



PAPUA NEW GUINEA UNIVERSITY OF TECHNOLOGY  
DEPARTMENT OF COMMUNICATION & DEVELOPMENT STUDIES

**CD228: LAND OWNERSHIP DISPUTES, LAW & DEVELOPMENT**

**SEMESTER 2 EXAMINATION PAPER**

**DATE:** 27 OCTOBER 2022

**TIME:** 8:20AM – 11:20AM

**VENUE:** CDS Rooms 203, 205 & 207

**MARKS:** 100

**WEIGHTING:** 50%

**EXAMINER:** MR. WINUAN

**INSTRUCTIONS**

1. Write your *Student ID No, Name, Subject Code, Course Name, and Subject Examiner* on **the front cover page** of your ANSWER BOOKLET.
2. You have 10 minutes reading time and 3 **Hours** to do the **EXAM**.
3. There are **6 PARTS**, each with a number of QUESTIONS in this exam. You are required to answer **ALL** questions. Write your answers on the **Answer Booklet** provided.
4. **NO ELECTRONIC DEVICES, MOBILE PHONES and BAGS** are allowed in the room. **ONLY** your stationery (i.e. ruler, biros) is allowed. Place your ID card next to you to be checked by the Exam Invigilator.
5. **RULE a line** through any mistakes; correction fluid is not allowed. No additional papers will be provided; you are to use the blank side of the exam sheets for rough work.
6. Check that you have **pages numbered 2 to 10 on your Exam Paper**. The exam contents are as follows:

PART	QUESTION NO.	PAGE NO.	MARKS
PART A: Multiple-Choice Questions	1-15	2 - 4	15
PART B: True and False Questions	1-15	4-5	15
PART C: Diagram Questions	1-9	5	15
PART D: Matching Definitions	1-15	6-7	15
PART E: Cloze Reading & Filling-in Terms	1-15	7 - 8	15
PART F: Short-Answer Questions	1-8	8-10	25
<b>TOTAL</b>			<b>= 100</b>

**PART A: Multiple Choice Questions (15 MARKS)**

**Instruction:** For each multiple choice question, circle the letter that represents the correct answer.

1. There are two types of land systems in PNG – alienated and unalienated lands. Of these, we have studied that unalienated land is:
  - A) Land that is converted from customary ownership to state and private-owned land.
  - B) An area of land that is partially converted to state lease.
  - C) Land that is still held by customary ownership.
  - D) Land that is converted from customary ownership to private freehold only.
  
2. We also have learned that amount of land that has been alienated from customary ownership in PNG is set at:
  - A) 50%.
  - B) 3%.
  - C) 97%.
  - D) 25%.
  
3. The distinction between state land and private freehold is that:
  - A) State land is owned by government and is acquired by force; while, private freehold is acquired by companies through land purchase.
  - B) State land is held on behalf of the people, while private freehold the owner controls his land for his own benefit.
  - C) State land is usually leased out for a maximum period of 99 years; while, the life of freehold is indefinite.
  - D) Both B and C.
  
4. Under what legislation do ILGs register to get a Certificate of Recognition?
  - A) Land Registration Act 1981.
  - B) Land Groups Incorporation Act 1974.
  - C) National Registration Act 1977.
  - D) Land Registration (Amendment) Act 2009.
  
5. Legal security is the key to preventing land conflicts, where property rights are clearly defined and secured. An effective way, therefore, to get a legal security over your land is to:
  - A) Be a member of an ILG.
  - B) Get a surveyor to register your land.
  - C) Obtain a Title over the land.
  - D) Apply for a Certificate of Recognition over the land.
  
6. We have talked about land reform and seen what it is, as it concerns land issue in PNG. What then is *land reform*?
  - A) Take away land from customary ownership.
  - B) To maintain the existing system of land acquisition, and land use.
  - C) Make land available to developers.
  - D) Introduce changes to the current system of Land acquisition, land holding, its use and its disposal.

7. Which Act of Parliament mistakenly accords resource rights and land ownership to landowners:
  - A) Mining Act & Regulation (1992).
  - B) Oil & Gas (Petroleum) Act (1998).
  - C) Forestry Act (1991).
  - D) Land Act (1996).
  
8. What do you understand by the expression *Land Tenure*?
  - A) A system of how land is acquired.
  - B) How land is held.
  - C) The way land is used and disposed off.
  - D) All of the above.
  
9. An Act or law enacted by the parliament that deals with all matters relating to customary land disputes.
  - A) Land Dispute Settlement Act.
  - B) ILG Act.
  - C) Land Act.
  - D) Mining Act.
  
10. A State Lease is usually held for a period of:.
  - A) 99 years.
  - B) 55 years.
  - C) 75 years.
  - D) None of the above.
  
11. Under which Act can a land dispute be settled involving Private freehold?
  - A) Land Act (1996).
  - B) Land Groups Incorporation Act (1974).
  - C) Land Titles Commission Act 1963.
  - D) Land Disputes Settlement Act 1975.
  
