

Impact Of Customary Land Tenure Systems and Reforms on Rural Women in Papua New Guinea

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KEY WORDS - Customary land tenure, matrilineal, patrilineal, land reform, women, land ownership, Papua New Guinea.

ABSTRACT

The marks of capitalism expressed through western ideals pertinent to economic progress have prompted a challenge for Papua New Guinea (PNG) to reform customary land without de-stabilising the traditional land tenure system. This Paper explores the effects of the recent customary land reform – Voluntary Customary Land Registration (VCLR) on women in PNG. The interrelationship between customary land tenure systems and customary land reform and how they affect women is explored through case study methodology in the study sites of Toudikwa Land Group in the Milne Bay Province; Aridagin Land Group and Butibam Village both in the Morobe Province. In each study area, qualitative data collection methods (un-structured interviews with thirty-seven people, four focus group discussions and field observations) were used. Thematic analysis of the research data found that certain fundamental principles of inheritance (be it patrilineal or matrilineal), communal ownership, and an inherent gendered distribution of property rights, appear to have remained intact. The VCLR process reinforces bonds of family/lineage land rights and locality boundaries and limits the rights of outsiders, and this is now codified in government systems; it helps to recognise, protect and indeed, forefront, women’s rights in ownership (matrilineal case) and access to land (patrilineal) where they already exist due to custom. However, this research also found there were also low levels of literacy; meaning comprehension of these laws and access to information was limited. The women in the Incorporated Land Group (ILG) Executive committees had limited to nil business acumen to perform the functions needed for their incorporated body introduced by the land reform process. Some women in peri-urban areas utilised their accessibility to urban areas to improve their personal status through education. Educational equity is also important for women to enable some degree of economic empowerment and improve rural women’s visibility in the community, and to avoid being undermined by male siblings, in a matrilineal society. This paper argues that in a single nation-state like PNG, the recent customary land reform is complex in its impacts on rural women. On the one hand it offers tenure security to those women who already have ownership or access rights to the land by codifying these customary rights, but then on the other hand it entrenches gendered power relations that are within these customary land tenure systems. Therefore, despite providing tenure security, customary land tenure systems and land reform may have negative impacts on women’s land rights, access to land and any subsequent empowerment.

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1. INTRODUCTION

Most women and men in PNG remain in a rural setting and continue to survive on subsistence agriculture; women are marginalised as they continue their lives dictated by local customs and traditions. With over 800 distinctive local cultures and languages, two types of customary land inheritance regimes continue to exist. There is a gap in literature about customary land reform in Pacific Island Countries and Territories (PICTs) and its impact on women and this research contributes to this gap in literature providing a PICTs perspective. This paper argues that the foremost social impediment to rural women's rights to land and consequent empowerment through customary land reform is the persistence of traditional and cultural beliefs.

Through an assessment of a matrilineal case study (a peri-urban, incorporated group) and two patrilineal case studies (one in a rural setting with an incorporated group and the other in a peri-urban locale but with no incorporated group), this research explores the impact of customary land tenure and reforms under the Voluntary Customary Land Registration (VCLR) process on women in PNG. The main assumption of this research was that rural women in PNG do not have equal access to customary land and property rights to customary land. Through this research, gender dimensions of customary land reform in Papua New Guinea (PNG) using both matrilineal and patrilineal case studies are examined.

The case study protocols covered several steps including the selection of the case study sites, entering the site, units of analysis, sampling techniques, data collection methods, data analysis, data interpretation, and ensuring credibility, reliability and validity of the data. Data generation was from fieldwork that was carried out in the three case sites between August and October 2017. The first case study is Toudikwa Clan/Incorporated Land Group (ILG), which is a peri-urban matrilineal society in the Milne Bay Province of PNG; the second case study is the Aridagin Incorporated Land Group/Clan, that is a rural patrilineal society situated in the Umi/Atzera Rural district of Morobe Province in PNG; and the third case site is Butibam village which is a non-incorporated peri-urban patrilineal society that is, situated with the Ahi Rural area in the Morobe Province in PNG. Each case study provided an insight into the prevailing customary land tenure systems practiced in each site and provided the experiences of women with the customary land reform program. Sources of data for the research included reviewing local level land reform policy documents, the amended legislation, and other related documents.

