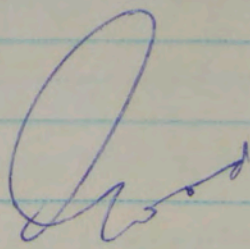


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AIM OF RESEARCH

Basically, the purpose of the research itself is to allow individual students to examine in detail particular aspects of the principles and problems of land tenure systems of our contemporary Pacific Island societies. Since much emphasis is given to the changing nature of the land tenure systems of the island countries as a result of the adaptation of both the traditional and introduced concepts of land rights, ownership, usage, and land transfer, I have chosen as my area of concern, the nature of "Customary Land Registration and Land Disputes in the Solomon Islands". As a new method of securing one's right to land ownership, usage and so forth, certain important issues tend to arise.

Firstly, does the introduced land registration scheme really solve the problem of the attempt to reduce or eliminate the continuous land disputes that hinder rural development? Secondly, does the scheme provide secure titles to land for economic developmental purposes? Thirdly, does it really help in encouraging the people in the rural areas in obtaining loans for development projects in their secured titles to land? Fourthly, has the system proved itself to be the only best system, if not, what's the alternative? Much of my research findings are based on secondary information, but this of course does not prevent me from providing my own arguments as to how I interpret the problem area.

INTRODUCTION.

Land, as in any part of the world, is of permanent importance to Solomon Islanders,

politically, socially, and economically. The importance of land is clearly marked by the growing disputes and anxiety over land rights triggered basically by growing use of land for economic development. The disintegration of familiar patterns of subsistence economy, and the breakdown of customary land tenure system as the result of developmental changes brought about by outside forces creates amongst the lives of the people a state of uncertainty and anxiety. The bulk of the population living out in the scattered rural areas are now slowly being moulded into these patterns of developmental changes and have over the years tried to live up with the changes with great difficulty and much struggle. Thus, in the light of the foregoing issues, it is the intention of this research to discuss in detail the nature of why the land registration method was implemented by the government. The registration scheme although successful in certain aspects, has been claimed that there seemed to exist a lot of failures, which I will analyse in detail in the later part of the paper. One major change that is slowly occurring in the rural scene with regards to the tenure system is that the nature of communal ownership of land is rapidly changing to one of which individuals claiming private ownership, and the argument goes that, there is no such thing as absolute individual ownership of land in the traditional system.

I have, in order to pursue a

a systematic approach to my area of research, divided my research findings into four main parts. The first part takes into account the nature of traditional land ownership with special attention to land rights, usage, and land transfer. The second part brings to light the actual processes of land development under colonial rule and after independence. The breakdown of the customary land tenure system and the occurrence of the numerous land disputes currently on the scene depicts the impact of economic development on land. The third section, the most significant part of the research, will take up most part of the paper and will examine in detail the nature of customary land registration and the consequences. Lastly, the question of what would be the best alternative be, if it appears that the registration system still does not solve the problem of securing ones right to land and for one to be able to develop his or her land, free from disputes by the other members of the clan, lineage, or tribe. Should there be an alternative at all or the registration method still is the best method implemented so far.

NATURE OF TRADITIONAL LAND OWNERSHIP

When one talks of the traditional land ownership, land rights, usage, and land transfer in the Solomas, one needs to take a closer look at the social structure of the communities themselves. Predominant in the social settings are tribal communities, speaking a common dialect and

living in a common geographical area with a certain homogeneity of culture and tradition. However, the tribal communities are broadly divided into groups of clan or lineages who trace their descent through a common ancestor. The main land holding units are the line and the land group. The line consists of persons of close kinship relationship who trace their genealogy through a common ancestor that is either patrilineal, matrilineal or bilateral in descent, depending upon the custom of the society and is regarded by tribal group as holding primary interests in the land.¹

The land group and I quote is, "a wider social unit comprising of all members of the line and having secondary interests in the line's land by residing or having interests on the land."² The family most importantly is the main social unit of land group and individual members may be members of several different land groups through both the parents side. Coming to the status of the individual, the status I should say is dictated largely by kinship obligations, governed by the individual's right by birth to derive his subsistence from the land of his or her line, and it is in the use of the individual's line's land for cash profit that the position today is challenged. But one thing is clear and that is that the land tenure system

