

Introduction: Understanding Melanesian customary land

By Tim Anderson and Gary Lee

AID/WATCH has prepared this publication, with its partners, to address many fundamental misunderstandings over Melanesian customary land.

The experience of land tenure in Melanesia and Australia is radically different, despite much other shared colonial history. The Australian colonies completely dispossessed Australian indigenous people of their lands, and that has been only slightly redressed over the past forty years. By contrast, in most of Melanesia, very little land was either registered or alienated. Land thus remained under customary title, controlled by clans and families, a status which is recognised, for example, by the constitutions of Papua New Guinea, the Solomon Islands, Vanuatu and Timor Leste.

It should not be surprising, then, that many Australians understand so little about Melanesian customary land. They do not understand how land title not written down in a government register can be “secure”. They do not understand how people can own land without being able to sell it. And they may not appreciate that families using their own customary lands, in combined subsistence-cash crop operations, can often generate more value than those with paid jobs.

This is before we add in the misinformation produced by the mining companies and banks, and their “think tanks”, pursuing their own economic agendas under the guise of modernist policy. Investment groups want to acquire precious land, and they want to get it cheap. The Sydney-based Centre for Independent Studies (CIS), for example, which receives funding from banks and mining companies, consistently undermines indigenous rights in the region. In her 2004 paper for the CIS, *The Pacific is Viable*, Helen Hughes sets out what she calls “a road map for rapid growth and development in the Pacific” which claims that “the communal ownership of land is the primary reason for deprivation in rural Pacific communities.” Such views perpetuate the misinformation and demand a response which includes Melanesian voices.

To address these misunderstandings AID/WATCH, an Australian-based NGO and member of the Melanesian Indigenous Land Defence Alliance (MILDA), has produced this publication. It presents Melanesian and Australian voices in defence of Melanesian customary land. The chapters touch on the broad themes of customary land in the region, as well as particular issues in Papua New Guinea and Vanuatu. Those issues include land tenure conversion, incorporated land groups, leases, the productive value of customary land, women and land, land tenure reform programs, and the social security features of traditional land tenure systems.

AusAID, the Australian Government aid agency, has financed a large number of land projects in past decades. Its current Pacific Land Program commits \$54 million over four years, but without a clear statement of policy. The Pacific

Land Program is said to be informed by AusAID's 2008 report *Making Land Work*, which outlines some principles for land tenure reform in the Pacific. This includes "making land tenure a priority", "working with and not against customary tenure" and "balanc[ing] the interests of landowners and land users". However, the government makes it clear that the report "does not seek to advocate any particular policy options or models. Nor does it necessarily reflect AusAID or Australian government policy."

In practice, Australia's Pacific Land Program has backed Pacific government programs, a number of which have focused on peri-urban settlements, urban land conflict and record management. However, the program persists with the idea that Melanesian land tenure must be "reformed" more generally, including the "mobilisation" of customary land, mainly through leaseholds.

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AusAID's 2006 White Paper, *Australian Aid: Promoting Growth and Stability*, which sets the strategic framework for the direction and delivery of Australian aid, states that one of the key initiatives to accelerate economic growth would be a "collaborative and demand-driven **Pacific land mobilisation program**, to explore ways of overcoming the major land tenure constraints to growth in the region" (emphasis in original). That report also identifies what it calls "an emerging consensus that a 'middle way' has to be found that essentially combines customary ownership with long-term leases that unlock the commercial value of land." AusAID's Pacific Land Program activities for 2009-2010 similarly suggest that "Uncertainty over land tenure is also proving to be a constraint to economic development."

It seems clear that AusAID's "middle way" idea on Pacific land involves substantial financial support to "build demand" for an "emerging consensus" in favour of the registration and leasing of customary land. If leasing means customary landowners retain their title, the program can be said to support those village people, who have thereby been provided with an opportunity to move into the commercial world.

This is a vision driven by ideology, Western bias and vested interest. As the articles in this publication point out, even the first step of registration poses a

threat, not least because of widespread fraud and maladministration. Corruption in land programs is not unrelated to the large, cashed-up aid programs. In Papua New Guinea, logging companies have set up fake Incorporated Land Groups (ILGs) to further confuse the process. Indeed, the “uncertainty over land tenure” is found more pervasively in modernist registration processes than in the smaller scale land conflicts that can mostly be resolved at a local magistrate level.

Registration does serve some social purpose in urban land matters, but when it comes to leasing rural land the tragedies and “market failures” are apparent. There being no real “market” for customary land, long term leases are effectively the same as dispossession. Rural rents are extremely low – as little as one hundredth of the productive value of land – and lease compensation provisions mean that landowners cannot afford to reclaim their land at the end of a long lease. This publication provides some insight into the details of those problems.

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The pressure for registration and leasing customary land means little attention is paid to the often highly productive use of land for subsistence and cash crops, as well as the customary ways in which land has been used for social purposes. Customary land has been shared in informal ways for schools, markets and infrastructure, over many years. With these types of “informal leases”, there is generally no set term and landowners expect to share in commercial benefits, if any. There is no dispossession and little resentment. There is a future in the extension of such arrangements, building on the Melanesian wisdom that has sustained communities for many centuries.

But first there is a need to build an understanding of Melanesian customary land, and elevate Melanesian voices. In producing this publication, and the associated DVD *Defending Melanesian Land*, AID/WATCH hopes to contribute to that process.