**ORDER FORM**

| QUANTITY | TITLE/AUTHOR | PRICE | TOTAL |
|---|---|---|---|
| 1 | "CUSTOMARY LAND TENURE – PNG" by D. LEA 2004 | 20-00 | 20-00 |

Subtotal:.....
Service Charge:.....
Postage:.....
**TOTAL:**.....

NAME:.....

INSTITUTE:.....

.....

ADDRESS:.....

.....

Make all cheques payable to The National Research Institute (PNG) and forward with your order to the Publications Sales Coordinator, The National Research Institute, P.O. Box 5854, Boroko, N.C.D. 111, Papua New Guinea.

No. 35 – Your Selective Publications List.

ant 2006.

1

ific

extended period within
aper makes three points
start new systems than

ideologies in section 2.
can not be sustainably
social organisations in

leologies that were then
k for simple solutions.
popular bandwagons is
ose who preach magic

kely to be achieved if it
ition, and implemented

Pacific in the past 100
he intended objectives.
t they are of universal

this region have been
lonial governments and
verful that, like imperial
nd assumptions to be
alues and practices that
s interests in East Asia.
Sadly, no one is preparing for that reality. A rearguard action to try to perpetuate the past is easier in the short term.

Ideologies in relation to land policy within the Pacific can be grouped into three main groups – European then villagers to plant crops; communal, cooperative, and other group enterprise experiments; and current ideological assumptions.

*Europeans then villagers to plant crops*

The first colonial land policies in the region had two parts. The first was, as Governor Macgregor wrote in Papua in 1898, "above all, to prepare the country for development by Europeans. There is not, and has not been, any other policy." (Reference?????) Here as in most of the Pacific, land thought surplus to local people's needs was allocated to Europeans for large plantations to be worked by Pacific Islanders or Asians – either voluntarily or compulsorily. It made sense to decision-makers then, it does not now. It did raise export productivity, but the

PNG Land Summit 2006.



# Chapter 13

## Customary Tenures and Productivity in the Pacific

Ron Crocombe

### 1.0 Introduction

This paper reviews developments relating to land tenure policies over an extended period within the Pacific and cautions against repeating the mistakes of the past. The paper makes three points and they are - culture and context matter more than structure, it is easier to start new systems than to keep them going, and land tenure is very resistant to radical change.

The paper begins with a caution against the quick adoption of ideologies in section 2. Section 3 warns against introducing land administration systems that can not be sustainably administered. Section 4 raises the importance of culture, values and social organisations in relation to the land tenure. The final section brings the paper to a close.

### 2.0 Be cautious of ideology

Many land tenure changes in the Pacific have been made on the basis of ideologies that were then popular among people with influence. Reality is complex so we all look for simple solutions. Experience throughout the region reminds us that jumping on currently popular bandwagons is usually done with good intentions, but sometimes disastrous results. Those who preach magic solutions do not suffer when they fail; ordinary people do.

More useful and effective adaptation for Pacific nations today is likely to be achieved if it is pragmatic, carefully designed with an intimate knowledge of each situation, and implemented slowly and carefully.

Let us review some of the changes that have been attempted in the Pacific in the past 100 years or so, and see why so many of them did not, and still do not, meet the intended objectives. As with religions, those promoting the changes have always claimed that they are of universal validity. It is a matter of belief and interpretation rather than reality.

The dominant ideologies and practices of the past 200 years in this region have been those of the indigenous people on the one hand, and those of European colonial governments and business interests on the other. Europe and its extensions became so powerful that, like imperial systems at any time in history, they assumed their theories, values and assumptions to be universal and for ever. Many still do. Soon the external ideologies, values and practices that matter most in this region will be those of key governments and business interests in East Asia. Sadly, no one is preparing for that reality. A rearguard action to try to perpetuate the past is easier in the short term.

Ideologies in relation to land policy within the Pacific can be grouped into three main groups – European then villagers to plant crops; communal, cooperative, and other group enterprise experiments; and current ideological assumptions.

*Europeans then villagers to plant crops*

The first colonial land policies in the region had two parts. The first was, as Governor Macgregor wrote in Papua in 1898, "above all, to prepare the country for development by Europeans. There is not, and has not been, any other policy." (Reference?????) Here as in most of the Pacific, land thought surplus to local people's needs was allocated to Europeans for large plantations to be worked by Pacific Islanders or Asians – either voluntarily or compulsorily. It made sense to decision-makers then, it does not now. It did raise export productivity, but the

benefits went overwhelmingly to a handful of plantation owners, ship owners and traders. Almost all those plantations, throughout the Pacific, failed completely with a generation or two, many sooner.

Second, village people must plant cash crops. Beginning in 1894 in Papua, colonial governments throughout the Pacific passed laws to enforce this. That policy too was much less successful than expected.

*Communal, cooperative, and other group enterprise experiments*

After World War I (1914-18), low crop prices meant that few European planters came, so more planting by villagers was made compulsory. In Papua the cash crops (including coconut, rubber, cotton, coffee, cocoa, oil palm and rice) were to be planted in one communal plantation for each village or cluster of villages because it was assumed that native people were "naturally communal". The income was to be shared equally between the villagers and the government. Every man had to work 60 days a year on the communal plantation – or face three months goal. (REFERNCE???) Despite exceedingly low productivity from this experiment, government commitment to the false ideology forced its continuation for nearly 40 years.

In the 1950s and 1960s the new idea was cooperative farming, with varying degrees of individual and cooperative input. Some of the initiative came from the government, some from foreign churches. Many of you will remember the Christian Cooperative Movement in Eastern Papua in the 1950s and 1960s, mainly to produce copra and rice. Men worked together on Mondays and Tuesdays, and income was to be shared equally. These experiments, and many others, were economic and social disasters, producing little but conflict and disillusionment.

In the 1940s and 1950s an ideological battle was fought between the Department of Native Affairs and missionaries on the one hand, and the Department of Agriculture on the other. The agriculture department had changed its mind and now believed that cash cropping should be by individuals or families. By the mid 1950s their view won and the emphasis went onto promoting family farms for Islanders and plantations for Europeans.

In the 1960s I did a study of all forms of introduced communal, cooperative, state-farming, and various corporate experiments in farming throughout the Pacific region (REFERENCE???). The main lesson learned from it was that false assumptions backed by ideological convictions can last a long time. The French governor in New Caledonia decided in 1868 that land in New Caledonia was held collectively by tribes. That false assumption remained the basis of French colonial policy for over 100 years. Only recently has it been rethought.

*Current ideological assumptions*

One of the most popular, illustrated by the work of Hernando de Soto (Reference???) and promoted by the World Bank (REFERENCE???) and others (REFRENCE???), is that legally binding individual land titles that can be mortgaged and sold, cause dramatic increases in prosperity. Like all the other assumptions, it contains some truth in some situations at some times. The critical question is how effectively it or other systems will work in which situations in Papua New Guinea now and for the foreseeable future.

De Soto's views are not new to the Pacific. Similar assumptions about legal individual titles were the basis of New Zealand's colonial policy in the Pacific Islands over 100 years ago – and of several other colonial powers, including Japan when it was the colonial power in Micronesia (1914-1945). In the Cook Islands, New Zealand set up a Land Court to decide ownership and issue titles to individuals or small groups. Sale was not permitted but 99-year leases were (Some REFERENCES FOR THE ABOVE???).

Productivity rose after that, but mainly because refrigerated shipping was introduced, allowing Cook Islands fruits to be exported to New Zealand. Many of the bananas, the main crop, were grown on steep customary land that the court had not issued title to. Some Europeans

acquired 99-year leases and developed plantations. Few succeeded and by the 1960s all had been abandoned as agricultural enterprises. Agricultural productivity today is very low – largely but not only for reasons other than land tenure.

In Samoa, New Zealand administrators decided that converting customary land to individual titles would bring prosperity, but in fact it caused the Mau rebellion. The policy was never implemented, although aspects of it could have been useful if introduced carefully to selected situations where people wanted it. There are many similar examples in the Pacific.

The lesson is that it is not wise to introduce policies that are likely to cause extensive violence and not be implemented anyway, however well such policies may work in other contexts or at other times. Yet that has been done here in Papua New Guinea several times in recent decades.

**3.0 Keep changes within the capacity to administer them**

Keeping changes within the capacity to administer them should be obvious, but in fact over the past 100 years in the Pacific, few tenure changes have had the intended result because the finance, skills and or integrity to administer them has not been maintained. Land registration has almost always taken many times longer than was expected. Today the hardware aspects such as survey equipment and computer mapping reduces the time needed, but the software aspects in terms of court hearings and title determinations are taking vastly longer and are much more expensive because lawyers, politicians and media (none of whom were involved until this generation), all gain by lengthening the process.

With any change, it is essential to plan realistically not only for money costs, training and so forth but also to make a realistic assessment of the probability of the system running effectively 10 to 30 years later. Few tenure systems in the Pacific Islands, customary or introduced, are running efficiently.

One thing that still surprises keen observers (like myself) in the Pacific is that customary tenures have adapted more quickly than legal tenures. I did not expect that, but it has been. That is not to suggest that customary systems are best, but to caution against simplistic "solutions". For example, although the attempted legal changes to Samoan land tenure failed with disastrous results, Samoan customary tenure has evolved tremendously and continues to do so. The Cook Islands laws, introduced in 1902 with the intention of replacing a complex customary system with a simple legal one, have caused in practice a much more complicated and expensive "quasi-legal" system to emerge that constrains productivity and encourages out-migration.

One might ask why they do not change the law, but politicians value their own political survival more than they value improvements to tenure, and they know that any tenure change gives whoever is in opposition ammunition to undermine whoever is in charge. Territory is one of the most basic animal emotions, embedded in the lower brain stem, and can raise fear, anger and aggression with amazing ease – and more so if they are seen as promoted by foreign governments, institutions or consultants, as you in Papua New Guinea have seen.

The lesson is that it pays to choose laws carefully – in practice they are very difficult to change. And small adaptive changes are easier than big ones. It is therefore advisable for a nation as diverse as Papua New Guinea with over 800 languages and cultures, and a very diverse environment, in a situation of rapid change, the need is for more niche solutions to particular problems. Several examples are used to demonstrate this point.

*Papua New Guinea's Incorporated Land Groups and the Lease/Lease-back system*

When it began I thought it was unlikely to work because it is cumbersome and expensive, but it seems to have been very useful for some large-scale enterprises. Great. But it seems to be a niche provision, worthwhile only in special circumstances.

*Land Tenure Conversion*

The land tenure conversion process in Papua New Guinea has been found useful by a small number of landowners and has positive potentials if carefully used. But as noted below, there can be unforeseen obstacles too.

*The Sepik experiment* The Sepik experiment (REFERNEC???) seemed to me to have positive potential but was unfortunately never allowed to get established. Part of the problem may have been the attempt to tie it to a national system, thus inviting reaction.