12. Similarly, under which Act can a land dispute be settled involving State land?
  - A) Land Act (1996).
  - B) Land Groups Incorporation Act (1974).
  - C) Land Titles Commission Act 1963.
  - D) Land Disputes Settlement Act 1975.
  
13. Under which Act can a land dispute be settled involving customary land?
  - A) Land Act (1996).
  - B) Land Groups Incorporation Act (1974).
  - C) Land Titles Commission Act.
  - D) Land Disputes Settlement Act.
  
14. What usually transpires from a mediation between two opposing parties, is?
  - A) an agreement reached between the two parties.
  - B) a binding decision made by the mediator.
  - C) A compromise made but at the expense of the other party.
  - D) All of the above.

15. What is the three-tiered system upon which settlement of land disputes in PNG sits?
- Mediation, arbitration and appeal.
  - Resolution, appeal and Mediation.
  - Arbitration, mediation and reconciliation.
  - None of the above.

**PART B: TRUE AND FALSE QUESTIONS (15 MARKS)**

**Instruction:** Write **True** if the statement is True and **False**, if it is False.

- Legal pluralism* is generally defined as a situation in which two or more legal systems coexist in the same social field of land issue. \_\_\_\_\_.
- ILG system of land ownership is the best way forward to deal with customary land ownership problems in the country \_\_\_\_\_.
- Issuance of Certificate of Recognition is a proof of customary ownership to the land and properties listed \_\_\_\_\_.
- To date, ILGs have become successful in taking control and benefiting from their land \_\_\_\_\_.
- To prevent land conflicts, land governance has to be transparent, fair and sustainable. \_\_\_\_\_.
- A landowning group that wants to have its land registered with a title must first have formed itself into a registered ILG \_\_\_\_\_.
- A Certificate of Recognition is granted to an ILG under the power & authority of the provisions of the Land Groups Incorporation Act 1974 \_\_\_\_\_.
- It is illegal to sell customary land to other Papua New Guineans \_\_\_\_\_.
- Papua New Guinea is still searching for ways to achieve its stated goal of 'mobilising' large areas of customary land for the purpose of 'development' while 'empowering customary landowners' at the same time. \_\_\_\_\_.
- Local and traditional institutions like village councils, religious and traditional leaders, and other local bodies can also help resolve local land conflicts, though, at a certain stage the state must intervene. \_\_\_\_\_.
- From the National Land Summit of 2019, 25 land issues were identified to be resolved \_\_\_\_\_.
- The objective for voluntary registration of customary land is to mobilize customary land for development and in particular to make the land available as security for finance \_\_\_\_\_.
- When land lacks adequate legal, institutional, and customary protection, it becomes a commodity easily subject to manipulation and abuse \_\_\_\_\_.
- Conflict can come about due to insecurity of tenure \_\_\_\_\_.

15. Having titles over land properties can be one way of managing sources of land conflict \_\_\_\_\_.

**PART C: Diagram-Completion Questions (15 MARKS)**

**Instruction:** Complete the diagram below by filling in the correct missing key terms.

**Process of Establishing an ILG**

**PART D: MATCHING QUESTIONS (15 MARKS)**

**Instruction:** Match each of the following components in the Third Column to its respective description in the Fifth Column. Write the correct description number in the **Your ANSWER** column (First Column) of the table.

Your ANSWER		Components		Description
	<b>A</b>	Fee simple	<b>1</b>	This lease is granted for a term not exceeding 20 years and renewable for terms of up to another 10 years for small-to medium-scale mines and some alluvial mine developments.
	<b>B</b>	Land Groups Incorporation Act (1974)	<b>2</b>	A visual method of showing the relative location of households and the distribution of different people (such as male, female, adult, child, landed, landless, literate, and illiterate) together with the social structure, groups and organisations of an area.
	<b>C</b>	Arbitration	<b>3</b>	This license confers or gives the exclusive right to explore for petroleum, but the holder is required to enter into a further agreement with the Government regarding exploration and development within the tenement area.
	<b>D</b>	Social Mapping	<b>4</b>	Land that is owned outright, without any limitations or restrictions and is accorded a title of ownership.
	<b>E</b>	Land Reform	<b>5</b>	This license is granted for a term not exceeding 2 years and renewable for another 2-year term over an area not exceeding 2,500 km <sup>2</sup> .
	<b>F</b>	Customary Land	<b>6</b>	Changes made to existing methods of land acquisition, use and operation to improve their performance.
	<b>G</b>	Land Tenure (Conversion) Act (1963)	<b>7</b>	These mining leases are granted for large-scale projects and require a mining development contract (MDC) to be negotiated.
	<b>H</b>	Mediation	<b>8</b>	An Act that provides for formation of an ILG to have corporate recognition over its land to benefit from business opportunities.
	<b>I</b>	Land Resettlement	<b>9</b>	As a go-between who brings two opposing parties together in a land dispute with an agreement or decision that is not binding.

