paclii.org/law-and-culture/An overview of Land Systems in English speaking Island countries of the South Pacific .Power Point.pdf](http://www.paclii.org/law-and-culture/An%20overview%20of%20Land%20Systems%20in%20English%20speaking%20Island%20countries%20of%20the%20South%20Pacific.%20Power%20Point.pdf).



MELANESIA

FIJI

In Fiji, customary tenure is formally recognized and protected. Customary lands cover 88% of the country land area, the rest being public land (4%) and freehold land (8%).

When the islands of Fiji were ceded to Britain in 1874, all lands not occupied by Fijians were acquired by the Crown, and the lands sold by Fijians prior to this time were granted freehold title. Since then, the Fijians have been prohibited from selling their land other than to the Crown.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: [http://www2.kobe-](http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf)

[u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf](http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf)

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

NEW CALEDONIA (FRANCE)

The Agency for Rural Development and Land Management (ADARAF) is responsible for the land reform emerging from land and identity claims expressed in the 1970's by the Kanaks, New Caledonia Indigenous Peoples. To date, the agency has recognized 0.496 Mha of customary land (27.19% of the country land area) and has 0.013 Mha of "land reserve" to answer future claims.

Source: ADRAF website, accessed 2015.10.28,

http://www.adraf.nc/index.php?option=com_content&view=article&id=58&Itemid=78

PAPUA NEW GUINEA

Customary lands are formally recognized as owned by Indigenous Peoples and local communities in Papua New Guinea. They cover 97% of the country land area, the rest being public land (2.5%) and freehold land (0.5%).

Sources:

Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.:

AusAID. Available at: [http://www2.kobe-](http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf)

[u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf](http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf)

Rights and Resources Initiative, 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

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

SOLOMON ISLANDS

Customary tenure is formally recognized and protected in Solomon Islands. Customary lands cover 87% of the country land area, the rest being public land (8%) and freehold land (5%). When Solomon Islands was acquired by Britain in 1893, Solomon Islanders were regarded as owning the land except land that was considered to be unoccupied or waste land. Between 1896 and 1914, Solomon Islanders were allowed to sell their land to foreigners, which became freehold lands. Then, sales of customary land were restricted to the benefit of the protectorate Government, and some alienated land was returned to the customary owners.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

VANUATU

The Constitution adopted at independence affirms the principle that all land is owned by the indigenous customary owners and their descendants (98% of the country land area), although the Government is also entitled to own land (2% of Vanuatu land area).

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.



MICRONESIA

KIRIBATI

According to a report from the Australian Agency for International Development, more than 45% of the country is customary land at the national level, the rest being public land (50%) and freehold lands (less than 5%). However, setting aside Christmas Island which is mostly public land and accounts for nearly half the land area of Kiribati, the 95% of the rest of Kiribati continues to be under indigenous ownership.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

MARSHALL ISLANDS

Marshall Islands have a constitutional recognition and protection of customary authority over customary land. They cover 99% of the country land area, the rest being public land.

It is likely that there is no state-owned land and that all land in the Marshall Islands is indigenously owned, with ownership usually governed by customary practices, at the exception of the atoll of Likiep.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

MICRONESIA (FEDERATED STATES OF)

Customary land is formally recognized and protected by the Constitutions of the 4 provinces of the Federated States of Micronesia. They cover 65% of the country land area, the rest being public land (35%) and freehold lands (less than 1%). Customary land is held by traditional landowners, and most of this land is registered with rights of title similar to freehold.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra,

A.C.T.: AusAID. Available at: <http://www2.kobe->

[u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf](http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf)

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

NAURU

The legislation of the country recognizes and protects customary land tenure. Customary lands cover more than 90% of the country land area, the rest being public land.

The sale of land has been prohibited in Nauru since colonial times, and thus there is no history of land alienation in the country. Still, a small amount of land has been alienated to the Government.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra,

A.C.T.: AusAID. Available at: <http://www2.kobe->

[u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf](http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf)