*East New Britain's recording system* The East New Britain's recording system (REFERENCE???) seems to have moved in a positive direction, perhaps partly because of its independence from central government. Indeed some other provincial governments may provide a better basis for recording land rights than central government. In Solomon Islands, the people of Malaita began over 20 years ago supplementing memory records with written records of customary rights (REFERNCE???). A tremendous amount of work has been done at no cost to the government. If and when some of them decide to integrate their records into a provincial or national system, they will provide a useful basis for doing so.

*Occupation rights* This is a simple mechanism in the Cook Islands, Niue and French Polynesia at least. It is a legal document confirming a customary allocation - that when a land-owning group gives an occupation right to one of its members, that land belongs to that individual, and to his or her direct descendants, in perpetuity. But if they abandon the land for seven years, it reverts to the group as a whole. It cannot be sold. It has been used mainly for housing and small-scale agricultural credit. Occupation rights have been useful, again for a particular niche, although some of the most productive farmers use land on which they have no legal rights.

Incidentally the occupation rights legislation required one paragraph and was drafted by a non-lawyer one night in 1946 (REFERNCE???), and worked well. Lawyers were not then allowed in the Land Court. In today's approach, teams of consultants would be hired at great expense and laws of many pages and sections would be drafted and adopted, ensuring lots of work for lawyers (and poverty for local landowners) for as long as the law survived.

**4.0 The importance of culture, values and social organization**

It is often said that productivity correlates with security of tenure. In some situations it is true, but in others it is not. The highest agricultural productivity in French Polynesia for over a century came from Chinese farmers with very insecure tenure while Tahitians with secure tenure were much less productive. One sees the same in Fiji today, with highly productive Chinese farmers with no security out-producing many times over, Fijians with secure tenure. In the Northern Marianas too, Asian immigrants with little security far out-produce local people with secure tenure. There are many similar examples.

Hawaiians were promised in the 1850s that if they adopted what some now call De Soto's plan, individualized their land, took legal titles, and accepted mortgages, the free market ideology would make them wealthy. It made them poor, and landless. The theory worked for immigrant Europeans and Asians, but the Hawaiians lost their land and are still marginalized 150 years later. Are Australian Aborigines better off because individual titles and mortgages and credit have been there for 200 years?

In Solomon Islands the land in the capital, Honiara, was purchased by the government, which leases it to those in need. At least that is the theory, and for some decades was the practice, but in the past few years, almost all the top quality sites have been acquired by Chinese, who constitute about 0.1% of the national population. That is leading to strong ethnically-loaded resentment already. Prices have soared and Solomon Islanders have to rent from Chinese entrepreneurs. Be very cautious about opening your land to unrestricted sale – whether of

freehold or of leases - or you won't have it much longer. Systems of land transfer need careful thought and adapted to local cultural, political and value contexts.

So far as I know, no communal or cooperative farming enterprise in the Pacific Islands succeeded. That does not mean that communal or cooperative farming can't work well. Both can work extremely well. In United States of America the Hutterites have lived by communal farming very successfully for more than 100 years, as have the Amish with a cooperative system. Those two are Christian, but in Israel, Jewish communes and cooperative farms have been highly productive. The lesson is, much depends on your beliefs and values and the context you live in.

Overall, few Pacific Islanders ever farmed communally or cooperatively. With few exceptions, farming was a family matter or as Pospisil (REFERNCE???) has shown for the Kapauku/Duma highlanders, individualized even within the nuclear family. Then why be cautious about registering individual titles to land? There are probably good reasons to register in some situations involving heavy investment or intensive land use, but equally good reasons not to do so where the subsistence component is high, mobility is high, and recording and enforcement systems are inadequate. The state of land records in Papua New Guinea today is an unfortunate example.

Land management is very expensive, especially when done by governments. The great majority of land by area in Papua New Guinea is managed by local families and communities at no cost to government. And it is much more flexible than government systems. Don't bring it into the government system except when the monetary and other benefits are likely to outweigh the costs – as they usually will in towns, mines and other areas of high intensity usage, but not much beyond unless people want it. If they do, it has a good chance of working. If they don't it has little chance.

No matter what the law says, if it is not reasonably compatible with your culture and values, it is not likely to work. Much depends on how wide a range of relatives and community members you have obligations to, on how extensive are the obligations, on how much emphasis your culture requires to sharing or consumption as against saving. Simply changing the law does not have the effect that is often claimed, and we have evidence for that throughout the Pacific as elsewhere.

Many of you here will remember the resettlement schemes set up in many parts of Papua New Guinea in the 1950s and 1960s. They seemed to me to be sensible, allowing people from overcrowded areas to resettle in areas with apparent surplus land. The government bought the land and the settlers received individual titles, credit and extension services. But the key factor no one thought of (including me) was "how will they be accepted by the descendants of the people who sold the land in the area they were settling in"? As you know, within one generation those in many of the settlements were violently evicted, with awful suffering. What was lacking was social integration, carefully thought through and carried out. The planners thought in terms of Western culture and did not involve people of the cultures concerned nearly enough.

It reminds me of the resettlement of the Phoenix Islands by people from the over-populated South Gilbert Islands (Kiribati). Only volunteers were accepted. Harry Maude, the British colonial officer in charge of the resettlement, insisted on Kiribati people making all decisions (REFERNCE???). When those who wanted to go were ready he wanted to rush them onto the ship and sail because the ship was on charter and costing a lot of money. But the Kiribati people said No, it was essential to compose a song. Okay, but they spent days debating what words and music were needed. Harry Maude was frantic, wasting all the money on ship charter while they composed the song. But in later years, he said, whenever the going got tough, and some people wanted to give up, someone started singing the song, and all would join in and stay.[1] The song had become their legitimating charter, like a paper title is for many town

---

[1] Actually a drought eventually caused the abandonment of the settlement and their resettlement in Solomon Islands.

dwellers. The lesson was that people from outside a culture know little of what is important within a culture. Like the Christian Hutterites or the Orthodox Jews on communes, some things that made no sense to people outside were the key to success.

In Kiribati the British colonial government introduced land registration. Kiribati must be the easiest country in the world to register land because the islands are small, narrow and flat, and in Kiribati custom land is allocated in strips from the lagoon across the land to the ocean side – only a few hundred metres. Yet a small study I did for the South Pacific Commission revealed that within a decade almost every household was using some land belonging to other people, and some of its land was likewise being used by others (REFRENCE???). The same was shown in David Morawetz (REFERNCE???) study of individualized, legal titles issued here in Oro province in the 1960s. Within a short time, some other people were using some of their land and they were using some of other people's. Why, when all the land was so similar? I expect it is because when you are living largely by subsistence and without government social security, one strengthens one's security by a diversity of mutual commitments through land and other activities. Whatever the reasons, it happens in many situations in the Pacific.

I mentioned above that European plantations had a life of one to three generations, after which all the assumptions on which they had been built, collapsed and the Europeans left the land. After about a generation, however, plantation agriculture is coming back, but owned by East Asians rather than Europeans or Islanders.

It is true that, in the Pacific as elsewhere, productivity on registered land is higher on average than that on unregistered land. But to what extent that is due to registration, and what form of registration, is a moot point. The registered land is mostly in urban and peri-urban areas or land with the best soils or minerals, and best access to ports and markets. The 97 percent myth in Papua New Guinea and the 90 percent myth in Fiji and equivalents elsewhere in the Pacific Islands region are dangerous misrepresentations.[2] Measuring land by area is similar to implying that coins are more valuable than banknotes because coins are heavier. The area of land is irrelevant except for politically loaded rhetoric. What matters is its value by various criteria. Customary lands include most of the mountains, infertile soils, and remote locations that are of low value by almost any criteria. Despite the myth about 97 percent of the land in Papua New Guinea being unregistered and customary, I expect that much of the most valuable land is registered and held in tenures other than customary tenure. Likewise, although no statistics exist, despite the myth about Fijians having 90 percent of the land in Fiji, I expect that most of the land by value is controlled by non-Fijians.

## 5.0 Conclusion

This paper has three main messages. First, culture and context matter more than structure. In other words, systems may work well in one situation but badly in another. This has been demonstrated across the Pacific and the world for more than a century. So I suggest you avoid addiction to ideology (even when it claims legitimacy by calling itself called theory) and focus on what is likely to work best in which parts on Papua New Guinea, for what purpose, for the coming generation. Second, it is easier to start new systems than to keep them going. It is usually easy to get money and enthusiasm to install new systems, but maintaining them in working order is much more difficult. That too has been demonstrated throughout the Pacific. Do not expand faster or further than the capacity to keep the system effective, or if the government's land institutions lacks integrity and public confidence (as is apparent in Papua New Guinea at this time). Third, land tenure is very resistant to radical change. Some aspects of life change quickly and easily, others slowly and with difficulty. Radical changes in land tenure anywhere require extreme concentrations of power. For example the diverse reforms imposed on

---

[2] This is related to the agreed view that 97 percent of the land in these countries are held under customary tenure.

Japan by the US military after World War II, and on Taiwan by the invading Chinese army, and by communist governments in China, Russia, and Vietnam. All used extreme power, including considerable killing in most cases. The only example in the Pacific was in Tonga in the mid 1800s when a Tongan chief won a bloody civil war, made himself King, took total power to himself, and individualized the land in law. Even so it took nearly 100 years in that small country before much of that change was implemented (in the late 1950s). Today, the king no longer has such power, nor does any other government in the Pacific.

Finally, appropriate forms of land title in and around urban areas and other areas of high intensity usage are needed – though they have been available in most places for decades. The useful innovations here and across the Pacific have been those designed for particular places, cultures and purposes, and implemented with long-term commitment. Without that, any change is a waste of money and time and, most of all, of confidence. But with them, there are positive potentials for steady increases in productivity, confidence and quality of life.

**Reference**

# RÉALITÉS DU PACIFIQUE

Bulletin Trimestriel d'Etudes et d'Informations Générales, Sociales et Economiques sur l'Océanie

Prix du Numéro : **1,50** fr.

1RE ANNÉE - N° 3

JANVIER 1964

Abonnement : Un an - France **5,50** frs (métropolitains) — Territoires Français du Pacifique : **100** frs C F P
Etranger : L'équivalent de U S $ **0,75** — Par avion, tarifs sur demande — Le montant de ces abonnements doit être adressé à l' "Association Marc Bloch", 54, Rue de Varenne, Paris-7e - C. C. P. Paris 6883-80 avec la mention "Réalités du Pacifique"
La correspondance doit être adressée au **Directeur de la Publication** : M. Jean Guiart, 147, Avenue J.-B. Clément, CLAMART (Seine)


## Land tenure in Papua - New Guinéa (1)

### The distribution of land.

There is no overall shortage of land for subsistence or small-scale cash cropping in Papua - New Guinea. There are, however, areas where there is a general shortage (e.g. parts of the New Guinea highlands, Gazelle peninsula, and Trobriand Islands). In addition there are many places throughout the country where relatively small groups are short of land although there is ample unused land nearby which is not available to them. As Brookfield has observed (2), the population is most unevenly distributed in relation to the maximum exploitation of the agricultural potential of the country in a modern economy.

