



The

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Types of Land Tenure Governing Smallholder Oil Palm in Papua New Guinea*

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This is the first of three issues of the *OPRA*tive Word that address land tenure issues in the oil palm smallholder sector in Papua New Guinea (PNG). In this issue *OPRA*tive Word Number 18, we provide a brief overview of customary land tenure in PNG and then describe the main types of land tenure arrangements under which smallholder oil palm is cultivated. In the next issue of *OPRA*tive Word Number 19, we will outline some of the land tenure problems now emerging in the smallholder sector, and in *OPRA*tive Word Number 20, we identify how sustainable land use agreements can be developed for smallholder oil palm on customary land.

CUSTOMARY LAND TENURE

In PNG, customary land generally refers to land that is under the communal ownership of traditional social and kinship groupings like tribes, clans, subclans and lineages. The introduction of commodity crops like oil palm has been accompanied by alterations to customary land tenure. In this section a brief summary is presented of customary land tenure principles in relation to subsistence production because it is these principles that have been modified to accommodate cash cropping. This will assist us in the next issue to understand why conflicts over land and oil palm (they are two separate issues) sometimes arise amongst smallholder growers.

Traditionally, customary land tenure regimes in PNG were characterised by two general sets of principles. First, exclusive individual land ownership and inheritance were almost unknown as all land was vested in land-holding groups, usually kinship groupings such as clans and sub-clans. Typically, membership in landholding groups was loosely based on common descent, residence and participation in social and ceremonial activities (Crocombe, 1971), and, ideally, group members had usufruct rights to land for cultivation of food crops and access rights for hunting and gathering forest products (Ward, 1997). This meant that an individual's gardening rights in an area of land waned as his/her garden reverted to fallow and the fallow period lengthened — there was a gradual reversion of rights to the group (Ward & Kingdon, 1995). This system of communal tenure limited the extent to which land could be inherited directly and so prevented individuals from acquiring exclusive control over large areas of land.

The second set of principles related to the flexible and pragmatic nature of customary land tenure. Rights to land were often modified to accommodate changing socio-political, demographic and environmental situations (Crocombe & Hide, 1971; Ward, 1997). The relative importance in land rights of descent, residency and participation in social/ceremonial and political activities varied so that no single criterion, such as descent, was sufficient in itself to provide unconditional tenure rights. Thus flexible tenure arrange-

ments sustained a system whereby all households had access to land for their daily sustenance as well as access to a range of ecological zones to meet different household subsistence needs. In summary, traditional principles of customary land tenure created a balance between group and individual rights and obligations, with ownership of land vested in the group and access and land use rights operating at the individual or household level.

With the emergence of new land uses such as cash cropping, customary rules of land tenure are tightening and being modified. This is because land planted to cash crops is under individual control for much longer periods than for communal subsistence food gardens where short cultivation periods are interspersed with much longer fallow periods. Typically, under a traditional tenure system when a food garden is abandoned to fallow after several years of cultivation, land tenure reverts to the group. A different situation pertains with long-term assets such as oil palm that have a productive life of over twenty years. Thus, as more land is devoted to commercial agriculture and comes under semi-permanent commercial production, usufruct rights are now vested in the same family or individual for much longer periods.

This long-term alienation of land for cash cropping is leading people to claim exclusive rights of access to, and inheritance of, these resources. For example, usually, the individual or household managing the crop wishes their children to inherit it rather than letting the land revert to communal ownership. Similarly, most oil palm growers prefer to replant their oil palms rather than let the land move back into the pool of common clan lands.



Figure 1: Typical family on a smallholder block in Milne Bay

The most significant modifications to customary tenure for cash cropping have therefore occurred in relation to the greatly extended period of individual tenure and the increased emphasis on individual inheritance of land used for cash cropping. The outcome is that customary tenure is gradually coming to resemble more individualised forms of land tenure. These shifts have been accompanied by a change in peoples' views and attitudes to land such that land is increasingly being seen by some clan members as a commodity that can be sold to people outside the land-holding group. The increased dependence on cash together with changing attitudes to land and land tenure principles are potential sources of conflict in smallholder oil palm production and are the subject of the next *OPRative Word* instalment on land tenure.

The modifications made to customary land tenure can be seen in the range of land tenure arrangements found in the smallholder sector. The principal forms of land tenure governing smallholder oil palm are:

- Agricultural State leasehold land on Land Settlement Schemes (LSS);
- Village oil palm (VOP) holdings on customary land by major and minor clans;
- Land Tenure Conversion blocks; Customary Purchase Blocks (CPBs) or Customary Rights Purchase Blocks (CRPs) on customary land.

Table 1. The numbers and areas of LSS, VOP and CRP oil palm blocks*.

	BIALLA	HOSKINS	ORO	MILNE BAY	NEW IRELAND
No. of LSS blocks	1,866	2,370	1,128	-	-
LSS area (ha)	8,481	12,576	4,215		
LSS area as a % of total smallholder area	66%	52%	30%		
No. of VOP blocks	1,782	3,793	4,554	773	1,256
VOP area (ha)	4,068	8,914	10,020	1,837	2,478
VOP area as a % of total smallholder area	32%	37%	70%	100	98%
No. of CRP blocks	70	964	25	-	26
CRP area (ha)	200	2,990	50		55
CRP area as a % of total smallholder area	2%	12%	0.4%		2%

*(OPIC data for 2007/8)

1. Agricultural State leases on Land Settlement Schemes (LSS)

The oil palm blocks on the Land Settlement Schemes (LSS) at Bi-alla, Hoskins and Popondetta are on State land which was acquired by the State from the original customary landowners. The LSS blocks operate on individual 99-year State agricultural leases that were initially allocated to settlers, the majority of whom were from other provinces. Leasehold blocks average 6 to 6.5 ha. Approximately 45% of the total area of smallholder oil palm in PNG is planted on agricultural State leasehold land (Table 1).

