

Land administration and management for customary rights and tenure

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ABSTRACT

Land administration in a traditional system rests within the power of the tribal chief who oversees the users of the land whether the users are members of the same tribe or those that have married into a tribe and have become partial member of the tribe. In a formal setting, land is process according to the four lease classes namely residential, commercial, industrial and special and recognized through titling system based on the Torrens system of land registration. The objectives of this paper are, to present an overview of land management systems both in custom and modern systems, how management under the customary system is being displayed for both the matrilineal and patrilineal systems and how the formal system manages the commons under the lease systems for both the lessor and the leasee. The significance of this paper is to present the findings in which the land management system is being done under the tribal systems and the formal being the lease systems. Under the rules of custom, the chief is the head man to decide on land administrations and management, whilst under the formal system, the laws of the land stipulates how to administer and manage the land which is under the lease systems; that is the premiums to the land owner (tribal chiefs), the land rents by the leasee to the government. In a modern setting, it is proper to note that a leasee must agree to the conditions proposed by the lessors before a deal is signed as the contract will for over the lease term will not allow some use of the lands to the lessor until the contract expires. The administration of the land under custom rest with chief while that within the formal sector is shared between the leasee and the lessor where the lessor must make sure that the contractual agreement signed (lease) is not breached, but must be upheld to the term of the lease. The Government overs the rules under the lease and makes sure that the management of the land is not violated. Failure to uphold this will result in the revocation of the lease. There was evidence to show that the lease system under the Torrens systems had some similar systems under the customary tenure systems for lands rights. The olden days have seen old practices like nausatonga (Shepherds Islands) and tavuna (Pentecost) used to access land for use by tribes from other areas in other custom areas. Though this wasn't at all very strict, the Torrens system has set rules under its systems to have access to the land under title for so many years. In conclusion, if tenure is contested in issues of overriding interests, overlapping interests, complementary interests, competing interests and could be state owned, tribal owned, individual, and the legality is endued under the Torrens system of registrations, it makes a lot of sense to note that we can manage and administrate land for customary rights and tenure.

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