1. Allan, C.H. 1957. Customary Land Tenure in the British Solomon Islands Protectorate, Page 68.
2. Allan, C.H., op. cit. page 69.

is changing and the same goes for the position of the individual as a result of the expansion of cash economy. New needs, wants, values have overlaid and modified the traditional ones as trade and exchange takes the place of reciprocity to satisfy the new needs. Going back to the traditional land tenure system, the foremost principle is that land are held jointly by a group of which the main land holding units are the line and the land group, which also means that they have the rights to use the land for cultivation purposes. The nature and basis of land interests is a good deal more complex. Land is claimed by first settlement, conquest, purchase or transfer. However, the general trend is that land is claimed by first settlement in small groups and over the years these small groups grew and the ancestors of the line have from time immemorial exercised the rights of occupation, ownership, and usage. Thus present members still continue to exercise such interests. Individual interests of members of land groups are divided into two kinds, primary and secondary. Primary interests or rights are derived by inheritance, and secondary interests where land is acquired or purchased through customary means, therefore in actual practice it is only the members of the actual line within the land group that holds primary interests to land, and the head of the line group has the responsibility of consulting all primary interest holders.

The identification of lines and land groups in the Solomon Islands generally derive

their name from the land it occupies. For example, in the New Georgia area of the Western Solons, people are identified with their lands by name such as the 'Bude people', the "Vuvagave people", and so forth. The names Bude and Vuvagave are actually the names of the land they occupy.

Thus certain important principles emerge out of the traditional land tenure system. Firstly, one's right to use land is derived through inheritance by birth. Members of different lines, class, or tribe do not exercise any rights over other tribal land except through special arrangements, like marriage, repay a debt, or given as a gift. Secondly, individuals right to use the ^{land} is passed on to them by the parents, and this land would ^{be} the one that the individual family ^{have} established themselves from generation to generation. Thirdly, the security of land entitlement depends on the use of land by the individual family, and the chiefs or elders acting under the authority of the line and land group, see that individual families know their land boundaries and their true rights to the land, although it has been said that members of the same tribe or line group can utilize any part of the tribal land as they wish, this is far from the truth, because one has to seek the consent of the chiefs and elders first. Land transfer depends on the individual families themselves, and the general trend is that parents simply

transfer the land to their siblings, grand-children, nephews or nieces. However, there are times when the elders or chiefs transfer lands to another family within the same line, clan, or tribe, and this occurs if families don't conform to social obligations and decided to shift to another area that is uninhabited to establish a new settlement. The foregoing practice is in fact not uncommon in the Solomon Islands where there's ample land, allowing greater freedom of choice, except in a few exceptional cases like the island of Malaita where both the coastal and the inland areas is quite heavily populated. The uses of the land is rather simple in nature and involves mostly cultivation of food crops, hunting and gathering of wild animals and fruits, building of houses, burying the dead and growing valuable trees such as 'nati nuts' and "sago palms". Land most importantly is seen as their means of livelihood and fulfilling social obligations. Thus land rights depend entirely on occupation and the use of the land and that land is held jointly by a group.

INTRODUCED CHANGES.

The present day system of customary land tenure is a combination of ancient and modern interpretation of land rights, land use and land ownership and governed largely by new needs, values and wants which the people have developed since coming into contact with foreign concepts of land and development. Although, subsistence living still predominates in most of the rural areas where the

bulk of the population lives, foreign concepts of how the land should be developed is gradually modifying the subsistence use of the land. Not only this, but is very obvious that Solomon Islanders have aspired to foreign material goods, and this has resulted in individuals claiming absolute ownership of a piece of land that once was a communal asset. This in itself have given rise to the numerous land disputes in the rural areas, and it is in the light of this foreign impact on the use of land that I will discuss in the second part of the paper.

LAND AND DEVELOPMENT.

