

Community Property in Kenya Risks & Opportunities

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Part One

Putting Community Property in Context: *The global & continental picture*

Q1: Why refer to community lands as ‘property’?

Because –

- a. Customary property exists although governments have made sure communities do not refer to it as such to limit communities to the typical state version of property; that this can only be individual, registered by Government, and in a form which Government approves. or approved by, But customary property/community property exists – whether or not laws and governments recognize this.
- b. Although customary owners in the past may not have referred to their lands as ‘property’ (partly because they were not ‘allowed’ to), most do so today. This is because they consider their lands to be “our” land and that they feel their lands should be treated equally with other forms of property.
- c. Using the term ‘community property’ helps bring this home to administrators and politicians.
- d. Conventional views of property only existing if freely saleable, and formally registered, are weakening, as the reality that *most* lands are not registered comes to the fore.
- e. More and more governments are accepting lawfully-occupied lands as *owned, as* lawfully-held ‘property’. They make it possible for communities to have these properties registered as owned.

Q2: Why care about what the law says?

Because –

- a. Everyone lives within States these days
- b. The law of the State is supreme
- c. Protection of property is dictated by the law, including customary property
- d. Pressures on community property are rising all the time: communities need national laws which support their rights.

Q3: Why care about what is going on outside Kenya?

Because –

- a. The world is fast globalizing
- b. Land access is fast globalizing
- c. Laws in the past and today borrow extensively from each other
- d. Legal changes spread fast across boundaries
- e. Governments like to think of themselves as at the cutting edge, so they do not note what other countries are doing about unregistered property
- f. Communities can be encouraged by, and can use relevant legal changes elsewhere to promote their demands

Background 1

10 useful facts about community property GLOBALLY

1. Community property is **a major resource** –
 - Est. **6 billion ha** or half the world's land area
 - Owned by an est. **3 billion people** in est. **1.3 million** rural communities
2. Community properties exist **in all regions**, including Europe – in fact, increasing in Europe as a sensible way to protect forests and pastures.
3. In hectares (ha), *most* resources in community properties **are unfarmed** (c. 80% in Africa). They are forests, rangelands, marshes, mountains, etc. These are **'naturally collective'** lands – i.e. not often productively subdivided into private parcels.

4. Most communities are **still not recognized as owners**, only as **lawful occupants on unowned or state lands**.
5. This is fast changing! **Most** countries now make provision for communities to be formal owners, but registration is often complex, costly, slow.
6. **Most community properties have a customary history**. Some do not; e.g. collectives in China, land trusts in America.

7. **Collective title is the newest form of land ownership** (and is different from corporate property because collective property is socially based). Although rural, community or collective property also has strong potential in **city slums where only tiny, impermanent, structures exist**. Uptake by urban communities will **reinforce** community property as rational, and useful in modern times.
8. **Community property can be just as lawful and protected as private property, but each has its own features.** e.g.
- Community property is **not always saleable**. Private property almost always is.
 - Community property usually has 2 levels of ownership: the community owns **the land** but families may own exclusive **rights to certain parts of the property** – this is secondary to the primary right of community ownership.
 - Governance of community property is **complex** because there are multiple owners. Majority will is critical today for decisions to hold. Laws now often stipulate procedures to ensure this.

9. Recognition of communal lands has long existed but is flourishing only now.

Some countries recognized community lands as properties –

- Centuries ago (e.g. Sweden, Austria, Switzerland)
- In the 19th century (e.g. USA, Vanuatu, Fiji, Ghana)
- In the early 20th century (e.g. Mexico, Peru)
- In the 1970s & 1980s, mainly for Indigenous Peoples (e.g. Australia, New Zealand, Canada, Brazil, Nicaragua)
- **MOST CUSTOMARY OR COMMUNAL LANDS HAVE BECOME COLLECTIVE PROPERTY IN LAW ONLY SINCE 1990** (especially in Africa, Asia, Central Asia, Eastern Europe, and Latin America).

