CUSTOMARY LAND DISPUTE SETTLEMENT: SHOULD LAWYERS BE KEPT OUT?

By

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IN order to understand the principles that may be applied to land dispute settlement, I feel that it is first necessary to attempt some analysis of the nature and causes of land disputes. The first part of this paper is concerned with summarising some of the characteristics of the customary land tenure system and considering some immediate and long-term causes of conflict within this system. In subsequent sections I shall then discuss the recommendations of the Commission of Inquiry into Land Matters and the implementation of the **Land Disputes Settlement Act** which resulted from it.

I. CUSTOMARY LAND TENURE

Customary tenure systems prevail over most of Papua New Guinea, an estimated 97 per cent of the total area. Traditionally the main characteristic of these systems has been that absolute ownership of the land is vested in the kinship group or clan who retain control over its use and allocation. Certain usage rights may be collective, such as the right to hunt in the group's territory, and particular areas may be reserved for communal purposes. Within the group, individuals and their families have rights to use particular pieces of land for farming and houses. The practice of shifting cultivation and the need in some areas for provision of different types of land (e.g. valley bottoms, lower slopes and uplands) mean that these individual holdings are often scattered or fragmented. Another feature is that economic trees may sometimes be owned separately from the land where they are found; the right to harvest the trees usually lies with those who planted them.

Boundaries to units of customary land and group territories are usually marked by natural features, such as rivers or rocks, or by planted bushes and trees. These boundaries have rarely been surveyed and the rights to the land have not usually been documented or recorded. Instead, knowledge of them is passed from one generation to another by word of mouth. The older men would show the children the boundaries, describe the different natural features and explain how the land was originally acquired; this is a practice which is in danger of dying out as more young people leave their villages for long periods.

Rights to land may be acquired in a number of different ways. Most groups trace their ownership back to a common ancestor who first occupied the land and cleared the virgin forest. In some cases land has been obtained through conquest; stronger and more aggressive groups have extended their territory by driving off weaker and less numerous groups. The legitimacy of rights acquired in this way is obviously doubtful; the general practice has been to recognise these

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rights if acquired before the establishment of central government but not if the aggression occurred afterwards.

Transfers of land outside the group are usually restricted, but in the traditional system they sometimes took place as part of exchange or compensation agreements. There were also provisions for outsiders to obtain land by marriage into the group. Temporary transfers also occurred when one group was allowed to use surplus land belonging to another, often in return for goods or services. These agreements were not recorded, with the result that uncertainty about the conditions and duration of the transfer are often now the cause of disputes.

Within the group itself, rights to use land can be inherited through either the patrilineal or matrilineal system; the former is prevalent in the Highlands while the latter is common in the Islands region. Under the traditional system, decisions on land use and transfers were often a matter of consensus. The most influential members of the village community were generally the older people who had a knowledge of genealogies and customary law related to land. In many cases a special term might be used to denote the role of land controller, for example **tanobiaguna** in Motu society. These people would play an important part in mediating and deciding disputes; there were also a few areas, such as the Trobriand Islands, where there were traditional land courts.

In this section I have been describing some of the general features of customary land tenure, but it should also be emphasised that the system is not uniform throughout Papua New Guinea. In a country with seven hundred ethno-linguistic groups there are inevitably a great variety of customary rules and practices, a factor which makes it difficult for magistrates from one province to decide land disputes in another area. The balance between communal and individual rights differs widely. In some areas individualisation approaches complete private ownership; elsewhere group control remains more important. In all cases however, the land tenure system forms the basis of the social and economic organisation of rural society. When disputes occur, they constitute a threat to social harmony and an obstacle to economic development.

II. CAUSES OF LAND DISPUTES

Any study of land dispute settlement also requires some analysis of the nature and causes of conflict over land. Some of the reasons for dispute have already been suggested in the preceding section. Features of the customary tenure which may lead to uncertainty and argument are that usage rights, boundaries and agreements have rarely been documented or recorded. The fact that there is no system of registration of title to customary land means that land-owners have little security of tenure and that disputes may arise when improvements, buildings and tree crops, are added to the land.

Disputes take many different forms. They may occur between individuals within the group and involve inheritance or specific land use rights. Alternatively they may be arguments between different groups over territorial rights and boundaries; these conflicts often prove

the most difficult to solve and may result in large-scale fighting.

