

School of Design and Built Environment

**The Examination of Land Tenure and Income Security Among
Oil Palm Land-Poor Migrant Farmers of West New Britain**

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of

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Statement of Declaration

To the best of my knowledge and belief, this thesis contains no material previously published by any other person except where due acknowledgement has been made. This thesis contains no material which has been accepted for the award of any other degree or diploma in any other university.

Signature: _____

Date: 12th February, 2019

Dedication

This thesis is dedicated to my late daughter Ms Rebecca Odilia Germis who passed away on 15th November 2018 at 12:33pm at Kimbe General Hospital. My daughter was one year two months old at the time of her death. Rebecca Odilia was born on 17th September 2017 when I was away in Australia for studies. I have spent very little time with her and I was looking forward to invest and compensate for the time deficit when I was away for studies in her upbringing, but it was very unfortunate and unfair for myself and my family to continue on in life without the latest family member (Ms Rebecca Odilia Germis) of our young family.

Rebecca Odilia, we (your parents and families) will have you in our hearts, thoughts and prayers till we meet again one day. Rest in eternal peace our baby princess Ms Rebecca Odilia Germis.

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Abstract

The “purchase” of customary land by migrants to pursue livelihoods in the oil palm frontier of West New Britain (WNB) in Papua New Guinea (PNG) is increasing rapidly. Yet evidence suggests that land laws governing the leasing and transacting of customary land in PNG are lacking thereby causing uncertainty for both migrant farmers and customary landowners. Previous research has suggested that migrant farmers have more secure livelihoods if the rules governing land tenure are predictable. Therefore, current and future land access through formal and informal land rights has implications for a secure and sustainable farming system.

This thesis examines the “purchase” of customary land at two villages in WNB: Morokea and Gaungo villages. Migrants acquiring customary land for livelihood investment purposes have very diverse characteristics and use a range of ways to negotiate access to customary land. The decision to “purchase” customary land is often decided at the family level, with the family head’s decision influenced by other family members as well as relatives and friends. Some migrants use their former work experiences and other business experiences to provide public goods and services to the host landowner communities, thereby increasing their value and ‘acceptability’ to their hosts. Early migrant growers in Morokea were accepted into the landowning clan as clan members by their landowner ‘brothers’ through a traditional socially embedded process. More recently, migrants have had to pay for land rights and while this represents the increasing commercialisation of land transactions, there are still opportunities for migrants to become clan members.

My research shows that over the last 30 years there has been a steady process of increasing formalisation and documentation of land access arrangements by migrants in Gaungo and Morokea. Despite increasing formalisation of land access arrangements, the maintenance of social relationships and meeting socio-cultural obligations remain essential for migrants wishing to maintain land tenure security. The long-term relationship between customary landowners and migrants is based on mutual trust and respect. This research contributes towards strengthening land tenure arrangements between migrants and customary landowners and contributes to the customary land reform program in PNG.

The increased demand for customary land over the last three decades has shifted from a general focus on oil palm development to securing land and resettlement opportunities for migrant families. The long-term cultivation of oil palm and resettlement of migrant households has displaced the traditional notion of land “gifting” as a temporary arrangement, to a formal long-term arrangement of land “gifting”.

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List of Acronyms and Abbreviations

CILM	Commission of Inquiry into Land Matters
CRP	Customary Rights Purchase
CLUA	Clan Land Usage Agreement
DLPP	Department of Lands and Physical Planning
FFB	Fresh Fruit Bunch
GPS	Geographical Positioning System
ha	Hectare
ILG	Incorporated Land Group
LDSA	Land Dispute Settlement Authority
LLB	Lease-Leaseback
LLG	Local Level Government
LMP	Land Mobilisation Project
LO	Landowner
LPMF	Land-Poor Migrant Farmer
LSP	Long Step Procedure
LSS	Land Settlement Scheme
LUA	Land Use Agreement
NADP	National Agriculture Development Project
NBPOL	New Britain Palm Oil Limited
NEC	National Executive Council
NGO	Non-Government Organisation
NLDT	National Lands Development Taskforce
OPIC	Oil Palm Industry Corporation
PAF	Planting Approval Form
PGK	Papua New Guinea Kina
PLO	Provincial Lands Office
PNG	Papua New Guinea
PNGOPRA	Papua New Guinea Oil Palm Research Association
RA	Research Assistant

RSPO	Roundtable on Sustainable Palm Oil
SBLC	Stettin Bay Lumber Company
SHA	Smallholder Affairs
SO	Support Officer
SSP	Short Step Procedure
SSR	Smallholder and Socioeconomic Research
UPNG	University of Papua New Guinea
VCLR	Voluntary Customary Land Registration
VOP	Village Oil Palm
WNB	West New Britain

I was born and raised amongst oil palm farming communities. My father, a senior oil palm extension development officer for over thirty-seven years (1981–present), has mentored me throughout his career. I made my move to follow his footsteps during my secondary education. I joined my father after graduating from university and worked for three years (2008–2010) serving the oil palm farmers. However, I knew I had more to contribute to the socioeconomic well-being of the farmers. Therefore, I took up the opportunity to join oil palm research (2011–present) so that I will have a greater influence and impact on farmers’ livelihoods through research. This lifetime opportunity gives me the chance to pursue my dream and use my experiences to contribute innovatively and creatively to the sustainable development of smallholder farming and livelihoods. This drives my interest in investigating this area of research.

CHAPTER 1

INTRODUCTION

1.1 Introduction

Research shows that smallholder farmers in developing countries continue to rely heavily on their land to sustain themselves. The key to improving the livelihoods of farmers is through having secure and predictable land access through formal and informal land rights (Lawry et al. 2014, Christen and Anderson, 2013). In Papua New Guinea (PNG), the migration from rural to urban areas is common.

“Throughout the Pacific, people are leading increasingly mobile lives as they seek new livelihood opportunities outside their village” (Curry, et al. 2012, p. 117). There is also much rural-to-rural migration, mainly to agricultural and resource frontier zones, where communal tenure is the dominant form of land tenure. In pursuit of livelihoods, land-poor migrants in these frontier zones are entering into a range of formal and informal arrangements with customary landowners to gain short-term and long-term access to land. This has created an emerging land market and changes to customary land tenure regimes (Curry et al. 2012).

This study was undertaken in the oil palm growing areas of West New Britain (WNB) where the ‘purchase’ of customary land by non-clan members (migrant farmers) has increased rapidly over the past two decades¹. The ‘purchase’ of land in this study is defined as outsiders dealing directly with customary landowners to access land for smallholder oil palm block development via monetary and goods payments (see Chapter 4). Disadvantaged people from urban areas are also ‘purchasing’ land parcels in WNB. These migrants are seeking a life after retirement and business opportunities on customary land in the name of oil palm investment. The sustainability of farming investments by migrants is dependent on the behaviour and attitude of migrants and their households, and the trust and respect of landowners.

¹ The land ‘purchase’ or ‘sale’ means that migrant farmers are not purchasing the customary land outright but are only purchasing the user rights to develop oil palm business on the land.

This thesis examines land tenure and income security among land-poor migrant farmers (LPMFs) in WNB. In the oil palm growing areas of WNB, there is enormous demand for land by migrant farmers seeking to secure a future for themselves and their families in the province (Koczberski et al. 2009). Over the past twenty years, many migrants have ‘purchased’ customary land to cultivate oil palm. There have been some studies conducted on Land Settlement Scheme (LSS) settlers ‘purchasing’ customary land for oil palm development in PNG (Koczberski et al. 2001; Koczberski & Curry, 2004; Koczberski & Curry, 2005; Koczberski et al. 2009; Curry & Koczberski, 2009; Koczberski et al. 2012; Koczberski et al. 2013; Koczberski et al. 2017). Whilst socioeconomic studies have been conducted among the two major groups of smallholder oil palm farmers (Koczberski et al. 2001), no detailed studies have been conducted to examine the land tenure and income security pressures affecting the livelihoods of this rapidly growing group of migrant farmers. LPMFs are from a range of backgrounds: some are descendants of existing oil palm farmers who migrated to WNB in the 1960s and 1970s; some are retired employees of government and private organisations; and others are business-oriented people who want to use oil palm as an income base to diversify and increase their incomes.

The acquisition of customary land by migrant farmers in WNB dates back to the early 1980s. The initial land transactions were often informal verbal agreements between parties where there was an established relationship, such as a friendship between the landowner and the ‘outsider’. Land parcels of between 2 and 4 hectares (ha) have been ‘purchased’ for different prices in different locations since the 1990s. Later, the government agriculture extension agency developed a template for land use agreements that sought to reconcile landowners and migrants’ differing interpretations of the basis of the land rights of ‘outsiders’. This agreement is known as a Clan Land Usage Agreement (CLUA). The CLUA documents show a way forward for land reform that build on and secure customary tenure while at the same time strengthening the temporary use rights of migrants to enable them to generate viable and relatively secure livelihoods (Koczberski et al. 2012). The CLUA template has been accepted by landowners, migrant smallholders and the broader industry (Koczberski et al. 2013). However, there is a need to look into how these land transactions have been progressing over time and the challenges affecting both migrant farmers and landowners.

1.2 Background

This section has two parts. The first part gives the background to the oil palm industry in PNG and describes the smallholder schemes, whilst the second part explains customary land and land reform programs in PNG.

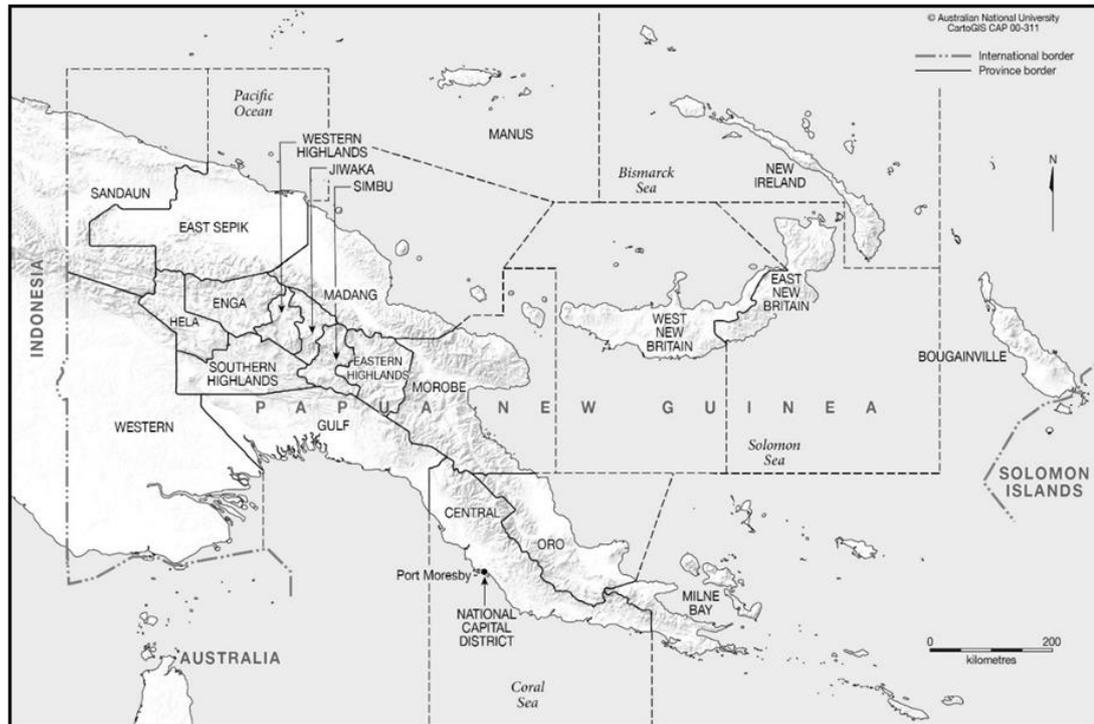


Figure 1.1 Map of Papua New Guinea (Source: CartoGIS Services, 2013).

PNG oil palm industry and description of smallholder schemes

In this section, a general overview of the PNG oil palm industry will be given, followed by an overview of the smallholder oil palm schemes. The oil palm industry in PNG commenced in July 1968 along the north coast of the West New Britain Province (Koczberski et al. 2001). Large tracts of customary land were bought by the government and converted to state land, alienated purposely for oil palm development. The National Agricultural Development Project (NADP) was initiated by the pre-independence government of PNG. The primary aim of the development project was to resettle people from remote regions of PNG and to give opportunity to local indigenous people to benefit from the project whilst contributing to the national economic development of PNG. Similarly, the farmers were expected to have access to basic government infrastructure, such as health, education, regular income, etc., to address high poverty levels and increase people's standard of living. The two main models of the oil palm industry in PNG were the plantation estates owned and run by

foreign milling companies and smallholder plots owned and managed by individual farming families. Furthermore, the oil palm milling companies provided employment opportunities for people to work in plantations and mills while benefiting from the services that they provided. Meanwhile, the Land Settlement Scheme (LSS) farmers developed their own oil palm farms with the help of the oil palm development agency and the milling company. The smallholder farmers sell their produce to the milling company.

The Hoskins LSS was initially established in July 1968 (Koczberski et al. 2001) on 99-year state agricultural leases. At Hoskins, which was the first area of oil palm development in WNB, “farmers were allocated approximately 6-6.5 ha of land of which 4 ha would be planted to oil palm while the remaining areas reserved for food gardens” (Koczberski et al. 2001, p. 4).

Following the establishment of the LSS, the Village Oil Palm (VOP) scheme, consisting of indigenous groups, was incorporated initially in 1970–1975². On the same note, the VOP project encouraged local villagers to cultivate oil palm on 2–4 ha on their own customary land (Koczberski et al. 2001).

However, as population and land pressures increased, the demand for land to cultivate oil palm increased. Consequently, household members from the Hoskins LSS, former public and private organisation employees and business-oriented and other individuals negotiated access to customary land to cultivate oil palm. These farmers are the third group of farmers in the smallholder oil palm industry. These blocks of oil palm are now called Customary Rights Purchase blocks. However, there have been some earlier agricultural cash crop activities (cocoa and coconut) on customary land by migrants as early as 1965 in Morokea and 1982 in Gaungo prior to oil palm establishments (Figure 5.1). The land transactions of the migrant farmers

² The LSS and VOP smallholder oil palm schemes were initiated by the government. The two schemes were equipped with programs for basic public goods and service facilities (e.g. schools, health service, recreation centre, etc.). However, the LPMF/CRP wasn't planned. Consequently, they lacked basic community goods and services. The unplanned growth of the LPMF/CRP scheme resulted from landowners' responses to increased land demand by outsiders forcing the landowners to engage in informal commodification of land.

in the decades from the 1980s to 1990s, were informal verbal agreements with poorly documented records. Moreover, large parcels of land were transacted for small amounts of money or goods and services. By the 1990s, the young generation of landowners began to realise their land, being scarce, was a valuable commodity. Disputes began with migrants over land boundaries, land transactions records, and land access terms and conditions agreements, to name a few. Details on the land purchases and land tenure issues will be discussed further in Chapters 4 and 5.

The cultivation of oil palm by migrant farmers on customary land was initially seen as part of the VOP scheme. Koczberski et al. (2001) first reported the changes occurring to the land tenure practices in Gaungo VOP. Similar cases were happening in several other VOPs, including Morokea. The confined study in Gaungo by Koczberski et al. (2001) identified that two consequences emerged from the informal 'sale' of land to outsiders. These issues involved some landowners realising future land shortages would occur, increasing land disputes, and insecure tenure rights of migrant farmers. According to the Hoskins Project oil palm census record in 2015, the first plantings of oil palm were in 1984 and 1985 respectively for Morokea and Gaungo migrant farmers. According to Koczberski et al. (2001), it was recommended that the informal customary land sales in Gaungo and other VOPs in Hoskins needed urgent attention by the industry to ensure that both the migrant farmers and landowners could have secure access to land in the future.

1.3 Research Objectives

The main aim of this research is to examine land tenure and income security among migrant farmers in PNG. Two field sites were selected for the study. The research investigates the institutional structures and the land transactions between migrant farmers and landowners for oil palm production to determine how they interact to affect the tenure security of migrant farmers. The objectives of the study are as follows:

1. Identify the ways migrant farmers negotiate access to customary land for oil palm production
2. Investigate how land tenure security affects the livelihoods of migrant farmers (especially for oil palm production)
3. Determine how land tenure security for LPMFs has changed over time

4. Identify strategies to improve livelihoods and sustainable oil palm production among LPMFs.

1.4 Significance of Research

This study makes two main significant contributions to the field of study at industry and national levels. Firstly, it contributes towards strengthening the formalisation of land tenure arrangements between landowners and migrant farmers in the smallholder oil palm farming community in WNB. While there have been studies conducted on alienated and customary land in Papua New Guinea (e.g. Koczberski & Curry, 2004; Koczberski & Curry, 2005; Curry & Koczberski, 2009; Koczberski et al. 2009), very little research has been done on the purchase of customary land for cash crop production. In particular, very limited attention has been given to cash crop production by farmers on customary land ‘purchased’ by non-clan members. The complex land tenure arrangements resulting from large numbers of migrants settling and gaining long-term access to land needs investigation (Curry et al. 2012). “Land reform should aim to support and build on existing customary tenure to meet contemporary needs and demands rather than replacing it” (Koczberski et al. 2012, p. 183). This study identifies strategies to improve the economic livelihoods of migrant farmers through understanding the land access and tenure security negotiations between migrant farmers and landowners.

Secondly, the study contributes to the current customary land reform program in PNG. In August 2005, the PNG National Government had its first national land summit at the PNG University of Technology in Lae, Morobe Province. The national land summit aimed to generate strategic options for a new land policy for PNG (Kalinoe, 2010; Antonio, et al., 2010). This research addresses the three thematic areas of challenges identified during the land summit, which were: improving the systems of land administration; improving land dispute settlement; and mobilising land held under customary tenure for development (Kalinoe, 2010). Moreover, this study contributes specifically to mobilising customary land for agricultural smallholder farming in PNG. The results are relevant to many other agricultural development sites in PNG and the Pacific where migrants are settling on the customary land of others.

1.5 Thesis Argument

This thesis provides four main arguments relating to the need to examine the customary land tenure and income security of migrants. The four arguments are:

- There has been a big shift from informal land transactions to a more formalised yet traditional-like system;
- There is a diverse range of ways of accessing land;
- Social relationships remain critical for maintaining land access by outsiders;
- The requirements for sustainable farming practices contribute to the land access formalisation process.

1.6 Overview of Thesis

This section provides the outline of the thesis. The following chapters (2–8) provide detailed interpretations of the overall/central thesis. Chapter 2 provides a critical review of the literature anchoring the thesis. Chapter 3 gives a background to the study sites and research approaches used in data collection. It discusses the approaches that were adopted and applied during the research fieldwork and in the process of data analysis. The pragmatic mixed method approach was appropriate for the study. The discussions in chapters, 4, 5, 6, 7 and 8 capture the thesis arguments. Chapter 4 provides an overview of customary land owners and migrants, and shows how land is accessed. Chapter 5 examines the period of land ‘sales’ from 1984 to 2016. Chapter 6 discusses the maintenance of land access and livelihood security. Chapter 7 emphasises strategies for implementing sustainable land access and oil palm farming. Finally, Chapter 8 summarises the key findings of the thesis and offers recommendations for future research and studies.

CHAPTER 2

LITERATURE REVIEW

2.1 Introduction

Eighty years ago on the east coast of New Caledonia, the distinguished ethnographer and missionary Maurice Leenhardt noted that society was ‘written on the ground’. Melanesians were so closely tied to their land that it defined who they were—land was crucial to the past, essential for the present and critical for the future. Membership in landholding groups not only continues to provide access to land but it also defines who people are, while ties between land and identity forge an eternal bond of belonging to place. Land was associated with the ancestors, and ‘rocks, plants and the human body originate in similar structures’ and place, language and time were tied together (Leenhardt 1947/79, p.61 cited in Curry et al. 2012, p. 116).

This chapter reviews the literature on land tenure and land tenure reform. It has three sections. The first section discusses customary land tenure principles in the South Pacific region, and describes the general arguments for and against formal and traditional land tenure systems. Secondly, it explains formal land tenure and land tenure reform programs in Pacific societies. The third section examines the role of Clan Land Usage Agreements (CLUAs) in land tenure arrangements in the smallholder oil palm industry in PNG. The CLUA represents a form of legal instrument to facilitate customary land transactions for smallholder oil palm development on customary land. Until recently in the Pacific, much of the land reform program was focused on converting customary land to state or freehold title. These programs were based on the assumption that customary land tenure was a barrier to economic development. However, I argue that the conversion of customary land in Pacific societies to leasehold or to freehold title may not be necessary. Customary land is undergoing change as land tenure and access rights become more formal and commercial to accommodate economic development, but the underlying principles of customary land remain. This chapter begins by exploring the advantages and disadvantages of formal and traditional land tenure systems.

2.2 Background to Traditional land tenure in Pacific societies

In this section, I discuss the key principles of customary land tenure in Pacific societies and the arguments for and against formal and traditional land tenure systems in general. Customary land in the Pacific ties into the way of life, traditional beliefs, and sustenance of the people. Customary land tenure is diverse in terms of land access and use, and is undergoing slow and continuous change in most Pacific societies.

Principles of customary land in the Pacific

The principles of customary land in the Pacific are diverse and embedded in custom (Fingleton, 2008). Customary land in Pacific societies is valued as the domain of people's livelihoods and source of identity and is communally owned and highly flexible (Fingleton, 2008; Koczberski et al. 2012).

Domain of livelihoods

Customary land in Pacific societies is the source of people's livelihoods (Curry et al. 2012). Societies and their inhabitants have lived and survived off their land for millennia. The land is like a mother that births, feeds, clothes, educates and nurtures the people (Guinness, 2017). The land provides for and makes readily available wild and domesticated plants and animals for people to harvest. The land also provides healing for the sick. Herbal plants are sourced from the land to cure diseases and injuries, and people also obtain spiritual healing from benevolent spirits associated with the land (Guinness, 2017). People connect with their land physically, psychologically and spiritually (Guinness, 2017). For example, the clan members of landowning clans in Gaungo and Morokea (the sites of my research in PNG) have rights to their customary land to gather, hunt and fish or perform other livelihood activities whilst communicating with their ancestral spirits.

Source of identity

Rights of access to customary land in the Pacific societies are typically inherited through the family (Curry et al. 2012), and can often be traced back through several generations. The land is the source of people's identity and most children have a traditional name that is tied to the land in some way. For instance, if an individual is named after a specific portion of land belonging to their clan, he or she has rights to hunt, fish, garden and pursue other developments in consultation with clan elders. The land also gives identity to individuals at the local, district, provincial and

national levels. People's identity begins at birth despite their place of birth, upbringing or current place of residence. This is because their ancestral land is rightfully where they are attached and to which they belong. For example, in Gaungo and Morokea, certain clans are present in both villages. Members of the same clan residing in one village share a common identity with clan members in the other village and can access the land under the same clan name in each other's village. Even royalties received from economic activities on the clan land in one village are shared among individuals that have the same clan land identity irrespective of where they live.

Communally owned

A defining feature of customary land is that it is communally owned by kinship-based groups (Curry et al. 2012; Koczberski et al. 2012). Every landowning kinship group has leaders and elders who make informed decisions about the administration of the customary land. Access rights and user rights to the land are based on cultural kinship lineages through largely patrilineal or matrilineal systems (Guinness, 2017; Koczberski et al. 2017) and are governed by complex cultural obligations and responsibilities. However, these are very different to the way villagers across the Pacific allocate access and claim 'ownership' of customary land (Chapter 2.3). For instance, in many societies in the Pacific, the distribution of land is based on the dominance of clans. For example, in the matrilineal societies of the Nakanai people and Bebeli tribe in WNB, major clans control a higher proportion of village land than sub-clans. The rights and user rights of individuals to specific land portions by clan members is determined by the kinship lineage of the clans. For example, in Morokea Village, Honde Laulimi is the main clan controlling most of the land because all the other sub-clans branch from it and therefore have secondary rights of access. Individual members' user rights to land are determined by their position in the kinship lineage structure.

Highly flexible

Access to customary land in the Pacific societies is also flexible (Curry et al. 2012). Typically, clan land is released to its members to cultivate food and tree crop gardens. Once food gardens return to fallow, the land reverts back to clan or group ownership. Any food crops or fruit trees bearing during the fallow period are claimed by the gardener (though he or she maybe gardening elsewhere) and his or her

relatives or clan members. However, the relatives and clan members still have to seek the gardener's consent to access produce from the fallow food crop garden or block of fruit trees. The flexibility of customary land enables land-short people access to land for temporary food gardens.

Several studies have indicated that the flexibility and adaptability of land tenure in Pacific societies have permitted the common practice of short-term access to land by 'outsiders' (non-clan members) for annual food crop production on land belonging to others (Crocombe & Hide 1971 and Jorgensen 2007, cited in Curry et al. 2012).

However, the gifting or 'purchase' of land by 'outsiders' from different groups for commercial perennial crop production and for residence on a long-term basis is less common (Curry 1997 cited in Curry et al. 2012). However, more recently, resource developments have been attracting large numbers of migrants seeking to gain long-term access to land leading to complex tenure arrangements (Curry et al. 2012, p. 118). The flexibility of customary land tenure in Pacific societies has enabled the expansion of perennial export tree crops and enabled the transition of subsistence farming based on shifting cultivation to permanent agriculture whilst acknowledging user rights of customary land with landowners through social relationships.

Moreover, the contemporary farming of perennial commercial cash crops such as oil palm effectively alienates land for long periods. Consequently, long-term or permanent agriculture gives farming families and individuals exclusive access and usufruct rights to and inheritance of these resources (Curry et al. 2012, p. 117).

Investment and investment security: Access to land

This section examines the arguments for and against formal and informal land tenure (customary tenure) systems. I discuss the advantages and disadvantages of each.

Generally, much of the literature on land tenure argues that individualised land tenure or freehold and leasehold title of land leads to economic investment and thus should be promoted in areas where communal land tenure is dominant. Several studies in developing countries such as Ghana and Morocco indicate that land tenure is becoming more individualised, leading to increased productivity and higher levels of agricultural investment (Ghebru et al. 2016, pp. 5-6; Rignall & Kusunose, 2016, p. 9). Thus, land tenure remains fundamental in shaping livelihood and farm investment decisions and land use arrangements (Yelsang, 2013; Rignall & Kusunose, 2018).

The ongoing land reform programs amongst the Pacific nations open up avenues for socioeconomic development and investment. Land reform helps the Pacific nations to modify traditional land tenure that has served them successfully, but now needs to accommodate the steep demand for land by an increasing population to partake in and benefit from the new economic developments via urban migration and people's raised expectations of life. Therefore, in order to control and maintain the increasing socioeconomic development pressures, the challenge for regional governments and their land reform policy agencies is to formulate 'workable models' that will host sustainable economic growth and increase livelihood status while recognising underlying customary tenure (Fingleton, 2005b, p. 4).

From the debate over land reform in the Pacific societies, Fingleton (2005a) challenged claims by Gosarevski et al. 2004 that Pacific societies should abandon their customary land tenure systems and embrace individualised land tenure to encourage poverty reduction and increase growth and stability in the social, economic and political arenas. "It was argued that customary tenures involve a balance between group and individual rights and obligations, and that individual land rights could strengthen without the abolition of the group ownership" (Fingleton 2004, cited in Fingleton 2005a, p. 2). Communal land ownership is diverse across the Pacific and other regions.

Similarly, Mosko (2005) cited in Fingleton (2005a) challenged Gosarevski et al. (2004) at the regional and village level where he examined the Mekeo people in the Central Province of PNG (Fingleton, 2005a, p. 4). Mosko (2005) showed that the Mekeo people enjoyed the economic and social success in cash and food crop production developed from their own traditional land tenure arrangements. The success of such place-based arrangements should be critically analysed to formulate clear understandings and draw sensible conclusions (Fingleton, 2005a).

The formalisation of individual land tenure rights, such as with the use of CLUAs, can lead to increased productivity in traditional societies (Atwood, 1990, p. 661). Secure tenure is perceived to spark agricultural investment and productivity (Ghebru et al. 2016, p. 1). Migrant farmers believe that their farming and livelihood security is more secure with exclusive rights to land for the duration of the farming lease or permanently, as in the case with freehold title (Ghebru et al. 2016). Thus, to invest

time, effort and sometimes capital in long-term improvements such as planting or replanting tree crop stands, secure land tenure will mean the farmer is assured of receiving a return on such long-term investments (Atwood, 1990). Also, with more secure tenure, the farmer is more confident to take risks and face challenges by learning new farming knowledge, skills and techniques to improve his or her farming and productivity and adopt new farming innovations (Atwood, 1990). For instance, with secure tenure, building a fully furnished, permanent family house using a financial housing incentive scheme or taking out a commercial loan to purchase farm equipment, hire labour or to buy other farm inputs to increase crop yield becomes possible.

The trend for land tenure rights under customary land tenure in PNG to become more individualised is increasingly being accepted in some villages (Mosko 2005, cited in Fingleton 2005a). In these instances, farmers increasingly have permanent use rights to the land they cultivate (Ghebru et al. 2016, p. 5). For instance, a farmer in PNG with land under continuous cultivation of perennial cash crops like oil palm or cocoa can maintain individual ownership. This is observed by the entire community and is unlikely to be challenged. All or some of these individual land rights are site-specific and may exist in a single society on different tracts of land for different purposes (Feder & Feeny, 1991). However, the problem is that well-educated and elite individuals have a higher chance of appropriating large tracts of land from the traditional communal pool of land for their personal benefit. They can use the state to register the land in their own names.

Individual land rights can also facilitate land market transactions (Besley, 1995). Individuals with ownership rights to land can use their land as a commodity. These individuals have the authority to rent or lease their land to outsiders who have the investment capital to put the land to use while the 'landlord' benefits from collecting revenue from rental or lease fees. For instance, an individual landowner can voluntarily register his or her customary land and lease it to a migrant farmer to cultivate tree crops over the duration of the leasing term. The migrant farmer can intensify production and benefit from the revenue generated while the landowner benefits from the rental income he earns from the migrant farmer.

Formal individual land rights enable farmers to access financial credit or loans (Besley, 1995; Feder & Feeny, 1991; Atwood, 1990). Land is widely accepted as collateral by banks where there is an active land market (Atwood, 1990). Farmers who access land through formal land transactions are more financially secure compared with farmers who access land through informal land transactions (Ghebru et al. 2016, p. 1). So, registering land for agricultural development purposes also increases the chances of securing financial credit (Atwood, 1990, p. 664). Financial institutions can use the land as a mortgageable asset as collateral to release funds for farm investments and to generate revenue for a landowner or landlord. Secure rights to land by individuals makes it easier to fund investments and, because of reduced risk, increase the chance of a lower interest rate being charged by the financial lender. Farmers or migrants have more secure tenure of land obtained via market-based and individual transactions rather than land obtained through customary non-market-based transactions (Ghebru et al. 2016, p. 1). By acquiring land use rights or outright ownership status via formal, documented transactions, landowners or migrant leaseholders are more likely to make investments on their farms.

In developing countries such as Thailand, the formal legal system may provide alienability and transfer of land rights to persons from other clans, or ethnic groups which may contravene cultural norms. Thus, formal legal frameworks allow for private property rights through formal laws establishing such rights. However, the corresponding registration and enforcement mechanisms may be absent (Feder & Feeny, 1991, p. 136). Customary property rights as a social institution implies a system of relationships between individuals and groups. These rights are legitimately viewed as exclusive to a group. Those who possess these exclusive rights have exclusive access to land use for livelihood sustenance, development and investment. The use of land may include hunting, passage, gathering, grazing, cultivation, the mining of minerals, the use of trees and even the right to destroy the resource (Feder & Feeny, 1991, p. 136). These customary land tenure arrangements, which are embedded in social and traditional virtues, are said to slow down formal land transfers and commercialisation of the land. However, these customary land tenure transitions are slowly being transformed in Ghana through the formal legal mechanisms and a gradual acceptance of individualised land tenure (Ghebru et al. 2016).

Other studies have argued that customary land tenure systems provide better or equal tenure security than state leases in cases where there are high transaction costs and market imperfections (Atwood 1990; Ghebru and Holden 2013; Bruce and Migot-Adholla 1994 cited in Ghebru et al. 2016, p. 1). This is because the costs of land demarcation and delineation, registration and administrative work are often very high for local citizens and it is difficult for farmers to navigate through formal bureaucratic institutions and processes such as the Department of Lands and Physical Planning. Therefore, many rural farmers engage in informal customary land tenure transaction arrangements rather than formal land tenure arrangements (Atwood, 1990, p. 663).

Fingleton (2008) argued that land tenure systems in the Pacific economies are the result of social, economic, political and legal change. Pacific societies are experiencing significant social, cultural, economic and environmental transitions as they tackle global socioeconomic and ecological change. However the main challenge is for specific societies in the region to conceptualise customary land tenure reform programs at different levels of development and governance from local to national, and for these reform programs to be accepted and used widely at all regional levels (Fingleton, 2008, p. 23).

Customary land tenure is embedded in social and cultural fabric which makes it resistant to change (Curry et al. 2012; Fingleton, 2005b). Thus, customary land in the Pacific is much more than a system of ownership and access rights to land: it is, as outlined earlier, the source of livelihood for its inhabitants, and their cultures and traditions are built around it. This strong attachment to the land and its embedded social identity legitimises the notion amongst customary landowners that land is inalienable. The notion that land can be permanently alienated is not easily accepted by most customary landowners and it is for this reason landowners are reluctant to see their land tenure system formalised (Curry et al. 2012, p. 116). Therefore, it is essential for land reform programs in the Pacific countries to consider and take account of customary land principles (Fingleton, 2005b, p. 7). Traditional rules and norms embedded in Pacific society's social frameworks give special status to custom, customary land and traditional bodies. For instance, councils or chiefs in Pacific societies played major roles in advising and contributing to their

independence constitutions accepted as ‘bills’ protecting their citizens’ rights to property (Fingleton, 2005b). Customary landowners in the Pacific societies are ensuring that their ownership rights over land are maintained while investment and economic development, such as perennial tree cropping, can occur on their land.

Land tenure systems in PNG

Land in PNG is divided into three main types of land holdings: customary ownership; state alienated land; and freehold title (Trebilcock, 1983). Customary land in PNG accounts for 97% of the total area of land (Cooter, 1991; National Land Development Taskforce Committee, 2007; Filer, 2011). Customary land in rural societies is gradually being exposed to the Western formal land registration and tenure arrangements. Each of these is discussed further below.

Customary land tenure in PNG

Different categories of land rights are observed at different scales and vary among ethnic societies (Crocombe and Hide, 1971 cited in Trebilcock, 1983). Landholding kinship groups are typically at the clan or village level where there are common rights to certain territories and grounds for hunting, fishing, foraging and housing. Communal land rights to general livelihood use rather than inheritance are decided at the lineage or inter-clan level. The rights to intensive or specific uses of land for subsistence gardening purposes are decided at the household level via the household head as a member of the landowning clan (Trebilcock, 1983). Land tenure is typically tied to patrilineal and matrilineal systems and principles in PNG. For example, the landowners in Morokea and Gaungo in WNB are part of matrilineal kinship lineages whilst the migrants accessing land at these two villages are from East Sepik or Morobe provinces which have patrilineal kinship lineages. The wealth distribution of the clans is shared based on the clan kinship structure. Some clans can be recognised as major clans in some areas of PNG but the same clan may be seen as a sub-clan elsewhere in the same-language-speaking society in a different area of PNG. Traditionally, customary land boundaries were not surveyed, title was not registered and custom was the main applicable land law (Sack, 1974; Cooter, 1991; Power, 2001).

Customary land tenure allows modifications to accommodate changes in the environmental, socioeconomic and political environments (Koczberski et al. 2017).

The formalisation of customary land in PNG is triggered by several key factors to meet increasing demands and pressures arising from demographic and socioeconomic changes. These include large-scale natural resource developments like mining and plantations, and smallholder commercial production of perennial cash crops like cocoa, coffee and commercial production of food crops like banana, cassava, taro and sweet potato to supply urban markets. Permanent cultivation and maintaining supply of food produce and cash crop production (for income) to meet the growing population and industry demand has gradually led to the individualisation of land tenure in traditional land tenure systems (Koczberski et al. 2017). The other key driver of land tenure change is the influx of migrants from poor areas of the country to urban areas and resource development frontiers to participate in economic development opportunities and access basic goods and services. Urbanisation and growth of informal settlements occurring on the fringes of urban areas, usually on customary land adjoining state alienated land, is also being fuelled by internal migration. Migration and development pressures are leading people to see land as a marketable commodity that can be individually possessed and ‘sold’ to people outside the landholding group (Koczberski et al. 2017).