10. Positive legal developments since 1990 for community land security –

- a. Property does not always now depend upon registration to be legally acknowledged as lawful property.
- b. Formal identification, mapping, registration, issue of title, has become more important, as unknown boundaries are invaded.
- c. Property can exist without being a saleable commodity.
- d. Today, a community can be a legal owner of land in some countries without having to create a legal entity in which to vest ownership on its behalf. This makes registration much easier.
- e. Community property enjoys same level of protection as private property.

Background 2

10 facts about the LEGAL STATUS of community property GLOBALLY

1. The back has been broken on denial of community lands as property: 73 of a sample of 100 states now recognize community lands as **lawfully possessed property**.

2. 53% of national land laws providing this were enacted since 2000. The trend is continuing, although laws take longer to enact and laws contain more compromises. At least 10 draft laws are available in Africa and Asia in 2018.

1. **Indigenous Peoples (IP) are not the only beneficiaries.** They were the main target in 1970s and 1980s. 47 of 73 laws make no distinction among rural communities. e.g. indigenous, peasant, former slave and other communities secure community properties in Latin America. Opportunities **limited to IP** in Canada, USA, Australia & NZ.

4. Legal support is not uniform. Of 100 countries
 - a. 55 % - Strong support for community property
 - b. 18 % - Support but with some weaknesses
 - c. 10 % - Support with more weaknesses
 - d. 17 % - Still no legal support

Common weaknesses in b. & c. above:

- Law does not make it free, or easy for communities to register their properties.
- Off-farm collective property (e.g. forests) are not always included as community property.
- Application decrees not drafted after several years.

Legal support can be grudging. Some communities have needed **court rulings** to secure recognition as owners (e.g. Canada & Australia).

5. Community, private and corporate property mostly have the same legal protection. This is directly stated or strongly implied in 50 of 64 laws sampled (78%).
6. However, communities get less compensation at compulsory acquisition, mainly because off-farm lands are still often valued as 'undeveloped'.
7. Title to community property is mainly vested in the community directly or in a collective or cooperative on its behalf. Title is retained by the State in trust for owners in 20% of cases. Governments claim this is to limit distress sales, but clear that Government aim to keep control over valuable resources on community properties is a stronger driver.

Some countries do not permit ownership of certain resources within community properties (e.g. forests in Peru and Armenia, high grazing lands in Afghanistan, Mongolia and Kyrgyzstan).

8. Laws –

- Forbid any sale of community property in 43% countries
- Permit **some** sales (houses, or farms) in 25% countries
- Permit sale of any community property, pending majority agreement, in 32% countries.

9. Most laws **require formal survey** and registration before recognizing community lands as legal property: **55%**. Laws in **45%** countries do not require this, but all strongly advise formalization

10.100% of sampled laws provide procedures for communities to register their lands (formalization).

- Procedures are getting easier each decade.
- **Africa** leads the way in enabling communities to be legal owners *without* forming cooperatives, associations or other legal entities.

Background 3

10 useful facts about Community Property in **AFRICA**

1. *Most* rural Africans acquire, hold, transact lands as members of communities, following community norms. 90% of rural population in 2018 (i.e. **770 million people**) are community-based landholders in 2018. They will rise to more than one billion by 2050.
2. **IP**: Est. 25-30 million define themselves as Indigenous Peoples (IP) or 4% of all rural community landholders. Only one country draws distinction in land rights of IP and other rural communities.
3. **90% of African community property is based on customary practices ('customary tenure')**. Only 4 of 54 countries do **not** legally acknowledge customary landholding (Mauritania, Eritrea, Senegal, Egypt).
 - 30 of 50 African countries acknowledge customary landholding as a **lawful form of property**.
 - 20 of 50 still consider customary landholding as **lawful occupancy** on unowned or government property.