As land is relatively abundant and capital is in extremely short supply, emphasis should be placed on obtaining maximum returns to capital, and secondly to labour, even if per acre productivity of land falls below the optimum.

If maximum agricultural productivity is to be facilitated, means of land transfer must be devised to ensure that no person or group who has the ability is held up by inadequacy of land. Transfer of land from those who have a surplus to those who have insufficient is at present inhibited by legislation, by the virtual non-existence of transfer agencies and by lack of finance, as well as by tribal parochialism.

Legislation states in effect that no person can alienate land except to the government (3). Formal exception is made to permit alienation between indigenes by custom, but our experience suggest that (despite some exceptions to the contrary) this provision is very narrowly construed by the Administration and usually permits only routine transfers such as inheritance. In the pre-contact era, major transfers of land rights were achieved by migration, warfare and customary sale. The need for transfer facilities is today much greater and although these pre-contact processes are no longer condoned, no adequate alternative has been provided.

There is a need for legislation to facilitate transfers between both individuals and groups, though safeguards will be necessary to ensure that transfers will result in increased productivity and not in speculation. It is considered most unlikely that recent legislation, prepared with the intention of facilitating land transfer, will achieve its intended purpose, though the safeguards againts exploitation appear adequate (4). This will be dealt with more fully.

If appropriate legislation is provided, appropriate institutions will of course be required to ensure the purpose is achieved. While suitable modifications could no doubt be made, it is felt that the Land Titles Commission is not at present equipped to handle the judicial and documentary aspects, nor does the Lands Department appear at present to be equipped to handle the agency functions.

### Registration of titles and settlement of disputes.

There is such widespread lending and sharing of gardening land, and such flexibility within and between both local and kin groups for food gardening and foraging that registration of food gardening or foraging lands would be inappropriate at this stage.

Our research leads us to believe that there is a need, and also a demand, for land registration facilities which will permit adequate identification of traditional land which is used for income-producing tree crops. There appears also to be a need for definition of boundaries between major language and tribal groups. This necessitates appropriate boundary marks and maps, as well as certificates of rightholding for land under tree crops. The mere provision of legislation and a department does little to achieve this goal unless the legislation is designed for efficient operation and a sufficient number of officials is available and supported by adequate ancillary services.

It is our opinion that the Native Lands Commission which was set up in 1952 to settle land disputes and award secure land titles actually resulted in more disputes and less security of title in the country as a whole (5). This occurred because whereas before 1952 approximately 500 patrol staff throughout the country could and did (among other duties) settle land disputes, their power to do so was withdrawn and land cases could be handled only by the seven Native Lands Commissioners (6).

Although the decisions of the patrol staff were often arbitrary, they were given quickly and on the spot and literally thousands of disputes were settled each year. The seven Lands Commissioners on the other hand are bound by complex procedures and must carry out meticulous investigations. No figures are published on the number of decisions given, but it appears likely that the mean number of cases per Commissioner per year from the time of its inception did not exceed two or three. All other disputes have to be left unsolved. Only to the extent that some patrol staff, some local government councils and some indigenous leaders disregard the law and give decisions on land disputes themselves, is the number of disputes contained. With a population of 2,000,000 people, all of whom have rights to land almost none of which has been defined and registered, and most of whom have different types of rights in several plots of land, it is not inconceivable that there might be more outstanding disputes than there are people (7). There are many more than 2,000,000 plots of land, though we are of the opinion that only a small proportion of these needs registration at this stage.

There is no evidence as yet to suggest that the new Land Titles Commission (which earlier this year took over the work of the Native Lands Commission) will be able to settle disputes or award land titles at a speed which will meet the country's needs. There are also indications that the Commission might meet with public opposition which is directed not so much to the reforms being carried out as to the institution which is carrying them out.

The structure of the present Commission is such that decisions can only be taken by Commissioners and it seems likely that only expatriates will be used as Commissioners for some years to come. Procedures are cumbersome and litigation will be encouraged and cases protracted by lawyers being admitted as of right (-this will be the only Lands Commission in the South Pacific to which lawyers are admitted as of right). It appears to us that if the Commission is to cover any significant area of ground, most decisions of detail will have to be taken by local and predominantly indigenous bodies, and decisions will need to te based on local values rather than Australian law.

---

(1) This paper was prepared at the request of the World Bank Mission. It is written at a time when our researches into the land tenure situation (begun in March 1962) are only half finished. Field research and documentary studies are expected to be completed in 1964, and the analysis and final report in 1965. Opinions expressed are therefore tentative and personal to the writer.

(2) BROOKFIELD (H.C.) - « Population distribution and labour migration in New Guinea », **Australian Geographer** 7 : 233-42.

(3) Land Ordinance 1962, Part III.

(4) Land Ordinance 1962 and Land (Tenure Conversion) Ordinance 1963.

(5) This situation is by no means unique in the Pacific : the Lands Commission in Fiji and the Native Land Court of the Cook Islands, both of which were set up to facilitate increased productivity, have in fact acted as major obstacles to increased productivity.

(6) The powers of patrol staff to deal with land ownership were not specifically repealed by the legislation, but the Court has ruled (in the case of Busin v/Havini in 1957) that they were repealed by implication.

(7) In the Gilbert Islands in 1946 it was estimated that there were 75,000 outstanding land disputes in a total population of 35,000.

The Land Ordinance 1962 permits transfer of registered land only, and then only with the specific approval of the Commission. As only registered land can be transferred and as registration under the present legislation must necessarily be extremely slow, the legal provisions for transfer are nominal only. The Reserves legislation in Fiji was introduced to facilitate the utilization of unused land. In fact the operation of the legislation severely hampered land utilization because the processing machinery through which the title had to pass before transfer could take place was so cumbersome that only a small acreage was ever dealt with (8). It is likely that the same problem is about to arise here.

**Alienation and foreign settlement.**

It is officially stated that only three per cent of the land has been alienated (9). This is true but misleading, for in many areas the proportion of arable land which is alienated is very high. Although we have not yet assembled all the figures, it is probable that the percentage of currently arable land which has been alienated is higher in Papua - New Guinea than in any other Pacific territory.

Whether any given proportion of land alienated to expatriates is regarded as excessive or otherwise is a value judgement, but, with the inauguration of a largely elected legislature in 1964, the value judgements of the indigenous people become very important. It is assumed that their opinions will result in a different range of choices for economic development. There is a feeling (irrespective of its validity ) that government dealing in land in the past has been designed to promote expatriate rather than indigenous interests:

With the cessation earlier this year of the resettlement of Australians, under the Ex-Servicemen's Credit Scheme, the programme of expatriate settlement in Papua in effect came to an end. It is most unlikely that an independent government would accept further expatriate settlement, in fact our contact with the people leads us to believe that serious thought should be given to the future of existing expatriate plantation enterprise. Plantations are in general efficiently run, they provide employment for 52,000 indigenous workers, they produce most of the country's export earnings and a considerable portion of revenue through taxation. Quite apart from the question of equity for the planters involved, these are formidable reasons for the continuation of the industry. We have discussed the plantation industry with considerable numbers of indigenous people, and almost none has raised any of the above points in its favour (though many are prepared to concede them formally). The most important argument raised by indigenous people in relation to the industry is the proportionate income drawn from it by Australians as against Papuans and New Guineans. The planter, moreover, symbolises for many indigenous people, a type of privileger relationship between the races, with which they have little sympathie. There are many who seem to favour the abolition of expatriate plantations irrespective of the financial loss, though few are aware of the very high cost involved.

A particularly unfortunate policy has been followed in relation to ex-Servicemen, Australians being granted 250 to 400 acres of land and loans of £ 25,000 and Papuans and New Guineans being granted 15 to 30 acres and a loan of £ 750 (or similar areas of land and £ 600 loan if under the Native Loans Board). Official arguments to the effect that the different areas and loans are objectively based on differences in background experience and managerial ability are ridiculed by Papuans who point out particular Papuan settlers who have had as much experience and have caried as much responsibility as some expatriates. They also point out that whereas some Papuan settlers have fully planted their blocks, none of the expatriates has done so. Feelings on this issue in the Northern District are quite intense and the most appropriate alternatives appear to be either to make more land and finance available to suitable Papuan settlers, or to buy out the European holdings and sub-divide them for settlement by Papuan small-holders (10). It is appreciated that economically the country cannot afford large loans for widespread resettlement, but the precedent set for expatriate planters makes this a political rather than an economic problem.

The Judgement in the recent Varzin case (which relates to land confiscated in German times) raises the question or the legal status of titles to plantation land in New Guinea. An appeal is now awaiting hearing and depending on the nature of the decision, clarifying legislation may be called for.

**Resettlement.**

Land for resettlement can be acquired under existing legislation by three processes : purchase of native land, allocation of unused Crown land, or resumption of unused leased and freehold land. Is should be possible to buy native land for resettlement and we know of several instances where owners who are unwilling to sell for other purposes are prepared to sell for resettlement of indigenous farmers. Unused Crown land could be used for resettlement in a number of districts, and many leases to Australian individuals and firms are either completely unused or only partially used. Enforcement of existing development clauses in leases could make this land available (or result in its being planted by the existing leasees).

There are some areas where, due to population increase or otherwise, the indigenous people need land which was earlier alienated from them for plantations. The number of plantations involved is small, but their political importance is significant. There seems to be no reason why the government should not offer to buy such plantations on a willing buyer - willing seller basis (and some at least of the planters concerned would be prepared to sell) for subdivision among suitable persons interested in resettlement. Consideration should be given to the possibility of government or local government councils buying plantations for subdivision.

It is understood that government has undertaken sound planning of resettlement projects with respect to soil potential and crops, transport, and ancillary services. However, only owner-operated peasant holdings are provided for, and the government plans to allocate 7,500 such holdings for resettlement between 1962 and 1968. The major issue which appears to us to have been inadequately dealt with as yet is motivation and the criteria of selection of prospective settlers.

The forms of tenure which are most appropriate for resettlement areas need further study. Circumstances vary widely and there is a need for greater flexibility than is practised at present. Individual peasant holdings are suitable for and wanted by many people **(though we have seen instances where multiple extra-legal rights based on customary principles are already emerging in lands on individual lease to Papuans).** Only a small proportion of people we have worked with are motivated to work on individual blocks, but a larger number are prepared to work as labour. There are indigenous entrepreneurs capable of operating plantations provided they can get secure title to sufficient land and some starting capital, mainly to enable a small labour force to be employed (loans of £ 1,000 to £ 5,000 may be appropriate). Others again prefer to operate on a group basis and we are aware of quite a few such enterprises, though most have been officially discouraged. We are of the opinion that at this stage there is room for experimentation in forms of organization and types of tenure. It is appreciated that, for some years at least, resettlement will only apply to a minority of people and most will remain in their traditional villages.