In addition to the immediate causes of disputes, there are a number of more long-term factors that have contributed to their increased frequency. One is undoubtedly population increase. Mortality rates have fallen during the last thirty years and rates of natural increase have averaged between 2 and 3 per cent;[1] the result has been a doubling of population in many areas and consequently much greater pressure on land resources. Land which was previously unoccupied becomes the subject of disputes. This applies especially to areas which might be described as buffer zones between different groups. Previously these were no-man's land used sometimes for hunting and gathering forest products. As people become short of land they start to settle and cultivate these areas. Immediately the neighbouring group will dispute this occupation; fighting may break out, houses be burnt and tree crops destroyed.[2]

The expansion of the monetary economy has also led to greater demands for land to grow cash crops and for other economic activities. Money may not be the root of all evil but it is certainly the cause of many land disputes. For example, the gathering of firewood was recognised as a traditional communal right in most subsistence economies, but when wood is cut for sale it often becomes a very different issue and a possible source of dispute. The flexibility of the customary land tenure system was such that people often managed to live together harmoniously in spite of uncertainties and conflicting rights over certain pieces of land. As soon as there is a possibility of compensation, timber rights purchase fees or royalties, then all sorts of claims and disputes will arise.[3] The growing of cash crops may also create problems which did not exist before as in the case of cocoa in East New Britain which has resulted in conflicts within the prevailing matrilineal system when fathers have tried to pass on the land and cocoa trees to their sons.

The much greater mobility of people during recent years also adds to the potential for problems over land. There are more cases of inter-marriage between members of different groups and of outsiders acquiring temporary rights which may be later disputed. In some areas, such as parts of the Western Highlands, a large number of 'unofficial' transfers of land are occurring and these also may contain the seeds of future conflict.[4] There is also more trespassing by hunters in other groups' territories which often poses a threat to

1. **1980 National Census** (National Statistical Office, Government Printer, Port Moresby, 1982).
2. The long-standing Siku-Gena dispute in Simbu provides an example of this type of confrontation; **Wena Kaigo v. Siwi Kurondo** [1976] P.N.G.L.R. 34.
3. P. Eaton, 'Customary Land Tenure and National Park Development in Papua New Guinea' in L. Morauta, J. Pernetta and W. Heaney (eds.) **Traditional Conservation in Papua New Guinea** (IASER, Port Moresby, 1982) 223-6, describes the case of McAdam National Park which became the subject of a land dispute between the Biangai, Manki and Nauti people after an agreement to pay compensation.
4. Transfers between customary land owners 'in accordance with custom' are allowed under s. 73 of the **Land Act** (Ch.No.185), but many recent agreements have not been recorded and are of doubtful customary nature, e.g. cash payment for land for a petrol station.

their wildlife resources.[5]

It has also been suggested that another reason for disputes is the fact that in some areas people like fighting. Certainly, if aggression is considered as a factor there are other instincts that should also be included: greed, jealousy, loyalty to the group and hatred of outsiders. The territorial drive and attachment to a particular piece of ground are very important influences on land tenure and disputes.

In analysing land disputes it must also be realised that while a quarrel may seem to be over land, a number of other factors may be involved. It may be a result of struggles for status and power within the group; the older and younger generations may both use disputes as the means of asserting their leadership. Hostility between groups may have many different causes but finally manifest itself in a confrontation over land. One good example of this is provided by a case from the Highlands.[6] The quarrel between two clans originally started with a traffic accident in which a man was killed when riding in a truck being driven by a member of the rival clan. Compensation was paid but the quality of the pigs involved did not satisfy the members of the injured clan. Finally after a period in which bad feeling between the two groups grew, an outbreak of hostilities occurred over a piece of ground adjacent to the territories of the two clans. It had become a land dispute but the actual causes of the dissension were really the accident and the inadequate compensation.

III. THE COMMISSION OF INQUIRY INTO LAND MATTERS

In 1973, the year of self-government, the Papua New Guinean Government appointed a Commission of Inquiry into Land Matters. This Commission's terms of reference included directions to 'particularly investigate and report on the nature and extent of disputes over land rights involving Papua New Guineans and methods of resolving them'.[7]

In the course of its investigations the Commission visited all the districts of Papua New Guinea, organised public and private hearings and received a large number of written submissions. In its report it examines the causes of disputes[8] and then goes on to examine the effectiveness of the Land Titles Commission in solving disputes. The Land Titles Commission had been established in 1963.[9] Its principal function was to decide rights to customary land with the dual objectives of settling disputes and registering titles. It had failed in the latter objective and had achieved only limited success in the former. An analysis of its hearings showed that 'most of the true land disputes remain undecided by the Land

5. Some groups have formed wildlife management areas, under provisions in the **Fauna (Protection and Control) Act**, to solve this problem.