Formal land tenure in PNG

There are two main types of formal land tenure systems in PNG. These are the state leasehold land and privately owned freehold land. State alienated land is part of the 3% under formal tenure systems (Trebilcock, 1983, p. 194). These land parcels were obtained from customary landowners by the colonial government. The government holds some of the alienated land to provide public goods, services and infrastructure such as towns, wharfs and airports. Some alienated land is also granted as long-term leases to other parties mainly for development purposes (Trebilcock, 1983, p. 194). The oil palm (LSS) in WNB and Oro provinces are good examples of state alienated land on long-term 99-year leases for development purposes. Through government and World Bank support, successful individual applicants from around the country were allocated 6 hectares of land to cultivate oil palm on 99-year leases on state-sponsored LSSs. The Hoskins smallholder oil palm LSS in WNB has now been operating for fifty years since its establishment in 1968.

Freehold land is privately owned and makes up a small percentage (approximately 125 000 hectares) of alienated land in PNG (Trebilcock, 1983, p. 194). The majority

of freehold land is occupied by missions and plantations. Many landowners were Christians and supported the work of the missions by giving land to the church. For example, in Kuiya and Nuigo settlements and Saksak compound in Wewak, the Catholic Church converted these customary lands to state leases to provide basic services such as water, sanitation and drainage for migrants living in these settlements (Numbasa & Koczberski, 2012). Numbasa and Koczberski (2012) reported that due to urban growth and a lack of public housing in Wewak, ESP, the Catholic Mission and customary landowners provided 50% of the housing space for migrants to build informal settlements on the edges of Wewak Township from 1974 to 1987. Most of the land privately owned by missions or faith-based organisations in Wewak was used to provide public goods and services to urban migrants from remote areas where government goods and services were often lacking such as hospitals, schools, shops, and land and sea transport (Numbasa & Koczberski, 2012).

Alienated land differs from customary tenure in several ways. For example, transactions of alienated land involve cash and documentation whereas land transactions involving customary land are typically through the exchange of traditional valued gifts witnessed publically by the group and rarely documented. In terms of tenure arrangements, alienated land is fixed, whereas customary land is more flexible and diverse. Alienated land is bought and sold unlike customary land, where the typical path to 'ownership' rights is through inheritance.

2.3 Land reform in the Pacific

The process of land reform in the Pacific is diverse, society specific and has varied greatly between countries (Fingleton, 2005b). Many argue that there is a need for Pacific Island governments to manage land tenure reform programs to facilitate social and economic growth in the region (Fingleton, 2005b). The history of current land development strategies in Pacific island nations is based on reform policies and laws from customary holdings and alienated land (Fingleton, 2005b, p. 6). During the colonial 'era', land 'purchases' and other land acquisition methods were tailored to serve the interest of colonisers. However, these development strategies were later amended in the Pacific societies to enable customary landowners to register individual title of their own customary land parcels (Fingleton, 2005b, p. 6).

Fingleton (2008, p. 2) notes that “the biggest debate on land reform is the debate over the relationship between land tenure and development, and the kind of land tenure reforms which will contribute to growth and poverty reduction”. It is understood that predictable and effective land use rights are a vehicle for achieving economic goals by fulfilling three basic requirements: secure tenure, documented payment transactions of user rights, and flexibility of tenure transfer (Fingleton, 2008, p. 2). In 2007, Fingleton examined the results of thirteen case studies investigating land tenure issues from Timor Leste to the Cook Islands (Fingleton, 2008). The main objective of the case studies was to capture how different nations addressed common factors hindering development on customary land. The case studies were conducted under the three main themes of ‘strengthening of land rights’, ‘facilitation of land dealings’ and ‘settlement of land disputes’. Two case studies examined under ‘strengthening of land rights’ were ‘recording rights to land’ — limited to documentation of existing land rights without proceeding to registration in Solomon Island, and ‘registration of land’ — the complete process of recording and registration of land in Papua New Guinea (Fingleton, 2008, p. 4). One of the crucial questions the case studies attempted to answer was “how can customary tenures be adapted to meet the modern needs and circumstances of people living on customary land?” (Fingleton, 2008, p. 23). The key findings gathered from the thirteen case studies that served as the approach to reform were:

- Measures which build on and adapt existing customary tenures are more likely to succeed than those that try to replace them;
- Land reform should be done only to the extent where it is necessary to meet the need;
- Reform must be consensual;
- The reform must balance the traditional and the modern;
- Political leadership and commitment to the reform are indispensable;
- Administrative capacity and adequate funding are major limiting factors on reform;
- The reform provided legal recognition to customary institutions;
- In giving such legal recognition, it is essential to allow customary institutions to adapt;
- There are both suitable and unsuitable ways of adapting custom;

- Customary institutions, even when adapted, are not always sufficient, and it may be necessary to ‘import’ legal elements from elsewhere;
- Where legal elements are imported, they too must be adapted;
- Carry out trials first.

The attempts to formalise land tenure in PNG

I strongly believe that land reform in our country must be primarily based on our customs and cultures with suitable clauses from land legislation from other countries instead of ‘draft land reforms’ copied from other countries—land legislation pressed upon us to accept and to use in PNG which would and will only cause bloodshed and death among our people (Obad Boas Member for New Ireland) (House of Assembly Debates, 1972 vol. 3: p.387 cited in Sack, 1974, p. 3).

There have been five major attempts at land reform in PNG. The first two attempts were made by the colonial government in the 1950s-1960s; the third attempt was following independence in 1975; the fourth attempt was by the World Bank in 1994-1995; and the most recent attempt was made by the National Lands Development Taskforce (NLDT) in 2005-2010. Despite these attempts to delineate and register customary land, the exercise was often complicated and with little success. Prior to the most recent land reforms, most land reform programs have revolved around land tenure conversion with a focus on individualised tenure, registration and mobilisation.

Colonial administration (1950s–1960s)

The native Papuans and New Guineans did not realise the importance of their customary land until the mid-1900s during the colonial administration. “The late 1940s saw an increased number of people seeking land for development, particularly around the Port Moresby area, and with the steady increase in government activities, native Papuans and New Guineans realised that their land had value in the eyes of the white settlers” (Chatterton, 1974, p. 8). Some began selling their land to the government. Educated Papua New Guineans criticised the early land sales and implied that the land was sold too cheaply, and that those who sold land parcels were illiterate with little understanding of ‘ownership’ or land alienation (Chatterton, 1974). They further alleged that many payments by white settlers were made to the wrong landholding clan, group or authorities.

The first two attempts in the 1950s and 1960s to establish a land registration system were the Native Lands Commission 1952 and the *Lands Title Commission Act* 1962 (Chatterton, 1974; Trebilcock, 1983). The Native Land Commission in 1952 made unsuccessful attempts in both recording all customary land in the country and demarcating plot boundaries for interested groups or individuals when applying to the Native Land Titles Commission. This was replaced by the *Lands Title Commission Act* 1962 with a similar mandate, however, with wider powers (Trebilcock, 1983, p. 195; Chatterton, 1974, p. 11). The Land Titles Commission set up the *Land Tenure Conversion Act* in 1963 to record all customary land in PNG. The country was divided into 500 adjudicates by the Lands Title Commission with appointed committees (landowners and leaders) to demarcate the customary land boundaries in each area. However, the committees were left to work on their own without clearly defined roles. Consequently, most committees never operated at all. Those which tried to adjudicate disputes and claims between different conflicting groups found the process led into further conflicts, and therefore no titles were registered. The land registration process was suspended on the advice of Kenyan visiting land tenure expert Mr S Rowton Simpson (Trebilcock, 1983, p. 196). The attempt in 1969 to introduce the Kenyan individualised land tenure model to improve the status of land registration was unsuccessful (Chatterton, 1974), as discussed in the next section.

The 1970s land reform

From 1969 onwards, the colonial administration attempted to revise the land laws based on two separate visits to Kenya by two ministers of the House of Assembly and a separate visit of a government ‘technical party’ and expatriate officials to Kenya to see how their customary land tenure worked (Larmour, 2003). Based on the report by the Kenyan land tenure specialist Mr S Rowton Simpson to study the local land tenure situation, four sets of land reform bills which were brought to the House of Assembly in 1971, but which were rejected by the House mostly by national members (Trebilcock, 1983). The two reasons for rejection were based on a believed bias towards a Kenyan model of individualised tenure rights over communal rights and for overlooking other Pacific Island models such as Maori land tenure systems (Larmour, 2003, p. 3). Hence, despite Simpson’s (1971) attempt to push for the Kenyan land model, little was achieved because national members of the then

Legislative Council insisted on a thorough examination before the conversion could take place. However, in 1973 the Land Tenure Conversion Act was legislated (and later amended). This enabled customary land to be converted to private freehold land and was promoted in the Highlands region and Popondetta to facilitate development in the smallholder coffee and oil palm industries (Koczberski et al. 2012). The land registration exercise of customary land was eventually suspended in the House of Assembly in 1971. However, small parts of the Kenyan model proposed by Simpson (1971) were adopted in Papua New Guinea such as the *Lands Title Commission Act* which still exists today (Larmour, 2003, p. 3).

The experience of Maori customary land tenure issues and a concern that customary tenure may be undermined set the precedence for the establishment of the Commission of Inquiry into Land Matters (CILM) in PNG in 1973. After the withdrawal of bills of the Kenyan model in 1971, PNG gained self-governance in 1972 and set up the CILM. Academic consultants headed by Dr Alan Ward of Monash University, who used his experience on the Maori land tenure issues, took a different approach to Simpson's African models and came up with models from other Pacific Islands and New Zealand (Larmour, 2003, p. 3; Trebilcock, 1983, p. 196; Chatterton, 1974, p. 12). The consultants tabled a report on a wide range of issues on land policies, laws, disputes and registration of customary land with the aim to protect customary tenure principles (Ward, 1981, pp. 249-264). Among the report's outcomes were the passing of the *Land Group Incorporation Act* 1974 and the *Land Dispute Settlement Act*, 1975.

Policy planning

Several researchers examined the 1973 CILM report. Chatterton (1974) believed that the registration of customary owned land was significantly important and recommend that it should proceed as soon as possible to avoid future difficulties and uncertainties. However, others (Ward, 1981; Sack, 1974) critically examined the idea of individualisation of land tenure and pointed to the earlier experiences of damage done to the Hawaiian and Maori customary land tenures (Ward, 1981). They also questioned the idea of decentralising land decision-making powers and the process of customary landowner clan identification, land demarcation, registration and dispute resettlement (Ward, 1981).

Despite not many lands being converted to freehold title under the *Land Tenure Conversion Act 1963*, there was a strong indication of movement away from communal tenure in favour of individual tenure (Chatterton, 1974, p. 15). By the early 1970s, in some parts of Papua and the Highlands, there was a general tendency for nuclear families and individuals to claim outright ownership of land parcels in group-owned land. The nucleus families and individuals traditionally have absolute user rights to the land parcels, especially young men ‘from time immemorial’ (Chatterton, 1974, p. 15). So, in some parts of PNG, individualisation of land tenure was occurring in the 1970s.

During the 1970s, developments on customary land were occurring in certain areas of PNG. The CILM team’s aim was to examine these developments based on individual and group development of customary land. One area of interest was the individual development on customary land via smallholder agriculture projects such as cattle, cocoa, coconut and coffee, some of which were using CLUAs and obtaining loans from the Development Bank (which later became the Agriculture Bank). The CLUA was introduced by the bank to facilitate land access for smallholder projects. The CLUA was used as a formal instrument to document the declaration of an individual clan member’s exclusive use of a defined portion of land within the clan land boundary for a specific period of time. On the death of the original owner, a successor was identified as the CLUA holder. However, the land tenure arrangements were not clearly stated (Ward, 1981, p. 253). Consequently, agreements do not permit permanent land alienation by individual farmers, thereby securing a clan’s right of land reversion.

One of the main challenges of the CLUAs was determining customary claims over individual land ownership and use rights following the death of the CLUA holder, and the emerging need for land by land-short villagers due to the growth and expansion of large scale plantation estates (Ward, 1981, p. 253). CLUAs have since become widely used by local smallholder oil palm farmers in PNG (Chapter 4). During this time a lease-leaseback (LLB) system was also introduced and incorporated into the Land Act. Like the CLUA, it was introduced to assist landowner groups to acquire bank loans. Landowners leased their land to the state

which then registered the land, and then leased it back to the group. Later, as discussed below, the amendments were made to the Land Act (1996).

Land Mobilization and the World Bank (1980s-1990s)

The Land Mobilisation Project (LMP) commenced after the Land Evaluation and Demarcation Project (LEAD) in the late 1980s (Power and Tolopa, 2009). The LMP was the first World Bank project that focused entirely on the land sector in PNG (World Bank, 1997). The main intention of the project was to encourage investment in land through creating policies to allow landowners to fully participate in the development of their own customary land, provide effective services to all land users and decentralise land administration from the national government to the provincial governments. This included the mobilisation of alienated and customary land in PNG (World Bank, 1997). Despite its intentions, the World Bank project fell short of meeting its expectations (World Bank, 1997). One of its outcomes that stood out was the successful initiation of the *East Sepik Land Registration Act*. The East Sepik provincial government emphasised during their Land Act's enactment that customary tenure should be the basis of their Land Act development. The East Sepik Land Act was "the only important land registration law to be introduced in the Pacific, since island states began achieving independence in the early 1960s" (Fingleton 1998 cited in Power & Tolopa, 2009, p. 159). However, the LMP also created some confusions and tensions among Papua New Guineans.

Tensions began emerging in the LMP in 1993 when the PNG National Lands Department produced draft legislation that provided the mechanism for customary land to be individualised and alienated, which opposed Fingleton's advice on the national framework legislation and East Sepik land legislation. During the attempt to formalise the individualisation of land tenure in PNG in 1995 by the PNG government via World Bank advice, the students from the University of PNG (UPNG) led a riot in Port Moresby. The rioters perceived that the introduction of formal individual land registration would see all land alienated by the state and foreign entities, and could possibly lead to the dispossession of the people or even landlessness (Curtin et al. 2003, p. 6). The purpose of the student-led riot was to stop the government going ahead with its move to make amendments to the proposed Land Registration Act, 1996 during that Parliament session. The draft act, being an amendment to the Land Registration Act, added a new section on the registration of

customary land which lacked a public forum to discuss and assess the draft act before bringing it to the floor of Parliament. The draft act also did not ensure the inalienability of customary land in PNG, which was not well-received by the UPNG students and NGOs, therefore resulting in the riot. Similarly, in 2001, the UPNG student body went on strike, linking the 1995 riot against the 'Land Mobilization Project' with other structural adjustment programmes by the PNG government. The strike ended in crisis with armed clashes between the state police and UPNG-led activists. The clash resulted in bloodshed with three students killed by police gunshots (Power & Tolopa, 2009).

National land reform program (2005–2010)

The increased demand for customary land by non-clan members for economic and social development in the contemporary PNG has prompted informal land dealings. The ineffectiveness of the state's land administration institutions and lack of recent land reform to contain illegal customary land dealings resulted in land reform often lagging behind illegal customary land dealing that is happening on the ground between landowners and migrants or investors, despite state policies (Koczberski et al. 2012).

This section examines the national land reform program reports in the 2000s. The two reports were compiled by the National Land Development Taskforce Committee (2007) and selected papers (Kalinoe, 2010; Antonio, et al., 2010) from the 2005 National Lands Summit. The National Executive Council (NEC) appointed members of the NLDT with a mission to identify problems and issues relating to land administration, mechanisms of land dispute resolutions, and the best available options to access customary land for developmental purposes. The main purpose and aim of the recent attempt on land reform was to challenge the long-held view of a failed land reform policy initiative in PNG (Larmour 2003 cited in National Land Development Taskforce Committee, 2007), where lengthy discussions on the land reform policies were never translated into policies and therefore, these laws were never being implemented (Lamour 1994 cited in National Land Development Taskforce Committee, 2007). Due to past difficulties and bad experiences in land reform attempts, the PNG National Government was mindful in its considerations for investing in a mechanism in which PNG institutions and experts would maintain complete control of the land reform process (National Land Development Taskforce

Committee, 2007). The new round of nationalist land reform wanted to achieve its recommendations, which were presented in four sections:

- Improving the land administration systems;
- Improving the land dispute settlement system;
- Providing a framework for the utilisation of customary land for development; and
- Improving on other areas of general public concern.

Land Administration

The subcommittee concluded that there were poor customer relations, ineffective tracking and retrieval systems and inefficient office work systems due to the obscure location and space of the office of the Department of Lands and Physical Planning (DLPP), which made it difficult for customers to reach and to track the progress of their dealings in different sections of the DLPP (National Land Development Taskforce Committee, 2007, pp. 5-6). The subcommittee also recommended that the provincial lands offices needed urgent attention as primary facilitators and negotiators and there was a need to review and establish robust coordination systems between DLPP headquarters and the provincial lands officers (PLO). PLOs mostly work in isolation with minimal resources and directions from the headquarters. The NLDT came across cases of duplicated land titles. For example, in one instance, the National Lands Board issued twelve land titles without even going through the proper process of a Land Board meeting. The planning of land resources in PNG is still under-resourced, unrecognised and unutilised. In terms of conducting physical surveying, there must be standards and quality control of this task and its cost (National Land Development Taskforce Committee, 2007, pp. 7-8.12-13). The key recommendations by NLDT (2007, p. 13) to improve the land administration were as follows:

- Improve the information and data management system via installation of appropriate digitised operating systems in all sections of the DLPP, the provincial lands offices and other relevant customer service units;
- Commence the process of scanning and setting up an electronic database of all titles and land files;
- Digitise soft copies of original land purchase agreements, National Lands Commission decisions and Land Titles Commission decisions;

- Facelift the status of DLPP and the provincial lands offices whilst providing more incentives and penalties and formally advertise positions nationally and internationally;
- Abolish the National Land Board and replace it with an auction system in terms of its safety nets; and
- Build a separate office building complex for the DLPP to improve customer service and safe keeping of land titles and land files.

Land Dispute Settlement

“A system of land dispute is a precondition for land administration and development,” (National Land Development Taskforce Committee, 2007, p. 13) either with or without formal titles. The subcommittee recommended that proper land demarcation must be done with defined documentation of customary land boundaries. Thus, if any land boundary disputes arose, they could be settled before titles were issued. The committee also recommended that the Land Titles Commission should administer the functions of both the *Land Dispute Settlement Act* (formerly under the *District Lands Court Act*) and the *Land Title Commission Act*. The *Land Dispute Settlement Act* will be responsible for resource developments while the *Land Title Commission Act* will adjudicate the existing disputed cases on customary land in the catchment areas of the resource projects.

Customary Land Development

It is a challenge for every individual in PNG that society-based customary principles should be the centre of all land tenure arrangements for all contemporary social and economic developments. In examining the need for customary land reform, the Customary Land Development subcommittee recently made recommendations focused on designing new legal mechanisms to empower landowners to take ownership over their customary land whilst providing security for investors.

The committee investigations examined the existing legal framework provided around customary land, to gain ideas for the design of a new legal system for mobilising and accessing customary land. In particular, the committee reviewed:

- Customary Land Registration (Loani Henao Proposal 1994);
- *Land (Tenure Conversion) Act* (1963);
- *Land Groups Incorporation Act* (1974);

- Lease-Leaseback Process (*Land Act 1996*);
- Compulsory Acquisition (*Land Act 1996*); and
- Compulsory Lease (*Land Act 1996*).

The Loani Henao proposal is still in draft form, whereas the others are operating. The committee's findings and main recommendations included:

1. Amendment of the *Land (Tenure Conversion) Act*. The LTC Act as outlined earlier is one of the two formal colonial land laws that still exist after several land reform attempts. The committee believed the act contradicted both the communal practice of customary land ownership in PNG and the principles that guide the NLDT committee, that is, it contradicted the empowerment of customary landowners to take control of their own land (National Land Development Taskforce Committee, 2007). The committee's investigation demonstrated that the *Land (Tenure Conversion) Act* is also expensive in terms of its application for freehold title and is unaffordable for the average citizen. However, despite the NLDT's support to abolish the Act, some citizens prefer that this Act remains, but in a more simplified version with lower costs. It is proposed that the *Land (Tenure Conversion) Act* will remain with the conditions, but it will undergo amendments to allow easier access to land title at a lower cost and to prevent the sale of land to foreigners. In contrast, the LLB system under the 1996 *Land Act* has gained some attention and is widely used. The investigation report found successful use in the wider agricultural sector compared with minimal progress in other sectors like real estate. The committee recommended that LLB should be further promoted as one of the customary landowning units to open up land for development purposes with careful evaluations on its application to certain long-term developments such as real estate, resorts and industrial sectors (National Land Development Taskforce Committee, 2007).
2. The reassessment of compulsory acquisition by the State was authorised within the *Land Act 1996*, however, the principle of protecting customary land in the interest of customary landowning groups was to be preferred over the compulsory provisions. The committee recommended that customary land required for public services should be done through state leases of customary

land rather than complete alienation or acquisition of land (National Land Development Taskforce Committee, 2007, pp. 17-19).

3. The introduction of the Customary Leasehold Act and amendment of the ILG Act. The NDLT recommended the introduction of a framework to connect the legal, administrative and policy systems that would constitute both the leasing and sale of customary land. The focus was to complement and facilitate the practices in such land dealings and introduce new legislation similar to the state lease land acquisitions. The differences in the LLB, the state lease of customary land, and the informal land dealings indicated a need to devise a customary land act to solely focus on administering customary land leases as an important step towards releasing secure customary land for development. The committee recommended a draft of the *Customary Leasehold Act* to administer all leases of customary land with similar features as the state acquisition leasehold arrangements (National Land Development Taskforce Committee, 2007, p. 19).

The *Incorporated Land Group (ILG) Act* was amended to cater for the informal or direct land dealings between landowners and third parties which was prevalent in PNG, with most bypassing state policies. The investigation into the ILG Act showed that registered ILGs, especially in the mineral resource sector, were not serving their intended purposes. Instead, it was used as a requirement to facilitate land mobilisation for mineral resource development projects. With the abuse of its purpose, the committee recommended that the *Land Group Incorporation Act 1974* be amended so that ILGs could lease their customary land to investors for development or develop it themselves (National Land Development Taskforce Committee, 2007, p. 20).

The NDLT recommended a two-step process to release customary land for development. Firstly, an ILG should be registered. Social groups such as clans, tribes or family units that have rights to land would declare their ownership rights, whilst any disputed boundaries must be identified and mapped out. The sketch map, together with completed records and birth certificates of all individual ILG members, is then submitted for ILG group registration. Secondly, the customary land under the ILG that is intended for development is then registered. A compulsory requirement

of the ILG registration is that the portion of land allocated by the ILG for development within the whole ILG land boundary should be surveyed and demarcated with cement pegs, and the land area registered. The title of the land portion to be developed would be allocated to that ILG including all land rental fees. The recommendations from the Customary Land Development Subcommittee (National Land Development Taskforce Committee, 2007, p. 21) were to:

- Substantially amend the *Land Group Incorporation Act* 1974 and make the ILGs the vehicles for development. That means the management of the ILG should be improved as it is responsible for releasing customary land for development, has management powers over land developments, and uses land rent and income generated from the business activities that the ILG own;
- Substantially amend the *Land (Tenure Conversion) Act* to enable individual and family members to secure their own piece of land. Strict restrictions should be imposed on this land to secure it under the landowning units;
- Give preference to the rental of customary land, rather than outright purchase because the latter has proven insecure for PNG. To facilitate this, the *Customary Leasehold Act* should be legislated;
- Put forward the proposed Customary Leasehold Act, LLB, state acquisition and state land lease as instruments through which land could be released for development by the ILGs; and
- Engage a team of technically competent personnel to coordinate the ILGs to get their land surveyed and title issued at the initial stage on some pilot projects.

The ILG will administer the customary land affairs on behalf of the landowning group; for example, the ILG will be responsible for formulating bylaws to allow legal instruments like the CLUA to facilitate land transactions between landowners and investors (National Land Development Taskforce Committee, 2007, p. 20).

However, in reality it is difficult to implement these requirements of the formal system of land tenure in most remote societies in PNG. For instance, traditionally a person is eligible to be a member of more than one clan, but with the current formal system, the person is required to register as a member of only one group. Providing birth certificates as a requirement is another difficulty that each member of the ILG

or group faces. This requirement seems unrealistic in remote and rural locations where most births are unregistered and few people have a birth certificate (Tararia & Ogle, 2010, p. 22).

2.4 The role of the CLUA in land tenure arrangement: WNB context

With this background to land reform in PNG, we now turn to examine how the CLUA was developed by the oil palm industry to facilitate the documentation of customary land transactions for oil palm development. This section has three parts that examine the role of CLUAs in facilitating access to customary land in the smallholder oil palm growing areas in the WNB province of PNG. Firstly, I examine the different land tenure arrangement schemes in the smallholder oil palm industry. Secondly, I discuss direct land dealing. Thirdly, I examine the CLUA as an outcome of the recommendations by the NLDT.

Accessing customary land for smallholder oil palm development

There are three types of smallholder groups in the major oil palm growing provinces of WNB and Popondetta. The three groups include those smallholders residing on the LSS, established in late 1967 under the state-acquired leasehold agreement of ninety-nine years; the Village Oil Palm, established in mid-late 1970s, where customary landowners cultivate oil palm on portions of their own customary land (Koczberski et al. 2001, pp. 3-5); and Customary Rights Purchase (CRP) blocks occupied by smallholders without birthrights to the land. CRPs were established initially in 1982 and 1984 on Morokea and Gaungo customary land³ (Chapters 1 and 4). This section examines the literature on land access arrangements of the third group of smallholders (LPMF/CRP) who have gained access rights as non-clan members to customary land to cultivate and develop oil palm and other livelihood activities. The success of the smallholder oil palm economy attracted many migrants to the region. The increased population placed a lot of pressure on customary land as land was acquired by outsiders under various land tenure arrangements (Koczberski et al. 2009, p. 33).

³ The initial establishment of the smallholder oil palm industry, especially the three schemes of LSS, VOP and LPMF/CRP, were in the Hoskins Oil Palm Project along the north coast of West New Britain.

Direct dealing through informal transactions

As customary land tenure was modified to accommodate the increasing demand for land, landowners' views and attitudes began to change with some landowners viewing their land as a commodity to be leased to foreign oil palm investors or other people from outside the landowning group (Koczberski et al. 2009). While there was a history of land gifting by landowners in Morokeya and Gaungo to non-clan members, the direct informal dealing of land to outsiders from other provinces of PNG is more recent in the cultivation of oil palm production (Koczberski et al. 2009). The planting of oil palm by migrant smallholders on land accessed from customary landowners has expanded over the past 20–25 years (Koczberski et al. 2009). These land transactions are mostly informal and lack proper documentation. Also, there was high variation in the types of land 'sale' agreements which was influenced by the types of relationships between migrants and clan members. Consequently, most migrants perceived that the purchase of customary land gave them outright ownership and control over the land and that their children were allowed to inherit the land (Koczberski et al. 2009). However, this was not the landowners' perception. Landowners believed that their land was inalienable and would be returned to them after the oil palm cropping cycle (25 years) "however, this is not the case in law as the land remains under customary ownership" (Koczberski et al. 2009, pp. 33-34).

Landowners also believe that during the course of the land access period, migrants should have social obligations and commitments to landowners according to their traditional custom to maintain their tenure security. Indirectly, through social obligations, the landowners are expressing to migrants that they are the rightful landowners and that migrants are accessing their land on a temporary basis under certain conditions. The decision to accept certain migrants (outsiders) to be part of the landowner group (insider) is at the discretion of the landowner who 'sold' the land and his clan leaders and senior members. This established relationship is sometimes tested or reassessed at the death of either the landowner or migrant involved in the initial land transactions (Koczberski et al. 2009). These events (deaths and replanting of oil palm) are seen as rupture points in the context of social and generational relationships that can partially dissolve the existing relationship and give genesis to new sets of social relationships (Koczberski et al. 2009, pp. 37-38).

The formulation, development and usage of the new CLUA

In response to the 2007 PNG national land reform recommendations on the proposed CLUA and the growing demand by migrant farmers to purchase land, the oil palm industry began working with customary landowners and migrant farmers to develop a detailed CLUA that sought to reconcile the different interpretations customary landowners and migrants held regarding ownership and access rights to land ‘sold’ to migrants (Koczberski et al. 2012). The two main stakeholders, the Oil Palm Industry Corporation (OPIC) and the Papua New Guinea Oil Palm Research Association (PNGOPRA), worked in consultation with landowners and migrants to design a CLUA that built on previous CLUAs that had been used by some migrants purchasing land. The aim of the new CLUA was to secure “customary tenure while strengthening the temporary use rights of migrants to enable them to generate viable and relatively secure livelihoods” (Koczberski et al. 2012, p. 181). Formal land surveys are rarely undertaken; thus, mud maps were used to map the land parcel, and the planting of certain boundary plants like coconuts demarcated the boundaries of ‘purchased’ land.

There is huge variation in the ‘purchase’ price of land. The amount and timing of payment instalments, and the rights and obligations of the migrants or landowners are often ambiguous. There is no clear indication in any written evidence that the land transaction has the consent of the landowner clans. Disagreements and disputes often arise when some members of the clan are not aware of the ‘sale’, nor benefited from the income generated from the land ‘sale’. Such disputes sometimes result in the eviction of the migrants through the courts because of the lack of written evidence regarding the land transaction (Koczberski et al. 2012, p. 187).

2.5 Conclusion

Pacific island countries continually restructure their custom-based policies and legislative systems. These practices are ongoing and are likely to continue for the next couple of decades with gradual improvements. Customary land reform programs in PNG were established in the colonial administrative days and have undergone several reform programs, including the four reforms discussed in this chapter. It is evident that in some parts of PNG, customary land tenure is becoming more formal and individualised to accommodate commercial developments. The recent land reform program in PNG has contributed to the adoption of the CLUA document that

serves as a legal instrument to transact land access arrangements among landowners and migrants in the cash crop commodity sector, specifically the smallholder oil palm industry in PNG. The CLUA document serves as a way forward for the smallholder oil palm industry to sustainably develop the land and provide improved livelihoods to all stakeholders engaged in the industry. The CLUA is still being refined. This study contributes to the revision of this CLUA and the land reform program in the customary land reform program of PNG as a whole. In the next chapter I will discuss the study sites and research techniques used in data collection.

CHAPTER 3

STUDY SITES AND RESEARCH METHODOLOGY

3.1 Introduction

This chapter provides a background to the study sites and outlines the research methodology used in the thesis. The first section provides a description of the two study sites of Gaungo and Morokea villages and the reasons for selecting these two sites. The second part of the chapter examines the research framework of the study. Firstly, the theory concept that was used in the study (pragmatic research) will be discussed, followed by the standards and criteria for sample selection and the sampling technique involved. The mode of analysis is discussed before some of the limitations that were encountered during fieldwork. Then ethical aspects of my research are discussed.

3.2 Study Sites

The two study sites are Gaungo and Morokea (Figure 3.1). These two villages share traditional land boundaries and have a common interest of releasing their customary land to outsiders. The two villages are situated along the north coast of WNB Province bordering Kimbe Bay in the fertile plains of the oil palm farming zone, along the New Britain Highway, ten to fifteen minutes' drive away from Kimbe town, the capital of WNB (Figure 3.2 and Figure 3.3). These plains stretch from the north coast to the foothills of the Whiteman Ranges that run along the spine of WNB province in an east-west direction separating the north and south inland and coastal areas (Figure 3.1). Gaungo is on the coastal plain inland along the New Britain Highway and Morokea land is flat with hills scattered from the foothills of the Whiteman ranges to the coast. Both Gaungo and Morokea have similar coastlines with several rivers and creeks cutting through the territory and patches of swamp and mangroves along the brackish waters.

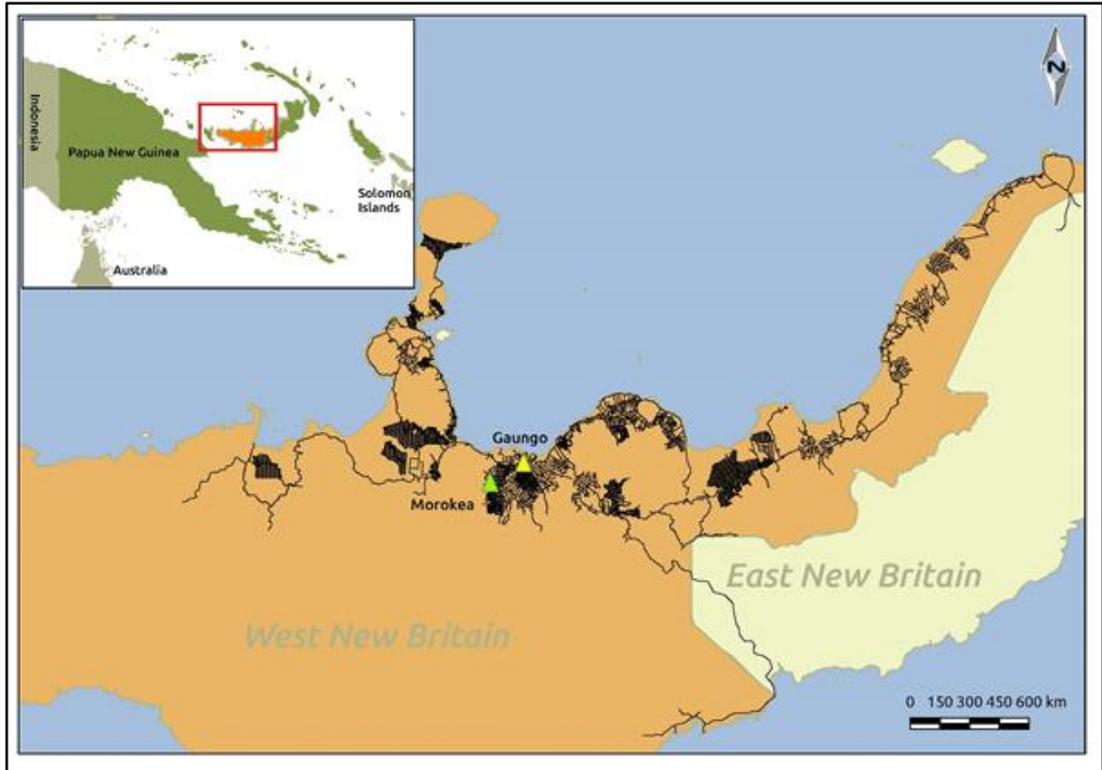


Figure 3.1 Hoskins Oil Palm Project, West New Britain Province (Source: PNGOPRA 2018).

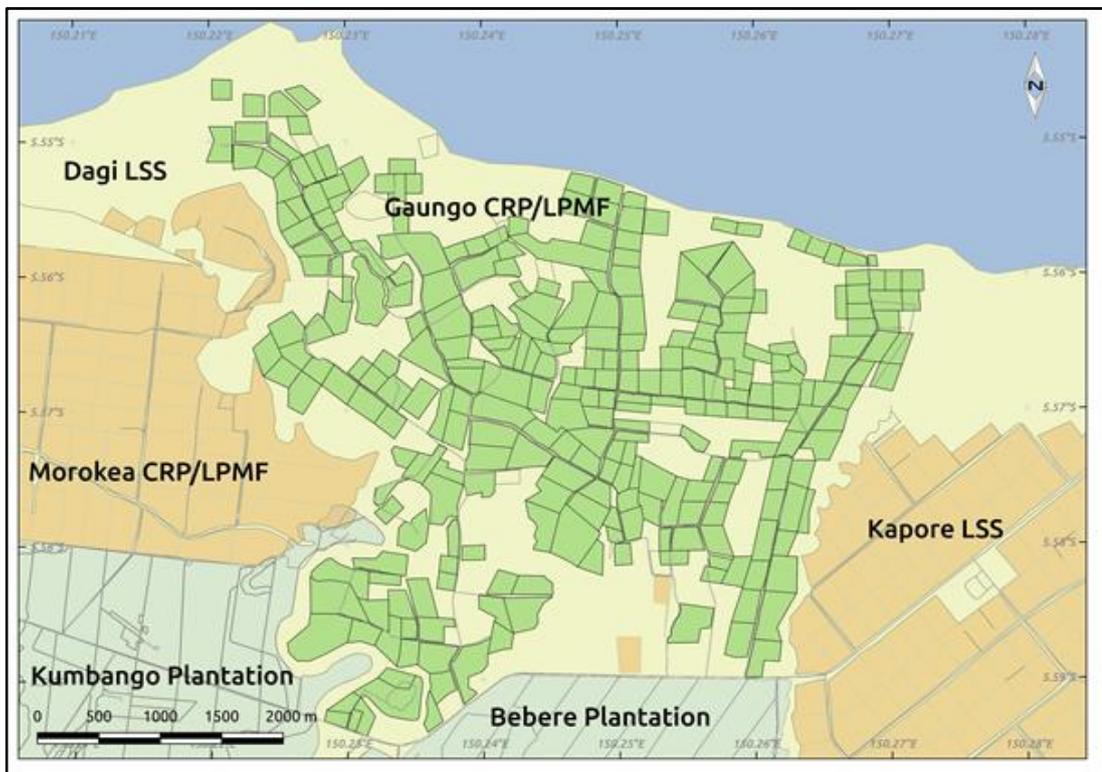


Figure 3.2 Gaungo Land-Poor Migrant Farmers (Source: PNGOPRA 2018).

