



**AUSTRALIAN AID TO THE PACIFIC (THE PACIFIC LAND PROGRAM)
BRIEFING**

**Prepared for the Pacific Regional Representative of the Office of
The High Commissioner for Human Rights**

January 2009

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Australian Aid to the Pacific: The Pacific Land Program

Background

As with many indigenous peoples of the world the Melanesians have a strong relationship to land which is integral to the workings of social cohesion, food security, cultural production and ecological management. Melanesia is unique in that the majority of its land is still controlled by customary systems of land tenure. As much as 97% of land is customary in PNG and supports the livelihoods of around 80% of the population.

Customary land in Melanesia has long been cited as an impediment to development, particularly by those that argue that the privatisation of land is the most efficient system for its utilisation. The implementation of such a view point in Melanesia would involve the individual titling of land and radically change land systems. A major “problem” with customary land is that it is not easily compatible with formal legal and market systems which attract foreign investment. However methods to facilitate land dealings have been negotiated including landowner trusts and incorporation of landowning groups.

AID/WATCH along with grassroots and community organisations in Melanesia are concerned that the current land reform programs underway pose a threat to the continued relationship of Melanesian peoples to their land and undermine indigenous peoples’ control of their own development futures.

On this particular issue AID/WATCH has a growing relationship with the Bismark Ramu Group in PNG’s Madang Province and the Vanuatu Cultural Centre in Port Vila, Vanuatu.

Australian Aid

The Australian government aid agency, AusAID, under its \$54 million Pacific Land Program is currently financing support to Melanesian governments in undertaking land reforms.

AusAID’s own 2008 publication *Making Land Work* states repeatedly that for the majority of Melanesians land reform is currently unnecessary but justifies reform on the ground that it is a long-term policy response.

The Australian Parliamentary Secretary for Development Assistance, Mr. Bob McMullan has said the Pacific Land Program “will be guided by two fundamental principles: first, Australia will only support reforms that recognise the continuing importance of customary tenure; and, second, land policy reform must be driven by Pacific island governments and communities, not by donors.” However it remains to be proven that there is any significant demand from “communities” and that the current push for reform is any less market-driven than previous reform initiatives.

AID/WATCH concerns

Whilst the current approach does not *aim* to radically change customary land systems, rather incorporate them into formal legal and economic structures, namely through customary land registration, there remain many concerns that its *effect* will radically change such systems.

AID/WATCH concerns include:

- Reforms are primarily donor-driven to enable foreign investment;
- That the adequate consultation of communities is not taking place making this a top-down process, preventing Melanesian peoples determining their own development;
- That there is a lack of genuine demand from landowners for change;
- That those likely to benefit most from land registration are foreign-owned, agribusiness, extractive and tourism industries, as the effect of reform will be to facilitate opening land to major developments which at present it is somewhat protected from by customary land tenure. In addition large foreign companies have the capital and experience to participate in formal legal and economic structures that communities do not;
- That reforms will undermine rather than strengthen customary land tenure;
- The undervaluing of customary land when viewed within the market sphere as a mere commodity;
- Loss of livelihoods and/or user rights to land; and
- Reforms will facilitate more unsustainable and environmentally destructive investment.

Papua New Guinean concerns

Our people depend on their land for food, hunting, fishing, cultural practices, medicine, and housing amongst other needs. There are also spiritual and cultural connections between land and our people. Our people's culture and traditions are neatly interwoven with their land, often times it is very difficult to untangle. This connection is not easily noticeable as well as relatively and poorly understood by non-indigenous people. Land is one's identity; it is one's existence; it is our birth right.