4. Only 10% of continental area is under privately registered ownership. Mostly in Rwanda, Mauritius, South Africa, Zimbabwe, Namibia & Botswana.
5. 70+% of continental area (1.6 billion ha) is the estimated area of community land in Africa excluding large water bodies.
6. **Overlaps abound:** *most community land* is presently designated as *government, national, or public lands*. Governments are the major landowner in Africa in 2018. This partly explains the tug of war between governments and communities as to land rights. Governments do not wish to surrender lands they have got used to claiming as in effect, their own, disposable property.
7. Strong trend in Africa of legally recognizing customary lands as *lawfully owned by communities or families*, and *provision for registration*. But *sustaining & expanding this* and *delivering on legal commitments* (where provided) are the two biggest shortfalls.

8. **31 new land laws** have been enacted in Africa since 1990 (of 54 countries). Over half **since 2000**. **Half** significantly improve the legal status of community/customary lands.

9. **Constitutions** have played a major role in legal changes. Only 5 of 54 African Constitutions are older than 199. The newer the Constitution, the more common is improved legal status for unregistered customary landholding.

10. Land *ownership* in Africa varies –
 - May mean **direct** ownership of the land (e.g. Kenya, South Africa,)
 - Ownership of **rights to the land** where country area is vested in the state/president/people. This derives from English common law or from nationalization after Independence (e.g. Senegal, Tanzania, Mozambique).
 - Cases where **only customary/community property** is owned by the State, producing an uneven playing field (e.g. Zimbabwe, Namibia).

Legal Support for Community Property in 2018 may be categorized as –

Strongest provisions (but all have flaws):10

Uganda, Tanzania, Kenya, Mozambique, South Sudan, South Sudan, Burkina Faso, Ghana, Mali, Malawi.

Provided but with several main limitations: 20

Angola, Namibia, Swaziland, Lesotho, Sierra Leone, Gambia, Nigeria, Guinea, Ethiopia, Zambia, Benin, Togo, Namibia, Tunisia, Morocco, Algeria, Niger, Madagascar, Botswana, Ivory Coast.

Major limitations: 14

Egypt, Mauritania, Cape Verde, Guinea Bissau, Senegal, Sudan, Chad, Cameroon, Gabon, DRC, Congo Brazzaville, Mauritania, Zimbabwe, Equatorial Guinea.

Minimal to no provision: 10

Burundi, Rwanda, Eritrea, Seychelles, Mauritius, Djibouti, Somalia, Comoros, Central African Republic, Sao Tome & Principe.

Part Two

Legal Opportunities to Security of Community Property in Kenya

KENYA 1

The setting

10 FACTS about 'community property' in Kenya

Community Land in Kenya is –

1. The major estate at an estimated 50-60% of the country area. Located in 21 of 47 counties.
2. The property of >10 million Kenyans (c. 20 %).
3. Mainly pastoral and collective.
4. Long history of *semi-recognition* by colonial state.
5. Long history of *wrongful takings* from sector.
6. Legally eligible for restitution – essential for coastal communities & forest dwellers communities.
7. Weakly supported politically in Kenya, impeding implementation.
8. Doubly vulnerable due to *overlapping claims* to county, public & community lands & *lack of boundaries* among these.
9. Positive weak history of *tribal* as compared to community ownership but negative history of *class formation & elite capture* dividing interests, and undermining communal lands of community.
10. More vulnerable than private property to *involuntary takings*, official and unofficial. Mainly because unmapped or marked on ground or registered.