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

PALAU

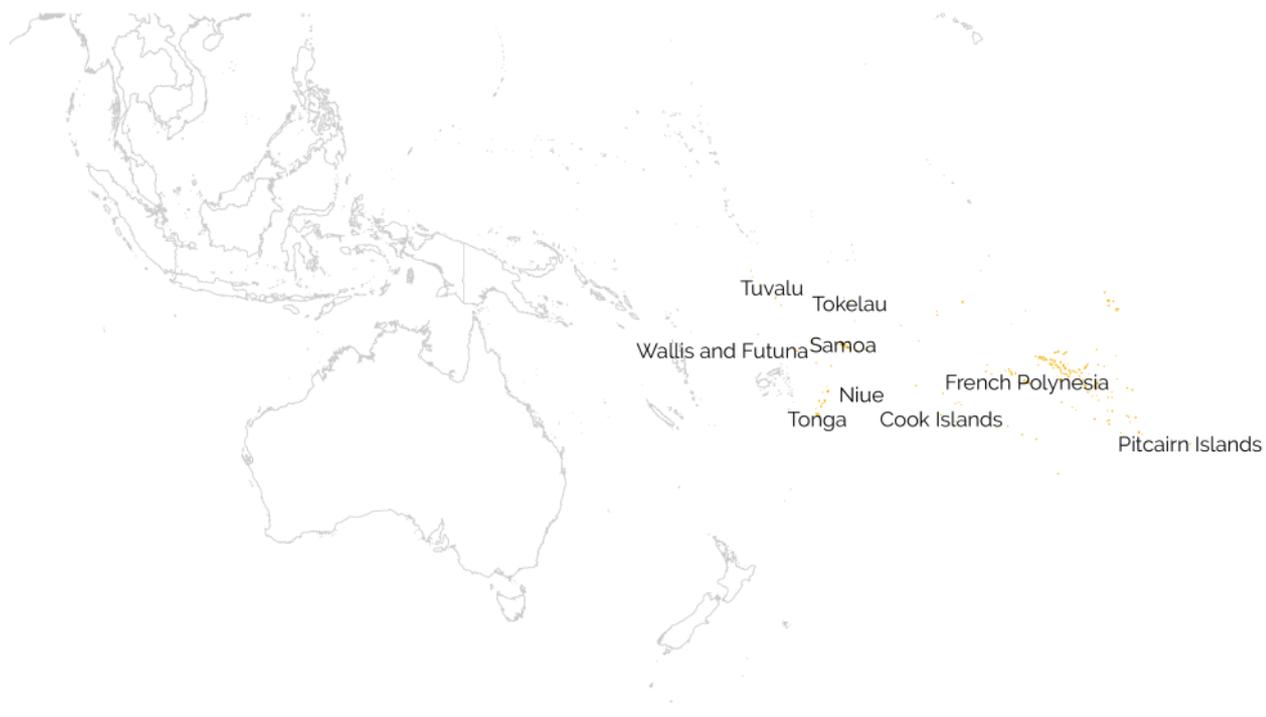
The German rule of the country encouraged individual occupation and ownership of the land, a trend that continues today. 20 000 land titles are estimated to exist on the island, some of which are clan or community titles to land, but many others are individual titles. Land that was not occupied or cultivated by Palauans during colonial times have been converted to public lands, and much of this land is now being disputed by the traditional owners.

There are some customary land in Palau, but most of the country's area is public lands, with some freehold lands.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra,

A.C.T.: AusAID. Available at: <http://www2.kobe->

[u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf](http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf)



POLYNESIA

AMERICAN SAMOA (U.S.)

A large majority of American Samoa land is customary land (80–90%).

Source: Don Paterson, 2012, Overview of Land Systems in English-speaking Island Countries of the South Pacific, Law and Culture 2012: Pacific Law and NZ/Aotearoa Conference. Available at [http://www.paclii.org/law-and-culture/An overview of Land Systems in English speaking Island countries of the South Pacific. Power Point.pdf](http://www.paclii.org/law-and-culture/An%20overview%20of%20Land%20Systems%20in%20English%20speaking%20Island%20countries%20of%20the%20South%20Pacific.%20Power%20Point.pdf)

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

COOK ISLANDS

The Crown formally recognizes and protects rights of traditional landowners through legislation. The Cook Islands Act prohibits alienation of customary land, whether to Cook Islanders or others. Customary lands account for 95% of the country land area, the rest is shared between public land (most) and little freehold lands.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

NIUE

The Crown formally recognizes and protects rights of traditional landowners through legislation. Customary lands cover 98.5% of the country land area.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

PITCAIRN (UK)

There is no customary land in the Pitcairn Islands, as no Indigenous Peoples were present when the Europeans settled.

Source: Don Paterson, 2012, Overview of Land Systems in English-speaking Island Countries of the South Pacific, Law and Culture 2012: Pacific Law and NZ/Aotearoa Conference. Available at <http://www.paclii.org/law-and-culture/An-overview-of-Land-Systems-in-English-speaking-Island-countries-of-the-South-Pacific-Power-Point.pdf>.

SAMOA

The Constitution of Samoa formally recognizes and protects customary land tenure, and prohibits further alienation of customary land than the 19% of the country land area that had already been converted to freehold (4%) or public land (15%) by the time the country achieved independence (1962).

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

TOKELAU (NEW ZEALAND)

The Crown formally recognizes and protects rights of traditional landowners through legislation. The Tokelau Amendment Act of 1967 prohibits alienation and disposition of Tokelauans' land, except to the Crown or among themselves and in accordance with custom. Customary lands cover 98% of the country land area, the rest being equally shared between public land and freehold lands (1% each).

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.

TONGA

The Constitution of 1875 transferred all the ownership of the land in the country to the King Tupou I, whose dynasty is still ruling Tonga. This marked the end of traditional land tenure systems. Thus, there is no more customary land in the country, all of its land mass being public land.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

TUVALU

The Crown formally recognizes and protects rights of traditional landowners through legislation. Customary lands account for 95% of the country land area, the rest being mostly public land (5%) with less than 0.1% freehold lands.

Source: Australian Agency for International Development, 2008, Making Land Work. Canberra, A.C.T.: AusAID. Available at: http://www2.kobe-u.ac.jp/~alexroni/TR2014%20readings/2014_7/MakingLandWork_VolumeOne_Bookmarked.pdf

As customary tenure is extensively protected in the constitution or by law, we may consider that all customary lands are formally recognized in the country.