2. RESEARCH SETTINGS

The case study research is conducted in two of the twenty-one provinces of PNG. These are Milne Bay Province (Case Study One) and Morobe Province (Case Studies Two and Three). Figure 3 shows the locations of the three case study sites. Milne Bay Province lies southeast on mainland PNG and occupies an approximate land area of 14,100 square kilometres (Allen et al. 2000, p.64). Morobe Province on the other hand lies north on mainland PNG and covers a land area of 33, 525 square kilometres (Allen et al. 2000, p.172). The choice of these two areas was based mainly on two factors. Firstly, these two areas practice distinct customary land tenure practices; the Toudikwa clan of Milne Bay are matrilineal peri-urban society

whilst the Aridagin clan is a rural patrilineal clan and the Butibam are peri-urban patrilineal community; both patrilineal communities are situated in Morobe Province. Secondly, these three groups of people have been affected by changing customary land tenure patterns arising from land development and urban growth. The Toudikwa (matrilineal) Clan is one of the first groups of landowners from Milne Province and in PNG to be issued with a registered Customary Land Title. Under this parent title the land group has issued 99-year leases to lessees who have landed properties at Toudikwa Estate (Land Tok 2016, p.6). A deliberate choice of the Toudikwa people was made to explore how land commoditisation has impacted the matriliney and the empowerment of the women.

The Aridagin Land Group and clan were selected because they are a patrilineal group residing in the rural village known as Tumua in the Markham Valley of Morobe Province in PNG. They are an incorporated land group and have a registered title over a portion of their clan land; this land is currently leased to various agricultural developers. The Aridagin clan are the owners of the land known as Ngaru No.1 which is under a Special Agriculture and Business Lease (SABL). Their portion of land has been divided into separate sub-leases issued to three different developers; firstly, for Oil Palm; secondly for sorghum and maize; and thirdly for the PNG Forestry reforestation program. The ILG is in the process of converting the SABL title to the VCLR process.

Butibam village is one of the six villages that make up the Ahi people of Morobe Province; the Ahi are the known customary landowners of the Lae urban area. The Ahi consists of six villages that are all situated on the periphery of the urban centre. Butibam is a patrilineal peri-urban society. Lae is known as the second largest urban centre in PNG and is the industrial hub of the country. The Butibam people remain in their traditional hamlets but their customary lands surrounding their villages are in the path of urban expansion and have been subjected to the increase of informal settlements resulting from rural-urban drift. The Ahi people (six villages) launched their own Ahi Land Mobilisation Policy (ALMP) in 2001 (Aleker et al. 2016, p.18). The policy was designed to empower the Ahi customary landowners. To date, there has been no successful implementation of the ALMP, and it has become ineffective.

Figure 1: Location of the three case study sites in Papua New Guinea
 Source: Google Earth Imagery 2024



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3. KEY RESEARCH FINDINGS

Three main themes emerging from the research findings include firstly continuity of customary land tenure systems: secondly the impact of customary land tenure on women and the effects of customary land reforms on women.

3.1 Continuity of Customary Land Tenure Systems

Findings from the case studies in this research show that there is a strong connection between the land and the people. In one way or another, everyone has some sort of right whether it is a beneficiary right, user, access right or ownership right to a piece of land in the country, because every individual in PNG belongs to a family unit that belongs to a sub-clan, clan and village or tribe. In the three research sites customary land law continues to dictate land inheritance patterns and land access. The pivotal nature of customary norms cannot be overestimated. Traditionally the interaction between indigenous Pacific Island people and the land is an ongoing stewardship by the current generation for future generations (Boydell 2007); and this aspect of customary land tenure systems was clear in the three case studies. Customary law of an area dictates the tenure regimes and regulates the rules that control behaviour and property rights to customary land and seas (Crocombe 1978, p.1). Customary land tenure systems determine who can use the land, for how long and under what conditions (Lamour 2002, p.152) and are merely community-based regimes for the ordering and sustaining of access and use of lands and resources (Wily 2016, p.2).

