Introduction

This In Brief highlights discussions around land governance in PNG, in particular, the critical challenges for governance of customary land and opportunities to address those challenges, as identified at PNG’s 2019 National Land Summit. Effective land governance in PNG is possible if suggested reforms emerging from the summit are undertaken.

What is land governance and why is it important?

Governance is the agreement captured in law — whether that law be in a legal setting or a cultural setting — on how a society wants to organise itself, including agreed laws about how land should be managed for the welfare and benefit of all its citizens. Land governance encompasses matters related (but not limited) to the recognition of land as a means of livelihood in terms of ownership, access, registration, development, administration, management and security. Decisions concerning land governance are made and implemented by different stakeholders with varying interests.

A range of issues has recently drawn attention to the need for effective land governance in PNG. These include ‘land grabbing’ in urban and peri-urban areas, an increasing number of land disputes over boundaries and ownership, multiple claims over the same piece of land, corrupt dealings in land, long and costly processes for registering customary land, and concerns around inefficiencies in land administration.

Policy framework of land governance in PNG

Land governance in PNG operates under an evolving policy framework. Section 54 of the national constitution includes recognition of the rights of customary landowners; Vision 2050, PNG’s long-term development plan, acknowledges land as a key enabler for wealth creation; and the PNG Development Strategic Plan 2010–2030 and the Medium Term Development Plan III 2018–2022 both set targets for the mobilisation of customary land for development purposes. If achieved, these development initiatives have the potential to contribute to economic growth through an increase in gross national income and to improve people’s livelihoods through job creation and other income-earning opportunities.

Challenges for land governance

There are two key challenges for governance of customary land in PNG: state institutions’ lack of compliance with laws and regulations (which also creates problems for management of state land) and lack of compliance by executives or other members of landowning groups (incorporated land groups or ILGs) with regulations for the management of ILG assets as defined by the Land Groups Incorporation (Amendment) Act 2009. Both generate their own sets of problems and issues.

Other land governance challenges in PNG include managing conflicting interests of multiple stakeholders such as owners, users and regulators; concerns around security of tenure and bankability of titles; intermittent political and bureaucratic leadership; and managing uneven power relations.

Opportunities for governance of customary land

Mobilising customary land for development while at the same time empowering customary landowners appears insurmountable but not impossible. The National Land Summit held in May 2019 validated and adopted 17 resolutions aimed at developing a policy, legal and administrative framework to facilitate efficient use of customary land for the welfare and benefit of customary landowners and those who do business with them. The 17 resolutions have now been endorsed by the Marape-Steven government for implementation as National Land Development Program (NLDP) Phase II. Of the 17 resolutions, the following 13 directly affect customary land governance. A summary of the issues relating to these 13 resolutions follows:

- Landowner identification: A variety of processes for land identification have been used across the country based on local social and cultural settings, often creating confusion and conflict. It was therefore decided at the summit that a clear structured process for landowner identification that recognises existing social and cultural structures
under a flexible legal and administrative framework was necessary.

- **Incorporated land groups:** The general sentiment expressed by landowners was that given the cumbersome and often costly process involved in the incorporation of a land group, the Land Groups Incorporation (Amendment) Act 2009 should be reviewed with a view to amend or repeal.

- **Voluntary customary land registration:** The customary land registration process is long, costly, and frustrating. For these reasons, calls were made at the summit to review the Land Registration (Amendment) Act 2009 with a view to amend or repeal.

- **Benefit sharing:** Concerns were raised about increasing incidences of an individual or a group of individuals within an ILG hijacking the benefit sharing process, resulting in disputes. A solution to this would be a legal framework that guides not only the distribution of incomes but also the developments, so that incomes generated from land development are optimised.

- **Land dispute resolution:** Reforms in the systems and processes that deal with settlement of customary land disputes have already been introduced but improving efficiency is necessary, largely because this area is a key component of the customary land reforms. A review is critical.

- **Improving customary land registration:** Problems encountered in customary land registration under existing arrangements at the Department of Lands and Physical Planning, coupled with inefficiencies in administration of state land, prompted calls for a new agency to be established to administer customary land.

- **Freehold titles:** The Land (Tenure Conversion) Act 1963 excludes non-citizens and those from outside a landowning group from being granted a freehold title but this is happening and at an increasing rate, forcing the financial sector to refuse to accept freehold titles as security for loans. Participants at the summit called for a review of the legislation’s relevance within the spirit of the reforms.

- **Conflicting land use and titles/licences over the same piece of land:** This is a growing concern, especially in large project areas such as mining projects where factions within landowning groups disagree over possible uses of land. In instances where two or more relevant laws are out of sync, it creates disunity and disharmony amongst the communities concerned. The summit resolved to review the legal and administrative processes for the granting of different types of titles or licences.

- **Underwater lease/waterways:** Conflicts exist in the interpretation and application of laws and processes regarding ownership, access and use rights of underwater leases and associated resources, and waterways. Policy dialogue and debate on legal and customary interpretations and their applications is therefore necessary to harmonise these provisions and to develop a clear policy, legal and administrative framework.

- **Integrating traditional urban villages into town planning/urban growth and expansion:** Integration is critical for the development of viable towns and cities and for service delivery in traditional urban villages. Establishing policy and legal pathways for integration should be an integral part of the reforms.

- **Land compensation:** There are numerous claims for monetary compensation for customary land used by utility service providers and the state, land accessed by resource project developers and alienated land. A policy debate to establish legal and administrative pathways for addressing these different claims is critical.

- **Legal versus customary rights ownership:** Lack of harmonisation of laws is causing conflicts in relation to ownership, access and use rights and interests. There is a need for clarity and harmonisation of laws through public debate.

- **Bankability of land titles:** Customary land titles that emerge from the land registration process under existing arrangements cannot be used as security for loans. Reforms must therefore ensure the bankability of titles.

**Conclusion**

In order to achieve effective land governance, PNG needs a change to current policies and laws. For effective governance of customary land, reforms under NLDP Phase II and other complementary policies need to be effectively implemented with the appropriate political and bureaucratic support.

**Author notes**

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