**Future policy.**

Papua - New Guinea is fortunate in that many of the more acute tenure ailments of Asia or the Middle Eeast are absent. There are, nevertheless, serious tenure problems to be overcome and the tenure policy of the future self-governing state has yet to be evolved. To date, policy has been determined in Australia without more than nominal reference to the views of the people of the Territory, or of experience in other developing countries facing similar problems. The land tenure legislation introduced in 1962 and 1963 and the policies on which it was based were evolved mainly in Canberra and to a lesser extent in Port Moresby. It seems that all the planning was done by persons who have no specialized experience of land tenure problems; no institutions or persons with specialist experience were consulted apart from individuals whose experience was limited to Australian land tenure, and some background papers were supplied by the British Colonial Officer (containing outlines of particular legislation but including no appraisals of the results of particular tenure policies); and no indigenous leaders or groups were consulted. Likewise the Land Development Board, which lays down tenure policy has no indigenous representation, nor is indigenous or specialist opinion consulted. The Land Board, which makes decisions within the framework of policy laid down by the Land Development Board is a body of expatriate officials, though on token occasions nominal indigenous representation has been admitted (11).

Assuming that the existing land tenure situation is one of the factors limiting production and that improved tenure arrangements will facilitate greater productivity, it is suggested that existing tenure policy and tenure institutions should be reviewed with the intention of devising appropriate modifications and at the same time transferring responsibility for the acceptance and execution of the policy to the local community. One possible approach would be to establish a commission for this purpose composed of, say, three persons chosen by the elected members of the legislature, one land tenure specialist from the Food and Agriculture Organization of the United Nations and one member nominated by the administration. Such a commission could examine the tenure problems of this country by discussion with local government councils, government officers and private individuals; it could examine evidence about appropriate countries overseas and could if necessary visit some countries where reforms which appear appropriate have already been effected; and it could prepare a draft policy for submission to the legislature.

---

(8) The Burns Commission of 1961 recommended that this work should cease.

(9) HASLUCK (P.) - **Parliamentary Debates, vol.** 26, p. 1019, 7th April, 1960.

(10) The term « small-holder » is used as a convenience only and does not imply any optimum farm size. In fact a variety of holding sizes is necessary to best serve the needs and capabilities of various Papuan farmers. Similarly if more land and finance is to be made available to Papuan farmers, it will not necessarily have to be on the scale now given to expatriate settlers.

(11) It is understood that in future an indigenous representative will sit with the Board as a matter of course, but always as a minority.

**Summary.**

1. — Despite an overall adequacy of land there are many areas of local shortage of arable land.

2. — Maximum productivity is inhibited by lack of suitable facilities for land transfer. It is felt that recent legislation (including the new tenure conversion ordinance) does little to improve this situation.

3. — There is a need for an agency (within Lands Department or elsewhere) to facilitate land transfer.

4. — There is a need and a demand for some forms of registration for land under (or soon to be under) permanent cash crops but not in general for other land.

5. — It is unlikely that the Land Titles Commission as at present constituted will be able to accomplish the task set before it. Procedures need to be simplified and delegation seems to be necessary for the settlement of minor disputes and for provisional registration (by local government councils or other local agencies).

6. — The future of the plantation industry needs study in the light of coming political changes. A particular problem has been created by discrimination between indigenous people and expatriates in areas of land and loans granted.

7. — Land can be acquired for resettlement by purchase of native land, use of unused Crown land, enforcement of development conditions on leased land, resumption of unused freehold land, and purchase of existing plantations.

8. — Greater flexibility of settlement policy is needed to permit of settlement by other than individual plasant farmers in appropriate cases. Individual entrepreneurs should be provided for in appropriate cases, as should social or corporate groups.

9. — *In order to determine the most appropriate land tenure policy for this country, and to make that policy acceptable to the public, a commission with a majority of representative indigenous persons be set up, to report to the legislature.*

(R.G. Crocombe)
**Australian National University
Guinea Research Unit)**
15-8-1963

## Investissements U.S.A. aux Nouvelles Hébrides

On signale le passage, aux Nouvelles Hébrides, de M. Crawford, représentant une des principales sociétés américaines de plantation et de conserverie de l'ananas, la « California Packing Corporation ». Dans ses conversations avec les autorités et les personnalités locales, cet homme d'affaires avisé s'est longuement étendu sur le désir de sa société de répondre aux besoins d'un marché en expansion, principalement dans l'Europe du Marché Commun. Il a, par contre, été fort discret sur la situation difficile des plantations d'ananas hawaïennes, dont la rentabilité est de plus en plus mise en cause par les taux élevés de rémunération du personnel.

A la recherche donc, après les Philippines, d'un territoire où les coûts de la main-d'œuvre soient très inférieurs à ceux d'Hawaï, et dont la stabilité politique soit assurée, tout au moins à moyenne échéance, M. Crawford envisage la constitution d'une Société de droit français qui pourrait, par cela même, bénéficier d'importantes concessions sur le Domaine de l'Etat français ou celui de la Société Française des Nouvelles Hébrides.

S'il est légitime que les autorités locales accueillent avec satisfaction la possibilité d'investissements agricoles considérables dans l'archipel, le projet en question porte cependant à réflexion.

Les méthodes employées dans le passé, à Hawaï, par les sociétés productrices de l'ananas et de la canne à sucre, ont été à l'origine d'une situation politique devenue délicate, par les mauvaises relations entre employeurs et monde du travail, ce dernier constitué à 90 % de descendants de coolies japonais ou chinois, qui représentent aujourd'hui l'essentiel de la population locale et exigent un haut niveau de vie, par compensation avec leur misère passée.

Après la période d'études et de démarrage, M. Crawford envisage un personnel d'environ trois mille personnes, ce qui ferait de sa société le principal employeur du territoire et pose, d'ores et déjà, le problème d'un appel à l'immigration. Il est évident qu'une fois installé, ses arguments économiques seront d'un tel poids qu'il sera difficile aux autorités condominiales de se refuser à lui accorder les permis d'immigration souhaités. Où prendra-t-on cette main-d'œuvre ?

On voit mal une Société, même de cette importance, se résignant à faire les frais d'une prospection systématique des possibilités d'émigration dans l'ensemble du monde océanien, et envisageant ce qui serait réalisable, de faire venir ,par petits paquets, des travailleurs de différentes origines : Gilbertins, Salomonais, Wallisiens, habitants des Iles Cook, Tahitiens, Néo-Calédoniens. Sa recherche d'une main-d'œuvre à bas prix l'amènera d'ailleurs à éviter le recrutement de ceux qui seraient fondés juridiquement à demander des salaire au niveau européen : Calédoniens, Tahitiens et même Wallisiens. Il est douteux que les Iles Gilbert puissent fournir un contingent suffisant, ses habitants, même en surnombre, étant à la recherche de terres nouvelles plutôt que d'emplois. On risque donc de se trouver, à bref délai, devant la suggestion d'importation de personnel chinois (Hong-Kong), philippin ou hindou de Fiji.

Il convient que l'on sache que **toute politique d'immigration de cet ordre se heurtera à l'hostilité unanime de l'opinion autochtone hébridaise,** et risquerait de précipiter une évolution dans un sens anti-blanc. Elle est donc à **exclure** absolument, quand cela ne serait que par simple souci du maintien de l'ordre public.

Une autre objection, de même nature, en définitive, porte sur les terres à mettre à la disposition de la société intéressée, et sur leur localisation. Il existe, sur Vate, des superficies importantes inutilisées et qui ne seront pas nécessaires, avant longtemps, à la satisfaction des besoins nés de la progression démographique en cours. Sur Santo, par contre, la situation apparaît beaucoup plus délicate. D'une part, une certaine pression démographique se manifeste déjà dans les îles ou îlots avoisinants. Mais surtout, il est remarquable combien le sort des domaines côtiers non mis en valeur intéresse les communautés autochtones, non seulement de Santo mais aussi d'Aoba, du nord Pentecôte et du nord Malekula. Il y a là, en effet, un peu comme le symbole de l'équilibre actuel des forces, sur le plan économique en particulier, entre l'aire dévolue à la colonisation européenne et les zones d'habitat mélanésien. Y toucher provoquerait, non seulement le mécontentement des propriétaires coutumiers du sol, établis sur l'île de Malea ou en arrière de la côte de Santo, et qui espèrent bien s'y réinstaller, mais aussi de celui de l'ensemble de l'opinion autochtone du centre nord de l'archipel, qui verrait là un retour en force des méthodes anciennes de la colonisation, ce qu'elle craint par dessus tout. La politique actuelle de collaboration confiante avec les dirigeants mélanésiens qui émergent pourrait bien y sombrer.

Faut-il donc que les Nouvelles Hébrides refusent cette chance de développement économique ? Nous ne le croyons pas. Cependant, des précautions devraient être prises, avec la ferme volonté de s'y tenir, dans l'éventualité d'un accord avec la « California Packing Corporation ». Essayons d'en voir le principe.

Que la Société intéressée fasse pression pour obtenir les meilleures terres possibles, et au meilleur prix, il faut bien s'y attendre. Pourquoi achèterait-elle telle ou telle plantation en déconfiture, à des prix surévalués, alors qu'un accord avec la puissance publique française pourrait lui fournir les surfaces désirées, dans des conditions financièrement bien plus intéressantes ? Mais où ?

On sait peu que si les méthodes modernes de culture de l'ananas exigent un sol perméable, ce sol n'est en réalité utilisé que comme support physique de la plante, les éléments nutritifs étant apportés artificiellement à un ananas fort peu exigeant au demeurant. Si les sols argileux à faible profondeur sont à exclure, les zones à savane de l'ouest Vate pourraient convenir. Ils seraient ainsi mieux utilisés qu'à un élevage extensif déraisonnable. **Il n'est en tout cas absolument pas nécessaire de remettre à la « California Packing Corporation » les meilleures terres à cacaoyer de l'archipel.**

Sur le plan politique, qui prendra de plus en plus d'importance, il serait souhaitable de pouvoir rassurer les dirigeants mélanésiens en leur faisant la démonstration qu'il n'est plus question d'aliénations foncières de type ancien, et que l'avenir reste sauvegardé. La solution pourrait être, à notre sens, de **refuser toute aliénation définitive du sol à des intérêts étrangers, mais à leur assurer, par un bail de vingt-cinq ans par exemple, une rentabilité suffisante de leurs investissements.** Cela permettrait aux pouvoirs locaux de conserver des moyens de pression permettant, dans l'avenir, la recherche d'une formule de fermages, assortie du maintien d'unités mécaniques de type semi-coopératifs, permettant de fixer le personnel au sol, et d'éviter, à temps, une évolution dangereuse des tensions sociales inhérentes à de telles entreprises. La Société intéressée aurait d'ailleurs tout intérêt, pour assurer son avenir local, à envisager d'elle-même, une telle étape et à étudier les modalités éventuelles d'une réorganisation future lui conservant la gestion directe des moyens de recherche techniques et de transformation.