The research findings show that cultural norms influence women's rights to customary land and access to customary land. There is a continuity of customary law with regards to customary land tenure systems, be it matrilineal or patrilineal, and inheritance to land remains inherently inequitable for either the men or women in that system. Women's land rights in each of the case studies can be attributed to customary practices that are deeply etched in traditional institutions; for the women in the two patrilineal cases, access to the land was mostly access either through the husbands or relatives of their own or husband. The findings support FAO statement that women's access right to land through kinship relations does not warrant security for women when traditional family structures break-up (FAO 2002).

The different types of land rights available to members of a group in customary land tenure systems are generally clear. In a patrilineal system in Case Studies Two and Three, inheritance is passed through the father's lines, men are typically described as having the primary rights to land, i.e. the decision-making rights over land, while women generally have predominantly secondary rights such user rights, without the right to make decisions about land. In the matrilineal community in Case Study One, it is the opposite, rights are passed through the mother's line and this offers women a higher level of independence as opposed to women in patrilineal communities. Jolly et al. (2015) highlighted that the matrilineal practice found in the Milne Bay Province of PNG "offers an alternative vision of gender equality" and the evidence from the matrilineal case in this research reinforces this claim. Although there is no known literature on matriarchal communities in PNG, the field findings from Case Study One show the existence of a matriarchal society (Toudikwa); this is because the men uphold the matrilineal system and the matriarchy.

Marriage also influences access and user rights to land in customary land tenure systems. Notably, the findings in all three case studies show that stability in marriage provides the most basic form of access to land in both land tenure systems; the difference being that in the matrilineal case study, women remained on the land. In the patrilineal cases, women do not bring any land assets to the marriage. The research also revealed that in the event of marriage separation, in all the three case studies, a male (from a matrilineal society), or a female (from a patrilineal society) who returns to their natal village have no assurance that they will be granted any access to customary land.

The Christian faith is recognised by participants in this research as one agent of change that has impacted rural women's lives; women restrain themselves by the idea that they are inferior to men through a male-centred understanding and interpretation of certain Bible teachings that females should submit to men in marriage and as such, Christian faith and beliefs continue to influence and play a significant role in defining the roles of women in their traditional society. Religious beliefs and practices dictate gender relations in many societies throughout the world (Kunin and Watson 2006). Christianity is one of the modern influences that have been naturalised in Melanesian culture; it also contributes to changes in gender relations by creating gender divisions and inequalities (Cox et al., 2014:138). The findings from this research show that in all the case sites, religious scriptures were considered persuasive and the teachings relating to women submitting to the men are often used alongside traditional customs. The assumption that men are leaders and women are support groups was prevalent in the patrilineal cases and hence women are denied the right to effectively participate in decision-making.

The research findings show the importance of Christianity as a force that structures society. The research found that religious beliefs, to a certain degree, are intertwined with cultural patriarchal beliefs, values and customs and other social practices, and have influence over community life and subsequently gender roles and relationships in the communities. It was obvious that the communities in each of the case sites in this research promote selective Biblical principles and Christian teachings to explain gender inequality, shape decision making, influence social and cultural changes, which in turn entrench customary law, tenure systems and norms and the position of men and women. Both men and women (in all the case studies) believe and justify Bible teachings that females should submit to men, because they appear in the Bible and these tie in with the persistence of traditional and patriarchal beliefs which are the foremost social impediment to rural women's rights to land and consequent empowerment through customary land reform. Churches make significant contributions to PNG societies and Christianity is an important force that structures society; and as such, churches maybe an avenue in solving inequities of patrilineality.

3.2 Impact of Customary Land Tenure on Women

This research has shown the resilience of customary land tenure systems that entrench the powerful position of men irrespective of prevailing gender tenure system, the less powerful position of women in the matrilineal systems appear to be undermined, and the consequential implications, impact the empowerment of rural women that is said to be an outcome of the VCLR. From the findings of Case Study One, this research unravels that it is not an unusual

assumption even in the matrilineal societies of PNG, that men will adequately represent women (Macintyre 2003), the matrilineal custom is a factor that allows women to possess land ownership rights which, in turn allows for some degree of empowerment around land-based decision making. However, despite this, matrilineal inheritance also remains susceptible to the natal male folk who can manipulate and undermine the women.

