

POLICY REFORM AND ADMINISTRATION



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The paths to land policy reform  
in Papua New Guinea and Vanuatu

## A snapshot

### The paths to land policy reform in Papua New Guinea and Vanuatu

Papua New Guinea and Vanuatu recently consulted broadly on land policy reform. Both held land summits to discuss reforms and to chart ways forward—Papua New Guinea in 2005 and Vanuatu in 2006. The summits were landmark national events that laid the foundation for the countries to move forward on land policy reform. Since the summits, both countries have taken significant steps in reform. In Papua New Guinea the National Land Development Taskforce has held wide-ranging consultations relying on people and resources from within the country, and a land program is now in place to implement policy reforms. In Vanuatu a steering committee was appointed to oversee the design and implementation process of land policy reforms.

The land policy reform processes in Papua New Guinea and Vanuatu provide some important lessons.

- » Successful land policy reform requires a comprehensive process of consultation in order to reach broad consensus.
- » The consultation process needs to be well resourced.
- » A national land summit is a powerful way to motivate reformers of land policy.
- » To have ongoing political support, strategies are needed to bring together opposing groups and harness community support.
- » A strong institutional framework for land policy reform is a prerequisite for the process to be sustainable.

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## The drive for policy reform

In Papua New Guinea and Vanuatu population pressures and the demand to modernise mean that the citizens of these countries want sustainable economic development. Recently there have been attempts in both countries to gain support for land policy reforms with a view toward such development. In Papua New Guinea the concern is to improve access to land for economic development. In contrast, the concern in Vanuatu is to rein in what is commonly perceived as out-of-control development of land.

Land policy reform in all countries of the Pacific, however, is difficult to carry out. Landownership has social, cultural and economic dimensions as Rowley (1968) and Crocombe (1973) pointed out decades ago. It involves a 'complex network of customary rights', including a form of 'psychological and social security' that is especially important as customary owners grow old. Changes to land tenure, therefore, need to be tailored to the specific needs of communities and undertaken at a pace with which they are comfortable. To be effective, changes and adaptations in tenure cannot be 'too far from the realities of life in the particular society'. The number, diversity and complexity of individual societies in Melanesian countries compound the legal and administrative tasks—and financial costs—of formulating and implementing land policy reforms.

The land summits held in 2005 in Papua New Guinea and in 2006 in Vanuatu recognised that land policy and administration had been seriously neglected over the three decades since their independence and that philosophical and practical issues relating to land needed to be addressed. The two countries, however, followed different paths to gain public support and acceptance for land policy reform.

The underlying theme for the summits was the relationship between land and development. There is strong debate about whether and/or how development can take place while accommodating the fundamental desire and need for Melanesians to retain customary ownership of their land. In Papua New Guinea the summit was preceded by other public attempts to define policy both before and after independence, while in Vanuatu it arose from the National Summit for Self Reliance and Sustainability held in July 2005. Both land summits aimed to ensure that their results would be implemented and, encouragingly, both have already achieved broad government acceptance.

## Papua New Guinea

### HISTORICAL CONTEXT OF LAND POLICY REFORM

Governments and citizens in Papua New Guinea wrestled with land policy reform long before independence in 1975 and the debate continues today. The main debate is about freeing up land for development—both residential development resulting from urban drift and natural population growth, and rural development for agriculture, mining, forestry and tourism.

Fingleton (2004) provides an exhaustive list of relevant acts and changes to them dating back to the Native Plantation Ordinances 1918 and 1925 of the then Territory of Papua. A striking feature of most reforms and changes was that they were imposed by governments, albeit benevolent ones, trying to ‘protect’ native land from exploitation. Also, they recognised the need to maintain customary land management systems for cultural reasons.

In 1973 Chief Minister Somare set up a Commission of Inquiry into Land Matters (CILM) chaired by Papuan Magistrate Sinaka (later Sir Sinaka) Goava. The commissioners ranged widely in age, occupation and experience. The commission was helped by a number of, mostly expatriate, technical experts drawn from academia around the world and lawyers from the public service, but there were no officers from the Department of Lands (except the Commission Secretary). It instituted a truly consultative process, holding 141 public hearings throughout the country and receiving hundreds of submissions.

