



Africa Community
Rights Network



The state of Community Land Rights in Africa

**African States can better
protect community land rights**

December 2016

Appendix II : Synthesis card

Index	Burkina Faso	Congo B.	DRC	Ghana	Liberia	Nigeria	Sénégal	Uganda
1. Does your national constitution state that customary rights are respected as rights of ownership?	No	Partial	Yes	Yes	No	Yes	No	Yes
2. Does the land law protect customary rights to the same degree as it protects non-customary registered entitlements as due respect as ownership rights?	Yes	Yes	No	Yes	Partial	Yes	No	Yes
3. Does the law recognize families and communities as lawful landowners, as well as individuals?	Yes	Partial	Yes	Yes	Partial	Yes	No	Yes
4. Does the law only protect customary rights which are officially certified and registered?	No	Yes	N/A	No	No	No	Yes	Partial
5. Does the law require families, communities or other traditional groups to form legal entities in order to be registered as collective owners?	No	No	N/A	No	No	No	No	Yes
6. Does the law provide a procedure for registering customary land rights in a manner that is:								
a. Voluntary	Yes	Yes	yes	Yes	N/A	No	No	Yes
b. Free or genuinely cheap	No	No	Yes	Partial	N/A	No	No	Yes
c. Accessible to all villagers	Yes	No	Yes	Partial	N/A	No	No	Yes
d. Easy to use	No	No	Yes	No	N/A	No	No	Yes
e. Equally available to communities and families as to individuals	Yes	Yes	Yes	Yes	N/A	No	No	Yes
f. Registers the right "as is" (that is, registration does not extinguish the customary right in favour of a freehold or other non-customary form of tenure)	No	No	Yes	Yes	N/A	No	No	No
7. Does the law discriminate either positively or negatively in respect of land rights of pastoralists, hunter-gatherers, or self-identified indigenous peoples? if so, add explanation	No	Yes	N/A	Yes	No	No	No	No
8. Does the law give explicit or special protection to women's customary land rights??	No	No	N/A	No	No	No	No	Yes
9. Does the law recognise these resources as owned by customary communities?-								
a. Forests & woodlands	No	Partial	Yes	Yes	Yes	Yes	No	Yes
b. Rangelands	No	Partial	Yes	N/A	No data	No	No	Yes
c. Marshlands	No	Partial	No data	Yes	No	Yes	No	Yes
d. Ponds, lakes & streams	No	No	No	No	Yes	Yes	No	Yes
e. Traditionally mined surface minerals, oils, etc.	No	No	No data	No	No	No	No	Yes

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f. Beach or river foreshore	No	No	No data	No	No data	No	No	Yes
g. Farmed lands	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
h. Settlements	No		Yes	Partial	No	Partial	No	Yes
10. Does the law recognise communities as an autonomous level of local government or empower the community in other ways to legally govern customary land rights?	No	Yes	No	N/A	Partial	Yes	No	Yes
11. Does the law require traditional & elected community authorities to secure community consent for key decisions, such as leasing land to outsiders?	No	Partial	No	Yes	Yes	No	Yes	Yes
12. Is there any provision for protected areas to be returned to community ownership, (although subject to conservation regulation & limitations such as excluding right to sell the land, change use, etc.)?	No	No	No	Yes	No	No	No	Yes
13. Does the law require free, informed and prior consent of communities prior to allocation of customary lands including common properties like rangelands and forests to private persons or investors?	No	Partial	Yes	Partial	Yes	No	Yes	Yes
14. Does the law recognise communities as lawful controllers of customary rights and enable their decisions to be upheld in the courts?	No	No	No	Yes	Partial	Yes	No	Yes
15. Is there a national zoning plan or other mechanism by which customary lands are protected against government or other takings for other than genuine public needs?	No	No	No	Partial	No	Yes	No	No
Practice								
16. Has government established a land commission, observatory or land policy process since 1995?	Yes		Yes	Yes	Yes	No	Yes	Yes
17. Were recommendations delivered & acted upon within five years?	Yes		Yes	Yes	Yes	No data	No	Yes
18. Are land courts, ombudsman, or other mechanisms in place designed to make it easy and cheap for communities to appeal against land rights injustices including by government?	Yes	Yes	No	Yes	No	Yes	Yes	Partial
19. Have communities been actively included in land policy decision-making in the last ten years?	Yes	No	No	Partial	Yes	No	Partial	Yes
20. Has poor support for customary rights including to forests, rangelands & other commons been a cause of significant civil conflicts or war in your country since 1990?	No	No	Yes	N/A	Yes	Yes	No	No

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21. Have there been cases where government has punished communities or others who speak out against unjust land takings and/or failed to protect them against attacks by those implicated?	No	No	No data	N/A	Yes	Yes	Yes	No
Opinion of assessors								
22. Has the number of state reallocation of customary lands to investors without informed local consent risen in the last ten years, as affecting these resources —						No data		
a. Forests & woodlands	No	Yes	No data	partial	Yes	Yes	Yes	Yes
b. Rangelands	No		No data	N/A	No data	Yes	Yes	Yes
c. Marshlands	No	Yes	No data	N/A	No data	Yes	Yes	Yes
d. Local ponds, streams, lakes	No	Yes	No data	N/A	No data	Yes	Yes	Yes
e. Traditional mining areas	No	Yes	No data	N/A	Yes	Yes	Yes	Yes
f. River or beach foreshores	No	Yes	No data	N/A	No data	No	Yes	Yes
g. Farms	No	Yes	No data	N/A	Yes/ no data	Yes	Yes	Yes
h. Settlement areas	No	Yes	No data	N/A	No data	Partial	Yes	Yes
23. Has community awareness and demands for secure customary land rights significantly increased in the last ten years?	Yes	Yes	Yes	Partial	Yes	Partial	Yes	No
24. Has land grabbing by elites within communities risen within the last ten years?	Yes	Yes	No data	No data	Yes	Yes	Yes	Yes
25. Has state resistance to recognising customary rights as ownership rights decreased since 2005?	Yes	No	Yes	N/A	Yes	No	Yes	No
26. Tick yes for an overall rank for the status of customary land rights in your country today compared to ten years ago —								
a. Less secure	No				Partial	Yes		
b. Slightly more secure	Yes		Yes	N/A	Yes			Yes
c. No change	No	Yes					Yes	
d. Improved & easier to protect	Yes							
27. Tick yes for the most <i>insecure</i> type of customary property -								
a. House plots								Yes
b. Farms	Yes		Yes				Yes	Yes
c. Shared community lands such as forests, rangelands, marshlands		Yes			Yes	Yes		

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28. Rank these threats to customary land security as high, medium, or low –								
a. Increasing disparity between rich and poor	High	High	Low	Medium	High	High	High	High
b. Urban dwellers seeking rural lands	Medium	Low	Low	Medium	Medium	Low	Medium	
c. Local investors seeking lands	Medium	Low	Medium	High	Medium	Medium	High	
d. Foreign investors seeking lands	Low	High	Medium	High	High	High	High	
e. Government policy on investors	Medium	High	Low	High	High	medium	High	High
f. Low local government and/or local organization		High		Don't know	Medium	medium	High	
g. History of civil conflict & war		Low	Low	Don't know	High	low	Medium	
i. Lack of awareness of rights	High	High	High	High	Medium	High	High	High
j. Tribal or clan traditions	Low	Medium	Low	Don't know	Don't know	Medium	Low	
k. Corruptible traditional leaders		Medium	High	High	Medium	High	Medium	High
l. Inter-tribal or clan strife			High	Medium	Medium	High	Low	
m. Other (indicate)								High
n. Other (indicate)								



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