En ce qui concerne les négociations entre la Société à constituer et la puissance publique locale, il devrait être évident, au départ, que **les deux administrations nationales ne peuvent que manifester leur solidarité en cette** affaire, tant sur le plan de leur volonté de favoriser des investissements intéressants, que d'éviter la tentation de laisser l'un des partenaires subir seul les conséquences du mécontentement de l'opinion mélanésienne. Si les deux Résidences arrivent à faire front en cette affaire, il sera possible d'éviter des réactions désagréables, du moins si l'on tient compte des observations ici présentées.

Reste le problème de la main-d'œuvre. On ne sait pas encore — nous le dira-t-on d'ailleurs ? — quelles sont les données chiffrées, les limites inférieures et supérieures de rentabilité de l'opération envisagée. Le niveau possible des salaires déterminera bien sûr les zones de recrutement. Quand on parle de la main-d'œuvre locale, son insuffisance en quantité est la plainte constante entendue aux Nouvelles Hébrides, quelque soit la conjoncture. Les planteurs avisés, qui ont toujours bien traité leur personnel, en lui assurant les avantages matériels recherchés — nourriture abondante en particulier — n'ont en réalité jamais manqué de main-d'œuvre. Ils sont plus nombreux qu'on ne le pense communément — ce ne sont pas ceux qui se plaignent — et aujourd'hui n'ont même plus la peine de procéder à des recrutements coûteux, l'embauche se faisant de plus en plus sur le lieu même du travail.

Si l'ensemble des Nouvelles Hébrides ne saurait être considéré comme surpeuplé à l'heure actuelle, des points d'engorgement

démographique tendent à se manifester. Devant le manque de terres, dû à ce facteur ou à la situation foncière locale, la location provisoire de ses services reste encore une solution préférée à l'émigration dans une île moins peuplée. Le centre d'une grande plantation d'ananas, à proximité de Port Vila par exemple, pourrait offrir de gros attraits pour la main-d'œuvre locale. C'est essentiellement une question d'adaptation psychologique des cadres de la plantation. Il ne nous semble donc pas démontré qu'il faille s'adresser à l'extérieur, sinon pour un complément minoritaire, si du moins on veut bien peser les risques politiques d'une immigration trop voyante, et accepter l'idée d'une mise en route progressive facilitant au maximum le recrutement et la formation technique locale du personnel envisagé. Fonder une opération financière sur un coût de main-d'œuvre peu élevé, c'est bien, mais encore faut-il que le Territoire n'ait pas à souffrir de l'opération.

En définitive, il se pourrait d'ailleurs que les désirs mêmes de la Société intéressée l'orientent vers une solution adaptée, l'utilisation de la zone dite des « white grass » (pour « wild grass »), du nord-ouest de Tanna, dont les caractéristiques, du point de vue sol et climat, seraient les plus favorables de l'archipel. Une parcelle expérimentale doit y être établie, en même temps d'ailleurs que dans la région de Shark Bay à Santo. Tanna offre, de notre point de vue, deux avantages essentiels : **l'île dispose d'une réserve de main-d'œuvre, masculine et féminine, pour la plus grande partie inutilisée; l'état des choses sur le plan foncier oblige la Société à passer des accords privés avec les propriétaires mélanésiens intéressés.**

L'île pourrait ainsi bénéficier non seulement des revenus procurés par les baux consentis à la Société productrice, mais aussi des salaires — il y a largement assez de main-d'œuvre féminine pour la mise en conserve de l'ananas — et du produit de la vente des ananas plantés en dehors de la zone d'exploitation pilote. Un tel développement économique, dont l'île de Tanna a bien besoin, serait alors un fondement raisonnable à la mise sur pied, nécessaire aussi, d'un Conseil de l'île, élu, qui pourrait alors, bénéficiant de ressources budgétaires notables, faire sortir une population dynamique de l'impasse actuelle.

Jean Guiart.

## ECHOS DU PACIFIQUE

### Remous en Nouvelle Calédonie

La Cour d'Appel de Nouméa, en son audience du mardi 20 août 1963, a confirmé le jugement du Tribunal Correctionnel du 19 avril précédent, condamnant à un an de prison avec sursis, M. Maurice Lenormand, Député de la Nouvelle-Calédonie, pour non dénonciation d'un attentat dont il aurait eu connaissance. Les conséquences de ce jugement qui comporte, pour le Député, la perte de ses droits civiques et de son mandat parlementaire, étaient suspendues en attendant les résultats d'un recours en Cassation. La Cour de Cassation vient de rejeter le pourvoi.

Une question se pose. S'agit-il d'une mise en scène locale, aux dépens de M. Lenormand ? Il ne le semble pas. Bien plutôt, le Député de la Nouvelle-Calédonie a-t-il été victime d'une habitude bien ancrée dans les mœurs locales d'un pays minier où l'acquisition d'explosifs est facile, pour la pêche par exemple, celle de ponctuer les manifestations de mauvaise humeur politique par des explosions. Tous les partis locaux, sans exception, comportent des habitués de ce genre d'exploits. Il n'y a encore jamais eu de morts. Mais on connaît plusieurs cas de voitures piégées — dont une fois au dépens de M. Rives-Henrys, Délégué métropolitain Républicain-Social, une autre fois dans le garage d'un dirigeant local de l'U.N.R., une autre fois aux dépens d'un commerçant vietnamien — et de dynamitage de locaux vides — contre la véranda de Mme Tunica y Casas, ex-dirigeante communiste, et plus récemment, contre l'Assemblée Territoriale d'abord, puis sur le devant du local de l'Union Calédonienne.

Les responsables de ces attentats ne sont jamais poursuivis, même s'ils sont connus, faute de preuves. Dans le cas où le Député Lenormand s'est vu impliqué, seule la dépossession de la police locale, l'enquête étant confiée à la gendarmerie, a permis la découverte des coupables. Il est à noter qu'à la différence de l'affaire qui coûta la liberté du Député de Tahiti, Pouvanaa a Oopa, aucun des inculpés n'est revenu sur ses déclarations, sinon pour faire état, en un premier stade, d'instructions précises reçues du Député, et les nier ensuite.

La culpabilité même des accusés, hommes de confiance du Député aux élections précédentes, n'a jamais été niée ni par eux-mêmes ni par qui que ce soit, pas même par ce dernier, qui ne s'est pas présenté à leur procès pour être entendu. Pour qui le connaît d'ailleurs, il est très probable qu'il a pu se contenter de laisser faire.

Mais la tentation était trop grande, le dynamitage nocturne de l'Assemblée Territoriale, quel qu'en fût l'auteur, ayant joué électoralement au profit de l'Union Calédonienne. Les arguments utilisés par les épigones du Député, en milieu autochtone, au moment des récentes élections à l'Assemblée — jeter le Gouverneur et l'Administrateur d'Etat à la mer, les Noirs vont gouverner les Blancs — avaient montré qu'on était prêt aux mises en scène les plus exagérées pour se débarrasser du Haut Commissaire du moment.

Pourtant, la manifestation organisée le lendemain de l'explosion au local de l'Union Calédonienne fut, en définitive, plutôt bon enfant. On se contenta de rassembler à un coin de rue assez de monde pour prendre des photos démonstratives, et les deux ou trois cents personnes venues se dispersèrent pour aller déjeuner. Il y a heureusement, en Nouvelle-Calédonie, beaucoup plus de bon sens dans les actes des citoyens que de sens des responsabilités dans les déclarations des hommes politiques.

Sur cette situation sont venues se greffer les conséquences de la loi réorganisant le Conseil de Gouvernement en Nouvelle-Calédonie, sans toucher par ailleurs aux prérogatives de l'Assemblée Territoriale. Cette réforme apporte un facteur très positif, l'élection à la proportionnelle du Conseil de Gouvernement. Cette modification de la votation, si elle avait été introduite spontasément il y a deux ans, aurait évité d'aller plus loin. Dans un petit pays, où s'exacerbent les oppositions personnelles, mais où les statuts économiques et sociaux tendent à se départager, à l'exception d'une mince frange de contacts, entre une population européenne urbanisée plus ou moins prospère, et une population mélanésienne, essentiellement rurale, plus ou moins misérable, le principe de la proportionnelle, établi à tous les niveaux de l'édifice institutionnel, évite que ne puisse craindre d'être éliminé tel groupe politique ou ethnique. Si l'Union Calédonienne et le Député l'avaient d'eux-mêmes compris, ils se seraient évité bien des déboires.

En effet, le fond du problème n'est pas l'opposition, verbale, d'une majorité et d'une minorité. Chez l'une et chez l'autre, il se trouve des éléments agissants qui sont d'accord sur le maintien de la situation actuelle, dont le facteur essentiel est le freinage, aussi conscient que constant, de la promotion économique et sociale des Mélanésiens.

Bien des faits le montrent : atmosphère tendue de certaines classes du lycée, les enfants reflétant les sentiments de leur milieu ; protestations de certains leaders européens des syndicats de fonctionnaires contre des changements de catégories accordés à de petits fonctionnaires autochtones ; maintien d'un recrutement très fermé des Services Publics ; orientation des jeunes Mélanésiens instruits vers des cadres parallèles, en partie créés pour eux (moniteurs d'enseignement, moniteurs d'agriculture, infirmiers) ; maintien de l'existence de deux structures d'enseignement primaire parallèles et inégales (instituteurs dans les écoles européennes, moniteurs dans les écoles mélanésiennes) ; à l'entrée dans la Fonction Publique, exigence d'un niveau d'études plus élevé au fur et à mesure que des Mélanésiens pourraient prétendre y entrer au niveau précédemment accepté.

La volonté, chez un petit nombre, de refuser en fait, toute adaptation de la situation actuelle de primauté sociale et économique européenne constitue le véritable fond, servant de canevas à l'imbroglio des événements politiques locaux. Mais cette volonté est aussi évidente chez certains des principaux dirigeants de l'Union Calédonienne, parti du Député, que chez ses adversaires. Cette conjonction explique d'ailleurs les accords électoraux passés à divers moments entre le Sénateur du Territoire, M. Henri Lafleur, et le Député.

Mais on ne peut indéfiniment annoncer une politique, et en pratiquer une autre ; dire aux Européens : « Je suis la seule barrière possible contre les racistes et nationalistes noirs », et aux Mélanésiens : « Si je disparais, vous retournerez en esclavage ». Les tensions accumulées par le fait même des inégalités ethniques, exacerbées par la politique du Député, se sont en définitive traduites par un malaise grandissant à l'intérieur de son propre parti. En même temps d'ailleurs que s'amenuisait l'influence du Sénateur, et que la fédération U.N.R. locale devenait de plus en plus anarchique.