The commission’s final report in October 1973 treated all aspects of land administration as an integral whole and stressed its fundamental importance as the basis of social, political and economic relations. Just as the colonial land administration system had underpinned the colonial development strategy, the commission believed the new system had to be the vehicle for social, political and economic reform. The final report stated that to implement these new development objectives it would be necessary to repeal and replace all existing land legislation.

In the years following independence the CILM report formed the basis for a number of significant land policy reforms and the introduction of new land legislation, much of which still operates. But momentum was soon lost and the reform agenda of the CILM report was not fully implemented. This was symptomatic of a decline in political interest.

Since that time there has been little further land policy reform, although it has been much talked about and there have been many failed attempts at reform. In 1981, for example, the government engaged a consultancy firm to address the underlying weaknesses of the land systems. The firm identified administration as well as the ‘inherent problems of integrating land held under customary practices into a modern cash economy’. A lack of interest at the bureaucratic or political level and virtually no public pressure ensured that its recommendations were largely ignored (Fingleton 2004, p. 13).

In 1986 a World Bank mission visited Papua New Guinea and proposed the Land Evaluation and Demarcation (LEAD) Project with the objective of improving land administration and land planning activities to create more favourable conditions for implementing agricultural and forest development projects (Fingleton 2004, p. 20). The main components of the proposed project involved strengthening and developing institutions, creating a new information system for land and resources and mobilising alienated and customary land. The mission recommended that the latter component start with two years of trialling and evaluating two main options: tenure conversions and 'lease – lease backs', and the East Sepik Customary Land Registration Act 1987. Only after these trials had been assessed was new legislation for customary land registration to be considered. In 1989 a World Bank loan to Papua New Guinea was approved for the Land Mobilisation Project based on this LEAD feasibility study (World Bank 1989).

#### LEASE – LEASE BACK ARRANGEMENTS

In Papua New Guinea the Land Act prevents customary landowners from directly leasing land to outsiders. But they can lease it to the state and then lease it back. Thus, landowners wishing to engage in direct land dealings are able to enter into a lease – lease back arrangement with the government. In this way, landowners acquire a leasehold interest in their land, which may then be mortgaged or subleased to investors.

The aim of the Land Mobilisation Project 1989–95 was to implement the main components of the LEAD feasibility study. But with limited progress in the Land Mobilisation Project, in 1995 the World Bank proposed attaching a condition to a loan to Papua New Guinea that the fundamental tasks of the project should be completed. Papua New Guinea officials insisted, however, that this condition be withdrawn (see Filer 2000, p. 32).

The World Bank project was discredited by some politicians and groups, who likened it to a commercial bank mortgage whereby customary landowners would lose their land if the government defaulted on its loans to the World Bank.<sup>1</sup> This led to riots prior to the election in 1997 and again in 2002, when four people were shot. Central to the failure of the World Bank's efforts was that reform proposals were urged on the government from outside. This approach is untenable for issues related to land, about which the people are passionate. The results of these efforts contrast with the relative success of the CILM reform process, which was locally driven, designed and implemented.

1 Paul Barker, former adviser, Prime Minister's Department, pers. comm.

## THE 2005 NATIONAL LAND SUMMIT

In 2005 the Papua New Guinea Government decided to pursue an agenda to reform land administration and land management, partly in response to lobbying by various groups including a privately funded local think tank, the Institute of National Affairs. The newly appointed Minister for Lands, Dr Puka Temu, arranged for a land summit to be convened. He set up the National Land Summit Coordinating Committee to organise the summit. Importantly, it was chaired and resourced by the publicly funded research centre, the National Research Institute, and included key research centres and public sector stakeholders. Representatives came from the Institute of National Affairs, the University of Papua New Guinea, the University of Technology, the Department of Lands and Physical Planning, the Land Titles Commission and the Department of National Planning and Rural Development.

The coordinating committee met for several months to discuss the summit's agenda and agree on the broad framework. This was then fleshed out by the National Research Institute, which managed the process, obtained funding and issued invitations. There was considerable debate about whether to have foreign speakers and, if so, who they might be. It was decided that, in the interests of ensuring that the summit's proceedings were locally driven, participation by foreigners should be strictly limited. Key foreign participants who were accepted included a professor emeritus from the University of the South Pacific and an indigenous Australian.