This research found across the three cases that rural women's access rights to land is an enduring issue that is neither discussed nor spoken about in those rural communities; thus stating the obvious, if it is not spoken of, it will highly likely not be resolved. There is a clear tension between the global principles of gender equity concerning land inheritance and its gender discriminatory aspects and customary laws and practices in patrilineal societies. In Case Studies Two and Three, access to land in the rural areas of PNG is clearly gendered. In these contexts, for the rural women in the patriarchal cases, land access itself is imbued with social and cultural values, and contesting these values can lead to conflicts both within families and at community level. This indicates that important gender policies introducing topics on women's rights around land, gender equality and empowerment have not filtered down to some rural communities and their implementation are bound to be challenged by cultural attitudes and gendered role in the rural areas. This research shows that the gender asset gap in customary land in PNG is significant (and is an area that requires further in-depth research) and this is due to three factors: male preference in inheritance; male privilege in marriage; male bias in their respective community. When trying to claim land rights, women in PNG run into a heavily male-dominated system of decision-making at various levels; in the household, community, and government institution levels.

As evidenced in Case Studies Two and Three wives emphasised that their husbands take care of them, and they were comfortable with their situation; and any disrespect to men would cause tension not only within the family but to the clan as well. Disrespecting the culture could also make them vulnerable to violence and displacement. In the context of the matrilineal case study, joint titling would exacerbate patriarchal perceptions of land ownership and control rights and threaten women's existing empowerment. Thus, changing long-held customary systems and norms are problematic and could in the case of a matrilineal system also do much damage to women. Reconciling such entrenched norms in customary land tenure reforms is clearly not easy and it may require reforms to other laws (such as Family Law) to formalise women's rights to land. Many Pacific Island Countries are challenged with the competing claims of whether to preserve customary law or to implement human right norms in relation to gender equality (Nagarajan and MacDermott 2013). The authors further claim that the "debate about whether a customary approach or state intervention is the better option for securing women's rights is contentious" (Nagarajan and MacDermott 2013, p.472) which is aligned with the findings in this research.

3.3 Effects of Customary Land Reform on Women

While the VCLR process supports customary gendered inheritances, be they patrilineal or matrilineal, it does not specifically have enforcing clauses in the legislation to promote and protect women's rights to land or access to it. In the patrilineal case studies, the VCLR process by codifying the customary practices of the tribe/clan (in Section 8, sub-section 1(f) of the Land Group Incorporation (Amendment) Act 2009) has increased men's resistance to women's advocacy for land rights, and thus increased women's insecurities. The VCLR process in the matrilineal case study does not extinguish women's customary claims to the land but does recognise the support role of their maternal uncles and brothers with regards to land dispute matters with outsiders. Further, the inclusion of the male siblings as beneficiaries (to direct economic benefits arising from land development - income from land rental or sale) gives a new context for claims to access land from the men; this is a threat to women's empowerment because the men, were found to manipulate the historical precedents of "custom" to exercise greater control over land to the detriment of women.

The recent amendments to the Land Group Incorporation (Amendment) Act include the mandatory inclusion of "two women" to be part of the ILG Executive Committee; this signals an important step towards enhanced gender inclusion in customary land administration. Despite the mandatory inclusion of "two women" to be part of the ILG Executive Committee; in the patrilineal Case Studies Two and Three, this research found that this was not an effective advocacy measure to address women's land rights because women are culturally excluded from decision making with regards to land and the men maintained this attitude during executive committee meetings. While culturally, it is inappropriate for a woman to sit with the men to discuss land matters, this fact violates basic norms of equality. The VCLR process will have only surface level impact and may be thought of as simply to "tick the box" to satisfy the legal requirements of the amended legislation. In the matrilineal case study, despite the VCLR codifying matrilineal inheritance, specific individual rights of the female members are not recorded, and this may prove to be problematic with the men undermining the women, as found. This is similar to the discussion by Shin (2016) who found that in Ghana, the matrilineal kinship system of the Akan society is laced with patriarchal values (traits and power relations). The problem here is where capitalism (through land development) clashes with traditional values; the ILG Constitution does not clarify nor does it explore and record the extent of which women's rights are effective in changing contexts due to globalisation, Thus, VCLR may even further undermine progress towards women's empowerment. By codifying the means to undermine women's higher status where it does exist (matriliney) and failing to put in place mechanisms to address marginalised women (e.g. divorced, beaten, separated widowed) needs.