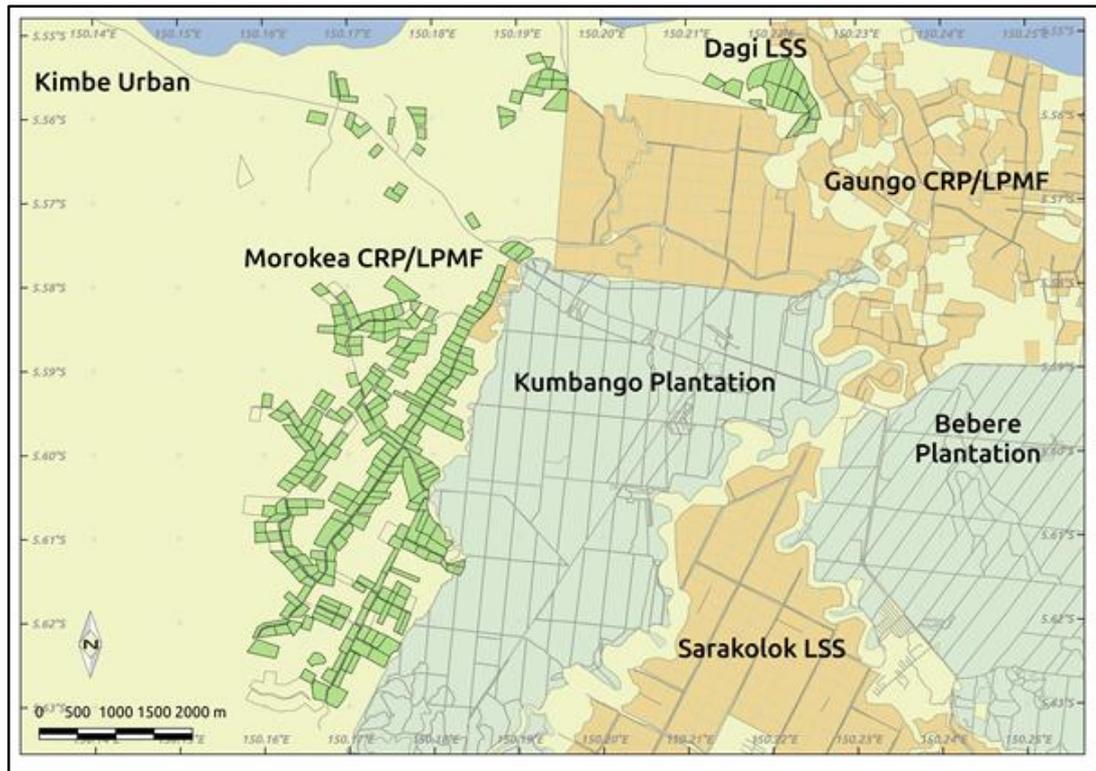


Figure 3.3 Morokea Land-Poor Migrant Farmers (Source: PNGOPRA 2018).

Study site selection: Gaungo and Morokea

The main reason for choosing these two sites was because these areas were the first customary lands in PNG’s smallholder oil palm industry to be released from customary landowners to outsiders to farm under the smallholder oil palm scheme.

Gaungo village is surrounded by three other traditional villages, namely Mai, Mosa and Morokea, whereas Morokea village is situated on the fringes of Kimbe town. Morokeans are the primary traditional landowners of Kimbe, the capital of WNB Province, with other secondary villages. They share land and sea boundaries with approximately eight surrounding villages. Furthermore, during the focus group meeting, the Gaungo clan leaders stated that they have immediate and extended families in all the surrounding villages with a web of traditional relationships dating back to their ancestors, many generations ago. They trace routes of ownership through clans and sub-clans that form the village. During the meeting with the Morokeans, the clan leaders claimed they were the first people to settle in these areas before Gaungo Village was formed and that the people and clans that own or make up Gaungo Village are descendants or have origins from Morokea. To date, more than fifteen different ethnic groups have taken up parcels of customary land for oil palm and other business developments in Gaungo and Morokea as these locations are

ideal for economic enterprises with good access to infrastructure. This diverse group of people brought with them their different customs and traditions and blended with other migrant farmers and the landowners which has had a huge impact on the cultural diversity within these two villages.

3.3 Research Methodology

The complex problems of our times will demand both the greatest creativity and diversity of approaches-not a new paradigm or methodological 'revolution', but instead an embrace of engaged methodological pluralism, where different and divergent methods flourish to tackle issues from different angles (DeLyser & Sui, 2014, p. 303).

The study adopted a mixed method approach (pragmatism) using both qualitative and quantitative techniques. "The goal of mixed methods research is not to replace either of these approaches but rather to draw from the strengths and minimize the weaknesses of both in single research studies and across studies. If you visualize a continuum with qualitative research anchored at one pole and quantitative research anchored at the other, mixed methods research covers the large set of points in the middle area" (Johnson & Onwuegbuzie, 2004, pp. 14-15). These two research approaches are important and useful as they draw strengths and minimise weakness through synergy (Johnson & Onwuegbuzie, 2004). The study involved survey questionnaires, consultations and focus group discussions/meetings, interviews, social mapping of study sites and networking of relationships. Secondary data and reports were also collected. Focus group discussion meetings were held in separate sessions with relevant stakeholders. The date, time and venue for each of the meetings was arranged and each group of stakeholders was transported to the venue of the discussion. The stakeholders involved in the meetings were fourteen landowners from Gaungo and Morokea villages, fifteen extension officers and five field supervisors from the private milling company (Table 3.1) Questionnaire surveys and interviews were conducted with sixty-three migrant farmer households. Most households had 2-4 ha with at least two households living on the farm. The GPS maps of the surveyed farms were also captured while secondary oil palm production data and related newspaper articles were also collected from industry stakeholders.

Table 3.1 Summary of study participants and research methods.

Participants	Site	Methods	Information Sought	Purpose
Migrant farming households (n=63)	Gaungo & Morokea villages, WNB	Qualitative Interviews	Land access and tenure conditions, relationships with and commitments to landowners, family labour and livelihood security, production constraints, law and order problems, managing social obligations, on-and-off farm income sources, farm rehabilitation processes.	Examine how land tenure affects smallholder oil palm productivity and income and how tenure security has changed over time (1980–2016).
		Quantitative surveys	Household demographic data, farm size, harvesting frequency, unplanned goods/funds transactions between farmers and landowners, income sources, migrant farmer household activities, time spent on attending to land tenure issues and oil palm production.	Identify the advantages and disadvantages of the land tenure and how famers are able to adapt and adjust over time.
			Group profile, group cohesiveness, tenure problems, livelihood security, constraints on production, relationships with and expectations of landowners and industry stakeholders.	Identify factors influencing relationships between LPMF, landowners, industry stakeholders (public & private).
Landowners (n=14)	Gaungo & Morokea Villages, WNB	Two focus groups (landowners)	Income distribution from land sales, tenure issues, lease conditions, alternative lease agreements, formation of landowner groups, attitudes to outsiders.	Determine how land access and tenure are negotiated by migrant farmers.
			View on LPMF history and progress, land ownership and security, land management strategies/protocols, identified issues, future plan on LPMF, land disputes, land pressures, conflict within landowning groups, land evictions.	Identify land tenure factors that affect the livelihoods of farmers. Investigate factors on why certain farms are abandoned or poorly managed.
			Identify the range of land transactions and the changes in terms and conditions of those transactions over time since the 1980s.	Collate information on land tenure approaches by landowners and their skills and knowledge.
Oil Palm Development agent (OPIC) (n=15)	WNB	Focus group	Views and experiences of industry experts on land transactions via the Clan Land Usage Agreement (CLUA) form, problems emerging on purchased land, long-term future of migrant farmers and land access to grow oil palm.	Perspectives of experts on the future of the LPMF in the oil palm industry. Identify ideas/strategies to alleviate land tenure and income pressures and increased security for both LPMF and landowners
			Views and experiences of field development officers when facilitating land transactions and oil palm development practices	
Oil Palm processor (NBPOL) (n=5)	WNB	Focus group	Views and experiences of industry experts and field supervisors on farm inspections, sustainable farming and quality crop purchase, relationship and problems with farmers and landowners.	Identify prospect factors in the relationship with LPMF and landowners for sustainable oil palm income and livelihood development.

Pragmatic research via triangulation

The approach used for the study was pragmatic research using triangulation (Figure 3.4). Pragmatism attempts to shed some light on how the two research approaches fit together to offer the best opportunity for answering important research questions (Johnson & Onwuegbuzie, 2004). Creswell and Plano Clark (2011) cited in Gallaher & WinklerPrins (2016, p. 83) claim that “many research projects, especially on topics such as livelihoods, initially state their intent [sic] to use ‘mixed methods’, but in reality these are projects using ‘multiple’ methods based solidly on either quantitative methods (e.g. a household survey) or qualitative methods (e.g. open interviews, focus groups)”. They went on to claim (Gallaher & WinklerPrins, 2016, p. 83) that “many fail to incorporate data generated by various data streams (e.g. social and biophysical data)”. Gallaher & WinklerPrins (2016) used linear triangulation of quantitative household surveys and semi-structured qualitative interviews whilst collecting soil, plant and water samples to confirm and compensate one data type with another. No biophysical data was collected in this study. However, this study attempts to show that in-depth data collection and sources are an effective research approach (Figure 3.4). Similarly, triangulation in this study was used to complement each data type (confirmation and compensation) instead of linear.

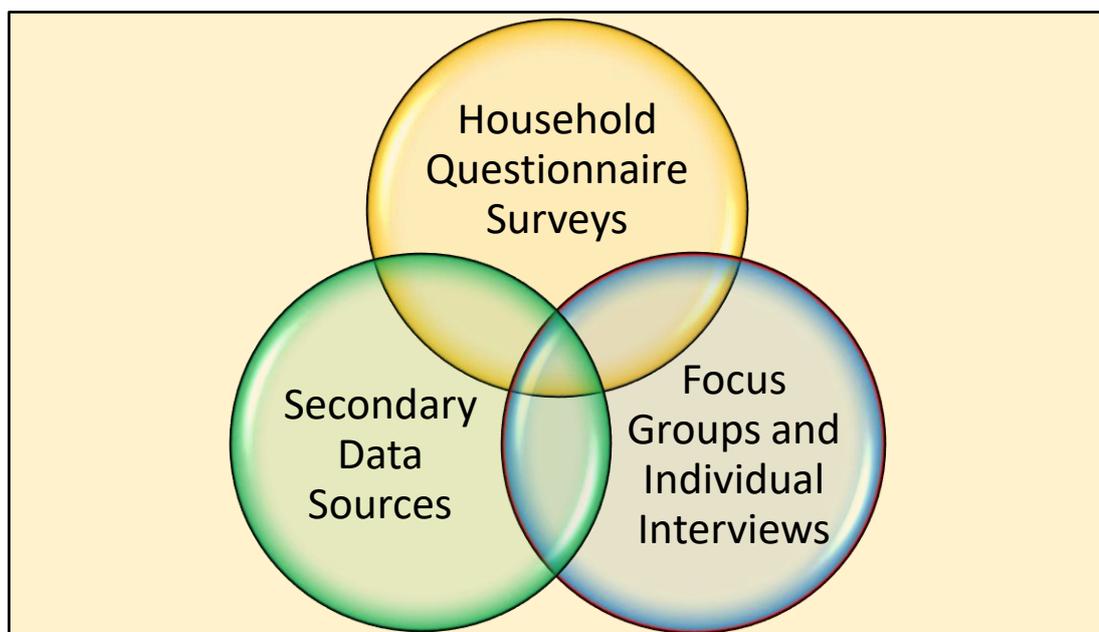


Figure 3.4 Triangulation research approach.

The primary and secondary information were both collected using qualitative and quantitative techniques. The primary data collected via household surveys were a mix of qualitative and quantitative data, while those of focus group discussions and direct quotes or texts from individuals (farmers, landowners, OPIC extension officers and smallholder affairs supervisors of NBPOL) were in qualitative form.

Sample size selection

This section outlines the criteria used to select the sample population in the study.

The household questionnaire surveys and interviews consisted of thirty-one households from Gaungo and thirty-two from Morokea (Table 3.1). The LPMF farm households were randomly selected and surveyed according to certain selection criteria. The selection/stratification criteria were as follows:

- The period when the land was purchased (1980s–2000s and since 2010).
- Farms with 2 or more hectares with a primary household living on the farm were selected.
- Ethnicity of the farmers
- Location of the farms were considered to make sure different ethnic groups in different locations of the two study sites participated. This was intended to provide a full representation of views from different farmers in the two sites.

A random sampling technique was used for the household interviews, questionnaire surveys and focus groups.

The four discussion meetings with key stakeholders involved landowners from both Gaungo and Morokea villages (fourteen participants), OPIC Kavui, Nahavio and Siki divisions (fifteen participants) and SHA NBPOL (five participants). Fourteen landowners from the two villages were selected for the focus group discussions. The landowners were identified and selected by the OPIC extension officers who have regular contact with them. The selected landowners were individuals representing the major landowning clans and responsible for decision making on land tenure and land ‘sales’ to outsiders. Moreover, these individuals are mandated to sign CLUA forms and they are members of the community restoration authority in their respective villages. Secondary data were collected from industry stakeholders (OPIC and SHA NBPOL) databases. The data consisted of total oil palm production for a period of

six years (2010-2016). These data were for the whole Hoskins project, the two study sites and the surveyed households in Gaungo and Morokea.

Research support team and logistics

The research builds on earlier research that I conducted with smallholders on customary land issues especially that relating to the sale of customary land⁴. As part of this previous research, I conducted interviews among smallholders in the study sites and hence they were familiar with the research and I was well known among the landowners and migrant farmers. My six years' experience in oil palm research, made data collection for my thesis easier as I had already built up trust among smallholders. Interacting with relevant stakeholders also had an impact and influence on the successful completion of my fieldwork. I had a clear perspective of the emerging issues and what was in need of attention

During fieldwork I had some assistance from an experienced and reliable support team to carry out timely fieldwork successfully. My employer organisation (PNGOPRA) via my research department of Smallholder and Socioeconomic Research (SSR) provided me with all the necessary logistic support that I needed to successfully complete my fieldwork. I was assisted by three research assistants (RA) (Plate 3.1) who helped me conduct some of the household questionnaire surveys. I received some logistical support by support officers (SO) (Plate 3.1).

The mode of information dissemination to all key stakeholders and actual conduct of the study was through email, phone calls, text messages and in person. My research department fieldwork vehicle and my work motorbike were used for travel. The vehicle and motorbike were used to release advice and notices to relevant stakeholders and to conduct fieldwork. The vehicle was used according to vehicle availability, work priorities, distance to be travelled, weather conditions, road conditions and vehicle space to accommodate the number of travellers. The motorbike was used for follow-up work or confirmations. All fieldwork materials were provided by me and PNGOPRA, including stationery (pens, pencils, clipboards,

⁴ In my position at OPRA I have co-authored published work on land issues in WNB. See Koczberski et al 2013 and Koczberski et al 2017 in the reference list of this thesis.

notebooks), voice recorder, GPS machine, working space or stations, discussion room, projector, computers, and light refreshments during work and discussions. When I was at Dami Oil Palm Research Station (OPRS), I discussed my work breakdown structure (WBS) with my head of department, Mr. Steven Nake. I took him through all the activities and explained in detail the three data sets that I was



going to collect (household surveys, interviews, focus groups and oil palm production data) and the importance and relevance of involving our key stakeholders. We had a complementary dialogue and my plan was acknowledged and accepted while it was incorporated into a monthly research program that the SSR department was operating on.

Plate 3.1 Household survey research assistant support team L-R Linus (RA), Jessica (RA), Arnold Amale (RA), Philip (RA), Leonard (SO) and Merolyn (SO).

Stakeholder awareness

As the first step of the stakeholder engagements, Mr. Nake invited me to present the overview of my study to the relevant stakeholders in one of their weekly routine management meetings (OPIC and SHA NBPOL). I presented a 15-minute Power Point rundown of my study while emphasising the importance and relevance of the

study to the oil palm industry and how the fieldwork component was to be achieved via a holistic approach. Positive feedback, comments and assurances were voiced.

Field work 11 January to 24 March 2017

The household interview component was achieved through trialling the interviews and questionnaires, performing face to face interviews with the farmers in the field (Plate 3.2) and finishing off with double-checking, coding of the data and entering the coded data into the database in the office. The focus group meetings were conducted through formal open discussions aided by structured discussion questions.

Household interviews and questionnaire surveys

Three essential tools for locating the farms and farmers were: the list of blocks/farms, GPS maps of the blocks/farms and the local knowledge of the extension officer on the ground. After selection, the farmers were informed a day or two in advance of my visit via OPIC extension officers and myself.



Plate 3.2 Linus Pileng (research assistant) conducting an interview with a migrant farmer in Moroeka.

Most of the time I travelled with my support team to the selected farms or in the company of local extension officers (especially during survey initiation), or sometimes alone. When arriving at each block/farm, the farm owners or managers were briefed on the purpose of the interview survey before the interview commenced

(Plate 3.2). The blocks/farms where the owners or managers were not on site were interviewed in separate follow up interviews. Those farmers who were reluctant to participate in the interview were replaced with other farmers. GPS points of surveyed farms were collected to map out the distribution of survey samples across the sites. At the end of each day, all surveyed forms were checked, coded and registered prior to data entry. Moreover, all valid survey forms were coded using a developed code-listing. An Excel spreadsheet database was created and trialled before all data were entered.

Conducting focus group, and note-taking and collation

As mentioned above in the segment on stakeholder awareness, the OPIC and smallholder affairs officers of NBPOL and landowners participated in the discussions (Plate 3.3 and 3.4). Before each discussion session, the stakeholders were asked if they would consent to a digital audio recording of the discussion. All stakeholders involved had no issue with the use of digital recordings. Each discussion session commenced with a welcome remark by the principal researcher followed by opening notes from the head of the smallholder and socioeconomic research. The principal researcher gave a 5-minute overview of the study before outlining the discussion questions.



Plate 3.3 Conducting focus group discussions with OPIC Nahavio/Siki divisions at Dami oil palm research conference room.

The discussion questions were formally structured and open-ended, and encouraged informal interactions as everyone was allowed to voice their views on each raised question. The investigator and chairperson posed each question, explained it and left it to the floor. If not understood clearly, an example was given to clarify the question or to prompt the discussion. The chair ensured participants were satisfied with the discussion for each question before introducing the next question.



Plate 3.4 Conducting focus group discussions with Gaungo Landowners at OPRA office Dami oil palm research station.

This process was repeated for all questions raised. Planned coffee breaks were announced at the discretion of the chairman; however, participants were free to have coffee or biscuits during the discussions. After all questions had been discussed, the chairman gave final moments for additional questions or comments before summarising all points raised, followed by thanking all participants for their time and contributions. After the discussions, written notes were typed out and the digital recordings were uploaded onto the laptop.

Experiences during fieldwork

There were numerous encounters with the farmers/growers during fieldwork execution. The fieldwork had to be farmer-oriented, that is, all planning and timing had to be in line with the farmers' programs as they were the managers. Furthermore,

bad weather conditions were encountered where scheduled interviews had to be postponed or delayed. Some farmers questioned the importance of the study and how soon it would have an impact on the farmers. I addressed the farmers' doubts and a mutual understanding and respect was gained with the farmers.

Mode of analysis

The household survey data were entered into an Excel database and analysed using basic Excel formulas, as well as pivot tables, using Statistical Package for Social Science (SPSS). The focus group notes were themed under each objective and were tabulated in a word document according to each different key stakeholder (OPIC, SHA, LO).

Limitations

From the three areas of data collection, limitations were only observed during the household interviews. During a week or two of the household surveys, there were ongoing wet days for either whole days or parts of days and weeks, and this restricted the progress of the surveys by either fewer interviews being conducted each day or the postponing of interviews. Mourning over deaths in some areas of the study sites made it impossible for interviews to be conducted as some farmers selected for the interview were paying their respects and busy with customary obligations at the mourning site. Therefore, the scheduled interviews had to be either delayed or alternative farmers selected. Furthermore, the fieldwork plans and strategies did not always work out well in fine weather conditions. Sometimes, the farmers were either not on the farm, or were there but were busy with something else. Those who were busy with something else when interviewed either paid less attention or gave irrelevant information. Consequently, those farmers were later followed-up or replaced. Most of the farmers who were not on site were parents who had schoolchildren and were trying to enrol or pay for their children's school fees, as it was the beginning of the education year for 2017, while other farmers/growers had gone into town to withdraw their oil palm FFB fortnightly pay from the bank and to do their household shopping in town. These farmers' interviews were postponed and later completed. There were other limitations encountered, but these were not as extreme as the ones discussed above. However, it was fortunate that I had an alternative fieldwork plan that catered for such unpredictable circumstances. The

take-home lesson learned from the experience was that in conducting any fieldwork like this, it has to be based around farmers' work and socio-cultural activities.

Ethical considerations

In regard to the household surveys, all formal farmer participation invitations, agreements, and notices were typed in Melanesian Pidgin, and also verbally explained in Melanesian Pidgin. As I am from PNG, communicating in Melanesian Pidgin was not a problem at all, allowing quick and common understanding. The same applied to the focus group discussions where the stakeholders were formally invited via written letters in English for the OPIC and SHA officers, while in Melanesian Pidgin for the landowners. Additionally, their participation agreement and notices were processed in a similar fashion. The FFB production data acquired from OPIC and SHA offices were through formal written requests in English via letters, emails, phone calls and in-person. The digital recordings were conducted with stakeholders' consent and so too for the photos that were taken during the course of fieldwork either as individuals or in groups. The data collected were treated with care and confidentiality and the identities of the stakeholders were protected, except where the stakeholder gave permission to be identified. On the other hand, all key stakeholders were assured that the outcome of the study would be made available for them to access in the form of printed copies, e-copies, and through recommendations on action research and development via training and awareness programs while contributing to the customary land reform program in PNG.

3.4 Conclusion

This chapter has provided a brief description of the two villages (Gaungo and Morokea) involved in the study followed by an account of the methodological framework used. The study site descriptions emphasised the historical background to the two study sites. The two villages were selected as they were the first to sell customary land for smallholder oil palm production in WNB Province. The research structure or framework described the research approach employed in the study. A pragmatic research method was used primarily based on triangulation. Furthermore, samples sizes were of equal proportions from the Gaungo and Morokea for the three data sets collected (household surveys, focus groups and FFB production), according to the selection criteria used. The complete randomised and cluster-randomised sampling techniques were chosen as being most appropriate for data collection

(primary and secondary). Special remarks on the fieldwork team and logistic support provided evidence of the successful execution of the fieldwork (11 January–24 March 2017), commencing with stakeholder consultations, field activities through conducting interviews and focus groups. The experiences encountered were acknowledged. The mixed data collected were analysed through thematic grouping, basic statistical analysis using Excel pivot tables and SPSS to generate summary data in the form of tables, graphs, figures and box plots. Furthermore, the limitations of the fieldwork were understood to be caused by logistical constraints and human behaviour. Therefore, these two factors must be considered in any field-related activities and alternative plans should be on standby. The whole fieldwork course considered participants' choices and willingness to participate in the study and their privacy was respected.

In the next Chapter, the two study sites will be examined in detail. The focus will be on landowners and migrant farmers. Chapter 4 examines who initiated the idea of purchasing land and who is purchasing the land. It also shows why outsiders purchase land and how these outsiders negotiate land access through different social relationships and pathways over time (1980s–current).

CHAPTER 4

OVERVIEW OF LANDOWNERS AND MIGRANTS IN GAUNGO AND MOROKEA

4.1 Introduction

Chapters 4 and 5 examine the sale of land to migrants from the 1980s to 2016. These chapters trace land sales during this period to highlight which migrant groups purchased land, how they ‘purchased’ customary land and how land transactions have changed over time to become more formalised. In this chapter, a background to oil palm development and customary land in Gaungo and Morokea is provided together with an examination of the types of migrants purchasing land and what motivated them to purchase land. The chapter also reveals the diverse ways migrants were able to purchase land to secure their livelihoods in WNB. It discusses how ‘outsiders’ gain access to land in Gaungo and Morokea, and, how landowners ‘sell’ customary land to outsiders for smallholder oil palm development. The rapidly growing demand for customary land in Gaungo and Morokea for oil palm production by outsiders has led customary landowners and clan members becoming more conscious over time of this increased land demand.

4.2 Landowners and migrant farmers in Gaungo and Morokea

This section provides a general background to customary land and customary land tenure systems of Gaungo and Morokea. It also discusses the migrant population, their income sources and their access to basic service facilities. Morokea and Gaungo villages were among the first traditional landowners in the 1960s to allow the then Australian administration to obtain large tracts of their customary land for conversion to state land for oil palm plantation estates developed by oil palm milling companies and LSS migrant smallholder farmers (Koczberski et al. 2001). The first reported sales of customary land to outsiders and changes to customary land tenure practices in the study sites were captured in a 2001 study on land ‘sales’ to outsiders in Gaungo Village (Koczberski et al. 2001). At the time, similar changes to land tenure and land sales were also occurring in several other nearby villages, including Morokea.

Koczberski et al. (2001) identified two main consequences that emerged from the informal ‘sale’ of land to outsiders. Namely, that some landowner groups were realising that future land shortages would occur and land disputes would increase resulting in insecure tenure of migrant farmers who had ‘purchased’ land. It was recommended by Koczberski et al. (2001) that informal customary land sales in Gaungo and in other VOP areas in Hoskins needed urgent attention by the oil palm industry to ensure that both the migrant farmers and landowners had secure access to land for cash cropping and food gardening in the future (Koczberski et al. 2001).

According to interviews with landowners, the first ‘sales’ of land to outsiders in Morokeya for agricultural purposes were in 1965 for mixed cocoa and coconut farming. Later in 1984 the first land ‘sales’ in Morokeya to migrants for oil palm cultivation occurred. In Gaungo, the first ‘sales’ of land to outsiders for agricultural purposes occurred in 1980 for mixed cocoa and coconut farming, and oil palm was first planted by migrant farmers in Gaungo in 1985 (Chapter 5). Most of the first migrants to acquire land for food gardening in both villages were friends with or had established relationships with the landowners. Later, these lands were planted to cocoa and coconut farms and then converted fully or partly to oil palm as demand for oil palm increased. Land parcels acquired by migrants are usually 2 ha in size. The first generation of landowners or clan members to ‘sell’ their land to ‘outsiders’ have all passed on and they are survived by second, third and fourth generations. As will be discussed in detail in Chapter 5, there have been four stages of land acquisition identified in Gaungo and Morokeya, starting in the 1980s when land was open up, until the final stage of ‘formalisation’ of land transaction in 2010s.

Land area

Gaungo customary land area is approximately 3000 ha⁵ and is made up of scattered hamlets. Their land extends along the coast and inland and Gaungo shares marine and land boundaries with three other villages (see Chapter 3). However, as mentioned above, large parcels of their land were acquired by the Australian administration and oil palm milling companies for oil palm development⁶ (Koczberski et al. 2001). Since initial oil palm cultivation by outsiders in Gaungo in

⁵ The land area starts at Klin Wara, bordering Mai village, and extended into parts of Kavui and Kapore LSS and Bebere oil palm plantations, to Nahavio and Dagi River, bordering Kumbango oil palm plantations and Morokeya.

⁶ Kapore and Kavui LSS and Bebere Plantation are on land that was previously part of Gaungo.

1985, migrants' oil palm blocks have outnumbered those of the customary landowners according to OPIC palm census records for 2011. In 2011, the estimated land area 'sold' (refer to Chapter 1 for definition of selling/sale/purchase) to migrants and planted to oil palm was approximately 931.2 ha covering 247 smallholder farms. The portion of land planted to oil palm by landowners/villagers in Gaungo is approximately 264 ha: one-third of the area planted by migrants.

Since the mid-1980s, individual landowners began relocating from the common village location near the beach to their own sub-clan's traditional land areas and built their homes either on their own oil palm block or among the migrant farmers. Landowners' clan members moved from the community village resident area to their own clan land areas for two main reasons. First, they realised that they had exhausted almost all of their land suitable for farming. They realised that migrants occupied a large area of their customary land. Therefore, landowners felt the need to live among the migrants to avoid the perception taking hold amongst migrants that the land could be dominated by them and eventually taken over by migrants. Second, the growing landowner population was also pushing them to live on their own clan land so that the remaining available and uncultivated land could later be taken up and managed by the next generation. By living amongst settler farmers, landowners could also monitor land use and the activities of outsiders; they would also become aware very quickly of any illegal reselling or rental of land to other migrants. They could also monitor any illegal activities, gardening in areas where permission was not given and harvesting of marine resources from the estuaries, particularly mangroves areas, and the sea. By living among the migrants, landowners made their presence felt and reminded migrants that they were still the owners of the land.

The Morokea customary land area is relatively larger than Gaungo, although landowners were unable to estimate its size⁷. Morokea customary land borders the shoreline. Most of their fertile plains have undergone significant land use change as diverse developments have occurred, including the expansion of the Kimbe township on some of their customary land. As stated above, portions of their land were also taken up by the former Australian administration and incorporated into the LSS and

⁷ There is no record of the exact size of Morokea's customary land area. Mapping of the village is in progress and will be made known after the land demarcation exercise, as part of an Incorporated Land Group and land registration requirement process.

plantation estates (Koczberski et al. 2001). These included the land areas under Sarakolok and Dagi LSS subdivisions, and Kumbango and Togulo plantation estates which were previously part of Morokea Village. In 2011 migrant farmers had acquired approximately 580 ha to plant oil palm (covering 203 smallholder farms) in Morokea village.

Clans and sub-clans

Gaungo and Morokea villages have main clans and sub-clans that make up their village communities. Gaungo has three main clans and eight sub-clans. Morokea has one main clan and six sub-clans as shown in Figure 4.1. From the three main clans in Gaungo, and as far as customary land ‘sales’ are concerned, almost all customary land transactions occur on land belonging to the Keveloho and Malumi clans, while land belonging to the Kabilimo clan is mostly under state leases. In Morokea, the Honde Laulimi main clan was responsible for the majority of land ‘sales’ in the 1980s to the 1990s, until recently when they were joined by other sub-clans. Honde Laulimi owns most land in Morokea followed by Kisang and other sub-clans. Most of the prime land along the main road near the town of Kimbe with good public access is owned by Honde-laulimi. They were the first clan to be directly involved in land transactions, and as the ‘selling’ of land moved inland onto areas belonging to other clans such as the Kisang sub-clan, they also took the opportunity to ‘sell’ portions of their land to ‘outsiders’.

The main clans are responsible for all decisions regarding their land, while the sub-clans have only a minor say in decision-making. Some minor clans in Morokea with large populations and a long history, although secondary to the main clan, have equal decision making powers with the main clans. For instance, the Kisang sub-clan is the largest sub-clan and has primary rights and ownership over certain land parcels in Morokea and has similar authority to the main clan of Honde Laulimi. Members of the Kisang sub-clan have rights to ‘sell’ land to ‘outsiders’, unlike other sub-clans in Morokea. The sub-clans from these two villages separated from the main clans during their ancestral histories and they are related to each other in some way. A main clan in one village can become a sub-clan in another village, depending on their migration histories. For example, a clan can become established in a new area through intermarriage. A good example is the Keveloho Clan, which is one of the major clans in Gaungo village, and a minor sub-clan (Kevelo) in Morokea village.

The spelling of their names is slightly different in each village because of the different dialects spoken between the two villages, but it refers to the same group of people. These clans have relatives in other nearby villages and other locations on the north and south inland areas and north coast of WNB. Both Gaungo and Morokea have a matrilineal land tenure system. However, recent economic and social change, together with increasing demand for land, has seen a shift to a cognatic descent system in Morokea.

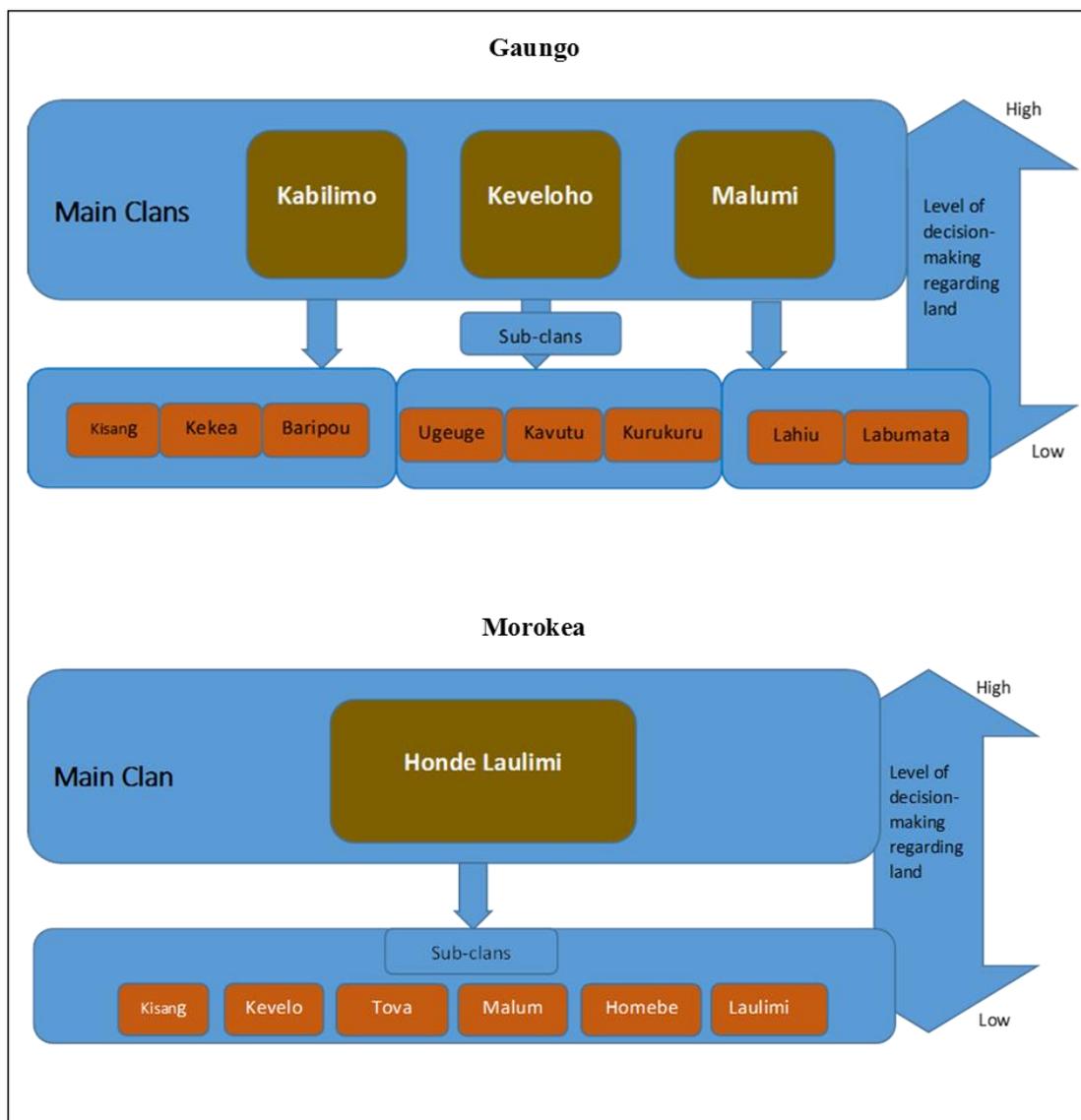


Figure 4.1 Main clans and sub-clans of Gaungo and Morokea villages.