Before the summit a media publicity campaign ensured that the general public was aware of its existence. Care was taken to include senior politicians and the National Executive Council in this awareness campaign to build support and encourage 'buy in' to the project.

The National Land Summit was held from 23 to 25 August 2005 at the University of Technology in Lae. The summit brought together members of the public, private sector representatives, lawyers, land practitioners, public servants and politicians to enable them to discuss the issues in a full and frank manner. The fact that it was well attended showed how passionate people were about land matters and how much they wanted solutions to the problems.

There was strong political support for the summit. All of the scheduled addresses and presentations were attended by the ministers for Finance and Treasury, Lands and Physical Planning, and Justice, the Member for Rabaul and the Chairman of the Law Reform Commission. The summit was well received and well publicised with a live broadcast on radio. Unfortunately summit proceedings were not recorded and all that remains is a compendium of abstracts.

The opening address was given by the Deputy Prime Minister, who outlined some of the problems associated with land and affirmed the government's commitment to an agenda to reform land policy. The closing speech was by the Minister for Finance and Treasury, who reaffirmed that the government's commitment to reform was an essential foundation for development. The minister also drew attention to the poor state of land administration.

The summit's theme 'Land, Economic Growth and Development' was set by the two conceptual papers—'Making land more productive in Papua New Guinea' and 'Social issues affecting land and development'. The paper on making land more productive by Yala, Chand and Duncan<sup>2</sup> argued that even though land was in a 'stable institutional equilibrium' the status quo was costing Papua New Guinea in terms of economic and technical efficiency. Not being able to use land as collateral makes it 'dead capital' and these experts implied that this has to change if the majority (approximately 90 per cent) of Papua New Guineans who still live on the land are to defeat the sometimes real threat of poverty (National Research Institute 2006, p. 22).

The summit's other conceptual paper, by Kalinoe and Kanawi<sup>3</sup>, argued that the traditional, subsistence lifestyles of Papua New Guineans had changed, placing 'immense pressures' on people to make money to enable them to access basic services. They pointed out that customary land has been the 'keeper and absorber' of Papua New Guineans and questioned whether this could continue and, if not, what should be done (National Research Institute 2006, pp. 22–3).

The summit had sub-themes on:

- » land administration (four papers) plus group discussion
- » land and development (ten papers) plus group discussion
- » land and financial institutions (four papers) plus group discussion.

The summit resulted in 67 recommendations. However, many were 'motherhood' statements and many overlapped. The organisers established a small working group to synthesise and refine the recommendations into two main areas:

- 1 alienated land, which included recommendations on administration, compensation and dispute settlement
- 2 customary land administration, which included recommendations on registering customary land, incorporated land groups and using land as collateral for credit.

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2 Dr Charles Yala of the National Research Institute, Prof. Satish Chand of the Australian National University and Prof. Ron Duncan of the Australian National University and the University of the South Pacific.

3 Prof. Lawrence Kalinoe of the University of Papua New Guinea and Mrs Josepha Kanawi, Land Titles Commissioner.

The working group then presented 16 resolutions to the summit, which endorsed them. The National Land Summit was a success, generating substantial public support, enjoying highly accommodating media coverage, and successfully building a broad political will to see the resolutions move forward. Its success came from being locally driven, although AusAID did fund the summit. Importantly, AusAID provided the funds unconditionally, not seeking to influence the process.

### **THE NATIONAL LAND DEVELOPMENT TASKFORCE**

The report of the National Land Summit Coordinating Committee was presented to the National Executive Council (Papua New Guinea's cabinet) in December 2005 by the Minister for Lands. The National Executive Council adopted all of the recommendations in the report, which included establishing the National Land Development Taskforce. The taskforce essentially comprised the members of the National Land Summit Coordinating Committee, but the National Executive Council also directed that three subcommittees be established to look at the key areas of administration, customary land, and dispute resolution. The subcommittee members included lawyers, anthropologists, economists, surveyors, valuers, land administrators, physical planners, non-government organisations and bankers. These people gave freely of their time and no payment was made for their services, which helped to reduce the overall cost of the process. It was a 'home grown' effort with no foreign consultants involved.