KENYA 2

10 positive LAND LAW provisions for community property

Opportunities that need to be used to the full

Directly useful to community land security –

1. Law states that customary property (community property) has **same legal force & protection** as private and public land
2. Law acknowledges that community property *exists*
3. Law provides for registration to **define & double-lock** properties
4. Law enables **communal areas** to be included under title
5. Law nests **private interests** well, reducing pressure for subdivision
6. Law permits **customs & community-based rules** to govern lands
7. Law requires **inclusive decision-making** via community assembly
8. Law enables **urban communities** to secure community property: will reinforce community property as a modern construct
9. Law makes it easy for community to be **a legal owner** without forming a legal entity to hold land on its behalf
10. Law makes difficult for investors to take community lands **without consultation and agreement.**

KENYA 3

**Supporting LEGAL provisions for
community property**

... more opportunities to use

1. **Supportive Constitution**, also the most known law by Kenyans, & the law least easy to alter.
2. Strong **bill of rights** including freedom to information, right to fair administration, protection of unregistered property, support for marginalized communities, etc.
3. **Devolution** has potential to work in favour of community property and governance especially in institution of village councils
4. **Exploitation** of minerals, oils, gas, etc. increasingly subject to consultation with affected communities and benefit-sharing required
5. Imposition of **Protection Orders** does not necessarily change status of land owner

KENYA 4

**Taking advantage of positive
SOCIO-POLITICAL conditions for
community land security**

1. **Global solidarity:** communities everywhere are going through similar processes: lots to base advocacy on
2. **International support** for community 'property' is growing
3. Strong provision for **community property** in region (Tanzania, Uganda), and on continent, to draw on
4. Judiciary is getting **cleaner and stronger** and more bravely separated from the Executive, taking on community land cases ...
5. Growing **awareness & defence** of human & other rights in Kenya
6. Rising awareness that land dispossession also dispossesses **communities of identity, 'home', culture, social support systems,** and **rightful capital base** - not just about losing use of lands
7. Communities are more aware than ever of the **values of their unfarmed lands & resources** and more determined to retain these under community title
8. Rising recognition among communities that can not afford to leave community lands **untitled:** need formalization to lock rights
9. Strong potential for **cross-community solidarity** in Kenya
10. **Community vibrantly exists in Kenya: this does not need to be recreated: community will become the bedrock of Africa's success in 21st century**

KENYA 5

**Is Kenyan Law Good Enough for
Protection of Community Property?**

**20 BEST LEGAL PRACTICES
communities should expect from the law**

Does Kenyan Law Meet Basic Community Property rights?

- ✓ 1. RIGHT to definition of community lands as **property** and due **same protections** granted individual/private and corporate property
- ✓ 1a. RIGHT to above *whether or not* community property is formally surveyed & registered
- ✓ 2. RIGHT to **define community membership** for purposes of tenure
- ✓ 3. RIGHT to **make own rules of land use & allocation as owners** (within constitutional bounds of fairness)
- X 4. RIGHT to **prompt and low cost survey & registration of community property**
- ✓ 5. RIGHT to be registered as landholders without forming legal entity in which to vest title, or for property to be vested in state agencies in trust

x. 6. RIGHT of communities to be the primary land protectors, to not see their lands taken as public property on grounds that only the State can be an effective protector of vulnerable areas.

- ✓ 7. RIGHT of community members to participate **equally in land related decision-making**, especially on zoning, uses, allocations, and disposal of any part of the community property
- ✓ 8. RIGHT of community members to identify communal lands **which may NOT be partitioned, allocated to individual community members** or disposed to non-members
- ✓ 9. RIGHT of community members to be allocated **secure & inheritable usufruct for exclusive occupation and use** within the community property
- ✓ 10. RIGHT of community members to differentiate between **voting rights** of resident and non-resident members

- ? 11. RIGHT of community to establish maximum quorums to ensure genuinely majority decision-making especially on matters of allocation and disposal of lands.
- ✓ 12. RIGHT of community to decide that all or part of the property may be lent, accessed, leased or sold
- ? 13. RIGHT to full & prior information and consultation with guarantee that opinions will be fairly considered, and right to negotiate conditions to minimize loss of lands from proposals for compulsory acquisition including legal requirement that the State consider options to lease community property as alternative to purchase
- X 14. RIGHT to retain community ownership over lands of public use, under conditions of use and disposal agreed with state agencies
- X 15. RIGHT to equitable compensation for deprivation of off-farm shared UNDEVELOPED lands at compulsory acquisition