With the introduction of the white man's mode of production and how land should be utilized to be productive, the traditional mode of production is gradually being undermined. People have become more land conscious and are in the process of trying to claim individual rights to communal land, for developmental purposes. As the government tries to promote development in the rural sector, the confrontation over land utilisation is not only among the rural dwellers themselves, but government versus the people. Looking back at the colonial period, massive land were alienated and the so-called 'waste lands' declared Crown property. The practice itself was one of exploitation and deprivation of the people's future heritage to their own land. The deeds of sale were drawn in a manner which it was obvious no Solomon Islander could hope to comprehend at that time. With settlement and capital investment increasing, the colonial

governments made it their business to acquire tracts of land they wish to own. A good example of this was the case of the island of Kolombangara that was issued to Leves Pacific Plantations Proprietary LTD of which about 200,000 acres of land were being purchased. Land, not forgetting was also purchased by the early traders from the natives. However, and I quote, "in 1914 a land Regulation was passed and which prohibited the purchase of customary land by non-Solomon islanders"³.

Although much of the development is occurring on the crown lands, and lands owned by private companies namely the Leves Company, the concept of development have spread to all corners. Recent governments, in their development programmes are trying to encourage the people in the rural areas to develop their customary land by setting up projects that will generate money within the rural areas. The government in so doing, established the Solomon Islands Development Bank whereby potential developers could loan money from. However, the terms laid down on how one should be able to loan money does not provide an easy access to the interested borrowers. In the case of people wishing to set up projects on customary land, the rules laid down only allow for customary land that is registered

3. Hughes, T. 1979, Land in Solomon Islands
Page 241.

and clear of disputes. As a result what seems to be happening is that people try to set-up their own little projects with their own assets. Most of these projects are communally owned and are not very successful. Most end up in failures, due to lack of advice, technology, the skill to run the projects and lack of strong leadership. Everyone wants to be the leader, which obviously gives way to lack of co-operation among the people themselves, and as a result I would say that overall, only small patches of development can be seen. The reason being that the struggle is more or less between individualism and communalism. This uncertainty has resulted in a great many land disputes, people quarrelling over land and who should have the proper rights to the land and who should be a subordinate to who. The problem is that when one tries to clear a certain area of land for either a cattle project or a cocoa project for instance, the rest of the natives owning rights to that land would question his activity and find means of discouraging that person from making an attempt. The point here is that, the rest would also want to participate in what one is attempting to do. This major battle between individualism versus communalism have to a greater extent undermined the nature of customary land tenure in most parts of the rural sector, and it is this major ^{land} crisis that accounts for the fragmented development on customary land.

CUSTOMARY LAND REGISTRATION SCHEME.

In the past, the land and titles Ordinance does not deal with customary land except to lay down regulations in which government can buy or lease customary land from the landowners, and means whereby the owners can convert their title to registered title through a process known as Land Settlement, otherwise all other customary land matters are left to traditional controls and local courts to deal with should there be any disputes.

However, owing to the rapid changes in attitudes of how land can be best utilised and the promotion of cash cropping in the rural sector, people are far more conscious of their land and are getting rather competitive in terms of wanting more land to allow for a major project. The main issue surrounding land disputes is the question of who owns what right to it. I can pick out an example of the case of the 'Kagukuru' tribal land on the island of New Georgia that has been brought to court though the number of appeals and up till the present day the dispute among members of that tribal land still continues. Being a member of this tribe I have witnessed the conflicting claims of who should be the primary interest holder to the land and who should be the secondary holder. As a consequence, this vast area of tribal land, most of which is not inhabited and used, does not have any ^{signs of} economic development at all, although the land has great potential of development. Thus it is for the occurrence of

the disputes over the rights to use the land that has eventually prompted the National Government to introduce the land registration scheme on customary land, whereby rural land-holding groups or indigenous farmers can have their land registered if they wish to. The registration is in fact voluntary where requests are being sent to the Lands department for consideration. Ever since the implementation of this introduced scheme, there has been a considerable number of requests from people piling up at the Ministry of Lands, most of which as I have found out during my participation in the Land Research Project in 1978, are still not being dealt with. During the research, I was given the task of looking through the pile of letters requesting registration. From what I gathered, people want registration for a number of different reasons. However, the most common of all requests is that people wanted security and protection over their interests in land and to safeguard it from further disputes. There are also cases whereby a migrant from another island who have developments in another tribe's land, wanted security for his interests in the land. Others wished for land registration for the purpose of development and to have their boundaries established and clearly identified. Another interesting aspect of some of the requests is the intention of trying to get loans from the Development Bank to set up this or that project, and to get rid of whom they claimed are not the rightful ones to the land. These types of request needed thorough investigation, because what has happened is that certain people or groups