Between February and June 2006 the taskforce met every month to review the progress of the subcommittees, which were meeting more frequently. It held consultations with political heads at the national and the provincial levels, bureaucrats at all levels, representatives from the business sector, non-government interest groups, as well as the general public through public forums. Consultations were held in all four regions of the country and in two centres of each region as well as those with specific interest groups. Recommendations were published in the press and comments sought from the general public. The taskforce also presented an interim information paper to the National Executive Council.

In short the National Land Development Taskforce made every effort to consult the people and key stakeholders, ensuring that 'ownership' of the proposed recommendations would be Papua New Guinean. Overwhelmingly the public sought action as a result of the report, stating that they were tired of 'hearing about good ideas that never get implemented' (National Research Institute 2007, p. 111).

However, there are differing views about the degree of consultation, especially at the provincial level where meetings and consultations were sometimes seen to be rushed and to involve a limited audience. This was in part dictated by the tight timetable for reporting and the availability of taskforce members to be part of the consultative teams.

The taskforce made 18 recommendations to the National Executive Council. These included 16 on land administration reform, ranging from improving customer relations to storing files electronically so as to make titles more readily accessible to the public and to improve their protection. It recommended that land disputes be brought under a single court or tribunal, although it refrained from nominating whether this should be housed under the National Court as a national land disputes tribunal or under the Magistrates' Court.

The recommendation on customary land was to reform the Land Groups Incorporation Act 1974 to make incorporated land groups 'vehicles for development'. The groups would have management powers over land development and control over rents and income from land. However, this recommendation also allows individuals to 'secure their own piece of land', which would remain under the ownership of the 'landowning unit', presumably the incorporated land group (National Research Institute 2007, p. 21). The recommendation also included coordinating incorporated land groups to have 'their land surveyed, radical title issued ... at the initial stage, on some pilot projects' (p. 22).

At the end of 2006 the recommendations of the taskforce were adopted in full by the National Executive Council, and a Land Development Programme to be administered within the Department of Lands and Physical Planning was established to implement the recommendations. Seed funding of K1 million was provided, demonstrating the government's strong endorsement of the taskforce's recommendations and commitment to their implementation.

Importantly, the Land Development Advisory Group reporting directly to the National Executive Council was established to oversee the implementation of the Land Development Programme. This institutionalisation of the reform process should help to make implementation robust. The strong oversight powers of the land group will enable it to push through reforms, even in the face of hostility to reform within the bureaucracy, most particularly within the Department of Lands and Physical Planning. Its institutionalisation also helps to overcome reliance on the individual champions for reform—if these champions move on, the institution will remain. The key remaining vulnerability is the long-term sustainability of funding.

The process of land policy reform in Papua New Guinea has gone through a number of phases and has had input from foreign consultants, lending agencies and scholars. During the current phase, reform proponents have firmly expressed their view that there is little need for further such input, the primary needs now being to obtain political 'buy in' from the National Executive Council and the Parliament, and to generate consensus and support from the people and key stakeholders throughout the country. Reform proponents believe that land administration issues are already well known and that the technology is available to solve them.

Following the 2007 national elections in Papua New Guinea, the Minister for Lands, Dr Puka Temu, retained his portfolio and was elevated to the position of Deputy Prime Minister. In view of his known commitment to land policy reform, the considerable work done on preparing draft legislation and specific administrative reforms, and the careful groundwork carried out by the Land Development Advisory Group, the stage has been set for steady progress in improving the use of land as part of Papua New Guinea's national development.

## Vanuatu

### HISTORICAL CONTEXT OF LAND POLICY REFORM

The impetus for Vanuatu's independence in 1980 lay in the increasing frustration about the alienation of customary land. At independence, all alienated land reverted to customary ownership; customary land can no longer be alienated, except to the state. Since independence, Vanuatu has had little land policy reform and land policy has not been subject to the sustained debate and intellectual input that took place in Papua New Guinea (Lunnay et al. 2007, p. 18). However, a number of new minor laws relating to land have been passed by the Parliament, often without any public consultation.

Through the 1990s and into the new millennium, the same concerns about land alienation were building up, except this time land was being alienated as a result of long-term leases to foreign developers and a few influential ni-Vanuatu. It was on this basis that the push for land policy reform gathered momentum. In recent years a coalition including the Vanuatu National Cultural Centre, the National Council of Chiefs (*Malvatamauri*) and the Vanuatu Association of Non-Government Organisations began moving for land policy reform with a view to winding back the rapid rate of land alienation and development.