This research found that the principal concern underlying the VCLR is group/communal rights, rather than women's rights or individual land rights. The VCLR is primarily designed to formalise and secure the rights of landowning groups through 'ILGs' to protect the group's rights in relation to land developers or to alienate 'informal' land dealings which aligns with scholarship by Deininger (2003); Feder et al. (1987) and Macours et al. (2004). Formalising community rights under the VCLR legal framework does not lead to securing individual

women (in the patrilineal cases) and men rights (in the matrilineal case) to the land base. Furthermore, under customary tenure systems, the rules determining rights to access, control, use, own, transfer and inherit land are expressly different for women and men, and notably in both the patrilineal cases (Case Study Two and Three), factors that affect women's right to land were not an issue for men. According to Deininger (2003), providing secure tenure should be flexible enough to improve and enhance the asset base of women by explicitly recognising their rights even if they are secondary rights. And therefore, the current land reforms of themselves are insufficient in providing secure land rights and access rights for women in PNG. Agarwal (1994) also argues that increasing women's ownership of assets is important because rural women's ownership of land is closely associated to their wellbeing and empowerment. Thus, VCLR has supported commodification of customary land for the purpose of economic development (as seen in Case Studies One and Two). It might not necessarily be that CEDAW and VCLR are incompatible, but rather that the way in which VCLR was institutionalised (or lacking in considerations) has supported this and women continue to face cultural barriers in exercising their rights to land and these rights are not independent of male relatives.

While landownership as a route to women's empowerment is clearly an issue in patrilineal PNG, it is also an issue in matrilineality given overall suppression of rural women's business skill and literacy that is required to navigate the VCLR. Women's education can have a range of benefits within the households: it can enable them to command higher outside wages and may indeed have a more positive impact on children's welfare and health (Duflo 2012, p.1065-1066). In reality and on ground, in order to participate in such programs, cultural and often religious beliefs may prevent women from exercising their right to attend non-formal education programs; the enabling environment for their concerted action is poorly developed at the local level, for example, in the matrilineal case study, the women remained on the land because they feared their male siblings might undermine them in their absence. The lack of access to information isolates women from the global pool of knowledge available and this is reflected in their low levels of empowerment. In the rural setting (Case Study Two), factors such as daily household chores, subsistence gardening, getting permission from their husbands to travel out of the village and child rearing often restrict women's freedom of movement and educational levels. Stromquist (2015, p.8) emphasises that "knowledge widens people's mental horizons, enabling them to see both larger pictures and more detailed accounts of social phenomena. Knowledge plays a critical function in identifying the oppressing groups and the multiple mechanisms available to them for social control". He further states that knowledge can be acquired and communicated via two main modalities: formal education or schooling and non-formal education. Formal education supports the economic dimension of empowerment as well as enables women to get paid employment. Non-formal education on the other hand in adult education programs and these includes gender awareness and literacy programs that provide the skills to participate in public venues (Stromquist 2015, p.9-10).

As far as can be ascertained, this link between the lack basic business acumen of the landowners to manage the landowner group association created by land reform and women's empowerment has not been noted in the extant literature. The results from this research

(specifically from Case Study Three) points out that despite educational attainment; educational and professional attainments have no social relevance to the menfolk in their society; this is simply because they are women, and they remain in the shadows of the men in their community. Culturally, it is inappropriate for a woman to sit with the men to discuss land matters; even though women may have higher educational attainments than the men. Even when the inverse is true, overarching patriarchal society places women landowners in a matrilineal clan in a weaker negotiating position than men from patrilineal clans. From the findings, educational access appears to be equally important alongside land reform. In the patrilineal cases, land reform means little to the women, so educational equity is perhaps more important than land reform for the women so that they can pursue non-land-based employment and income.

