



# Land and the traditional economy: “Your money, my life” *Hu i kakae long basket blong laef?*

## By Joel Simo

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Photo by Lara Daley

Land has always been of the highest value to the lives of Melanesian peoples and so it will be for generations to come. Research on land tenure in the region has indicated that in all Melanesian traditions, land is regarded as a non-alienable resource that cannot be parted with. In some cultures land is considered to be the mother and the source of life for the people. Land secures life, and fosters and strengthens relationships that sustain life in a Melanesian society. Under traditional land tenure, most lands, beaches, seas and reefs are held and looked after collectively by the members of families and clans and their utilisation is governed by unwritten customary laws which are administered by different customary leaders. Melanesian traditions also consider whatever is on the land or below the surface of the land to be held by the traditional users of the land.

## Land and people

To ni-Vanuatu land is everything: it embodies their link to their past, present and future. It sustains everything they do in life – their beliefs and their daily interactions and activities. It is normally the clan or the tribe that are the custodians of the land and within these clan and tribal areas families are allocated individual holdings that they work on to sustain themselves. Ni-Vanuatu see land as sacred and as part of themselves. Land is not seen

as a mere commodity that can be used and then dispensed with when it is no longer needed. Not only do Melanesian beliefs affirm the sanctity of land, but they also totally contradict the imported notion of “ownership” of land. Land is held rather than owned by the people, who are entrusted by their society to be the custodians of the land in the interests of their children and future generations.

If you ask a ni-Vanuatu, “Where are you from?” you will always receive the reply, “I am from this or that island.” If you question the person further you will learn the particular area where they are from, and the relationship that person has with a particular piece of land that is held by their clan and ancestors. The land to which the person refers is not theirs exclusively but is shared with other members of the person’s family and clan, who may also use the land for houses, gardens, and anything else that might support them in their lives. Melanesians’ entire lives are grounded in their land. The relationship that ni-Vanuatu have to their land is like that of children to their mother (Van Trease 1987: xi). Every piece of land has a story that tells of the origin of those who hold the land as well as of how they came to settle there.

In Melanesia in general and in Vanuatu in particular, people have a special relationship with their land because they know that it is their only safety net and social and food security system. They are also aware that it is traditional land tenure that enables them to be self-reliant, because traditional land is always available if and when a ni-Vanuatu cannot find a cash-paying job in town. In Vanuatu, people rely more on the traditional subsistence economy for their survival than on cash. The land guarantees more than 80 percent of the population freedom from hunger, homelessness and unemployment.

The stories and legends that are attached to the land in Vanuatu do not simply refer to the places where people have built their houses and made their gardens but also to the areas of surrounding forest. The forest is like a warehouse for the people, a place where they can get food, medicine, timber for houses and many other essential resources. There is no area of forest that is unused because people utilise forest resources to satisfy a great number of needs.

Land is an important part of the heritage of a community because of the belief that ancestral spirits inhabit the land and look after present and future generations. The belief that people who are alive today share their land with those who have died and also with those who are not yet born makes it particularly difficult to remove a community from their land.

Land is something that ni-Vanuatu cannot separate from their lives. For a person to understand land practices

s/he must intimately know how people relate to and manage that land. Over time, people have developed ways to manage their land in a manner that best meets their needs. Thus, it has proved difficult to introduce and enforce new systems of land tenure.

For example, on the island of Tanna, if a tree bears fruit on a man’s land, he must ask his sister to pick the first fruits as customs forbids him from doing so. This is a way to show respect to the man’s sister as well as to the clans into which she has married (Simo 2006). The sister has a right to things on her brother’s land as they share the same father. It is therefore important to understand the relationships between people within a community and how they relate to the land before interfering with traditional practices. Only through an understanding of these relationships can land matters be settled in a peaceful manner without disputes.

To sum up, land is valued by ni-Vanuatu because it symbolises their whole being, their identity, and the basis upon which their subsistence requirements are met. It has always been common practice throughout the nation that land tenure is vested in groups and families rather than in individuals. These customary “laws of the land” remain with the people of Vanuatu to this day. If we analyse each land practice we’ll find that no man, woman or tribe is left without land. Each and every person under a chief or a head person has their plot of land from which to live and enjoy the abundance that the land provides. It is the chief’s duty and responsibility to ensure that everyone has a place to live, to obtain food and to build a house. These traditional land laws prioritise the life of each and every person and leave no one landless. Without landlessness in Vanuatu there is no real poverty because everyone has land to live on and cultivate to meet their daily needs. The traditional economy has sustained people for thousands of years. For this reason landlessness, hunger, homelessness, and unemployment are rare throughout the archipelago.