The intimate association between our people and their land is threatened by globalisation and a kind of neo-colonialism, which is easily accepted by our government. I am glad to say that our country is beautiful and blessed with rich natural resources however at the same time, I am sad to say that the development path pushed by our government puts indigenous land rights and our natural beauty at stake. Our government is pushing a development model that often times results in social dispossession, cultural extinction by the dominant culture and alienation of people from their land

-Steven Sukot, Bismark Ramu Group

AID/WATCH has a long standing relationship with a number of grassroots NGOs in Papua New Guinea. The following are some of the concerns raised by PNG NGOs regarding land reform:

Corruption and Governance

- Papua New Guinean grassroots NGOs have not been adequately consulted;
- Lack of demonstrated government capacity to implement and maintain the proposed reforms;
- Corruption in government agencies. This is already a significant problem in the administration of Papua New Guinea's 3 percent alienated land through the Department of Lands and Physical Planning;
- Land Conversion favours the corporate sector and those with the capital to invest. This is the current case regarding land titles in Port Moresby, which predominantly go to multi-national companies and Asian businesses;
- Customary Land Tenure Systems act as Land Security for Melanesian people. Registered lands are prone to fraudulent titling and abuse;
- Incorporated Land Groups (ILGs) are prone to abuse as evidenced in Forestry, Mining and Petroleum and Gas projects. The ownership and control of the Incorporated Land Groups are different. Ownership can be with the land groups but not the control of the land;

Ineffective and expensive Court system

- The current Court System is ineffective and expensive. It is slow and difficult for communities to access.

Development Priorities

- The emphasis of Papua New Guinea's Medium-Term Development Strategy and Long-Term Development Strategy is economic development. The number one priority for development in PNG should be its people –high illiteracy levels in the country deny the majority of people the ability to participate in the development;
- The Medium-Term Development Strategy and Long-Term development Strategy do not cater for informal economic programs, which in fact form a major part of the Papua New Guinean economy. Many people's livelihoods depend on selling produce from their customary land such as copra, cocoa, coffee and garden produce. Formalising customary land titles and increasing multinational corporations and business access to land would place such livelihoods under threat and is likely to lead to land alienation;
- The Customary Land Tenure System allows for User Rights for all the clans in a community. For example, one clan can own a forest area and other clans can use it for hunting, collecting firewood, housing materials and accessing rivers and waters. Formal land titles do not allow this. User Rights are a crucial to people's livelihoods and to ensure land is for collective use and benefit;
- Under Customary Land Tenure, the system of ownership remains flexible. It allows relationships between different clans in a community to be maintained. When clans are forced into Incorporated Land Groups (ILGs) under the current development model promoted by the Papua New Guinean government in its Medium Term Development Strategy and Long Term Development Strategy, land ownership becomes more rigid. ILGs promote individualism as opposed to the traditional social relationships that exist under the Customary Land Tenure System;
- The motives for land reform are of a purely economic nature and fail to recognise the contributions of the informal sector where much of the population has greater capacity to participate in economic activity and benefit directly;
- The National Land and Development Taskforce report has not given consideration to the gender dimensions of land reform. There is no evidence of how this program is going to benefit women.

Ni-Vanuatu concerns

AID/WATCH is currently developing relationships with Ni Vans on the issue of land reform. Joel Simo of the Vanuatu Cultural Centre Land and Language Desk has expressed concern that the design process of current reforms has a tendency to be donor-driven and the pitfalls of previous land reform projects remain a concern. These are detailed the Centre's 2006 report *The Report of the National Review of Customary Land Tribunal Program in Vanuatu* and include:

- The systems of imported land laws and Custom do not complement each other in that the introduced land tenure system does not view land in the same way that the traditional tenure does. It is 'ownership' versus the 'custodians' of the land;
- The new land laws have in some ways contributed to the country's cash economy. However, land laws are gradually marginalizing the indigenous population and depriving them of the initial power that they once had over their land. A good number of the indigenous population who have leased out their land are already experiencing difficulty in securing back their land when the lease terms have expired;
- Rather than strengthening custom, reforms are impacting on the traditional land tenure that has been in place for thousands of years;
- That there was insufficient community awareness raising of the affected villages, particularly amongst the chiefs and other community leaders;

Relevant Human Rights concepts

- Free, Prior, and Informed Consent (*Articles 10, 19, 28, and 29*)
- Indigenous Development (*Article 32*)
- Collective Indigenous Land Rights (*Article 26*)
- The Rights of Indigenous Women (*Article 21*)