The findings from the research imply that a whole-of-family approach across several generations (e.g. younger children, older aunties, grandmothers, father's, sisters, mother's brother, and other kinship rules as well as nuclear family) might be better for women's equitable land rights. There is some 'whole-of-family' research going on in PNG that is examining women's business acumen in PNG, the project involves PNG farming families in three locations throughout PNG. The project uses the "Family Team" approach which is an inclusive approach that encourages all family members as a "team" to plan their family and agricultural activities. The use of this approach in this project is proving to be culturally appropriate and an effective approach that supports women's empowerment (Pamphilon et al. 2017, p.3).

4. GENDER APPROACHES AND POLICY FRAMEWORKS FOR WOMEN IN PNG

From the discussion, it appears that the VLCLR on one hand offers tenure security to those who already have ownership or access rights to the land by codifying these customary rights, but then on the other hand it entrenches gendered power relations that are within these customary systems.

After more than a decade of ratifying CEDAW, PNG submitted its first report back to the Convention Committee in 2009, which emphasised that customary land tenure system specifically mentioning the patrilineal system as an impediment to Article 14 because women in these communities are not entitled to ownership rights. It was also noted in the report that in some matrilineal societies the men have gained ownership rights over the land and are bequeathing it to their sons (GoPNG 2009, p.151-153).

This research established that across the three case studies, most of the participants have little to no understanding of CEDAW, gender equity and women's empowerment and it was only a handful of retired career women (in Case Study Three only) who reported that they were aware of the terms "gender equity", "women's empowerment" and CEDAW. Findings from the three case studies in this research support that the low levels of legislative compliance with CEDAW from Pacific Island governments is due to four main factors:

1. Legislative frameworks carried over from their colonisers. Despite the ratification of CEDAW PICTs have not modified their legislation since independence to embrace the principles of gender equality.
2. A notable lack of female representation in the formal parliaments and as such there is a lack of women participation in the law-making process.
3. Deeply rooted customary practices that are given constitutional status; and there is a resistance to distinguish discriminatory from non-discriminatory practices and modify them.
4. Limitations of reporting process from the Governments due to weak local reporting and monitoring systems.

This research found that resistance to gender equality is exacerbated by the insistence on customary norms and disinterest (particularly from men) in introduced policies. In the context of this research findings reveal that the PNG Government has failed in implementation and compliance to CEDAW. There is an obvious lack of political will to meet its human rights obligations. It may be that there is a deliberate non-compliance to CEDAW because it is seen as threat to “kastom” and the traditional patriarchal values and customary norms embedded in “kastom”. Strengthening women’s awareness and their legal literacy, particularly in the areas of gender equity and empowerment is required to promote rural women’s empowerment. But when CEDAW and patriarchal values (seemingly inherent in government) are at loggerheads; CEDAW and other global programs that push for gender equality in developing countries need to appreciate the complexity of ethnic communities and the pressure of “kastom” and the subsequent impact/benefit it places on rural women.

A nuanced analysis of custom, including its benefits to women would be the way forward to progress women’s deliverance from culturally discriminatory practices of which unequal access to land is one. From the findings, the biggest hurdle for women is that the VCLR is not CEDAW compliant mainly because of the persisting customary laws that prevail in communities. The VCLR process does not ensure equal tenure rights for women such as inheritance rights and bequeathing rights particularly in a patrilineal society. A CEDAW compliant VCLR is one that would favourably guarantee women’s land rights be they ownership or access rights to land. This is important because women in the matrilineal society were found to be vulnerable to being undermined by their male folk. However, the success of CEDAW complaint land reform will only be possible by effectively changing the mindset of all individuals, through awareness campaigns on women’s land rights at the grass root level that include the men folk.

The lack of women in positions of formal decision-making authority is problematic for the very reason that the PNG Government is made up of men with patriarchal cultural influences, and this imbalance is particularly troubling for women’s issues in PNG. The findings from this research support Morgan (2005, p.11), who points out that “Melanesian parliaments offer few avenues for improving women’s roles in public decision-making. Despite their increasing employment in the upper echelons of government bureaucracies throughout Melanesia, women remain under-represented in the region’s legislatures”. Jivan et al. (2009, p.683) also discusses that female representation in the formal parliaments of the Pacific is dismal and this

has a direct impact “for the failure of PICTs to achieve legislative compliance with CEDAW. In effect, this creates an environment that does not strengthen the position of women in their communities, society and in the public decision-making circles specifically. As such, women’s equality and empowerment programs with regards to access to land will remain obscured and may have only limited effect. This research is not insinuating that the mere physical presence of women in governance bodies will ensure representation of women’s interests per se, but it may vastly improve the likelihood of producing champions to run with these global policies and further voice women’s causes in the country through land reform specifically and in general.