In 2003 the media began to run stories about how much land on Efate was tied up in leases to foreigners—at the time it was reported to be 25 per cent—and this sparked a seminar in Port Vila on sustainable land management at the local campus of the University of the South Pacific, which attracted a lot of public interest. Also, the proliferation of subdivisions and the clearing of bush since the late 1990s have provided tangible evidence of land alienation for all to see. The growing number of often foreign-owned real estate companies advertising lots with long-term leases at prices substantially higher than that originally paid to landowners contributed to the groundswell.

## THE GENESIS OF THE NATIONAL LAND SUMMIT

The National Summit for Self Reliance and Sustainability was convened in 2005 with a broad agenda of development issues. The coalition led by the National Cultural Centre used this opportunity to tap into this sentiment of disenchantment over land. A key outcome of the summit was a resolution calling for a national land summit. Specifically, it required that a land summit be held before July 2006 to address all issues of concern about land raised at the National Summit for Self Reliance and Sustainability. The major issues of concern included dispute resolution processes for customary landowners, subdivision, strata title and land speculation. The resolution of the summit required the National Land Summit to:

- » have ni-Vanuatu values and principles and be held as soon as possible, certainly within a year
- » have a working committee
- » hold provincial consultations and workshops on land issues prior to the national summit
- » identify local consultants to investigate other governance systems in each region and background material for the national summit.

Champions for the land summit began within civil society—the National Cultural Centre, the National Council of Chiefs and the Vanuatu Association of Non-Government Organisations—which joined forces with the bureaucracy (the Director General of Lands, in particular) to make it happen. The momentum to have the land summit was sustained by the Department of Lands, with the National Cultural Centre, the National Council of Chiefs and the Vanuatu Association of Non-Government Organisations tracking progress.

Donors did not play a role at the summit other than as observers. Provincial summits and the Port Vila summit were all funded out of the government's recurrent budget. Australia's and New Zealand's aid agencies assisted with funding for international land experts to attend the summit and, with Wan Smol Bag (a non-government organisation and widely known performing group that popularises social, environmental and governance issues), ran a successful competition about land issues aimed at youth. Throughout the process politicians maintained a respectful but distanced interest.

## PROVINCIAL SUMMITS

The land summit process began with two provincial summits in each of the six provinces, beginning in March 2006. These were open to the public, although some provinces restricted entry. For example, Tanna restricted entry to the head chiefs who were ‘representatives of all the people’. In Malampa Province, which includes Malekula, Ambrym and Paama islands, the provincial administration (namely, the Secretary-General) denied knowing about the provincial summit whereas its Council of Chiefs proudly proclaimed full knowledge of it.

The summit team, with its headquarters in Port Vila, comprised representatives of the National Cultural Centre and the National Council of Chiefs and three officers from the Department of Lands (from sections involved with enforcement, land tribunals and planning). These officers visited each province to complete a questionnaire that had been distributed in advance so participants could discuss them with their people. This process worked better in some provinces than in others. In general, the questionnaire raised issues more to do with technical land administration and leasing processes rather than broader issues, such as threats to customary landownership or issues of indigenous-led development.

The questionnaire and its results were discussed at the first provincial summit and provincial resolutions were recorded. The summit team returned to Port Vila to draft resolutions and then two officers returned to the provinces to present the resolutions to the provincial summits for approval. There is some dispute about whether this worked as intended. For example, Eric Tulman, President of Malampa Province, said he did not attend the second summit nor was he aware that a questionnaire was sent out. The National Council of Chiefs also claimed they were not consulted (*Vanuatu Independent*, 17 September 2006). Many people thought the provincial summits were closed events and did not try to attend them, instead opting to attend the National Land Summit for which public attendance was clear.<sup>4</sup> The Malampa provincial summit was attended by 80 people but the President claimed it did not represent all districts. These concerns highlight the difficulty of consulting widely, particularly when there are constraints on time and money.