6. R. Giddings, Regional Land Magistrate; personal communication.

7. **Report of Commission of Inquiry into Land Matters** (Department of Lands, Surveys and Environment, Port Moresby, 1973) 3.

8. **Ibid.**, 108-09.

9. **Land Titles Commission Act** 1962.

Titles Commission and of those that are decided only half the decisions given at the first hearing are accepted'.[10] One of the factors contributing to its ineffectiveness was in fact the appeals system. Decisions were usually first made by a single commissioner. These could then be reviewed by the Chief Commissioner, his deputy or three other commissioners. Appeals could then be made to the Supreme Court, initially to a single judge and then to the Full Court. The final stage seems to have been the High Court of Australia; no customary land disputes actually reached the Privy Council in England but it was regarded as theoretically possible.

Land Titles Commission proceedings tended to be lengthy in any case because there was generally a need for survey of the land involved. The hearings were also criticised as being too legalistic and removed from the people. The Committee on Tribal Fighting in the Highlands had stated:[11]

> '... it is a wrong approach to hear land cases and to hand down decisions in a purely judicial manner. People charged with settling land disputes should make a point of actually visiting the land in dispute and then attempt to mediate on the spot and arrive at a decision acceptable to the disputing groups. Once a decision is made it should be final and there should be no provision for appeal at least for a specified period of years.'

This committee went on to recommend that more emphasis should be placed on mediation and that if this failed disputes should then be heard by Village Courts.[12]

When the Commission of Inquiry into Land Matters made its recommendations it was guided by certain basic principles. These included the need to build from a customary base and to rely where possible on 'typical Papua New Guinean forms of organisation'.[13] These principles guided their recommendations on dispute settlement. In particular it was felt that the process should be brought closer to the people who should be themselves more involved in solving their own problems.

The Commission recommended: 'That the present dispute settlement structure for customary land be abolished and replaced by a three stage system of mediation, arbitration and appeal'.[14] Appeals should only be allowed to Provincial Land Courts[15] and 'lawyers should be excluded from the mediation and arbitration stages and admitted to the Provincial Land Courts only in special circumstances'.[16]

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10. **Report of Commission of Inquiry into Land Matters, op.cit.**, 110.
11. **Report of Committee of Inquiry into Tribal Fighting in the Highlands** (mimeo, Port Moresby, 1973).
12. **Ibid.**, 14, Recommendations 14 and 15.
13. This was part of the fourth of **The Eight Aims** of government development policy; see **Papua New Guinea's Improvement Plan 1973-7** (Government Printer, Port Moresby, 1973).
14. **Report of Commission of Inquiry into Land Matters, op.cit.**, 114, Recommendation 67(a).
15. **Ibid.**, Recommendation 70.
16. **Ibid.**, Recommendation 71.

IV. THE LAND DISPUTE SETTLEMENT ACT

The Report of the Commission of Inquiry into Land Matters has provided the basis for much of Papua New Guinean land policy since self-government. Recommendations that it made on the need for customary land registration have unfortunately not yet been implemented, but those on customary land disputes were incorporated into the **Land Disputes Settlement Act** 1975.[17] This Act included provisions for the three stages of dispute settlement: mediation by specially appointed local people with a knowledge of land matters; Local Land Courts[18] consisting of a magistrate and two or four mediators to arbitrate if mediation failed; appeal from these courts to a Provincial Land Court of one senior magistrate.

The Act also outlines customary interests[19] that should be considered in making land court orders. Under its procedures the court should also inspect the land in dispute and visit it after a decision has been made to explain the reasons to the parties concerned and to walk the boundaries that have been fixed.[20] In addition, section 60 of the Act states: 'A decision of a Provincial Land Court on an appeal ... is final and is not subject to appeal'. Section 72 forbids legal representation except under special circumstances. The Act also provided for the establishment of Provincial Land Dispute Committees whose functions are to declare land mediation areas and divisions, appoint mediators for the divisions and approve the appointment of Local Land Court magistrates.