- ✓ 16. RIGHT of communities to negotiate directly with investors or other third parties for lease or use of all or part of the property, and including RIGHT OF REFUSAL
- ? 17. RIGHT to require issue of shares or other equitable proceeds when land is leased to investors or compulsorily acquired by the State for profitable developments
- ✓ 18. RIGHT to restitution of community properties wrongfully taken where these are classified as public property
- ✓ 19. RIGHT of communities of persons to secure collective title to lands, without history of customary possession, including urban
- ✓ 20. RIGHT of land-dependent marginalized and vulnerable groups to positive discrimination in respect of land rights
- X 21. RIGHT of all communities to direct representation in national and local government forums on matters of land rights.

Part Three

Legal & Other Threats to Security of Community Property in Kenya

KENYA 6

10 LIMITING provisions in the LAND LAW

That need to be challenged or overcome

1. **Weak devolution** of land **authority** & responsibilities: too much relies on Cabinet Secretaries including whether to proceed with community land titling
2. Too many **legal openings for land takings** as 'essential' public property
3. No tangible legal support for undeveloped off-farm lands to be **equally compensated at compulsory acquisition** as important use areas as for house and farm lands. Market value will be reduced due to being undeveloped. Value cannot be raised on basis of future use.
4. Not clearly enough stated that community property **already exists** & is therefore **protected** even without titles
5. **Too low quorum** for community decision-making on disposal of lands
6. While public land may be transferred to community land, the law requires that this **exclude any lands of any ecological or environmental value, too open-ended and needless when Conservations Orders can be imposed on lands without changing their tenure**

7. **Unfair time-frame** for hearing historical land injustice claims
8. Unhelpful **constitutional** shortfalls:
 - a. **contradictory** on ownership of public and community forestlands
 - b. **outdated** in failure to adopt subsidiarity in governance
 - c. **absent recognition** that citizen resource ownership **enhances** protection
 - d. trending **nationalization** of natural resources
9. Insufficient **legal penalties** for State **failure** (including NLC) -
 - a. To apply the community land law
 - b. To halt corruption in the land sector
 - c. To enforce understanding that public land is not the private property of government, and that community property already exists & is protected
 - d. To *stop counties* changing the use of unregistered community property
10. **Weak protection** for evictees, ambivalent provisions for consultation of communities in all matters related to their lands, unhelpful regulatory intention to title private parcels within community land **slowing** process

KENYA 7

**Most limiting legal provisions for
land rights of forest dweller
communities**

That need to be overcome

1. Protection of the environment is **nationalized**: powers unduly centralized in hands of national government agencies
2. Cabinet Secretary may gazette new Public Forests without consultation or agreement with affected communities (FCMA s. 31 (2))
3. Government may develop water tower forests for **commercial purposes**, enhancing rent-seeking & refusal to devolve tenure and governance (Wildlife Conservation and Management (Joint Management of Protected Water Towers) Regulations 2017 s. 4)
4. **Poor legal guidance**: outdated conviction that indigenous forest and water towers must be public/national property is so strongly legally entrenched that **scope for more effective approaches to conservation are suppressed**

5. Problematic that supreme law is outdated on environmental protection: the major source of appeal against injustices
6. Exacerbated by entrenched nationalization of water as state property
7. As consequence of above –
 - Parliament have taken the position that ancestral forest lands *are* public property as per FCMA Third Schedule: forest dwellers have no choice but to **challenge the law**
 - Courts rule that **eviction is lawful**, and choose compensation over restitution as remedy for admitted lost property rights
 - Forest communities have **insufficient access and security of tenure to practically demonstrate working community based forest protection**, rehabilitation of degraded forests, development of new forests, or sustained conservation
 - Scope opened by Land Act to declare even areas adjacent to Public Forests and all watershed areas to be Public property
 - **Counties give poor support to community forest rights**: the law failed to devolve more than management and implementation powers to County Governments in matters of forests