The case studies in this research underscore that the women operate within the socio-cultural milieu of patriarchy which has a disempowering effect on the women. The research found that the women feared domestic violence and displacement if they challenged existing cultural norms. Women’s land rights and access to land is context specific and is strongly influenced by socio-cultural and economic conditions around education. Further, this study shows that women face multiple constraints this means that economic development of women alone is insufficient to ensure significant progress in the various dimensions of women’s empowerment, in the face of discriminatory actions against women. While the importance of equitable property rights in women’s empowerment is extremely important the reality is that rural women may never get any land rights simply because they are women and “kastom” does not allow them to especially in a patriarchal society. Even in the matrilineal society, women are vulnerable to the men who can undermine their interests. To bring about equity between men and women, policy actions that favour women at the expense of men is necessary and required. Thus, any land reform process that threatens established cultural norms is problematic for women without much broader social reform that can conquer patriarchal attitudes and mindsets.

5. IMPORTANCE OF ENABLING CUSTOMARY LAND RIGHTS AND ACCESS FOR WOMEN

Understanding the impact of the VCLR process on rural women’s empowerment in PNG is one of the main objectives of this research. Despite various scholars writing about customary land tenure issues in PNG, literature that explores the relationship between women’s land ownership and empowerment in PNG is rare and this research serves to contribute to this gap in literature. In this research, women’s empowerment is discussed from the economic and socio-cultural dimensions within the arenas of the household and their community. Global organisations such as the World Bank have identified women’s empowerment as one of the key factors to alleviate poverty. The promotion of women’s empowerment is a two-pronged argument; firstly, from the social justice perspective of human welfare and; secondly that women’s empowerment is a means to other ends such as socio-economic welfare (Malhotra et al. 2002, p.3-4).

In the context of this research, empowerment emphasises women’s ability to make and enact choices (applying agency) and create change (the process of change from disempowering situations) based on these choices to combat gender discrimination. The ability to make these

choices relates to the decision-making agency. The power dynamics at play in this research is based on customary land and the rights embedded within the customary land tenure systems, be they matrilineal or patrilineal. Land rights are a variety of legitimate claims to land and natural resources. More so, land rights comprise a bundle of multiple rights that are a product of rules. In common property regimes, rules and cultural norm influence rights; rights held by an individual are governed by rules that authorise the use of that property right (Ostrom et al. 2007). In this research, the main forms of property rights identified were ownership, control, user/access and beneficiary rights; these rights as discussed previously are inherited according to customary inheritance laws.

Women's customary land rights can impart social recognition and can potentially improve women's socio-economic empowerment; and her status in her surrounding society can improve if they undertake economic activities that are socially recognised and accepted (Roy and Tisdell 2002, p.316-320). Land is an important asset that determines the economic well-being of women and subsequently her family and household (Roy and Tisdell 2002). Increasing women's ownership of assets is important in establishing equality between men and women and also because rural women's ownership of land is closely associated with their well-being and empowerment; this is because, it cannot be assumed that land access by men benefits women and children equitably (Agarwal 2003).

The land rights of women in Case Study One stem from matrilineal inheritance and they possess ownership, control rights that in turn determine user/access and beneficiary rights. These rights are codified through the VCLR Process and this in itself mostly constitutes empowerment (although some change is occurring). In contrast, the women in Case Studies Two and Three are granted only user/access rights and a very small degree of beneficiary rights; their rights are determined by men and remain vulnerable. Codifying patriarchal land rights through the VCLR process is detrimental and de-empowering for women because these are lesser rights that do not constitute empowerment as they are susceptible to patriarchal societal norms and rules. Land ownership rights and land control rights are required for women's empowerment. For example, one of the women in Case Study Three (patrilineal, peri-urban) was bequeathed land by her father, however on his passing, her male siblings claimed ownership to that land and consequently displaced her and her family. The VCLR does not make mention of the interests of rural women with regards to the impact of land administration and land tenure on rural women. This creates a problem which needs to be addressed.