The provincial summits considered landownership, fair dealings and sustainable development. The main topics and questions discussed<sup>5</sup> were:

- » **Ownership**—who owns land, how to identify customary landowners, how to manage disputed land, how to manage public land and how to manage land boundaries
- » **Fair dealings**—land dealings through custom, land dealings through lease, agreement to lease, sale of land (speculation) and mineral ownership
- » **Sustainable development**—need to understand population pressure and its effects on land (greater use overall, cutting timber, greater use of foreshore, and planting gardens too close to rivers) and access to sea and rivers (to allow for fishing and other uses prevented by fenced leasehold land).

4 Anna Naupa, pers. comm., June 2007.

5 Based on analysis of submissions from three provinces, Malampa, Sanma and Penama.

## OTHER CONSULTATION PRIOR TO THE NATIONAL SUMMIT

Other forms of consultation took place before the national summit. Radio and television were used to publicise it, raise awareness about issues to be discussed and engage the public. Publicity included a radio program every Friday from 4 May until 7 June 2006 and a television panel show featuring the head of state. The National Cultural Centre fieldworkers, the National Council of Women and ni-Vanuatu volunteer networks also made people aware of the national summit.

Before the summit, the government also called together 67 companies from the private sector—representing accountants, banks and other financial institutions, insurance companies, lawyers, real estate agents and developers—and asked them to put together a private sector view to present at the summit. The original meeting attracted 45 private sector attendees, who elected a steering committee. The steering committee met every two weeks from June to September and prepared and presented a representative submission to the summit.

Ahead of the summit a comprehensive set of 40 recommendations was made by the National Council of Chiefs (also representing the National Self-Reliance Committee and Advocacy Coalition on Economics, a non-government group supportive of the ‘kastom’ economy). Fourteen of these were included in some form in the final 20 resolutions adopted by the summit.

## THE NATIONAL LAND SUMMIT

The National Land Summit was held in Port Vila from 25 to 29 September 2006 at the National Council of Chief’s *Nakamal*, the traditional meeting place for all cultural matters that affect the nation. The *Nakamal* was full or close to capacity throughout the summit and there was easy access for the general public. The summit was broadcast, covered in the print media and generated a great deal of interest in Port Vila. Political support was strong and the President, the Acting Prime Minister, the ministers for Lands, Agriculture, and Women’s Affairs, members of parliament, the President of the National Council of Chiefs and many chiefs attended.

The National Council of Chiefs, provincial governments and the private sector made formal submissions. Oral presentations were made by the Director of the National Cultural Centre, representatives of women, a representative of youth, Department of Lands officials, the sustainable development adviser from the South Pacific Forum Secretariat, delegations from Fiji, Solomon Islands and Papua New Guinea and a number of invited technical experts from the region. More than 20 papers were presented (Government of Vanuatu 2007, p. 7).

Discussion played a central role during the summit, which:

- » encouraged the general public to participate in discussions and provide their understanding of land issues
- » made it possible to develop recommendations and resolutions, including changes in some laws concerning land
- » alerted foreign investors in Vanuatu to the changes taking place with land in the country
- » raised awareness among the Vanuatu people about the seriousness of looking after and maintaining the environments that affect their land
- » provided for formulating a national land policy (Government of Vanuatu 2007, p. 19).

The papers presented at the summit included a host of landownership issues such as custom, reefs and the sea, understanding leases and land values, strata title and ministerial intervention. Sustainability issues included landowners' understanding of sustainable development, environmental issues covering access to the sea, rivers and lakes, and issues related to law enforcement, the importance of zoning, and population pressures on land and the environment. Gender issues included problems faced by women from the sale of land, especially losing their ability to provide for their families, and the consequent social pressures this brings about in ni-Vanuatu society. Half a day was set aside to discuss women's issues.

Summit resolutions were distilled by a small working group, which took the original 1000-plus recommendations and reduced them to only 20 resolutions. After this the summit broke into provincial groups to discuss the proposed resolutions in greater detail and to add to, delete or change them.

Given that about 1000 recommendations were reduced to 20 resolutions in the national summit it is interesting to look at the success rate of the provincial resolutions. From the Malampa Province resolutions, two relating to ownership were clearly embraced, six were probably included and five do not seem to have been included. Under the heading 'fair dealings' nine resolutions were embraced, and five were ambiguous (they covered the same ground but did not use specific wording). Under 'sustainable development' all three resolutions were adopted.