The different provinces have varied in the ways that they have attempted to organise their land dispute settlement structures. Most have established mediation divisions, usually equivalent to administrative districts, with permanent mediators, but some (Manus, Madang and Milne Bay) have declared mediation areas with part-time or **ad hoc** mediators. During the first five years of the operation of the Act,[21] 119 permanent and 111 part-time mediators were appointed. All Local and District Court magistrates were also made land magistrates; in addition 57 district officers were gazetted as Local Land Court magistrates. There were also four regional land magistrates who assisted the mediators and magistrates and also often acted as Provincial Land Court magistrates.

A Land Court Secretariat was formed to deal with the implementation of the Act and to assist in administration, liaison and training. It was headed by Mr Sinaka Goava who had been Chairman of the Commission of Inquiry into Land Matters.

In 1979 the Secretariat organised a Regional Land Magistrates

17. The Act was subsequently revised; some section numbers were altered and the word 'Provincial' was substituted for 'District'. In this paper I have used the terms and sections of the revised Act.
18. Section 23(1)(a) states 'an even number of Land Mediators (not being more than four)'.
19. **Land Disputes Settlement Act,** s.39.
20. **Ibid.,** ss. 36 and 42.
21. **Annual Report of the Land Court Secretariat** (mimeo, Port Moresby, 1980).

Seminar.[22] The discussions at this meeting emphasised some of the problems of implementing the Act. Many of the difficulties mentioned were of an administrative nature and there were the usual public service complaints about shortage of funds, manpower, transport and support services. It was also suggested that there needed to be greater co-operation with other government departments and with the Village Courts. There was a general feeling that the land courts needed more support and it was recommended that mediators and land court magistrates should receive more specialist training. Law and order problems were also mentioned in relation to the need to enforce court orders and to protect magistrates against threats of physical violence and sorcery.

The Secretariat was supposed to publish an annual report containing complete records of land court hearings. In fact this has proved difficult partly because Local Land Court registers are not always kept up-to-date and because magistrates often fail to send in returns. This lack of statistics makes it difficult to fully evaluate the effectiveness of the new dispute settlement machinery. Nevertheless, it is possible to draw some conclusions from the records that do exist and from interviews with magistrates, field officers and land-owners.

One general impression must be that the Act has done nothing to reduce the number or intensity of land disputes. It should be remembered, however, that many of the disputes and claims for compensation which make headlines in the newspapers concern alienated land whereas the **Land Disputes Settlement Act** was confined to customary land.

In some areas mediation appears to have been successful and disputes are resolved outside the courts. The Regional Land Magistrate for the Highlands has suggested that in the Eastern Highlands Province mediation has had an 80 per cent success rate. He also quoted the Land Disputes Register for Lagaip in the Enga Province which shows that in the period from 11 January 1978 to 1 March 1980, 143 out of 197 disputes (73 per cent) were settled by mediation.[23] In many other areas mediation has been less effective.[24] One problem has been some misunderstanding among landowners and the mediators themselves concerning the functions of the latter. Instead of helping disputants come to an agreement they are often expected to make the decision themselves. Although this is often effective in practice, legally their powers are very limited and it has been recommended that these should be extended to enable them to issue summons to people involved in disputes and to issue preventative orders forbidding the occupation of disputed land.[25] The success of mediators will often depend on their personal qualities and the respect they enjoy in the community. Some may have a status akin to that of the traditional land controller, others may have a more minor

22. **Report of the First Regional Land Magistrates Seminar, 1979** (mimeo, Port Moresby, 1979).

23. R. Giddings, personal communication.

24. E. Foieke, formerly Regional Land Magistrate for the Papuan region, who stated it had been successful in less than half the cases in his region; personal communication.

25. **Report of the First Regional Land Magistrates Seminar, 1979, op.cit.**, 46-47, Recommendations 4 and 5.

role. There are frequent complaints that mediators are corrupt and biased in favour of those groups towards which they have kinship affiliations and obligations. Inevitably some of these represent the usual call of 'foul' by the losing party to a dispute but in other cases the complaints do seem to have been justified. Generally, mediation is more successful in settling disputes between individuals within a group rather than quarrels between groups when the mediator's impartiality is more likely to be questioned.

If mediation fails, disputes will then be heard by the Local Land Courts. This has sometimes proved to be a lengthy process; statistics for 1979-80 shown in Table 1 indicate that in many provinces over half the cases brought before the courts had not been finally resolved.