Cultural system of land ownership

During this period, large changes in relation to land inheritance have occurred in Morokea and Gaungo. They previously had a matrilineal land tenure system whereby land was inherited through women. All decisions on land transactions were in

principle made by women and their brothers, their sons, and their sister's sons. The main clan and sub-clan structures were based on matrilineal kinship relationships. Matrilineal kinship structures have been maintained for many generations in these two village areas until the late-2000s when this matrilineal kinship fabric was influenced and altered by cognatic structures. It is the recruitment of landowner population along both the mother's and father's line as compared with the patrilineal and matrilineal systems (van der Leeden, 1960). While Gaungo maintained matrilineal land tenure, Morocean landowners introduced a bilateral kinship system, to create a second option for individual families and clan members to access land.

Cognatic kinship: A cultural land transition system in the Morocea context

Morocean landowners claim that they were the first to relax their matrilineal kinship system around land to adopt a bilateral kinship system. The three main reasons for the introduction of the cognatic kinship system that villagers gave were:

1. Protect clan land, descent and inheritance

The Morocean landowners believed that if they adhered to their matrilineal kinship system, some of their minor clans which have fewer members could die out. This is because there would be less people representing the clans in terms of their clan land areas, their traditional routes of evolution and existence and how these traditions would be passed on from generation to generation. Therefore, the clan leaders decided that each family should distribute equally their children among their patrilineal and matrilineal kinship so that each kinship clan has enough clan members to guard and protect its customary land.

2. Demand for land by outsiders

Following on from the above, Morocean villagers emphasised that they should maintain a high number of clan members in each of their clans to maintain their claim as landowners of their land and to protect their customary land from being over-exploited by outsiders. The bigger their population size, the more their voice and presence would be felt by outsiders doing businesses on their land.

3. ILG requirement

In part, this move was triggered by the awareness of customary land registration through ILG and Voluntary Customary Land Registration (VCLR)⁸ (Kalinoe, 2010). When the major clan of Honde-Laulimi of Morokea registered their Incorporated Landowner Group (ILG) in 2013, a CLUA was a prerequisite legal instrument to be used under the ILG to lease customary land for development. The main clan of Honde Laulimi was advised to meet compulsory requirements of the ILG documentation process. The first requirement was to have all individual family and clan members registered under the national identity or civil birth registry. To achieve this requirement, and based on the socio-cultural and economic importance and benefits to the families and clans, and their future generations, the clan leaders of Honde Laulimi, Kisang and other sub-clans agreed in consultation with their clan members that individual family heads were responsible for the reallocation of their family members to different clans to which each family was entitled. Each individual family was required to complete a Civil Registry Identification (birth registration) or National Identification (NID) form for all family members to register themselves under their family tree and clan structures. This process is ongoing in Morokea.

Under the new ILG requirements, individuals are required to register under one clan unlike in the past where an individual could register under more than one clan. As a Honde Laulimi clan leader explained to me:

We Morokea landowners were the first customary group to take the bold step and initiate the idea of equally distributing our children to the different clans that the parents originated from whilst maintaining our traditional matrilineal kinship inheritance. We are facing mounting land demands from foreign entities and migrants from all over PNG. In response to these pressures, we are taking this more flexible approach [cognatic descent system] to protect and pursue our customary ownership interest over our land whilst meeting the requirement of economic developments via forming and registering our clan ILGs and customary land (Peter Meta—Morokea 12/02/2017).

During fieldwork I had a discussion with a Honde Laulimi clan elder and his nephew who is his possible successor. As his nephew explained:

⁸ The Land Group Incorporation Act 1974 and Land Registration Act 1981 were amended to Incorporated Land Group (ILG) and Voluntary Customary Land Registration (VCLR) in 2009. This was to facilitate the transition in the customary land reform program in PNG.

This is my uncle and he is my mother's brother. My uncle is our clan agent and our leader. My uncle is the second generation of landowners who sold much of our land around here to outsiders. My uncle's children will not inherit his clan leadership status. Instead, his children will follow their mother's clan or be distributed to both the patrilineal and matrilineal lineage according to the current arrangements but none of them will take over the clan leadership or agent post. It will be me. I am the eldest son of his sister's children and next of kin to inherit the leadership role. This is widely known and accepted among our Moroakea Village community (Peter Meta and Mismin Kura—Moroakea 12/02/2017).

Under the present cognatic descent structure in Moroakea, the children of the first generation male landowners will not become primary landowners in the second generation. The male landowner and his wife will have to decide whether their children will remain with their father in his clan (as in patrilineal system) or go with their mother to her clan (as in matrilineal lineage). Those children who remain with their father under his clan will join their cousins (children of their father's sisters) who are in the matrilineal system. The amalgamation of these two lineages creates the cognatic kinship system. Cognatic kinship does not affect traditional hierarchies. However, women and men who claim descent through their matrilineal relatives will have more power as primary landowners and heads of clans. Therefore, they have more power in decision-making than their relatives under patrilineal origins. Those joining their father's patriline will perform secondary roles, and will be ordinary clan members and receive less of a share of the clan's wealth.

The migrant population

The oil palm growing area of Kimbe Bay in WNB has one of the fastest population growth rates in the country (Koczberski, et al., 2017). Large numbers of migrants have settled in WNB since the scheme's inception (Koczberski & Curry, 2004). Gaungo and Moroakea villages (exclusive of migrants) have also both experienced rapid population growth over the last three decades. According to the landowners, the approximate population of Gaungo is 2000 while Moroakea is around 3000. The number of migrants residing in these two villages has expanded over the years.

Many of the 'outsiders' who acquired blocks in the 1980s and 1990s now have multiple households residing on their blocks because their older children have married and continue to live with their parents. Some 'outsiders' also have more distant relatives living with them on the blocks. These relatives sometimes work in

the formal sector. In Morokea, landowners have placed restrictions on the number of co-resident households that can live on the purchase plots. Generally, no more than three permanent households are permitted on the typical 2 ha block. This measure enables landowners in Morokea to keep track of ‘outsiders’ moving in and settling on their land. Since the first migrant accessed customary land for oil palm development in the 1980s, the migrant farmers in Gaungo and Morokea are now into their second and third generations.

Main income sources

The main perennial cash crop grown by migrants in both Morokea and Gaungo is oil palm, with marketing of garden food crops as the second main income source, especially for women (Figure 4.2). Wage employment is the third source of income while other income sources include small businesses such as trade stores, transport and poultry. A few migrant households in Morokea earn income from cocoa and coconut.

Cocoa and coconut, which were the main income sources prior to the mid-1980s, have been overtaken by oil palm and other income sources in the mid-1990s. Oil palm became the main income source for landowners in the 1990s and remained dominant since then; although some cocoa plots are still cultivated in areas unsuitable for oil palm, such as on hilly land especially in Gaungo. Cocoa is sometimes sold as wet beans, or fermented and dried to be sold as dry beans during flush periods. Coconuts are sold by female landowners in the town or roadside markets as either green coconuts for drinking or as dry coconuts for cooking. During fieldwork, coconut holdings were rarely harvested to make copra because the returns were higher for green or dry coconuts⁹.

Alternative income sources

Alternative income sources are supplementary income that migrant households pursue on an irregular basis. The income generated from these sources facilitates the day-to-day costs of living by many migrant households in Gaungo and Morokea (Figure 4.3). Homestead marketing has become an increasing source of alternative income in the past decade (Figure 4.3 and Plate 4.1). Homestead marketing usually

⁹ Copra is the dried meat of dry coconut that is scooped out of the coconut shell. It is used for downstream processing of coconut oil.

refers to a small table stationed in front of a migrant farmer’s homestead yard with marketable goods such as betel nut and mustard; garden food or vegetables; wrapped cooked food, green and dry coconuts; reselling of store goods such as biscuits, canned drinks, cigarettes and so on displayed for sale (Plate 4.1). Betel nut and mustard are also widely cultivated by migrants as they generate good supplementary incomes to oil palm. Betel nut palms are commonly farmed around the village and homestead areas, among the cocoa and coconut trees, and on the edges of oil palm holdings (Figure 4.3). The selling of home-cooked foods and marine resources like fish, crabs and seashells are sometimes sold for additional income.

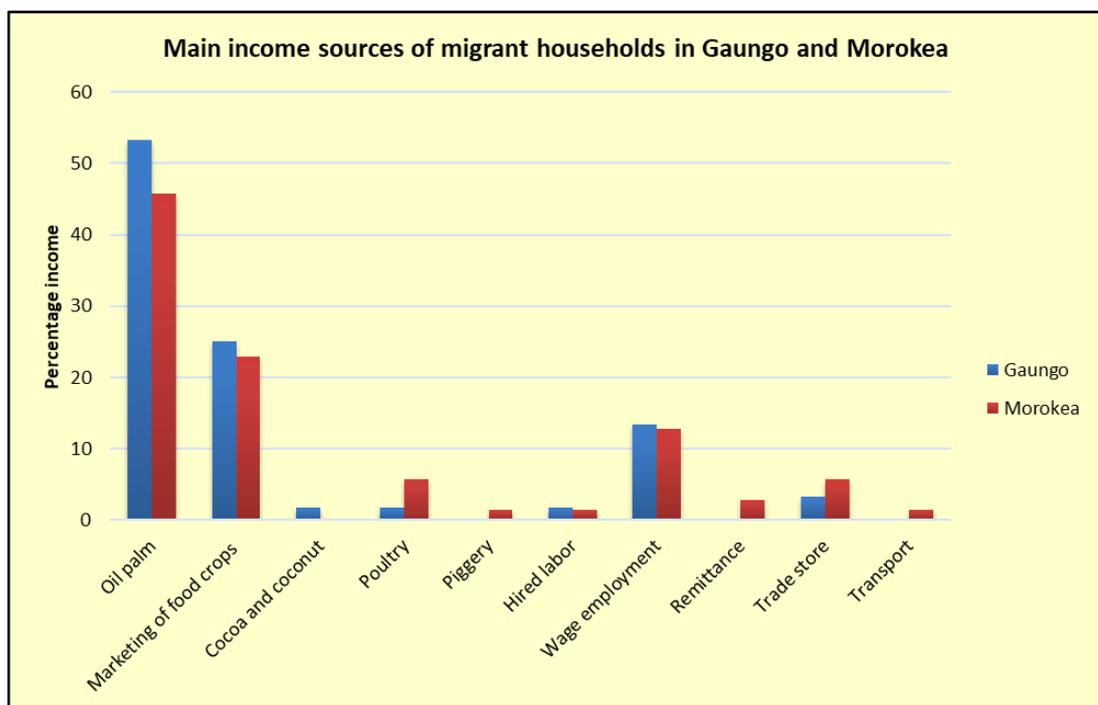


Figure 4.2 The main income sources of migrants in Gaungo and Moroakea (n=130).

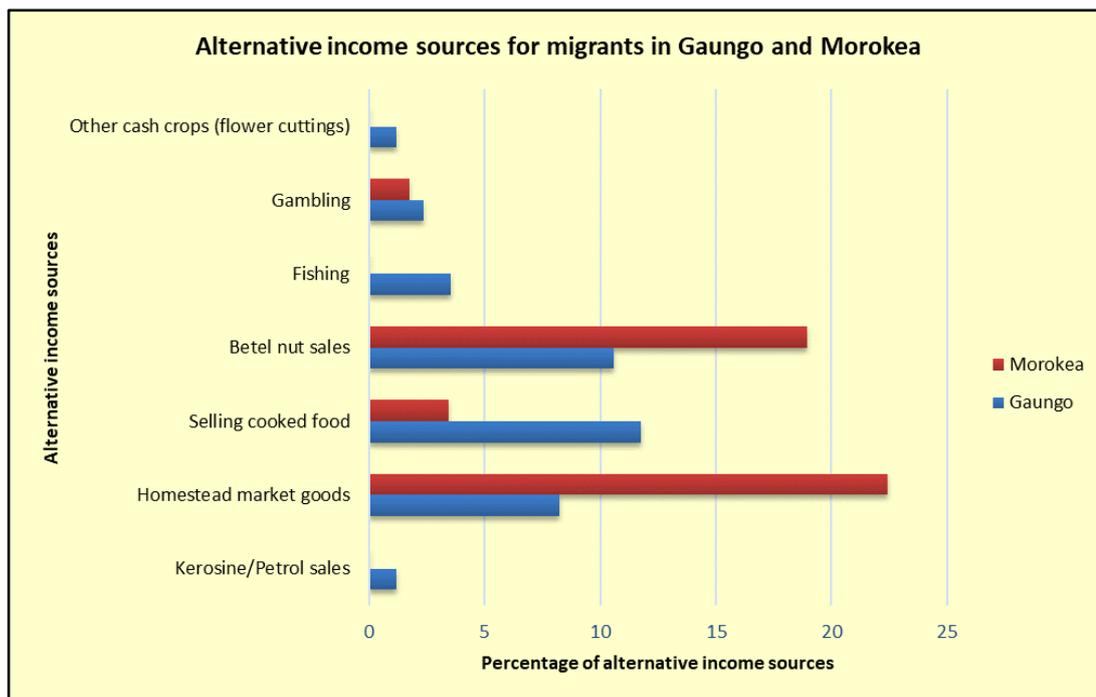


Figure 4.3 Alternative income sources by migrant households in Gaungo and Morokea (n=143).



Plate 4.1 Table market with resold store goods in front of a migrant oil palm block in Gaungo.

Access to basic service facilities

Service facilities like shopping centres, stores and food markets are easily accessible for both Gaungo and Morokea migrants (2–7 kilometres from Kimbe town). There are no government health or educational facilities in Gaungo and Morokea villages. Some schools and aid posts were built by the community, but villagers are still waiting for the government to staff and fund the operations of these facilities. There

is also a lack of proper water sanitation, electricity or toilet facilities in the established community elementary schools.

4.3 Who is purchasing customary land?

This section discusses the types of migrants buying customary land. Most buyers interviewed were general workers in private logging and plantation companies, public servants in and around Kimbe, or had previously lived in nearby LSS blocks and urban settlements¹⁰ (Figure 4.4). ‘Buyers’ varied ethnically and had diverse vocations. Private sector employees made up the highest proportion of buyers in both Gaungo and Morokea (Figure 4.4). Private sector employees occupied 29% and 25% of the land parcels in Gaungo and Morokea respectively. Private sector employees were primarily plantation workers from the nearby NBPOL oil palm plantations and general workers from the then local logging company. The second largest category of buyers was from the nearby LSS farm households (Figure 4.4). In the mid-2000s the majority of buyers of customary land in the oil palm belt of Kimbe Bay were the descendants or relatives of the original LSS smallholders who migrated to the scheme in the late 1960s and early 1970s (Curry & Koczberski, 2009). The purchase of customary land and resettlement by LSS former residents was one of the main strategies LSS farmers used to address land, population and income pressures on their blocks (Koczberski et al. 2001, pp. 81). Now it appears that those in long-term employment are more prominent in the market for land and this may reflect the increase in the price of land as demand for land by outsiders has grown over time.

The third largest migrant group to acquire land parcels were from the Kimbe urban area and informal settlements on the fringes of Kimbe town (Figure 4.4). The Kimbe township is situated on Morokea customary land (Figure 3.4). Settlers residing in informal urban settlements access Morokea and Gaungo customary land to secure family resettlement and oil palm farming. There is also a growing group of indigenous Nakanai migrants from Hoskins and Talasea districts (Figure 4.4) purchasing land in Morokea and Gaungo. This group constitutes 13% of buyers in Morokea and 6% in Gaungo. The indigenous people purchasing land in Gaungo and Morokea were mainly distant relatives of the landowners, some of whom had moved

¹⁰ The types of buyers were determined through their previous place of living and vocation.

out of their overpopulated villages, and others fleeing tribal fighting in their home areas in Talasea.

There were other types of buyers ‘purchasing’ land in Gaungo and Morokea. Public sector employees, other LPMF/CRP farmers and settlers from other provinces of PNG also purchased land parcels in Gaungo and Morokea. Public sector employees saw purchasing customary land for oil palm farming as an alternative income source and as a means of securing a residence once they reached their retirement age. Koczberski et al. (2009, p. 7) showed that “company employees who have spent much of their working life in WNB and who identify themselves more closely with WNB than ‘home’, aspire to securing a livelihood in ‘retirement’ by purchasing land”. Some ‘purchasers’ later on sell their farms and move to other sites in WNB to access land.

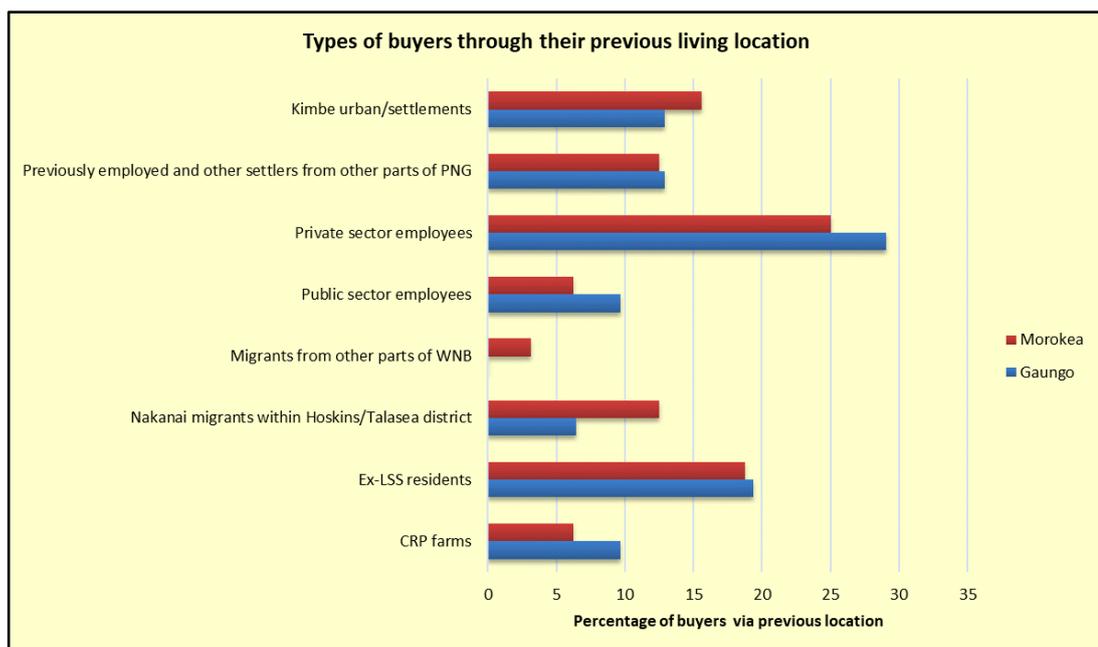


Figure 4.4 Types of land buyers in Gaungo and Morokea by their previous place of living (n=63).

The increased land demand, population pressure and land tenure security have challenged the migrant growers to diversify their livelihood security by accessing additional land in the same area or elsewhere. For instance, one outsider in Gaungo has two blocks in two different locations in Gaungo CRP, while another outsider had ‘purchased’ two blocks, the first one in Gaungo and the second one in Morokea CRP.

The main reasons for some migrants having two blocks were to maximise land access and income security and to resettle other family members. Previously employed private sector workers, public servants and migrants from other provinces of PNG came to WNB to participate in the wealth opportunities of oil palm by acquiring customary land. These ‘outsiders’ came to WNB because they heard about the opportunities from relatives, friends or work colleagues who had oil palm farms in the province. Finally, the smallest group of land buyers were migrants from other parts of the WNB province (apart from Hoskins/Talasea district) with 3% in Morokea.

4.4 Who initiated the idea of land ‘purchase’?

This section discusses how land purchases are initiated. The source of ideas of accessing or ‘purchasing’ customary land varies across Gaungo and Morokea villages, and can be initiated by both ‘outsiders’ (migrant farmers) and ‘insiders’ (landowners). Figure 4.5 summarises who initiated the idea of ‘purchasing’ customary land in both Gaungo and Morokea villages. Land ‘purchases’ and the motivation to purchase access to customary land are typically influenced by more than one person, mainly family members or a larger family grouping.

The future investment for a family starts with the family itself, particularly with the household head. The household head first seeks family members’ views before a final investment decision is made. Family members cannot make decisions alone without the household head’s authorisation. Family members’ views have a large influence on future investments that are of shared benefit for the family. Figure 4.5 shows that family and household heads (family, individual migrant, father of migrant farmer) made up 95% of those who were the original source of the idea to ‘purchase’ land. There are other people or groups of people who have some influence in initiating the idea of land ‘purchases’. The support or backup from these people or groups exerts confidence and confirmation of a family and individual’s decision to go ahead with this lifetime investment.

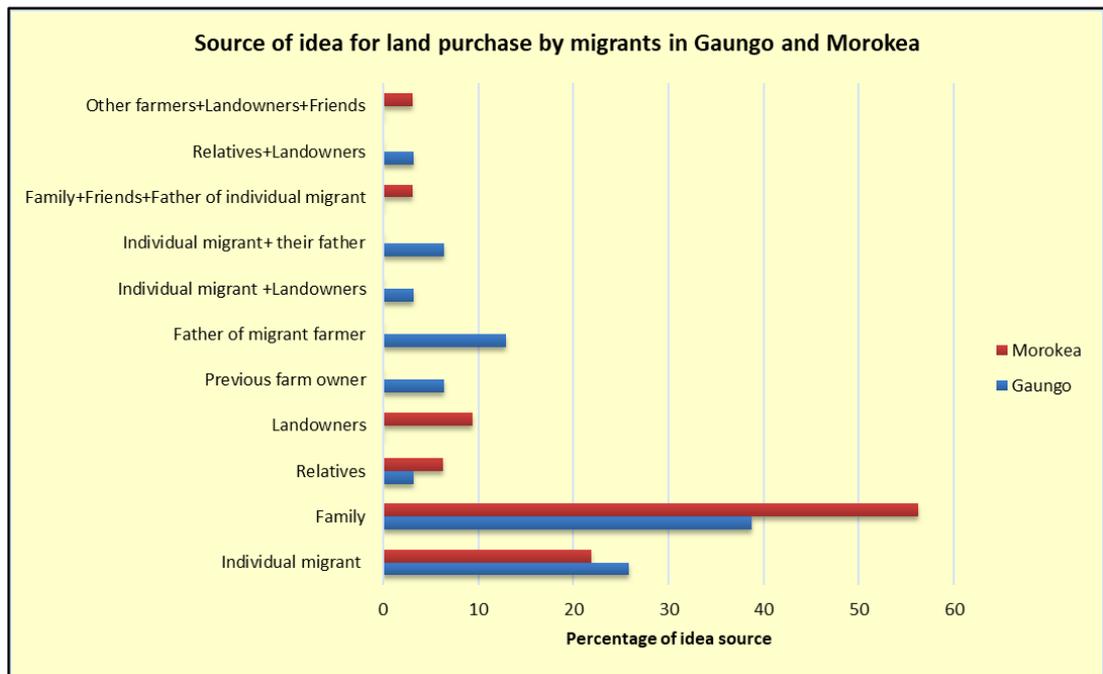


Figure 4.5 People who initiated the idea to 'purchase' land-in Gaungo and Morokea (n=63).

4.5 Why 'purchase' customary land?

The reasons why families, individuals and groups invest in customary land acquisition are varied and diverse in both Morokea and Gaungo contexts. However, migrants have two main interests in 'purchasing' land. The first is to access land to secure the future wellbeing of their family. The second is to develop income-generating avenues and other socioeconomic livelihood opportunities for the family (Figure 4.6). The initial motivation to invest in oil palm development to sustain livelihoods was often underpinned by an individual's desire to secure land for their family's wellbeing and children's education (Figure 4.6) (discussed further below).

As shown in Figure 4.6, the reasons for acquiring land are not only focused on oil palm development as I initially assumed. There are other factors which can be grouped into four main areas: future livelihood security; economic investment; family related issues; and population pressures. Securing a future in WNB through the 'purchase' of land is more important than the direct economic reasons (such as oil palm development), family issues and population pressures. Whilst earlier studies (Koczberski & Curry, 2004; Curry & Koczberski, 2009) reported that oil palm production and population pressure were the dominant reasons for acquiring customary land, my investigation showed that oil palm production and population

pressure were less important than concern over future security for the family although all are closely interrelated.

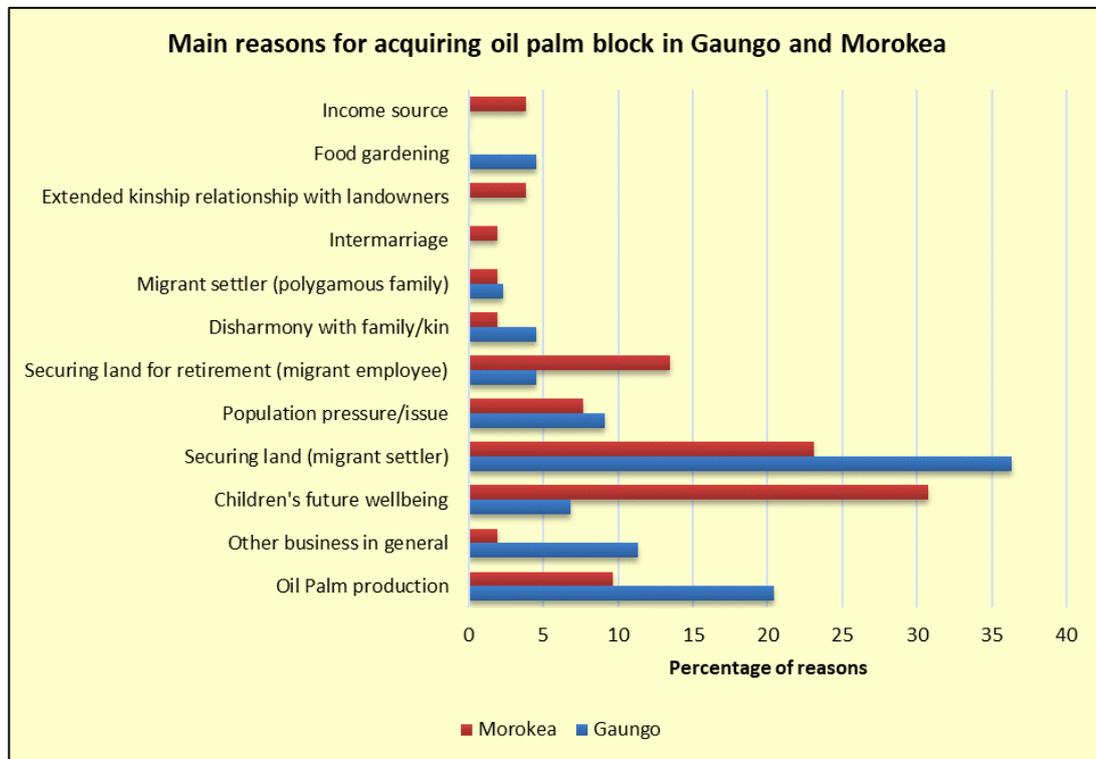


Figure 4.6 The reasons for acquiring an oil palm block in Gaungo and Moroeka (n=96).

Over the years there has been a major shift in how landowners and migrants in Moroeka and Gaungo view the importance of accessing and maintaining access to customary land. The early migrants purchasing land in Gaungo and Moroeka were interested in land for oil palm production; hence, the more recent migrants were seeking land to secure long-term residence. The long-term livelihood security and investments of families are becoming more important than short-term economic gain.

From their experiences of family issues, population and land pressures over the past three decades, migrant growers in Gaungo and Moroeka have responded by resettling co-resident family members or relatives to other locations within Gaungo and Moroeka or elsewhere in WNB. Some encouraged family members to seek opportunities such as wage employment (for example, on oil palm plantations and in shops in town) with provided or rental accommodation off-block to contain population pressures. Due to the greater availability of customary land in Moroeka

than in Gaungo, there is less pressure in Morokea than in Gaungo where almost all customary land is now under some form of development (Chapter 5.2).

Rising population and land pressures are the current drivers influencing migrants and their families to seek secure lifetime access to land. Migrant farmers see that securing lifetime access to land is the most important strategy for a secure life. It is through acquiring land that homes are built to shelter families, food gardens are established to feed families and surplus food crops are sold to generate income. Most potential income prospects are derived from the land. It was during the 1980s–1990s that migrants came to realise that having access to an oil palm block guaranteed security to land, access to income and assured their children's future wellbeing. However, this is not the case today.

Another group acquiring land was retired private and public sector employees who wished to secure land for a life in retirement. As mentioned earlier, long serving public servants and private sector employees preferred settling on an oil palm block after their retirement rather than returning to their home village. For these long-term migrants, their children were born and raised in WNB and now regard WNB as their first home while their parents' home provinces were viewed as their second homes (Koczberski et al. 2001). These offspring would prefer to live in Kimbe rather than in their parents' province of origin. This preference of the family, especially children, strongly influenced their parents to 'purchase' land and settle in WNB; the grandparents desired to live near their grandchildren. Retired or ex-plantation workers and those living in urban settlements often cannot afford to send their extended families back home. Therefore, they join other migrants by 'purchasing' land and settling on their own land where there is more privacy and a safe environment away from the frequent social disturbances and conflicts that occur in their former living locations.

There is evidence of mounting land, population and income pressures on nearby LSS blocks (Koczberski et al. 2001, Curry & Koczberski 2009; Koczberski et al. 2017). The main pressures are on secondary and extended family households. Secondary households on an LSS block are made up of young married sons and daughters of the original leaseholder who do not have a primary claim on the oil palm income. These secondary households share the LSS block with the primary household, mainly their

parents, or, if the father is deceased, one of the brothers or sisters who became the title holder of the LSS blocks. Extended family households are relatives of the farming family who initially settled on the LSS block. These households do not have a strong claim on the oil palm income (Koczberski et al. 2012, Koczberski et al. 2013; Ryan et al. 2013). Secondary and extended family households do not have primary rights to the oil palm income and therefore often miss out on the income and other benefits that are available to the primary household on the block. Thus, secondary and extended family households are forced to ‘purchase’ parcels of customary land to help alleviate the income pressures on their families.

4.6 How do ‘outsiders’ as ‘purchasers’ negotiate access to land?

The section examines how outsiders negotiate access to land through different social relationships and pathways. As discussed above, land transactions between landowners and buyers are highly diverse and flexible. I have identified five main approaches and negotiation relationships that outsiders have used to access land over the last three decades (Figure 4.7). These can be categorised as follows:

- Pre-existing relationship between migrants and landowners before the idea arose of land acquisition for oil palm development
- Buyers in search of landowners without prior relationships with landowners for land acquisition
- Landowners in search of buyers without prior relationships for land acquisition
- Sale and resell of existing oil palm blocks by migrant farmers either with or without landowner consent
- Inter-marriage between migrants and members of landowning group guarantee access to land.

Each is discussed below.

1) Land access through pre-established relationships

Established relationships are those formed prior to land access negotiations began between the purchaser and the landowner, as shown in Figure 4.7. Although now not the dominant type of buyers, these buyers were the initial group of outsiders that gained access to customary land for resettlement and oil palm development ahead of other more recent groups of buyers (Figure 4.7).

Migrant-landowner relationships were established early in the LSS subdivisions of Kapore, Tamba and Sarakolok and the nearby NBPOL plantations of Bebere and Kumbango, and in the Stettin Bay Lumber Company (SBLC) logging base at Buluma (Figure 4.7). Some landowners formerly held leasehold blocks on these LSS subdivisions and it was during their time living there that they interacted and made good friends with migrant LSS farmers such as those from the East Sepik, Morobe and East New Britain provinces. These local landowners living on the LSS were encouraged in the early 1980s by the former agriculture extension/development agency to return to their villages to help establish oil palm cultivation on their undeveloped customary land. The returned landowners continued to maintain good social connections and relationships with their migrant LSS friends. Eventually, the landowners invited their close LSS friends to cultivate food gardens, hunt on their land and fish in their rivers and ocean. Later, these former gardening, hunting and fishing areas were gifted or exchanged for cash as an informal land rent to allow their LSS friends to settle.

When oil palm farming was initially adopted in the 1980s by those customary landowners living near the oil palm LSS and plantation estates, especially Gaungo and Morokeya, clan leaders allocated land for oil palm development to their clan members under the regulations of customary land tenure principles. In Gaungo, the accessing of customary land by non-clan members outside the village started when some major clan leaders in village allocated blocks of land for oil palm to other village clan member families who were land-short or they did not have land bordering a road (a requirement by the company for the collection of the harvested oil palm fruits). They also invited their friends from the nearby LSS and oil palm plantations to cultivate garden plots on allocated land parcels and later converted those fallowed gardens into oil palm blocks (Curry & Koczberski, 2009).

Other landowners, especially those from Gaungo who worked at the nearby Stettin Bay Lumber Company (SBLC) logging site at Buluma in the 1980s, made friends with other migrant workers, especially the Morobeans. Gaungo landowners also made good friends with labourers from Bebere plantations whilst Morokeyan landowners made friends with plantation workers from Kumbango and Togulo oil palm plantations. The formation of their friendships with migrant settlers was similar

to the ones with the LSS farmers. Morobeans accessed land in Gaungo, specifically for food crop gardening. The large parcels of farming land were ‘sold’ for cash by the landowners to the Morobeans through their then existing Morobe Association Group.

General workers from nearby plantations were also granted permission to cultivate food crops and access firewood on customary land in both Morokea and Gaungo. These migrants even assisted landowners to harvest their oil palm, and later many retired and took up blocks of land to sustain their livelihoods as oil palm growers. These migrants claimed they would find it difficult to go back to their home provinces because they would face challenges such as land and income pressures at home. They also claimed that the high cost of repatriation, and their children’s preference to live in WNB influenced their decision to settle on an oil palm block.

I identified some landowners, especially senior clan members who ‘sold’ land to outsiders by communicating through existing migrant farmers. In Gaungo, migrants who were relatives and friends of existing migrant farmers made arrangements with existing migrant farmers to negotiate land access on their behalf with landowners. (Figure 4.7). When there was an urgent need for cash or certain goods by certain landowners or clan members, they searched for new land ‘purchasers’ via existing migrant farmers (Figure 4.7). The agreed arrangement was for the existing migrant farmers to conduct land ‘sale’ marketing awareness on behalf of the landowners in return for a commission payment or as an obligation or commitment to strengthen their social relationships. The awareness was usually done among the migrant’s own relatives or someone with whom they had a prior relationship such as a former work colleague.

2) Accessing customary land without established relationships: Buyers in search of landowners

The main approach that outsiders used to negotiate access to land in Morokea and Gaungo was through buyers in search of landowners to purchase land (Figure 4.7). Most of these buyers had no (or minimal) prior contact or relationships with the landowners. These buyers were mostly from oil palm plantations, logging sites, urban settlements and from LSS farms. They believed that the cash exchanged for the land gave them ‘outright’ ownership over the land parcel. The landowners,

however, believe that migrants have only gained land use rights for oil palm farming and eventually the land will revert to the original landowners (Koczberski et al. 2017). This has been the cause of many land disputes (Koczberski et al. 2017).

3) Accessing customary land without established relationships: Landowners in search of buyers

Landowners themselves also searched for buyers of land. Morokea had 16% and Gaungo 3% of landowners who searched for outsiders to purchase their land (Figure 4.7). These landowners, especially senior clan members, urgently needed cash and would advertise to find buyers of land parcels. The common places landowners searched for buyers were at nearby plantations, the LSS blocks or at town shopping centres during oil palm or other pay days. These land ‘sales’ were commonly done by an individual clan member without consultation with other clan members. Other male clan members perceived the land ‘sale’ by an individual clan member as unfair. As one senior clan member in Morokea said to one of his clan members selling land individually to outsiders:

I am a man just like you. You sold land to outsiders and used the land ‘sale’ income to buy rice, alcohol and got drunk in front of me, Ok I will retaliate in the same way by selling land parcels to outsiders and buy rice and alcohol from the land ‘sale’ money and get drunk in front of you (Mismin Kura—Morokea 12/02/2017).