The resolutions adopted by the summit covered:

- » landownership (3 resolutions)
- » fair dealings (2)
- » certificate of negotiation (3)
- » power of minister over disputed land (1)
- » strata title (1)
- » agents/middlemen/women (1)
- » lease rental and premium (1)
- » sustainable development (2)
- » conditions of lease (1)
- » public access (1)
- » enforcement (1)
- » zoning (2)
- » awareness (1).

As well as these 20 resolutions the summit adopted an Interim Transitional Implementation Strategy recommending a moratorium on subdivisions, the surrender of existing agricultural leases and the powers of the Minister for Lands over land under dispute (although he can continue to sign leases on behalf of customary owners where there is a dispute over land to be used for public purposes), some temporary administrative measures and a long-term strategy.

On 21 November 2007 the Council of Ministers endorsed:

- » the Interim Transitional Implementation Strategy
- » the establishment and composition of a steering committee
- » a commitment to find funding to implement the resolutions
- » its own changes to the 20 summit resolutions, which included:
  - writing a more general definition of customary ownership, recognising that different societies have different traditions
  - involving all members of the landowning group—men, women and youth (the important addition of women to this resolution goes some way to addressing the issues raised by women regarding the damage caused by indiscriminate disposal of customary land)
  - giving chiefs power to agree to lease agreements (but not approve them as permitted in the summit resolution)

## AFTER THE SUMMIT

The steering committee appointed by the Council of Ministers has 12 members including public servants and representatives from the National Council of Chiefs, the National Cultural Centre, the Department of Women's Affairs, the National Council of Women, and youth, and a private sector representative. The steering committee's role is to monitor and manage the process of moving forward with the summit resolutions. A technical assistance team was commissioned to assist in the implementation process. This team, consisting of two foreign advisers and three ni-Vanuatu consultants, used the 20 resolutions to create a framework of action for the steering committee to follow.

The steering committee met four times, its most recent meeting being in September 2007. Although meetings have been infrequent, regular email discussions have been held, although more commonly between civil society actors and Department of Lands officials, with private sector and other departmental representatives reportedly being somewhat distant from that dialogue.

The moratorium on issuing strata title was reported to have been lifted after threats of legal action.<sup>6</sup> However, during the months before the 2006 summit more than 300 lease applications were lodged, which the Department of Lands is duty-bound to process. This processing has been perceived as a lifting of the moratorium.

The issues of public ownership of reform and the direction of that reform are by no means settled. The underlying reasons for land policy reform in Vanuatu are still being debated despite the summit resolutions. Interviews carried out for this case study revealed an ideological rift between those who support custom as the paramount ideal guiding land matters and pragmatists who state that population pressure on land and the need to provide income-earning opportunities require land to be freed up and better used.

The 'battle lines'—if they can be called that—are between the National Council of Chiefs, the National Cultural Centre, non-government organisations and some women's groups who want more emphasis on custom and traditional values, and the government and private sector, which want land to be freed up for economic development and the country's future. While the debate is far from over, the summit and follow-up activities mean the issues are now on the table and the resolution process under way.

It is also important to note that the differences are ones of degree and that custom and economic development are not mutually exclusive. The process of embracing reform and continuing consultation will help to reduce these tensions, as will the eventual introduction of a Land Act based on the outcome of this debate.

6 Doug Patterson, private sector representative on the steering committee, pers. comm., September 2007. The Director General of Lands says that the moratorium is still in effect but it is unclear how strictly the moratorium is being enforced (Anna Naupa, pers. comm., September 2007).

## Lessons

### CONSULT WIDELY ON THE NEED FOR LAND POLICY REFORM

**LESSON****1**

An essential prerequisite for successful land policy reform is comprehensive and ongoing consultation in order to reach and maintain broad consensus.

The most important lesson to be drawn from the land policy reform experiences in Papua New Guinea and Vanuatu is that gaining broad consensus through consultation is an essential prerequisite for a successful reform process. Targeted roundtables with key stakeholders, such as the private sector, before the land summits allowed for a broad participatory process and the formulation of concise recommendations representative of the sector. To gain support for reform the community has to be consulted, not only to understand and support the proposed changes, but to provide input to the directions of change. That is why the consultation processes in both Papua New Guinea and Vanuatu were successful. And all stakeholders need to be kept aware of the reform process and consulted after the summits to maintain the momentum of land policy reform.