tended to claim themselves to be the rightful owners and lay false accusations against whom they consider to be their rivals in the interests shown towards land. Registration is therefore not carried forward until who has what rights in terms of ownership, by inheritance and occupation is clearly established and no further disputes persist. One significant aspect of the requests is that most mention the existence of development, namely cattle and cocoa projects and coconut plantations. This is a clear indication that people are getting to be more development oriented in their outlook, had it not been for the conflicting interests over land causing setbacks. In the rest of this section I will concentrate entirely on the nature of customary land registration, the processes involved and the aftermaths.

OBJECTIVES, METHODS AND PROCESSES INVOLVED.

The particular objectives of this land settlement scheme is and I quote;

(a) "To eliminate the continuous land disputes and land courts which have occurred over the years;

(b) To secure titles to land to individuals, families and groups who have substantially developed lands and are planning for future development in the area for cash crops;

(c) To investigate and ensure who has what rights to ownership of land and who has

what rights to use certain parts of the land." 4

However, the most important aspect of the scheme is that through it, it is the hope of the government that people would be able to develop their parcels of land and generate money making in the rural areas. It is also the interest of the government that land that is to be registered is confirmed to be of great potential for agricultural projects and not just registering it for nothing. The scheme is said to be costly, and therefore one would obviously expect the government to see that its efforts are of benefit to the people concerned and to generate money-making in the rural areas. In so doing the government is directly responsible in the conversion of customary holding of land to registered titles, and in the process contributed to the actual undermining of the nature of traditional land tenure system of communal ownership, everyone having the same access to communal land. Through this scheme one is not entitled to work on someone's else's parcel of land. In a land settlement scheme, parcels of land are owned individually, individuals as owners in common, parcels owned by a line and represented by trustees and parcels registered as customary land, for village areas, playing grounds or burial grounds. Since Land settlement is a very expensive

4. Heath, I. 1979, Land Research in Solomon Islands, pages 8-9.

operation and all the costs are met by the central government which includes the wages of all office workers, draftsmen and labourers plus the materials needed to operate the scheme, so far only eleven settlement schemes have been established. In return, does the central government benefit in form of revenue from the indigenous farmers who were able to produce more cash crops through their secured registered land?

Briefly, the methods employed during registration, which generally requires a much longer period, involves the setting up of an investigation team of the lands department to investigate the ownership of land, the rights to use land, what developments have been in operation and most importantly the investigation of customary boundaries. When the scheme is agreed upon by the interested party the area is then declared a Land Settlement Area by the Minister of the Lands department who does the work on behalf of the central government. The Settlement Officer appointed by the Minister, then has the power to appoint two other people to assist him as Recording Officer and Denotation Officer. By law, the Land Settlement Officer holds equal power to a Magistrate and his decision can only be challenged in a High Court hearing, not only this but he also plays a very significant part in the determination of who holds what rights to land in cases where disputes have occurred within the Settlement area. The task of the recording

Office is to make a full investigation of the ownership of land and the rights of those people who are affected in the area. Discussions are conducted with the people of the area concerned together with the local Land Committee. The purpose of such a Land Committee is to advise the Recording Officer of customary practices about land matters. On the other hand the work of the Demarcation Office is to see that the operation of measuring distances of boundaries of parcels of land in the settled area is carried out effectively. Generally, the elders of the tribe are the ones who would point out to the Demarcation Officer the distances of boundaries from each other. The information obtained here would then allow for accurate planning of the area. Recording of property is carried out as soon as sub-division into lots has been done. The local Land Committee comprises of indigenous people only and being members of the line or the clan who own the land, they would have better understanding of how the dispute (if there be any) can best be settled so that everyone is contented with what's going. The intention here is to have things dealt with in the customary way before registration is made final and legal. However, one would question the meaning of land registration to the land holding tribe, this I will discuss under a heading of its own.

THE SCHEME AND ECONOMIC DEVELOPMENT.

