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**A TRADITIONAL LANDOWNER'S VIEW FROM
VANUATU**

by
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The subject is very complex and sensitive. I will not be able to exhaust the issue, but I will attempt to air some views on customary land ownership.

The customary approach does not always agree with legal or economic viewpoints, as the institutions acting on behalf of each of these three approaches function according to different rules or procedures. In Vanuatu, the Government encourages the three types of institutions to work together, as one type cannot replace another.

HOW VILLAGES ARE STRUCTURED

I would firstly like to clarify the context. Vanuatu is a group of many large and small islands. Each island is made up of many villages and each village consists of a number of clans, which in turn are composed of several families.

Transport and communication between islands is difficult and so a particular set of rules may apply to only one island. When someone leaves his island, a new structure applies. Consequently we need to examine rules to ensure that they are compatible with the various island communities and their chiefs. We also need to ensure that each individual can identify with a particular island, village, clan or family (e.g. in the case of an inter-island marriage). This approach promotes the unity and solidarity that must exist at island, village, clan and family level.

POWERS OF CUSTOMARY CHIEFS

I would like to describe the chief's role, so that you can understand my viewpoint. In Vanuatu the major roles of a customary chief are to watch over and protect customary law and preserve cultural integrity. Other major areas of responsibility include the welfare, security and interests of his people. This is in accordance with the philosophy behind customary law which tends to stress serving the interests of the people equitably and encouraging unity at island, village, clan and family level.

The customary chiefs' dilemma is that given recent developments in Vanuatu today, which will continue along the same lines, the chiefs find it difficult—and I say this with regret—to integrate sustainable development into the existing cultural environment.

ENTITLEMENT TO CUSTOMARY LAND OWNERSHIP

The policy of the National Council of Chiefs is to consider that a person is entitled to customary land ownership if his lineage is directly connected to the village or clan within the boundaries of which the relevant land is located. The person must be descended from the clan in question. He can then claim customary ownership rights in that land.

The National Council of Chiefs also recognises the entitlement of an adopted child. If a man takes up residence in a village, his descendants are entitled to own land after four or five generations. The children of a woman who marries into another village are also entitled to land ownership, but these three options are available only when a family's direct bloodline is extinguished.

These are the two main ways in which a person may own customary land, but other forms of tenure are recognised under custom. If an elder falls seriously ill and is cared for by an outsider until his recovery, he can give a plot of land to the outsider. The latter is considered to be the customary owner of the plot.

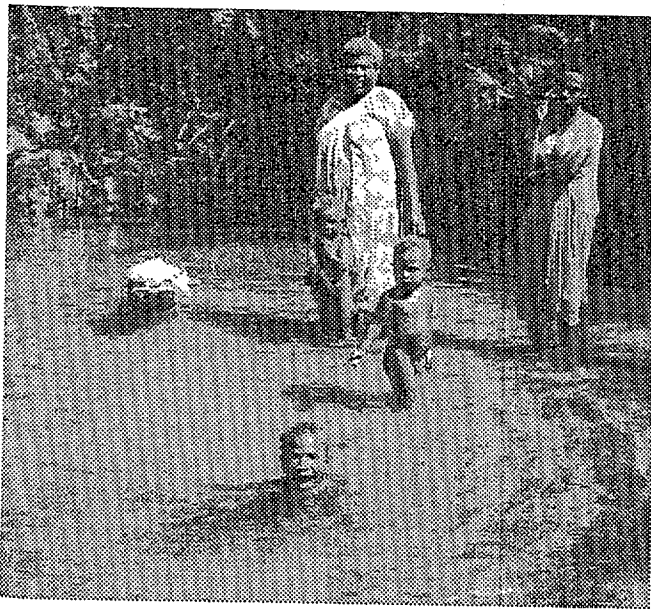
These forms of acquisition enable a person to have direct authority over land. If, however, a foreigner or person from another island in Vanuatu wishes to acquire land, he has to deal with the island, village or clan chiefs. The power of decision does not reside with the customary landowner but with the customary clan or village chiefs. Today, in addition to the customary landowner and Island Council of Chiefs, the advice of local government is also increasingly sought.

CURRENT LAND LEASING SITUATION

Customary landowners lease out their land on 75-year terms. They can lease it to inhabitants of the same or other islands or to foreigners. With regard to access within village or clan boundaries, lessees do not feel under any obligation to comply with village or clan rules. Outside influences are also introduced to the established structure and this has a significant effect on village activities.

For example, if there is water frontage, any villager, young or old, will come and enjoy the fresh air. Children will pick nuts and breadfruit and share them with others present. Mothers come and wash their pots and pans or bathe after working in the vegetable garden. It is an occasion for meeting other villagers, exchanging news and greetings and discussing problems. It is a way of maintaining good village relations and an opportunity to cement bonds of unity. If, however, the customary landowner leases the land for a tourist industry project, he can fence off an area and restrict it to use by tourists wishing to come and relax in Vanuatu. The tourist project becomes part of the organisation of village life.

Even after 75 years, the customary landowner can reclaim the land but has to pay for all the improvements that have taken place on it over the 75-year period. 75 years, however, is the equivalent of a whole generation and it is impossible to re-establish the customary activities that previously took place there.



Water is shared by all

THE DESIRE FOR LARGE INCOMES

We occasionally wish to stop such large-scale projects to save our rural people's cultural integrity. Sometimes, however, the desire of some of our people to lead a comfortable life exceeds their willingness to preserve tradition, creating differences of opinion, and one party has to give way to the other. Customary institutions are not sufficiently prepared to meet people's aspirations in such areas as economic development when it is pitted against custom and culture.

LEASED LAND AS AN OBSTACLE TO CUSTOMARY PRACTICES

Once a plot of land is leased, it is difficult to put it to such customary uses as giving it away to help family members. The time and effort involved in creating a lease is also a significant obstacle. For example, if a man marries his daughter into another village and wants to give her a small plot of land, but encounters land problems, he must subdivide his land and create a new lease. This involves a great deal of administrative work and trouble. This discourages some people from going through the process and they handle the problem in the traditional manner. In the old days, the father would simply call his children and show them the boundaries of his daughter's land and the issue would then be settled.

CONCLUSION

Given the current situation, I find it difficult as Chairman of the National Council of Chiefs to state affirmatively that customary land ownership and sustainable development are complementary. Although sustainable development may provide villagers with income, it can only complement customary land ownership if it takes all the cultural aspects attached to customary land into consideration, because customary land tenure is not similar to leasehold with its clearly specified land uses. Under custom, land belongs to the individual, but can sometimes be used by the whole village. This is where the difficulty lies in defining customary land ownership.