## **Land alienation before and after independence**

Land alienation never occurred prior to the arrival of the Europeans in Vanuatu. At times, land was exchanged under customary laws and under the supervision of the responsible chiefs. Most land that was purchased during the colonial period was paid for in kind (e.g. with a few yards of cloth, a knife or a gun). Land alienation in Vanuatu started when traders began to frequent the islands in search of land for plantations. Much of the land that they acquired was obtained through fraudulent means.

Land registration in Vanuatu was formalised in 1913 under British-French Condominium rule. Under

colonial rule, much more land was taken away from the indigenous population, leading to the formation of a movement to reclaim the land. Land alienation was the key issue that allowed certain political parties to mobilise the indigenous population to fight colonial rule, which eventually led the country to independence in 1980. When Vanuatu gained its independence, traditional land tenure was enshrined in its Constitution, which states that all of the land belongs to the people of Vanuatu and their descendants and that customary law will determine land tenure and the use of the land.

However, since independence, new laws have been introduced that contradict this constitutional mandate in the name of bringing more “money development” into the country. As in other colonised countries with substantial indigenous populations, these new land laws have been promoted as beneficial to Vanuatu’s cash economy, despite the fact that the majority of ni-Vanuatu live off their traditional non-cash economies, which depend on traditional land tenure practices.

Under the new adopted land laws the country is gradually moving from customary land tenure to privatised ownership by individuals. And many of these individuals are foreigners with Western concepts of land ownership that see it primarily as a financial investment, rather than a part of themselves and something to be cared for.

It is now some thirty years since independence and over 80 percent of the coastline of the island of Efate has been sold off, with little real or long term benefit going either to the alienated traditional landholders or to the nation of Vanuatu as a whole. Slowly but surely, these new laws are impoverishing and marginalising most ni-Vanuatu by depriving them of their traditional power and control over land. Most indigenous people who have leased out their land under these new laws are already experiencing difficulty in securing back their land when the leases expire. What is happening to the land today seems to be a repeat of the expropriations that took place before independence.

### **The de-customisation of land in Vanuatu**

Pressure from investors and from neoliberal development models prescribed by foreign consultants and adopted by the government are paving the way for the indigenous population to lose their traditional power over land. Under the current introduced land registration laws the government and private investors can negotiate a renewable lease of up to 75 years from the customary

landholders. When a lease has gone through a formal registration process, there is very little recourse for the custom owners to rescind the deal no matter what the circumstances. These land dealings are basically meant to protect the developers and businesses that supposedly provide jobs for the people.

A number of these leases have created disputes in local communities. Loopholes in the system have allowed corrupt dealings by some investors, government ministers and the Land Department to continue unabated. This has accelerated the sale of customary land to real estate agents, investors, and private individuals with access to cash. The customary landholders become easy victims of these dealings due to a number of factors:

- Propaganda that lures traditional landholders into registering and leasing out their land has been intense. Very little effort has been made by the government or others involved in implementing the new land registration laws to promote information and awareness on the part of customary landholders of the potential negative impacts on the lives of present and future generations.
- Lease contracts are written in technical language which is not easily understood by the traditional landholders. Little or no effort has been made to assure that people fully understand the implications of signing these documents.
- While land is traditionally held by communities and not individuals, the new land laws and the people responsible for implementing them allow and even encourage individuals to register and sell land that is not wholly their own. This has caused deep divisions in local communities because many community members have been deprived of their power over their land without prior informed consent.
- Ministers and other government officials responsible for land often accept and even demand bribes for service, which means that most disputed cases are decided in favour of businessmen who have access to cash, rather than in favour of the customary landholders.

These and other corrupt practices are widespread within the Lands Department and among the political elite – and there appears to be a lack of political will to address this problem. This puts into question the real intentions behind the acquisition of land for “development”. Meanwhile,

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<sup>1</sup> Land Registration Act section 14( 2) and Land Lease Act section 15.

those who have had their customary lands registered are left to fend for themselves when problems arise. All of this makes one question both the spirit and the letter of the government's land tenure reform program that is jointly being funded by AusAID and NZAID. Despite all of their rhetoric about "socially responsible" and "sustainable" development, there is strong support from AusAID and NZAID for this shift in land tenure practices that facilitates investors, developers and real estate speculators to buy or stake a claim on much of the land in Vanuatu.

The current de-customisation of land in the interest of investors and those with hard cash has already expropriated land from some ni-Vanuatu and will, if not stopped, transform the country from a nation of self-sufficient subsistence producers into an impoverished mass of landless wage-labourers, willing to work for less than subsistence wages. Land registration permanently transfers customary control and power over land to a corporate and globalised system that has already driven hundreds of millions of people around the world off their land and into urban shanty towns. The land, work, communities and cultures that were once controlled by all and used to satisfy the needs of all are being enclosed, appropriated, diverted and distorted to feed the insatiable greed of a system that serves profit, not people (Faraclas 2001).