The question of does the introduced land registration settlement scheme really solve the problem of the attempts to reduce or eliminate the continuous land disputes that hinder rural development or economic development on customary land is worth analyzing in this section. The Land Research Project carried out in 1978 by a group of university students have concluded that the scheme does not at all eliminate dispute nor have the economic projects proved to be successful. Why then despite land registration, people still feel insecure over their interests on the land and why was there very little development on the land itself. In order to answer this question I thoroughly examined the various Land Settlement Schemes and have drawn my own conclusions. Firstly, there is still confusion over the true nature of registration. What happens is that, despite the fact that the parcels of land have already been registered to individuals or groups, the members of the land holding group still consider the fact that they own the land while the registered owners only own their properties on the land. In cases where, prior to the scheme, relatives or non-relatives owned a few valuable trees within another's registered properties, means that these non-registered people could still have access to their properties. In such cases like this, disputes are bound to occur if the owner of the registered parcel refuses others to intrude into his

property. The reason being that the properties had been put there before the actual conversion took place, and so what right has the registered owner have to claim such properties that at the first place are not planted by him. This in itself is a complicated issue and the fault lies in both the system, by this I mean that normally everyone has free access to whatever area he wishes to plant crops and trees, whereas under the new scheme one would automatically claim everything within his parcel as belonging to him. As was mentioned in one of the research findings, the traditional practice of owning various properties in someone else's land still continues even after the settlement, because traditionally they are still entitled to use their properties.

Another setback to economic development is that subsistence still predominates, and one does not have an easy access to obtain loans from the Development Bank. The terms and criteria that one has to meet are too rigid and the question of whether their projects would be successful is one that cannot be answered there and then. Although it was evident that ^{there was} a great interest and potential for development and that to a certain extent the people did feel secure and safe with regards to their titles, it was found that people who claimed to have lost their rights to the registered land owners were still not satisfied with the land settlement officials' decisions. In other words, land registration may

have stopped disputes, but do not solve them. One thing is that the people whose land has been registered need to be shown and assisted in what to do on their land. The lands and agricultural department should be the very ministry responsible for follow-up work. However, on the brighter side of things, people ^{did} feel that at least their land is properly secured and can develop freely without interference, at least its better than the traditional means of securing and protecting one's rights to land. This with regards to economic development, most people still resort to subsistence living and form of cultivation. Not everyone who have their land registered will ^{be able to} obtain loans to develop, for the nature of the land he works on should be taken into account, but this does not undermine the fact that development is slowly occurring in the rural sector. It takes time ^{and} better understanding and co-operation among the interested developers, before anything can be successful and able to generate money for further progress. As a matter of fact, money making would still remained secondary to subsistence cropping.

COMMUNAL VERSUS INDIVIDUAL OWNERSHIP.

As I have mentioned earlier on in the first half or part of the paper, the battle between individualism and communalism have to a greater extent contributed to the breakdown of the customary land tenure system in the Solomon Islands. The emphasis on individualisation of ownership as a prerequisite to encouraging economic development among the indigenous population

implies that with communalism, very little profit can be generated, because the profit will be shared among the land holding tribe. In many cases (rural areas) economic projects based on individualisation of ownership have proved unsuccessful as well as projects owned communally due to the socio-political, economic and religious factors that decide more or less on what one is expected to do in order to meet social ends. In the case of individual registration, the methods employed to assess individual claims have resulted in conflicts and confusions over such questions as, why does one have absolute right to ownership if by tradition others also have primary and secondary rights over the land. Different individuals, though of the same group, may have different rights in the same plot of land. According to my perspective, although the registration method is not in itself perfect, individual registration rather than group registration of land would be more successful, because an individual working on his own is not subjected to the opinion of the others, if he were to hold a land in common with other individuals. The individual would be able to work at his own speed and if he wants to lease his land, the decision would be entirely his. In our area I've witnessed or heard of group projects being unsuccessful because everyone wants to be a leader and have one saying on how the project is to be managed. Although team work is of an advantage, without proper co-operation and lack of proper consultation work projects are bound to

to fail or go bankrupt. Besides this, there is a growing tendency whereby individuals within line, clan, or tribal groups tend to claim more land than what is expected of each as to have. This greed is largely the result of the ^{spread of} influences of economic development with heavy emphasis on cash crops will obviously needs extensive tracts of land in order to generate good enough profit. The breaking away of individuals from the rest of the clan is of course detrimental to the growth of the group and can result in family break-ups and lack of respect of traditional norms. To the educated, most I suggest would favor individualism of ownership, because if they do end up in the villages after their service, they would rather do things on their own instead of having to listen to that and this and what we used do in order to fulfill social obligations. To me, the more educated a population gets, the more individualistic their outlook is.