The senior clan members who ‘sold’ land parcels to outsiders had no intention to ‘sell’ ‘outright’ the birthrights of their children and grandchildren. Most of these senior people have since died and for the last decade the remaining senior clan members have been pressured by the younger generations to restrict and tighten up the informal land arrangements made in the 1980s and early 1990s (as outlined in Chapter 5), and in some cases return the land to the clan.

4) Land ‘sale’ and ‘resale’ by migrants

The practice of a first buyer on-selling land to a third party is beginning to surface in Morokea and Gaungo (Figure 4.7). There are two categories of this practice of on-selling of established oil palm blocks (Figure 4.7). They are:

- The existing first buyer reselling the farm to a second buyer, with landowner consultation and consent; and

- The existing first buyer reselling the farm to a second buyer, without landowner consultation nor consent.

My household interviews indicated that 10% of land ‘sales’ in Gaungo and 3% in Morokea were first buyers reselling farms to third parties with landowner consent (Figure 4.7). Migrant farmers consult with the landowners and express their intention of selling the farm to a new buyer. The landowner and migrant farmer then discuss the ‘sale’ conditions. The conditions usually relate to the following:

- Reasons for reselling the farmland;
- Extent of oil palm development and other consent on the block;
- Selling price of the farm;
- Sharing of ‘sale’ proceeds; and
- Transfer of tenure access rights.

The main reasons for reselling blocks are diverse and differ from one migrant farmer to another across the study sites. The reasons that I gathered from the sixty interviewed households were:

1. Tenure insecurity
2. Households purchased land elsewhere
3. Oil palm work is too laborious
4. Household lacks labour to maintain the farm.

Some migrants face tenure insecurity at replanting, and others cannot cope with the mounting social pressures from landowners. Migrants, who are vulnerable to insecure land tenure do not want to risk their efforts to work on oil palm production until the replanting stage when their tenure can be terminated. By selling the farm before replanting, the household can recoup some money and leave. The migrant growers know that if they sell their blocks when replanting is due, they are not likely to receive any money because the landowner could claim they have earned their share of money from the first planting round, so it is understandable why some migrants want to sell early. Other migrants sell their blocks because they feel they are continually under enormous financial pressure from landowners to maintain their social commitments and obligations, and lack any privacy on the land. Some of these migrants sell their land and return to their home provinces.

The sale price nominated by the migrant is determined by the development status of the land. This consists of all tangible and intangible efforts (clearing the land for oil palm development, skills and knowledge used to develop the farm, cost involved in establishing the farm, etc.) made by migrants to develop the land, especially the planting of oil palm. The age of the palms, established horticultural crops and the homestead area also determine the selling price. Once the price of farmland is agreed upon by the migrant household, the landowner is notified. The landowner is entitled to a certain percentage of the selling price. For instance, in Gaungo, the landowners claim approximately 15–20% of the selling price. During one such case in 2015, a migrant farmer sold his 2 ha oil palm block for PGK30 000 and the landowner claimed PGK5000. The consultation with landowners, and landowners retaining a certain percentage of the land ‘sale’, is in recognition of their confirmed status as landowners and is also based on the notion of respect and appreciation by the migrants. This arrangement serves to facilitate the transfer of user rights from the first buyer to the second buyer.

Occasionally, the on-selling of oil palm blocks by a migrant buyer to another migrant buyer takes place without the landowner’s consent (Figure 4.7). Such cases result in misunderstanding and disagreements with the landowners. Consequently, sellers are forced to discuss the land and land transaction with the landowners. If the first seller is living elsewhere and cannot be reached, the buyer is responsible to pay the 15–20% of the selling price to the landowners before the landowners will facilitate the transfer of land-use rights to the second buyer.

5) Intermarriage

Another way in which land is accessed by outsiders is through marriage (Figure 4.7). The ‘gifting’ of customary land for bride price payment is part of the traditional custom of Gaungo and Morokea. Traditionally, when couples become engaged, they are allocated parcels of land to develop their livelihoods on. The land parcel/s could be offered from either the man or woman’s family clan depending on land availability under the clans and the decisions by the clan leaders. Typically, young men and women who are descendants of principal landowners have a higher chance of using land as part of a bride price payment than other clan members and non-clan members. This traditional custom is still practised in Morokea and Gaungo when younger male landowners marry women from other areas of PNG. As some

landowners expressed in a form of joke to me, “if you want land, then get married to our daughters or vice versa, advise your sisters or daughters to get married to our sons then you are guaranteed free customary land access”. This sentiment was expressed by other landowners in Gaungo and Morokea. I found that the son of a landowner in Morokea married a woman from the highlands of PNG. The man’s relatives paid his bride price in the form of cash and a parcel of customary land. The size of the land parcel was allocated to match the given value of a bride price in Morokea.

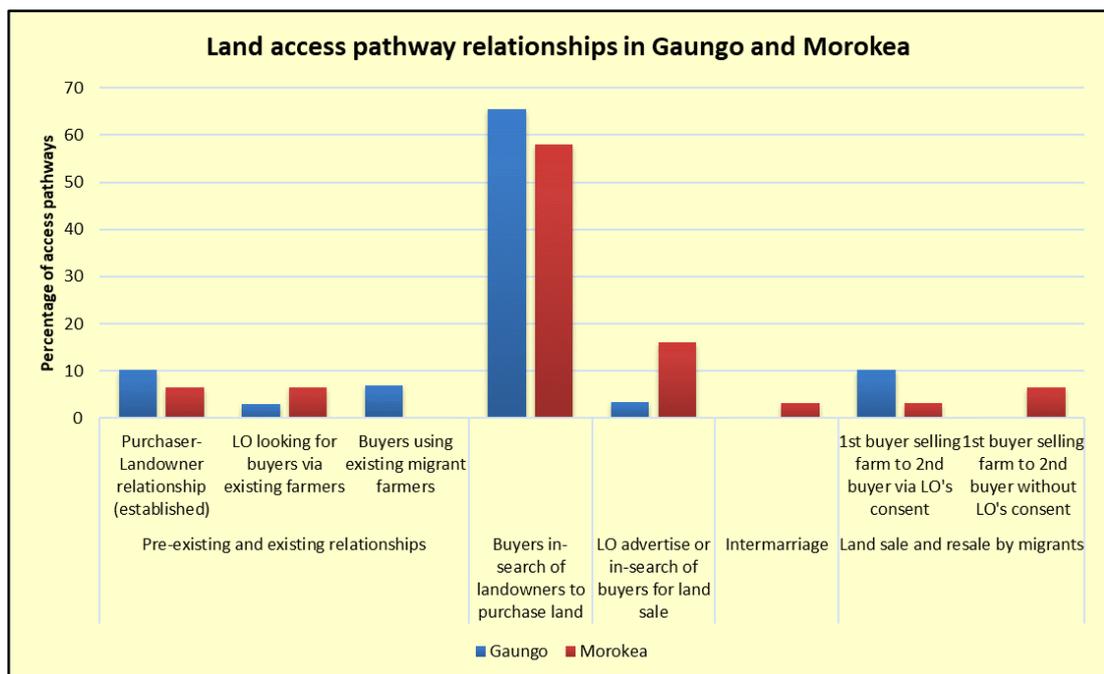


Figure 4.7 How ‘outsiders’ negotiate access to land in Morokea and Gaungo (n=60).

Thus an embedded cultural norm, such as a bride price payment in land, is transformed and adopted into contemporary formal land markets. The gifting of the land was primarily to the parents of the bride, yet is based on the notion that the bride’s parents comply with certain customary tenure agreements outlined by the landowner ILG constitution that governs land access arrangements to outsiders. For example, the constitution limits the number of households on a purchased block and the types of business allowed to operate on the land area. These rules and regulations would be expected to be followed by the bride’s relatives.

Migrants access customary land through pre-established and recently established relationships with landowners; other outsiders acquire land from landowners without

previous social relationships; whilst some landowners search for buyers of their land parcels. The selling and reselling of purchased land by current migrants to other migrants and intermarriage are also avenues that outsiders pursue to access customary land in Gaungo and Morokea. The next section shows the steps involved in a different time of accessing customary land by various groups of migrants in Morokea and Gaungo.

4.7 Diverse pathways: Different procedures in land acquisition process

This section builds on how outsiders negotiate access to customary land and shows the variations in the step-by-step procedures involved during the initial land sale negotiations, to the final land transaction and development of oil palm on the land. There were many different pathways that migrants took from the initial customary land ‘purchase’ to the clearing of land and planting of oil palm. Most growers (49%) preferred a short pathway to establish their oil palm block while some (less than 30%) went through a long process that was more challenging and time-consuming. Table 4.1 shows examples of the varied and diverse procedures. I have selected one type of procedure, which is the long step procedures (LSP), with five cases of varied step processes (six steps) that represents a ‘typical’ case (Table 4.1). The example in Table 4.1 shows a long step procedure. The land transaction (long step procedure) is not site or period specific over the last three decades. The large variation in the procedural processes as shown in Table 4.1 shows how flexible and complex the procedures and processes can be.

From the fifty-seven interviewed respondents, six different step procedures were identified (Table 4.1). The frequency of each combination and step process is diverse across Gaungo and Morokea in the last three decades (1980–2010). The most common procedure in the 1980s to 1990s was the short-step procedure (SSP) (Appendix 1). The initial customary land access transactions were informal and involved no (or very minimal) documentation of transactions. Land disputes arising from the SSP can take a long time to rectify. This can result in prolonged land disputes. These SSP land negotiations are characterised by the following:

- No proper identification of landowners;
- No or minimal negotiations and consultations with landowning clan members;

- No detailed documentation of transactions and purchaser rights; and
- No identified land demarcation or boundary with relevant witnesses and authorities to compile and keep purchase documents on file.

Table 4.1 Long Step Procedure (LSP)—a six step process (n=6).

Comb.	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Freq
1	Establish relationship with landowners	Enquire for land purchase	Identify landowner	Purchase land area	Establish block demarcation	Gardening & oil palm planting	1
2	Went to Gaungo Village and enquire for land purchase with landowners	Landowners mark and allocate block	Signing of purchase agreement and land payment made	Forest clearing & gardening	Agriculture development agency clear road access	Planting of oil palm seedlings	1
3	Negotiate through friend (existing farmer) to seek land 'sale' from landowners	Friends negotiated with landowners	Landowners meet with migrant	Signing of sale agreement via CLUA and cash payment made	Marking of land boundary area by OPIC	Planting of oil palm	1
4	Identify of landowners	Identify land boundary and cleaning of land	payment for land and documentation of transaction	Gardening	Settlement on land (farmer)	Oil Palm cultivation	1
5	Landowner advertise land sale	Existing farmer advises relative buyer on land sale	Existing farmer arranged for buyer to meet with landowners	Meet with landowners and inspect land boundary	Meet land department authorities to sign land lease agreement/State Declaration form	Land purchase payment done, planting of oil palm	2
Total							6

In contrast, the LSP land purchases featured the following:

- Formal identification of landowners;
- Consultation with landowners;
- Land demarcation;
- Define boundaries;
- More transparent processes;
- Witnesses;
- Lengthy step processes with fewer risks and more security;
- Formal land 'sale' documentation processes;
- Better agreements and understanding; and
- Less land acquired.

As a result of the points mentioned above, fewer disputes or land issues arose over time.

The long-step procedure (LSP) evolved and was practised by customary landowners and outsiders as the land access transaction shifted from informal to formal

arrangements over the years (Chapter 5). According to the fifty-seven respondents, the LSP accounted for 18% of transactions. The LSP gives outsiders the opportunity to make serious lifetime decisions about their family investments.

Which is sustainable?

Both short and long social pathways to access land have their own advantages and disadvantages. Fewer migrants practise the lengthier and more complex LSP, but it is more secure than the SSP (Appendix 1) because it has several processes to pass through including documentation. It takes time and involves costs and commitment to be successful. The SSP is straightforward to negotiate and acquire land; there is less paperwork and it is cheaper than the LSP. The LSP takes more effort, time and money to undergo the land negotiation and ‘purchase’ processes. The LSP is more formal, with requirements such as the signing of State Declaration forms and the one-page CLUA, and documentation of the transaction processes (Chapter 5) with some informal processes. It was not until late 2000s that this more formal transfer process of accessing land emerged (Chapter 5). The SSP is risky and less secure because they are mainly verbal agreements often with no witnesses, and there is minimal documentation of the land transaction nor even clear demarcation of the land parcel. In many cases, SSP land purchases were done without record keeping or witnesses.

It is evident that formal LSPs have their strengths and weaknesses. The SSPs encouraged quick land ‘sales’ whenever there was an urgent need for cash by the landowners, but these often later resulted in land disputes. The LSP, whilst lengthy with more processes involved, higher costs and the possibility of delayed or terminated land uptake and development, is much more sustainable and secure. The LSP facilitates a better understanding of the social relationships and mutual obligations between outsiders and landowners that are necessary for successful and sustainable land transactions. There is less room for disputes to emerge than under the SSP. However, there is still a need for further developments of the SSP and LSP, hence it would be better to encourage the LSP. The next chapter discusses the obligations and commitments between outsiders and landowners that strengthen and maintain social connections between them over time.

4.8 Conclusion

This chapter examined the background of migrants and landowners in Gaungo and Morokea in response to the question of how land transactions were negotiated by outsiders and landowners. The chapter reported on how changes have occurred over time in the two villages in kinship systems and land management. It showed the status of the migrant population and their access to income sources and basic services. The chapter has shown that the pressure and demand on customary land for oil palm livelihoods has led to land transactions evolving from an informal to a more formal market arrangement over the last thirty years. The demand for customary land, population pressures and the need for cash have pushed outsiders and landowners to engage in direct informal land dealings. Those demands and pressures have also had impacts on how landowners responded to those challenges. For instance, the Morokean landowners have adopted a bilateral kinship system to manage and protect their clan land to keep pace with the contemporary demand pressures and changes in society. Migrants initially acquired land through established relationships with landowners. The chapter discussed how initial thoughts of land access were developed, and the diverse and varied reasons and procedures taken to access customary land in Morokea and Gaungo. Thus, migrants negotiate and maintain access to customary land through diverse and flexible pathways.

The different periods during which land transactions took place will be discussed in the next chapter. The next chapter discusses the history of land ‘sales’ over the last three decades in Gaungo and Morokea and shows how the customary land formalisation process has transited from an informal land transaction to a more formalised system embedded in customary principles.

CHAPTER 5

THE HISTORY OF LAND SALES

Land tenure remains deeply embedded in social relationships. The social relationships from which land rights are derived and accorded their legitimacy are not pre-given, nor unchanging; rather, they must be constructed and carefully nurtured and from their existence, resource rights flow. By embedding land use rights and practices in social relationships with customary landowners, outsiders without birthrights to land they occupy are able to locate their land claim in an indigenous morality that legitimises their access for cultivation of oil palm (Curry & Koczberski, 2009, p. 100).

5.1 Introduction

This chapter outlines the history of land sales and shows how land transactions have become more formalised over time. The chapter has two arguments. The major argument is that there has been a major shift from informal land transactions to a more formalised system, although land access by ‘outsiders’ remains rooted in the traditional system of land tenure. The minor argument builds on the main argument and suggests that the requirements for sustainable farming practices, under Roundtable on Sustainable Palm Oil (RSPO), has also contributed to the land access formalisation process. The release of customary land by Gaungo and Murokea landowners to ‘outsiders’ is based on relationships embedded in trust and respect over time and economic interdependence. It is argued that landowners and migrant farmers who maintain regular contact through meeting mutual obligations and exchanges strengthen their relationships, resulting in more secure long-term land tenure for migrants. The chapter is divided into three sections. First, I examine the evolution of land ‘sales’ to outsiders in the period of the 1980s–2000s. Second, I discuss the period of formalisation of land sales from 2010 to 2016. The third section follows on from the second section and shows how the social economy is vital for the transition towards more formal land markets for smallholder oil palm development in Gaungo and Murokea.

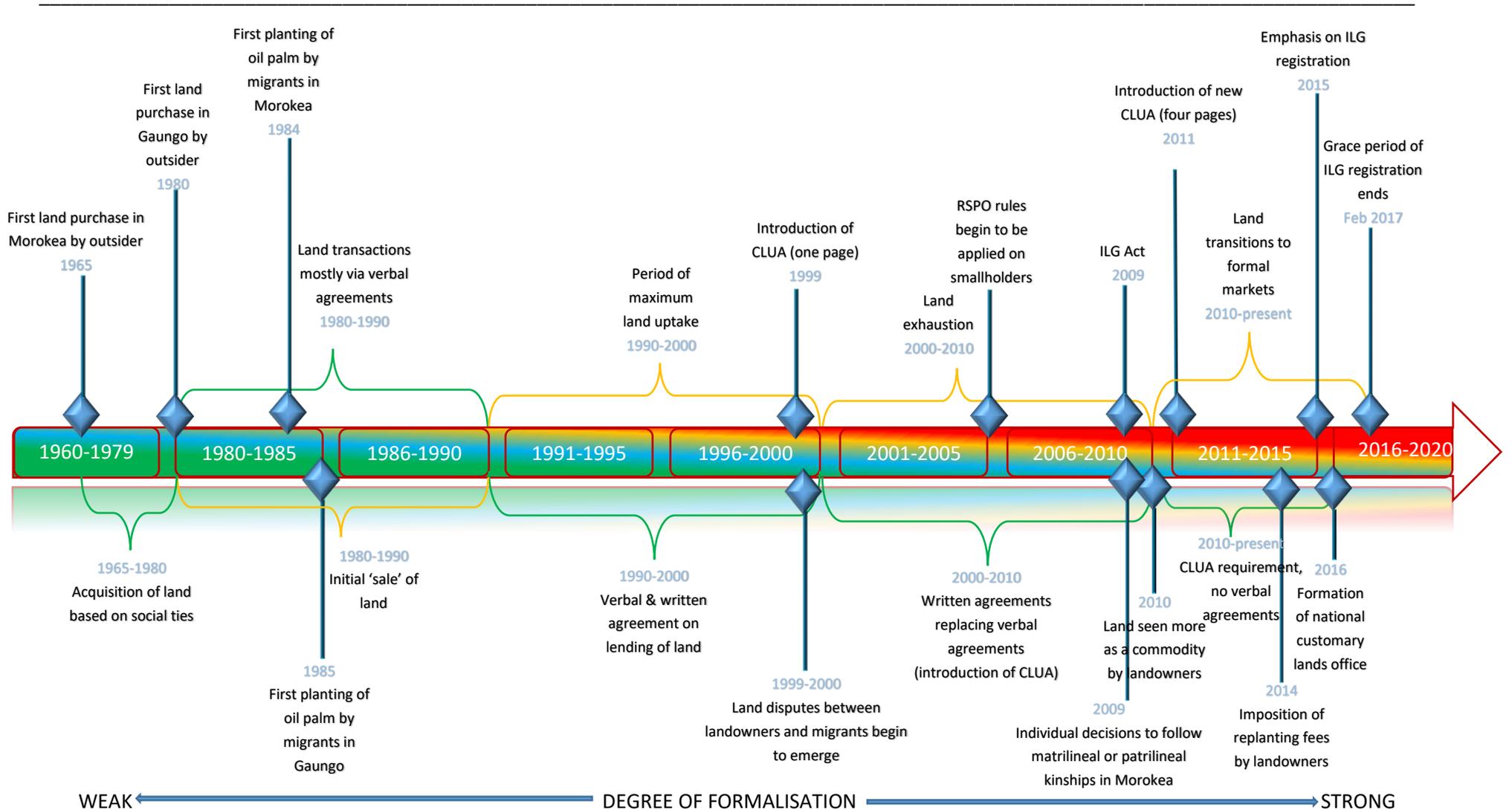


Figure 5.1 Timeline illustrating significant events of the formalisation of customary land in Gaungo and Morokea.

The large shift in how land transactions were carried out in the oil palm growing villages began in the mid-2000s when the existing one-page CLUA (Appendix 2) was re-examined (Figure 5.1). From 2010 to 2016 a new four-page CLUA (Appendix 3) was developed and introduced and at the same time there was a major shift in land transaction arrangements which was influenced by the growing awareness of Incorporated Land Groups (ILGs), the commercial value of land, and the requirement by the RSPO criteria for sustainable oil palm (see section 5.2). The new CLUA provided several new terms and conditions, especially concerning tenure renewal. The new CLUA also moved away from the concept of customary land ‘purchase’ (as in the earlier one-page CLUA) to customary ‘land use rights purchase’ for a specific period of time by the migrant oil palm growers.

5.2 The evolution of landowner organisations and the land ‘market’

The section examines the similarities and differences between Gaungo and Morokea based on the characteristics of land access and transitions during pre-oil palm establishment, initial oil palm establishment and the later stages of land acquisition and development. Four stages of land acquisition can be identified. These four stages are as follows:

1. Opening up land for sale (1980–1989)
2. Expansion of land sales (1990–1999)
3. Emergence of land shortages (2000–2009)
4. Formalisation of land transactions (2010–2016).

First, I examine the four stages of land sales from the 1980s. Second, I discuss the period of expansion of land ‘sales’ in the 1990s; and third, I discuss the period of land exhaustion in the 2000s when land shortages began to emerge, and fourth I discuss the formalisation of land transactions in the 2010s.

1980–1989: Opening up land for ‘sale’

As discussed in Chapter 4, the first land ‘sale’ to outsiders in Gaungo was in 1980, while Morokea’s first land sale to migrants was in 1965 (Table 5.1). Morokea was the first site to open up their customary land to outsiders for oil palm development in 1984 followed by Gaungo in 1985 (Table 5.1). As noted in Table 5.1, the initial land ‘transfers’ were mainly informal verbal land transactions in Gaungo and a mixture of both informal and formal transactions in Morokea.

Table 5.1 Land access in Gaungo and Morokea from 1980–2016.

Time	Land agreement	Characteristics	
		Gaungo	Morokea
1980–1989	Initial land ‘sales’	<p>First land purchase in 1980</p> <p>First oil palm planting 1985</p> <p>Mainly verbal informal land transactions involving pigs, cash, store goods</p> <p>Often no written land use documentation</p> <p>Average land ‘sale’ price PGK1500/ha</p>	<p>First land purchase 1965</p> <p>First oil palm planting 1984</p> <p>Mix of informal and formal land ‘sales’. Most verbal and some written agreements using statutory declaration forms</p> <p>Average land sale price PGK1250/ha</p> <p>Some land accessed by outsiders via intermarriage</p>
1990–1999	Large-scale land ‘sales’	<p>Land ‘sale’ mostly by individual landowners</p> <p>Average land sale price PGK3000/ha</p> <p>Outsiders ‘purchase’ land as individuals or family groups</p> <p>Mainly verbal</p>	<p>Land ‘sales’ either by individual landowner or landowner families</p> <p>Some verbal and written agreements using statutory declaration forms</p> <p>Average land sale price PGK2500/ha</p> <p>Some land accessed by outsiders via intermarriage</p> <p>Some landowners seeking land buyers to get fast cash</p>
2000–2009	Emergence of land shortages	<p>Recognition by landowners of emerging land shortages</p> <p>Little verbal agreement with introduction of one-page CLUA with RSPO planting approval form (PAF) for facilitating land transactions</p> <p>Farm boundaries defined by handheld GPS</p> <p>Average land sale price PGK3000/ha</p> <p>Landowners still yet to register their clan ILGs.</p>	<p>No informal land sales, all are written records via one-page CLUA and statutory declaration forms and RSPO planting approval form (PAF)</p> <p>Average land sale PGK2500/ha</p> <p>Existing and new block boundaries defined by handheld GPS</p> <p>Registration of Honde Laulimi and Kisang Clan ILGs to facilitate secure land deals with outsiders</p>
2010–2016	Land transactions become more commercial	<p>Long-term and business interest in farming rather than just migrant resettlement</p> <p>Commenced formation of ILGs</p> <p>Average land sale price PGK6000/ha</p> <p>Propose terms and conditions for migrant farmers—a monthly rental fee yet to be decided, CLUA signing fee of PGK300, replanting fee of PGK500, upfront payment of PGK3000 and balance on instalments</p>	<p>Long-term and business interest in farming and social commitment for migrant resettlements</p> <p>Emphasis on land ‘sale’ via ILGs by landowners</p> <p>Land dispute settlement authority (LDSA) responsible for all land deals and issues</p> <p>Fixed replanting package for farmers</p> <p>CLUA signing for PGK100, land usage renewal fee of PGK5000/ha (25 years), PGK25 rental fee per 2ha/month</p> <p>Special arrangements for appropriate migrant farmers to be considered as part of local clans via ILG consideration. Migrant shows appreciation by giving a pig, some store and garden goods and PGK5000. Migrant takes part in and benefits from clan activities and payments or royalties</p>

Refer to Appendices 4 and 5 for further details.

Informal land transactions were based on long and well-established relationships between particular landowners and migrants. Many landowners and migrants initially met and got to know each other as work colleagues in the public or private sectors, for example, when they worked together in the oil palm plantations, or resided together in logging camps. Some landowners also owned an LSS leasehold block and developed relationships with neighbouring migrants before returning to their villages, and some had social interactions with migrants living in LSS blocks near their villages.

The established social relationships were based on the landowners' traditional norms of affection and trust of 'outsiders' with whom they had established relationships. Through these established and trusting relationships, the landowners invited the migrants to settle amongst them and cultivate food gardens. Landowners invited their migrant friends because they valued the relationship and the migrants had good characters, adapted well into landowner society and were committed to maintaining customary obligations with their landowner friends. After these garden lands returned to fallow, either the landowner invited the outsider (or the outsider requested) to use the former garden land to cultivate cash crops, especially cocoa and coconut.

Land 'sales' were mostly sealed with some form of cash, goods or services presented to the landowner by the outsider. There were few formal written agreements except in Murokea where some land 'sales' were documented via a statutory declaration (Appendix 6) or Sale of Land Terms Agreements. The statutory declaration form or Sale of Land Terms are legal documents and were authorised by the Commissioner of Oaths. They were used to show that a transaction had taken place for a particular purpose at a particular time. These documents, however, did not note the boundary of the area of land nor provide clear evidence of the agreed land 'sale' price or that the clan had agreed to the 'sale'. During that period, the documented land transactions and interviews indicate that the average price for 1 ha in Gaungo was PGK1500 while the same land area had an average price of PGK1200 in Murokea. Towards the end of the 1980s, demand for land by outsiders escalated.

1990–1999 Expansion of land sales

The next decade (1990–1999) was the period of maximum land uptake by outsiders (Table 5.1). During this period, approximately 84 ha were ‘sold’ to outsiders by landowners and there was a rapid increase in the area of land planted to oil palm by outsiders in Moroakea and Gaungo (Figure 5.2). Some oil palm plantings were on existing oil palm blocks where outsiders were expanding their oil palm holdings. The main push factors behind the ‘take-off’ of land ‘sales’ were the increased demand for land by outsiders for securing land for livelihoods, mainly for oil palm cultivation, and the growing desire amongst landowners and clan members to sell portions of their land for ‘quick’ cash to meet their short-term needs. However, the younger generation of landowners began to realise that most of their land was being cheaply acquired by outsiders from their fathers and grandfathers. Consequently, they started to question the land sales and to assert some control over land acquisitions by outsiders by the late 2000s. By this stage, land ‘sales’ had slowed.

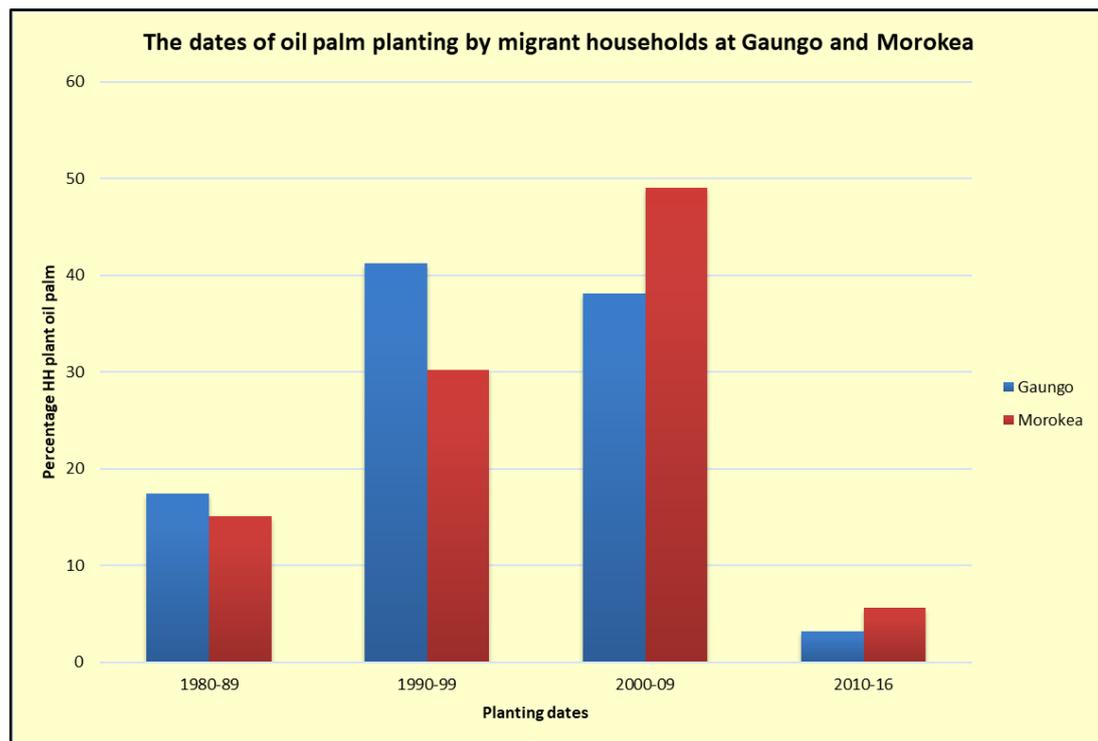


Figure 5.2 The dates when oil palm was planted by households in Gaungo and Moroakea (n=118).

As mentioned above, the early release of land to outsiders (1980–1990) in Moroakea and Gaungo was largely through pre-existing relationships between the landowners and outsiders. However, this began to change in the 1990s. During the 1990s, other types of social relationships became important for land acquisition by outsiders.

These new relationships were either based on intermarriage or where no relationships pre-existed between the parties. These new types of relationships reflected the increased demand for land by migrants and the ‘fast’ cash demands of landowners. The land ‘sales’ were mostly verbal and informal in Gaungo, and a mixture of verbal and written transactions using statutory declaration forms in Morokea. Generally, there were no formal specified terms and conditions on land ‘sales’ and rarely was there consideration of renewal of land tenure for the migrant farmers when replanting became necessary after 25 years¹¹ (Table 5.1). Land transfers typically involved a variety of informal agreements that loosely defined the access and use rights of the purchaser. These land ‘sales’ were similar to other nearby villages ‘selling’ land to outsiders where most land ‘sales’ were verbal agreements without documentary evidence of the clan’s approval of the land transactions, nor any written record of the agreed ‘purchase’ price, size and boundary of the land parcel, deposit paid and outstanding balance to be paid (Curry & Koczberski, 2009). Landowners granted land rights to outsiders based on the implied notion that migrants would assist them to meet their socio-cultural obligations and commitments. As Curry and Koczberski noted, there were “expectations that outsiders should demonstrate ‘respect’ for their host by sharing their wealth with them through time” (Curry & Koczberski, 2009, p. 9).

During the 1990s, there was rising concern among landowners and wider stakeholders in the oil palm industry when disputes over land ownership and ‘sales’ started to escalate. The landowners claimed in interviews with me that land acquisitions through pre-established relationships and intermarriage had fewer land disputes than land sold to ‘outsiders’ without a prior relationship with the landowners or land sold to meet the fast cash needs of landowners. Land sold by clan leaders to meet immediate cash needs created ill feelings with other members of the landowning group because often they were not consulted about the land sale. Effectively, the land ‘sales’ from the communal pools of land in Morokea and Gaungo were ‘individualised’ by certain clan members to maximise the cash benefits for themselves (Table 5.1). For instance, a clan member is entitled to one or several

¹¹ Oil Palm stands should be replanted after 20–25 years because of two main reasons: firstly, their economic life span declines after 20–25 years; secondly the palm trees become too tall for growers to harvest.

parcels of land within the area of his or her clan land. If the clan member wishes to engage outside investors for development purposes, he or she should consult and obtain consent from the clan authority before individually 'selling' the user rights of part of his or her land allocation to outsiders, and keeping the cash from the sale for their own personal benefit.

Moreover, as more land was sold and as some individual senior clan members benefited financially from the 'sale' of customary land, sales were increasingly contested by younger clan members who believed that they had been cheated' of their 'birthrights and could face land shortages in the future. Due to the unstructured land 'sales' at different times by different clan members in Gaungo and Morokea, the size of the land parcels sold have not been of a uniform standard nor mapped. Also, there has been no coordinated planning of land sales, so they rarely bordered other 'purchased' land parcels. Consequently, there were typically vacant land parcels between existing migrant farms. These vacant land parcels were often later 'sold' to other outsiders by landowners. Some land 'sales' included land parcels that had been vacated by migrants who had been evicted from their block or had a portion of their purchased land taken back by the landowners. For example, when migrants in Morokea and Gaungo cause serious problems such as murder, rape and armed robbery in the community, they can be evicted from their farms by the landowners. Also, some buyers who are slow to pay off their blocks can also be evicted or part of the land parcel returned to the landowners. The landowners either retain these land parcels or resell them to service their growing cash demands.

Sometimes, migrants who previously purchased large farms at a very cheap price, especially in Gaungo, were forced by the younger generation of landowners to make additional payments to meet the current value of the farmland. Curry & Koczberski (2009, p. 105) indicated that as the quality of social relationships deteriorate, the rights to land tenure of migrants weaken therefore strengthening the landowners' claim to the land despite earlier land 'sale' payments and agreements between landowners and outsiders (Curry & Koczberski, 2009). In cases where the demands are not met by the migrant farmers in a given time-frame, portions of the land may be resold to other outsiders or reused by the landowners. As one landowner in Gaungo explained to me:

Our grandparents did the damage by selling large land parcels for relatively small sums [of money]. Some of us now do not have a block. Consequently, we return to migrants with large land areas and ask for additional fees to make up for the large land area. However, some migrants refuse by stating, ‘why do you have to ask for additional payments when we gave the payments to your parents or grandparents?’ [Landowners respond by saying] ‘We landowners are good people and have mercy on you migrants. Therefore, when we ask for such small payments, you should be kind and willing to support us. If you do not agree with us, then we will breakup your farmland into smaller land parcels worth the amount you paid earlier to our grandparents. You will keep your portion under oil palm while we will retrieve the other portions.’ I split up a large farmland area of 48 ha ‘sold’ by my grandfather to an outsider for PGK3000 in the 1980s (Janet Tangole—Gaungo 07/02/2017).

In their study on the relational concepts of land tenure, Curry and Koczberski (2009) explained that land disputes arising during the planting of oil palm on customary land by outsiders often have nothing to do with the land use rights of producing oil palm. Disputes are often based on misunderstandings between the non-clan members and the landowners. Outsiders often like to believe that they have outright ownership of land parcels initially ‘purchased’ from the landowners. However, this is not the view of landowners. Landowners understand that the customary land belongs to them and it will be returned to them once the oil palm cropping cycle finishes after 25 years. This is when migrants’ tenure rights can be challenged by members of the landowning clan group (Curry & Koczberski, 2009, p. 103).

2000–2009: The emergence of the land shortages

The emergence of ill feelings within the landowning groups in Gaungo and Morokea, and towards migrants or outsiders, resulted in a marked slow-down in customary land ‘sales’ from 2005 onwards. Disagreements amongst landowners, especially between younger and older generations were directed largely at senior clan members for selling land without consent and not considering the land needs of future generations by selling land to which other relatives were entitled. Disputes also arose over land ‘sales’ without proper documentation and selling land that was previously agreed among clan members not to be sold. The disagreement towards outsiders was that some outsiders pestered landowners to accept cash for their customary land, though the landowners had initially rejected ‘selling’ the land parcel or because the land parcel had been ‘sold’ to someone else already and the outsider was just trying to bribe the landowners to sell him the land parcel at a higher price. Rising land

disputes in Gaungo and Morokea provided space for the landowners and oil palm industry to begin addressing these problems. These early experiences led to procedures being later implemented to monitor and maintain the social and economic welfare of the smallholder communities.