La neutralisation mutuelle des groupes politiques, et des hommes politiques entre eux, à l'intérieur de ces groupes, a permis l'application de la réforme dans un calme général, assurant même la participation de l'Union Calédonienne à la mise en place du nouveau Conseil de Gouvernement.

Il reste le problème de fond. Quelle politique appliquera-t-on dans ce nouveau cadre ? La remise en ordre d'une structure administrative, qui tendait de plus en plus à ne secréter que des abus de pouvoir, était fort nécessaire. L'avenir dépend de la façon dont, par une participation mélanésienne suffisante, se rééquilibrera la promotion des éléments locaux à l'intérieur du secteur prospère, officiel et privé, de la vie néo-calédonienne.

Sur le plan politique, on est déjà très près d'une participation mélanésienne majoritaire, reflet de la démographie, à tous les échelons ; elle est déjà réalisée au niveau municipal (Nouméa excepté) et à celui du Conseil de Gouvernement (3 membres mélanésiens sur 5, si l'on ne compte pas le Haut Commissaire, président). Il y aurait quelque naïveté, quelque danger aussi, à croire que l'on puisse s'en tenir là.

J. G.

**Réalités du Pacifique** est une entreprise **parallèle** mais distincte du « Centre Documentaire pour l'Océanie » ; elle est placée sous le patronage d'un Comité de Rédaction comprenant :

Me Gabriel des Granges, Membre de Section au Conseil Economique et Social, Président de la Chambre d'Agriculture, de Commerce et d'Industrie des Nouvelles-Hébrides - M. le Professeur François Doumenge, Faculté des Lettres, Université de Montpellier - M. le Professeur J. Guiart, Ecole Pratique des Hautes Etudes, Ve Section, Paris.

La formule adoptée est celle d'une large ouverture à toutes les opinions informées. Les articles publiés le sont sous la seule responsabilité de leurs auteurs.

Un service de ce Bulletin sera fait, sur demande, à titre d'échange, à toute Institution ou à tout Périodique intéressé.

Dépôt légal - 1er trimestre 1964

IMPRIMERIE E. BALTZER, 2, RUE TAINE, PARIS

~~MKG~~ REVISED VERSION (original attached behind).

# LAND TENURE IN PAPUA - NEW GUINEA[1]

Published in "Realités des Pacifique" 1964

## The distribution of land.

There is no overall shortage of land for subsistence or small-scale cash cropping in Papua-New Guinea. There are, however, areas where there is a general shortage (e.g. parts of the New Guinea highlands, Gazelle peninsula, and Trobriand Islands). In addition there are many places throughout the country where relatively small groups are short of land although there is ample unused land nearby which is not available to them. As Brookfield has observed[2] the population is most unevenly distributed in relation to the maximum exploitation of the agricultural potential of the country in a modern economy.

As land is relatively abundant and capital is in extremely short supply, emphasis should be placed on obtaining maximum returns to capital, and secondly to labour, even if per acre productivity of land falls below the optimum.

If maximum agricultural productivity is to be facilitated, means of land transfer must be devised to ensure that no person or group who has the ability is held up by inadequacy of land. Transfer of land from those who have a surplus to those who have insufficient is at present inhibited by legislation, by the virtual non-existence of transfer agencies and by lack of finance, as well as by tribal parochialism.

Legislation states in effect that no person can alienate land except to the government.[3] Formal exception is made to permit alienation between indigenes by custom, but our experience suggests that (despite some exceptions to the contrary) this provision is very narrowly construed by the Administration and usually permits only routine transfers such as inheritance. In the pre-contact era major transfers of land rights were achieved by migration, warfare and customary sale. The need for transfer facilities is today much greater and although these pre-contact processes are no longer condoned, no adequate alternative has been provided.

---

(1) This paper was prepared at the request of the World Bank Mission. It is written at a time when our researches into the land tenure situation (begun in March 1962) are only half finished· field research and documentary studies are expected to be completed in 1964 and the analysis and final report in 1965. Opinions expressed are therefore tentative and personal to the writer.

(2) Brookfield H.C. "Population distribution and labour migration in New Guinea," Australian Geographer 7 : 233-42.

(3) Land Ordinance 1962 Part III.

There is a need for legislation to facilitate transfers between both individuals and groups, though safeguards will be necessary to ensure that transfers will result in increased productivity and not in speculation. It is considered most unlikely that recent legislation, prepared with the intention of facilitating land transfer, will achieve its intended purpose, though the safeguards against exploitation appear adequate.(1) This is dealt with more fully on page 4.

If appropriate legislation is provided, appropriate institutions will of course be required to ensure the purpose is achieved. While suitable modifications could no doubt be made, it is felt that the Land Titles Commission is not at present equipped to handle the judicial and documentary aspects, nor does the Lands Department appear at present to be equipped to handle the agency functions.

Registration of titles and settlement of disputes.

There is such widespread lending and sharing of gardening land, and such flexibility within and between both local and kin groups for food gardening and foraging that registration of food gardening or foraging lands would be inappropriate at this stage.

Our research leads us to believe that there is a need, and also a demand, for land registration facilities which will permit adequate identification of traditional land which is used for income-producing tree crops. There appears also to be a need for definition of boundaries between major language and tribal groups. This necessitates appropriate boundary marks and maps, as well as certificates of rightholding for land under tree crops. The mere provision of legislation and a department does little to achieve this goal unless the legislation is designed for efficient operation and a sufficient number of officials is available and supported by adequate ancillary services.

It is our opinion that the Native Lands Commission which was set up in 1952 to settle land disputes and award secure land titles actually resulted in more disputes and less security of title in the country as a whole.(2) This occurred

---

(1) Land Ordinance 1962 and Land (Tenure Conversion) Ordinance 1963.

(2) This situation is by no means unique in the Pacific: the Lands Commission in Fiji and the Native Land Court of the Cook Islands, both of which were set up to facilitate increased productivity, have in fact acted as major obstacles to increased productivity.

because whereas before 1952 approximately 500 patrol staff throughout the country could and did (among other duties) settle land disputes, their power to do so was withdrawn and land cases could be handled only by the seven Native Lands Commissioners.(1) Although the decisions of the patrol staff were often arbitrary, they were given quickly and on the spot and literally thousands of disputes were settled each year. The seven Lands Commissioners on the other hand are bound by complex procedures and must carry out meticulous investigations. No figures are published on the number of decisions given, but it appears likely that the mean number of cases per Commissioner per year from the time of its inception did not exceed two or three. All other disputes have to be left unsolved. Only to the extent that some patrol staff, some local government councils and some indigenous leaders disregard the law and give decisions on land disputes themselves, is the number of disputes contained. With a population of 2,000,000 people, all of whom have rights to land almost none of which has been defined and registered, and most of whom have different types of rights in several plots of land, it is not inconceivable that there might be more outstanding disputes than there are people.(2) There are many more than 2,000,000 plots of land, though we are of the opinion that only a small proportion of these needs registration at this stage.

There is no evidence as yet to suggest that the new Land Titles Commission (which earlier this year took over the work of the Native Lands Commission) will be able to settle disputes or award land titles at a speed which will meet the country's needs. There are also indications that the Commission might meet with public opposition which is directed not so much to the reforms being carried out as to the institution which is carrying them out.

The structure of the present Commission is such that decisions can only be taken by Commissioners and it seems likely that only expatriates will be used as Commissioners for some years to come. Procedures are cumbersome and litigation will be encouraged and cases protracted by lawyers being admitted as of right (this will be the only Lands Commission in the South Pacific to which lawyers are admitted as of right). It appears to us that if the Commission is to cover any significant area of ground, most decisions of detail will have to be taken by local and predominantly indigenous bodies, and decisions will need to be based on local values rather than Australian law.

---

(1) The powers of patrol staff to deal with land ownership were not specifically repealed by the legislation, but the court has ruled (in the case of Busin v Havini in 1957) that they were repealed by implication.

(2) In the Gilbert Islands in 1946 it was estimated that there were 75,000 outstanding land disputes in a total population of 35,000.

The Land Ordinance 1962 permits transfer of registered land only, and then only with the specific approval of the Commission. As only registered land can be transferred and as registration under the present legislation must necessarily be extremely slow, the legal provisions for transfer are nominal only. The Reserves legislation in Fiji was introduced to facilitate the utilization of unused land. In fact the operation of the legislation severely hampered land utilization because the processing machinery through which the title had to pass before transfer could take place was so cumbersome that only a small acreage was ever dealt with.(1) It is likely that the same problem is about to arise here.

Alienation and foreign settlement.

It is officially stated that only three per cent of the land has been alienated.(2) This is true but misleading, for in many areas the proportion of arable land which is alienated is very high. Although we have not yet assembled all the figures, it is probabl that the percentage of currently arable land which has been alienated is higher in Papua-New Guinea than in any other Pacific territory.

Whether any given proportion of land alienated to expatriates is regarded as excessive or otherwise is a value judgement but with the inauguration of a largely elected legislature in 1964 the value judgements of the indigenous people become very important. It is assumed that their opinions will result in a different range of choices for economic development. There is a feeling (irrespective of its validity) that government dealing in land in the past has been designed to promote expatriate rather than indigenous interests.

With the cessation earlier this year of the resettlement of Australians under the Ex-servicemen's Credit Scheme, the programme of expatriate settlement in Papua in effect came to an end. It is most unlikely that an independent government would accept further expatriate settlement, in fact our contact with the people leads us to believe that serious thought should be given to the future of existing expatriate plantation enterprise. Plantations are in general efficiently run, they provide employment for 52,000 indigenous workers, they produce most of the country's export earnings and a considerable portion of revenue through taxation. Quite apart from the question of equity for the planters involved, these are formidable reasons for the continuation of the industry. We have discussed the plantation industry with considerable numbers of indigenous people, and almost none has raised any

---

(1) The Burns Commission of 1961 recommended that this work should cease.

(2) Hasluck, P. Parliamentary Debates vol. 26 p.1019, 7th. April, 1960.

of the above points in its favour (though many are prepared to concede them formally). The most important argument raised by indigenous people in relation to the industry is the proportionate income drawn from it by Australians as against Papuans and New Guineans. The planter, moreover, symbolises for many indigenous people a type of privilege relationship between the races with which they have little sympathy. There are many who seem to favour the abolition of expatriate plantations irrespective of the financial loss, though few are aware of the very high cost involved.