DISPUTES.

Land disputes like everywhere is a headache to everyone and to those affected, As the government and I quote,

"encourages economic self-reliance through rural development, pressures on customary land are building up. Land that is once considered to have little economic value is found either to contain, or to be suitable for the utilization of valuable resources. As it becomes possible to derive cash incomes from land ownership, individual and tribal claims are made, and

disputes inevitably arise. The vast majority of disputes concern customary land either being developed or on the point of being developed. The ownership of undeveloped and unutilized land usually remains undisputed.⁵

There is a great deal of truth in the last sentence of the quotation. Land that is undeveloped or not cultivated remains very much undisputed or even spoken of. Tenancy is one aspect that is detrimental to those who are at least interested in establishing certain projects.

Religion once a unifying factor is now a divisive factor itself. Religion is worth mentioning because people belong to one tribe then against each other on land matters simply because of their differences in religious following. To illustrate the above statement, I will refer to two particular religious sects in the Western Solomons who are constant rivals with regards to land ownership. These two religious groups are the Seventh Day Adventist followers and the followers of the Christian Fellowship Church (an indigenous church with an indigenous leader). In the past the followers of both the sects are one people, speaking the same language and belong to the same tribe and have similar rights to land usage. The land I am referring to is the North New Georgia land. Due to their

5. See, Smiley P, 1980, Settling Land Disputes in the Solomon Islands. - Pacific Perspective Vol 9. No.2 page 24.

differences in religious ideologies, beliefs and practices they have split apart to form two separate villages. In 1978, the Seventh Day Adventist group decide to set up a project on an unoccupied piece of land. The land is in fact owned by both the two groups by right, and the C.F.C followers felt that the move was done without their agreement and consent. The S.D.A group however, decide to go ahead and ignore the C.F.C followers claim, and as a matter of fact the C.F.C group physically attacked the group. Government police corps were sent in to stop the fight but were physically bombarded by the more powerful C.F.C group with a greater number of followers. The matter was taken to court. The move to develop the land was dropped after the hearing of the case in High Court, to prevent further open rivalries between the two religious groups. The case illustrates that regardless of whether or not a piece of land is communally owned by the same tribe, their religious differences can be of great hindrance to any future developments between the two group or war if they wish to have it registered.

Disputes on land settlement schemes still prevail and it just proves that human beings can never be satisfied. One does not wish to see or get rich because that means that he would be able to accumulate alot of material wealth. This is in fact a sad aspect. Disputes are bound to exist even if new means are being pursued to eliminate land disputes.

WHAT'S THE ALTERNATIVE? - GENERAL CONCLUSION

If despite the introduction of the land registration scheme, disputes still persist that still hinders economic development on customary land where that does the fault lie. I for one favour registration of land as the only means whereby we can develop freely. Threats are bound to exist and it is only our weakness, if we give in to the fons of that being employed. One of the failures of the scheme is the absence of follow-up work, thus leaving the people to struggle by themselves.

If prior to the actual registration of land, the disputes were properly settled by all members of the line and land group, and compromises are made, then we should take for granted that his registered plot should be secured. The Land Settlement Officer together with distinguished ^{members} of the tribe should make the decisions with regards to lot allotment, so that the Land Settlement Officer would not be accused of making vague and unfair decisions.

To me the registration appears to be the best system of securing one's rights to land ownership and if one argues that development is still slow and does not make any difference at all, I would say that it should be the responsibility of the Lands Department to do follow-up work and see that people are doing the right thing and assist them if they wish to establish projects. One must bear in mind that, people need constant advice and backing up from the people responsible in carrying out the scheme.

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