Table 1: Local/Provincial Land Court Hearings, 1.7.79 to 1.7.80

Region	Province	Cases recorded	Cases determined	Cases part-heard
PAPUA	Western	2	1	1
	Gulf	25	4	21
	National Capital	76	25	51
	Central	25	6	19
	Milne Bay	42	36	6
	Northern	26	6	20
Total:		196	78	118
NEW GUINEA HIGHLANDS	Enga	142	57	85
	Southern Highlands	252	141	111
	Western Highlands	251	181	70
	Chimbu	111	90	21
	Eastern Highlands	4	2	2
Total:		760	471	289
NEW GUINEA MAINLAND	Morobe	57	19	38
	Madang	141	67	74
	East Sepik	134	34	100
	West Sepik	339	173	166
	Manus	23	6	17
Total:		694	299	395
ISLANDS	New Ireland	10	9	1
	West New Britain	1	-	1
	East New Britain	170	20	150
	North Solomons	118	5	113
Total:		299	34	265

Source: Annual Report of the Land Courts Secretariat, 1980, 19.

More detailed information on the success rates of Local Land Courts in the Western Highlands and Enga Provinces can be found in Table 2. These statistics show a wide range in success rates: 94 per cent in Minj but only 15 per cent in Baiyer. It is also interesting to note that a large proportion of the appeals were upheld; poor decisions having been made in the Local Land Courts as a result of faults in procedure, incorrect interpretation of evidence and failures to mark boundaries accurately. Magistrates are often busy with other commitments in addition to land cases; they are often not fully familiar with either the **Land Disputes Settlement Act** or with the customary land law of the area in which they are operating. These difficulties were recognised in the Regional Land Magistrates Seminar which made recommendations for the appointment of specialist land magistrates and for the definition of provincial land laws.[26]

Table 2: Success Rates in Local Land Courts, Enga and Western Highlands, 1975-80

Division	Local Land Court cases	Appeals	Appeals successful	Success rate (2-4) as %
Wabag	13	3	1	2%
Laiagam	23	13	9	61%
Wapenamanda	9	7	7	22%
Minj	16	1	1	94%
Mt. Hagen	20	4	3	85%
Baiyer	13	12	11	15%
Tambul	2	2	2	-
Tambibuga	1	1	1	-
Total:	97	43	35	64%

Source: R. Giddings, Regional Land Magistrate for the Highlands.

In some areas, especially in the Highlands, there is a feeling that taking land disputes to court often aggravates problems rather than solving them. Attitudes harden and compromise is more difficult to obtain. Confrontation in the court room may lead to the exchange of insults which is often the prelude to an outbreak of hostilities. In Enga the operation of land courts was suspended for over a year because of fears of violence.

V. THE RELATIONSHIP OF LAND COURTS TO THE JUDICIARY

The **Land Disputes Settlement Act** precludes appeals other than those to the Provincial Land Courts, but s. 155 of the **Constitution** gives the National Court 'an inherent power to review any exercise of judicial authority'.[27] As a result, on two occasions Provincial Land Court decisions have been quashed by the National Court.

26. **Ibid.**, Recommendation 2 (p.40) and 17 (p.56).
27. The **Constitution of the Independent State of Papua New Guinea**, s. 155(3)(a).

The first case, **The State v. District Land Court, Kimbe, ex parte Caspar Nuli**,[28] dealt with a dispute between the Wasikuru and Ruka clans. The Local Land Court had originally decided that the disputed land belonged to the Wasikuru, but that the Ruka should be allowed to harvest the coconuts they had planted on it for a period of five years subject to the payment of an annual rental. The Ruka appealed unsuccessfully against this decision to the Provincial Land Court. However, in upholding the decision of the lower court, the Provincial Land Court magistrate stated that he was also making 'slight variations to its order'.[29] These 'slight variations' were in fact considerable and involved redefining the boundary between the land of the two clans. This decision was quashed by the National Court on the ground that the **Land Disputes Settlement Act** gave the Provincial Land Court power to either affirm an order of the Local Land Court, or to quash it and make another order or refer it back to the lower court; it did not give power to affirm and then make alterations.