A particularly unfortunate policy has been followed in relation to ex-servicemen, Australians being granted 250 to 400 acres of land and loans of £25,000 and Papuans and New Guineans being granted 15 to 30 acres and a loan of £750 (or similar areas of land and £600 loan if under the Native Loans Board). Official arguments to the effect that the different areas and loans are objectively based on differences in background experience and managerial ability are ridiculed by Papuans who point out particular Papuan settlers who have had as much experience and have carried as much responsibility as some expatriates. They also point out that whereas some Papuan settlers have fully planted their blocks, none of the expatriates has done so. Feelings on this issue in the Northern District are quite intense and the most appropriate alternatives appear to be either to make more land and finance available to suitable Papuan settlers, or to buy out the European holdings and sub-divide them for settlement by Papuan small-holders.(1) It is appreciated that economically the country cannot afford large loans for widespread resettlement, but the precedent set for expatriate planters makes this a political rather than an economic problem.

The judgement in the recent Varzin case (which relates to land confiscated in German times) raises the question of the legal status of titles to plantation land in New Guinea. An appeal is now awaiting hearing and depending on the nature of the decision, clarifying legislation may be called for.

Resettlement.

Land for resettlement can be acquired under existing legislation by three processes: purchase of native land, allocation of unused Crown land, or resumption of unused leased and freehold land. It should be possible to buy native land for

---

(1) The term "small-holder" is used as a convenience only and does not imply any optimum farm size. In fact a variety of holding sizes is necessary to best serve the needs and capabilities of various Papuan farmers. Similarly if more land and finance is to be made available to Papuan farmers, it will not necessarily have to be on the scale now given to expatriate settlers.

resettlement and we know of several instances where owners who are unwilling to sell for other purposes are prepared to sell for resettlement of indigenous farmers. Unused Crown land could be used for resettlement in a number of districts, and many leases to Australian individuals and firms are either completely unused or only partially used. Enforcement of existing development clauses in leases could make this land available (or result in its being planted by the existing lessees).

There are some areas where, due to population increase or otherwise, the indigenous people need land which was earlier alienated from them for plantations. The number of plantations involved is small, but their political importance is significant. There seems to be no reason why the government should not offer to buy such plantations on a willing buyer - willing seller basis (and some at least of the planters concerned would be prepared to sell) for subdivision among suitable persons interested in resettlement. Consideration should be given to the possibility of government or local government councils buying plantations for subdivision.

It is understood that government has undertaken sound planning of resettlement projects with respect to soil potential and crops, transport, and ancillary services. However, only owner-operated peasant holdings are provided for, and the government plans to allocate 7,500 such holdings for resettlement between 1962 and 1968. The major issue which appears to us to have been inadequately dealt with as yet is motivation and the criteria of selection of prospective settlers.

The forms of tenure which are most appropriate for resettlement areas need further study. Circumstances vary widely and there is a need for greater flexibility than is practised at present. Individual peasant holdings are suitable for and wanted by many people (though we have seen instances where multiple extra-legal rights based on customary principles are already emerging in lands on individual lease to Papuans.) Only a small proportion of people we have worked with are motivated to work on individual blocks, but a larger number are prepared to work as labour. There are indigenous entrepreneurs capable of operating plantations provided they can get secure title to sufficient land and some starting capital, mainly to enable a small labour force to be employed (loans of £1,000 to £5,000 may be appropriate). Others again prefer to operate on a group basis and we are aware of quite a few such enterprises, though most have been officially discouraged. We are of the opinion that at this stage there is room for experimentation in forms of organization and types of tenure. It is appreciated that, for some years at least, resettlement will only apply to a minority of people and most will remain in their traditional villages.

Future policy.

Papua-New Guinea is fortunate in that many of the more acute tenure ailments of Asia and the Middle East are absent. There are, nevertheless, serious tenure problems to be overcome and the tenure policy of the future self-governing state has yet to be evolved. To date, policy has been determined in Australia without more than nominal reference to the views of the people of the Territory, or of experience in other developing countries facing similar problems. The land tenure legislation introduced in 1962 and 1963 and the policies on which it was based were evolved mainly in Canberra and to a lesser extent in Port Moresby. It seems that all the planning was done by persons who have no specialized experience of land tenure problems; no institutions or persons with specialist experience were consulted apart from individuals whose experience was limited to Australian land tenure, and some background papers were supplied by the British Colonial Officer (containing outlines of particular legislation but including no appraisals of the results of particular tenure policies); and no indigenous leaders or groups were consulted. Likewise the Land Development Board, which lays down tenure policy has no indigenous representation nor is indigenous or specialist opinion consulted. The Land Board, which makes decisions within the framework of policy laid down by the Land Development Board is a body of expatriate officials, though on token occasions nominal indigenous representation has been admitted.(1)

Assuming that the existing land tenure situation is one of the factors limiting production and that improved tenure arrangements will facilitate greater productivity, it is suggested that existing tenure policy and tenure institutions should be reviewed with the intention of devising appropriate modifications and at the same time transferring responsibility for the acceptance and execution of the policy to the local community. One possible approach would be to establish a commission for this purpose composed of, say, three persons chosen by the elected members of the legislature, one land tenure specialist from the Food and Agriculture Organization of the United Nations and one member nominated by the administration. Such a commission could examine the tenure problems of this country by discussion with local government councils, government officers and private individuals; it could examine evidence about appropriate countries overseas and could if necessary visit some countries where reforms which appear appropriate have already been effected; and it could prepare a draft policy for submission to the legislature.

---

(1) It is understood that in future an indigenous representative will sit with the Board as a matter of course, but always as a minority.

Summary.

1. Despite an overall adequacy of land there are many areas of local shortage of arable land.

2. Maximum productivity is inhibited by lack of suitable facilities for land transfer. It is felt that recent legislation (including the new tenure conversion ordinance) does little to improve this situation.

3. There is a need for an agency (within Lands Department or elsewhere) to facilitate land transfer.

4. There is a need and a demand for some forms of registration for land under (or soon to be under) permanent cash crops but not in general for other land.

5. It is unlikely that the Land Titles Commission as at present constituted will be able to accomplish the task set before it. Procedures need to be simplified and delegation seems to be necessary for the settlement of minor disputes and for provisional registration (by local government councils or other local agencies).

6. The future of the plantation industry needs study in the light of coming political changes. A particular problem has been created by discrimination between indigenous people and expatriates in areas of land and loans granted.

7. Land can be acquired for resettlement by purchase of native land, use of unused Crown land, enforcement of development conditions on leased land, resumption of unused freehold land, and purchase of existing plantations.

8. Greater flexibility of settlement policy is needed to permit of settlement by other than individual peasant farmers in appropriate cases. Individual entrepreneurs should be provided for in appropriate cases, as should social or corporate groups.

9. In order to determine the most appropriate land tenure policy for this country, and to make that policy acceptable to the public, a commission with a majority of representative indigenous persons be set up, to report to the legislature.

(R.G. Crocombe)
Australian National University (New Guinea Research Unit)
15.8.1963

FOR RETURN PLEASE.

# Land Tenure Research in Papua & New Guinea

by

(Notes prepared as a basis for a talk to the Scientific Society, Port Moresby, 10th April 1963)

R. G. Crocombe
New Guinea Research Unit
Australian National University
~~Box 419~~
Port Moresby

# Land Tenure Research in

# Papua & New Guinea

(Notes prepared as a basis for a talk to the

Scientific Society, Port Moresby, 10th April 1963)

We are all aware that cash cropping is relatively new to this country, having begun in a small way in a few coastal areas towards the end of the last century. Commercial agriculture has spread slowly and even today it is estimated that 45% of active males are <u>not</u> engaged in either cash cropping, or paid labour or any other money-producing pursuits. Most of the one million or so people who do engage in cash cropping, do so on a very small scale, and there is only about one twelfth of an acre of land under cash crops per head of population.(1)

Most of the people of Papua & New Guinea are now familiar with money and are anxious to acquire it, but the available sources are limited. Over 90% of the population is at present rural and although the country undoubtedly has some industrial potential it is likely that the great majority of the people will be engaged in agriculture (either for subsistence or cash cropping or both) for many years to come.

---

(1) The following acreages are based on the annual reports of 1960-1. The acreage of coconuts has been estimated from output at the rate of 5 acres per ton, rubber at 5½ acres per ton and peanuts at 4 acres per ton.

| | Population | Coconuts | Cocoa | Coffee | Rubber | Peanuts | Rice | Total |
|---|---|---|---|---|---|---|---|---|
| Papua | 513,648 | 29,250 | 1,200 | 1,290 | 132 | 90 | 100 | 32,062 |
| New Guinea | 1,433,883 | 103,300 | 19,800 | 11,000 | - | 1,180 | 700 | 135,980 |
| | 1,947,031 | 132,550 | 21,000 | 12,290 | 132 | 1,270 | 800 | 168,042 |

<u>Papua</u> (Copra 5,850 tons @ 1/5th ton to acre = 29,250 acres
(Rubber 53,000 lbs @ 400 lbs to acre = 132 acres

<u>New Guinea</u> Copra 20,660 tons @ 1/5th ton to acre = 103,300 acres
Peanuts 295 tons @ 1/4 ton to acre = 1,180 acres

It is probable also that a large proportion of the country's revenue will have to be derived directly or indirectly from cash crop production.

Increased cash cropping thus helps to fulfil both individual and national needs, and any innovation which promised to facilitate increased output merits close attention. Of the many factors, both technical and social, which have an influence on agricultural output, our particular concern is the role of land tenure, for, as Lord Hailey noted in his introduction to Meek's book on "Land Law and Custom in the Colonies":

"The productivity of the land and the social advancement of the people are dependent as much on the evolution of sound systems of land tenure as upon the development of improved agricultural practice."

One reason for the Unit's research in this field is therefore a practical one: to determine what systems of land tenure are likely to give highest productivity in particular circumstances. As we know, a number of different forms of land tenure and work organization have been and are being tried in an endeavour to increase productivity in this country. In pre-war days the two major lines of development were in large-scale European plantations, and indigenous planting under traditional systems of land tenure and work organization. During the last fifteen years, however, a variety of experiments have been initiated. These include highly capitalized, government financed resettlement schemes (as among both European and Papuan ex-servicemen

at Popondetta) schemes operated by or with the cooperation of local government councils (as at Higaturu, Ambenob andVunamami), the cooperative holding and working of land (as at Manus), informal and extra-legal systems of "recording" individual title to native land for cash cropping (such as operate in several districts), leases of land from government to communal groups (as in Morobe and Manus), instances where changes in customary tenure are instituted by the indigenous people (as among some Tolai), and large areas where cash cropping is proceeding on land held under customary tenure following traditional patterns of work organization.

We hope that our studies can indicate which of these tenure systems is most conducive to maximum production per acre of land, per man and per unit of capital. We are also interested to see which systems are best suited to the introduction of new techniques, and which seem to be best adapted to the emerging patterns of social and work organization. Finally we hope to throw some light onthe factors which influence the attitudes of the indigenous people to various introduced schemes and to proposals to modify their present patterns of land tenure and work organization.