From the early 2000s, landowners also become increasingly aware of emerging land shortages affecting them and future generations. Younger landowners began to tighten up land access terms and conditions, and social relationship conditions that they perceived best to meet the socioeconomic interest of both themselves and the migrants. The reduction in land ‘sales’ (Figure 5.2) was initiated by younger clan members of the landowning groups and was recognised as a problem by the industry itself. Koczberski & Curry (2004) showed that in Gaungo in 2000, 60% of smallholder oil palm blocks were registered to people from other provinces. Severe land shortages began to be recognised in Gaungo in the period of 2000–2009 (Figure 5.2). Most of the arable land in both Morokea and Gaungo adjoining existing infrastructure like roads, schools, and shopping centres had, by this time, been taken up by migrants (Table 5.1).

In response to this land shortage, two formal documents were used more widely by the extension service (OPIC) for customary land transactions between landowners and migrants. These were a statutory declaration and a one-page CLUA form. The statutory declaration form (Appendix 6) was used to make declarations that the land ‘purchase’ agreement occurred at a certain date and time, and any documents provided for the transactions were true copies of the original. This one-page CLUA form was very brief with little detail (Appendix 2). It mentions only the parties involved (lessor and lessee), the size and location of the land to be ‘sold’ and the date and time of the ‘sales’ contract. Only two or three witnesses to the land transactions were required with two clan members as signatories. No evidence was required that the land had been approved for transfer by the clan. The one-page CLUA document was modelled on a Land Usage Agreement first established by the PNG Development Bank in 1967 as Land Use Rules with the purpose of facilitating financial assistance for customary land development. However, it lacked detailed land tenure agreements such as the specified period of usage and the terms and conditions of user rights during the period. With the assistance of OPIC, Gaungo and

Morokean landowners began using the statutory declaration and the one page CLUA forms to document land transactions. However, a few land 'sales' still occurred that were not completed with a statutory declaration form or CLUA.

In recognising emerging land shortages and the problems of individualised land 'sales' based only on verbal agreements, and a need to involve other clan group members, landowners from Gaungo decided to do away with informal transactions and employ the one-page CLUA for all customary land transactions. By this stage, Morokea was already using formal written and documented transactions as the landowners had plans to register customary land in the future. It was at this stage that Morokean landowners became aware of the importance of the CLUA and started using it for all customary land transactions with outsiders. As part of the CLUA requirement, they imposed a set of land 'sale' prices of between PGK5000 and PGK10 000 for 2 ha of customary land. The wide price range was influenced by the location of the parcel of land to be 'sold', whether in prime location near the road (Chapter 6) or further inland.

Two other events occurred in the 2000s that further reinforced the use of CLUAs for all land transactions and saw a shift from informal to more formal land transaction procedures. These were the national government's emphasis on ILG formation and customary land registration, and environmental certification for oil palm on customary land. During this period, emphasis on sustainable oil palm farming was gradually surfacing as a requirement in the oil palm industry, particularly since the industry in PNG began working towards achieving Round Table on Sustainable Palm Oil certification (RSPO). One criterion in the certification process to be met is to show evidence of land ownership with land transactions meeting RSPO principles of Free Prior and Informed Consent. Thus the CLUA ensured that all land transactions on customary land were documented according to specified RSPO criteria (Appendix 7). Alongside the CLUA was also an RSPO-compliant oil palm Planting Approval Form (PAF) developed by OPIC to facilitate planting in new areas or as additional plantings adjoining existing oil palm farms. The PAF contains information about the smallholder farmer intending to plant oil palm and the land area that is intended to be developed, including a map showing land boundaries and topography as well as any plants or trees used to mark land boundaries. The one-page CLUA form and PAF are

submitted to the planting approval committee within the milling company to screen and approve for issuance of oil palm seedlings. The milling company planting committee decides whether the development should proceed and if it complies with RSPO oil palm planting requirements. Any incomplete or incorrect information cited in the application is sent back to the extension officer concerned for clarification or correction. Similarly, if there are any land disputes regarding the new planting, the planting document will be put on hold while a notice is sent to the smallholder and the complainant that a dispute was raised. OPIC will not continue with the process until a dispute resolution is reached and a letter from the complainant is sent to the milling company RSPO planting committee stating that the dispute is now settled.

There have been major, yet gradual shifts from informal land transactions to more formal transactions from the 1980s to 2000s. There has also been a significant rise in land-uptake and disputes over this period. However, together with the awareness of customary land registration, the introduction of the one page CLUA and Statutory Declaration form, and the RSPO farming requirements such as the PAF have extended the period it takes for land transactions to be finalised. By extending the period it takes to make a land transaction, potential future problems are reduced and more members of the landowning group become aware of the pending transaction. Despite these positive changes, there were still a large number of migrant farmers who were in fear of losing their long-term tenure security (see Chapter 6).

5.3 2010–2016: Formalisation of land transactions

The differing interpretations of land transactions by landowners and outsiders, together with the rising dispute cases on land access, signalled a need to review the current practices of land transactions with migrants. Hence a key feature of this period was the introduction of a more comprehensive CLUA and the continuing formalisation of land transfers to outsiders in Gaungo and Morokea villages. Landowners expressed concerns and interest in a formal land transaction process which was also acknowledged by extension services. All stakeholders admitted that the existing informal arrangements and one-page CLUA were inadequate for the long-term sustainability of oil palm production and did not seem to provide tenure security for both outsiders and landowners. Through a wider consultation with landowners and migrants, the important elements of the CLUA formed the basis of a

new template that migrants and landowners could modify to meet their needs and specific circumstances. The aim of developing the new CLUA template was to create a more transparent process that met customary law requirements and helped reconcile the different interpretations of the land transactions among landowners and migrants (Koczberski et al. 2012, p. 189).

To achieve transparent transactions, a new four-page CLUA template was designed to have a clear definition of the rights and obligations of both parties. To ensure that their customary rights were preserved, the landowners requested that the template should state clearly that migrants accessing land were not ‘purchasing’ the land outright as in freehold title, but rather gaining usufruct rights for the purpose of oil palm development and other purposes that were agreed upon and stated in the new CLUA for a specific duration. Migrants sought a three-party signatory process to be included in the CLUA template which comprised at least four senior clan members, including female leaders from the clan (who by custom have use rights to the land), and the outsider acquiring the land. It was recommended that the signing of the forms was to be publicly witnessed by relevant authorities, including the extension service agents, the local government land mediator, the ward councillor, a church elder and a clan leader of the neighbouring landowning group. Prior to signing the CLUA, the landowners themselves should indicate their individual consent whether to be in support or against the land transaction proposal. If the majority of members were in opposition of the transaction, then the signing process was to be aborted. The designated land would also undergo a block inspection report to confirm that the proposed land was physically suitable for oil palm and that it met the requirements for sustainable oil palm development. It was also recommended that the land boundaries be surveyed and clear boundary demarcations be made via traditional means of planting *Cordyline* (tanget) species, coconuts or betel-nut palms (Koczberski et al. 2012, pp. 189-190).

The CLUA template indicated specific rights and obligations of the migrants and landowners. The template included specified optional sections of rights for migrants to plant other cash and food crops, to establish small businesses, houses, and other assets and to bury their dead on the block which were often major sources of conflict between landowners and migrants (Koczberski et al. 2012). Customary landowners

also wanted to ensure that migrants did not accommodate additional relatives beyond the immediate family for long periods of time, or permanently, without the landowner's consent. The CLUA template allowed a default option that the migrant and his or her immediate family were the only ones to live permanently on the block. The landowners also opposed migrants' on-selling or sub-leasing the land to a third party or allowing migrants' relatives to manage oil palm holdings. This was also included in the new CLUA. The landowners argued that they have the right to take back the land to communal property if the migrant was to surrender his land-use rights and terminate his relationship with the host lineages. Moreover, less commonly, some landowners believed that the land should be returned to them upon the death of the migrant farmer even if there was time left on the CLUA. Consequently, migrants requested for a clause to be included in the new CLUA template to cater for such instances and allow typically the spouse to inherit the block for the remaining CLUA period (Koczberski et al. 2012, pp. 190-191).

The payment and compensation for use rights to land was also included under the new CLUA template. Landowners requested a section on initial land payments and an additional section on instalment payments over several years. Although no formal agreements were in place for this, it was recommended that migrants should make regular payments to landowning groups to retain long-term access to land (Koczberski et al. 2012). These regular payments were based on the understanding that they should reflect the value of oil palm crop production, similar to a royalty concept, and apply for the duration of the agreement. As a matter of transparency, both landowners and migrants agreed for all payment arrangements to be documented, preferably by automatic deductions from the migrant farmers' payments.

The CLUA 'era'

Building on the events occurring in the 2000s, the development of the new and more comprehensive CLUA was also influenced by the move to establish ILGs and register customary land in Morokea and Gaungo and the continuing requirements of sustainable oil palm practices (RSPO) by smallholder oil palm growers (Appendix 7). Despite slow progress in organising and getting their land groups registered, Morokea now has registered two ILGs. There is none as yet in Gaungo, although the main clans of Keveloho and Malumi are working towards meeting the requirements

to register their individual ILGs. In Morokea, the main clan of Honde-Laulimi and Kisang sub-clan have registered their ILGs, while other minor clans are in the process of compiling their documents for ILG registration (Table 5.2).

Table 5.2 ILG registration status of main clans and sub-clans of Gaungo and Morokea as of March 2017.

No	Gaungo				Morokea			
	Major clan	ILG registration status	Minor clan	ILG registration status	Major clan	ILG registration status	Minor clan	ILG registration status
1	Kabilimo	In progress	Kisang	In progress	Honde Laulimi	Registered	Kisang	Registered
2	Keveloho	In progress	Kekea	In progress			Kevelo	In progress
3	Malumi	In progress	Baripou	In progress			Tova	In progress
4			Uguge	In progress			Malum	In progress
5			Kavutu	In progress			Homebe	In progress
6			Kurukuru	In progress			Laulimi	In progress
7			Laihu	In progress				
8			Labumata	In progress				

The landowners in Morokea and Gaungo complained that the formation of an ILG and customary land registration exercise was complex, time consuming, lacking good direction from relevant statutory authorities and was very costly for ordinary landowners. The ILG process in PNG consists of fifteen steps involving seven state agencies and takes at least a year for the issuance of the certificate and title (Tararia & Ogle, 2010). Also, many landowners encounter difficulties in accessing land registration requirements such as birth certificates (Tararia & Ogle, 2010). As a result, they can be reluctant to participate in the Voluntary Customary Land Registration process (Tararia & Ogle, 2010).

The role of CLUA towards formal customary land transactions

The current four-page CLUA used by OPIC (Appendix 3) was designed and introduced in 2013 by the research (PNGOPRA) and extension services (OPIC) in consultation with customary landowners and migrants. Currently, in Morokea and Gaungo, the landowners are using the CLUA as a legal instrument to facilitate commercial customary land transactions under the registered and proposed ILG systems. As discussed above, the new CLUA is more detailed than the previous one-page document and provides detailed guidance to landowners. As one landowner from Gaungo remarked:

The CLUA gives us a guide and helps us to identify some issues such as some migrants going ahead to poison [their old palms] and try to replant without our consent as landowners. They have to pay us some fees for authorising oil palm poisoning. During one incident, I heard someone mentioned that a certain migrant poisoned his oil palm stands. I was surprised this particular migrant never sought consent or discussed the poisoning exercise with me. I am aware of this outsider. If he does not come and see me, I will make sure he will never replant his oil palm block (Ben Biti—Gaungo 07/02/2017).

The new CLUA identifies and states the purpose and nature of the development as well as the responsibilities and obligations of each party and is approved by the majority of the communal decision-making parties. Should disputes arise in the future, they can be properly adjudicated according to the specified tenure agreements in the CLUA. The Honde Laulimi clan of Morokea has allowed all current and future land transactions to be facilitated by their ILG through its land dispute settlement authority (LDSA). The LDSA was mandated by the ILG to be responsible for all customary land related deals and disputes including land ‘sales’ to outsiders. The Keveloho and Malumi clans of Gaungo and other clans in Morokea are still yet to come up with a similar concept to the Honde-laulimi clan. The clans responsible for land ‘sales’ in Gaungo and Morokea have made some progress regarding the specifications of the terms and conditions of land ‘sales’.

Renewal of land and farming land access rights

Alongside the new CLUA, landowners in Morokea and Gaungo have also introduced their own replanting package and tenure renewal fees. At the replanting stage of the oil palm (after 25 years), landowners will decide to either renew or cancel a CLUA and allow a migrant family to remain in the village. As outlined below, the quality of the social relationship with the migrant will play an important role in the decisions made by the landowners. As Koczberski et al. (2009) mentioned, social relationships between migrants and their ‘hosts’ can be enduring but “they can sometimes be re-assessed at the death of either the clan leader, the migrant involved in the transaction, or at the replanting stage when the palms are about 20-25 years old” (Koczberski et al. 2009, p. 38). As they observe, “It is at these junctures that the status and value of relationships between ‘outsiders’ and their ‘hosts’ lineages are re-assessed and the land rights of outsiders may be negotiated or even cancelled” (Koczberski et al. 2009, p. 38).

Gaungo and Morokea generally have similar strategies to renew or terminate migrants' land tenure contracts based on the new CLUA form. Nowadays, landowners scrutinise very carefully the renewal of access rights. One Gaungo landowner explained:

We as landowners alone allow for replanting of seedlings and no one else. In the past, it was easy and straightforward for migrants to pay cash, clear forest and cultivate oil palm. There was much damage done during those days which caused major disputes in acquiring of land. Now the CLUA helps us landowners to take control of our land when dealing with outsiders via strict terms and conditions. If migrants wish to renew their contract and replant their oil palm on our land, then they have to come to us and seek our consent and pay facilitation fees before any signatures are signed on CLUA forms for any palm poisoning and replanting exercises to take place. It is through this process that proper terms and conditions will be drawn up for migrant user rights. This gives us landowners more ownership and control over our land (Anton Wairi—Gaungo 07/02/2017).

The Morokea and Gaungo replanting packages have a set of similar terms and conditions and fees for a new cycle of oil palm planting by migrant farmers. Gaungo has a four-fee structure package for tenure renewal. The replanting package has two components:

- 1) Social conduct and relationship status—once a farm approaches its replanting stage, the renewal of its tenureship will be decided by the responsible ILG. The registered and proposed ILGs in Morokea and Gaungo expressed similar views that as part of their renegotiation process, they will review each migrant farmer's past and present records of household behaviour and attitudes towards landowners and other migrant households and social relationships within the community. Then a decision is made on whether or not to renew the land tenure status under the CLUA agreements for another round of oil palm cultivation (25 years).
- 2) New land use access rights fees. This fee applies to migrants who are successful in renewing a CLUA for a further 25 years. A CLUA signatory facilitation fee of PGK300 in Gaungo (Appendix 8) and PGK100 in Morokea must be paid to finalise the replanting agreement (Table 5.3 and appendix 5). As one Gaungo landowner explained:

We the Malumi and Keveloho clans have come up with our proposed ILG by-laws and are currently exercising some of it. We are taking back our customary land and having greater control over it through the terms and conditions of the CLUA at replanting stages of all blocks. We have set out our terms and conditions to be adhered to come replanting of all individual blocks that are allowed to replant. Individual block owners must pay a CLUA signing facilitation fee of PGK300 for our signatures to be signed, before a 25-year land-use signing fee of PGK500 is paid in full (Anton Wairi—Gaungo 07/02/2017).

After these fees are paid, the renewal of the CLUA can proceed. The CLUA is then signed by the three representatives of the landowning groups to allow for the poisoning of over-aged oil palm stands and for the replanting of new oil palm seedlings. Before the oil palm seedlings are planted, a further fee of PGK500 in Gaungo and PGK1000 in Morokea is paid as a land-use signing fee to the landowner/s. Then finally a payment of PGK12 000—a long-term land-use fee for Gaungo—is paid either in full, or PGK3000 paid upfront with the remaining balance paid in instalments afterwards.

Table 5.3 Fee structures of tenure arrangements for Gaungo and Morokea.

CLUA renewal system for Gaungo and Morokea (2010–2016)			
No	Criteria	Gaungo	Morokea
1	CLUA signing facilitation fee	PGK300	PGK100
2	Land-use signing fee	PGK500	PGK1000
3	Long-term land-use fee (per 2 ha)	PGK12000	Nil
4	Monthly rental	Nil (to be decided)	PGK25 per 2 ha
5	Customary payment	Nil (to be decided)	1 pig, PGK5000, cash and other garden and store goods

The landowners in Gaungo are yet to set a monthly rental fee that they will charge over the land-use period of 25 years (Table 5.3). The Morokeans have a slightly different fee structure to that of Gaungo (Table 5.3). Morokea has introduced a monthly rental fee of PGK25 per 2 ha during the leasing period, which is collected by the ILG.

The final transaction in Morokea entails a social relationship of ‘inclusion’ component. Migrants with well-established relationships within the local community are selected by the landowner/s who had initially granted the land access to go before the ILG for ‘screening’ for potential inclusion as a member of the clan. Migrants who

over the years have shown respect and honesty to the landowners and have maintained a well-disciplined household and good social relationships with members of the landowning group are ‘screened’ for ‘social inclusion’ (or incorporation) into the clan. After thorough screening and discussion, the migrant’s ‘social inclusion’ rights are determined by the landowners via their ILG. The migrant moves from ‘outsider’ status to ‘insider’ status. In explaining this process, a villager from Morokea said:

If I as a landowner and I am affectionate about my migrant brother, then I should express and explain my intentions to the clan leaders that I like this migrant brother because himself and his family have been here with us for a long-time and they have maintained good social relationship and behaviour with me and other clan members. Therefore, we should consider accepting him and his family as members of our clan by having them complete the civil registry birth certificate to register as members of our clan (Peter Meta—Morokea 12/02/2017).

The advantages of becoming an insider include: land-use access is secured; the possibility of accessing additional land; obtaining a share in the clan’s wealth; and access to other clan resources. The migrant farmer who has been incorporated as a clan member in return gives a live pig and PGK5000 to the landowner group. This ‘fee’ or ‘gift’ is a public display of the socio-cultural and economic commitment of the outsider and his or her appreciation to the landowners. Through this ‘gift’, the ‘outsider’ is now seen as a clan member. The migrant is eligible to participate in village customs and cultural activities. The migrant also has some rights to a share in any clan wealth distributions under the clan who incorporated his or her household into their social structures. Other migrants whose CLUAs have been renewed but have not been invited to join the clan, remain as ‘outsider’ farmers. This means that the migrant is allowed to replant; however, the security of his or her tenure conditions is not fully guaranteed and they cannot access privileges such as a share of clan wealth or additional land allocations, as those ‘socially included’ migrants and their families.

More formalised yet still traditional and transitional

The construction of this social relationship discursively entails a social strategy by landowners to assess and filter migrant farmers. This social strategy is aimed at maintaining social harmony in the community whilst maintaining public control over

socially related issues. This strategy demonstrates ‘respect’ and ‘trust’ of the ‘host’ lineage, including the migrant farming community (Figure 5.3).

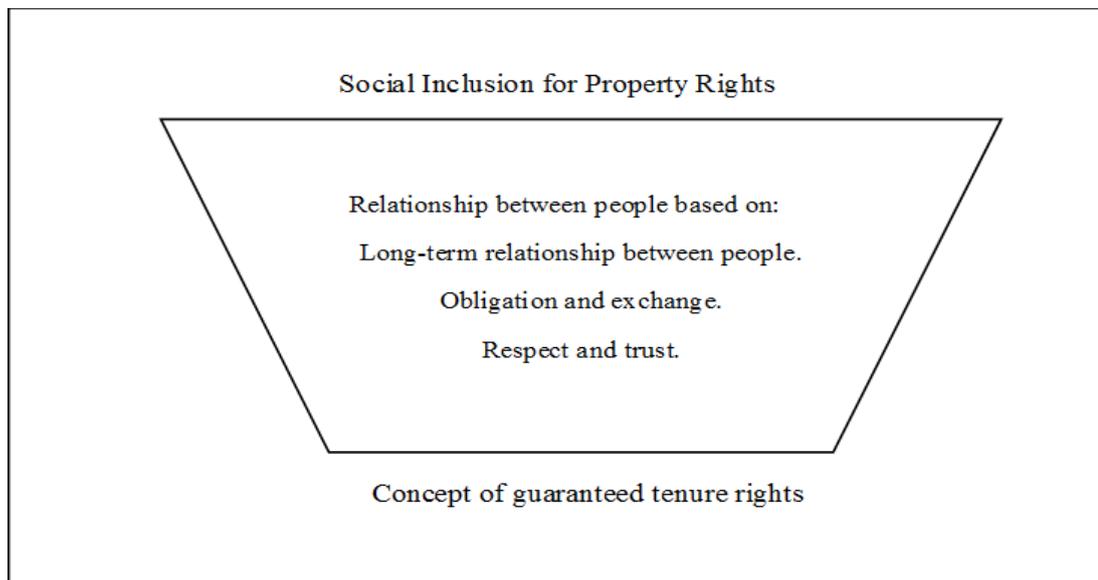


Figure 5.3 Social inclusion for property rights (Adapted from Koczberski et al. 2009, p. 12).

It guarantees certain migrants more secure tenure whilst other farmers or farm households, who remain outsiders, are insecure in terms of long-term tenure renewal at replanting. One elderly landowner in Moroeka explained to me:

If an appropriate elderly migrant has been here with us for three decades, to me it is not appropriate to move him out just like that when he had contributed immensely to our communities. He will feel that what we do is not right and unfair. The relatives of the migrant back in his home province would have no space for him or have forgotten him and his family (Mismin Kura—Moroeka 13/02/2017).

The shift from the 1980s to the early 2000s shows evidence of formalising customary land transactions via direct dealing. The relationship is more commercial, yet as the above examples show, they remain embedded in traditional social values and relationships. This move from informal to formal land arrangements with migrants is very much a transitional system. Indeed, whilst more formal land ‘sales’ have emerged over time with the introduction of the CLUA, this chapter has shown that maintaining social relationships with landowners is very important.

5.4 The social economy remains crucial for renegotiating land access during oil palm replanting

Both the cash economy and social economy play a vital role in maintaining and renewing user rights by outsiders. Presently, all transactions are documented in written form and legally witnessed by authorised stakeholders for the continuity of oil palm production. Morokean landowners perceive the cash transactions as having less value than arrangements that involve both cash and social commitments (Figure 5.4). In Morokea I found two types of tenure renewal transactions (Figure 5.4):

1. Business lease/user right contract: cash dominant form of transaction with partial social inclusion. Usually given to farmers with an inadequate exchange relationship with the landowners (they remain as outsiders).
2. Property ownership: cash with full social (clan) inclusion—‘brother’. Given to migrants with strong social relationships with landowners.

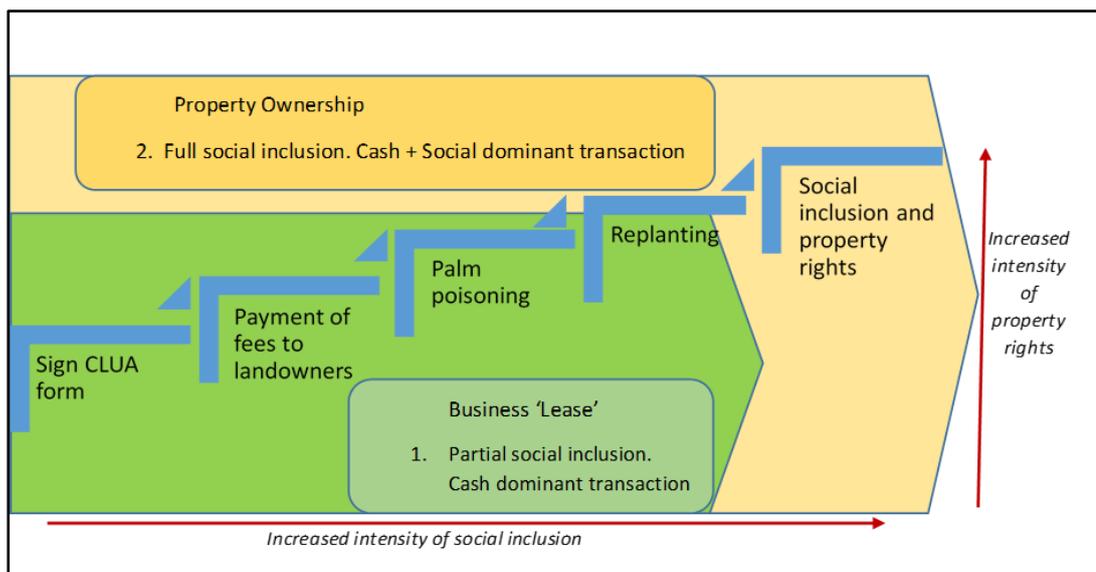


Figure 5.4 Formalisation of cash and social economies in Morokea.

The degree of formalisation has shifted from weak to strong towards more formal markets through time (Figure 5.4). Landowners accept cash for tenureship renewal for farmers with inadequate exchange relationships. However, based on the notion of embedded socio-cultural values, they believe transactions involving the social economy are more significant than the cash economy alone. Therefore, when reassessing and renewing the tenureship status of their migrant ‘brother’, who they are planning to assimilate as a clan member, they firstly conduct formal cash

transactions, and then add social value transactions to achieve and maintain traditional social virtues and significances.

The value of social economy in tenure rights renewal

So far, only a few selected migrants in Morokea have been invited to be part of the Honde Laulimi clan via their ILG at the request of Honde Laulimi clan members. Traditionally, the practice of inviting people to become clan members of a particular clan existed within the same locality and especially with men. However, this practice is now applied to migrants both men and women from other provinces of PNG. These migrant ‘clan members’ and their families now have long-term secure land access and rights to property. As Box 5.1 highlights, these new clan members are entitled to benefit from royalties earned by the ILG, take part in feasts and have a share of the clan’s distribution of wealth.

Box 5.1 Maintaining the social economy in a pre-established relationship: Petrus Muts, Morokea.

Background

Petrus Muts is from East Sepik Province. He was among the first few migrants to be accepted into the Honde Laulimi kinships. He has gone through sociocultural ceremonies such as jointly hosting traditional feasts with his landowner ‘brother’ witnessed by Morokeans and other migrants. Petrus and others likewise are now part of the landowners and have certain rights to property or investments on land they are residing on and other benefits from the Honde Laulimi clan and ILG.

How it was done

Petrus was previously living and working at NBPOL Mosa. Petrus negotiated with his landowner ‘brother’ whom he worked with at Mosa to access a parcel of land in Morokea. He was allocated 2 ha of land for oil palm development by his landowner ‘brother’. In 2002, Petrus and his landowner ‘brother’ consulted OPIC lands office at Nahavio to facilitate the land purchase and contract agreement (the former one-page CLUA form). He also made a cash payment of PGK6000 at the signing process, which was witnessed by the OPIC extension and lands officers. Petrus has a sound knowledge and understanding about his landowner ‘brother’s’ family and the landowning clan as a whole. He maintains a good socio-cultural relationship with the landowners and other neighbouring migrant growers. Petrus is running other small scale businesses on his block such as a trade store and poultry farming. He has a family member who is a full-time teacher at the local elementary school. Petrus and his family have four main income sources including oil palm, wage employment, poultry and the trade store. Petrus feels that he has a continuous obligation to his landowner ‘family’. At times he himself still feels threatened if he doesn’t make a commitment to his landowner ‘family’ or does not show up or visit them for a while. Petrus’s landowner ‘brother’ assured him that the replanting of his oil palm stands is guaranteed.



Plate 5.1 Petrus Muts (sitting on ground left), migrant farmer adopted by the Honde Laulimi clan. Peter Meta (sitting on container pointing), Petrus’s landowner ‘brother’.

5.5 Conclusion

This chapter has examined the history of land ‘sales’ in Gaungo and Morokea by landowners and outsiders. The chapter has shown that the pressure and demand on customary land for land access and oil palm livelihoods has led to land transactions evolving from an informal to a more formal market arrangement over the last thirty years. The transition has been achieved through the PNG government’s awareness of the customary land reform program, the shift from a one-page CLUA to the development of a new four-page CLUA by the oil palm industry, ILG registration awareness on customary land registration, and the RSPO compliance of sustainable farming practices by smallholders in the oil palm industry. The landowners in Morokea and Gaungo have played a significant role in accepting and taking on the challenges to incorporate the changes into their traditional fabric of land ownership and kinship lineage systems in what is perceived to be a hybrid land transition system. The landowners were firm to accept two main systems of a ‘business lease’ and ‘property ownership’ based on both cash and social-dominated transactions. The case study from Morokea shows a good example of how ‘business lease’ and ‘property rights’ systems complement each other through cash and custom based transactions through the new CLUA agreement. The new CLUA was instrumental in the formalisation of the customary land tenure.

The next chapter builds on the arguments in this chapter; it discusses how migrants negotiate land ‘sale’ payments through monetary means and social commitments. It shows that as customary land tenure becomes more formalised, the level of acquired knowledge and skills from the young generation of landowners and migrants have also increased from the experiences they gain through the transition of land ‘sale’ and ‘purchase’ dealings in Gaungo and Morokea.

CHAPTER 6

MAINTAINING LAND ACCESS AND LIVELIHOOD SECURITY

6.1 Introduction

This chapter builds on Chapter 5 and shows how custom-based exchange relationships maintained the livelihood security of migrant growers during land transactions. This chapter argues that despite the apparent commercialisation of land transactions, social relationships remain critical for maintaining land access. It shows how migrants make commitments to recognise the underlying land tenure rights of their customary landowner hosts and their livelihood security. Migrants were not only making one-off land ‘sale’ payments, but were maintaining their tenure security through ongoing commitments such as contributing cash or goods, giving discounts on goods and services they sold to landowners, providing building materials and giving expert advice to landowners. The chapter has five sections. Firstly, I discuss the gifting and selling of customary land. Secondly, I examine changes in land ‘sale’ prices over time. Thirdly, the ways migrants maintain their tenure security are discussed. Fourthly, the direct forms of land ‘sale’ values are investigated. Finally, the fifth section examines how some migrants have become local entrepreneurs in their host communities.

6.2 ‘Gifting’ and ‘selling’ customary land

The ‘gifting’ and ‘selling’ of customary land (Figure 6.1) have evolved in WNB to cater for the demand and pressure on land for agricultural purposes, especially oil palm development (Curry & Koczberski, 2009). The ‘selling’ of customary land as outlined in earlier chapters has increased greatly since the ‘gifting’ of land in the initial stages of oil palm development in WNB in the 1980s.

Customary land exchange through gifting has existed for generations in Morokea and Gaungo. Traditionally, only certain valued goods and services such as pigs were accepted as gifts in return for parcels of land and these were only accepted on special occasions. For example, the exchange of land was often used as a sign of making peace between two enemy clan groups or villages. ‘Gifting’ land was common in the 1980s when senior members of the landowning group allocated land parcels, mostly two hectares to village non-clan member families whose customary land did not have

road access. Outsiders who had married into the landowning households and the landowner's migrant 'brothers' whom they had pre-established relationships were also gifted land (Curry & Koczberski, 2009, p. 102). Figure 6.1 shows that now there are only a few 'gifted' land parcels in Moroakea and Gaungo. The introduction of perennial cash crops, such as oil palm, with long cropping cycles led to a range of interpretations among landowners and non-clan members of the meanings of land 'gifting' and land use rights.

Outsiders acquiring land without any prior relationship with landowners is a risky investment because their tenure rights can be challenged by members of the landowning group, especially younger generations. The future security of migrants acquiring land through 'purchase' rests upon the understanding between the landowning group and the outsider. However, land 'gifting' for oil palm development is embedded in ongoing social obligations among non-clan members and landowners. The challenge for the non-clan member is to nurture the social relationship with the landowner, as it is central to strengthening the relationship and also the tenure security of the outsider.

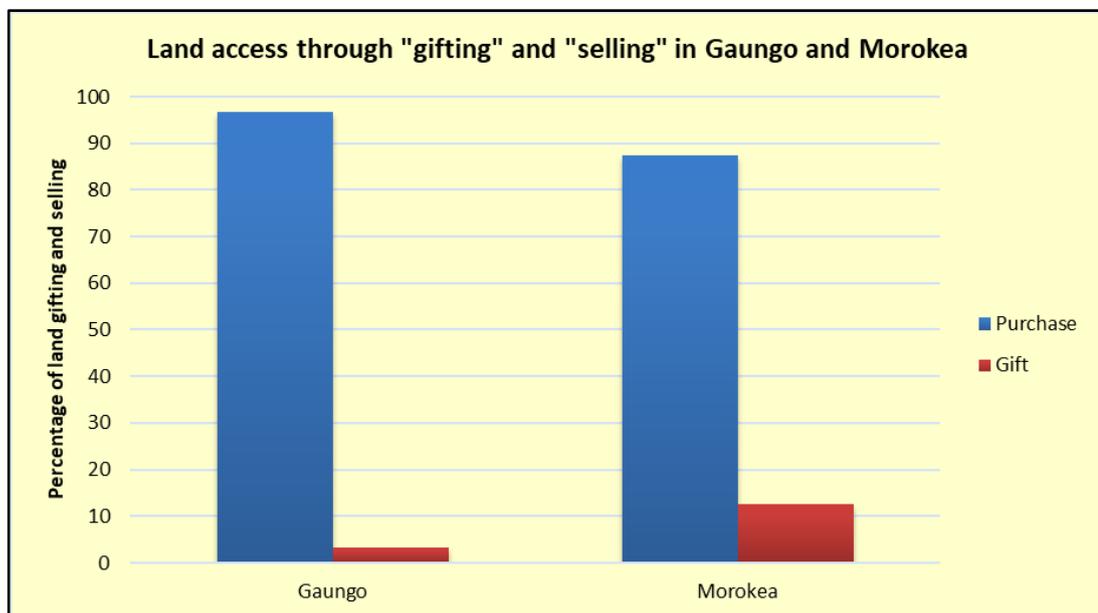


Figure 6.1 Customary land access via land 'gifting' and 'selling' in Moroakea and Gaungo 1980s—2010s (n=63).

6.3 Land prices

This section examines how landowners view their land as a cash resource and shows how the land prices are determined. Attitudes to land have shifted over the last 2–3

decades, as shown in the previous chapters. Some landowners now see their customary land as a commodity, where user rights to develop land can be bought and sold for cash by non-clan members from other parts of PNG. Some landowners recalled their childhood days when they witnessed large parcels of their land being bought cheaply with cash by the former colonial administration for agriculture, including plantations and the smallholder land settlement schemes. The gradual ‘purchasing’ of land by the colonial administration for agricultural development and provision of public infrastructure like roads, buildings and towns has made the landowners realise how outsiders value their customary land. As the demand for land to facilitate development and technological change increased, the landowners responded to this demand and ‘sold’ their land. The price of land has been influenced by the locations of the land parcel, the level of demand, the changing availability of land for ‘sale’ at different times, and the prices at which each land parcel was ‘sold’.

There has been a large increase in the price of land over the last thirty years. In the 1980s, a 2 ha plot for oil palm was ‘sold’ at PGK3000 and PGK2500 in Gaungo and Murokea respectively (Table 5.1). Today, the average price of a 2 ha plot of land is PGK12 000. The demand and supply of customary land determines the ‘sale’ price in Gaungo and Murokea (Figure 6.2). The increased price for a plot of land has been driven by rising land demand by outsiders to secure their long-term livelihoods in WNB. During the 1990s, there was a high demand for land by outsiders. Individual parcels of land for oil palm development were allocated to migrants with an average plot size of 2 ha. However, plot sizes ranged from 2 ha to 8 ha. A 2 ha plot of land ‘sold’ at an average price of PGK6000 in Gaungo and PGK5000 in Murokea during 1990–1999. The land ‘sale’ price remained unchanged in Gaungo through the 2000s. However, in Murokea, the land ‘sale’ price increased to approximately PGK10 000 for 2 ha during the 2000–2009 period. Since 2010, the land ‘sale’ prices for Murokea and Gaungo stand at around PGK10 000 and PGK12 000 respectively per 2 ha plot. The price of land in Gaungo has doubled from PGK6000 during the 2000s to PGK12 000 (Table 5.1). Also, as outlined in Chapter 5, new fee structures and terms and conditions have been introduced in the last five years (Table 5.1). These changes not only indicate a transformational shift in land transactions from informal to more formal market transactions, but also the increased commodification of land.