Your ANSWER		Components		Description
	<b>J</b>	Exploration License (EL)	<b>10</b>	It is normally granted for construction and operation of project facilities, such as roads, power transmission lines, waterways, pipelines, bridges, or tunnels.
	<b>K</b>	Mining lease (ML)	<b>11</b>	As a go-between who brings two opposing parties together in a land dispute with an agreement or decision that binding.
	<b>L</b>	Special Mining Lease (SML)	<b>12</b>	This license gives tenure to recover and own the petroleum and to construct and operate all necessary facilities.
	<b>M</b>	Mining Easement (ME)	<b>13</b>	An Act providing for the transfer of rights of customary land ownership to individual private ownership.
	<b>N</b>	The Petroleum Prospecting License (PPL)	<b>14</b>	The relocation of individuals, households, or communities from their land.
	<b>O</b>	Petroleum Development License (PDL)	<b>15</b>	Land that has not been alienated.

### **PART E: Cloze-Filling-In Blanks Questions (15 MARKS)**

**Instruction:** Complete the passage below by filling in the blanks with missing words. These words are to be chosen from among the ones in the box. Use each word only once.

Disputes, provincial, local, institutional, Land, avenue, mediation, resolution, customary, appeal, mediators, Head, Settlement, tenure, identification.

### **Land Mediation in Theory and Practice**

The resolution of disputes about the use, ownership and boundaries of customary land is generally governed by the Land Dispute 1..... Act 1975 (hereafter LDS Act).

The LDS Act establishes a system of land 2..... that is intended to be “close to the people” and to provide “an 3..... for traditional dispute settlement processes to be utilized.” It establishes a system of land mediation that is to be conducted by state-sanctioned Land Mediators. These 4..... are intended to have detailed 5..... knowledge of customary land 6..... systems, which vary widely from place to place. The administration of the land mediation process is the responsibility of provincial governments. According to data maintained by the Village Courts and Land Mediation Secretariat (VCLMS), there may be around 1200 “permanent” Land Mediators across PNG. This is only an estimate, as the data held by the VCLMS is incomplete and is thought to contain inaccuracies. According to an authoritative source within the VCLMS, there is only one female Land Mediator, who is in the National Capital District. There is, therefore, a strong need for more women as Land Mediators.

Under the LDS Act, a land dispute can come before a Land Mediator via a number of routes. In practice, it seems most common for a person to register a complaint at the district administration office, which then assigns a Land Mediator. It appears that in some cases, a Land Mediator is not being assigned to parties due to a lack of mediators, or due to other factors including a fear of violence associated with a dispute. It should be noted the LDS Act provides that parties to a dispute may approach a Land Mediator directly with a request for mediation. In some instances people may be approaching 'informal' Land Mediators due to a lack of formal, gazetted Land Mediators.

The LDS Act provides that if land mediation is unsuccessful, 7 ..... will proceed to the Local 8 ..... Court, with a further right of 9 ..... to the Provincial Land Court. The approach of the courts is intended to be one of arbitration, with an emphasis on mediation and compromise. However, according to a senior law and justice sector official with direct experience of this system, the magistrates who preside over them often adopt adversarial and adjudicative approaches. This particular official believes that these approaches are far more likely to exacerbate land disputes, possibly leading to violence. This is why the Magisterial Service is advocating for amendments to the LDS Act that would make it more difficult for land disputes to enter the courts.

Although the LDS Act largely replaced the role of the Land Titles Commission (LTC) with that of the Land Courts, the Act provides that the 10 ..... of State may still refer disputes to the LTC under particular circumstances. It has become common practice for the Head of State to direct the LTC to hear disputes regarding extractive resource developments on customary land, especially cases that involve the 11 ..... of landowners. By 2007, the LTC had heard disputes associated with the Hides and the South-East Gobe oil and gas projects, the Kainantu gold project and the Ramu nickel project. This practice is highly problematic for reasons that are outlined below.

Despite the vital role of land mediation in the 12 ..... of disputes regarding 13 ..... land, land mediation services have been plagued by 14 ..... uncertainties and ambiguities associated with the Organic Law on Provincial Governments and Local Level Governments 1995, as well as other institutional reforms. In 2009, the National Executive Council issued a determination stating that land mediation is a 15 ..... function. However, unlike the system of tied national government payments to the provinces for Village Courts, there are no specific funds allocated to provinces for land mediation. In other words, the cost of land mediation services, in the form of allowances for Land Mediators and administrative and logistical expenses, is not currently funded through the national system of tied grants to the provinces. In the absence of such funding, it is not surprising that the land mediation services mandated under the LDS Act are not being provided in many places.

#### **PART F: Short-Answer Questions (25 MARKS)**

**Instruction:** Supply short and clear written answers to the following questions.

1. Explain how communal land ownership system works in PNG society (3 Marks).





10.../

(b) Demographic Causes (3 Marks):

(c) Administrative Causes (3 Marks):

**END of Examination**