The Double Movement of Property Rights in PNG

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The common starting point for academic debate about land reform in Papua New Guinea (PNG) is the observation that 97 percent of the country’s land area is ‘under’ customary ownership, while the remaining 3 percent has been ‘alienated’ from its customary owners. The proponents of radical reform argue that the institutions of modern capitalism can only thrive on the tiny proportion of land which has been alienated, and this proportion therefore needs to be expanded. One defence of custom then claims that development has taken place, and can be made to accelerate, on the vast area of land which has not yet been alienated, so there is no inherent contradiction between a process of land reform and the basic principle of customary ownership. A second defence of custom takes aim at any kind of land reform which supports a foreign or capitalist model of ‘development’ and therefore threatens to create a class of landless citizens. The appearance of a stalemate in this policy domain may be ascribed to a lack of indigenous ownership over the reform process itself or to the power of a class of smallholders whose attachment to customary land is part of the Australian colonial legacy. But whether or not the participants in the debate believe that some amount of customary land ought to be ‘mobilised for development’, they all seem to share a common assumption that complete or partial alienation of land is a one-way street, and that traffic along this street has either been blocked by an inappropriate or dysfunctional institutional framework, or else successfully opposed by a coalition of national political interests.

When the Commission of Inquiry into Land Matters observed in 1973 that ‘[a]lienated land comprises only 2.8% of the total land area of Papua New Guinea’ (PNG 1973: 46), it relied on evidence contained in the government’s register of freehold and leasehold land titles. It can be argued that the proportion of alienated land has declined since then because areas of customary land that have been freshly alienated are more than offset by the areas of alienated land whose official records have been lost or stolen. On the other hand, the loss of alienated land can also be represented as the continuation of a trend already established during the period of the first Somare government (1972–77), which returned 220,000 hectares of ‘vacant government land [almost 1 percent of PNG’s land area] to the original customary owners in areas of land shortage’ (Fingleton 1982: 119). If this trend is accepted as a fact, then it looks like the radical reformers have an even harder task ahead of them, because we cannot simply say that ‘nothing has changed’ over the last 35 years. Yet the current debate is still framed by mutual acceptance of the 97:3 ratio. In 2008, the Australian government aid agency could still observe that 97 percent of PNG’s land is ‘customary’, 2.5 percent is ‘public’, and 0.5 percent is ‘freehold’ (AusAID 2008: 4). Perhaps the desire to preserve this ‘fact’ against the sweep of history reflects a genuine belief that nothing much has changed over the last 35 years, and hence to underline the argument that something needs to be done to ‘make land work’, even if it is not just the acquisition of more public land or the creation of more freehold titles. Be that as it may, my argument is that relatively small movements in the frontier separating parcels of alienated land from the vast unregistered hinterland of custom are only one aspect of a much bigger double movement which involves the partial alienation of customary land and the partial customisation of alienated land.
References