### ALLOW SUFFICIENT TIME AND RESOURCES FOR COMPREHENSIVE CONSULTATION

**LESSON****2**

The consultation process needs to be sufficiently resourced to be comprehensive.

Sufficient time and resources must be made available for the consultation process. This is because consultation must be comprehensive to succeed, engaging with all stakeholders, including community representatives. In Papua New Guinea post-summit consultation was constrained by a tight budget and a tight timetable. But such was the desire for change, many prominent people in the community, including from the private sector, gave their time to the process at no cost.

### GENERATE PUBLIC INTEREST AND DEBATE THROUGH A NATIONAL SUMMIT

**LESSON****3**

A national land summit is a powerful part of the consultation process.

In Papua New Guinea the consultation process and the design of the land policy reforms began after the summit. In Vanuatu this mostly occurred prior to the summit. There is no reason to suggest one way is better than the other, so long as an extensive consultation process is undertaken and it includes, at some point, a national summit. In both countries such an event proved to be essential to generate the necessary public interest and debate.

## GAIN AND MAINTAIN POLITICAL AND COMMUNITY SUPPORT

### LESSON 4

Strategies to bring together groups with opposing viewpoints and to harness and maintain community support are essential for securing ongoing political support.

The reform process depends on political support and bureaucratic action; if either of these is not present it will not happen. It is therefore imperative that people within the political and bureaucratic systems are ‘harnessed’ to the implementation of reform. Central to achieving this is broad community support. Regular discussions on radio and appearances on television and in the press by prominent reformers help to maintain momentum and community awareness. It is important that those seeking to implement reform identify their potential allies for support, but especially their opponents so that they can be included in the process and either converted or compensated. This was done in Papua New Guinea, and in Vanuatu key groups representing opposing view points were brought together in an institutional framework.

## INSTITUTIONALISE LAND POLICY REFORM

### LESSON 5

A strong institutional framework for land policy reform is the key to the sustainability of a reform process.

Individuals will not be able to drive change in land policy. A broad coalition needs to be formed to drive the process and educate and inform the public. The process of land policy reform has to be institutionalised and embedded within the government to be able to succeed. An early ‘road map’ of reform, as in Vanuatu and Papua New Guinea, provides continuity for the reform movement. A committee that reports directly to cabinet has been set up by both countries to oversee the implementation phase of reform. With an issue as far reaching and invoking as much passion as land, anything less is likely see implementation come ‘off the boil’.

## RECOGNISE THAT DONORS HAVE A LIMITED ROLE IN THE REFORM PROCESS

### LESSON 6

For donor support of land policy reform in the Pacific to be effective, it must support the initiatives of the local people rather than be the driver.

The role of donors has been important in both Papua New Guinea and Vanuatu. Although AusAID provided financial support it has not sought to influence or be part of the reform process. Donors must recognise that land policy reform can work only if it is initiated and supported by the people of the country.

## Appendix: People contacted

- » Brian Aldrich, AKT Associates, lands consultant, Papua New Guinea
- » Paul Barker, Director, Institute of National Affairs, Papua New Guinea
- » William Ganileo, National Land Summit Coordinator, Vanuatu
- » Selwyn Garu, Secretary-General, Malvatumauri, Vanuatu
- » Loani Henao, lawyer and lands consultant, Papua New Guinea
- » National Council of Chiefs, Vanuatu—19 chiefs
- » Anna Naupa, AusAID
- » Douglas Patterson, Island Properties, Vanuatu
- » Cathy Rarua, Gender Adviser, Department of Women's Affairs, Vanuatu
- » Lai Sakita, National Commercial Development Trust, Vanuatu
- » Joel Simo, Vanuatu Cultural Centre, Vanuatu
- » Stephen Tahi, Consultant, National Land Summit, Vanuatu
- » Oswald ToLopa, Director of Planning, Lands Department, Papua New Guinea
- » Eric Tulman, President, Malampa Provincial Government, Vanuatu
- » Henry Vira, Secretary-General, Vanuatu Association of Non-Government Organisations
- » William Williamson, Adviser, Malampa Provincial Government
- » Thomas Webster, Director, National Research Institute, Papua New Guinea
- » Pierre Chanel Worwon, Vice President, Malampa Provincial Government

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