The case studies in this research underscore that the women operate within the socio-cultural milieu of patriarchy which has a disempowering effect on the women. The research found that the women feared domestic violence and displacement if they challenged existing cultural norms. Women's land rights and access to land is context specific and is strongly influenced by socio-cultural and economic conditions around education. Further, this study shows that women face multiple constraints this means that economic development of women alone is insufficient to ensure significant progress in the various dimensions of women's empowerment, in the face of discriminatory actions against women. While the importance of equitable property rights in women's empowerment is extremely important the reality is that rural women may never get any land rights simply because they are women and "kastom"

does not allow them to especially in a patriarchal society. Even in the matrilineal society, women are vulnerable to the men who can undermine their interests. To bring about equity between men and women, policy actions that favour women at the expense of men is necessary and required. Thus, any land reform process that threatens established cultural norms is problematic for women without much broader social reform that can conquer patriarchal attitudes and mindsets.

6. CONCLUSION

Strategically designed land reform programs aim to promote women's land rights in many developing countries. Gender-based discrimination in land inheritance together with economic and social marginalization is difficult to disentangle in communities and they can influence the impact of customary land reforms on women's land rights and their subsequent empowerment. Customary tenure systems and their arrangements often pose difficulties in women accessing and or owning land. The problems are deeply embedded in the succession of land by men in patrilineal societies; and in matrilineal societies, custom is a factor that allows women to possess land ownership, but it is in danger of being undermined by men. Land commoditisation has effectively contributed to the disappearance of some matrilineal land tenure systems in some Pacific Island countries. This research aligns with the literature that purports that, gender differences in resource distribution and management persist in many communities throughout the world.

The recent customary land reform (VCLR) process is a voluntary land registration vehicle provided for landowners in PNG to enable them to develop and bring their land into the land economic domain. The VCLR process supports communal ownership and gives legality to an already existing natural corporation (landowning group). The reform reinforces bonds of family/lineage land rights and locality boundaries and limits the rights of outsiders, and this is now codified in government systems and for market purposes. It helps to recognise, protect and indeed, forefront, women's rights in ownership (matrilineal case) and access rights to land (patrilineal) where they already exist due to custom. These research findings agree with customary land registration literature that land registration provides does tenure security and is a measure to combat land disputes.

Despite many of the developing countries embracing gender mainstreaming in their land reform policies and, some ratified to CEDAW, it is evident that gender inequalities still persist in all aspects of a rural woman's life. Further, traditional cultural beliefs together with religious teachings and imposed colonial attitudes promoting patriarchal views remain embedded in the social norms of many indigenous peoples, and this is shaping behaviour and practices that continue to marginalise women with respect to access to land and property rights. The research shows the low level of women's involvement in executive institutions, including those created by land reform processes and the political arena; this means that women in PNG are far from realising their importance in participating in decision-making bodies. Consequently, women have little influence on various decisions, laws and policies affecting gender and women's issues. Rural women have had less access to information than men, given their limited freedom of movement and low literacy levels in the country.

Information on women's rights to land, government policies and laws affecting women, does not reach rural women. By virtue of being a signatory to human rights treaties and protocols, the PNG government has an obvious responsibility to respect, defend and execute rights for all citizens including the rural women. From the findings of this research, the impact of customary land tenure and reform on women is varied and dependent to a large extent on other things as well culturally in the broader society on whether women are in a patrilineal or matrilineal land tenure system.

Although customary land tenure systems are outside the national government jurisdiction, the challenge to the government of PNG is to embrace strategies that fit the local community social structure and adequately address the needs of the rural women through supporting women's organizations that will build rural women's ability to organize themselves to effectively to voice their concerns; raise women's consciousness and participation in decision making through capacity building programs and training. The problem as seen in from the case studies is that it is not a problem or lack of policy, rather there is an obvious gender lens missing in the customary land reform policy. In addition, there is also lack of consistent political commitment to ensure that awareness programmes function efficiently; and that both men and women and children, need to be involved in programmes designed to modify attitudes and customs. Therefore, the current customary land reforms (VCLR) of themselves are insufficient in providing secure land rights and access to land for women in PNG.

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Biodata

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