KENYA 8

**Pressures particular to pastoral
land security**

That need to be overcome

It is as hard for pastoralists as forest dwellers to secure rightful community property - but in different ways –

1. Community title is constructed on idea of discrete ‘parcels’. The law permits flexibility but does not guide different options. Pastoralists will need to develop workable arrangements themselves, and which may need to include overlapping rights.
1. Pastoral lands probably bear massively valuable minerals, hydrocarbons & wind power potentials which encourage commercial investment at scale. Pastoralists will need to be especially vigilant in ensuring fair investment agreements.
1. Restitution is as important as for forest dwellers but with added complication that private property has been ‘lawfully’ entrenched over key pastoral lands. This makes chances of restitution more remote.

4. Intra-pastoral relations are complex and easily inflamed by external pressures and interests. Building in peaceful negotiation among affected communities will be key to tenure security.
5. Pastoral & agro-pastoral community lands are especially vulnerable to demands that freedom to settle anywhere in the country can be applied. These communities will need to make this principle more nuanced, towards more fairly making this right conditional to local consent.
6. The land use regimes of pastoral society are under marked change including class formation. Listening carefully to changing aspirations by class and generation will be particularly required to define win-win for all in securing rightful property.

Part Four

Principles in Strategies to Overcome Limitations

Making it Easier for Change to Happen

1. **See the bigger picture:** you are part of a bigger transformation of society. You are the frontline.
2. **Knowledge** is power: *get it, use it*
3. **Pay attention:** watch dispossession of rights & authority by the backdoor. Challenge it every time
4. **Be strategic:** pick your battles
5. **Allies matter:** don't be isolationist

6. **There is always more than one path:** multiple lines of ‘attack’ on the status quo are essential.
7. **Solidarity** makes all the above *much* easier.
8. **Making change case-by-case is often the easiest entry point:** take one Park, take one Reserve, take one Forest, take one eviction issue and focus on it and get the principles resolved through this.
9. **Be grounded:** what happens **in the community and by the hand of community members themselves is always the bottom-line. Without this foundation, there is no firm platform for change.**
 - Driving change from **the bottom-up is the key to safe democracy.**
 - Communities are mini-‘states’. Get the dynamics community right: **learning to listen** and compromise.

10. Building on the positive: there is a lot that is positive in Kenya, for example –

- a. The law is flawed – but basically *on your side*
- b. The ‘press’ is ‘quite’ **free**: use it well –take time to make sure journalists get the key messages you want the public to hear
- c. **Community vibrantly exists!!** you don’t have to recreate this like so many countries do to achieve citizen rights and citizen-led governance.

Useful Positions to Underwrite Strategy?

1. RIGHTS & GOVERNANCE

What seems right at citizen/community level *is* 'right' – and to be heard, to be respected, to be the grassroots foundation of 'good governance and policy-making, and to own your lands and resources securely.

2. PROPERTY

How land is owned and secured is fundamental to how safe and fair the modern society is. This matters in Kenya as Kenya is and will always be a land and resource based economy. It will not survive on factories alone.

Conceive as securing community property **as the last big step in liberating land relations in Kenya from colonial subordination**. Independence failed to do this, and little to help has been done since - until the 2010 Constitution. Seize the day.

A big element of community land liberation relates to Protected Areas. PA are 'good' – but there is no need for modern Governments to OWN PA. In fact, this landlordism is a key factor in driving degradation of forests and non-citizen based conservation.

Citizens as communities have **the right** to be the the ultimate Protectors and Conservators of these lands.