### **Applying the wrong developmental model**

Most land in Vanuatu and Melanesia still remains under customary tenure. The land has always worked for the

benefit of the people of Melanesia and will continue to do so as long as traditional power over land is maintained through customary land tenure.

However, with the current neoliberal wave of corporate globalisation, the governments of Melanesia (including Vanuatu) are led to believe that traditional land tenure, which was designed to serve the people's interest, is an obstacle to "development" and that a new land tenure system must be embraced in the name of "progress". As a result, most Melanesian countries are being encouraged to "free up" more land under new land registration laws for the purposes of "development" and "security". To achieve this, land must be put under the power of the state through registration and the right to its usage restricted to individuals through privatisation. When customary land is registered, privatised, and leased or sold, the customary landholders not only lose power and control over their lands, but more often than not, benefit very little from the resulting "developments" on their lands.

The trend by which the indigenous populations are gradually losing their grip on their only safety net is highlighted in a 2009 United Nations report, *The State of the World's Indigenous Peoples*, which "identifies displacement from lands, territories and resources as one of the most significant threats for indigenous peoples, citing many examples, including in Malaysia, Indonesia, Thailand, Hawaii, Rwanda, Burundi, Uganda, Democratic Republic of the Congo (DRC) and Colombia" (UN News Center 2010).

## **Land alienation in Efate**

Land registration, privatisation, and leasing have already led to a catastrophic situation on the island of Efate, where 80 percent of the coastal land has passed from the hands of customary landholders into the hands of investors and land speculators. Pango village residents outside Port Vila have been deprived of their traditional beaches and reefs as investors barricade them from their properties. As expressed by one young man from Pango village:

"When our land was not yet in the hands of the investors we had the freedom to walk and swim on our beaches and to fish on our reefs. We have been promised development, but to this day I have seen no benefit from the activities of these developers. We are gradually being marginalised and sandwiched in like sardines trapped in a tin. Every Saturday I mobilise the boys in the village to clean up the beaches to let the investors know that this is where we belong."

Real estate profiteers are pocketing millions while the indigenous custodians get almost nothing from these deals. Concerns raised by a number of chiefs on the island have so far fallen on deaf ears. If this situation continues, it may lead to tragic civil unrest similar to what happened in Bougainville and in Guadalcanal, Solomon Islands, in recent years.

This and other reports which highlight the plight of indigenous people who are being forced off their lands by land registration and privatisation programs are a clear indication that the model of registration of land for development purposes will not work for the people of Melanesia. Development that disturbs traditional economies and land tenure practices are inappropriate and will encourage more dependency on the national government, and in turn, international development agencies and investors that often have their own agenda linked to liberalising trade and accessing natural resources.

The critical question now is whether Melanesian countries and in particular Vanuatu can learn from the experiences of other developing countries where adopted land laws have led to the dispossession of indigenous peoples from their land, at immense human cost. Will Melanesian countries allow land speculators, developers and profiteers to transform their indigenous populations from relatively well-housed, well-fed and productively employed citizens into landless, homeless and underemployed wage labourers? Or will traditional Melanesian creativity and resourcefulness prevail? The achievements of our ancestors already provide a solid foundation upon which we can build an alternative model in line with the Melanesian philosophy of land.

As the United Nations report (2009: 7) clearly states “indigenous peoples themselves must be free to determine their own development. This entails that indigenous peoples’ rights to their own lands and territories must be respected and that indigenous peoples need to develop their own definitions and indicators of poverty and wellbeing.”

## Key recommendations

1. Just as Melanesians are expected to obey the laws of Australians or New Zealanders when they want to do business in those countries, so should foreign companies, investors, and business people be expected to obey the customary and national land laws of Vanuatu when they want to do business in Vanuatu.
2. All land laws that are not in line with Vanuatu’s Constitution and customary land laws should be revoked. Vanuatu’s Constitution clearly states that all land in the country should be governed under traditional law, rather than under the insidious new land laws that outside governments and businesses have persuaded the Vanuatu Parliament to accept.
3. A comprehensive process involving the examination of all land transactions that have been completed under the new and unconstitutional land laws should be established, with the power to expose unethical and illegal practices by businesses, investors, politicians, and government officials, the power to restore land to customary landholders under their traditional laws, and the power to compensate customary landholders for damages incurred as a result of these practices.
4. A process of dialogue must take place with traditional landholders with the goal of creating a ni-Vanuatu vision for development that is designed to serve the needs of the people of Vanuatu, rather than to serve the interest of foreign investors and a government looking for revenue.

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