



Land Disputations in Vanuatu

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Land disputes

- Land disputes have always been an integral part of Vanuatu history
- Disputes occur between members of custom owning group, between different land owning groups or with outside parties like Government or developers
- Conflicts between parties are taken to multiple forums and can last decades

Land Dispute forums


- Informal and Formal dispute resolution forums
- Informal:
 - Small family gatherings, Nakamals, Chiefly Councils
- Formal:
 - Island Courts set up around 1983
 - Appeals to the Supreme Court
 - Passing of Customary Lands Tribunal Act 2001
 - Set up of land tribunals across the country
 - Backlog of cases,
 - knowledge of customs
 - Article 78 of Constitution


Aim and Methodology

- This paper examines the complexity of land disputes in Vanuatu
- Illustrates how development benefits can intensify and compound land disputes
- Illustrates how land disputes can halt development
- Case tracking, files from CTLU, PacLII, informal interviews

Takara Land Case

- The case First submitted to the Efate Island Court in 1984
- 5 parties involved, all claiming ownership of land
- Case brought to court because of sharing of lease benefits
 - Custom Owner Trust Account (COTA)
- 20 years to hear case
- Conflicts have been known to erupt between the different parties

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- IC sat to hear case in 2004
 - Decision made after considering family tree of each party, listening to evidence concerning the customary use and law of land ownership
 - IC decision was that none of the parties had provided enough evidence to prove their claim
 - IC added that parties could appeal decision to the Supreme Court

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- All 5 parties appealed to the SC
 - Correspondence between the parties, CLTU and SC came to an agreement to defer the case down to the Lands tribunal
 - In early 2005 SC ruled that case be heard inside the Lands tribunal

Sub-Area Land Tribunal

- Sub area Customary Land Tribunal level heard case in 2006 (Emau/Takara Land Tribunal)
- 4 of 5 parties present in sub area land tribunal
- decision was 3 of the 4 parties were declared customary owners
- Other party lost because he was from another island
- People with user rights to continue to live in the area
- Decision appealed to the Area Land Tribunal by parties

Area Land Tribunal

- 2011 case was finally heard inside the Area Land Tribunal
- No decision yet
- Issues affecting the case
 - Internal conflicts within parties
 - Chiefly title dispute
 - External parties claiming lease benefits
- Case could go back to the Supreme Court
- Not very clear what forum can make final decision

Issues

- Issues affecting the case
 - Internal conflicts within parties
 - Chiefly title dispute
 - External parties claiming lease benefits
- Dispute resolution process not very clear at the moment
 - Case can go back to the Supreme Court
 - Not very clear what forum can make final decision

Development Opportunities Affected

- Leases (1989)
 - COTA funds
 - Takara Marius
 - Beachcomber resort
- Extraction of Volcanic Basalt rocks (2007)
- Current proposal to built a geothermal power plant

Lessons learnt

- Land disputes can drag on for many years
- Development opportunities can be halted because of land disputes
- Development opportunities can also create land disputes

Suggestions for way forward

- Broader engagement with customary groups in early stages of development
- Securing broader benefit sharing arrangements
- Dispute management vs resolution
- CLT Act undergoing review



Thank you