- Government has **a right** to impose impose Protection Orders and to hold oversight.
- Government has **a duty** to assist its citizens as Protector Conservators, with technical help and finance.
- Government has a **good governance duty** to do what is right for natural resource conservation
- Communities have **a duty** to help Government see this
- Case by case can only be clean-handed if it surrenders landlordism over Protected Areas.

1. On Solidarity

Time for solidarity among communities is now, later is too late.

Did the Sengwer get your support against evictions & killing? Do Awer-Boni hear your support in the press? Are coastal communities being displaced to make way for settlement schemes for outsiders without hearing your voice? communities being displaced for settlement schemes for outsiders hearing your support?

Solidarity is best expressed in one voice. It takes time to organize. Strategize to minimize time & costs and to maximize impact.

2. On Vigilance

Challenge policies & laws which don't support community land security –
ideally with one voice

- Are you watching 2030 progress investments, projects and reports to ensure community land security is on the agenda?
- Have you demanded why it is taken so long for Regulation under the Community Land Act to be issued?
- Has the Community Land Registrar been appointed? If so, to whom has s/he delegated his function in your counties?
- Why is NLC not dealing with historical injustices? Is the time scale fair?
- Does the Government budget set aside enough money to see swift registration of communities and their lands?
- Are KFS and KWS quietly taking community lands for more Reserves?
- Have counties begun their duty to survey and compile an inventory of all community lands?
- Keep your eye on 2030 progress: nothing there for you presently...
- Any investors in your area? Don't they know they have to consult with you?

What does it take to be vigilant? How can the civil society help?

3. On Seeking out allies

1. **Counties:** prompt them to take responsibility for interests & rights of communities.
2. **The public:** get them informed and on side. Produce briefs for public consumption? 30 things you need to know about community property in Kenya?
3. **Your neighbours:** nothing worse than antagonistic neighbours ... What do you need to do to get them on side?
4. **Private sector:** meet with them directly? Can you really rely on state actors to take your side with them?
5. **Government:** seek out allies in county & national government and agencies. Be prepared for face-saving compromises (e.g. piloting & bite-size steps).

4. On Finesse the malaise

Don't wait for legal changes. Make it real on the ground wherever possible.

- Do the work needed to present County & Ministry with a *fait accompli* – you have agreed your boundaries with neighbours, made rules, run a community assembly & land committee, applied for registration of community & committee, and applied for adjudication, etc.
- Zone your lands promptly for community wildlife areas, community forests, community watersheds, etc. with rules.
- If you have resources likely to be subject to Protection Orders, get organized; show that you can protect these just fine.
- Make and publish maps of your lands! Let the world know these are your lands, you just need formal recognition of this.

What does it take to make changes on the ground? What help do you need? Who/which agencies can help?

5. Making it real on the ground is always the biggest challenge

- *Securing your lands is your right.* ‘Community property’ is modern, viable, now globally practiced, an essential means to sustain social community and community resources.
- With exceptions, *the law is on your side.*
- *Making it real on the ground is the biggest challenge.*

Postscript: Some practical steps to take at community level

See Brief No. 5 for details!

1. Bring all members together: come to agreement on objectives of what kind of land security need and must pursue.
2. Agree on criteria for membership of community for landholding purposes. Pay special attention to rights of members living or working outside the area: what should their rights be?
3. Appoint a boundary committee to work amicably with neighbours. Keep records.
4. Provisionally identify boundaries with neighbours.
5. Work out access arrangements if relevant.
6. Identify & agree with members zones which must remain collective property for time immemorial
7. Identify areas where private usufructs for houses, services and farms should be located
8. Engage with local government from the outset: know what their land zoning plans area. Engage and educate them in your process. Make them proud of their supporting role to get them on side.
9. Set up the institutional basis: how often will all adults meet as a community assembly? What will be it quorum for the meeting to go ahead? And what percent of those present must agree to a motion for this to be carried? Elect the working land committee as required by law.
10. Learn to keep records from the outset on all the above.