2. Village Oil Palm (VOP) Holdings on Customary Land

VOP holdings are cultivated on village land and are subject to the rules and regulations of customary law and land tenure principles which are recognised in the PNG constitution and in the *Underlying Law Act 2000*. VOP growers are not all customary landowners — they are a diverse group made up of close and distant relatives of the core landowning clan or subclan, members of minor village clans or subclans without full customary rights to the land on which they are cultivating oil palm, or they are members or friends of an extended family network or clan.

Typically, clan leaders control the allocation of land for export cash crops. Clan agreements for the planting of individual oil palm holdings are either informal social contracts or are outlined in Clan Land Usage Agreements (CLUA). Across the oil palm growing areas, , approximately 49% of the total area of smallholder oil palm is classified as VOP plantings (Table 1).

3. Customary Purchase Blocks / Customary Rights Purchase Blocks

Customary Purchase Blocks / Customary Rights Purchase Blocks are cultivated on village customary land by people from outside the village who have 'purchased' the land from the clan. The sale of land by customary landowners is a recent trend, first emerging at Hoskins in the mid 1980s and later, around the mid 1990s to 2000, at Bi-alla and Popondetta. These oil palm blocks were called "Customary Purchase Blocks" (CPBs), though at Hoskins they are now called "Customary Rights Purchase (CRP) Blocks" to reflect the fact that they are not permanent purchases.

Several different land transaction procedures may occur once an area of land has been identified and a 'purchase' price has been negotiated. Often land transactions are undocumented relying only on verbal agreements between the clan leader and 'purchaser'. Other 'purchases' may be recorded on an official Transfer or Lease of Customary Land Form, a Customary Land Transaction Form, and/or a Notice of Change of Ownership Form, and then executed and registered at the Provincial Lands Office. These officially executed forms lack a formal land survey or payment details. Another procedure used in land transactions involves the signing of a Clan Land Usage Agreement by the 'purchaser' and a clan leader.

The agreement acknowledges that the landowning clan endorses the transfer of the customary land to the 'purchaser' for the cultivation of oil palm. In other words, the clan acknowledges that the land has been taken out of the clan 'commons' and use rights have been granted to an individual. Under a CLUA only the access and use rights have been individuated, not the land itself.

Most CRP blocks are cultivated by migrants, especially second generation settlers from highly populated LSS blocks and those who have spent much of their working lives in the oil palm project areas. The high cost of LSS blocks puts these blocks beyond the reach of most LSS growers and other potential oil palm growers (prices for a 6 ha LSS block at Bi-alla and Hoskins range from K30,000 to K70,000 compared with K2,000 to K5,000 per ha for a CRP block). There has been a rapid expansion of CRP blocks at Hoskins over the past 10 years; nearly 2,721 ha of customary land (964 blocks) have been developed as CRP blocks, representing 23% of the total area of VOP plantings. Approximately 200 ha and 50 ha of land have been 'sold' at Bi-alla and Popondetta respectively to 'outsiders' for oil palm development. Not all VOP villages are selling land and the amount of land sold varies greatly amongst villages.

4. Land Tenure Conversion (LTC) Blocks (Popondetta)

In the early 1960s, in an attempt to individualise land tenure and encourage export cash crop production, the Australian administration introduced the *Land (Tenure Conversion) Act 1963*. This allowed for customary tenure to be transferred to individual freehold title. LTC designated land was removed from customary control and registered in the name of an individual, with provisions to allow up to six co-owners to be registered. LTC was based on the assumption that the individualisation of land holdings through titling would encourage the emergence of family farms and thus promote commercial agricultural development in PNG.

LTC land must meet two requirements to be classified as private freehold land. First, it must have an LTC declaration on the land, which identifies the person who owns that piece of land by customary law. The second requirement is that LTC declared land must be surveyed, registered and a freehold title issued. An area of land declared as LTC without a freehold title therefore remains customary land. Legally, customary law continues to apply to such land. Where freehold title is issued, customary law ceases to apply.

The early LTC blocks in Popondetta were planted to coffee, cocoa, or rubber, and many were later replanted with oil palm. Approximately 450 ha of VOP oil palm at Popondetta are classified as Land Tenure Conversion (LTC) blocks. However, most of the land holdings did not proceed to full title registration in the name of an individual, including, the majority of the oil palm blocks in Popondetta presently referred to as 'LTC blocks'.



Figure 2: New Oil Palm development in Ramu Valley, Madang Province

The differences in property rights amongst the primary types of land tenure arrangements discussed above can affect attitudes to replanting, investment levels in farm inputs and other assets, labour mobilisation strategies and the types of livelihood strategies pursued by smallholder families, all of which have a bearing on smallholder productivity and the welfare/quality of life of growers' families. These issues are the subject of the next issue *OPRActive Word* (Number 19 and 20).

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