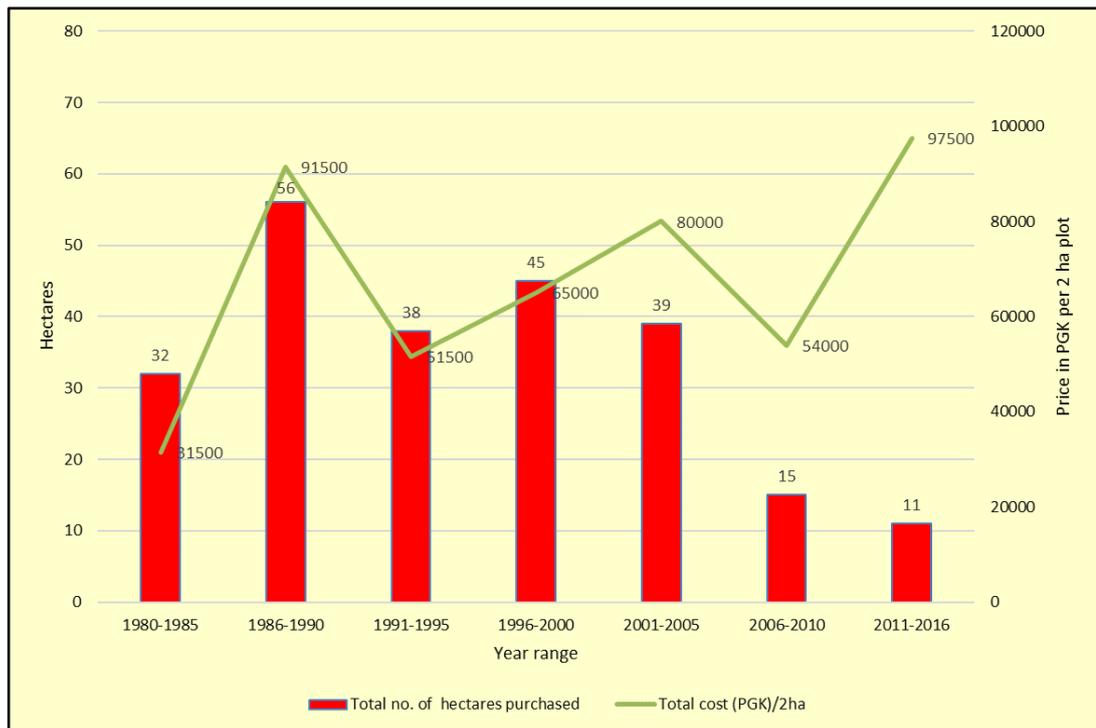


Figure 6.2 Price per 2 ha and total land sales in hectares through time in Gaungo and Moroakea (n=55).

Figure 6.2 shows that there has been a decline in the hectares of land acquired for oil palm development and increase in the land ‘sale’ price through time. Some of the features of the land ‘sales’ over the last three decades include:

- As the demand for customary land increases, many land ‘sales’ were made with no standard land parcel size and price. For instance, in Gaungo in 1998, a 2 ha land parcel was sold for PGK3000 in one location by a clan member while in the same year a 3 ha land parcel was sold for the same price by his relative clan member in another location within Gaungo Village. The two land parcels were similar in land capability.
- Land sales were high in the 1990s–2000s, which resulted in a land shortage, especially in Gaungo. Land shortages and increased demand have driven up prices in the current period (2010–2012) in both Gaungo and Moroakea.

The location of the farm plots also determines the land ‘sale’ price and its value over time. Parcels of customary land in Gaungo and Moroakea in prime areas have the highest prices. Prime areas are specific locations that have access to public infrastructure and facilities like main roads, shopping centres, market places, etc., where there is more business activity and cash flow exchange happening. In Moroakea, prices for land near the industrial areas, along the main road and around

the township of Kimbe are especially high. Migrants with large land parcels in prime areas that were purchased for a low price twenty or thirty years ago are sometimes pressured by the landowners to increase their economic activities so that landowners can have the opportunity to extract wealth from the migrants. In this way, the migrants can maintain their land tenure security. Migrants committing their blocks fully to oil palm production and other economic activities have less pressure from the landowners as they are seen to be adding economic value to the land whilst increasing their livelihood security. This provides more opportunity for landowners to extract wealth from migrants. It is also thought to increase the value of the land in these prime locations. Landowners see the economic improvements made by migrants as an advantage when it comes to migrants maintaining social relationships with them through monetary commitments. Those migrants who could not meet the financial pressures from landowners experienced portions of their farmland being taken back by the landowners.

6.4 Social obligations: Long term security

Often payments on the land 'sale' price were based on the social relationship established between the landowner and migrant. However, despite the payments, meeting social obligations remains critical for long-term land tenure security. It reminds landowners and outsiders of their status, boundaries, privileges and restrictions. The ability to maintain good social relationships with landowners has the power to socially 'include' or 'exclude' outsiders as shown in Chapter 5. Migrants make contributions to their host's bride prices or death ceremonies, etc., to earn the trust and respect of landowners. In doing so, strong relationships are established between migrants and their hosts. Therefore, the outsider is able to increase the security and sustainability of their land tenure and access status. Migrant growers who are accepted into a landowning clan as clan members must show appreciation by hosting a ceremony or contributing to ceremonies or church events in the village. The migrant must give cash and traditional valued goods such as pigs, traditional shell valuables and mats to seal the commitment and relationship.

Migrant farmers face continuous pressure to meet the socio-cultural demands of landowners to maintain their tenure. As Curry & Koczberski (2009) found, "the perceived failure of outsiders to meet their exchange and other social obligations to the 'hosts' over the passage of time can lead to relationship breakdowns, resulting in

landowners opposing replanting by migrants, demanding compensation to maintain their access rights or even evicting them and reclaiming the land” (Curry & Koczberski, 2009, p. 105). There are certain social arrangements expected by landowners in Morokea and Gaungo. The demands act as socio-cultural screening processes and are based on local socio-cultural norms. By meeting the demands, landowners can identify those migrants that fit well into their village society. As one of the landowners explained:

Our community is becoming like a small ‘PNG’ where migrants from all over PNG are present. We will accept those migrants that contribute to our traditional organised activities as in ‘*Haus Krai*’ (death), marriage arrangements, etc. We have a fair idea of who are appropriate and inappropriate migrants. We know which migrants listen, take advice and notices, behave well, assist to solve law and order problems in the community, and attend to church and council activities. Migrants who maintain these social ties with us will have their tenure conditions renewed to continue farming and live with us the landowners. Others will be carefully scrutinized and decided. This will be done through the CLUA process. Any caretaker blocks will have high chances of non-contract renewal (Anton Wairi—Gaungo 17/02/2017).

Whilst more formal land ‘sales’ have emerged over time with the introduction of the CLUA and the recording of cash payments and land boundaries, these alone do not guarantee long-term tenure security. Maintaining good social and cash-based relationships is essential. This can be achieved through meeting certain social obligations (Figure 6.3). Figure 6.3 shows the six main pathways used by the 63 households interviewed in Gaungo and Morokea. The main pathways used by migrants to ensure social and cash-based relationships are maintained are:

1. Contributing cash for customary events/activities
2. Taking part in customary events/activities in the village
3. Providing labour to landowners
4. Providing food to landowners
5. Participating in village church activities
6. Giving advice to landowners or village elders.

These pathways serve to achieve long-term tenure and livelihood security for migrants and maintain and strengthen established socio-cultural relationships. Figure 6.3 shows that all migrant households interviewed engaged in various forms of social commitments with landowners in Gaungo and Morokea. Giving cash, participating in

customary events and village church activities (pathways 1, 2 and 5) were commonly practiced in Moroakea. Giving cash, participating in customary events in the village and providing food to landowners (pathways 1, 2 and 4) were more widely practised in Gaungo. The more combinations of pathways practised regularly, the more secure the migrants. The identified social obligations acted to maintain the migrants' tenure and livelihood security, especially for those who purchased the land in the early 1980s or 1990s when prices were much lower than now. Migrants who 'purchased' large land parcels at a low price during the early 1980s must be very generous in participating in cultural and social obligations to maintain their farmland as some landowners now feel they have been cheated because the land is currently worth a higher price.

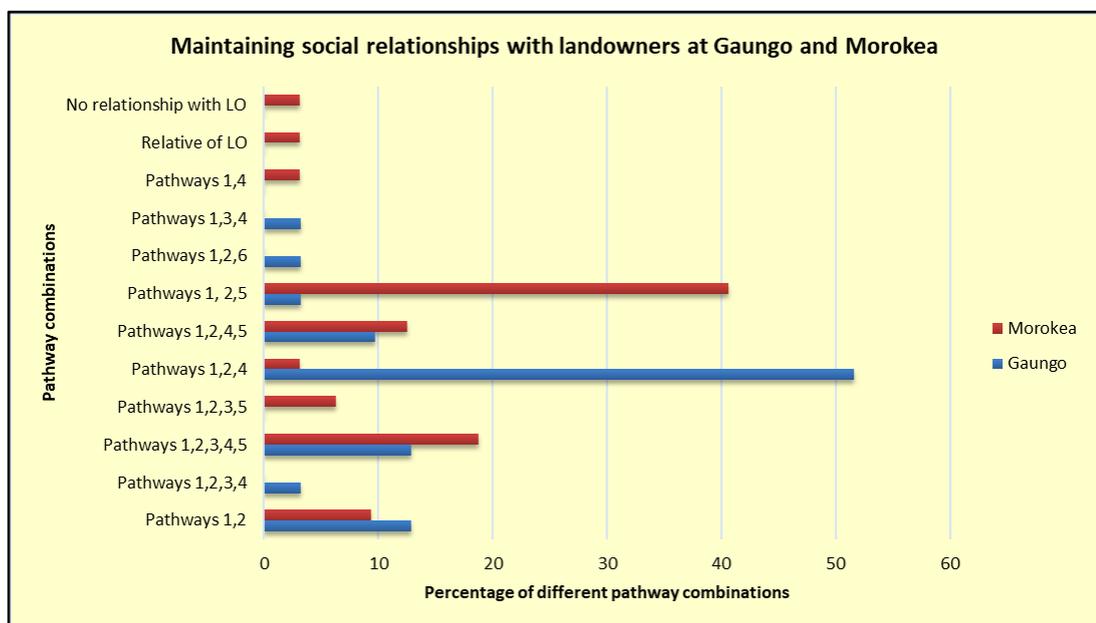


Figure 6.3 How migrants maintain social obligations via different pathways (n=63).

Thus, migrants who obtained large land parcels in the 1980s through informal land arrangements at low prices can face insecure land tenure as the value of land increases overtime. They were required to develop the whole area of land for oil palm production and other forms of economic activities as proof to landowners of their commitment to invest in the land. The younger generation of landowners assess how migrants are utilising the land. These young landowners want to see intensification of oil palm development on customary land under migrant usage. They have realised their land was cheaply sold to outsiders by their forefathers and therefore they scrutinise migrant blocks, especially migrants with large land parcels,

and try to extract more wealth from them to make up for the deficit in land value. This group is vulnerable to land tenure insecurity.

6.5 Direct payments of land ‘sale’ price

Of the 63 migrant farmers interviewed, around 75% of migrant farmers in Morokea and almost half in Gaungo felt that their future tenure security was threatened. Migrants feel that they are sometimes treated unfairly by landowners and that the relationship is heavily in favour of the landowners. For instance, migrants who are consistently assisting landowners in their arranged activities or ceremonies are realising that they are receiving far less in return from the landowners and that their long-term tenure is not necessarily secure. Thus, some migrants see the relationship as being unequal. Other migrant farmers, especially in Morokea, have realised that the informal processes of direct customary land dealing with individual landowners for acquiring land in the past will no longer be possible as all future land transactions will be dealt through the ILG. Migrants are uncertain as to the possible outcome of this new procedure. Migrant farmers are aware that some younger landowners take advantage of certain migrants. The most likely to be exploited or harassed are those with minimal education and poor literacy skills, and who are less assertive and easily duped. In contrast, outsiders with average to good education and literacy skills who have ‘worldly’ experience are in demand by landowners and valued for their knowledge. Some educated migrants use their technical knowledge and skills to help maintain their security, as discussed in the next section.

6.6 Social entrepreneurs

This section discusses how some migrants use their entrepreneurial skills to maintain good social relationships and commitments with landowners. Some migrant farmers are good social entrepreneurs. They use their former work experiences to sustain their socioeconomic relationships with the landowners. These entrepreneurs identify what needs exist in the host community and respond to those needs. They use their skills to create a conducive social and economic environment for the landowners and other migrant households by providing certain services to the community to sustain their livelihoods.

Migrants have used their former experiences, knowledge and skills to create innovation. Migrants occupying large land parcels in prime locations have to put

undeveloped portions of their land parcel to good economic use to maintain the land-use rights and current value of land (Plate 6.1 and Box 6.1). Migrants who are making good economic use of their undeveloped land parcels or creating economic investments on customary land, for instance, operating a fast food outlet, trade store, car repair or tyre service, fuel service station or mini finance assistance scheme were considered by landowners to be maintaining the current value of the land in and around the community (Plate 6.1 and Box 6.1).



Plate 6.1 Trade store on part of an oil palm block along the main road access in Gaungo.

These local entrepreneurs will continue to support the landowners in cash or kind whenever they need their assistance. These local entrepreneurs assisted landowners in the following ways:

1. Donate cash

Cash is given to individual landowners or to the landowner group for personal or group use to support local community-based organised social activities such as church gatherings, sporting events, dispute settlements and so on. Cash is also given to different customary activities and feasts.

Landowners usually have high expectations from these entrepreneurs and

these entrepreneurs also feel that they need to contribute larger amounts of cash than other migrants.

2. Give free goods and services

Some goods and services are given free of charge to landowners by the migrant entrepreneurs. For example, migrant business owners give free bags of rice, cartons of beer, petrol, diesel or kerosene to landowners and some may repair tyres or provide transport to landowners after doing their shopping.

3. Allow credit of cash, goods and services

Some landowners were allowed to take cash, goods and services on credit or given large discounts (as much as half-price) on store items in shops or businesses operating on their land. When landowners were in urgent need of cash or goods, such as when they are preparing traditional feasts, they will seek assistance from migrant business owners to give them certain goods or services on credit to be repaid at a later date.

Box 6.1 Cash lending business.

Kesman Mini Finance is owned by a migrant oil palm grower in Gaungo from the Southern Highlands Province. He saw the frequent and urgent cash needs of landowners, oil palm growers, and those working in formal employment. He took advantage of the long process of accessing credit from the larger financial institutions and provided a 'now service' cash lending business. Those wanting a small loan can access the funds instantly. Because Kesman knew the majority of the farmers and landowners personally, this makes it convenient for him to assist the migrant and landowner community to fund their urgent family or community needs and vice versa, the migrant and landowner community knew Kesman very well and that makes it easier for them to borrow instant cash from his cash lending business. Kesman in most occasions assisted landowners in their social and customary obligations, therefore, the landowners are always on good terms with him.



Plate 6.2 Kesman Mini Finance at Nahavio along the New Britain Highway as part of Gaungo.

Some other migrants have converted vacant portions of their land to provide basic public services to the local community that have not been provided by the responsible public and private authorities. Some migrants are former public servants

and private sector employees and other business-skilled migrants who use their initiative to create small innovations within the farming communities. One such migrant is Augustine Moore in Morokea. He is from the south coast of WNB (Kandrian) and a former health extension worker at the Kimbe General Hospital. He used his initiative to build a makeshift semi-permanent house as an aid-post on his block to treat minor illnesses in the community and to stabilise the condition of sick patients before they are taken to nearby clinics or health centres (Plate 6.3).



Plate 6.3 Augustine Moore, a migrant grower in Morokea, provides health care via his makeshift house.

Likewise, John Konjipol in Gaungo is a former primary school headmaster. He is from Chimbu Province in the Highlands of PNG and a migrant community leader. He negotiates with concerned stakeholders about oil palm management practices and other related issues such as law and order problems, land disputes and farm investments. He assists with conducting social and economic awareness among migrant and landowner communities and his expertise is often sought by landowners.

There is also Levi John in Gaungo who has allocated part of his block to accommodate the Gaungo Primary School where children from migrant and some landowner households attend classes (Plate 6.4). Joe Mundua, also in Gaungo, is a former accountant with NBPOL. Joe is from Chimbu Province and contributes financial management advice to landowners and facilitates the purchase of building materials for landowner community work. The services, skills and knowledge found among these migrant farmers are appreciated by the landowner group members. The entrepreneurial and community focussed group of migrant farmers are contributing to securing their long-term tenure security through the services they provide.



Plate 6.4 Gaungo Primary School established on part of a block in Gaungo.

Migrants not maintaining adequate social relationships with landowners and not complying with the law and order practices in the community face a high risk of being evicted from their blocks. Other migrant farmers with existing off-farm businesses rarely live full-time on their purchased land. Often they employ a caretaker to maintain their farms. Caretakers of ‘purchased’ oil palm farms may establish social relationships with landowners, but cannot make concrete decisions on obligations and exchanges with landowners as he or she is not the rightful ‘purchaser’ of land. For example, a caretaker cannot give cash from the farm to the landowners as a commitment to building a new elementary school classroom or other community activities. When a business migrant maintains minimum or no social

relationship with the landowners, his or her chances of maintaining long-term tenure security are lower. The longer their social presence is not felt in the community, the more at risk they are of eviction. As Curry & Koczberski (2009) note:

When landowners believe outsiders are not adequately maintaining their exchange relationships, the quality of social relationship between them declines, thereby eroding outsider's moral claim to the land. This strengthens the landowners' moral claims to the land. Some outsiders 'purchasing' land attempt to construct the land transaction as a market transaction similar to the leasehold LSS blocks by disregarding the landowner's rights to the land. However, during the replanting stage, the outsider's land use-rights and social relationships are reassessed (Curry & Koczberski, 2009, p. 105).

Secure tenure security is achieved not only through maintaining good social relationships, but also by maintaining good law and order practices within the community. As one of the Morokean landowners emphasised:

Migrants or migrant households causing disharmony and social problems randomly throughout the user-rights lease term will have their contracts terminated the end of the 25-year period. Our ILG will also act upon complaints by migrants over other migrants or their dependants involving or conducting inappropriate behaviour in the community. If migrant or migrant dependant/s involve in extreme problem cases, for instance, murder or rape, the migrant contract will be terminated and the migrant household will be immediately evicted from the farmland (Peter Meta-Morokea 17/02/2017).

Maintaining secure land and income access by outsiders is based on both the formal cash transaction and documentation and most importantly meeting socio-cultural obligations with the landowners over the tenure period. Migrants are aware that maintaining more than one social pathway is more likely to keep a healthy socio-cultural relationship and secure tenure.

6.7 Conclusion

Social relationships remain crucial in maintaining land tenure over time. The transition of land transactions in the history of land 'sales' in Morokea and Gaungo has made two main shifts. Firstly, it shifted the transactions from informal to more formalised transactions, and secondly, it shifted the landowner's perspective to see their land as a commodity that can be exchanged for cash. The traditional fabric of land exchange relationships in Morokea and Gaungo was altered by the influence of cash transactions as the traditional 'gifting' of land was replaced by the

contemporary 'selling' of customary land. The increased land access and cash demands by migrants and landowners exerted much pressure on the rate at which customary land was supplied at given land 'sales' prices in the two sites.

Migrants have responded to the increasing rate of land 'sales' prices through cash transactions and maintenance of social relationships and obligations with landowning clans and communities through time. Land 'sale' prices in the form of cash transactions were augmented with social commitments which became part of an integrated land 'sales' package by the landowners. Some migrants used their former knowledge and skills to provide basic community goods and services and converted some of those social obligations into income-generating opportunities to benefit themselves and the surrounding landowner and migrant communities. Migrants accessing customary land in prime locations were challenged by landowners to put their land parcels to good economic use to maintain the economic value of those land parcels and to provide more opportunities for landowners to extract wealth from these migrants. Those migrants who failed to put their land parcels to good economic use saw some portions of their land taken back by the landowners for their own disposal or sold to other outsiders.

Despite the formalisation of customary land tenure transactions, there is still general uncertainty over migrants' land tenure security. Therefore, to minimise the migrants' uncertainty, information identified from the experiences in this study can be used to inform strategies to develop more secure tenure for migrant farmers while preserving the underlying customary tenure of landowners. This is discussed further in Chapter 7.

CHAPTER 7

STRATEGIES FOR IMPLEMENTING SUSTAINABLE LAND ACCESS AND OIL PALM PRODUCTION

7.1 Introduction

This chapter briefly discusses how people are responding to challenges of customary land transactions and identifies strategies for implementation by the smallholder oil palm industry to improve the sustainability of smallholder livelihoods while preserving customary land tenure systems in WNB. The strategies identified could be used to address the challenges encountered by migrant growers, landowners and the smallholder oil palm industry. The chapter is in two sections. First, I discuss the challenges arising from customary land transactions and then outline the strategies for maintaining and improving oil palm production and the livelihood security of smallholders.

7.2 The challenges of customary land transactions

This section shows how industry stakeholders responded to the challenges and changes arising over land access transactions. Over time, migrants have maintained ongoing socio-cultural and economic relationships with the landowners. Their efforts to participate in social and cultural activities with their host landowning communities have strengthened their relationships. Similarly, attendance by migrant farmers at oil palm extension trainings has led to a higher standard of competencies. Thus, migrant farmers continue to meet socioeconomic changes and challenges over time.

Response to customary land reform by the smallholder oil palm industry

Devising suitable mechanisms and strategies to accommodate migrants' cultivation of oil palm on customary land has been a real challenge for the oil palm industry. Initially, there was no plan to accommodate migrant oil palm growers on customary land. There was no mechanism in place to facilitate land transactions and documentation of this third group of oil palm smallholders. Due to the ineffectiveness of the Department of Lands (see Chapter 2), the extension and research arm of the smallholder oil palm industry took the lead to deal with customary land arrangements with migrants and develop the documents to record land transactions. Several legal land transaction documents were used by

stakeholders in the industry to facilitate land tenure transactions over time (Figure 7.1). Working towards formulating and achieving strategies to address the day-to-day challenges on land tenure issues was never easy, especially for OPIC field extension officers.

Customary land transaction arrangements have evolved through time with continuous input from OPIC and PNGOPRA. The ‘new’ four-page CLUA document introduced in 2001 was formulated, tested, reviewed and adopted by the oil palm industry to ensure smallholder land transactions were in accordance with customary law and provided security to both the landowners and migrants (Appendix 6). Consequently, the new CLUA was the most dominant form of land tenure transaction document used by migrant growers and landowners in both Gaungo and Morokea (Figure 7.1). The widespread use of the new CLUA indicated that there had been a significant shift in the customary land tenure arrangements from the informal arrangements of the 1980s to the current, more formal land transactions with documentation. Both landowners and migrants expressed appreciation of the new CLUA, especially and most importantly with the wide range of specified terms and conditions that both parties could agree upon prior to signing the new CLUA, as outlined in Chapter 5. When landowners in Morokea and Gaungo were asked for the best way to arrange land use transactions, they indicated that the new CLUA was sufficient to meet their needs and should be used by all landowners to ‘lease’ their land to outsiders, whether that is done by a clan, individual or family, via a registered ILG or business group.

From discussions with landowners, migrants, OPIC and NBPOL smallholder affairs (SHA), all acknowledged that the findings and outcome of this study will greatly help the industry to continue to develop suitable options for future land transactions on customary land. One landowner in Gaungo acknowledged:

We are very happy with this study that PNGOPRA is conducting as we Gaungo landowners believe it will reveal very useful information that will help us, our migrant ‘brothers’ and the oil palm industry as a whole to be well informed of what had happened regarding the procedures and processes and how we will refocus to have control over our respective rights to customary land, its access, its renewal term of 25 years and its terms and conditions (Ben Biti—Gaungo 17/02/2017).

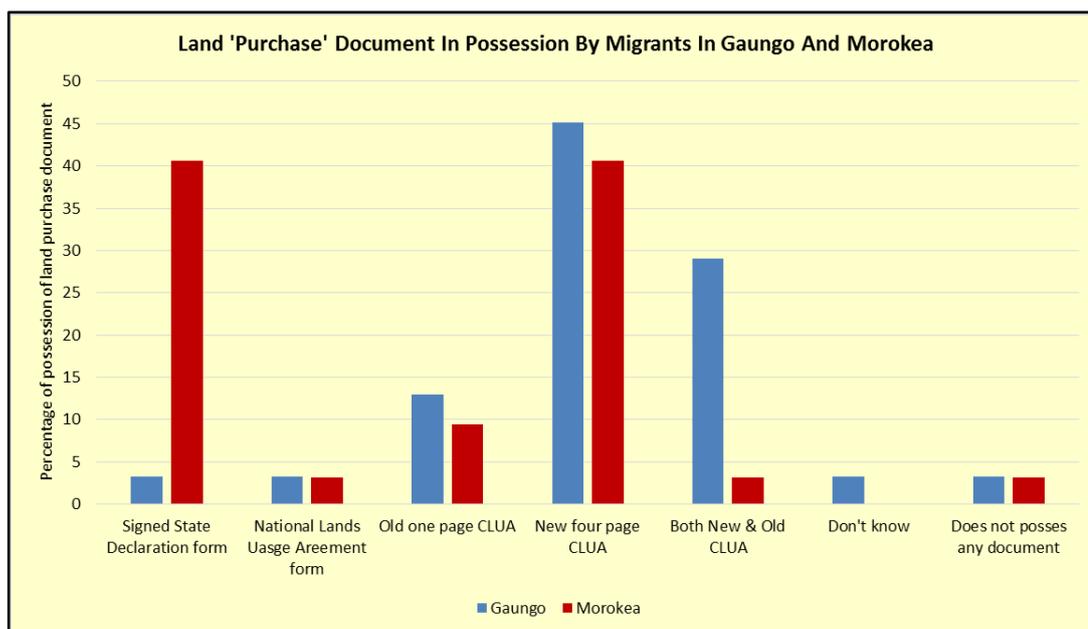


Figure 7.1 The legal land documents used in land transactions (n=63).

7.3 Strategies for improvement

This section examines six strategies that the smallholder oil palm industry, through its stakeholders, can work towards to ensure sustainable oil palm farming by migrant farmers on customary land. These strategies are as follows:

1. Monitor and evaluate the formalisation of customary land acquisition
2. Facilitate awareness and trainings on the new CLUA
3. Standardise replanting and land tenure renewal packages
4. Ensure there are proper storage processes and facilities for all documents relating to land transactions
5. Ensure the CLUA becomes a legal document to facilitate customary land tenure transactions
6. Focus more extension advice and service on CRP/LPMF.

Monitor and evaluate the formalisation of customary land acquisition

As outlined in earlier chapters, despite the cash involvement in land transactions, landowners generally perceived that the one-time cash transaction was an incomplete process to gain access to land. They also expected that migrants would contribute to customary activities and other commitments beyond the cash transactions such as migrants contributing to mortuary payments for a death in the landowning lineage. To the landowners' understanding, migrants accessing customary land means they are part of the village community, almost like any other clan members in the village. In the eyes of the landowners, the migrants are members of the village, hence the

migrants' contributions to customary events and their social commitments to the landowners provide evidence that they are serious about being part of the village community. The provision of services to the community must be in both traditional and modern forms or through sharing knowledge and skills. Some examples include a migrant using his former work experience in community policing to assist the village, using his Public Motor Vehicle bus to transport a sick elderly clan member to a hospital at no cost or contributing goods from a migrant grower's trade store to a funeral feast hosted by landowners (see Chapter 5). Therefore, there is a need for the industry to monitor land transactions and see what the future holds for the formalisation of land transactions for oil palm development.

Facilitate awareness and trainings on the new CLUA

The oil palm industry stakeholders should continue to hold meetings and raise awareness among landowners and outsiders on the specific rights of each group regarding the terms and conditions specified in the new CLUA form, including other issues such as disputed block ownership between sons, and law and order problems and their penalties. Migrants should be made thoroughly aware that they do not own the land, but have only user-rights to cultivate oil palm during the duration of the 25-year 'lease'. It is the landowners who will decide whether or not to allow the migrant household to continue farming for another 25 years. The oil palm industry will not do business with any oil palm block that does not comply with the CLUA requirements or is established via other procedures instead of the CLUA. All stakeholders interviewed indicated that the new CLUA should be made a legal instrument with equivalent legal recognition as an LSS leasehold title and should be recognised by all relevant institutions. For example, the CLUA should be recognised as security for migrant farmers who wish to seek credit from a financial institution. Giving recognition and continual usage of the new CLUA helps standardise individual rights of landowners and migrants, and makes clear to migrants that they have user rights to oil palm development for a fixed period and not outright landownership. This would allow a clear understanding of the different rights of landowners and migrants and the terms and conditions of land use arrangements.

Standardise replanting and land tenure renewal packages

The replanting and tenure renewal packages are two separate processes. The replanting package is negotiated and decided before a tenure renewal package is

decided. Oil palm replanting is a negotiated process that takes place during the culling of old oil palm stands and the planting of new seedlings. It is at this stage that landowners will scrutinise and decide whether a migrant grower will poison his old oil palm stands and replant new seedlings or not, whilst tenure renewal is a process to discuss and decide on the set of terms and conditions that will be employed if the replanting package is successful. For example, the land use tenure period of 25 years of oil palm cropping cycle, might permit 1–2 households on the block or restrict the operation of certain business activities on the block apart from oil palm production. There is a need for the industry to consult with landowners and migrants and introduce a standard replanting and customary land tenure renewal package for all blocks approaching the replanting stages at the end of the 25-year ‘lease’ period. A standard renewal package will help avoid confusion and misunderstandings that are likely to result in disputes amongst landowners and migrants. There is still uncertainty and anxiety among migrants, especially on the renewal fees and tenure decisions. Migrants were very concerned about the different fees that were imposed on them during replanting. Despite maintaining social obligations with landowners, some migrants were still unsure of what the landowners’ decision might be regarding their tenure renewal during replanting. Some were discouraged about the increased and inconsistent replanting fees, renewal terms and conditions, especially in Moroeka.

Therefore, the oil palm industry should facilitate the commencement of the replanting negotiation process three years before the replanting stage to give enough time for dialogue between landowners and migrants to ensure an orderly transition. Concerned stakeholders should confirm the list of blocks due for replanting and categorise them into three groups: 1) those that have a high probability of being allowed to replant; 2) those that have a low probability of being allowed to replant; and 3) those blocks that are confirmed for no replant. Those blocks confirmed for replanting without opposition from the landowners must pay the CLUA signing facilitation fee before their CLUA forms are signed by landowners. After the CLUA has been signed, oil palm poisoning and the completion of planting approval forms for replanting can take place. For those blocks that have a lower chance of replanting, a second attempt should be allowed to re-negotiate replanting. If these blocks are granted permission to replant, then there should be allowance for the

replanting process stated above to eventuate. However, if blocks are confirmed not to replant then a consideration should be given to the nature of replant termination. If the termination is due to law and order problems instigated by the migrant family, then it should be settled with the law and order authorities. If it is within the limits of the oil palm industry, then concerned stakeholders should arrange for a change of ownership or block status change if the block is sold to a new migrant. If the landowner takes back the block, then consideration should be given to developments made by the migrant grower on the land. The landowner should pay for the developments done on the land by the migrant according to a valuer's assessment and advise only if it was agreed at the initial stages of the block development. If there was no initial agreement on the matter, then further discussions should be conducted to ensure both parties are satisfied. Further studies should be done on the strategies to accommodate the reversion of blocks to landowners or reselling the block to a next migrant.

The oil palm industry should review the tenure renewal package that the Morocean landowners are putting together under their ILGs, especially the Honde Laulimi clan (see Chapter 5.3). The proposed tenure renewal package by the Morocean landowners includes a PGK25 monthly rental fee for a 2-ha block of oil palm payable for 25 years. If a migrant farmer has 4 ha of oil palm, then the fee will be PGK50 per month. Therefore, in the 25 years of oil palm farming on a 2-ha block, the migrant could pay a total of PGK7500 apart from replanting fees at the time of renewal. This can be paid from the FFB production and income that is going to be generated from the 2-ha oil palm block over the 25-year period. According to the current smallholder oil palm production statistics from PNGOPRA smallholder agronomy research, a 2 ha oil palm block on average produces 1.5 tonnes of FFB per fortnightly harvest, equating to 3 tonnes per month. Thus, migrants on average produce 900 tonnes in over 25 years and with the current average FFB price of PGK150, a migrant farmer receives an income of up to PGK135 000 during the 25-year period. Generally, the migrant could generate revenue of PGK127 500 excluding replanting fees and the monetary value of social obligations carried out over the period.

Ensure proper storage process and facility for all documents involved in land transactions

There was no defined process for completing the CLUA form and other land tenure documents from the field through to the final storage of these documents. CLUAs were lodged and stored at a variety of locations (Figure 7.2). There was a lack of clear understanding on which organisation was legally responsible for documenting and storing the land transaction files and the processes through which these documents should pass for proper registration and storage (Figure 7.2). Migrants stored their documents at the District Court office, OPIC Lands office, Smallholder Affairs office of NBPOL and within the landowner community (Figure 7.2). Some did not sign a CLUA form at all and others admitted that they had no idea where their CLUA document was lodged (Figure 7.2). Apart from going to relevant public and private offices to facilitate the land transaction at the time of land ‘purchase’, some migrants and landowners decided to keep the documents themselves. This showed a lack of communication and confidence in the storage and storage process of the land tenure documents, and the lack of trust of offices or organisations responsible for taking care of these documents.

Therefore, the CLUA should be treated as a legal document and thus highly valued. Relevant industry stakeholders should discuss and decide the management and movement of the CLUA, from registering it on a database, to completing the field documentation through to the correct storage office.

OPIC should take the lead in CLUA management and facilitation processes whilst PNGOPRA should continue to conduct evaluation and impact studies on the adoption of the CLUA. Smallholder Affairs at NBPOL should use copies of signed CLUA document to facilitate oil palm developments in consultation with OPIC Lands office. Any CLUA to be used for oil palm development should be registered and issued and should have a standard uniform format as in the current blue-coloured four-page document.

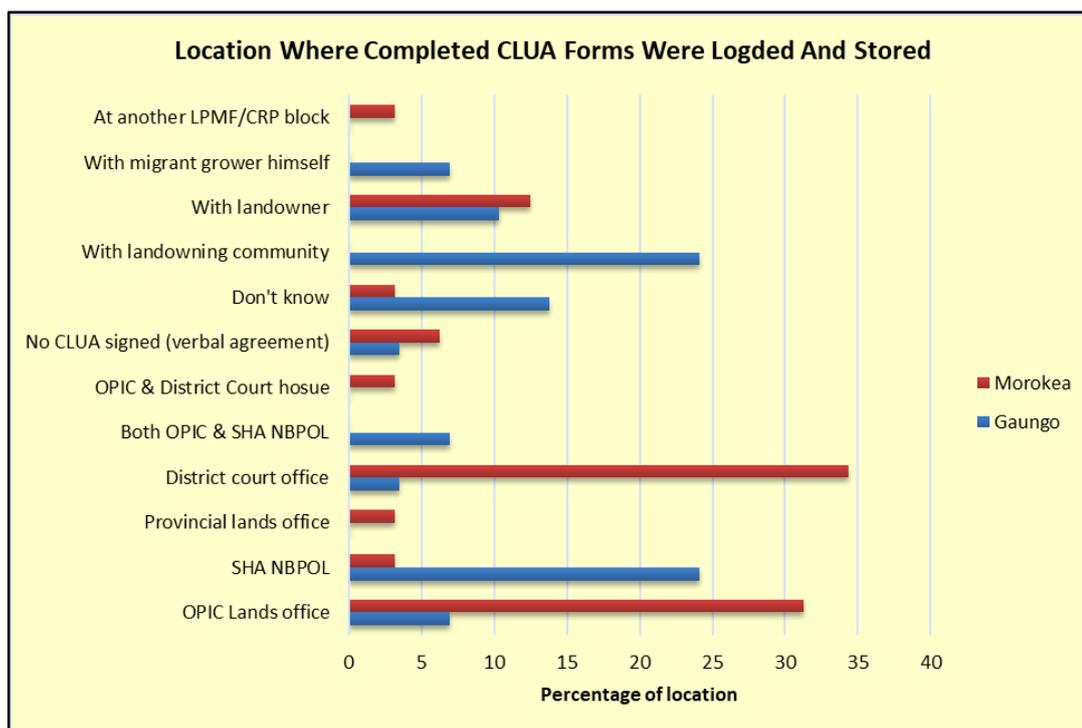


Figure 7.2 Location where CLUA forms were lodged and stored for Gaungo and Morokea (n=63).