We suffer the inevitable limitations of any research project - we have limited time in which to do the work and limited staff to carry it out. The research programme we adopted (just on twelve months ago) was spread over three years. It was decided to cover a wide range of areas in various parts of the country, so we had to restrict

ourselves to fairly small samples and short studies in each area.

We purposely omitted areas for which studies of a similar nature had already been made (such as Chimbu for which Brown & Brookfield have just completed a classic work, and areas where Mr. Fisk and Mr. Hogbin are doing research on resettlement), and we gave preference to areas within which several different tenure systems were being tried. There should be three full-time academic staff on the land research project - myself and two graduate research assistants, but at the moment only one research assistant (Mr. Rimoldi) is with us. We are fortunate inbeing able to enlist the aid of other staff for particular projects and in our studies in the Northern District last year we had seven research workers financed wholly or partially by the University. They were in additon to myself, Dr. Howlett, a geographer who has now left and is working at Sydney University; Mr. Rimoldi, an anthropologist who is with the Unit; Mr. Hogbin, an economist who was on loan from the Department of Pacific Economics and now engaged for that department in studies in the Kerema area; Mr. Dakeyne, a lecturer in geography from Sydney University; Mr. Kearney, a psychologist from Queensland University; and Mr. Ferraris, a student from the Agriculture Department of the University of Queensland. We have also been in close contact with Mr. Cheetham (of the Territory Department of Agriculture) who is making a study of the Papuan ex-servicemen resettled on Crown lands in the area.

The programme we adopted involves studies in the following places [give a brief explanation of each]:

1. Popondetta comparative research:
   (a) European plantation economy.
   (b) Inonda (Council scheme, low population - land ratio).
   (c) Sivepe (Council scheme, high population - land ratio).
   (d) Yega spontaneous resettlement.
   (e) Ongoho communal coffee project.
   (f) Aiga farming under traditional tenure.
   (g) Papuan "Government" settlers (with leases, loans etc.)
   (h) Study of 2 Orokaiva entrepreneurs.
   (i) Intelligence testing.
   (j) Time study.

2. Erap Mechanical Farming Project (Naramonki, Lae).

3. Madang comparative research.
   (a) Ambenob council settlement scheme.
   (b) Ambenob people with traditional tenure.

4. Rabaul (Tolai) comparative research.
   (a) Vudal council resettlement scheme.
   (b) Warangoi government resettlement scheme.
   (c) Tolai cash cropping on traditional land. (There appear to be two variations and a sample may be taken from each).
   (d) Tolai cash cropping on land determined and registered by Lands Commission.

(e) Cash cropping by Ramalmal Trading Co. - a Tolai plantation.

(f) Cash cropping on Tolai reserves (squatters).

(g) Cash cropping by Tolais resettled at Cape Hoskins area.

5. Manus Island - M'buke Island co-operative plantation.

6. The Kuni resettlement at Bakoiudu.

7. The effects of the introduction of cattle in an area of shifting agriculture.

8. Contact with other institutions and comparative problems.

Data on each study will be published in the New Guinea Research Unit Bulletin as soon as possible after completion. The first two studies are now ready for the press and should be available shortly. Three others should be published by June of this year. After the completion of all the field studies (some time in 1964 we hope) I will probably spend some months writing up comparative aspects of the whole study - that is comparing the various studies both with each other and with relevant material from overseas.

Before turning to discuss the outlines of a particular tenure system, let us clarify some general points on land tenure systems. Firstly, we try to avoid the term "ownership" altogether as its use in connection with land tends to be confusing. To the Western ear at least it denotes the absolute possession of all rights by a single

party. The "ownership" of any object refers to the possession of rights in that object - ultimately the right to exclude others from exercising rights of that type. But as there is no land tenure system in existence in which all rights to each parcel of land are owned by a single party, it seems preferable to avoid the term "ownership" altogether and to determine each of the various types of rights and obligations and the parties by which they are held.

Similarly, we avoid the terms "individual tenure" and communal tenure" as they are based on the false assumption that all rights to land are held either by individuals in the former case or by the community as a whole in the latter. These terms obscure the fact that in all tenure systems some rights in most parcels of land are held by individulas, some are held by persons by virtue of their status (e.g. as wives, chiefs, judges, mortgagees). Some rights are held by groups (e.g. clans, local bodies, committees or communes) and others by the community as a whole, usually through its government or through an informal governing body.

The terms "individual tenure" and "communal tenure" are at times used in a relative sense to indicate that the rights of individuals or the state respectively are the more pronounced. In this sense the terms have some measure of validity, but they are nevertheless used with diverse and imprecise connotations. For example we hear the term "communal tenure" used to describe classic communistic, cooperative and a wide range of tribal tenure systems.

For the sake of clarity, therefore, the terms are better avoided and the actual rights held by individuals, groups and communities described for each specific society.

For convenience we recognise five major categories of rights in land.

(i) Rights of direct use. These include the right to plants, to harvest, to gather and to build. It should be noted that different rights of direct use may be held by different parties e.g. one party may have the right to collect building materials, another to plant short-term crops and another to harvest tree crops all on the same parcel of land.

(ii) Rights of control. The right of use is almost invariably limited by rights of control held by parties other than the user e.g. a man with the exclusive right to plant land may nevertheless be required to plant a specific crop, or to conform to certain technical requirements of husbandry or to adhere to certain codes of behaviour. On the other hand the control may be negative, restraining the user from allowing the land to be used for certain purposes.

(iii) Subsidiary rights, being rights of user subsidiary to the main productive function of the land, include rights of access, fishing rights, rights to the use of water and so on. (These are similar to the legal concept of easements).

(iv) Rights of disposal, being the effective power to transfer rights by will, sale, mortgage, gift or otherwise.

(v) Residual rights including rights of reversion in the event of the death of the other right-holders without heirs, or of non-compliance with specified conditions, or of extreme need by the holder of the residual right (e.g. the power of eminent domain held by many states).

Obligations in respect of land are normally the reciprocal aspects of particular rights; rights to inherit from a man are often paralleled by social obligations after the man's death, rights to derive rent being paralleled by the obligation to grant usufruct to the lessee, and so on. This does not, however, suggest that the right and its parallel obligation are necessarity of the same magnitude.

Each right (and each obligation) may be measured in terms of four dimensions: firstly ar area dimension, defining the limits of the area to which the right or obligation applies. Secondly a time dimension, denoting the period during which each right or obligation has force. This may be a specified number of years, or a lifetime, or a period dependent upon the fulfilment of certain obligations or otherwise. Thirdly, a population dimension, enumerating the persons and groups involved in a particular piece of land and classifying

them into relevant categories, statuses and social classes. And finally a legal and customary dimension, specifying the legal or customary code by reference to which the distribution, transfer and exercise of rights is conditioned. A full understanding of this dimension is impossible without an understanding of the social and political structure within which the rights are organized.

Let us now turn to the nature of land rights among the Orokaiva. The Orokaiva people number roughly 26,000 and are divided into about twelve tribes. The tribes are very loose units and recognise no single leader and before European contact warfare within the tribe was not uncommon. Beyond a loose association of a tribe with the area of land in which it lives, there are no land rights at the tribal level. Each tribe is divided into a number of named clans. A clan is seldom localised, and usually it is divided into a number of sub-clans which are dispersed over various parts of the tribal territory. Each sub-clan holds rights over a specific area or areas of land. The virgin forest and the kunai grasslands are often held by the sub-clan, or sometimes by two or more sub-clans which reside in one village.

Each sub-clan is again divided into a number of lineages, and the gardening lands at least are invariably allotted to one lineage or another. Lineages comprise from one up to five or more households, but the larger lineages are invariably divided into sub-lineages so that each area of planting land is usually associated with only two or threehouseholds. Within the lineage again we find

divisions between extended families and for gardening purposes we frequently find divisions within a single household. This happens in the case of a polygamous household, for each wife has separate gardens. But unmarried grown-up daughters, widows, and other additional members of households also maintain gardens of their own.

I will not bore you with the precise nature or the rights of use, of control, of disposal and so on which apply at each of the levels of social segmentation from the individual to the clan. I would like to point out, however, that the rights are vested in social groups such as families, lineages and sub-clans. The rights of the individuals are dependent on their status with respect to the social groups concerned. The two main determinants of status in these groups are descent and residence, so that a person who is born into a particular group and resides in it has particular rights because of this status. But the rights of a person who was born into a group but has subsequently left it are different. The most frequent instances of this are women who marry and go to live in their husbands' villages. They still retain certain rights to tree crops, to the use of sago, and the right to return and resume other former rights in the event of divorce or widowhood. Thirdly there are people who have rights by descent but not by residence - usually the children of women who married out. These children have limited rights to take fish and agricultural produce and to make gardens, under certain circumstances. Finally there are those who have rights by residence but not by descent.

These are persons who reside within the social group on particular conditions and include refugees, and wives who originate from elsewhere. Their rights are conditional on continued residence.

In fact, of course, while we do trace the nature of rights outlined above for the societies we study, the pattern that the rights fall into is usually complicated somewhat by historical circumstances. This may be illustrated by the case of Inonda village, which was the site of our first intensive study. The Inonda people belong to two particular clans within the Kombu - Sangara tribal group. Both these clans are dispersed over a wide area and Inonda village is made up of one sub-clan of each of them. One of the sub-clans is comprised of four lineages and the other of one lineage. The larger sub-clan is clearly dominant over the smaller one in many respects, but the two sub-clans exercise joint rights over some but not all of their hunting lands. The total population of the village is 43.

The two sub-clans do not have exclusive rights to the Inonda lands, however, for they acquired them by customary transfer (for two women, several pigs and some traditional valuables) from a third sub-clan which lives in a neighbouring village. This other sub-clan retains residual rights to the Inonda lands and in fact is currently exerting pressure on the people of Inonda to stop them from planting cash crops on this land.

On the other hand, the Inonda sub-clans also maintain certain rights in land which are currently occupied by other sub-clans.

The Inonda people have shifted their village at least eight times in the course of the past fifty years and on the first four occasions they shifted to completely different areas. With each of these four shifts they acquired some new land rights and lost others. In no case have they acquired all rights to the lands they moved onto and in no case have they lost all rights to lands they left.

When the ancestors of the Inonda people were chased out of their original homeland of Aramba, they fled for safety but still claimed residual rights in the Aramba land and hoped that their former rights could be reactivated at a later date. The question of residual rights lay in abeyance until the Mt. Lamington eruption in 1951 when the great majority of the previous conquerers were killed. Thereafter, the people of Inonda began to reassert their doemant residual rights by paying periodic visits to the area to gather wild foods. They have also delegated certain planting and hunting rights to two other clans which live nearby. Several other groups have claimed rights in the same area.

After their defeat at Aramba, the forbears of the Inonda people took refuge with the Sauhaha clan, and acquired planting rights which they relinquished on their departure. But since then they have frequently acquired wives from Sauhaha and have thus