The second case, **The State v. Richard James Giddings**,[30] was rather more complex. The dispute had been a long-standing one between the Ambai and Pialin clans in the Enga Province. It had already been the subject of four court hearings and fighting which had resulted in the loss of four lives. The case came to the National Court when the Ambai applied for a writ of **certiorari** with regard to the final decision of the Provincial Land Court to uphold the order made by the Local Land Court. In reality, it was the workings of the Local Land Court which was the subject of contention and provided the grounds for the National Court to quash the decision. The Ambai claimed that the Local Land Court proceedings had not been conducted properly in that on the instructions of the Provincial Land Court magistrate all the evidence had not been reheard. They also alleged that the mediators giving advice to the court were corrupt and biased in favour of the Pialin. Another complaint was that the court had acted contrary to the Act in marking the boundary it had decided on without the presence of the two clans. This had been done deliberately with only the police riot squad present because of fear of further violence.

The case raised several other interesting issues; one concerned the **as graun** principle. The Provincial Land Court magistrate had stated that '... mediation policy in the Lagaip District is to find in favour of the **as graun** (original owners) of land under dispute'.[31] This principle was criticised by Justice Kearney in his judgement as being possibly 'responsible for a great deal of the tribal fighting in recent years'.[32] The problem with awarding land to people who claim to have had the original rights to it is in deci-

28. **The State v. District Land Court, Kimbe, ex parte Caspar Nuli**, Unreported judgment N 313(M), now reported at [1981] P.N.G.L.R. 192; The references are to the unreported judgment.

29. **Ibid.**, 4.

30. **The State v. Richard James Giddings, Magistrate of the District Land Court at Lalagam, ex parte Tiangan Koan for the Ambai Clan of Lalagam**, Unreported judgment N 301, now reported at [1981] P.N.G.L.R. 423. The references are to the unreported judgment.

31. **Ibid.**, 7.

32. **Ibid.**

ding how far back you should go. Generally the practice has been to regard it as being from the date when government administration was first imposed on an area. In the **Wena Kaigo v. Siwi Kurondo** case in Simbu, Justice Saldhana had stated that this was 'the only practical and sensible basis upon which ownership of land can be recognised'.[33]

In both cases where land court decisions were reviewed the judges commented on the matter of legal representation. Justice Kearney stated: 'The effect of the Act is to set up a system for the settlement of disputes, closely insulated from the law ... the setting up of an insulated system can work injustice'.[34] In the other case Justice Bredmeyer suggested:[35]

> 'I believe some thought should be given to the repeal of s.[72]. A lawyer appearing before the District Land Court in this case would have saved the magistrate from the technical error of exceeding his powers which I found he made. I believe that if lawyers were allowed to appear before Land Courts they would normally save magistrates from making technical errors and breaching natural justice and would thereby improve the quality and finality of the decisions made.
>
> Lawyers also have a role to play in explaining a decision to the losing party and what avenues of review might be open. This explanation can help encourage an acceptance of the decision and of the authority of the Land Court. If the policy makers are worried that lawyers will charge excessive fees, a maximum scale of solicitor-client fees could be prescribed.'

VI. CONCLUSION

The problem of legal representation is one of the dilemmas that faces the Land Courts. Is it a question of the legal profession resenting its exclusion from land dispute settlement process and trying to claw its way in? Is there a danger that their presence might lead to the return of the lengthy, expensive and esoteric litigation which characterised disputes before the Act? Alternatively, might not the presence of lawyers be beneficial if they could present the issues clearly and simplify the work of the courts? It might also be added that in some ways their intervention is already a **fait accompli**; lawyers are already advising groups involved in land court proceedings. Sometimes lawyers or law students are members of a group involved in a dispute giving their side considerable advantage over their opponents. If legal representation was formally allowed it might regularise the position and lead to greater equality in the quality of the advice and advocacy provided.

In discussing different ways in which the dispute settlement process might be improved, it should also be recognised that many disputes stand a better chance of being solved if they can be kept out of the courts. Any changes should therefore be aimed at streng-

33. **Wena Kaigo v. Siwi Kurondo**, op.cit., 38.
34. **The State v. Richard James Giddings**, op.cit., 10-11.
35. **The State v. District Land Court, Kimbe**, op.cit., 8.

thening and supporting the mediation process. The **Land Disputes Settlement Act** has provided the institutional structure for the settlement of disputes without resort to the courts; it is now important that this system should be allocated the resources to enable it to function effectively. The principles behind the Act were sound ones and relevant to Papua New Guinean rural society, but they cannot be implemented half-heartedly. In dispute settlement, as with other land problems, there is a need for a strong and consistent policy which has the support of all levels of government.