The official CLUA should have a CLUA code number for each block in each CRP/LPMF area and have a registration number with a recognised stamp on it. Any unofficial CLUA forms should be discarded and an official process begun to negotiate an official CLUA. A CLUA management database (both hard and electronic copies) should be developed and maintained. Original signed CLUA forms should be stored while copies should be used for oil palm development purposes. Original copies of CLUAs should be revisited during replanting stages or in the case of land disputes or other land tenure related matters.

Ensure the CLUA becomes a legal document to facilitate customary land tenure transactions

There is a need for the CLUA to cover management and release of land for smallholder oil palm production utilising the legal instruments recommended by NLDT 2007, namely the *Customary Leasehold Act*. CLUAs elevated the notion of land rentals and leasing of customary land, rather than the outright ‘purchase’ of land, through the proposed *Customary Leasehold Act*. Competent technical experts should be engaged to coordinate the ILG physical and office processes and documentation, and conduct awareness amongst ILGs and encourage them to take responsibility for managing and releasing their customary land for development. The

purpose of the *Customary Leasehold Act* is to facilitate Voluntary Customary Land Registration (VCLR) to make land available for development, especially medium to large projects through the use of ILGs (Tararia & Ogle, 2010). The ILG is responsible for demarcating and registering land parcels suitable for development either with outside investors or among themselves. After registration, a customary land title is issued through the National Lands Department to the landowner's ILG. The customary land lease can then be issued, and entered in the Registrar of Customary Land. The state administers the customary land titles on behalf of the landowners (Fingleton, 2008). However, currently, the State Lands Department seems unable to administer customary land title matters. There is an urgent need to address the issue of customary land title administration. This process would strengthen tenure security for migrants leasing or renting land for oil palm production while confirming the long-term customary ownership rights of landowners. Therefore, the oil palm industry should push through government policies to recognise the CLUA as a legal document under PNG customary land legislation so that terms and conditions specified in the CLUA for oil palm development are widely recognised and honoured.

Focus more extension advice and service on CRP/LPMF

During my interviews with the OPIC extension officers, they revealed that their extension duties were easy when working with the growers. These farmers were considered to be enthusiastic and were open to ideas and extension messages and were willing to take on challenges. Some migrant farmers were retired workers in the public or private sectors and their farms were managed using the recommended best management practice standards. The extension officers also indicated that migrant farmers actively participated in organised activities, such as oil palm field days. During field days, migrant growers always arrived earlier than other stakeholders. Migrant growers were practically responsive to advice and information on oil palm husbandry practices.

In a separate interview with the representative from the smallholder affairs at NBPOL, they had a similar perception of migrant farmers. The smallholder supervisors indicated that some of the block owners were former employees of NBPOL, mostly ex-plantation labourers with good oil palm husbandry skills. These

migrants brought with them the acquired skills they learned in the oil palm plantation. They maintained high standards of block upkeep. They had a very good record of attendance for any oil palm work related awareness and field days. The migrants not only listened to messages or information, but practically applied what was grasped. The smallholder supervisors also indicated that the migrants were attentive and complied with harvesting schedules. Apart from the farming practices, most of them had a general understanding and relationship with the landowners. Therefore, the industry should focus more on improving all aspects of oil palm farming on the CRP/LPMF. There should be more extension and farm management related trainings, farmer focus group meetings and demonstrations, block inspections and other livelihood development programs. Most CRP blocks are of 2 hectares. Therefore, there should be flexibility on credit incentives for farm inputs such as tools and fertilisers to encourage growers to invest in farm inputs to enhance their productivity. Infrastructure like better road access and bridges should be built to improve market access for growers. They should also facilitate timely replanting of oil palm to ensure that palms remain in a high production phase. The experiences from the Gaungo and Moroeka CRP should be used to inform extension decisions and be used as guidelines for other current and upcoming CRPs/LPMFs.

7.4 Conclusion

Building on Chapters 5 and 6, this chapter has briefly outlined the challenges of customary land access transactions and how the smallholder oil palm industry has responded to these challenges through customary land reform. The chapter offered strategies to provide smoother and more secure land dealings in the smallholder oil palm industry for both migrants and landowners. The identified strategies were gathered from the challenges that migrant smallholder oil palm growers and customary landowners in Moroeka and Gaungo experienced during land transactions. It created space for these parties to interact in the best possible way to sustain their livelihoods and oil palm production. They have responded to the challenges on and off their oil palm blocks. It is now a challenge for the stakeholders in the oil palm industry to use the examples of what systems are in operation and improve the quality of life for migrants and their landowner communities, and to contribute to the sustainability of the smallholder oil palm sector.

CHAPTER 8

CONCLUSIONS AND FUTURE INVESTIGATIONS

The CLUA shows a way forward that builds on customary tenure while strengthening the temporary use rights of migrants to enable them to generate viable and secure livelihoods. Land tenure reforms should draw on what is already happening on the ground, rather than impose external models that do not accord with local cultural mores about the inalienability of customary land and its enduring social and cultural significance for customary landowning groups (Koczberski et al. 2012, p. 181).

8.1 Introduction

This chapter presents a general overview of the main arguments of the thesis and summarizes the main findings. The final part of the chapter suggests future research studies and how these might contribute to the oil palm industry and to policies on customary land tenure reform in PNG.

8.2 Overview and main findings of study

This thesis argues that land tenure transactions with ‘outsiders’ living at Morokea and Gaungo have become much more formal through time, but continue to be informed to an extent by traditional principles of land tenure. Partly, this process of formalisation was a result of landowning clan groups becoming organised for their ILG and customary land registrations and wanting to introduce a more formalized tenure renewal process for outsiders wishing to replant their oil palm after the 25-year cultivation cycle. The thesis shows that customary land tenure arrangements for development are possible in PNG and can be site specific and context based. The thesis also shows the importance of understanding and building on customary land tenure systems that are functioning well on the ground rather than replacing them with unfamiliar models from elsewhere.

This thesis has shown that there are diverse and flexible ways for migrants to access land at Gaungo and Morokea. Outsiders have accessed customary land through pre-established relationships with landowners, some without any prior relationship with landowners, intermarriage with landowners, or used their contacts amongst the migrant community at Gaungo and Morokea to identify opportunities to buy land.

Initially, land was accessed by outsiders through ‘gifting’. This system was based on friendships, trust and respect between landowners and migrants, whereby informal verbal agreements to transact land with minimal written documentation were sufficient for outsiders to gain access to land. There has been a shift to more emphasis on cash in land transactions over time.

However, traditional principles remain the foundation of these tenure transactions (see below). Land tenure transactions have gone through several stages from these initial informal and verbal land dealings, to more formal documentation of land transactions. Despite the use of some legal documents in the 1990s to facilitate the ‘purchase’ agreement (for instance, the Statutory Declaration form and the one page CLUA), disputes over land transactions increased. It became evident that the industry needed to develop a new CLUA document that clearly defined the terms and conditions of the land use agreement and addressed the needs of landowners and migrant farmers. The new four page CLUA specifies that the land is customary land and will revert to landowners once the migrant’s land use rights lapse. Migrants have only user rights to develop oil palm on the land and these user rights do not grant outright ownership over the land. During the land tenure period, landowners should not interfere with the migrants’ business developments on the land unless some of the agreed terms and conditions are breached. For example, problems that might lead to the lease being challenged by landowners include incomplete payment for land, accommodating additional households on the block and causing severe law and order problems.

The study showed that social relationships remain critical for maintaining land access and tenure security despite the use of the new CLUA. One way in which outsiders maintain good social relationships with landowners is by using their former work experience to create enterprises and provide goods and services in the village. Through such services they maintain their tenure security and improve the livelihoods of the landowners and the farming community more broadly. Developing from an unplanned oil palm scheme, the migrant and landowner community lack basic public service facilities such as health clinics and schools. Some migrants use their former work experiences to provide these services like school classrooms built on their oil palm blocks to cater for local schoolchildren, small health aid-posts to

treat common illnesses, community policing to enforce law and order in the community.

Outsiders with different vocations and backgrounds came from all over WNB and PNG to secure access to customary land for resettlement of their families and to earn a livelihood from for oil palm. The main challenge for outsiders has been not only engaging in social obligations to initially secure customary land but to meet these social obligations through time. Outsiders must pursue several social pathways to maintain and enhance their tenure security, especially during the replanting stage of their oil palm when the renewal of the tenure agreement is decided. As discussed in Chapter 6, some migrants who maintained social relationships with the landowners may be accepted into the landowning clans at the discretion of their landowner 'brothers'. The majority of migrant farmers, however, will have their tenure renewed as a type of business 'lease' and they will continue to farm. Other migrants might have their land tenure terminated if agreed terms and conditions are breached or any member of their household causes major law and order problems. Cash payments on their own are insufficient for maintaining access to land; meeting social obligations to landowner hosts periodically is a crucial part of cementing these transactions and thus tenure rights. Most migrants are aware of their commitments to landowners and they contribute goods and services as well as cash to the Gaungo and Morokea landowner communities. The customary land access tenure is formalized yet remains traditional.

Through time two forms of tenure renewal systems emerged: a Business lease/user rights contract where cash is seen as the main form of transaction; and a Property ownership arrangement where cash payments and full social inclusion occur where landowners accept their migrant "brother" into their landowning group. However, some migrants are now reselling their farmland to outsiders because they cannot cope with the stress of continuously maintaining their social obligations with the landowners, or they feel that tenure renewal is likely to be terminated at the replanting stage of their oil palm.

The increased demand for customary land by outsiders and the 'fast cash' needs by some senior clan members initially lead to the direct informal customary land arrangements between migrants and landowners. Over time, migrants and

landowners have engaged in processes that were based on their own common interests. Other stakeholders (e.g. OPIC, OPRA, NBPOL) in the smallholder oil palm industry were not initially involved in these land transaction processes but were forced to focus on improving the tenure security of both parties to avoid major land disputes which seemed to be becoming increasingly likely. New information regarding customary land tenure arrangements among landowners and migrants was therefore gathered by OPIC and OPRA to inform and facilitate new land tenure arrangements among landowners and outsiders.

The requirements of RSPO certification have also contributed to the formalisation of land transaction processes. Under RSPO land transactions must be transparent and all transactions documented and records safely kept. These attempt to ensure land under oil palm development is free from dispute and meets farm establishment requirements. These sustainable standards are a compulsory requirement on the oil palm industry, and migrant farmers and landowners must maintain these on-farm standard practices to comply with the RSPO requirements.

These findings from the study build on previous studies to reach a fuller understanding of customary land transactions in WNB. Such information is relevant to the customary land reform program in PNG and will contribute to the existing literature in the area of study.

An outcome of the land transactions in Moroakea and Gaungo has been a shift in how clans arrange land access. Landowners in Moroakea and Gaungo and nearly all traditional societies in WNB (except for Talasea area-patrilineal society) have a matrilineal kinship system of land ownership. Landowners, especially at Moroakea, adopted the Cognatic kinship system of land ownership. This system of inheritance is common in Western societies but is not widespread in PNG. Landowners at Moroakea claim that they are the first society to disturb their traditional fabric of matrilineal kinship and accept the Cognatic system. They have taken the Cognatic kinship system mainly to protect their clan land, descent and inheritance. The Cognatic kinship system also assists them to recruit enough people into each kinship lineage to maintain their claim and make their presence felt as landowners against the increasing demands for land by outsiders. The decision to employ this kinship system also became part of their ILG registration. Clan leaders of landowning groups and

clans at Morokea decided to allow clan member decision-making to be made at the household level where parents decide for themselves and affiliate their children to either the paternal or maternal lineage.

Finally, the study has contributed insights into customary land tenure systems and how these tenure systems have evolved over the last three decades in the history of oil palm development on customary land by outsiders. It is important that key stakeholders in the industry understand the changes in customary land access and build on it while continuing to monitor and evaluate the formalisation of customary land acquisition. They should also push for the new CLUA document to be recognized as a legal document. As recommended in Chapter 7, the industry must continue to conduct awareness and training on the new CLUA, formulate protocols for proper trusted storage processes and facilities for customary land transaction documents. They must also facilitate and standardize the customary land tenure renewal package for oil palm development.

8.3 Recommendations for future research

The study contributed to an understanding of the process of formalisation of customary land tenure arrangements in the smallholder oil palm industry. It also contributed to the existing knowledge on customary land tenure in PNG and elsewhere in the Pacific. It identified several areas that require further investigation. There is a need for further research on the role and contribution of CRP/LPF migrant farmers to the oil palm industry in PNG; will they, as a group, provide the labour to scale-up the oil palm industry thereby creating rural employment. A comparative study should be done to evaluate the CRP/LPMF model against other smallholder models in PNG such as LSS and VOP to see which has more potential to contribute to the national economy and employment. The study should also investigate FFB production potentials and other economic and social aspects of the CRP/LPMF compared with the LSS and VOP schemes.

A follow on study should be done on how landowners organize themselves to form ILGs and register their customary land for oil palm development and the challenges and difficulties they face throughout the process. It could investigate the costs involved in the processes and how long the processes take to be completed. The study could be an impact assessment of land reform policies on societal changes in the landowners' and the surrounding migrant communities. It could also include

awareness of the importance of ILG and customary land registration and the procedures, processes, expertise, costs involved, the different departmental sections of the National Lands and Physical Planning office that the registration documents passes through, and the duration and waiting periods for ILG and customary land registration.

Thorough training should be conducted among landowners and migrants on how to address different social and economic issues on case-by-case basis to inform the design of the ILG model used by the landowners that can assist them in their decision-making. If this model is successful, then it can be rolled out to other areas that are interested in registering their ILGs and customary land for smallholder oil palm development.

Further research should be conducted on why some migrants are accepted into their host landowning clans with attendant rights and privileges while other migrants are unacceptable and remain as outsiders. This research might consider differences between the two migrant groups in terms of their socio-economic characteristics, patterns of social engagements with their hosts and oil palm production performance. The study should investigate if those ‘socially included’ migrant farmers are living a better life than those who are ‘socially excluded’ in terms of housing and other major assets, standards of block management, oil palm production performance, education and health. This study could be based on case studies in different sites over a period of time.

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Appendix 1

Short Step Procedure (SSP)—a two-step process (n=17).

Comb.	Step 1	Step 2	Freq.
1	Meet with landowner (LO), sale agreement completed	Payment made to LO and migrant move in to settle on farmland and plant oil palm	1
2	Meet with LO, sale agreement done	Bring full cash payment to LO and settle on farm land and plant oil palm	9
3	Meet with LO, sale agreement done	Make cash payment to LO at LLG office, settle down on farm land and plant oil palm	1
4	LO invites outsider to ‘purchase’ land via established relationships	Inspect land & cash payment to LO, settle on land and plant oil palm	1
5	LO uses existing farmer to negotiate land sale	Purchaser & existing farmer meet with LO and give cash payment, settle on land and plant oil palm	1
6	LO negotiates land sale with outsider and sale agreement done	Outsider brings cash payment money to LO, settle down on land and plant oil palm	1
7	Meet with LO, sale agreement done	Perform land payment via mobile banking to LO account, plant oil palm	1
8	Land given by landowners, sale agreement done	Cash payment done, OPIC lands sign CLUA, settle down and plant oil palm	1
9	Meet up with LO, sale agreement done	Give cash payment to LO (witnessed by district court officials), settle down on land and plant oil palm	1
Total			17

Appendix 2

An example of a one-page CLUA form.

Sample of clan land usage agreement form

Form A 2L

CLAN LAND USAGE AGREEMENT

Date 19.....

To the Rural Development Bank

We, the undersigned, being the representatives of the.....Clan, hereby acknowledge that.....has the right under native law and custom for the whole of his life to use the land known as..... (or more particularly described in the plan on the reverse hereof) for the purpose of.....with the right to receive the proceeds of crops, trees and palms grown, livestock grazed and/or business conducted on the said land. We certify that all members of the said clan agree to the truth of this certificate and that we are the persons authorized by the clan to sign it.

Signature of Witness Full name of clan Leader His Signature /Mark

Signature of Witness Full name of clan Leader His Signature/Mark

When term of loan exceeds 5 years the section below must be completed in addition to the above.

As Clerk of the.....Local Government Council, I am of the opinion that the above Clan is not prevented under native law and custom from giving the above certificate and that the signatures/marks are made by person authorized to commit the clan.

Signature of Witness His Signature/Mark Affix stamp of Council here

or

As Clerk of the.....Local Government Council, I certify that a formal record of claimed rights in accordance with the above certificate has been recorded by the Council under the provisions of its Land Use Record Rule.

Signature of Witness His Signature/Mark Affix stamp of Council here

Appendix 3

An example of a four-page CLUA.

CUSTOMARY LAND USAGE AGREEMENT (VOP)

FOR USE FOR CLAN, ILG. INCORPORATED LAND GROUP.

Ref:

Date:

1. We the undersigned are legally recognized as:

- (a) Registered ILG:ofVillage WNBP.
- (b) Land Owning Clans specify ofVillage WNBP.
- (c) Supporting Documents.....

And we have the authority to allocate land usage rights to Clan / Family Members or others.

2. We the recognized owner(s) and custodian(s) of the land known as
 and
 shown on the attached locality map, hereby give
 of
 who is/is not a member of the recognized land owner clan or
 land custodian the right to use, occupy and develop the said piece of land for the purposes of
 Oil Palm and:

- (a) Cultivate other Commodity Crops (e.g.: Cocoa, Vanilla, Spices).Specify:
- (b) Cultivate betel Nut, Coconut, fruit trees for sale. Specify:
- (c) Raise Livestock
- (d) Operate Small Business Enterprise (e.g.; Trade store or PMV).Specify:
- (e) Others as specified:

3. For a period of:

- (a) The lifetime of the occupier and his children
- (b) One oil palm planting cycle (25 years).
- (c) For a period of Years(s).
- (d) Others:

4. The agreement does / does not include the right to sell any timber or extract soil or gravel from the described land.

- (a) Burials cannot take place on the (CRPB) burial permitted on prescribed village cemetery free of charge).
- (b) Only the lessee and his/her immediate family to reside on the block (under section 3) ().
- (c) The lessee shall be entitled to occupy and begin developing the CRPB on payment of the deposit sum ofKina referred to in this agreement under (Section 5) ().
- (d) No member of..... clan can interfere with or hinder the progress of any income earning activities that are permitted under the terms of this agreement.
- (e) The lessee cannot sub-lease the CRPB or any part thereof without the prior consent of the lessor

- (f) The lessee cannot transfer the CRPB to another person during the period of the CLUA without the prior consent of the lessor.
- (g) Should the lessee die before the expiry of the CLUA, the CRPB will automatically be transferred to the deceased's spouseor the person named in the Will of the lessee, for the remaining period of the CLUA.
- (h) Upon expiry or termination of the CLUA, the lessee is free to sell or remove his/her house, cash crops, garden or other assets before vacating the block.
- (i) In the final year of the CLUA, oil palms over 25 years of age must be poisoned by OPIC.

5. The authorized occupier will/not pay for the use of this said piece of land (in the following manner:)

- (a) Full payment of:
- (b) Rentals rates at Annual K.....
- (c) Quarterly K.....
- (d) Monthly K.....
- (e) No payment.
- (f) Outstanding amount of K..... paid on or before

6. The authorized occupier will:

- (a) Bide by all environmental and development requirements in compliance with RSPO standard.
- (b) Manage the oil palm to RSPO standard and requirements as far as maintenance and fertilizer use are specified.
- (c) Harvest and sell FFB of good quality regularly as required by OPIC by using the harvest card for this particular block.

7. If these conditions are not complied with:

- (a) we reserve the right to reallocate the land to another clan representative or person who will also be bound by these conditions or
- (b) we agree that NBPOL will have the right to nominate a contractor to work the block until such time all outstanding debts to NBPOL is repaid in full.

8. We further agree that during the currency of the period while debt for inputs remains favour of New Britain Palm Oil Limited no member / representative will interfere in anyway which will affect the smooth running of the development.

9. CERTIFICATION:

(j) We certify that all representatives of the saidClan have agreed to this agreement and that we are persons authorized to sign on their behalf.

(a)			
Signature of Witness	<input type="checkbox"/>	Full Name of Clan Leader	His/ Her Signature Date
.....	<input type="checkbox"/>
Signature of Witness	<input type="checkbox"/>	Full Name of Clan Leader	His/ Her Signature Date
(b) .....	.....	.....	.....
Signature of Witness	<input type="checkbox"/>	Full Name of Clan Leader	His/ Her Signature Date

(c)	<input type="checkbox"/>
Signature of Witness		Full Name of ILG Leader	His/ Her Signature	Date
(d)	<input type="checkbox"/>
Signature of Witness		Full Name of Clan Leader	His/ Her Signature	Date
.....	<input type="checkbox"/>
Signature of Witness		Full Name of Clan Leader	His/ Her Signature	Date
(e)	<input type="checkbox"/>
Signature of Witness		Full Name of New Block Owner	His/ Her Signature	Date

Witnessed by:

(a) .....	.....	.....	.....
Full Name	Serving Officer/OPIC	Signature	Date
(b) .....	.....	.....	.....
Full Name of Ward Land Mediator/ ILG Committee Member		Signature/Mark	Date
(c).....	.....	.....	.....
Full Name of Ward Councilor/ ILG Committee Member		Signature/Mark	Date
(d).....	.....	.....	.....
Full Name of Local Church Leader/ Village Leader		Signature/Mark	Date
(e).....	.....	.....	.....
Full Name of Clan Leader from		Signature/Mark	Date
(f).....	.....	.....	.....
.....
Full Name	Position/OPIC	Signature	Date

10. Dispute Resolution Procedures

(a) Disputes relating to the terms and conditions of the CLUA agreement should be referred to

the OPIC Lands Officer in the first instance.

(b) Disputes among the customary landowning groups relating to ownership of the land should

be referred to the land mediation process. If a resolution is not achieved through the village

land mediator, the lessee will be allowed to continue without interference from either of the disputing parties.

(c) Where mediation by the village land mediator or district court magistrate succeeds in a resolution of the dispute, a record of the terms of the agreed resolution should be forwarded to the dispute land Co-ordinator and OPIC.

SKETCH PLAN

BLOCK NO.



Appendix 4

Summary of Gaungo customary land usage 1980–2016.

Time	Land agreement	Characteristics	Types of buyers
1980–1989	Initial land 'sale'	<p>Land: matrilineal ownership</p> <p>First purchase of land in 1982</p> <p>Mostly verbal informal transactions involving cash, pigs, store goods such as radios, generators, rice, beer, etc. Often no written documentation (Koczberski, et al. 2001)</p> <p>Land released through pre-existing relationships between landowners and buyers</p> <p>No detailed land surveys/studies</p> <p>Land 'sale' either by individuals or as families (2–3 people)</p> <p>One-off payment or deposit half payment and pay remaining balance on instalments when oil palm comes into production</p> <p>Expectations that buyers will assist when landowners face problems</p> <p>No formal terms and conditions on land transactions.</p> <p>Large variation in land size and price of land (average price for 1 ha=PGK1500)</p> <p>Land boundaries defined by compass-physical markers in land scale and then marked with tanget or coconuts</p> <p>No formal process in planting of oil palm seedlings</p> <p>Sustainable farming practice not a requirement prior to RSPO standard practices</p> <p>Tenure insecurity for some farmers via land disputes (e.g. landowners' 'sale' of land for fast cash to meet their needs)</p>	<p>Private sector employees</p> <p>LSS farmers (second generation)</p> <p>First/primary 'buyers' of land</p> <p>Individual buyers or family groups</p>
1990–1999	Large scale land 'sales'	<p>Land: matrilineal ownership</p> <p>Some verbal with written records/documents</p> <p>No detailed land surveys/studies</p> <p>Land 'sale' mostly by individual landowners and less often by landowner families (2–3 people)</p> <p>One-off payment or deposit paid on land with external contributions to meet landowner customary needs.</p> <p>Some specific terms and conditions on land transactions</p> <p>Reduced variation in land size and price of land (e.g. average 2 ha of land 'sold' for PGK6000)</p> <p>Land boundaries defined by tape measurement and compass.</p> <p>No formal process in planting of oil palm seedlings</p> <p>Sustainable farming practices not a requirement</p> <p>Tenure insecurity for more farmers via land disputes (e.g. different landowners claiming the land)</p>	<p>Private sector employees</p> <p>Public sector employees</p> <p>LSS farm households (second and third generations or relatives)</p> <p>Kimbe urban/settlements</p> <p>Settlers from within Hoskins/Talasea districts</p> <p>Migrants from other parts WNB</p> <p>Settlers from other provinces of PNG</p> <p>Previously employed on mainland PNG and other island provinces</p> <p>First/primary 'buyers' of land</p> <p>Individual buyers or family groups</p>
2000–2009	Land exhaustion or emergence of land shortages	<p>Land: matrilineal ownership</p> <p>Recognition by landowners of emerging land shortages</p> <p>Some surveys/studies on customary land</p> <p>Little verbal agreement with Introduction of a CLUA for facilitating land tenure conditions with some verbal agreement</p> <p>Land 'sale' mostly by individuals</p> <p>Two hectares of land for PGK6000</p> <p>One-off payment or deposit and pay instalments with the introduction of additional fees with external contributions to meet landowner customary needs</p> <p>Some specific terms and conditions on land transactions</p> <p>Formal process of planting oil palm seedlings</p> <p>Sustainable farming standards emerged as a requirement with the introduction of Round Table on Sustainable Palm Oil (RSPO)</p> <p>Tenure insecurity for more farmers via land disputes become an important issue. Stakeholders step in to address the issue e.g. formation of ILGs to address individualised 'sale' of land</p>	<p>Private sector employees</p> <p>Public sector employees</p> <p>Kimbe urban/settlements</p> <p>Settlers within Hoskins/Talasea districts</p> <p>Migrants from other parts of WNB province</p> <p>Settlers from other provinces of PNG</p> <p>Previously employed on mainland PNG and other island provinces</p> <p>Some first 'buyers' on-selling land to outsiders</p>

<p>2010–2016</p>	<p>Land transactions become more commercial</p>	<p>Land: both matrilineal and patrilineal ownership (explained in text) CLUA requirement, no verbal agreements Current land survey/study in detail Incorporation of Landowner Groups (ILG). Landowners commenced forming ILGs Requirement of one-off or instalment payments with terms and conditions of renewal during replanting of oil palm seedlings via ILGs More specific and additional fees on terms and conditions (e.g. land ‘sale lease’ for 25 years) farmers to pay monthly rental fees CLUA signing fee of PGK300, oil palm replanting fee of PGK500, PGK3000 upfront of renewal fee and balance on instalment payments Two hectares of land for PGK12 000. A doubling in price of previous cost Requirement to meet RSPO farming standards Encouraged landowners to ‘lend’ their land via their ILGs to minimise and have control over land disputes Tenure insecurity for some farmers during renewal of terms and conditions (e.g. paying of new fees and landowners’ decisions to renew or terminate contracts of migrant farmers)</p>	<p>All information here same as previous section, plus: Becoming common for first land ‘buyers’ on selling farms to second ‘buyers’ Long-term and business interest in farming rather than just migrant resettlement. No longer commercially oriented.</p>
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Appendix 5

Summary of Morokea customary land usage 1980–2016.

Time	Land agreement	Characteristics	Types of buyers
1980–1989	Initial land 'sale'	<p>Matrilineal landownership. Land is owned and decisions are made by matrilineal kinship/groups</p> <p>First purchase of land in 1965</p> <p>No detailed land surveys/studies</p> <p>Mix of informal and formal documentation of land 'sales' as verbal and some written transactions (e.g. using state declaration forms and identifying land boundaries by eye using traditional landmarks like ornamental plants cordyline (tangets), coconut trees, rivers etc.).</p> <p>Land released through pre-existing relationship between landowners and buyers.</p> <p>Some land released to outsiders was due to intermarriage</p> <p>Two hectares of land accessed for PGK2500 either as one-off payment or instalment payments with some expectations that buyers will assist landowners through social obligations</p> <p>Land 'sale' either by individuals or as families (2–3 people) based on pre-existing relationship between landowners and buyers</p> <p>No specified terms and conditions on land for farming access e.g. renewal of ownership based on crop life cycle or inherited by purchaser's next of kin when the purchaser is deceased</p> <p>Land boundaries determined by compass and tape measure</p> <p>No formal process in planting oil palm seedlings</p> <p>Sustainable farming practices not a requirement (e.g. RSPO compliance)</p> <p>Parcels of land given away cheaply to outsiders by landowners to make up required number of blocks for road access to be built into the village area</p> <p>Tenure insecurity for some farmers via land disputes (e.g. fast cash by some landowners by granting land access to outsiders without consulting other clan members).</p>	<p>Private sector employees</p> <p>LSS farmers (second and third generations or relatives)</p> <p>First/primary 'buyers' of land</p> <p>Individual buyers or family groups</p>
1990–1999	Large scale land 'sales'	<p>Matrilineal landownership. Land is owned and decisions made by matrilineal kinship/groups but men usually control decisions</p> <p>Verbal with written records/documents (statutory declaration form) of land 'sale'</p> <p>Physically delineate land via traditional marks (e.g. coconut trees, economic plants and trees etc.)</p> <p>No detailed land surveys/studies</p> <p>Land released through pre-existing relationships between landowners and buyers</p> <p>Some land release to outsiders was due to intermarriage</p> <p>Landowners seeking outsiders to 'purchase' land to get fast cash</p> <p>Outsiders seeking landowners to acquire land</p> <p>Two hectares of land accessed for PGK5000–PGK6000 either as a one-off payment or instalment payments with some expectations that buyers will assist landowners through social obligations</p> <p>Land 'sales' either by individual landowner or by landowner families (2–3 people) based on pre-existing relationship between landowners and buyers</p> <p>No specified terms and conditions on land for farming access (e.g. renewal of ownership based on crop life cycle or can be inherited by purchaser's next of kin when the purchaser is deceased</p> <p>Land boundaries defined by compass—physical markers in land scale and then marked with tanget or coconuts</p> <p>No formal process in planting oil palm seedlings</p> <p>Sustainable farming practices not a requirement (e.g. RSPO compliance)</p> <p>Tenure insecurity for some farmers via land disputes (e.g. fast cash by some landowners granting land access to outsiders without consulting other clan members)</p>	<p>Private sector employees</p> <p>Public sector employees</p> <p>LSS farm households</p> <p>Kimbe urban/settlements</p> <p>Settlers from within Hoskins/Talasea districts</p> <p>Migrants from other parts of the province</p> <p>Settlers from other provinces of PNG</p> <p>People previously employed on mainland PNG and other island provinces</p> <p>First/primary buyers of land</p>
2000–2009	Land exhaustion or emergence of land shortages	<p>Matrilineal and introduction of Patrilineal landownership</p> <p>Land is owned and decisions made via matrilineal with some patrilineal kinship</p> <p>Some surveys/studies on customary land</p> <p>The introduction of the CLUA form. Written records of land 'sale' or transaction via CLUA and statutory declaration forms.</p> <p>Land boundaries defined by GPS</p> <p>Two hectares of land selling for PGK5000–PGK10000</p>	<p>Private sector employees</p> <p>LSS farmers</p> <p>Public sector employees</p> <p>LSS farm households</p> <p>Kimbe urban/settlements</p>

		<p>More individualised land 'sale' rather than as families (2–3 people) ILG registration prioritised by PNG government for all landowning groups/clans/tribes Terms and conditions of farming are formalised as a result of ILG formations (e.g. the fees imposed for replanting of oil palm). Sustainable farming standards emerged (RSPO compliance) Tenure insecurity for some farmers via land disputes (e.g. fast cash by some landowners via allowing access to land by outsiders without consulting other clan members)</p>	<p>Settlers from within Hoskins/Talasea districts Migrants from other parts of the province Settlers from other provinces of PNG Previously employed on mainland PNG and other island provinces Some first buyers selling farms to second buyers</p>
2010–2016	Land transactions become more commercial	<p>Matrilineal and Patrilineal landownership (via National Identity (NID) registry certificate) Land is owned and decisions are made via matrilineal kinship and backed-up by patrilineal kinship Land access through pre-established relationships between the landowners and migrants are secure for some farmers and less secure for other outsiders who had less contact with landowners Current land survey/study in detail CLUA requirement, no verbal agreements. CLUA reduces some problems and safeguards all landowners. CLUA identifies real landowners, records their histories and encourages them to organise themselves. Landowners' ILGs allow land access and usage for a planting cycle (25 years). Migrants pay monthly rental fees during the access/usage term (25 years). Involve detailed (4–6) step processes. Migrant farmers to sign new fee structure agreements Formation of ILGs. Encouraged landowners to allow land access via ILGs. Frequent disputes on CLUA signatories. Formation of land dispute settlement authority (LDSA) under each ILG in Morokea. Responsible for all customary land deals under each registered ILG in Morokea. More specification as renewal on access and usage terms and conditions based on ILG requirements. Solely based on migrants' behaviour and attitude in the community. Renewal conditions based on one cropping cycle (25 years). CLUA signing fee of PGK100 and PGK1000 renewal fee (25 years). PGK25 monthly rental fee per 2 ha/month Migrants are being selected as clan members. Landowners via ILG discussions select genuine migrants. Migrants to give one pig and PGK5000 cash to show appreciation and as part of birthright payment. Migrants entitled to some clan wealth distributions (refer to text for more detail). Social strategy by landowners to map and filter migrant farmers. A way of bringing social harmony to the community, suppressing/controlling social problems like crime and social disharmony between migrants and landowners. Genuine farmers renew access conditions (after 25 years) while farms breeding or accommodating troublemakers will be asked to leave (non-renewal of access conditions after 25 years) Requirement of sustainable farming (RSPO) Tenure insecurity for some farmers via renewal of terms and conditions (e.g. payment of new fees and renewal or termination of contracts of migrant farmers are at the discretion of landowners)</p>	<p>All the above mentioned Becoming common of first buyers selling farms to second buyers Long-term and business interest in farming and social commitment for migrant resettlements</p>

Appendix 6

A copy of the Statutory Declaration Form.

PAPUA NEW GUINEA

STATUTORY DECLARATION

I, (a)

Do solemnly and sincerely declare that (b)

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act 1962* conscientiously believing the statements contained therein to be true in every particular.

Declared at.....) c)

dated.....day of 20.....)

Before me:

(d)

(e)

COMMISSIONER FOR OATHS

-
- (a) Here insert name, address and occupation of person making the declaration.
 - (b) Here insert the matter declared to. Where the matter is long, it should be set out in numbered paragraphs.
 - (c) Signature of person making the declaration.
 - (d) Signature of person before whom the declaration is made.
 - (e) Here insert title of person before whom the declaration is made.

Note: Any person who wilfully makes a false statement in a Statutory Declaration is guilty of an indictable offence, and is liable to imprisonment, with or without hard labour for four years.

G. Dadi, Acting Government Printer. _____ 460/10,000. _____ 2.900

Appendix 7

Some RSPO criteria used in the land tenure transition in Gaungo and Morokea
(adapted from oil palm PAF Hoskins Project).

Basic RSPO Criteria for sustainable oil palm farming		
1	Environmental criteria	Requirements
	Buffer zones creeks & small rivers	10m–50m
	Buffer zones big rivers, lakes, shoreline	100m–200m
	Buffer zones sacred places e.g. mangroves, caves, hot springs	50m–100m
	Topography-farming landscape	Not <45 degrees
	Type of forest cover	No primary forest. Regenerative forest, e.g. former food garden area
	Forest conservation	No unnecessary clear felling of trees
2	Livelihood criteria	Requirements
	Road access	Must be accessible by road. Not <100m
	Land boundaries	Well defined boundaries/maps
	Farm land title	Must have a lease title or CLUA on hand
	Basic literacy	Possess basic skills of financial literacy
	Savings account	Must have bank accounts for oil palm payments
	Hygiene/sanitation	Must have toilet Must have good water source
3	Occupational health and safety (OHS) criteria	Requirements
	Farming tools	Must have proper farming tools and shed Must know how to handle different tools
	Using herbicides/pesticides	Must attend training and attain certificate Must have proper water source for mixing chemicals Must have proper chemical storage shed Must have safety gears for handling chemicals
	Fertilisers	Must have proper training on storage and application Must have handling safety gears
	Burning of bush	Minimal to no burning of rubbish or bushes

Appendix 8

Receipt of CLUA signatory facilitation fee during oil palm rehabilitation in Gaungo 2017.

