

ACT NOW! Position on Incorporated Land Groups

1. Incorporated Land Groups (ILGs) should not be used as a vehicle to obtain consent for the alienation of customary land. Free Prior and Informed Consent can only be obtained through consensus and must involve all adult members of the landowning clans.
2. Where ILGs are being used for business ownership or resource rent distribution, the Department of Lands must:
 - (i) closely monitor compliance with the law;
 - (ii) deregister non-compliant entities and
 - (iii) ensure the 2009 reforms are fully implemented.
3. The *Lands Group Incorporation Act* should be further reformed to require at least 50% female representation on Management Committees and at the Annual General Meeting.
4. There should be no new ILGs registered until the Department of Lands shows it has the capacity to closely monitor all existing ILGs, the 2009 reforms have been fully implemented, and amendments to the Act to ensure gender equality, have been made.

The meaning of Consultation in Papua New Guinea

'For the landowners to be sufficiently informed of the new Government policies such as introduction of SABLs which would adversely affect their traditional lifestyle... in-depth awareness meetings should have been conducted.'

'This could have been achieved by Government officers travelling to the SABL areas and talking to the landowners in their villages. This exercise should have been done over a period of time, say six or twelve months or even more so that the people were made aware of and understood what SABL is about, its benefits, advantages and disadvantages and so on.'

'In introducing projects such as this which would have permanent and long term effect on their land, genuine and meaningful consultation with the landowners must be carried out... This is emphasized by the Constitution in the Directive Principles under the fifth goal, which provides for promoting and protecting Papua New Guinean ways.'

'Papua New Guinean way of meeting and consultation with landowners... was required because the SABL and the related activities or projects were going to interfere with and affect their traditional lifestyle, their customary rights to land, rivers, the sea and forests.'

'The SABL was granted... for 99 years, that is how long the landowners would be denied from the use and enjoyment of their land. So the generations of landowners would be affected.'

'This is why the defendants needed to go to the villages in SABL areas and talk to the landowners, in their families clans and tribes, in the languages they could understand. If they did understand English, Pidgin or Motu, then use interpreters to interpret things in their own languages.'

'This to me is the Papua New Guinean way of consultation and making awareness to the landowners as envisaged by s. 5 of the Constitution. By doing things this way, people and their cultures will be recognized, acknowledged and respected.'

[Justice Gavara-Nanu, 2013, Maniwa v Malijiwi [2014] PGNC 25; N5687]



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